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Capital Markets  
Accounting Developments  
Advisory 2008 - 11  
July 31, 2008

***July 30, 2008 FASB Board Meeting on  
FAS 140 and FIN 46(R) Amendments:  
Effective Date and Disclosures***

**Overview**

On July 30, 2008, the Financial Accounting Standards Board ("FASB" or "the Board") held a Board meeting regarding FASB Statement No. 140, *Accounting for Transfers and Servicing of Financial Assets and Extinguishments of Liabilities* ("FAS 140"), and FASB Interpretation No. 46 (revised December 2003), *Consolidation of Variable Interest Entities* ("FIN 46R"), in connection with its projects to amend the standards.

Refer to Capital Markets Accounting Developments Advisories ("CMADA") 2008-5, 2008-6, and 2008-7 for additional background on the Board's previous deliberations and decisions on these topics.

**Effective Date**

The Board agreed on a single effective date. The Standard would apply to fiscal years beginning after November 15, 2009 (January 1, 2010, for a calendar year-end entity) for the amendments to FAS 140 and FIN 46R.

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The amendments to FAS 140 would be applied prospectively, except that all existing qualifying special purpose entities ("QSPEs") must be evaluated for consolidation on the effective date.

**FICG Observation:** The new FAS 140 requirements would apply to new transfers to existing securitizations and to new transactions with respect to de-recognition.

With the elimination of the QSPE exception, all entities will need to be evaluated under a revised FIN 46R model for consolidation.

The amendments to FIN 46R would require an enterprise to apply those amendments to all entities to which FIN 46R was previously applied on the effective date.

**FICG Observation:** This decision represents a change from the Board's decisions at the June 11, 2008 Board Meeting. At that meeting, the Board tentatively agreed to an effective date of fiscal years beginning after November 15, 2008, except for existing QSPEs which would be granted a one year deferral.

During the meeting, both the staff and Board explained that they had spoken to a considerable number of constituents (e.g., analysts, regulators, various financial institutions, and other interested parties) regarding the proposed effective date. Per the staff and Board, all were generally supportive of the project.

Most financial statement users were supportive of a single effective date of fiscal years beginning after November 15, 2009 provided that the delay would not derail the project and that additional disclosures were required in the interim.

Many constituents were concerned that companies would not have sufficient time to implement the standards under the original proposal given that the issuance of a final standard would not occur before mid-November. Other constituents, however, believed that the amendments should be made effective as soon as possible.

Board members supported a single effective date of fiscal years beginning after November 15, 2009 for the following reasons:

- It will better enable preparers, users, and regulators to react to the changes,
- It will provide sufficient time for constituents to adequately respond to the exposure draft and the Board to consider comments received, and
- A single effective date will reduce complexity.

The Board expressed their desire to not defer the effective date and indicated that they were agreeing to the deferral because they felt financial statement preparers would need additional time to implement the change effectively and regulators would need additional time to determine whether revisions to regulatory capital rules were necessary.

The Board explained that additional required disclosures in the interim period would meet the immediate needs of financial statement users.

Certain Board members stated that there was a need to eliminate QSPEs immediately. The urgency was based on their belief that the current model had design flaws and was not being properly applied. In addition, certain Board members stated they did not want to consider any subsequent deferral requests.

The staff also presented the Board with the alternative of making the changes effective for fiscal years beginning after November 15, 2008 for transfers completed or VIEs created in fiscal years beginning after November 15, 2008, while all other existing VIEs and QSPEs would be granted a one year deferral. The Board did not support this alternative.

### **Disclosures and Effective Date of Disclosures**

The Board decided that prior to the effective date of the proposed changes to FAS 140 and FIN 46R, additional disclosures similar to those that the Board had decided to propose at the June 4, 2008 Board meeting (refer to CMADA 2008-6) should be required.

Many Board members wanted these disclosures to be effective as soon as possible. However, the Board decided not to propose a specific effective date. Rather, the proposal will state that it is the Board's desire to have the disclosures be effective as soon as possible and request constituent input regarding the amount of time necessary to prepare the disclosures.

***FICG Observation:*** There was considerable discussion about the effective date and whether it should be the quarter ending after the final disclosure standard is issued or fiscal years beginning after November 15, 2008.

While Board members wanted the disclosures to be effective as soon as possible, certain Board members did not believe that entities with a fiscal year end of November 30th would have sufficient time to meet the disclosure requirements for their November 30, 2008 annual financial statements. As a result, the Board decided not to propose a particular date, but rather to request

constituent input regarding how much time would be needed to gather the information necessary to prepare the proposed disclosures.

The Board will make a decision on the specific effective date during its redeliberation of the amendments subsequent to the conclusion of the comment period.

The Board also discussed whether a certain level of disaggregation should be required to separate assets which are restricted in the ordinary course of business from those whose cash flows are contractually required to pay off liabilities, and those assets held by a consolidated SPE. In addition, the Board discussed whether this should be required in the footnote disclosures or on the face of the financial statements.

The Board seemed to be supportive of requiring separate line item presentation on the face of the balance sheet as part of the final standards and additional disaggregated disclosure in the interim period before the effective date of the final standards.

Certain Board members also responded to some of the questions and suggestions raised in unsolicited comment letters from constituents. One Board member expressed the view that the Board had previously considered linked presentation in the context of FAS 140, but decided not to pursue it since it might be inconsistent with similar situations outside the scope of FAS 140.

Some constituents raised a concern about the accelerated pace of the amendments. One Board member expressed the view that the delayed effective date is responsive to this concern.

Some constituents questioned why the Board was not making this project a joint project with the International Accounting Standards Board ("IASB"). Some Board members would have preferred to develop a converged model. However, the FASB and the IASB have received mandates to make changes to the current standards as soon as possible.

The Board has been in close contact with the IASB to ensure that the two standard setters are moving in a similar direction and are not creating significant new differences, but instead are narrowing the differences.

In addition to the disclosures that the Board had decided to propose at the June 4, 2008 Board Meeting (refer to CMADA 2008-6), the Board also decided that a nontransferor enterprise that holds a variable interest in a qualifying SPE should

apply some of the proposed FIN 46R disclosures until the amendments to FAS 140 and FIN 46R are effective.

The FASB Board Meeting Handout explained:

"In addition to the disclosures required by other standards, a non-transferor enterprise that holds a significant variable interest in a qualifying SPE would disclose the following:

1. The nature, purpose, and activities of the variable interest entity, including how the entity is financed
2. The carrying amount and classification of the enterprise's variable interest(s) in the statement of financial position related to the enterprise's involvement with the variable interest entity
3. Terms of arrangements that could require the enterprise to provide financial support (for example, liquidity commitments and obligations to purchase assets) to the variable interest entity, including events or circumstances that could expose the enterprise to a loss
4. Whether the enterprise has provided financial or other support to the variable interest entity that it was not contractually required to provide during the periods presented, including:
  - a. The type and amount of financial support, including situations where the enterprise assisted the variable interest entity in obtaining another type of support
  - b. The primary reasons for providing the non-contractual support."

The Board decided that the additional interim disclosures should only be required for public entities and that the disclosure requirements should be issued as a FASB Staff Position (FSP).

The FASB Board Meeting Handout stated that the definition of public and non-public entities is consistent with paragraph E1 of FASB Statement No. 132 (revised 2003), *Employers' Disclosures about Pensions and Other Postretirement Benefits*.

## **FIN 46(R) Transition**

The FASB staff clarified and the Board agreed that the initial consolidation of a VIE as a result of the initial application of the amendments to FIN 46R would require the reporting entity to initially measure all assets and liabilities at fair value.

Any differences being recorded as a cumulative effect adjustment in retained earnings would be recorded as of the beginning of the first fiscal year in which the amendments are initially applied.

## **Next Steps**

The Board instructed the staff to proceed with the drafting process of a single proposed FSP that details the proposed disclosures with a 30-day comment period that will only apply to public companies.

The other changes to FAS 140 and FIN 46R will be incorporated into the exposure drafts, which are expected to be issued in August.

## **Questions**

Questions regarding this Advisory, financial instruments or credit in general may be directed to:

Jeffrey Allen (646-471-2937)

Frederick (Chip) Currie (646-471-3661)

Shannon Detling (646-471-5619)

Neal Dykes (646-471-2359)

Frederick Elmy (646-471-2830)

Matthew Esposito (646-471-8581)

Frank Gaetano (646-471-1356)

David Lukach (646-471-3150)

Sam May (646-471-2357)

Frank Serravalli (646-471-2669)