

## Heads Up

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## "It's the Most Wonderful Time of the Year!"

### FASB Issues Exposure Draft on Deferral of Statement 167 for Certain Investment Funds.

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On December 4, 2009, the FASB issued an exposure draft (ED) of a [proposed Accounting Standards Update \(ASU\), \*Amendments to Statement 167 for Certain Investment Funds\*](#). The proposed ASU would defer the effective date of Statement 167<sup>1</sup> for a reporting enterprise's interest in certain entities. The proposed ASU is meant to address concerns that the IASB's proposed consolidation model may result in a different consolidation conclusion for asset managers. The proposed ASU is also meant to address the concerns of financial statement users about the usefulness of the financial statements of investment managers if the investment managers were required to consolidate certain investment funds. The proposed ASU would also provide a deferral for certain money market mutual funds. Finally, the proposed ASU amends certain provisions of paragraph B22 of Interpretation 46(R),<sup>2</sup> as amended by Statement 167, to change how a decision maker or service provider determines whether its fee is a variable interest.

Comments on the ED are due by January 6, 2010. If finalized, the ASU would be effective as of the beginning of the first annual period that begins after November 15, 2009, and for interim periods within that first annual reporting period. The effective date coincides with the effective date of Statement 167. Early application would not be permitted.

**Editor's Note:** Although the Statement 167 amendments have not yet been included in the FASB Accounting Standards Codification (the "Codification"), the ED's amendments are based on the amendments that Statement 167 will make to the Codification.

### Key Provisions

The proposed ASU would indefinitely defer the application of Statement 167 for a reporting enterprise's interest in an entity if all of the following conditions are met:

- The entity either has all of the attributes specified in paragraphs 15-2(a)–(d) of ASC 946-10<sup>3</sup> or it is an entity for which it is industry practice to apply guidance that is consistent with the measurement principles in ASC 946 for financial reporting purposes.
- The reporting enterprise does not have an obligation to fund losses of the entity that could potentially be significant to the entity. In evaluating this condition, entities

<sup>1</sup> FASB Statement No. 167, *Amendments to FASB Interpretation No. 46(R)*.

<sup>2</sup> FASB Interpretation No. 46(R), *Consolidation of Variable Interest Entities*—an interpretation of ARB No. 51.

<sup>3</sup> FASB Accounting Standards Codification Subtopic 946, *Financial Services—Investment Companies: Overall*.

should consider implicit or explicit guarantees provided by the reporting enterprise and its related parties, if any.

- The entity is not a securitization entity, an asset-backed financing entity, or an entity that was formerly considered a qualifying special-purpose entity.

Examples of entities that may meet these conditions include, but are not limited to, mutual funds, hedge funds, private equity funds, mortgage real estate investment funds, and venture capital funds. However, the Board noted that even for these types of entities, a reporting enterprise should carefully evaluate whether all of the deferral criteria have been met. In addition, the proposed ASU notes that an entity that initially meets the deferral requirements may subsequently cease to qualify as a result of changes in facts and circumstances. In such a situation, the reporting enterprise's interest in the entity would no longer qualify for the deferral and Statement 167 would need to be applied.

In addition, the Board noted that the examples in the implementation guidance in Statement 167 would not be modified as a result of the amendments in this proposed ASU. Accordingly, the Board concluded that an entity that has characteristics that are consistent with those of a variable interest entity (VIE) included in the implementation guidance of Statement 167 should not be subject to the deferral.

**Editor's Note:** The Board concluded that an entity with multiple levels of subordinated investors, such as a collateralized debt obligation or collateralized loan obligation for which the primary purpose of the capital structure of the entity is to provide credit enhancement to senior interest holders, would not qualify for the deferral. The Board considers entities with this type of capital structure to be asset-backed financing entities rather than investment companies.

The proposed ASU would also defer the application of Statement 167 for a reporting enterprise's interest in an entity that is required to comply or operates in accordance with the requirements that are similar to those in Rule 2a-7 of the Investment Company Act of 1940 for registered money market funds. These entities would be subject to the deferral even if the money market fund manager has an explicit or implicit obligation to absorb losses of the fund. Therefore, this guidance would allow the deferral for money market funds even when the investment manager previously provided support to prevent the fund from "breaking the buck."

Finally, the proposed ASU would amend paragraph B22 of Interpretation 46(R), as amended by Statement 167. The amendments would clarify that entities should consider related parties when assessing all of the conditions in paragraph B22. The amendments would also clarify that entities are not required to use a quantitative calculation to assess the condition in paragraph B22(c) and that if a calculation is performed, it should not be the sole determinant.

**Editor's Note:** The ED's amendments to paragraph B22 are different from the tentative decisions made at the November 11, 2009, Board meeting. Specifically, by retaining in paragraph B22(c) the notion of expected losses and expected residual returns, probability of outcomes would still be considered in the B22(c) assessment (as opposed to the paragraph 14A(b) assessment, which does not allow probability to be considered).

## Disclosures

Public entities are currently required to provide additional disclosures in their annual and quarterly financial statements about their interests in VIEs. Nonpublic companies were exempt from providing these disclosures; however, Statement 167 requires similar disclosures for all public and nonpublic entities. The amendments in the proposed ASU would not defer the disclosure requirements in Statement 167. Accordingly, both public and nonpublic companies would need to provide the disclosures required by Statement 167 for all VIEs in which they hold a variable interest, including VIEs that qualify for the deferral.

For additional interpretive guidance on the application of Statement 167, see Deloitte's [June 16](#) and [October 20, 2009](#), *Heads Up* Newsletters.

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