

MEMORANDUM



To: Board Members

From: Statement 140 Implementation Issues Team (N. Stell, ext. 211)

Subject: Minutes of the January 22, 2003 Board Meeting **Date:** January 29, 2003

cc: Bielstein, Leisenring, Smith, Swift, Polley, Cassel, Bullen, Lott, Derivatives Implementation Team, Financial Instruments Team, Gabriele, Sutay, Thompson, Vincent (2)

Topic: Issues Relating to Statement 140 and EITF Issue 02-12

Basis for Discussion: Board memorandum dated January 16, 2003

Length of Discussion:

Starting Time: 1:00 p.m.

Concluding Time: 1:30 p.m.

Attendance:

Board members present: Herz, Schipper, Foster, Trott, Schieneman, Wulff, Crooch

Board members absent: None

Staff in charge of topic: Lusniak and Bullen

Other staff at Board table: Martin, Smith, and Stell

Outside participants: None

Summary for Action Alert:

The Board decided to add a project to its agenda that will address the following issues raised in connection with EITF Issue No. 02-12, “Permitted Activities of a Qualifying Special-Purpose Entity in Issuing Beneficial Interests under FASB Statement No. 140”:

1. If an existing special-purpose entity (SPE), or its designee or agent, has discretion to determine the terms of beneficial interests issued after its inception, whether that power is consistent with the requirements in paragraph 35 of FASB Statement No. 140, *Accounting for Transfers and Servicing of Financial Assets and Extinguishments of Liabilities*, that a qualifying SPE’s activities be “significantly limited” and “entirely specified.”
2. Whether certain transfers can meet the criteria for sale under paragraph 9 (and related implementation guidance) and therefore can be derecognized from consolidated financial statements if the transferor or any consolidated affiliate of the transferor guarantees the transferred assets or provides liquidity support for the transferee’s beneficial interests.

Matters Discussed and Decisions Reached:

The Board discussed (1) whether to add a project to its agenda that would address the aforementioned issues raised in connection with Issue 02-12 and (2) how certain rights of redemption affect sales treatment in a two-step transaction under Statement 140. The Board discussed the following alternatives for the scope of that proposed project:

1. Proceed with the project as proposed, addressing only Issues 1 and 2 above.
2. Address Issues 1 and 2 above and perform additional research on how certain rights of redemption affect sales treatment in two-step transactions.
3. Expand the scope of the project to address rights of redemption.

The Board voted unanimously to add a project to its agenda to address Issues 1 and 2 above and directed the staff to perform additional research on how certain rights of redemption affect sales treatment in two-step transactions. The Board reasoned that Issues 1 and 2 are not definitively addressed in Statement 140 and should be subject to the Board's due process (rather than being resolved by the EITF). The Board expects the project to culminate with the issuance of an Interpretation of Statement 140.

Follow-up Items:

The staff agreed to perform more research on issues related to the right of redemption and to enlist the help of legal experts to gain a clearer understanding of all issues involved.

General Announcements:

None.