MINUTES

Financial Accounting Standards Board

To:	Board Members
From:	Statement 140 Team (Schonefeld, ext. 442)
Subject:	Minutes of the May 18, 2009, Board Meeting: Redeliberation of Proposed Amendments to Statement 140
Date:	August 6, 2009
cc:	FASB: Golden, Bielstein, Lott, Proestakes, Stoklosa, Donoghue, Hood, Barker, Maroney, Roberge, Lusniak, Inzano, Burnap, Schonefeld, C. Smith, Chookaszian, Posta, Gabriele, Sutay, Glotzer, Mechanick, Cropsey, Wilkins, McGarity, Klimek, FASB Intranet; IASB: Leisenring, Kusi-Yeboah, Teixeira, Mueller, Francis

The Board meeting minutes are provided for the information and convenience of constituents who want to follow the Board's deliberations. All of the conclusions reported are tentative and may be changed at future Board meetings. Decisions become final only after a formal written ballot to issue a final Statement, Interpretation, or FASB Staff Position.

Topic:	Redeliberation of Proposed Amendments to Statement 140
Basis for Discussion:	Board Memorandum No. 125
Length of Discussion:	11:00 to 11:30 a.m.

Attendance:

Board members present:	FASB: Herz, Linsmeier, Seidman, Siegel, and L. Smith
Board members present:	IASB: None
Board members absent:	None
Other participants:	None
Staff in charge of topic:	Donoghue, Hood, Barker, Mayer, Sperry, and Schonefeld
Other staff at Board table:	Golden, C. Smith, and Proestakes

Summary of Decisions Reached

The Board completed its redeliberations of the proposed amendments to FASB Statement No. 140, *Accounting for Transfers and Servicing of Financial Assets and Extinguishments of Liabilities*, modifying certain proposed disclosure requirements and deciding on the effective date and transition of the new guidance.

The Board affirmed its April 1, 2009 decision that in principle, an entity should disclose information about the nature of its continuing involvement in asset transfers accounted for as sales and the effect of such continuing involvement on its financial statements. However, the Board decided that the specific minimum disclosures for transfers of financial assets in which a transferor has continuing involvement should be required only for securitizations, asset-backed financing arrangements, and similar arrangements that are accounted for as sales.

The Board decided that entities should apply the new guidance at the beginning of the first fiscal year that begins after November 15, 2009 (for example, a company with a calendar year-end would apply the new guidance beginning on January 1, 2010). At that effective date, entities are required to evaluate each existing qualifying special-purpose entity and determine whether it should be consolidated. Entities are required to provide the expanded disclosures to both new and continuing transactions. Early adoption is prohibited.

The Board directed the staff to proceed to a draft of a final Statement for vote by written ballot.

Objectives of Meeting:

The objectives of this meeting were to discuss (1) the scope of the disclosure requirements for transfers accounted for as sales in which the transferor has continuing involvement and (2) the effective date and transition for the proposed FASB Statement *Accounting for Transfers of Financial Assets*. The objectives of the meeting were met.

Matters Discussed and Decisions Reached:

Issue 1: Scope of the Disclosures

1. Mr. Mayer stated that FSP FAS 140-4 and FIN 46(R)-8, *Disclosures by Public Entities (Enterprises) about Transfers of Financial Assets and Interests in Variable Interest Entities*, amended the disclosure requirements in Statement 140 for public companies. He stated that the disclosures in that FSP are the basis for the updated disclosures in the proposed Statement, which will apply to all entities. He stated that the FSP includes specific disclosures for transfers of financial assets accounted for

as sales (a) in which a transferor has continuing involvement and (b) that are only required for securitization and asset-backed financing arrangements. At the April 1, 2009, Board meeting, the Board decided that the disclosures should apply to all transfers and not just securitization or asset-backed financing arrangements. The staff recommended applying the specific requirements to all transfers based on feedback from users and other constituents. However, after the April 1, 2009, Board meeting, the staff received informal feedback from financial statement preparers about the expanded scope of the disclosure requirements for transfers accounted for as sales in which the transferor has continuing involvement.

2. Ms. Donoghue stated that the staff cannot predict every structure that will occur in the future, and that the staff probably has incomplete knowledge of current structures. She stated that including the objectives of the disclosure requirements in the FSP represented a significant change. She stated that those objectives require preparers to consider the risks of their continuing involvements and what information users of financial statements need to understand those risks. She stated that the staff wanted to give guidance in addition to the principle, so it supplemented the principle with detailed disclosures in a checklist-type format. She stated that the issue is that preparers and some users object to broadening the detailed disclosures to require that continuing involvement in all transfers of financial assets accounted for as sales be disclosed in detail. She stated that the Board needs to decide (a) what it wants to require in the disclosure principle and (b) what disclosures it wants to specifically require. She stated the Board could decide to broaden the objectives but keep the prescriptive disclosures narrow. She stated that the Board should focus more on the overall principle and less on the prescriptive measures to make sure guidance is prescribed for unknown transactions.

3. **Staff Recommendation**: The staff did not provide a recommendation. Instead, it asked the Board if it would like to change its tentative decision reached at the April 1, 2009, Board meeting that the disclosure requirements related to transfers accounted for as sales in which the transferor has continuing involvement apply to

all transfers. The staff also asked the Board how it wants to limit the disclosure requirements if it chooses to limit them.

4. **Board Vote:** The Board voted that, in principle, an entity should disclose information about the nature of its continuing involvement in asset transfers accounted for as sales and the effect of such continuing involvement on its financial statements. However, the Board decided that the specific minimum disclosures for transfers of financial assets in which a transferor has continuing involvement should be required only for securitizations, asset-backed financing arrangements, and similar arrangements that are accounted for as sales. All Board members agreed.

5. **Board Comments:** Mr. Linsmeier stated that if preparers are only required to disclose information for certain classes of continuing involvement, users will only be given information for the classes of continuing involvement specifically required.

6. Ms. Seidman stated that the proposed Statement has significantly narrowed the requirements for sale accounting so that only a participating interest or a sale of a whole asset will qualify for sale treatment. She stated that the participating interest definition does not allow recourse, and in a sale of a whole asset, whatever the transferor receives in the transfer is considered proceeds. She stated that the proceeds the transferor receives may be derivatives or servicing, and that any standards that apply to those forms of interests received have disclosure requirements of their own. Furthermore, she stated that because the transfer would involve an unconsolidated entity, to the extent that entity is a variable interest entity, the transferor is subject to the disclosure requirements in FASB Interpretation No. 46 (revised December 2003), *Consolidation of Variable Interest Entities*, as well. Therefore, Ms. Seidman stated that there are many disclosure requirements in place, but that the requirements may not require disclosure that states that the asset or liability arose in a Statement 140 transfer.

7. Mr. Linsmeier stated he may not be able to make a decision because he does not know what transactions the expanded scope will encompass. He said that he does not understand the nature of some of the continuing involvements and how they

apply to the other accounting literature Ms. Seidman referred to. He stated that when he looked at the disclosures required by other standards, he did not think they would provide information of the nature that the staff proposed should be required in principle in Statement 140.

8. Mr. Mayer stated that the paragraph and subparagraphs that would contain the principles and objectives of the disclosure requirements for continuing involvements will be broad and all-encompassing. He stated that if the staff was going to prescribe specific disclosures for loan servicing or margin loans, all the disclosures users want may not be captured. He stated that the subparagraph will be included in addition to the main principles-based paragraph to provide objectives that are all-encompassing and to place responsibility on preparers to make sure they meet the objectives.

9. Mr. L. Smith stated that the specific disclosure requirements should be limited to securitizations and asset-backed financing arrangements because that is what they were written for in FSP FAS 140-4 and FIN 46(R)-8 and in the proposed Statement.

10. Ms. Donoghue stated that she thinks the scope could be slightly broadened by saying that the specific disclosure requirements apply to securitizations, asset-backed financing arrangements, or other similar arrangements.

11. Mr. Siegel asked the staff if any transfers accounted for as sales when the transferor has continuing involvement that does not involve a securitization or asset-backed financing arrangement would rely on the principle paragraph. Ms. Donoghue agreed and stated that the disclosures would be required to be presented in a manner that clearly and fully explains to financial statement users the risks related to transferred financial assets and any restrictions on the assets of the entity.

12. Ms. C. Smith stated that the staff reached out to users in advance of the Board meeting, expressing a concern that entities may have undisclosed continuing involvements if the Board decides not to expand the scope of the disclosures to all transfers accounted for as sales. She stated that a broad paragraph that contains principles for disclosures required for all transfers of financial assets accounted for sales with continuing involvement may provide the information users are asking for

if it were worded in a way in which people would appropriately adhere. She stated that users basically want to know about any material, unreported, off-balance-sheet risk and the entity's involvement with that type of risk. She stated that users specifically requested that, at a minimum, a qualitative discussion of arrangements and the nature of the risk should be disclosed

13. Ms. Seidman stated that she is afraid there may be an expectation gap if the scope of the specific requirements is broadened; some users may think that there will be no off-balance-sheet-unreported risk when Statement 140 is not the only standard that covers such risks. She stated that requiring specific disclosures for all transfers accounted for as sales in the proposed Statement would not meet the objectives of the disclosures and that she would rather follow up on the concerns that have been expressed and address them in a different way. Ms. Seidman stated that, as an example, users seem to want more disclosure about margin loans, and she would like to know what the concern with margin loans is. She stated the FASB is addressing margin loans in the proposed FASB Statement, *Disclosures about the Credit Quality of Financing Receivables and the Allowance for Credit Losses*.

14. Mr. Herz stated that if the specific disclosure requirements are going to be limited to securitizations, asset-backed financing arrangements, and other similar arrangements, there should be a footnote or language in the basis stating that although specific disclosures are limited to specific types of transfers, the paragraph and subparagraphs that outline the principles and objectives of the disclosures should be emphasized to make sure that all significant continuing involvements are clearly described.

15. Mr. Linsmeier stated that the last sentence of the paragraph containing the disclosure principles should state that meeting the objectives of the disclosures may require the entity to supplement the specific disclosures in subsequent paragraphs, depending on the facts and circumstances of the transfer and the entity's involvement with the transferred financial assets, including those transfers not covered by specific disclosures. He stated that the proposed Statement should

indicate that the disclosure objectives are not just for continuing involvements that have specific disclosure requirements.

16. Ms. Seidman asked if the staff is recommending leaving the principles in place and changing the scope of the specific requirements to apply only to securitizations and asset-backed financing arrangements.

17. Mr. Golden stated that the Board decision will require that an entity should follow the principles and objectives of the disclosure requirements, as well as provide the information in the specific disclosure requirements if the transfer involves a securitization, asset-backed financing arrangement, or another similar arrangement. Also, it should be stated that the entity may need to go beyond the specific requirements to meet the objectives of the disclosures.

Issue 2: Effective Date and Transition

18. Mr. Mayer stated that several respondents to the 2008 Exposure Draft requested more time to implement the proposed Statement due to the cost and time necessary to develop and implement the processes and systems required to gather and analyze the data needed, especially with the need to implement the changes to Interpretation 46(R) at the same time. Mr. Mayer stated that although the staff understands preparers' concerns regarding the cost to comply with the requirements of the proposed Statement in a relatively short time frame, those concerns are outweighed by the urgent need of financial statement users to have greater transparency in reporting transfers of financial assets. In addition, Mr. Mayer noted that the FSP was issued to provide preparers, regulators, auditors, and financial statement users with adequate time to consider and implement the proposed amendments to the accounting requirements of Statement 140.

19. **Staff Recommendation**: The staff recommended that the Board support the following effective date and transition guidance, subject to drafting:

> X1. The recognition and measurement provisions of this Statement shall be applied to transfers occurring on or after the beginning of a reporting entity's first fiscal year that begins after November 15, 2009. Earlier application is prohibited.

> X2. Additionally, in the reporting entity's first fiscal year that begins after November 15, 2009, all existing qualifying special-purpose entities (as defined under previous accounting standards) must be evaluated for consolidation by all reporting entities in accordance with the applicable consolidation guidance. If the evaluation results in consolidation, the reporting entity shall apply the transition guidance provided in the pronouncement that requires consolidation.
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> X3. The disclosures required by this Statement shall be effective for annual periods beginning after November 15, 2009, and interim periods within those annual periods. The disclosures shall be applied to both transfers that occurred before and after the effective date of this Statement. An entity is encouraged, but not required, to disclose comparative information for periods earlier than the effective date for disclosures that were not previously required by Statement 140 for nonpublic entities or by FSP FAS 140-4 and FIN 456(R)-8. In periods after initial adoption, comparative disclosures for those disclosures that were not previously required by Statement 140 for nonpublic entities or by FSP FAS 140-4 and FIN 456(R)-8 are required only for periods after the effective date of the disclosure requirements.

20. **Board Vote:** The Board voted to support the staff's recommendation. All Board members agreed.

21. **Board Comments:** Mr. Golden stated that the disclosures that are required today by the FSP would be applicable until December 31, 2009, but would be superseded in 2010 by the proposed Statement.

22. Ms. Seidman stated that a private company who has not had to apply the FSP disclosures will not have to do comparative financial statements the first year.

23. Mr. Herz stated that most of the investment banks have moved their year-ends to December 31, so there may be no need to have the effective date as November 15, 2009, instead of December 15, 2009. He stated that there may be other broker-dealers and smaller institutions whose year-end is November 30. Mr. Linsmeier stated that if the Board does not know the year-ends of affected companies and some may have a year-end of November 30, it may be wise to keep the effective date as November 15, 2009. All Board members agreed.

Follow-up Items:

24. The Board directed the staff to proceed to a draft of a final Statement for vote by written ballot.

General Announcements:

None.