



**Mayer Hoffman McCann P.C.**

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July 31, 2014

Technical Director  
Financial Accounting Standards Board  
401 Merritt 7  
PO Box 5116  
Norwalk, CT 06856-5116

Re: File Reference No. EITF-12F

Dear Sir or Madam:

Mayer Hoffman McCann P.C. (MHM) welcomes the opportunity to comment on the Proposed Accounting Standards Update, Business Combinations (Topic 805), *Pushdown Accounting* (Exposure Draft). MHM is a national accounting firm with offices in over 35 locations across the country.

We welcome the proposed guidance and believe that it provides a beneficial improvement to financial reporting. Currently, reporting entities generally look to the guidance issued by the Securities and Exchange Commission (SEC) Staff on pushdown accounting due to the limited guidance that exists in United States Generally Accepted Accounting Principles (U.S. GAAP), which results in practices that are not consistently applied among private companies. We believe the proposed amendments in the Exposure Draft will improve financial reporting by eliminating inconsistencies in practice and disclosure related to the application of pushdown accounting. Included below are specific comments related to the clarification of whether individuals are included in the definition of an acquirer in the context of the Exposure Draft and the definition of pushdown accounting. In addition, we have attached our responses to the specific questions proposed by the Financial Accounting Standards Board (Board) and Emerging Issues Task Force (EITF).

### **Individuals as Acquirer**

Paragraph 805-50-25-5 of the Exposure Draft states “the guidance in the General Subsections of Subtopic 810-10 related to determining the existence of a controlling financial interest shall be used to identify the acquirer - the entity or individual that obtains control of the acquiree.” The insertion of “individuals” in this paragraph indicates that an individual may be an acquirer, but because the definition of an acquirer does not refer to individuals there may be confusion and inconsistent application of pushdown accounting in situations where an individual acquires an entity.

The Exposure Draft states that pushdown accounting applies to “separate financial statements of an acquiree in the period in which an acquirer obtains control of the acquiree”, where an acquirer is defined as “the entity that obtains control of the acquiree”. The term “entity” is not defined in U.S. GAAP and in

Technical Director, Financial Accounting Standards Board

Page 2

July 31, 2014

common usage can be used in reference to only legal entities (corporations, partnerships, trusts, etc.) or could be used in reference to legal entities and individuals. However, in the context of ASC 805 *Business Combination* (ASC 805) use of "entity" in the existing definition of an acquirer would have, in practice, not referred to individuals, because it would not be possible for an individual to be combined with an acquiree as a reporting entity.

Other areas of U.S. GAAP refer to individuals to clarify when they are included within the scope of the guidance which also refers to an "entity". For example ASC 505-50 *Equity-Based Payments to Non-Employees* states, "Entities often sell goods or provide services in exchange for equity instruments issued by the purchaser of the goods or services. Individuals also may provide services in exchange for equity instruments of an entity."

We believe that pushdown accounting should be an allowable method of accounting when a change of control occurs and the acquirer of an entity is an individual. When an individual acquires a controlling financial interest in an entity, there are circumstances where the historical carrying value of the assets, liabilities and equity of the acquired entity are not relevant to the individual or other users of the financial statements for the same reasons it may not be relevant when the acquirer is a business entity. In addition, among private companies owned by individuals there are instances where the majority owner and the business entity have mandatory redemption agreements upon the individual's death, resignation or other circumstances. When a redemption or buyout of equity interests by a business entity results in a new majority owner (i.e., an individual that was formerly a minority owner) a significant net deficit in equity of the business entity as a result of the transaction, may not be relevant to the new majority owner or other users of the financial statements.

In summary, we believe entities that experience a change of control as a result of an individual acquiring a controlling financial interest should be allowed to elect to apply pushdown accounting. Therefore, we recommend the definition of acquirer be amended to clearly include individuals. We do not believe this change in the definition of an acquirer would have unintended consequences for the accounting for business combinations under ASC 805 because an individual could not be a reporting entity.

### **Definition of Pushdown Accounting**

We believe there is a potential inconsistency in the definition of pushdown accounting and the guidance included in the Exposure Draft. Pushdown accounting is defined as the "use of the acquirer's basis of accounting in the preparation of the acquiree's separate financial statements." The Exposure Draft permits an acquiree to use the basis that would have been created had the acquirer applied the acquisition method under ASC 805 and thus, in those circumstances, the resulting basis recognized may be different than the "acquirer's basis of accounting". We believe the definition could be improved by referring to the acquiree's establishment of a new basis of accounting by use of the acquisition method under ASC 805 in its separate financial statements upon a change in control.

Technical Director, Financial Accounting Standards Board  
Page 3  
July 31, 2014

We appreciate the opportunity to provide comments on the Exposure Draft. Please contact Ernie Baugh or James Comito if you have questions.

Respectively submitted,

*Mayer Hoffman McCam P.C.*

## ATTACHMENT

**Question 1:** Do you agree that the guidance in this proposed Update should apply to an acquired entity, both public and nonpublic, that is a business or nonprofit activity? If not, please explain why.

*We agree.*

**Question 2:** Do you agree that the threshold for the option to apply pushdown accounting should be when an acquirer has obtained control of the entity? If not, what would be a more appropriate threshold for the option to apply pushdown accounting and why would that threshold be more appropriate?

*We agree.*

**Question 3:** Do you agree that pushdown accounting should be optional for an entity when control over the entity has been obtained by an acquirer? Alternatively, should pushdown accounting be mandatory for certain entities or certain transactions? If so, what types of entities or transactions should require a mandatory application of pushdown accounting?

*We agree that pushdown accounting should be optional for an entity when control over the entity has been obtained. While in certain circumstances it may be preferable to apply pushdown accounting, these circumstances are dictated by the needs of the financial statement users. Therefore, we do not believe U.S. GAAP should mandate the application of pushdown accounting in any circumstances. For private companies the users of the financial statement often have a significant influence on whether pushdown accounting would be applied to a set of financial statements through their ability to communicate with management, their voting power, or through contractual requirements. For public companies the determination of when pushdown accounting should be mandatory is a determination best left to the public company regulators, as exists in current practice.*

*We do not believe the election by some companies to apply pushdown accounting and not by others will cause confusion or inconsistency when comparing entities as long as the circumstances when pushdown accounting can be applied are clearly defined and appropriate disclosure is made in the financial statements.*

**Question 4:** Do you agree that an acquired entity that elects the option to apply pushdown accounting should reflect in its separate financial statements the new basis of accounting established by the acquirer for the individual assets and liabilities of the acquired entity by applying Topic 805. If the acquirer did not establish a new basis of accounting for the individual assets and liabilities of the acquired entity, should it reflect in its separate financial statements the new basis of accounting that would have been established by the acquirer had the acquirer applied Topic 805? If not, please explain why.

*We agree that an acquired entity when electing to apply pushdown accounting should apply the concepts of ASC 805. We agree that in circumstances where the acquirer has not established a new basis of accounting, such as when the acquirer is an individual, that the acquiree should have the option to reflect in its separate financial statements the new basis of accounting as if the acquirer had applied ASC 805, however, such disclosure should not be required. We do not believe that transactions between entities*

*under common control would result in a change in control or the identification of an acquirer, therefore such transactions should not result in the application of pushdown accounting.*

**Question 5:** Do you agree that an entity that elects the option to apply pushdown accounting should follow the subsequent measurement guidance in Topic 805 and other applicable U.S. GAAP to subsequently measure and account for its assets, liabilities, and equity instruments? If not, please explain why.

*We agree.*

**Question 6:** Do you agree that an entity that elects the option to apply pushdown accounting should not recognize bargain purchase gains, if any, in its separate income statement? If not, please explain why.

*We agree, however, we believe that the amount of the bargain purchase gain should be disclosed by the acquiree. In addition, the creation of an example illustrating how to properly account for assets, liabilities and equity and consolidation of an acquiree not recognizing a bargain purchase gain that is recognized by its acquirer would be helpful to preparers of financial statements.*

**Question 7:** Do you agree that any acquisition-related debt incurred by the acquirer should be recognized in the acquired entity's separate financial statements only if the acquired entity is required to recognize a liability for the debt in accordance with other applicable U.S. GAAP? If not, please explain why.

*We agree. In most circumstances if an acquirer desired to have the liability appear on the separate financial statements of the acquiree they could elect to write a debt agreement between themselves and the acquiree.*

**Question 8:** Should the final Accounting Standards Update on pushdown accounting include any additional guidance on recognition and measurement of assets, liabilities, and equity instruments of the acquired entity? If yes, please explain for which assets, liabilities, and equity instruments additional guidance should be provided.

*We are not aware of any additional recognition or measurement guidance that is required except as described above with respect to bargain purchase gains.*

**Question 9:** Do you agree that an entity that elects the option to apply pushdown accounting should provide the disclosures in Topic 805 to meet the disclosure objective in this proposed Update? Are there any disclosures, other than those required in Topic 805, that should be required by this proposed Update?

*We agree with the application of the disclosures required in ASC 805 and believe that additional disclosures should be included which describe the reasons why pushdown accounting was elected or not elected by the acquiree. This disclosure would be similar to the disclosure required when a change in accounting principle occurs under Topic 250 (ASC 250-10-50-1a). In addition, as discussed in Question 6, we believe explicit requirements should be made to require the disclosure of bargain purchase gains that are not recognized in the statements of the acquiree.*

**Question 10:** Do you agree that an entity that does not elect the option to apply pushdown accounting should disclose in the current reporting period that it has (a) undergone a change-in-control event whereby an acquirer has obtained control of the entity during the reporting period and (b) elected to continue to prepare its financial statements using its historical basis that existed before the acquirer obtained control of

the entity? Are there any other disclosures that an acquired entity that does not elect the option to apply pushdown accounting should be required to disclose?

*We agree with the proposed disclosure, and as noted in our response to Question 9, believe that an entity that elects to not apply pushdown accounting should describe the reason for that election.*

**Question 11:** Do you agree that for purposes of disclosure requirements, an entity should assess at each reporting period whether its control has been obtained by an acquirer and whether it would elect the option to apply pushdown accounting? How much incremental cost and effort does such continuous assessment require?

*We believe that the assessment of whether an entity has had control obtained by an acquirer is an ongoing assessment and not an assessment conducted at a point in time. We believe that in most circumstances an entity is aware of those in control and this assessment is not costly when control is held by a simple majority of voting interests or by contract. However, in certain circumstances it is possible that a change in control may occur between individual equity holders or an entity may be a variable interest entity (VIE) that is controlled by a primary beneficiary. In such circumstances it is possible that an entity would not be aware that a change in control occurred. In addition, the entity may not have access to information in order to assess a change in control, particularly when the concept of common control applies. In circumstances where an entity is a VIE, it is not currently required to assess its status as a VIE or determine its primary beneficiary under existing U.S. GAAP. We believe in these circumstances the cost of continuous assessment may be significant. For this reason, we believe that the assessment should not require the acquiree to perform a determination of whether it is a VIE, and if so, identification of its primary beneficiary, and that the evaluation of whether a change of control has occurred should only consider information known, or reasonably known, by the management of the acquiree.*

**Question 12:** Do you agree that this proposed Update should be effective prospectively to transactions in which an acquirer has obtained control of the acquired entity? Do you also agree that an acquired entity should be allowed to elect the option to apply pushdown accounting each time it has undergone a change-in-control event whereby an acquirer has obtained control of the acquired entity? If not, please explain why.

*We agree.*

**Question 13:** Do you agree that the decision about whether to elect the option to apply pushdown accounting should be made in the reporting period in which the change-in-control event occurs and should be irrevocable? If not, please explain why.

*We agree.*

**Question 14:** Do you agree with the proposed consequential amendments to remove guidance in Subtopic 805-50 on application of pushdown accounting when an acquisition meets certain conditions (previously EITF Issue No. 86-9, *IRC Section 338 and Push-Down Accounting*)? If not, please explain why.

*We agree.*