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Via email to director@fasb.org

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

Re: Interests Held through Related Parties That Are under Common Control (File Reference No. 2016-260)

Dear Ms. Cospers:

We are pleased to provide comments on the Board's proposal to revise the guidance for assessing certain variable interests in a VIE held by a related party of the reporting entity.

We agree with the proposed changes. We also believe further enhancements should be provided for indirect variable interests in the form of debt investments, as explained further in the appendix to this letter.

On a related matter, we note the Board plans to consider potential amendments to the decision-maker fee guidance as part of a separate project that would also consider certain common control scenarios identified by the Private Company Council (PCC). In our experience, assessing indirect variable interests under the fee guidance may be linked to the related party "tiebreaker" analysis to determine the primary beneficiary of a VIE. Therefore, it might be more efficient for the Board to address the fee guidance and tiebreaker analysis together now (assuming it doesn't significantly delay finalizing this project), while considering the PCC common control scenarios separately. Regardless of the order in which the Board proceeds, we support its efforts to clarify these aspects of the consolidation guidance.

We would be pleased to discuss our comments with the FASB staff. Please direct questions to Adam Brown at (214) 665-0673 or Gautam Goswami at (312) 616-4631.

Very truly yours,

BDO USA, LLP

Appendix

Question 1: If a reporting entity is the single decision maker of a VIE, the amendments in this proposed Update would require that reporting entity to include all of its direct variable interests in a VIE and, on a proportionate basis, its indirect variable interests in a VIE held through related parties to determine whether it is the primary beneficiary of that VIE. This evaluation would include all related parties as defined in paragraph 810-10-25-43, including those under common control with the single decision maker. Do you agree with this approach? If not, please explain why.

We agree. We also recommend considering amendments to the guidance for determining whether decision-maker fees are variable interests as part of this project, as noted in our cover letter and our response to Question 2.

Question 2: Would the proposed amendments adequately address stakeholders' concerns that, in certain situations involving entities under common control, the amendments in Update 2015-02 may require a single decision maker of a VIE to consolidate that VIE even if it has little to no direct variable interests in the VIE?

As amended, paragraph 810-10-25-42 requires indirect variable interests to be assessed on a proportionate basis. Two examples are included to illustrate that concept: in the first case, the reporting entity holds an equity interest in its related party, which in turn holds an equity interest in the VIE. In the second case, the reporting entity has financed a related party's equity interest in the VIE. In both cases, the reporting entity concludes that it holds a proportionate indirect interest in the VIE expressed in terms of equity ownership.

We recommend addressing a third scenario in which the reporting entity holds a non-equity interest, e.g., a loan (or other debt instrument) in the related party, which in turn holds a loan (or other debt instrument) in the VIE. In these cases, it is much less clear whether the reporting entity holds an indirect variable interest in the VIE, and if so, how significant it is. That is, what proportion of the VIE's variability absorbed by the related party should the reporting entity consider as its own? While we acknowledge the need for judgment, the standard could be improved if it provided guidance for performing this assessment, which might include evaluating whether the arrangement was primarily designed for the purpose of transferring the VIE's credit risk to the reporting entity vs. a situation in which both loans were put in place for separate and valid business reasons. This assessment might include evaluating the related party's credit strength and collateral as distinguished from the VIE's credit strength and collateral.

Separately, we note the Board's decision in BC11 to consider potential amendments to the fee guidance in paragraph 810-10-55-37D as part of a separate project that would also consider certain common control scenarios that the PCC identified. In our experience, there may be linkage between the assessment of indirect variable interests under the fee guidance in 55-37D and the tiebreaker analysis in paragraphs 25-42 through 25-44A. Therefore, it may be more efficient for the Board to address the fee guidance and tiebreaker analysis together now (assuming it doesn't significantly delay finalizing this project), while considering the PCC common control scenarios separately.

Nevertheless, we certainly support further addressing sister company consolidation questions (particularly with respect to the "power" analysis), an area which can require significant judgment and is prone to diverse outcomes.

We would be happy to discuss these matters in further detail with the FASB staff.

As a drafting matter, we recommend two enhancements in the final amendments. First, we note the Board proposes to replace the phrase “economic interests” with “variable interests” in paragraph 25-42, a clarification we support. We recommend similar revisions for other paragraphs that incorporated the phrase “economic interests” under ASU 2015-02, such as paragraphs 810-10-55-37D and 810-10-55-205X. Second, we recommend incorporating the statement in the forepart of the proposal that “Generally, a reporting entity has an indirect variable interest in a VIE if it has a direct variable interest in a related party that, in turn, has a direct variable interest in the VIE” in the main amendments (revised as underlined). We believe this statement will be helpful to readers of the Codification when the indirect interest is through an equity interest. However, if the reporting entity holds a non-equity indirect variable interest as discussed in our response to Question 2 above, we request implementation guidance addressing how this statement should be applied in such circumstances.

Question 3: Do you agree with the proposed transition requirements in paragraph 810-10-65-8? If not, what transition approach would be more appropriate?

We agree.

Question 4: Should a reporting entity be required to provide the transition disclosures specified in this proposed Update? Should any other disclosures be required? If so, please explain why.

We agree with the proposed disclosures and do not believe any additional disclosures are warranted.

Question 5: Should the proposed amendments be effective immediately upon issuance of a final Update for all entities that already have adopted the amendments in Update 2015-02?

No. The volume of amendments to the variable interest consolidation literature since Interpretation 46¹ indicates that the risk of unintended consequences exists. Further, re-evaluating related party tie-breaker assessments under the final amendments may involve significant judgment, including the potential for a different commonly controlled related party to consolidate the VIE. As such, we recommend at least one year of time for public entities to adopt the final ASU, while nonpublic entities should have an additional year. We also recommend allowing early adoption for all entities.

Question 6: Should entities that have not yet adopted the amendments in Update 2015-02 be required to adopt the amendments in this proposed Update at the same time they adopt the amendments in Update 2015-02?

Yes, we agree with this aspect of the proposed transition guidance.

¹ *Consolidation of Variable Interest Entities—an interpretation of ARB No. 51*