NATIONAL ASSOCIATION OF
REAL ESTATE INVESTMENT TRUSTS®

October 15, 2007

Russell G. Golden
Director of Technical Application and Implementation Activities
Financial Accounting Standards Board
401 Merritt 7
P.O. Box 5116
Norwalk, CT 06856-5116

RE: Proposed FSP APB 14-a, *Accounting for Convertible Debt Instruments That May Be Settled in Cash upon Conversion (Including Partial Cash Settlement)*

Dear Mr. Golden:

The National Association of Real Estate Investment Trusts® (NAREIT) welcomes this opportunity to respond to the FASB's proposed FSP APB 14-a dated Aug. 31, 2007 (FSP or Proposal). NAREIT is the representative voice for U.S. real estate investment trusts (REITs) and publicly traded real estate companies worldwide. Members are REITs and other businesses that develop, own, operate and finance income-producing real estate, as well as those firms and individuals who advise study and service those businesses. We understand that NAREIT member companies have issued over $20 billion of the debt instruments covered by the Proposal.

Overview

NAREIT appreciates that the Board is attempting to resolve a reporting issue related to a complex underlying transaction. This comment letter will identify the instruments related to these transactions as Instrument Z. We are concerned that the approach taken in the Proposal:

- would not result in reporting that would faithfully convey the economic cost (the fixed rate on the debt component and the value of the equity component) of Instrument Z;

- represents a piecemeal, "quick fix" that could, once again, be changed with the completion of the joint FASB/IASB *Liabilities and Equity Project* (Project); and,

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- could result in unnecessary financial reporting complexity through potentially required restatement and highly probable subsequent changes to accounting for these complex instruments.

Accordingly, NAREIT urges the Board to consider interim disclosures that would provide financial statement users complete transparent information about Instrument Z without modifying the accounting for them and requiring restatement of previously issued financial statements.

Specific Comments

The economics of Instrument Z

The economics of these instruments are complex. Terms of these arrangements are rigorously negotiated and reflect the interplay between their debt and equity elements. Clearly, the parties consider trade-offs between the stated interest rate and the conversion premium in these negotiations.

The "wild card," in terms of the actual economic cost of these instruments, is the value of the embedded conversion feature. Without factoring into the resolution of this accounting issue the fair value of the equity element, the economic cost would not be measured appropriately. Therefore, related to the first question asked in the Proposal, we believe that the FSP would better measure the actual economic cost of the instrument if the debt/equity separation were achieved by recording the conversion feature at its fair value and attributing the remaining proceeds to the liability component of the instrument.

The economic cost of the capital raised by issuing Instrument Z is certainly not simply the rate of interest on similar debt without the conversion feature as indicated above. Therefore, to simply apply the concepts contained in APB 21 to the debt component of Instrument Z would not faithfully represent the economics of these transactions.

In addition, paragraph B7 of the FSP indicates that the proposed separation approach "is less difficult to apply than other alternative approaches to separation." If this statement is suggesting that it would be more difficult to measure the fair value of the equity component of these instruments, such a position of the Board seems contrary to the Board's progress toward fair value reporting for financial instruments as reflected in FAS 157 *Fair Value Measurement* and FAS 159 The *Fair Value Option for Financial Assets and Financial Liabilities.*

Further, the logic in paragraphs B10 and B11 of the FSP is even more puzzling to us. Are these paragraphs suggesting that measuring the fair value of the equity component of Instrument Z is not appropriate because similar measurements required in Statement 133 and Opinion 14 are not intended to generate a particular interest cost? These standards require the fair value measurement of equity components of complex debt instruments. We understood the goal of the

Proposal to be measurement of the economic cost of capital raised by the issuance of Instrument Z. If Statement 133 and Opinion 14 require the measurement of the fair value of embedded equity components, we are uncertain as to why the Board is reluctant to require the measurement of the equity component of Instrument Z and, thereby, measuring the actual economic cost of the instrument – the stated interest rate plus the fair value of the equity component?

Resolve the Accounting for Instrument Z in the Liabilities and Equity Project

Providing an interim solution to the accounting for these instruments seems to us the equivalent of trying to complete a puzzle without having all of the pieces available. Further, basing the solution on APB 21, takes accounting for Instrument Z back to the 20th century rather than moving forward to 21st century reporting. Again, we appreciate the FASB's efforts in this regard and the need to improve the accounting for Instrument Z. However, we are concerned that addressing the accounting for these instruments outside of the joint FASB/IASB Project does not allow the Board to consider possible conclusions that would result in accounting that faithfully reports the economics of the underlying transaction.

We understand that the Boards intend to issue a preliminary views document on the Project in a matter of months. Issuing guidance that would have a major impact on many financial statements knowing that the accounting could well again change seems counter to the Board's objective of simplifying financial reporting. We further believe that changing the accounting for convertible debt incrementally would increase financial statement user uncertainty and negatively impact users' views of the reliability of financial information.

We, therefore, urge the Board to make the needed changes to accounting for Instrument Z only once in the context of the joint FASB/IASB Project.

Retrospective treatment

If the Board concludes that the accounting for these instruments must be resolved currently and outside the Project, NAREIT respectfully requests that the FSP be applied prospectively and not retrospectively.

The accounting for these instruments has been revised a number of times, whether by modifications of guidance or by interpretation by the accounting profession. Companies have reported the impacts of these transactions based on the Board's standards and guidance in effect from time to time. Auditors have opined on the financial statements of these companies with reliance on these standards and guidance. Financial statement users have relied upon the financial statements issued and certified to. NAREIT believes that restating financial statements pursuant to what will probably be an interim modification would be confusing to financial statement users and undermine the extensive efforts in the U.S. to raise users' views regarding the reliability of financial reporting.

Addressing the Questions raised by the Board in the FSP

Question 1: The aforementioned comments address question 1.

Question 2: The inclusion of the U.S. GAAP references does enhance the understandability of the FSP and NAREIT believes that they should remain in the FSP.

Question 3: The inclusion of an illustrative example improves the understandability of the guidance and NAREIT believes that it should remain in the FSP. That being said, the usefulness of the illustrative example could be improved. It does not reflect a realistic transaction due to its extraordinarily simplified structure. In particular, it does not illustrate the accounting for most of the instruments that include puts and calls. Adding an illustration of the accounting for instruments with puts and calls may clarify confusion with respect to the period over which the debt discount should be amortized.

We appreciate the opportunity share NAREIT's views on the Proposal and your consideration of our comments.

Respectfully submitted,

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