EITF Issue No. 00-23

Issues Related to the Accounting for Stock Compensation under APB Opinion No. 25 and FASB Interpretation No. 44

Topic	Relevant Issues
Award Modifications	Issues 26, 46
Broker Assisted Cashless Exercises	Issue 48
Business Combinations	Issues 4, 8, 9, 10, 11, 13, 14, 29(a), 29(b), 32, 44
Changes in Status	Issues 18, 19, 20
Combined Cash/Stock Awards	Issues 6, 27, 30
Equity Restructurings	Issues 43, 49
Foreign currency	Issue 31
Guarantee of Option Profits	Issue 2
LLC Profits Interest Awards	Issues 40(a), 40(b)
Noncompensatory Awards	Issues 42(a), 42(b), 42(c)
Option Repricings and Cancellation/Reissuances	Issues 24, 36(a), 36(b), 36(c), 36(d), 36(e), 37(a), 37(b), 39(a), 39(b), 39(c), 39(d), 39(e), 39(f), 39(g), 45
Recognition of Compensation Cost	Issue 7
Recourse/Nonrecourse Loans	Issues 25, 34, 35, 50
Reload Stock Options	Issue 47
Scope of Opinion 25	Issues 21, 22, 51
Share Repurchase Features	Issues 3, 23(a), 23(b), 23(c), 23(d), 33(a), 33(b), 38
Shareholder Approval	Issue 5
Stock Option Exchanges	Issues 1, 12, 41
Tracking Stock	Issues 28(a), 28(b)
United Kingdom National Insurance Taxes	Issues 15, 16, 17

EITF Issue No. 00-23

Issues Related to the Accounting for Stock Compensation under APB Opinion No. 25 and FASB Interpretation No. 44

Issue / Topic	EITF Consensus
Issue 1 -- The exchange of outstanding stock options in one member of a consolidated group for stock options in another member of the same group when the exchange does *not* occur in connection with a "nonreciprocal" equity restructuring (such as a spinoff), e.g., the exchange of parent-company stock options for subsidiary-company stock options (or vice versa) in connection with an initial public offering	• The exchange results in a new "measurement date" (and not "variable award" accounting) with respect to the exchanged stock options, provided (1) the aggregate intrinsic value is not *increased* (or negative intrinsic value reduced), and (2) the ratio of exercise price to market price per share is not *reduced* • If the above two criteria are not met, the exchange results in variable award accounting, i.e., the exchange is deemed to be an "indirect repricing" • But refer to Issue 12 if the exchange involves subsidiary-company stock options or awards that were outstanding when the parent company first gained control of the subsidiary • Also refer to Issues 28(b) and 41 if the exchange involves "tracking stock" or the elimination or exchange of any class of stock • The guidance above applies prospectively to modifications to outstanding awards that occur after September 21, 2000 (retroactively to December 15, 1998 if variable award accounting is required)
Issue 2 -- The indirect guarantee of option profits on otherwise fixed stock options by providing a cash bonus or loan forgiveness if a specified level of intrinsic value is not attained within a specified time period	• The guaranteed minimum gain (generally the loan or bonus amount) is recognized as compensation cost over the applicable service period, with no reversal of cost unless the employee "fails to fulfill an obligation" • Any amount of the bonus not paid or loan not forgiven (because the specified level of intrinsic value is attained) is treated as a contribution to capital • The related stock option presumably retains its fixed award status • The guidance above applies prospectively to new arrangements entered into after September 21, 2000
Issue 3 -- A nonpublic company grants stock options with a share repurchase feature (that cannot occur within 6 months of option exercise) based on fair value but an exercise price based on other than fair value, e.g., a discount from fair value	• The stock options are subject to "fixed award" accounting (as opposed to variable award accounting), with compensation cost equal to the discount from fair value at grant • The guidance above is not subject to a specific prospective application date

Issue / Topic	EITF Consensus
Issue 4 -- The "stock out" of vested and nonvested stock options on a fair value basis in a pooling-of-interests transaction, i.e., the issuer grants stock awards in exchange for outstanding stock options of the combining company on an equivalent fair value basis	• The exchange of stock for stock options on a fair value basis in a pooling-of-interests transaction results in a new measurement date, with compensation cost equal to the intrinsic value of the new stock awards • The guidance above is believed to be contrary to past existing practice, but is not subject to a specific prospective application date
Issue 5 -- Choosing to obtain shareholder approval for a stock compensation award even if the company is not required to do so	• The measurement date for stock compensation awarded contingent upon shareholder approval cannot occur until such approval is obtained, regardless of whether the company is required to seek approval or volitionally chooses to do so • The guidance above is not subject to a specific prospective application date
Issue 6 -- Dividends on restricted stock that are forfeited unless the underlying award vests	• Cash payments (such as dividend equivalents) that are paid currently or contingent upon vesting do not result in variable award accounting for an otherwise fixed award • The guidance above is not subject to a specific prospective application date
Issue 7 -- The recognition of compensation cost for fixed awards that vest on a "pro rata," rather than "cliff," basis	• The accelerated recognition methodology prescribed by FASB Interpretation No. 28 is required only for variable awards • Compensation cost for fixed awards with pro rata vesting can be recognized either on a pro rata or accelerated basis, so long as the methodology is consistently applied • The guidance above is a codification of what is believed to be existing practice, and is not subject to a specific prospective application date
Issue 8 -- Whether the "accounting attributes" of stock options or awards exchanged in a pooling-of-interests transaction or a purchase business combination "carry forward" from the combining company/acquiree to the issuer/acquirer, e.g., whether variable award accounting carries forward from the combining company/acquiree to the issuer/acquirer if the combining company/acquiree previously accounted for the exchanged stock options as variable awards (e.g., because of a prior "repricing")	• The accounting attributes of exchanged stock options or awards carry forward from the combining company to the issuer in a pooling-of-interest transaction, but do *not* carry forward from the acquiree to the acquirer in a purchase business combination (i.e., stock options or awards exchanged in a purchase business combination are accounted for as "new awards") • The guidance above applies prospectively to exchanges of awards that occur after November 16, 2000

Issue / Topic	EITF Consensus
Issue 9 -- The subsequent *repurchase* of stock options or awards that were previously exchanged in a purchase business combination, e.g., an acquirer issues stock options in exchange for outstanding vested and nonvested stock options of an acquiree and subsequently repurchases those options	• The subsequent repurchase (the 6-month holding period requirement is not relevant) of stock options or awards that were *fully vested* at the consummation date of the combination is accounted for as a treasury stock transaction, i.e., the reacquisition of a residual equity interest; any excess of the repurchase price over the fair value of the vested awards is accounted for as compensation cost • The subsequent repurchase of stock options or awards that were *nonvested* at the consummation date is accounted for by allocating a portion of the repurchase price to a treasury stock transaction and a portion to compensation cost • The portion of the repurchase price allocated to the treasury stock transaction is equal to the *expired* percentage of the vesting period of the award at the consummation date of the combination; any excess of the allocated price over the fair value of the vested portion of the award is recognized as compensation cost • The portion of the repurchase price allocated to compensation cost is equal to the *remaining* vesting period of the award at the consummation date of the combination; the amount of the allocated price that is ultimately measured and recognized as compensation cost is determined in accordance with the guidance for award settlements provided in FASB Interpretation No. 44 ⇒ In measuring compensation cost under that guidance, the "intrinsic value of the award (if any) at the original measurement date" is the amount allocated to unearned compensation in accounting for the combination • If 40 percent of the vesting period for a nonvested award has expired, for example, 40 percent of the repurchase price is allocated to the treasury stock transaction and 60 percent is allocated to the determination of compensation cost • The subsequent repurchase of vested and nonvested stock options or awards has no effect on the previous purchase accounting for the combination, i.e., the purchase price is not "remeasured" • The guidance above applies prospectively to repurchases of stock options or awards that occur after November 16, 2000

Issue / Topic	EITF Consensus
Issue 10 -- The subsequent *modification* of stock options or awards that were previously exchanged in a purchase business combination, e.g., an acquirer issues stock options in exchange for outstanding vested and nonvested stock options of an acquiree and subsequently modifies those stock options	• The EITF withdrew its tentative conclusion on this issue and did not reach a consensus (no further EITF discussion is planned) • The SEC Observer stated that, in financial statements filed with the SEC, the subsequent modification of stock options or awards previously exchanged in a purchase business combination (regardless of whether vested or nonvested at the date the combination was consummated) should be accounted for as a modification under APB Opinion No. 25 and FASB Interpretation No. 44 consistent with all other modifications of employee stock compensation
Issue 11 -- The subsequent *forfeiture* of nonvested stock options or awards that were previously exchanged in a purchase business combination	• If an award is forfeited prior to vesting because the employee fails to fulfill an obligation, total compensation cost for the award is reduced to zero by decreasing compensation cost in the period of forfeiture • The subsequent forfeiture of nonvested stock options or awards has no effect on the previous purchase accounting for the combination, i.e., the purchase price is not remeasured • The guidance above applies prospectively to forfeitures of awards that occur after November 16, 2000
Issue 12 -- Whether there are circumstances in which the exchange of parent-company stock options or awards for subsidiary-company stock options or awards should be accounted for by the purchase method (as the acquisition of a minority interest) rather than a modification as prescribed in Issue 1	• If the exchange involves subsidiary-company stock options or awards that were outstanding when the parent company first gained control of the subsidiary (and not subsequently modified), the exchange is accounted for by the purchase method rather than as a modification (i.e., the fair value of exchanged parent-company stock options or awards is included as part of the purchase consideration for the subsidiary) • For all other exchanges, the modification guidance in Issue 1 is applicable • The guidance above applies prospectively to exchanges of awards that occur after November 16, 2000
Issue 13 -- The date that should be used by an acquirer in a purchase business combination to (1) value the stock options or awards exchanged as part of the purchase consideration, and (2) measure the intrinsic value (if any) of the exchanged stock options or awards for purposes of allocating a portion of the purchase price to unearned compensation cost	• The purchase price valuation date is determined in accordance with EITF Issue No. 99-12 (generally a reasonable period of time before and after the announcement date of the combination) • The intrinsic value is determined at the consummation date of the combination • The guidance above applies prospectively to exchanges of awards that occur after November 16, 2000

Issue / Topic	EITF Consensus
Issue 14 -- The exchange of acquirer stock options or awards in a purchase business combination for nonvested stock options or awards of an acquiree that are held by *nonemployees* of the acquiree, and the grantees became nonemployees of the acquiree in a prior spinoff transaction	• The fair value of stock options or awards issued by the acquirer is allocated entirely to the purchase price, with no allocation of the purchase price to unearned compensation cost (or some other cost) • However, if the fair value of the acquirer's stock options or awards exceeds the fair value of the exchanged awards in the acquiree, such excess is accounted for as a "cost" and not as part of the purchase price • The subsequent forfeiture of nonvested stock options or awards has no effect on the previous purchase accounting for the combination, i.e., the purchase price is not remeasured • The guidance above applies prospectively to exchanges of awards that occur after November 16, 2000
Issue 15 -- An employee's agreement to reimburse an employer for the United Kingdom (UK) National Insurance Contribution (NIC) tax imposed on employers for an employee's option profit at exercise	• The agreement results in variable award accounting for the stock options if the reimbursement payment is not fixed and is contingent upon option exercise, regardless of whether the agreement is part of the original terms of the award or pursuant to a modification of the award • The agreement does not result in variable award accounting for the stock options if the reimbursement payment is for a *fixed amount* of NIC tax; the exercise price for purposes of computing the award's intrinsic value at the measurement date (the measurement date is the grant date if the agreement is part of the original terms of the award, or the modification date if the agreement is pursuant to a modification of the award and it is possible to conclude that further changes in the exercise price will not occur in the future, consistent with the guidance in Issue 26) is equal to the sum of (1) the stated exercise price of the award, and (2) the fixed amount of the NIC tax reimbursement • The guidance above is not subject to a specific prospective application date
Issue 16 -- A "statutory transfer" of an employer's NIC tax liability to an employee in the *original terms* of the award	• The statutory transfer has no accounting consequence • The guidance above is not subject to a specific prospective application date

Issue / Topic	EITF Consensus
Issue 17 -- A statutory transfer of an employer's NIC tax liability to an employee through a *modification* to an otherwise fixed award	• The statutory transfer results in only in a new measurement date (as opposed to variable award accounting); the new exercise price is equal to the sum of (1) the stated exercise price of the award, and (2) the award's intrinsic value at the modification date multiplied by the employer's applicable NIC tax rate • Importantly, the modification is not deemed to be an "effective cancellation" of the award pursuant to the "cancellation and replacement" provisions of FASB Interpretation No. 44 (because the modification is not expected to "reduce the likelihood of exercise") • The guidance above applies prospectively to modifications to outstanding awards that occur after November 16, 2000
Issue 18 -- An employee or nonemployee service provider holds nonvested stock options or awards with terms that provide for the acceleration or continuation of vesting upon a change in status to or from an employee, i.e., the awards are *not* forfeited upon a change in status; a change in status occurs (and services continue to be provided) and the nonvested awards are otherwise modified coincident with the change	• Compensation cost is remeasured at the modification date using the method of accounting appropriate for the grantee's status *prior* to the change, and is recognized at the modification date only for the portion of newly measured compensation cost attributable to the *expired* vesting period of the award; in addition, variable award accounting is required prospectively for this portion of the award if the modification is a repricing that occurs concurrent with a change in status from employee to nonemployee • Compensation cost is also remeasured at the modification date using the method of accounting appropriate for the grantee's status *after* the change (as if the award is newly granted), and is recognized over the remaining vesting period only for the portion of newly measured compensation cost attributable to the *remaining* vesting period of the award • The guidance above applies prospectively to changes in grantee status that occur after November 16, 2000

Issue / Topic	EITF Consensus
<u>*Issue 19*</u> -- An employee holds nonvested stock options or awards with terms that provide for the continuation of vesting upon termination of employment; termination of employment occurs and the former employee *no longer provides services* to the company	• There is no accounting consequence if the former employee no longer continues to provide services to the company; if the terms of the award provide for continued vesting under the all termination scenarios, however, the award is deemed to be granted for past services and any measured compensation cost for a fixed award is recognized in full at grant • If the former employee continues to provide services to the company, (1) compensation cost is remeasured at the change in status date using the method of accounting appropriate for the grantee's status *after* the change (i.e., the fair value method), and is recognized over the remaining vesting period only for the portion of newly measured compensation cost attributable to the *remaining* vesting period of the award, and (2) no adjustment is made to compensation cost (if any) recognized prior to the change in status under the prior method of accounting, unless the grantee fails to fulfill an obligation • The guidance above applies prospectively to changes in grantee status that occur after November 16, 2000
<u>*Issue 20*</u> -- An employee who holds nonvested stock options or awards terminates employment and *no longer provides services to the company*; what happens upon termination of employment if either (1) the awards would have been forfeited by their terms but are modified to continue or accelerate vesting or (2) the awards would have been retained by their terms (either through an acceleration or continuation of vesting) but are otherwise modified	• Compensation cost is remeasured at the modification date using the method of accounting appropriate for the grantee's status *prior* to the change (i.e., the intrinsic value method), and is recognized in full at the change in status because no remaining services are required by the employee, i.e., the award is substantively vested • If the former employee continues to provide service to the company and the awards are modified to continue or accelerate vesting, (1) compensation cost is remeasured at the modification date using the method of accounting appropriate for the grantee's status *after* the change (i.e., the fair value method), and is recognized either immediately (if the award becomes fully vested as a result of the modification) or over the remaining vesting period of the award, and (2) compensation cost (if any) recognized prior to the modification date (under the prior method of accounting) is reversed in full at the change in status (i.e., the original award is deemed to be forfeited)

Issue / Topic	EITF Consensus
Issue 20 -- (cont.)	• If the former employee continues to provide service to the company and the awards are modified *other than* to continue or accelerate vesting, (1) compensation cost is remeasured at the modification date using the method of accounting appropriate for the grantee's status *prior* to the change (i.e., the intrinsic value method), and is recognized at the modification date only for the portion of newly measured compensation cost attributable to the *expired* vesting period of the award (in addition, variable award accounting is required prospectively for this portion of the award if the modification is a repricing that occurs concurrent with a change in status from employee to nonemployee), and (2) compensation cost is also remeasured at the modification date using the method of accounting appropriate for the grantee's status *after* the change (i.e., the fair value method), and is recognized over the remaining vesting period only for the portion of newly measured compensation cost attributable to the *remaining* vesting period of the award • The guidance above applies prospectively to changes in grantee status that occur after November 16, 2000
Issue 21 -- The appropriate accounting in the separate financial statements of a consolidated subsidiary for stock options or awards granted *by* the subsidiary to employees of another member of the consolidated group, e.g., to the parent company or another subsidiary	• The fair value of the stock options or awards (as measured on the *grant date*) is recognized as a *dividend* to the controlling company, with an offsetting contribution to capital • The guidance above applies prospectively to new awards granted after November 16, 2000
Issue 22 -- The appropriate accounting in the separate financial statements of a consolidated subsidiary for stock options or awards granted *to* employees of the subsidiary by another member of the consolidated group (other than the parent company)	• The fair value of the stock options or awards (as ultimately measured on the award's *vesting date*) is recognized as compensation cost over the service period with an offsetting contribution to capital • The guidance above applies prospectively to new awards granted after November 16, 2000

Issue / Topic	EITF Consensus
Issue 23(a) -- An employer's right to repurchase shares from an employee at fair value within 6 months after option exercise or share issuance when the right is *not contingent* upon future events, i.e., an "active" employer call right on "immature" shares	• FASB Interpretation No. 44 provides that variable award accounting is required for otherwise fixed stock options or awards with an employer call right, if that right is *expected to be exercised* within 6 months after option exercise or share issuance; if the call right is not expected to be exercised, variable award accounting is not required • The presence of an active employer call right does not result in variable award accounting if a "continuing assessment" can be made that the repurchase of immature shares is "not expected to occur"; the assessment should be based on (1) the employer's stated representation not to call immature shares, and (2) whether that representation is consistent with "all other relevant facts and circumstances," including the frequency and circumstances under which immature shares have been called in the past, the existence of legal or other limitations that may proscribe exercise of the call right, and whether the employer is a closely held or private company • If the above assessment cannot be made, variable award accounting is required until the earlier of (1) when the expectation of repurchase no longer exists, (2) when the call right expires or is exercised, or (3) when the shares subject to the call right are no longer immature; compensation cost recognized while the award was accounted for as a variable award should not be reversed if the award is subsequently accounted for as a fixed award • The guidance above applies prospectively to new awards granted (or new repurchase features added) after January 18, 2001
Issue 23(b) -- An employer's right to repurchase shares from an employee at fair value within 6 months after option exercise or share issuance when the right *is contingent* upon future events (such as death, disability, or retirement), i.e., a "contingent" employer call right on immature shares	• The presence of a contingent employer call right does not result in variable award accounting if the contingent event is "outside the control" of the employer and the event is not expected to occur; the assessment should be made on a individual grantee-by-grantee basis throughout the contingency period, taking into consideration all relevant facts and circumstances • The accounting guidance for active employer call rights in Issue 23(a) should be followed if the contingent event is either (1) within the control of the employer, or (2) outside the control of the employer and the event is expected to occur • The guidance above applies prospectively to new awards granted (or new repurchase features added) after January 18, 2001

Issue / Topic	EITF Consensus
Issue 23(c) -- An employee's right to sell shares back to the company at fair value within 6 months after option exercise or share issuance when the right *is contingent* upon future events, i.e., a contingent employee put right on immature shares	• FASB Interpretation No. 44 provides that variable award accounting is required for otherwise fixed stock options or awards with an employee put right, if that right *can be exercised* at the volition of the employee within 6 months after option exercise or share issuance • The presence of a contingent employee put right does not result in variable award accounting if the contingent event is outside the control of the employee and the event is not expected to occur; the assessment should be made on an individual grantee-by-grantee basis throughout the contingency period, taking into consideration all relevant facts and circumstances • If the contingent event is either (1) within the control of the employee, or (2) outside the control of the employee and the event is expected to occur, variable award accounting is required until the earlier of (1) when the expectation of repurchase no longer exists, (2) when the put right expires or is exercised, or (3) when the shares subject to the put right are no longer immature; compensation cost recognized while the award was accounted for as a variable award should not be reversed if the award is subsequently accounted for as a fixed award • The guidance above applies prospectively to new awards granted (or new repurchase features added) after January 18, 2001
Issue 23(d) -- The accounting consequence of share repurchase features (i.e., employer call and employee put rights) with a repurchase price *at other than fair value*	• For public companies, the presence of an active or contingent employer call right at other than fair value results in variable award accounting until the earlier of the expiration or exercise of the call right (regardless of whether the call right is exercisable within 6 months after option exercise or shares issuance), unless the call right is not expected to be exercised; an active call right at less than fair value is always presumed to be exercised (and thus variable award accounting is required), and a contingent call right for which the contingent event is outside the control of the employer and is not expected to occur is never presumed to be exercised (and thus variable award accounting is not required); the accounting guidance for active employer call rights in Issue 23(a) should be followed for all other active and contingent employer call right scenarios

Issue / Topic	EITF Consensus
Issue 23(d) -- (cont.)	• For public companies, the presence of an active or contingent employee put right (other than a put right at a *fixed premium* over the stock price) results in variable award accounting until the earlier of expiration or exercise of the put right (regardless of whether exercisable within 6 months of option exercise or share issuance), unless the put right is contingent on future events that are outside the control of the employee and are not expected to occur; a put right at a fixed premium over the stock price results in either (1) variable award accounting (until the earlier of expiration or exercise of the put right, or 6 months after option exercise or share issuance) if the put right is exercisable within 6 months after option exercise or share issuance, or (2) additional compensation cost in an amount equal to the fixed premium (to be recognized over the vesting period) if the put right is *not* exercisable within 6 months after option exercise or share issuance • For nonpublic companies, the guidance above for public companies applies until the employee has made a "substantial investment" in the underlying award; if the call or put right is expected to be exercised within 6 months after the substantial investment is made, variable award accounting continues until the earlier of (1) expiration or exercise of the call or put right, or (2) 6 months after the date the substantial investment is made • The guidance above applies prospectively to new awards granted (or new repurchase features added) after January 18, 2001
Issue 24 -- The grant of an "in-the-money" stock option that occurs more than 6 months after the cancellation of an "out-of-the-money" stock option, e.g., "6 months and 1 day"	• Variable award accounting is required for the new in-the-money stock option (because there is a presumption that "an agreement or implied promise existed to compensate the grantee for stock price increases" after cancellation of the out-of-the-money stock option), unless relevant facts and circumstances clearly indicate the two awards are not related; factors to consider include (1) the grantor's previous stock compensation grant practices, (2) the length of time between cancellation and issuance, and (3) the treatment of the affected grantee population • Variable award accounting is not required if the new stock option is granted "at-the-money," even if the new exercise price equals or approximates the stock price at the date the out-of-the-money stock option was canceled • The guidance above applies prospectively to new awards granted after January 18, 2001

Issue / Topic	EITF Consensus
Issue 25 -- The *original terms* of an otherwise fixed stock option provide for exercise with a full recourse note that *may not* bear a market interest rate on the date of exercise	• Variable award accounting is required until the stock option is exercised, is forfeited, or expires unexercised; rationale is that the exercise price is not fixed for a recourse note arrangement that does not bear market terms • Variable award accounting is not required if the interest rate is established *upon exercise* (rather than grant), provided the interest rate is "a market rate based on the rate environment at the date of exercise (based on the credit standing of the grantee)" • The guidance above applies prospectively to new awards granted (or outstanding awards modified) after January 18, 2001
Issue 26 -- The accounting consequence of modifying an otherwise fixed stock option to *increase* the exercise price or *reduce* the number of shares	• Such a modification results in either a new measurement date or variable award accounting, depending on all relevant facts and circumstances • A new measurement date is required if it is possible to conclude that further changes to the exercise price or number of shares will not occur in the future, such as when unusual modifications are sometimes made to comply with the regulatory environment (e.g., refer to Issue 17) • Variable award accounting is required if there is no practical way to ascertain whether further changes to the exercise price or number of shares will occur in the future; factors to consider include (1) whether the award has been similarly modified in the past, (2) whether the modification is related to the grantee's job performance, or (3) whether other factors indicate that similar modifications are possible in the future • The guidance above applies prospectively to modifications to outstanding awards that occur after January 18, 2001
Issue 27 -- Whether a cash bonus and stock option award should be accounted for as a "combined award" if the cash bonus is contingent on a factor that may be a "proxy" for exercise	• Consistent with FASB Interpretation No. 44, variable award accounting is not required if the cash bonus is not contingent on option exercise • Variable award accounting is required, however, if the cash bonus is contingent upon the employee's *sale* of stock received from a previous option exercise (the exercise of the stock option is one of two conditions that must be met in order for the employee to receive the cash bonus) • The guidance above is not subject to a specific prospective application date

Issue / Topic	EITF Consensus
Issue 28(a) -- The appropriate accounting in the separate financial statements of a consolidated subsidiary for stock compensation granted to its employees based on tracking stock that is referenced to either that subsidiary or another subsidiary of the consolidated group	• Tracking stock is considered for legal and accounting purposes to be equity of the parent company, and not equity of the unit or subsidiary to which the stock tracks • If the tracking stock is "substantive," the stock compensation should be accounted for in the separate financial statements of a subsidiary under APB Opinion No. 25 (and not FASB Statement No. 123); a tracking stock is considered substantive if it is publicly traded (other criteria may also lead to the determination that the tracking stock is substantive) • If the tracking stock is not substantive, the award should be accounted for as a cash-based or formula arrangement in both the separate subsidiary and consolidated financial statements • The guidance above applies prospectively to new awards granted (or outstanding awards modified) after January 18, 2001
Issue 28(b) -- The exchange of outstanding stock options based on the tracking stock in one member of a consolidated group for stock options in another member of the same group when the exchange does *not* occur in connection with a nonreciprocal equity restructuring	• The guidance for stock option exchanges in Issue 1 should be followed if the tracking stock is considered substantive (as defined in Issue 28(a)) • The guidance above applies prospectively to new awards granted (or outstanding awards modified) after January 18, 2001
Issue 29(a) -- How to account for income tax benefits from the exercise of nonqualified stock options that were previously issued in a nontaxable purchase business combination and that were *fully vested* at the date the combination was consummated	• The income tax benefit (i.e., the option gain at exercise multiplied by the company's tax rate) is recognized as a *reduction* to the purchase price of the acquired business to the extent that the deduction reported for tax purposes does not exceed the fair value of the awards included in the purchase price; the tax benefit of any remaining excess tax deduction is treated as a contribution to capital • The guidance above applies prospectively to exchanges of awards that occur after January 18, 2001

Issue / Topic	EITF Consensus
Issue 29(b) -- How to account for income tax benefits from the exercise of nonqualified stock options that were previously issued in a purchase business combination and that were *nonvested* at the date the combination was consummated	• The accounting guidance for recognizing income tax benefits in Issue 29(a) should be followed for the portion of the nonvested stock options attributable to the *expired* vesting period of the awards at the consummation date • The accounting guidance for recognizing income tax benefits for stock options granted *absent a business combination* (i.e., the "normal" income tax accounting rules) should be followed for the portion of the nonvested stock options attributable to the *remaining* vesting period of the awards at the consummation date • The guidance above applies prospectively to exchanges of awards that occur after January 18, 2001
Issue 30 -- Modifying an otherwise fixed stock option to add a "short-term inducement" to exercise the stock option, e.g., a cash bonus or increased number of shares that expires after two weeks	• Variable award accounting is required until the modified award is exercised, is forfeited, or expires unexercised (because the exercise price and/or number of shares are no longer fixed) • The guidance above is not subject to a specific prospective application date
Issue 31 -- Whether fixed award accounting applies to a stock option with an exercise price that is denominated in a currency other than the "functional" currency of the grantor	• Variable award accounting is required if the exercise price is denominated in multiple currencies or in a currency other than the currency of the "primary economic environment of either the employer or the employee" (because the exercise price is not fixed) • The guidance above applies prospectively to new awards granted after January 18, 2001
Issue 32 -- How to account for employer payroll taxes associated with the exercise of stock options that were previously exchanged in a purchase business combination and that were *vested* at the date the combination was consummated	• A liability (and corresponding cost) for employer payroll taxes incurred on employee stock compensation should be recognized on the date of the event triggering the income recognition and payment of tax to the taxing authority (e.g., on the date of exercise for a nonqualified stock option), consistent with the guidance in EITF Issue No. 00-16 • The subsequent recognition of the liability and cost has no effect on the previous purchase accounting for the combination, i.e., the purchase price is not remeasured • The guidance above applies prospectively to exchanges of stock options or awards in purchase business combinations that are consummated after April 19, 2001

Issue / Topic	EITF Consensus
<u>*Issue 33(a)*</u> -- How to account for the "early exercise" of a stock option if the employer has a contingent repurchase or "call" right until the award is vested with a strike price equal to the *lesser of* fair value of the stock at the call date or the original exercise price paid by the employee (sometimes referred to as a "California Style" stock option)	• The contingent call right is in substance a forfeiture provision that preserves the original vesting schedule of the award and results in no adverse accounting consequences for the early exercise an otherwise fixed stock option, provided the call right (1) expires at the end of the original vesting period of the award, (2) becomes exercisable only if a termination event occurs that would have caused the award to be forfeited, and (3) is priced at the *lower of* the employee's exercise price or the fair value of the stock on the date the call is exercised; an acceleration of vesting occurs if the employee terminates employment prior to vesting and the employer fails to exercise the call right • In addition, the shares received upon early exercise are not considered "issued" for purposes of computing basic earnings per share (EPS) or determining whether the shares are "mature" • The guidance above applies regardless of whether the early exercise provision is pursuant to the original terms of the stock option or added through a subsequent modification of the award • The guidance above applies prospectively to stock options granted or modified after July 19, 2001
<u>*Issue 33(b)*</u> -- Same fact pattern as <u>Issue 33(a)</u> except that the strike price for the employer call right is based solely on the original exercise price paid by the employee (i.e., *not* the lesser of fair value of the stock at the call date or the original exercise price)	• The early exercise is *not* recognized for accounting purposes if the employer strike price is based solely on the original exercise price of the stock option; rather, any cash paid for the exercise price is considered a deposit or prepayment of the exercise price that should be recognized by the employer as a liability • The stock options should only be accounted for as exercised when the awards become vested and the employer repurchase right lapses; an acceleration of vesting occurs if the employee terminates employment prior to vesting and the employer fails to exercise the call right • The guidance above applies prospectively to stock options granted or modified after March 21, 2002

Issue / Topic	EITF Consensus
Issue 34 -- Whether there are circumstances under which the exercise of a stock option with a full recourse note should *not* be accounted for as an exercise of the option award	• The legal form of a recourse loan should be respected (and thus the option exercise should be recognized), unless (1) the employer has legal recourse to the employee's other assets but does not intend to seek repayment beyond the shares issued, (2) the employer has a history of not demanding repayment of loan amounts in excess of the fair value of the shares, (3) the employee does not have sufficient assets or other means (beyond the shares) to justify the recourse nature of the loan, or (4) the employer has accepted a recourse note upon option exercise and subsequently converted the recourse note to a nonrecourse note; in addition, all other relevant facts and circumstances should be evaluated when determining whether the note should be accounted for as nonrecourse, including whether the loan is ultimately forgiven or whether a portion of the exercise price can be paid with a nonrecourse loan and the remainder with a recourse loan • If the facts and circumstances indicate the loan arrangement is nonrecourse in substance, the arrangement continues to be accounted for as a stock option in accordance with the guidance in EITF Issue No. 95-16 (that is, the exercise is not recognized for accounting purposes) • The guidance above applies prospectively to fixed stock options that are exercised after July 19, 2001
Issue 35 -- How to account for a stock option that is exercised with a recourse note *negotiated at the date of exercise*, if the terms of the note or another agreement provide that the note will be forgiven in whole or in part if specified "substantive" performance goals are achieved, i.e., a loan forgiveness arrangement	• Provided the performance goals are substantive and the stock option is considered exercised in accordance with Issue 34, variable award accounting is required for one day (the date of exercise) by analogy to the guidance in Issue 25; rationale is that the exercise price is not fixed for a recourse note arrangement that does not bear market terms • Further, any amount of the loan actually forgiven is recognized as additional compensation cost • The EITF did not address the accounting consequence of a recourse note forgiveness arrangement that is based on specified performance goals that are *not* substantive, but presumably the option exercise would *not* be recognized (and thus variable award accounting would continue beyond exercise) pursuant to the guidance in Issue 34

Issue / Topic	EITF Consensus
Issue 35 -- (cont.)	• The EITF also did not address the accounting consequence of a recourse note forgiveness arrangement that *is embedded in the terms of an option agreement* (either through the original terms of the award or a subsequent modification) rather than issued in conjunction with option exercise, but presumably the same variable award accounting would apply (commencing on the date the arrangement is entered into) because the exercise price is not fixed • The EITF also did not address the accounting consequence of a recourse note forgiveness arrangement that is based on [presumably substantive] *continued service* rather than "specified substantive performance goals," but presumably the same variable award accounting would apply because the exercise price is not fixed • The above guidance applies prospectively to exercises of stock options with recourse notes that occur after November 15, 2001
Issue 36(a) -- The accounting consequence of an employer "offer" to cancel existing fixed stock options and, upon acceptance of the offer, grant replacement stock options with a lower exercise price *within 6 months* of the cancellation date of the existing options, i.e., an offer to "reprice" existing stock options	• The employer *offer* results in variable award accounting for *all* existing stock options subject to the offer • Variable award accounting commences when the offer is made, and for stock options that are retained because the offer is declined, continues until the options are exercised, are forfeited, or expire unexercised • The same accounting treatment applies to existing stock options even if the replacement awards are in the form of restricted stock; refer to Issue 39(a) • The guidance above applies prospectively to employer offers that occur after July 19, 2001
Issue 36(b) -- How to apply the "cancellation and replacement" guidance in FASB Interpretation No. 44 when an employer offer to reprice *is accepted* by the employee	• Variable award accounting commences at the offer date for all existing stock options subject to the employer offer, consistent with the guidance in Issue 36(a) • Further, because the existing stock options are subject to variable award accounting due to the deemed repricing in Issue 36(a), upon acceptance of the offer and cancellation of the existing stock options, *any* new stock options granted during the 6-month look-back look-forward period are eligible to be replacement awards subject to variable award accounting treatment (not just new stock options with a *lower* exercise price) • The guidance above applies prospectively to employer offers that occur after July 19, 2001

Issue / Topic	EITF Consensus
Issue 36(c) -- The accounting consequence of an employer offer to cancel existing fixed stock options, and upon acceptance of the offer, grant new replacement stock options with an "at-the-money" exercise price *more than 6 months after* the cancellation date of the existing stock options	• The offer results in no adverse accounting consequences for existing stock options subject to the offer, provided the 6-month "safe harbor" provisions of FASB Interpretation No. 44 are satisfied (in substance, the employer has only offered to "cancel" the existing stock options, not "reprice" the options) • But refer to Issue 39(b) if the replacement awards are in the form of restricted stock; the offer is deemed to be a repricing requiring variable award accounting in accordance with Issue 36(a) • The guidance above applies prospectively to employer offers that occur after July 19, 2001
Issue 36(d) -- Whether the *length* of the offer period (e.g., a 1-year offer period) or the existence of *multiple* cancellation offers would affect the conclusion reached in Issue 36(c)	• A lengthy offer period or the existence of multiple offers does not adversely affect the conclusion reached in Issue 36(c) other than to extend the "window of evaluation" as defined in Issue 36(e) below for identifying replacement awards • The guidance above applies prospectively to cancellation offers that occur after November 15, 2001
Issue 36(e) -- The appropriate *date* that stock options are deemed to be canceled when an employer makes an offer to cancel existing stock options and replace with new awards, e.g., the offer date, the acceptance date, or the date the stock options are legally canceled and all regulatory requirements for cancellation are met	• Stock options are deemed canceled on the date that all legal and regulatory requirements for cancellation are met, such as the date an election to cancel can no longer be revoked • Further, the window of evaluation for purposes of identifying replacement awards begins 6 month prior to commencement of the offer period (that is, the date the offer is communicated to employees), continues *through* the offer period, and ends 6 months after the stock options are legally canceled • The guidance above applies prospectively to award cancellations that occur after November 15, 2001
Issue 37(a) -- How to account for the intrinsic value at the original measurement date of a nonvested fixed stock option that is canceled and not replaced with a new award	• Consistent with the compensation cost recognition guidance for fixed awards in FASB Interpretation No. 44, companies should (1) *always* recognize as compensation cost the intrinsic value of the award (if any) at the original measurement date, and (2) *never* reverse previously measured compensation cost for a fixed award unless the employee "fails to fulfill an obligation" • The guidance above applies prospectively to fixed stock options that are canceled after July 19, 2001

Issue / Topic	EITF Consensus
Issue 37(b) -- How to account for the settlement of nonvested stock awards with new "at-the-money" stock options	• The transaction is deemed to be an "upward repricing" and the guidance in Issue 26 should be followed to determine whether a new measurement date or variable award accounting is required for the new stock options • Regardless of how the new stock options are accounted for, the original intrinsic value of the settled nonvested awards should be recognized as compensation cost consistent with the guidance in Issue 37(a) (that is, the previously measured cost should *not* be reversed) • The guidance above applies prospectively to nonvested stock awards that are settled after July 19, 2001
Issue 38 -- Clarification of the term "substantial investment" as it relates to a nonpublic company's share repurchase feature based on other than fair value	• Share repurchase features based on other than fair value for nonpublic companies may not meet the substantial investment criterion (even if the employee invests an amount at least equal to the formula share repurchase price calculated at the date of grant) if the formula results in a *de minimis* employee investment that does not approximate fair value (because the employee does not share in the *risks* of ownership) • Share repurchase features that result in an employee investment of zero *never* meet the substantial investment criterion • The guidance above applies prospectively to employee investments that occur after November 15, 2001
Issue 39(a) -- The accounting consequence of an employer offer to cancel existing fixed stock options and, upon acceptance of the offer, grant restricted stock *within 6 months* of the cancellation date of the existing stock options (same fact pattern as Issue 36(a) except the replacement awards are in the form of restricted stock rather than stock options)	• The employer offer results in variable award accounting for all existing stock options subject to the offer, consistent with the guidance in Issue 36(a) • Variable award accounting commences when the offer is made, and for stock options that are retained because the offer is declined, continues until the options are exercised, are forfeited, or expire unexercised • The guidance above applies prospectively to employer offers that occur after November 15, 2001
Issue 39(b) -- The accounting consequence of an employer offer to cancel existing fixed stock options, and upon acceptance of the offer, grant restricted stock *more than 6 months after* the cancellation date of the existing stock options (same fact pattern as Issue 36(c) except the replacement awards are in the form of restricted stock rather than stock options)	• The 6-month safe harbor is not relevant if replacement awards are in the form of restricted stock because the grantees are protected from future stock price increases regardless of when the restricted stock is granted (that is, an offer to grant restricted stock after 6 months is in substance the same as an offer to grant restricted stock immediately upon cancellation of the stock options)

Issue / Topic	EITF Consensus
Issue 39(b) -- (cont.)	• Thus, consistent with the repricing guidance in Issue 36(a), the employer offer results in variable award accounting for all existing stock options subject to the offer; variable award accounting commences when the offer is made, and for stock options that are retained because the offer is declined, continues until the options are exercised, are forfeited, or expire unexercised • The guidance above applies prospectively to employer offers that occur after November 15, 2001
Issue 39(c) -- The accounting consequence of an employer offer to cancel and regrant stock options (consistent with the fact pattern in Issue 36(c)) if the offer provides for reinstatement of the canceled options (or acceleration of the grant of new replacement awards) during the 6-month safe harbor period upon the occurrence of certain events, such as death, involuntary termination, or change-in-control	• Consistent with the guidance in Issue 36(e), the cancellation date and related commencement of the 6-month look-forward period cannot occur until the canceled stock options can no longer be reinstated or the grant of new replacement awards can no longer be accelerated, which is generally the same date the new replacement awards are granted (resulting in variable award accounting if the new replacement awards are stock options) • The guidance above applies prospectively to employer offers that occur after November 15, 2001
Issue 39(d) -- The accounting consequence of an employer offer to cancel and regrant stock options (consistent with the fact pattern in Issue 36(c)) if the number of new replacement stock options differs from the number of canceled stock options, i.e., a 6-month safe harbor cancellation and replacement at other than a 1:1 replacement ratio	• Variable award accounting is *not* required provided the number of new at-the-money replacement stock options is not determined by a formula that is either directly or indirectly linked to changes in the market price of the underlying stock • Variable award accounting *is* required for the new replacement stock options (regardless of when granted) if judgement indicates that the formula is intended to compensate the grantee for stock price increases during the 6-month safe harbor • The guidance above applies prospectively to employer offers that occur after January 24, 2002

Issue / Topic	EITF Consensus
Issue 39(e) -- The accounting consequence of an employer offer to cancel and regrant stock options if a portion of the new replacement stock options are granted immediately upon cancellation (to protect the grantee against stock price increases during the 6-month safe harbor) and a portion are granted more than 6 months after cancellation (to avoid variable award accounting for that portion of the grant)	• Variable award accounting is required for the initial replacement stock options granted immediately upon cancellation because the 6-month safe harbor is violated • Variable award accounting also is required for a portion of the remaining replacement stock options granted more than 6 months after cancellation if the exercise period for the initial replacement stock options expires *within* 6 months of the grant of the remaining replacement stock options, consistent with the indirect repricing guidance in FASB Staff Announcement Topic No. D-91; the number of remaining replacement stock options subject to variable award accounting is equal to the number of initial stock options granted (fixed award accounting applies to any remaining replacement stock options in excess of the number of initial replacement stock options granted) • Variable award accounting is *not* required for any of the remaining replacement stock options granted more than 6 months after cancellation if either (1) the exercise period for the initial replacement stock options expires *more than 6 months after* the grant of the remaining replacement stock options, or (2) the initial stock options are granted in the form of restricted stock, regardless of when granted (because restricted stock is always viewed as a "replacement award," rather than as "consideration for stock price increases" during the 6-month safe harbor) • The guidance above applies prospectively to replacement awards granted after November 15, 2001
Issue 39(f) -- The accounting consequence of canceling existing stock options without providing substantial consideration in exchange for the cancellation	• FASB Interpretation No. 44 provides that an "effective cancellation" is deemed to occur if, at the time a replacement award is granted, an agreement exists (in any form) to cancel or settle an existing stock option at a specified future date • The cancellation of stock options in exchange for consideration that is not substantial suggests that there was an implied agreement to provide value through other means; thus, a rebuttable presumption exists that the cancellation is linked to a previous stock option with a lower exercise price, which if not overcome, would required variable award accounting for the previous grant (even if granted more than 6 months prior to the cancellation) • The guidance above applies prospectively to award cancellations that occur after November 15, 2001

Issue / Topic	EITF Consensus
Issue 39(g) -- The accounting consequence of "truncating" the exercise period of stock options	• FASB Interpretation No. 44 provides that an effective cancellation is deemed to occur if existing stock options are modified to "reduce or eliminate the likelihood of exercise," such as by reducing (or truncating) the exercise period of the options • Whether an exercise period truncation actually reduces or eliminates the likelihood of exercise, however, depends on whether the stock options are in-the-money or underwater • The truncation of in-the-money stock options generally should *not* reduce the likelihood of exercise (in fact, the truncation may actually *increase* the likelihood of exercise), and thus should not result in an effective cancellation of the options; judgment should be applied in evaluating relevant facts and circumstances when making this determination • The truncation of underwater stock options does reduce the likelihood of exercise, however, resulting in an effective cancellation and a window of evaluation for identifying replacement awards that begins 6 months prior to announcement of the truncation (or 6 months prior to the event triggering the truncation if the truncation is pursuant to the embedded terms of the option) and ending 6 months after the options expire • Further, variable award accounting is required for stock options that could expire *prior to vesting* because of a truncation provision for reasons other than the grantee's termination of employment (because the number of shares is not fixed); variable award accounting applies until the stock options become vested (refer to Issue 45 which clarifies the guidance in FASB Staff Announcement Topic No. D-91) • The guidance above applies prospectively to stock options granted or truncated after November 15, 2001
Issue 40(a) -- Whether a grantee who provides services to an LLC (or other pass-through entity) should be considered an employee for purposes of accounting for capital- or equity-based compensation (profits interest awards) granted by the LLC	• The grantee of a profits interest award should be considered an employee if the grantee qualifies as a common law employee; the fact that the LLC does not classify the grantee as an employee for payroll tax purposes is not relevant • The guidance above applies prospectively to profits interest arrangements of an LLC (or other pass-through entity) after November 15, 2001

Issue / Topic	EITF Consensus
Issue 40(b) -- If a grantee of a profits interest award is considered to be an employee for purposes of applying APB Opinion No. 25, whether that award should be accounted for as a fixed or variable award	• A profits interest award should be accounted for based on its substance, taking into consideration all relevant facts and circumstances including the investment required, liquidation or prepayment provisions, and provisions for the realization of value • The guidance above applies prospectively to profits interest awards granted after March 21, 2002
Issue 41 -- The exchange of outstanding stock options based on a company's tracking stock (or any class of stock) into stock options in the company's surviving common stock when the exchange does *not* occur in connection with a nonreciprocal equity restructuring	• The guidance for stock option exchanges in Issues 1 and 28(b) should be followed in event of the elimination or exchange of *any* class of stock (other than a nonreciprocal transfer), including a change from a multiple-class to a single-class capital structure, an exchange of nonvoting for voting common stock, and the elimination of one of several tracking stocks • The guidance above applies prospectively to award modifications that result from the elimination of (1) tracking stock that occur after November 15, 2001, and (2) any other class of stock that occur after January 24, 2002
Issue 42(a) -- Whether noncompensatory stock compensation plans in tax jurisdictions outside the United States (such as Save-As-You-Earn or "SAYE" plans in the United Kingdom) are noncompensatory under APB Opinion No. 25 if the purchase discount is more than 15 percent	• Compensatory plan accounting is required under APB Opinion No. 25 if the purchase discount exceeds 15 percent of the stock price *at grant* • The guidance above applies prospectively to new grants that occur after January 24, 2002
Issue 42(b) -- Whether noncompensatory stock compensation plans in tax jurisdictions outside the United States (such as SAYE plans in the United Kingdom) are noncompensatory under APB Opinion No. 25 if the exercise period is greater than 27 months	• Compensatory plan accounting is required under APB Opinion No. 25 if the exercise period exceeds (1) 27 months in the case of an exercise price based on the stock price *at grant*, or (2) 5 years in the case of an exercise price based on the stock price *at exercise* • The guidance above applies prospectively to new grants that occur after January 24, 2002

Issue / Topic	EITF Consensus
Issue 42(c) -- Whether noncompensatory stock compensation plans in tax jurisdictions outside the United States (such as or SAYE plans in the United Kingdom) are "fixed" under APB Opinion No. 25 if the grantee can elect to cancel (and forfeit) one contract and enter into a new contract if offered by the employer	• The employer offer to enter into a new contract within 6 months at a lower exercise price results in variable award accounting for all existing awards subject to the offer, consistent with the guidance in Issue 36(a) • Variable award accounting commences when the offer is made, and for awards that are retained because the offer is declined, continues until the awards are exercised, are forfeited, or expire unexercised; variable award accounting is also required for any new awards granted to the extent that previous higher priced awards are canceled • The guidance above applies prospectively to employer offers that occur after January 24, 2002
Issue 43 -- The accounting consequence of an company's *failure* to adjust outstanding stock options or awards in connection with a nonreciprocal equity restructuring	• FASB Interpretation No. 44 provides that there is no accounting consequence for otherwise fixed stock options or awards that are modified (regardless of whether the modification is pursuant to the original terms of the award or not) to adjust the exercise price and/or number of shares coincident with an "equity restructuring" (defined as a nonreciprocal transaction such as a stock dividend, spinoff, stock split, rights offering, or large nonrecurring dividend that causes a company's stock price to decrease), provided (1) the aggregate intrinsic value of the award is not increased, and (2) the ratio of exercise price to the market price per share is not *reduced* • If the embedded terms of stock options or awards *require* equitable adjustments in connection with an equity restructuring but the company nevertheless *fails to do so*, the accounting consequence of such failure is a deemed modification resulting in either (1) a repricing requiring variable award accounting if the effect is a *reduction* in exercise price, or (2) either a new measurement date or variable award accounting (depending on all relevant facts and circumstances consistent with the guidance in Issue 26) if the effect is an *increase* in exercise price; further, if the failure to adjust awards results in a reduced likelihood of exercise, the awards are deemed to be effectively canceled similar to the guidance in Issue 39(g)

Issue / Topic	EITF Consensus
<u>*Issue 43 -- (cont.)*</u>	• If in connection with a stock split, reverse stock split, or stock dividend treated as a stock split, the embedded terms of [presumably underwater] stock options provide for equitable adjustment to the exercise price but *not* the number of shares, any such adjustment is deemed to be a repricing requiring variable award accounting (because the aggregate *negative* intrinsic value is reduced) • If the embedded terms of stock options or awards are *silent* in regard to equitable adjustments in connection with an equity restructuring (or if adjustments are at the *discretion* of the company), the accounting guidance above applies in event of a stock split, reverse stock split, or stock dividend treated as a stock split; the accounting guidance above also applies in event of a spinoff or large nonrecurring cash dividend unless relevant facts and circumstances provide sufficient evidence of a reason *not* to make equitable adjustments, such as the existence of legal or contractual prohibitions (e.g., debt convenants) • The guidance above applies prospectively to equity restructurings that occur after November 15, 2001
<u>*Issue 44*</u> -- The accounting consequence of an acquiring company's decision *not* to assume outstanding target company stock options or awards in connection with a purchase business combination	• So long as no legal obligation exists to assume outstanding target company stock options or awards, those awards and any new awards granted by the acquiring company should not be linked for accounting purposes (and any target awards not assumed would not be deemed to be "effectively canceled" for purposes of the cancellation and replacement guidance in FASB Interpretation No. 44) • However, post-acquisition awards should be accounted for as consideration for the purchase business combination if there is evidence of an oral or implied agreement at acquisition to grant new awards to target grantees in exchange for target company stock options or awards after the acquisition (a grant made within 1 year of acquisition to target employees that differs significantly from the acquiring company's normal grant pattern may provide evidence of such an implied agreement) • The guidance above applies prospectively to business combinations consummated after March 21, 2002

Issue / Topic	EITF Consensus
Issue 45 -- Whether a measurement date occurs at grant date if stock options could expire prior to vesting	• The guidance in FASB Staff Announcement Topic No. D-91 is clarified to provide that variable award accounting is required for stock options that could expire *prior to vesting* because of a truncation provision for reasons other than the grantee's termination of employment (because the number of shares is not fixed); variable award accounting applies until the stock options become vested (also refer to the guidance in Issue 39(g)) • The guidance above applies prospectively stock options that could expire prior to vesting after November 15, 2001
Issue 46 -- The accounting consequence of a transferability provision on an otherwise fixed stock option or award (either pursuant to the original terms of the award or through a subsequent modification of the award)	• A transferability provision (either pursuant to the original terms of the award or through a subsequent modification of the award) does not result in an accounting consequence, unless all relevant facts and circumstances indicate (1) the subsequent transfer results in a reacquisition of the award by the employer (for example, the transfer results in the payment of cash or other consideration by the employer to reacquire the award), or (2) the employer facilitates the transfer to circumvent existing accounting rules, as would be the case if the employer uses the employee as a conduit to transfer the award to a nonemployee service provider of the employer (thereby avoiding the accounting requirements of FASB Statement No. 123 and EITF Issue No. 96-18) • The guidance above applies prospectively to awards granted or modified after March 21, 2002
Issue 47 -- The original terms of an otherwise fixed stock option provide a reload feature for shares used to satisfy minimum statutory tax withholding obligations upon exercise, i.e., a "tax reload" feature	• The scope of EITF Issue No. 90-7 is amended to provide that tax reloads (consistent with the fact pattern in this Issue 47) do *not* result in variable award accounting • Further, the shares tendered to satisfy minimum statutory tax withholding obligations need not satisfy the 6-month holding period requirement in EITF Issue No. 84-18 • The guidance above applies prospectively to new awards granted after January 24, 2002

Issue / Topic	EITF Consensus
Issue 48 -- The accounting consequence of a "cashless exercise" of a stock option effected through a broker	• There is no accounting consequence for a cashless exercise of a stock option effected through a broker that is *unrelated* to the grantor, provided that the employee makes a valid exercise of the stock option and the grantor concludes the employee is legal owner of all option shares (that is, the employee assumes market risk from the moment of exercise until the broker effects the sale on the open market); if the employee is never legal owner of the shares, the stock option would be in substance a stock appreciation right (SAR) for which variable accounting would be required (such as when it is illegal for individuals in certain countries to own shares in foreign corporations or for companies in certain countries to allow share ownership by foreign nationals) • If the broker is a *related party* of the grantor, there is no accounting consequence for a cashless exercise provided (1) the employee takes legal ownership of the option shares as discussed above, (2) the broker dealer assisting the exercise is a substantive entity with operations that are separate and distinct from those of the grantor (except in circumstances in which the broker-dealer itself is the grantor) and sells the option shares on the open market, and (3) the cashless exercise process is the same whether or not the exercise is being performed for a related entity or an independent entity • The guidance above applies as of June 30, 2002 to all outstanding awards and prospectively to all new awards that permit broker-assisted exercise
Issue 49 -- Adjusting outstanding stock options or awards in connection with a nonreciprocal equity restructuring when the outstanding awards have *negative* intrinsic value	• There is no adverse accounting consequence if the two requirements of Issue 1 are satisfied, that is (1) the aggregate negative intrinsic value is not *reduced*, and (2) the ratio of exercise price to market price per share is not *reduced* • If the second requirement of Issue 1 is satisfied but the aggregate negative intrinsic value is reduced (that is, the first requirement is not satisfied), the exchange is accounted for as the grant of a new award (the number of additional stock options that would have been issued to maintain the same aggregate negative intrinsic value) and a deemed cancellation of those additional awards that would be subject to the look-back look-forward cancellation and replacement guidance in FASB Interpretation No. 44 and Issue 39(f)

Issue / Topic	EITF Consensus
*Issue 49 -- (cont.)*	• If the second requirement of _Issue 1_ is *not* satisfied, variable award accounting is required for the entire exchanged award • The guidance above applies prospectively to equity restructurings that occur after January 24, 2002
*Issue 50* -- The accounting consequence of converting a recourse note (that represents consideration for a previous stock compensation transaction) to a note considered to be nonrecourse	• The conversion should be accounted for as the repurchase of the shares previously exercised with a recourse note, and the simultaneous grant of a new stock option in return for a nonrecourse note • The repurchase amount is equal to the sum of (1) the then-current principal balance of the recourse note, (2) accrued interest (if any), and (3) the intrinsic value of the new stock option • If the repurchase amount exceeds the fair value of the option shares repurchased and the note conversion occurs *more than* 6 months after option exercise or share issuance, the repurchase is accounted for as a treasury stock transaction and compensation cost is recognized for the excess of the repurchase amount over the fair value of the shares on the conversion date • If the repurchase amount exceeds the fair value of the option shares repurchased and the note conversion occurs *within* 6 months after option exercise or share issuance, the repurchase is accounted for as the acquisition of immature shares and compensation cost is recognized in accordance with the guidance for award settlements provided in FASB Interpretation No. 44 ⇒ In measuring compensation cost under that guidance, the “amount of cash paid to the employee” is the repurchase amount as defined above • If the fair value of the option shares repurchased exceeds the repurchase amount (and the employee is not required to pay the difference), the grantor is deemed to have forgiven that portion of the recourse note and thus all existing and future recourse notes issued in conjunction with option exercises should be accounted for as nonrecourse notes pursuant to the guidance provided in _Issue 34_ • The new stock option is accounted for under the nonrecourse note guidance provided in EITF Issue No. 95-16 • The guidance above applies prospectively to recourse/nonrecourse note conversions that occur after March 21, 2002

Issue / Topic	EITF Consensus
Issue 51 -- How to account for a stock option that is based on the stock of an unrelated entity	• The EITF reached a consensus that this issue is not within the scope of APB Opinion No. 25 or FASB Statement No. 123 because the underlying stock is not an equity instrument of the employer/grantor • The EITF in Issue No. 02-08 decided that the fair value of such an option award should be accounted for as a “derivative” under FASB Statement No. 133 in the determination of net income (both during and subsequent to vesting)