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August 23, 2013

Via email to director@fasb.org

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

RE: Proposed Accounting Standards Update, *Accounting for Identifiable Intangible Assets in a Business Combination—a Proposal of the Private Company Council* (File Reference No. PCC-13-01A)

Dear Ms. Cosper:

We are pleased to provide comments on the intangible assets exposure draft (the ED). For private companies, we agree with the option to record only those intangible assets that are separately identifiable because they arise for contractual or legal reasons. We offer additional thoughts on questions posed in the ED in the appendix.

More generally, we note that introducing accounting alternatives for private companies will create new practice issues for public companies such as in the application of equity method accounting. For example, if the Board permits private companies to amortize goodwill and a public equity method investor calculates its share of earnings based on the financial statements of the private company (including goodwill amortization) that is not considered "significant" under Rule 3-09 of Regulation S-X, the result would conflict with the "one-line consolidation" principle in Topic 323. Conversely, if a public equity method investor honors the "one-line consolidation" principle and conforms the accounting of the private company (replaces goodwill amortization with a goodwill impairment assessment), significant time, effort, and hindsight could be required. While the Board might address the potential implications of each PCC project individually, we recommend a more comprehensive approach that identifies, and provides direction for, the situations in which public companies will encounter conflicts between public and private company GAAP.

We would be pleased to discuss our comments with the FASB staff. Please direct questions to Lee Graul, National Director of Accounting at (312) 616-4667 or Adam Brown, Partner in the National Accounting Department at (214) 665-0673.

¹ Separate Financial Statements of Subsidiaries Not Consolidated and 50 Percent or Less Owned Persons. While the Board's August 7, 2013 exposure draft on the definition of a public business entity states that a significant equity method investee would be considered public (para BC12), it does not explicitly address whether a registrant's equity method investee that lacks significance under Rule 3-09 is considered public. If the definition of a public business entity is intended to capture insignificant equity method investees through the reference to "...other entities whose financial statements or financial information are required to be or are included in a filing...(emphasis added)," we believe this point merits clarification and greater prominence in that project's final amendments.

² See ASC 323-10-35-13.

Technical Director Financial Accounting Standards Board Page 2 of 6

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Very truly yours,

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Technical Director
Financial Accounting Standards Board
Page 3 of 6

Appendix

Note: We have responded to all questions other than those posed specifically to users.

Question 1: Please describe the entity or individual responding to this request. For example:

- a. Please indicate whether you primarily are a preparer, user, public accountant or, if other, please specify.
- b. If you are a preparer of financial statements, please indicate whether your entity is privately held or publicly held and describe your primary business and its size (in terms of annual revenue, the number of employees, or other relevant metric).
- c. If you are a public accountant, please describe the size of your firm (in terms of number of partners or other relevant metric) and indicate whether your practice focuses primarily on public entities, private entities, or both.
- d. If you are a user of financial statements, please indicate in what capacity (for example, lender, investor, analyst, or rating agency) and whether you primarily use financial statements of private entities or those of both private entities and public entities.

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Question 2: Should any types of entities be excluded from the scope of this proposed Update? Should any types of transactions or accounts be excluded, or are there any other types of transactions or accounts that should be included in the scope?

Except as noted in our response to the next question, we do not believe additional scope modifications are necessary.

Question 3: Should the Board expand the scope of the accounting alternative to other entities, such as publicly traded companies or not-for-profit entities? If the scope is expanded to other entities, what changes, if any, should the Board consider for the recognition, measurement, and disclosure of identifiable intangible assets acquired in a business combination? If the scope is expanded to public companies or not-for-profit entities, should the accounting alternative continue to be elective?

We believe not-for-profit entities should be included in the scope of the proposed accounting alternative, and that it should be elective for them. For example, some not-for-profits may find it beneficial to record donor lists, which are separable under 958-805-55-48 (as opposed to contractual-legal), while others may not.

Question 4: Would the proposed amendments reduce overall costs and complexity compared with existing guidance? If not, please explain why.

Yes, the ED would reduce costs, as well as the complexity associated with preparing valuations of identifiable intangible assets that are separable.

Technical Director Financial Accounting Standards Board Page 4 of 6

Question 5: Do you agree that the accounting alternative for the recognition and measurement of intangible assets acquired in a business combination would provide relevant and decision-useful information to users of private company financial statements? If not, what accounting alternative, if any, would provide more relevant information to users?

We believe the primary benefits of the proposal would be the cost-reduction associated with no longer valuing or recording intangible assets that are separable. This outcome might also enable private company users to focus their analysis on contractual-legal intangible assets, which the Board was informed were most decision-useful (as discussed in the basis for conclusions).

With respect to the examples provided in 805-20-55-60, the first item is an "order backlog as evidenced by outstanding purchase orders;" there is no reference to the purchase orders being "noncancelable" even though the following eight examples (items b. through i.) all use that term. Paragraph BC16 suggests this may be an unintentional difference since the cancelable portion of any contract would not be separately recognized from goodwill under the ED. As such, we recommending clarifying that purchase orders under item a. must be "noncancelable." Alternatively, if cancelable purchase orders are envisioned in this paragraph, it appears inconsistent with the accounting alternative being proposed.

Question 6: Do you agree that for contractual intangible assets, recognition and measurement should be limited to the noncancelable term of the contract? If so, do you agree with the proposed definition of a noncancelable contractual term? Do you agree that market participant expectations about the potential renewal or cancellation of the contract should not be factored into the measurement? Do you foresee any increase in cost and complexity or other difficulties in applying this alternative recognition and measurement principle? If yes, would additional implementation guidance address those difficulties?

We believe renewal and termination options should be reflected in the measurement of an intangible asset when a significant economic incentive to exercise exists. As the Board concluded in the current lease exposure draft, making that assessment should be relatively objective and operational in practice.

Question 7: Do you agree that intangible assets arising from other legal rights should continue to be measured at fair value considering all market participant expectations, consistent with Topic 820? If not, what accounting alternative for measurement do you recommend?

We agree.

Question 8: Do you agree that an entity should disclose the nature of identifiable intangible assets that are not recognized separately as a result of applying the amendments in this proposed Update? If not, please explain why.

³ See paragraph BC140 in the May 2013 exposure draft, *Leases*.

Technical Director
Financial Accounting Standards Board
Page 5 of 6

We disagree. Since we concur with the conclusion reached by the PCC and Board that most intangible assets recognized on the basis of separability do not provide meaningful information to users of private company financial statements, we do not see the benefit of disclosures about those assets.

Question 9: For identifiable intangible assets that are recognized separately as a result of applying the amendments in this proposed Update, do you agree that the amendments should not require any other additional recurring disclosures and that entities should be required to comply with disclosure requirements in relevant Topics, as applicable (for example, Topic 350, Intangibles—Goodwill and Other, and Topic 805)? If not, what additional disclosures should be required and please explain why.

We agree.

Question 10: Do you agree that the proposed Update should be applied on a prospective basis? Should retrospective application be permitted?

We agree with prospective adoption.

If electing this accounting alternative is linked to the alternative for goodwill in PCC-13-01B, a retrospective approach would introduce hindsight into fair value measurements and estimating the useful life of goodwill, a scenario we do not support.

Similarly, if this accounting alternative is not linked to PCC 13-01B, it is possible that increasing the carrying amount of goodwill (by not recording certain intangible assets) may result in the need to assess goodwill for impairment in a prior period under existing US GAAP. This would also introduce the use of hindsight in prior period fair value estimates, which is undesirable.

Question 11: When should the alternative accounting method be effective? Should early application be permitted?

We support finalizing this project as soon as possible and permitting early (immediate) adoption. Assuming early adoption is available, we have no preference for a particular effective date since the nature of the proposed alternative is elective.

Question 12: For preparers and auditors, how much effort would be needed to implement and audit the proposed amendments?

We anticipate minimal effort.

Question 14: If an entity elects the accounting alternative in this proposed Update, should that entity also be required to apply the PCC's proposed accounting alternative for the subsequent measurement of goodwill (in Topic 350)? Alternatively, if an entity elects the accounting alternative in Topic 350 for goodwill, should that entity also be required to adopt

Technical Director
Financial Accounting Standards Board
Page 6 of 6

the accounting alternative in this proposed Update? (No decisions have been reached by the Board and the PCC about this question.)

We believe electing one of the proposed updates should be conditional on also electing the other. However if the Board concludes the projects do not necessarily require complete linkage, we believe entities who choose not to record certain identifiable intangible assets under this project should be required to amortize goodwill. Among other things, a one-directional link would mitigate the need for future goodwill impairment assessments.

Question 15: The scope of this proposed Update uses the term publicly traded company from an existing definition in the Master Glossary. In a separate project about the definition of a nonpublic entity, the Board is deliberating which types of business entities would be considered public and would not be included within the scope of the Private Company Decision-Making Framework. The Board and PCC expect that the final definition of a public business entity resulting from that project would be added to the Master Glossary and would amend the scope of this proposed Update. The Board has tentatively decided that a public business entity would be defined as a business entity meeting any one of the following criteria:

- a. It is required to file or furnish financial statements with the Securities and Exchange Commission.
- b. It is required to file or furnish financial statements with a regulatory agency in preparation for the sale of securities or for purposes of issuing securities.
- c. It has issued (or is a conduit bond obligor) for unrestricted securities that can be traded on an exchange or an over-the-counter market.
- d. Its securities are unrestricted, and it is required to provide U.S. GAAP financial statements to be made publicly available on a periodic basis pursuant to a legal or regulatory requirement.

Do you agree with the Board's tentative decisions reached about the definition of a public business entity? If not, please explain why.

We will provide views on this topic in our comment letter on the August 7, 2013 exposure draft regarding the definition of a public business entity.

Other Comment

The Board should provide guidance for private companies who initially elect one or more accounting alternatives developed by the PCC, and subsequently decide they wish to revert to public company GAAP. If that scenario arises, would preferability need to be demonstrated, or could it be assumed?