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Ms. Leslie F. Seidman Chairman Financial Accounting Standards Board 401 Merritt 7 P.O. Box 5116 Norwalk, CT 06856-5116

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Exposure Draft ED/2013/6, Leases (File Reference No. 2013-270) - Comment

Dear Mr. Hoogervorst, Dear Ms. Seidman.

We would like to take up the opportunity to submit our comments regarding the Exposure Draft ED/2013/3, Leases. Our concerns regarding the proposed accounting rules for leases are as follow:

- All leases including those that already exist must be presented in the balance sheet. As
 a result, the balance sheet figures shift, certain key figures in particular, to the disadvantage
 of the company. Because leasing is grouped together with financing, the volume of
 borrowed capital to be presented increases, the equity ratio falls; with the corresponding
 negative effects on the investment market.
- "In applying the cost constraint, the Board assesses whether the benefits of reporting particular information are likely to justify the costs incurred to provide and use that information" (QC38 of the Conceptual Framework for Financial Reporting). This is quite similar to the further rule in the IFRS Framework. From a cost/benefit point-of-view the expected costs associated with the implementation of the proposed standard are likely to outweigh the expected benefits for investors. Next to the direct and indirect costs as expended time, we couldn't see any benefit.
- According to F 60 the essential characteristic of a liability is that the enterprise has a
 present obligation. An obligation is a duty or a responsibility to act or perform in a certain
 way. This means that if someone has no right to call for an action (receivable) then no
 obligation (liability) exists. Thus the existence of a liability depends on the existence of a



receivable and vice versa. For type B leases the lessee has to record a liability on the face of the entity's balance sheet whereas the lessor does not recognize a corresponding receivable in its books. For this reason the current ED does not capture the underlying economic transaction properly for type B-leases. Moreover, against the background of the Framework the proposed accounting for type B-leases is systematically not correct. This issue causes problems especially for consolidated financial statements where lessee and lessor belong to the same group. Due to the absence of a corresponding receivable the elimination of intragroup assets and receivables cannot be performed. Therefore the liability has to be discloses as third party liability.

- Another inconsistency of the proposed lease accounting for type B leases is that form an
 economical point of view -the same asset is capitalized twice one time as tangible asset in
 the lessor's financial statements and a second time as intangible asset (right-of-use) in the
 lessee's financial statements resulting in double depreciation/amortization as well as double
 investing activities without disclosing any divesting activities.
- Even though the circumstances were different a retroactive application of IFRS 3 (2004) was at its time not required.
- Unlike the separate financial statements prepared in accordance with the German Commercial Code, the consolidated financial statements do not have a profit distribution function, but they nevertheless represent the appropriate and significant basis for governance/credit agreements. Credit Agreements, for instance, often include financial covenants which are based on the consolidated financial statements. For this reason, a change to current accounting rules could have a severe negative impact on the group's financial position. Therefore the new accounting rules can only relate to the future, i.e. only to leases concluded subsequent to the changes in accounting rules. If this is not the case, we believe it would represent a breach of the generally accepted standards of legal certainty and the principle of non-retroactivity, which in Germany is a component of democratic principles pursuant to Article 20 Par. 3 of the Federal Constitution. It would not be possible for anyone to have confidence in the previous balance sheets and the information contained therein if the new figures are changed simply due to new accounting rules. And since changes would then always be possible, there would be no legal certainty for the future.
- According to the proposed standard the rules relating to leases apply with the exception of leases under one year. So there are exceptions, which mean not every lease is pictured in the financial statement. Due to the principle of non-retroactivity and for legal certainty considerations, exceptions must also be in place for current leases. The new standard can only be applied to those leases that are concluded subsequent to the introduction of the new financing standards.

In conclusion

For the reasons given above it has to be concluded that the current ED fails to present a true and fair view in terms of accounting for type B leases.

Moreover the IFRS should be more simple, not more complicated and although appropriate between the purpose the IASB may pursue and the causing efforts.

Therefore we would kindly ask you to refrain from the implementation of the new leasing accounting rules.



Thank you for your consideration of our comment.

Yours sincerely

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