

Technical Director
Financial Accounting Standards Board
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December 15, 2010

RE: Exposure Draft: Leases
Reference 1850-100

Thank you for the opportunity to comment on the changes to the Lease Accounting standard as proposed in the August 2010 Exposure Draft – Leases. My position with the Global Consulting Transaction team at Cushman & Wakefield has provided me with extensive experience in commercial real estate transactions – and the processes behind them. Cushman & Wakefield is a large global commercial real estate company and as such interacts with tenants, landlords, investors and managers of commercial real estate globally. In addition to facilitating commercial transactions through brokerage services, the company is involved in management, lease administration, finance, appraisal and consulting for local, national and global portfolios. As such, we reach a broad number of participants in commercial real estate who will feel the effect of the changes as proposed

Understanding that the Boards goal is to provide greater transparency concerning lease transactions, I do not believe that the changes recommended in the exposure draft meet achieve that result. Transparency is not effective in the absence of clarity and comprehension.

Here are my comments on the recommendations in the Exposure Draft- they focus on the lessee side of the transaction:

- 1) A commercial lease is executory in nature with components that must be delivered each period. Recording a “right-of-use” asset does not represent the essence of the contract or improve the value of balance sheet presentation. Recording the rent expense each period is a far better representation of the transaction and the commitment.
- 2) The cost of occupancy itself is not a declining expense. Occupancy costs are driven by market conditions and they increase over time. They are a natural operating expense that is considered when evaluating profit margins.
- 3) Investors already adjust financial statements for lease liabilities so the proposed change will not benefit investment decisions in any meaningful way.
- 4) Operators/preparers, however, will experience costs that far exceed any perceived benefits
- 5) Business management reports used for decision making and approval will all involve reconciliation to unwind the lease reporting and interpret occupancy costs on a period basis (and not as a financing vehicle.)
- 6) The volatile pattern of expense recognition will challenge loan, debt and other ratios embedded in covenants. Measurement tools will be lost. In fact, financial institutions will struggle to interpret whether ratio movement is because of economic changes or accounting calculations. Financial ratios needed as barometers of operating performance will be eroded as a result of this volatility. This is not useful at any time, but particularly inappropriate during a slow economic recovery.
- 7) The proposed change is vast in terms of the numbers of businesses, agreements and contracts that will require revamping or renegotiation. For no perceived benefit.
- 8) The calculation itself is complex and will require resources to be redirected to implementation and ongoing maintenance. This is not a productive use of business assets.

- 9) Requires response from other regulatory areas that may not arrive in time for planning such as:

Government contractors have rent embedded in recovery calculations – transition to interest and amortization may require changes to regulations.

IRS will need to review all tax definitions surrounding commercial leases and provide guidance.

Regulatory capital requirements for financial institutions may suggest higher reserve needs in the absence of alignment between the standard and the regulations.

Discussion of private company financial reporting need to identify if there will be any carve out for private entities

In the event the standard moves forward:

- 10) Renewal terms should not be included unless there is reasonable assurance of execution.
- 11) Contingent and percentage rents should not be included
- 12) No standard should be released until there is considerably more detail on all the components of lease transactions with adequate guidance and examples: Sale/leaseback, tenant improvements, lease incentives, Build to Suit arrangements, definition of distinct services, timing between lease execution and lease inception.
- 13) Private companies should be excluded from this standard.

Overall, I recommend that the lease project be abandoned. The current standard is sufficient for the orderly conduct of commerce and for reasonable investment decisions. The current standard is the most transparent of the alternatives presented.

Financial reporting requires standards that allow for interpretation and understanding of business results – and the current standard achieves this goal. It is not perfect – but the recommendations in the Exposure Draft go in the opposite direction. Replacing the operating expense of rent (the old matching principle of revenues to expenses) with a complex asset that amortizes as a financial instrument does not achieve transparency-just confusion.

The current standard may be flawed – but it is reasonable and functions well. The new recommendations however, are complex and counter-intuitive. They will drive economic hardship for a number of companies due to the cost of transition, the drain of resources for a project with many immaterial components and the very real risk of penalties, fees and less favorable terms for any contracts that have to be renegotiated.

Ongoing, the maintenance required for the suggested remeasurement tasks will not likely result in any measurable improvement in financial reporting for decision makers.

Thank you for your consideration,

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