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

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Dear Board Members:

M&T Bank Corporation ("M&T") appreciates the opportunity to respond to the Proposed Accounting Standards Update, "Leases." M&T is a bank holding company headquartered in Buffalo, New York that operates 743 banking offices in New York State, Pennsylvania, Maryland, Delaware, New Jersey, Virginia, West Virginia and the District of Columbia. M&T, with \$68 billion of assets and \$49 billion of deposits, offers a broad range of financial services to a diverse base of consumers, businesses, professional clients, governmental entities and other financial institutions.

Although we recognize the Boards' attempt to address the accounting for leases in a comprehensive manner, we do not support many of the positions taken in the proposal. While we understand the Board's desire to ensure lessee commitments are reflected as liabilities on the balance sheet, certain of the Board's proposals for lease accounting appear academic in nature and will prove to be very difficult and expensive to operationalize. In general, we find that the proposal increases the complexity of lease accounting, promotes a level of subjectivity that results in less reliable and therefore less relevant financial information, falsely assumes all leases are finance transactions leading to an inappropriate front-loading of expense for lessees, and burdens preparers with costly operational and system changes providing little, if any, benefit to the financial statement users. Many lessors and lessees have hundreds or potentially thousands of leases. Application of many of the Board's proposals will be largely impractical for these entities. We further caution the Board that financial statements should faithfully present transactions that have actually happened, not those that are expected to happen (please see our comments on lease term and contingent payments). A summary of our most significant concerns are presented herein.

Lease Term

We disagree with the inclusion of renewal options when determining the lease term of the rightof-use asset, unless the lessee is reasonably certain to exercise the options. Determining the probability of extending terms becomes very subjective and provides little benefit to the users of

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the financial statements. Current generally accepted accounting principles incorporate the concept of "reasonably assured" renewal options. We believe using the "reasonably assured" threshold in the proposed lease model would provide a more reliable financial statement measurement. Conversely, the use of the "more likely than not" threshold will result in frequent reassessment, be extremely subjective, and will introduce unnecessary complexity, all of which will further diminish the usefulness to the financial statement user. We doubt many financial statement users prefer to evaluate a right-of-use asset that is only "more likely than not" to be accurate and often changes with each new reporting period as compared with a right-of-use asset that is "reasonably certain" to be accurate and seldom requires adjustments.

We also do not believe that renewal options would meet the current definition of a liability under FASB Concept Statement 6 because it does not represent a "present obligation" of an entity "as a result of past transactions or events." The lessee controls the obligating event of exercising the lease term option and therefore the lease term should only reflect such options to the extent they are "reasonably assured." The inclusion of optional lease payments that are "more likely than not" to occur would represent an overstatement of the lessee's liability. From a lessor perspective, the inclusion of these optional lease payments overstates exposure to credit risk to the lessee and understates exposure to risk from the leased asset.

We further find the proposed probability-weighted outcome approach to be academic in nature and unrealistic in practical terms. It is not practical for a lessor to estimate the behavior of an individual lessee in determining the lease term. The process for determining these probability-weighted estimates would be burdensome and be based on little, if any, objective or verifiable evidence. This process will invariably lead to incongruent accounting conclusions as lessors and lessees will have differing views on such probability-weighted outcomes. We are also very concerned about the operational burden on both lessees and lessors in complying with the reassessment requirements proposed by the Board. Current information systems are not able to efficiently process a continual re-estimation of lease terms as contemplated in the FASB's proposal and the staffing support necessary to facilitate such assessments would overwhelm most corporate finance functions that have hundreds or thousands of leases to evaluate.

Contingent Payments

We disagree with the inclusion of contingent payments in the determination of the lease obligation. Similar to lease renewal options, estimating contingent payments is extremely subjective, thereby creating less reliable financial statement measurements, and will introduce unnecessary complexity, ultimately impacting the overall relevance to the financial statement users. The proposed methodology would introduce significant income statement volatility and imply a level of precision that simply does not exist. Furthermore, we disagree with the Board's stated position that contingent payments meet the definition of a liability. In our view the liability to pay contingent payments does not exist until the event arises that would create an obligation (i.e. it is contingent and therefore does not represent a present economic obligation). We would suggest the retention of the current principle of using minimum lease payments in determining the lease asset or liability. We would, however, support the inclusion of a broad

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principle requiring measurement of minimum lease payments that are disguised as contingent payments. Consistent with our comments on lease terms, the operational burden and the impact to current information systems from the proposed reassessment requirements for contingent payments will be onerous.

Lessee Accounting

We question the assertion that all leases are financing transactions from a lessee perspective. Many of the leases M&T enters into as a lessee are the result of an operational decision, such as leasing a branch for the purpose of obtaining the best location to provide banking services to our customers. Such decisions are typically not motivated by the financing alternative, but rather the location of the property to best serve our customers. We therefore take exception to the frontloading of expense in the income statement for a lessee when the underlying agreement is an operational decision. In our view the right-of-use asset and the lease liability are inextricably linked (i.e. the lease liability only exists if the asset continues to be provided by the lessor) and therefore the income recognition of both the asset and liability should be consistent (e.g. interest method or straight line amortization). The proposed approach inappropriately increases lease expense recognition in the early years, oftentimes contrary to the underlying economics of the lease transaction. We believe that this artificial acceleration of expense recognition is not appropriate and has the potential to result in large upfront capital charges to companies upon adoption. Furthermore, the proposal includes cash flows from leasing in the financing section of the statement of cash flows. We believe such cash flows should continue to be reflected in cash flows from operations. Lastly, because we view the right-of-use asset and the lease liability as inextricably linked and to represent responsibilities/obligations between the same counterparties, we believe there should be a right of offset provided on the balance sheet of the lessee similar to the proposed presentation for the performance obligation approach for lessor accounting. Consistent with our view on the presentation of the performance obligation approach discussed in our response to question 12(b) in the Appendix to this letter, we would favor presentation of one net line item on the balance sheet for the net lease asset or liability, with note disclosure of the two components.

Lessor Accounting

We disagree that the changes proposed in the exposure draft for lessor accounting provide any incremental benefit to the users of the financial statements when compared with current generally accepted accounting principles. We base this conclusion, in part, on our belief that financial statement users do indeed read the footnotes to financial statements. Accordingly, we do not accept the notion that each and every issue affecting an entity has to be presented in detail on the face of the financial statements. Furthermore, we find the performance obligation method inconsistent with the underlying premise of the right-of-use asset in the proposed lessee model. Under the lessee model a right-of-use asset is recognized under the premise that the lessor has made the leased asset available for use to the lessee. It would then be inconsistent to continue to have the lessor report a performance obligation liability to provide access to that asset that presumably has already been provided. Essentially we believe that if the Board is resolute in its

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proposed accounting from the lessee's perspective, then the appropriate accounting for the lessor would be the derecognition approach. Derecognizing the portion of the asset that is transferred better mirrors the right-of-use asset model proposed in lessee accounting. We believe that the performance obligation approach can only bring increased confusion to financial statement users and suggest that the Board will have to provide more guidance on the lessor's retention of "significant risks and benefits" associated with the underlying asset if such method becomes required.

Under the derecognition approach, we do not believe that the residual asset should be classified as property, plant and equipment in the financial statements as it is not an asset that the lessor uses in its business operations. We view the residual asset as similar to a financial asset in that it essentially represents the expected cash flow from the sale of the asset at the end of the lease term. We therefore believe the residual assets should be recorded in the same line item as the lease receivable, with appropriate footnote disclosure of the residual amounts.

Lastly, we take exception with the Board's proposed elimination of leveraged lease accounting. Given that the underlying loan from the leveraged debt lender is non-recourse, we see no basis in including the loan amount in the lessor's receivable balance. In essence this results in both the lessor and the leveraged debt lender having the same asset recorded on each of its books. We would suggest the grandfathering of leveraged leases as the proposed balance sheet gross-up has the potential to significantly distort reported asset returns and will likely result in artificially increased capital requirements for banks.

Transition

Retrospective application of the proposed standard will require significant effort for both lessees and lessors. The simplified retrospective approach essentially treats all existing leases as if they were newly entered into on the first application date. The Board's proposal will likely result in front-loading of expenses and therefore create a distortive effect on reported earnings in early periods subsequent to adoption. The full retrospective method would alleviate some of the distortion on a portfolio of leases, but would likely require a significant equity charge. We therefore believe that the final standard should only be applicable to new leases entered into on a prospective basis. At a minimum the Board should allow for either a simplified or full retrospective application.

Information System Considerations

We believe the new accounting standard for leases as it is proposed will require significant investments in both systems and human capital on the part of preparers. We believe most companies (lessors and lessees) do not have a current system in place that could allow for continual re-estimation of lease term, contingent payments and interest recognition. Updating or replacing systems will require a significant cost to both lessees and lessors. The development and implementation of such systems to appropriately account for leases under the proposed guidance could take many years. As a result, the ongoing operational burden and costs

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associated with re-estimation of lease term and contingent payments will be significant and will likely require manual calculations for potentially thousands of leases each quarter which, frankly, is just not practical. We question the conclusion reached by the Board that benefits of a lease accounting overhaul outweigh the costs.

In summary, we do not believe the proposed accounting standard will provide enough benefit to the users of financial statements to justify the tremendous burden it will place on preparers of financial statements. Finally we believe the Board's proposal could significantly impact capital ratios imposed by banking regulators and create other unforeseen consequences for the banking industry. Ultimately we caution that the increased accounting and capital burden will likely translate to increased leasing costs for lessees in the future.

We have attached our responses to certain of the specific questions posed by the Board in an appendix to this letter. We appreciate the opportunity to comment on this exposure draft.

Very truly yours,

Michael R. Spychala Senior Vice President and Controller

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Appendix - Responses to Specific Questions Posed by the Board

Question 1: Lessees

(a) Do you agree that a lessee should recognize a right-of-use asset and a liability to make lease payments? Why or why not? If not, what alternative model would you propose and why?

We understand the Board's desire for entities to recognize a right-of-use asset and an obligation to make lease payments. As discussed in the main body of this letter, however, we have significant concerns regarding the inherent subjectivity built into the proposed model for optional lease terms and contingent payments as well as the meaningful costs associated with the implementation of new information systems and ongoing operational processes to accommodate the Board's reassessment proposals.

(b) Do you agree that a lessee should recognize amortization of the right-of-use asset and interest on the liability to make lease payments? Why or why not? If not, what alternative model would you propose and why?

We maintain that the right-of-use asset and the lease liability are inextricably linked and, therefore, we support a method of reducing the lease obligation that aligns with the amortization of the right-of-use asset to produce a stable net lease expense. We believe all amounts recognized by the lessee should be classified as lease or rent expense. We do not support the charging of interest expense on the liability. Contrary to the Board's views, as a provider of retail services to individuals and small businesses we do not consider most of the leases we enter into as lessee to be financing transactions. We further disagree with the conclusion of the Board that cash flows from such leasing transactions be included in the financing section of the statement of cash flows since many of our lease transactions directly relate to our operations strategies (e.g. leasing a banking office because of its location, not to enter into a financing agreement). We believe that many entities in industries other than our own will have similar concerns.

Question 2: Lessors

(a) Do you agree that a lessor should apply (i) the performance obligation approach if the lessor retains exposure to significant risks or benefits associated with the underlying asset during or after the expected lease and (ii) the derecognition approach otherwise? Why or why not? If not, what alternative approach would you propose and why?

No, as discussed in the main body of this letter, we find the performance obligation approach to be inconsistent with the Board's proposed lessee accounting. If the proposal is adopted, we believe that the derecognition approach should be used for all leases. In

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our view the use of two models will continue to bring unnecessary confusion to the users of financial statements.

(b) Do you agree with the board's proposals for the recognition of assets, liabilities, income and expenses for the performance obligation and derecognition approaches to lessor accounting? Why or why not? If not, what alternative model would you propose and why?

As described in the main body of this letter we do not agree with the use of the performance obligation approach. Under the derecognition approach, we believe the residual asset is better presented with the lease receivable balance. Presentation of the residual asset as property, plant and equipment is misleading as the lessor is not using such asset in its business operations. We also disagree with the inclusion and subsequent adjustment of recorded lease balances considering lease renewal options and contingent payments as also described in the main body of this letter.

(c) Do you agree that there should be no separate approach for lessors with leveraged leases, as is currently provided for under US GAAP (paragraph BC15)? If not, why not? What approach should be applied to those leases and why?

No, we maintain that there should be a separate approach for leveraged leases similar to that prescribed under current GAAP. We believe that the gross-up of the lease receivable for non-recourse debt is inappropriate and essentially results in both the lessor and the leveraged lease creditor having the same asset recorded on each of its books.

Question 8: Lease term

Do you agree that a lessee or a lessor should determine the lease term as the longest possible term that is more likely that not to occur taking into account the effect of any options to extend or terminate the lease? Why or why not? If not, how do you propose that a lessee or a lessor should determine the lease term and why?

We do not agree that the lease term should be the longest possible term that is more likely than not to occur. As described in the main body of our letter, taking the probability of renewal options into consideration will make the financial statements more subjective and, as a result, less relevant and less reliable. In our view, optional lease renewals do not meet the definition of a liability as they do not represent a present obligation of an entity as a result of past transactions or events. We suggest the Board revise the proposed definition of lease term to be the non-cancellable term per the lease agreement plus any renewal periods that are reasonably assured to be extended.

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Question 9: Lease payments

Do you agree that contingent payments and expected payments under term option penalties and residual value guarantees that are specified in the lease should be included in the measurement of assets and liabilities arising from a lease using an expected outcome technique? Why or why not? If not, how do you propose that a lessee or a lessor should account for contingent payments and expected payments under term option penalties and residual value guarantees and why?

Do you agree that lessors should only include contingent payments and expected payments under term option penalties and residual value guarantees in the measurement of the right to receive lease payments if they can be reliably measured? Why or why not?

We disagree with including contingent payments and term option penalties in the measurement of assets and liabilities using the expected outcome technique for both lessees and lessors. Similar to the discussion in question 8 on lease term options, we do not believe that contingent rentals meet the definition of a liability. Additionally, in our view inclusion of such estimates severely diminishes the value of the financial statements. Under the current proposal, companies could be required to make estimates regarding their performance and the performance of others many years into the future. Furthermore, the estimates made by the lessee and lessor for the same lease will likely be very different, leading to diminished relevance.

Question 10: Reassessment

Do you agree that lessees and lessors should remeasure assets and liabilities arising under a lease when changes in facts or circumstances indicate that there is a significant change in the liability to make lease payments or in the right to receive lease payments arising from changes in the lease term or contingent payments (including expected payments under term option penalties and residual value guarantees) since the previous reporting period? Why or why not? If not, what other basis would you propose for reassessment and why?

See our answer to questions 8 and 9. We believe that the need for reassessment will be significantly reduced if the lease term only includes the non-cancellable term per the agreement plus any renewal options that are "reasonably assured" to be exercised. Contingent payments should be excluded from the calculation of assets and liabilities until the contingency is resolved. Significant changes to the lease agreement and potential impairment of the leased asset would still need to be considered, but the costs associated with reassessment would be reduced significantly.

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Question 12: Statement of financial position

(b) Do you agree that a lessor applying the performance obligation approach should present underlying assets, rights to receive lease payments and lease liabilities gross in the statement of financial position, totaling a net lease asset or lease liability (paragraphs 42, BC148 and BC 149)? Why or why not? If not, do you think that a lessor should disclose this information in the notes instead? What alternative presentation do you propose and why?

As discussed in the main body of this letter, we do not support the performance obligation approach proposed by the Board. If the Board concludes that the performance obligation approach is appropriate, we would disagree with the requirement to present each of the three components of the net lease asset or liability separately on the face of the balance sheet. Cluttering the face of the financial statements with detailed disclosures does not result in more readily understandable financial statements. We believe that a single net lease asset or liability line on the balance sheet would be appropriate and further details about the individual components should be provided in the explanatory notes.

(c) Do you agree that a lessor applying the derecognition approach should present rights to receive lease payments separately from other financial assets and should present residual assets separately within property, plant and equipment (paragraph 60, BC 154 and BC 155)? Why or why not? Do you think that a lessor should disclose this information in the notes instead? What alternative presentation do you propose and why?

No, we believe the residual asset should be presented in a single line with the lease receivable for lessors under the derecognition approach. The lessor has no ability to use the leased asset in its business operations and therefore presentation in property, plant and equipment, as proposed by the Board, is not appropriate. As stated we also believe the residual asset and lease receivable can be combined in a single line item on the balance sheet, or in the case of financial institutions included with other financing transactions, with note disclosure providing the user with information on the individual components.

Question 15: Disclosure

Do you agree that lessees and lessors should disclose quantitative and qualitative information that:

- (a) Identifies and explains the amounts recognized in the financial statements arising from leases; and
- (b) Describes how leases may affect the amount, timing and uncertainty of the entity's future cash flows?

Why or why not? If not, how would you amend the objectives and why?

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We believe that the amount and breadth of disclosures that are listed in the proposal go beyond the simple objectives listed in Question 15. We disagree with the proposal to include a reconciliation of opening and closing balances of right-of-use assets and lease liabilities, disaggregated by class of underlying assets. This requirement will necessitate substantial data capture and be very burdensome on preparers. We fail to understand the benefit such superfluous information would provide to financial statement users.

Question 16: Transition

- (a) This exposure draft proposes that lessees and lessors should recognize and measure all outstanding leases as of the date of initial application using a simplified retrospective approach (paragraphs 88-96 and BC 186-199). Are these proposals appropriate? Why or why not? If not, what transitional requirements do you propose and why?
- (b) Do you think full retrospective application of lease accounting requirements should be permitted? Why or why not?

We believe that any changes mandated by the Board should be made prospectively for new leases only. For reasons delineated in the main body of this letter, if the Board continues to support retrospective application, we believe an option should be provided to preparers to use either the simplified or full retrospective approaches.

Question 17: Benefits and costs

Paragraphs BC200-BC205 set out the boards' assessment of the costs and benefits of the proposed requirements. Do you agree with the boards' assessment that the benefits of the proposals would outweigh the costs? Why or why not?

We disagree with the Boards' assessment that the benefits of the proposals would outweigh the costs. The costs incurred by reporting entities would be substantial and include significant investments in human capital for new and ongoing operational requirements to deal with changing estimates of lease terms and contingent payments. Significant system changes and replacements will also contribute to outsized costs for both lessees and lessors. Ultimately the cost of leasing will increase with little, if any, incremental practical value to financial statements users.