

December 22, 2010

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

Re: File Reference No. 1850-100

Dear Technical Director:

We are pleased to comment on the proposed Accounting Standards Update (ASU) *Leases (Topic 840)*. Overall, we support the efforts of the Financial Accounting Standards Board (FASB) and International Accounting Standards (IASB) (together, the Boards) to provide a single source of comprehensive guidance on leasing. While we support the overall direction of the joint project, we do have certain concerns, as listed below.

In general, we support the Boards' right-of-use approach for lessee accounting. We agree that lease agreements give rise to rights and obligations that meet the definitions of assets and liabilities, respectively, in the FASB Concepts Statements. However, we do believe that additional guidance is necessary to avoid inconsistent application of the new model. These concerns are discussed in our responses to the specific questions raised in the proposed ASU.

With respect to lessor accounting, we agree that neither the performance obligation approach nor the derecognition approach individually sufficiently addresses all issues related to lessor accounting. We agree, therefore, with the hybrid approach to lessor accounting, but believe that additional guidance is needed to assist entities in determining when to use each approach.

#### 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 agree with the boards' conclusion that a lessee should recognize a right-of-use asset and a liability to make lease payments. We believe that the lessee's rights and obligations under a lease meet the conceptual definitions of "assets" and "liabilities" found in FASB Concepts Statement No. 6, *Elements of Financial Statements*, and, accordingly, support recording them as such.

**(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 agree that a lessee should amortize the right-of-use asset and recognize interest on the liability to make lease payments.

**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 term and (ii) the derecognition approach otherwise? Why or why not? If not, what alternative approach would you propose and why?***

As mentioned in our summary comments above, we believe that neither the performance obligation approach nor the derecognition approach individually addresses all the issues related to lessor accounting in a satisfactory manner. We believe that the hybrid method in the proposed ASU is a practical solution in the absence of a single, comprehensive approach. We do believe, however, that additional guidance is necessary in determining when an entity should apply which method.

We also note that the determination of which model is to be used by a lessor is based on a risks and benefits approach, which appears to be inconsistent with the approach taken by the Boards in their exposure draft, *Revenue from Contracts with Customers*, which is based on the transfer of control. We recommend that the Boards address why they reached different approaches for leases compared to the revenue project.

- (b) ***Do you agree with the boards' 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?***

We agree with the boards' proposals for the recognition of assets, liabilities, income and expenses for the performance obligation and derecognition approaches.

- (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?***

We agree that there should be no separate approach for lessors with leveraged leases.

**Question 3: Short-term leases**

***This exposure draft proposes that a lessee or a lessor may apply the following simplified requirements to short-term leases, defined in Appendix A as leases for which the maximum possible lease term, including options to renew or extend, is 12 months or less:***

- (a) ***At the date of inception of a lease, a lessee that has a short-term lease may elect on a lease-by-lease basis to measure, both at initial measurement and subsequently, (i) the liability to make lease payments at the undiscounted amount of the lease payments and (ii) the right-of-use asset at the undiscounted amount of lease payments plus initial direct costs. Such lessees would recognize lease payments in the income statement over the lease term (paragraph 64).***
- (b) ***At the date of inception of a lease, a lessor that has a short-term lease may elect on a lease-by-lease basis not to recognize assets and liabilities arising from a short-term lease in the statement of financial position, nor derecognize any portion of the underlying asset. Such lessors would continue to recognize the underlying asset in accordance with other Topics and would recognize lease payments in the income statement over the lease term (paragraph 65).***

***(See also paragraphs BC41–BC46.)***

***Do you agree that a lessee or a lessor should account for short-term leases in this way? Why or why not? If not, what alternative approach would you propose and why?***

We agree with the proposed simplified accounting for lessors. However, we believe that lessees should be provided with an option similar to that extended to lessors; that is, a lessee that has a short-term lease should be permitted to elect not to recognize a liability to make lease payments or a right-of-use asset.

As indicated in paragraph B46 of the proposed ASU, the assets and liabilities that would arise from short-term leases (given the narrow definition of short-term leases in the Exposure Draft) are likely to be insignificant. However, this statement applies to both lessors **and** lessees. We do not believe the scope exception for lessees should differ from that being provided by the boards to lessors.

**Definition of a lease**

***This exposure draft proposes to define a lease as a contract in which the right to use a specified asset or assets is conveyed, for a period of time, in exchange for consideration (Appendix A, paragraphs B1–B4 and BC29–BC32). This exposure draft also proposes guidance on distinguishing between a lease and a contract that represents a purchase or sale (paragraphs 8, B9, B10 and BC59–BC62) and on distinguishing a lease from a service contract (paragraphs B1–B4 and BC29–BC32).***

**Question 4**

**(a) *Do you agree that a lease is defined appropriately? Why or why not? If not, what alternative definition would you propose and why?***

We agree with the proposed definition of a lease.

**(b) *Do you agree with the criteria in paragraphs B9 and B10 for distinguishing a lease from a contract that represents a purchase or sale? Why or why not? If not, what alternative criteria would you propose and why?***

We do not see the need for the in-substance sale approach. For those leases in which the underlying asset will indeed be transferred, the in-substance sale approach would result in the same accounting as the derecognition approach. For those leases in which the transfer of the underlying asset is presumed to occur (leases with bargain purchase options, etc), we believe that any difference that might arise between the application of the in-substance sale approach and the application of the derecognition approach would generally not be significant. Accordingly, it would not seem necessary to have different accounting for bargain purchase options than for normal purchase options.

If the Boards elect to retain the in-substance sale approach, we believe that the Boards should provide guidance on how to distinguish between the “more than trivial” threshold for in-substance sales and the “significant” threshold for right-of-use.

**(c) *Do you think that the guidance in paragraphs B1–B4 for distinguishing leases from service contracts is sufficient? Why or why not? If not, what additional guidance do you think is necessary and why?***

Paragraphs B1-B4 carry forward the guidance included in EITF 01-8, “Determining Whether an Arrangement Contains a Lease” (codified as part of ASC 840-10-15) and IFRIC 4, “Determining Whether an Arrangement Contains a Lease.” Although this guidance has existed for some time, we still find that it is difficult to apply at times. We believe that, under current lease accounting, the issues are not as glaring because the accounting for operating leases and executory contracts are

generally similar. However, the model under the proposed ASU would introduce a far bigger difference between operating lease accounting and the accounting for executory contracts. Consequently, the issues will be far more significant if the proposed model is finalized.

We recommend that the Boards provide several additional examples of implementation guidance for these and other “real life” arrangements to help assess whether they would in fact be considered lease contracts within the scope of ASC Topic 840.

## Scope

### Question 5: Scope exclusions

***This exposure draft proposes that a lessee or a lessor should apply the proposed guidance to all leases, including leases of right-of-use assets in a sublease, except leases of intangible assets, leases of biological assets and leases to explore for or use minerals, oil, natural gas and similar non-regenerative resources (paragraphs 5 and BC33–BC46).***

***Do you agree with the proposed scope of the proposed guidance? Why or why not? If not, what alternative scope would you propose and why?***

We agree with the proposed scope of the proposed guidance. However, we believe that the Boards should consider whether the “grandfathering” provisions of the transition guidance in EITF 01-8 should be included in the scope of the proposed ASU since the original transition provisions of EITF 01-8 were set that way to avoid the challenges of going back many years to readdress whether a lease was in the scope of the guidance at the time.

### Question 6: Contracts that contain service components and lease components

***This exposure draft proposes that lessees and lessors should apply the guidance in proposed Accounting Standards Update, Revenue Recognition (Topic 605): Revenue from Contracts with Customers, to a distinct service component of a contract that contains service components and lease components (paragraphs 6, B5–B8 and BC47–BC54). If the service component in a contract that contains service components and lease components is not distinct:***

- (a) The FASB proposes the lessee and lessor should apply the lease accounting requirements to the combined contract.***
- (b) The IASB proposes that:***
  - (i) A lessee should apply the lease accounting requirements to the combined contract.***
  - (ii) A lessor that applies the performance obligation approach should apply the lease accounting requirements to the combined contract.***
  - (iii) A lessor that applies the derecognition approach should account for the lease component in accordance with the lease requirements, and the service component in accordance with the guidance in the exposure draft on revenue from contracts with customers.***

***Do you agree with either approach to accounting for leases that contain service and lease components? Why or why not? If not, how would you account for contracts that contain both service and lease components and why?***

We agree with the FASB’s approach to accounting for contracts that contain service components and lease components. We are concerned, however, with the inclusion of items such as maintenance, insurance and taxes in executory costs. We believe that those (and similar) items should be excluded

from the lease component regardless of whether the executory costs are identified as distinct components of the contract.

Many real estate leases are billed “gross” which includes executory costs. However, it is sometimes difficult to identify specific services associated with the inclusion of executory costs. It would appear that the proposal in the proposed ASU could result in capitalization of certain executory costs that likely would not be capitalized if the asset were purchased or if the lease were a “net” lease that required the lessee to directly pay real estate taxes, insurance, etc. We request the Boards provide guidance on which of the services typically included in such leases would constitute “distinct service components.” For example, in leases that are billed gross and include maintenance, insurance and taxes, it would seem that maintenance likely would be considered a distinct service component, but that insurance and taxes would be less likely to be considered distinct service components. We are concerned, however, that the lack of guidance might lead to inconsistent application and recommend that the Boards provide guidance on the issue.

#### **Question 7: Purchase options**

***This exposure draft proposes that a lease contract should be considered terminated when an option to purchase the underlying asset is exercised. Thus, a contract would be accounted for as a purchase (by the lessee) and a sale (by the lessor) when the purchase option is exercised (paragraphs 8, BC63 and BC64).***

***Do you agree that a lessee or a lessor should account for purchase options only when they are exercised? Why or why not? If not, how do you think that a lessee or a lessor should account for purchase options and why?***

We agree with the proposal that purchase options should be accounted for only when exercised.

#### **Measurement**

***This exposure draft proposes that a lessee or a lessor should measure assets and liabilities arising from a lease on a basis that:***

- (a) assumes the longest possible term that is more likely than not to occur, taking into account the effect of any options to extend or terminate the lease (paragraphs 13, 34, 51, B16–B20 and BC114–BC120).***
- (b) includes in the lease payments contingent rentals and expected payments under term option penalties and residual value guarantees specified by the lease by using an expected outcome technique (paragraphs 14, 35, 36, 52, 53, B21 and BC121–BC131). Lessors should only include those contingent rentals and expected payments under term option penalties and residual value guarantees that can be reliably measured.***
- (c) is updated 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 (paragraphs 17, 39, 56 and BC132–BC135).***

#### **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 than 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 agree that a lessee or lessor should determine the lease term as the longest possible term that is more likely than not to occur taking into account the effect of any options to extend or terminate the lease.

#### **Question 9: Lease payments**

***Do you agree that contingent rentals 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 rentals and expected payments under term option penalties and residual value guarantees and why?***

#### Contingent Rentals, Residual Value Guarantees, and Term Option Penalties

We agree that contingent rentals 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.

We recommend that the Boards clarify how term option penalties are treated in the determination of the lease term. Paragraph 14 of the proposed ASU indicates that a lessee should include expected payments (based on probability) from term option penalties in the expected cash flows. The wording of paragraph 14 indicates that, when measuring the lease liability, a lessee would probability weight the likelihood that it will pay a term option penalty. However, the example in paragraph B19 indicates that the lessee must first determine the lease term, and then record a liability that is consistent with the determined term. The determination of the lease term will require an assessment of whether or not the lease will be terminated. Therefore, if a lessee determines that it is more likely than not to exercise the term option and pay the term option penalty, that penalty would be included in the lease liability in full, rather than reflecting a probability weighting.

We recommend that the Boards clarify this inconsistency.

#### Rentals Contingent on an Index or Rate

We also believe that some clarification is needed with respect to the proposed accounting for rentals contingent on an index or rate.

Paragraphs 14(a), 35(a), and 52(a) of the proposed ASU indicate that readily available forward rates should be used in measuring contingent rentals that are based on an index. Paragraph BC 131 further indicates that “if forward rates...are readily available for the period of the lease term (for example, from a government department or public service agency), using such forecasts would limit costs to adjusting the available rates or indices while providing better information to users of financial statements.” We request that the Boards clarify whether the intent of this statement is to indicate that forward rates can only be considered to be “readily available” if published by a government department or public service agency, or if forward rates could be considered “readily available” if issued by non-governmental entities.

Paragraph BC 131 also reads, in part, “Therefore, this exposure draft proposes that if lease payments are contingent on changes in an index or rate, such as the consumer price index or the prime (basic) interest rate, the entity should measure the present value of lease payments using readily available forward rates or indices.” This statement implies that a forward rate or index is readily available for the consumer price index. We do not believe this to be the case. We recommend, therefore, that the Boards clarify this statement.

***Do you agree that lessors should only include contingent rentals 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 agree that lessors should only include contingent rentals and expected payments under residual value guarantees in the measurement of the right to receive lease payments if they can be reliably measured. However, we request that the Boards clarify the meaning of the term “reliably measure” in paragraph 35.

#### **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?***

We 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. However, we believe that lessees and lessors also should be required to reassess upon the occurrence of specified “events.” For example, we believe that reassessment should occur whenever term options or extension options become exercisable (whether exercised or not).

The Boards may also wish to consider whether guidance should be provided to address situations in which the amount of a reduction in the liability exceeds the carrying amount of the right-to-use asset.

#### **Sale and leaseback**

***This exposure draft proposes that a transaction should be treated as a sale and leaseback transaction only if the transfer meets the conditions for a sale of the underlying asset and proposes to use the same criteria for a sale as those used to distinguish between purchases or sales and leases. If the contract represents a sale of the underlying asset, the leaseback also would meet the definition of a lease, rather than a repurchase of the underlying asset by the lessee (paragraphs 66–67, B31 and BC160–BC167).***

#### **Question 11**

***Do you agree with the criteria for classification as a sale and leaseback transaction? Why or why not? If not, what alternative criteria would you propose and why?***

We agree that a transaction should be treated as a sale and leaseback transaction only if the transfer meets the conditions for a sale of the underlying asset.

#### **Presentation**

***This exposure draft proposes that lessees and lessors should present the assets, liabilities, income (or revenue), expenses and cash flows arising from leases separately from other assets, liabilities, income, expenses and cash flows (paragraphs 25–27, 42–45, 60–63 and BC142–BC159).***

#### **Question 12: Statement of financial position**

***(a) Do you agree that a lessee should present liabilities to make lease payments separately from other financial liabilities and should present right-of-use assets as if they were tangible assets within property, plant and equipment, but separately from assets that the lessee does***

***not lease (paragraphs 25 and BC143–BC145)? Why or why not? If not, do you think that a lessee should disclose this information in the notes instead? What alternative presentation do you propose and why?***

We agree that right-of-use assets should be presented separately from owned items. However, we believe entities should be provided the option of doing this either on the face of the statement of financial position or in the notes.

We question whether presenting the lessee's obligation to pay rentals separately in the statement of financial position provides incremental benefit in most circumstances. Consequently, we do not believe separate presentation on the face of the statement of financial position should be required. We believe entities should be allowed to do so if they choose, but believe that disclosure of the information on a separate basis in the notes to the financial statements would be sufficient.

***(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, totalling to a net lease asset or lease liability (paragraphs 42, BC148 and BC149)? 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?***

We agree that a lessor applying the performance obligation approach should present underlying assets, rights to receive lease payments and lease liabilities gross, totaling to a net lease asset or lease liability. However, similar to our response to (a) above, we believe including such information in the financial statement notes should also be acceptable.

Additionally, we believe that entities might benefit from the guidance on the following topics:

- How the information should be broken out for presentation in classified balance sheets
- How to aggregate (can net lease assets be combined with net lease liabilities, etc.?)

***(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 (paragraphs 60, BC154 and BC155)? 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?***

We 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, either on the face of the balance sheet or in the financial statement notes.

***(d) Do you agree that lessors should distinguish assets and liabilities that arise under a sublease in the statement of financial position (paragraphs 43, 60, BC150 and BC156)? Why or why not? If not, do you think that an intermediate lessor should disclose this information in the notes instead?***

We agree that lessors should distinguish assets and liabilities that arise under a sublease, but believe that the related information could be presented either in the statement of financial position or disclosed in the notes. We do not believe that separate presentation in the statement of financial position should be required.

**Question 13: Income statement**

***Do you think that lessees and lessors should present lease income and lease expense separately from other income and expense in the income statement (paragraphs 26, 44, 61, 62, BC146, BC151, BC152, BC157 and BC158)? Why or why not? If not, do you think that a lessee should disclose that information in the notes instead? Why or why not?***

We agree with the requirement in paragraph 44 calling for separate presentation of interest income on a right to receive lease payments, lease income resulting from satisfaction of a lease liability and depreciation expense on an underlying asset. However, we believe entities should be permitted an option of separate presentation in the income statement or combined presentation on the income statement and separate presentation in the notes.

**Question 14: Statement of cash flows**

***Do you think that cash flows arising from leases should be presented in the statement of cash flows separately from other cash flows (paragraphs 27, 45, 63, BC147, BC153 and BC159)? Why or why not? If not, do you think that a lessee or a lessor should disclose this information in the notes instead? Why or why not?***

We agree that cash flows arising from leases should be presented separately from other cash flows either on the face of the statement of cash flows or in the notes to the financial statements. We note however, that the classification of cash payments for leases entirely as financing activities is inconsistent with the treatment of interest payments on other financings as operating cash flows. We believe that the current guidance in ASC 230-10-45-13(a) and ASC 230-10-45-16(b) should be retained; that is, cash flows from loan payments received by a lender (lessor) should be apportioned between investing (for the principal repayments) and operating (for interest) activities.

**Disclosure****Question 15**

***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?***

***(paragraphs 70–86 and BC168–BC183)? Why or why not? If not, how would you amend the objectives and why?***

We 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.

## Transition

### Question 16

- (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 BC186–BC199). 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?***
- (c) ***Are there any additional transitional issues the boards need to consider? If yes, which ones and why?***

We believe that retrospective adoption is the appropriate approach and believe that the full retrospective approach should be permitted as an option because it is more representationally faithful and may, in fact, be easier to apply in some cases. We note, however, that many entities will have a significant number of leases. Accordingly, we believe that, rather than provide for a “simplified” retrospective approach, entities should be provided more time to accumulate the information needed to appropriately adopt the proposal on a retrospective basis.

We also believe that the transition requirements should use information available to entities (such as prior-period contingent rents), rather than requiring entities to determine estimates as if such information was not available.

We believe the following issues are not addressed by the transition guidance:

#### Sale Leasebacks

We request that the Boards include guidance on whether entities are required to reassess sale-leaseback transactions that occurred in prior periods using the revised sale-leaseback guidance in the proposed ASU. We also request that transitional guidance be provided on the treatment of deferred gains from previous sale-leaseback transactions.

#### Lessor: Determination of Which Model to Apply

The Exposure Draft does not state on which date a lessor should use to determine whether they apply the performance obligation approach or the derecognition approach for a lease transaction (that is, at inception of the lease or as of the date of initial application).

## Other Comments

### Question 18

#### ***Do you have any other comments on the proposals?***

We believe entities would benefit if the Boards provided additional guidance in the following areas:

- Lease incentives
- Build to suit transactions
- Lease modifications

### *Lease incentives*

Presently, paragraphs 6 and 7 of ASC 840-20-25 provide some guidance on accounting for lease incentives in an operating lease. While we acknowledge that the concept of an operating lease will be eliminated if the proposed ASU is finalized, it is likely that lease incentives will continue to be offered by lessors. We believe that lessees and lessors would benefit from guidance as to how to account for incentives.

- Should lessors account for the incentives as initial direct costs? If so, how do incentives meet the “recoverable” requirement? If not treated as initial direct costs, should they be treated as a reimbursement by the lessor of a portion of the overall payments owed under the lease?
- Should lessees account for lease incentives as reductions in lease payments?

### *Build to suit transactions*

Paragraph B65 of the proposed ASU states, “This exposure draft proposes that a lessee should measure the liability to make lease payments at the present value of the lease payments at the date of inception of the lease.” This language implies that lease payments would be required to be discounted to the date of inception of the lease, rather than to the date of commencement of the lease. We believe the boards’ intent was for lease payments to be discounted to the date of commencement of the lease; however, this should be clarified within the final ASU (and the ambiguous wording cited above should be clarified in the Basis for Conclusions to avoid confusion).

We acknowledge that, in many cases, these two dates will be very close, but situations could arise in which substantial time passes between the two dates (for example, when a lease agreement is signed before commencement of construction of the asset to be leased). We believe entities that enter into such arrangements would benefit from guidance in this area.

### *Lease modifications*

We believe that the final ASU should address the topic of lease modifications, which is not specifically addressed in the proposed ASU. The final ASU should make clear whether the prohibition in paragraph 29 against changing the lessor accounting approach after the date of inception of the lease applies even if a lease has been modified substantially – or whether there are any situations where a substantial modification should be considered a new lease that may warrant a change in the lessor accounting approach.

Our response to question 4 above referred to EITF 01-8. We have one additional observation related to the guidance previously included in EITF 01-8: the existing guidance includes a requirement that, in determining whether the right to control the use of the underlying property, plant or equipment has been conveyed, it must be “remote that one or more parties other than the purchaser will take more than a minor amount of the output or other utility that will be produced or generated by the property, plant or equipment during the term of the arrangement”. That requirement has been eliminated in the exposure draft. We do not understand the rationale for the elimination of this requirement and recommend that the Boards provide the rationale.

## Non-public entities

### Question 19

***Should any of the proposed guidance be different for non-public entities (private companies and not-for-profit organizations)? If so, which requirement(s) and why?***

We do not believe that any of the proposed guidance should be different for non-public entities. We do believe that the Boards should consider extending the effective date for such entities, given the presumed efforts involved in accumulating the information needed to adopt the proposal. If such an extension were to be provided, however, we believe that those non-public entities should be required to disclose certain information that would allow users to better understand the impact of leasing transactions of those entities.

We would be pleased to respond to any questions the Board or its staff may have about any of the preceding comments. Please direct any questions to Jay D. Hanson (952.921.7785) or Richard Stuart (203.905.5027).

Sincerely,

A handwritten signature in cursive script that reads "McGladrey & Pullen, LLP".

McGladrey & Pullen, LLP