



December 19, 2011

Financial Accounting Standards Board
401 Merritt 7
Norwalk, CT 06856-5116

RE: File Reference Number 1850-100
Exposure Draft of August 17, 2010 on Leases (Topic 840)

Dear Board Members:

We appreciate the board's approach to re-exposure and willingness to gather additional feedback on the business impact of FASB's proposed update to Topic 840: Leases. The National Parking Association (NPA), represents more than 2,300 members and 700 member companies that own, manage, supply and service parking facilities across the United States and worldwide.

We recognize the importance of accounting standards and rulemaking to aid in financial reporting, compliance, accuracy and transparency. We appreciate FASB's extended open comment period, which allows us to highlight how the good intent of rulemaking can have detrimental impacts on business operations.

NPA and my company have significant concerns that the proposed accounting standards update will: 1) inflate balance sheets and not accurately represent the business operation; 2) lack clarity and add confusion and complexity to financial reporting; 3) create significant cost and administrative burdens to comply with financial reporting and disclosure requirements; 4) lack any size standards for the materiality of cost compliance for public vs. private companies, small vs. large companies and by number of transactions; and 5) not just impact a company's ability to raise new capital for growth and investment, but actually constrict the availability of existing credit.

The parking industry is particularly disadvantaged by the rulemaking because the majority of companies are small to medium-sized, privately held firms. These businesses would be negatively impacted by the reporting burden and potential impact on access to capital and availability of credit. This is particularly true of parking operations, because many base their business model on leasing a facility space from which to manage providing parking spaces to consumers. Another unique disadvantage is the competitive disadvantage created within the parking industry, which operates under two typical models—a lease business model and a managed services business model. The proposed rulemaking creates a competitive disadvantage to the balance sheet of any parking business that has a large number of leased locations.

A failure to address these issues in an attentive and deliberative manner may harm businesses that lease equipment and/or own or rent commercial real estate; the industry that provides the facilities for businesses of all types to operate; and the financial services sector that provides the liquidity and credit needed for these transactions to occur. This uncertainty will have short-term and long-term impacts that may undermine economic recovery.

Among our concerns:

Parking companies will be discouraged from leasing due to the balance sheet effects on management contracts. This change will undoubtedly lead to changes in business decisions and the marketplace due to the change in accounting for leasing dependent business models but not managed services models.

Rent is an operating expense. Why not just amend IAS 17/FAS 13 to capitalize operating leases and leave lease expense straight line?

Keep the current definitions. Keep the definitions of lease term and minimum lease payments in place for lessors and lessees. This is more objectively measurable; it promotes comparability and symmetry.

Keep current accounting in place for contingent rents. The proposed approach includes payments that are not true liabilities.

Keep current lessor rules in place. There are no complaints about lessor accounting.

Recording the Assets and Liabilities and the Amortization of the Liabilities

Many lessees do not want to own their own facilities or equipment. Recording the assets and liabilities for space or equipment on the lessee's books will cause the balance sheet to balloon unnecessarily without materially adding to an analyst's understanding of the financial statements.

The use of the effective interest method of amortizing the liability will result in the largest change to earnings in the first years of the lease, with the charge decreasing over time. This does not match the parties' intent. It does not reflect the actual cash flows of a lease, where the payments are level throughout the term and the equipment is intended to be returned at the end of the lease term. We believe that it will create confusion and not clearly describe the actual transaction that is occurring. In many ways, this change will serve to discourage leasing, due to the new, burdensome accounting treatment.

Materiality and Cost of Compliance

Nationally, thousands of companies engage in millions of separate transactions. The burden of the proposed rulemaking will be large and expensive. In many cases it will not add transparency to companies' financial statements. Therefore, we believe there should be some size or materiality consideration for the new rules for size of company and for public vs. private companies. The burden of developing systems, financial reporting and administering the business to comply with the proposed rules is overly burdensome.

Impact on a Business's Ability to Raise Capital

Since these rules will impact the ability of a business to borrow and raise capital, it is important that Lease Accounting reforms are designed and implemented thoughtfully and that there is not a rush to rulemaking. Several issues have not been fully explored such as:

- The potential breach of loan covenants and contractual arrangements and loss of cost reimbursement for rent in contractual arrangements, which are based on current USGAAP, as well as overall changes to credit underwriting requirements.
- Complicated recognition and presentation requirements that mask true economic activity and do not reflect the value of a contract.
- Adverse impact to capital of banks due to both lessee and lessor accounting changes.
- Adverse impact on the ability of businesses to borrow, the cost of leases and capital formation.
- Adverse impact on equipment and real property valuations, with consequential impact on lenders, especially the already fragile banking sector.
- Front ended lessee cost patterns that do not reflect true economic activity.
- Adverse impact on financial reporting clarity due to the volatility to earnings, because companies can't accurately project 30-year lease occupancy rates and rent payments.
- Differing recognition of assets and liabilities creating mismatches that do not reflect the value of a contract for lessors.
- Rules that are not symmetrical between lessor and lessee.
- Inequitable treatment of executory costs for lessors and lessees.
- Unknown implementation costs.

Debt Load Ratio and Negative Appearance of Balance Sheets

The proposed rules create the appearance of a burdensome debt load for companies that, as part of their business model, lease significant amounts of real estate. For companies with existing heavy debt loads, this added debt load could be viewed by investors as a sign of weakness. This perception could negatively affect credit ratings and force companies to renegotiate covenants with lenders.

We oppose this ruling as it negatively impacts a company's ability to qualify for credit. It also does not present an accurate picture of the financial health of the company. This rule would result in balance sheet confusion, not the intended transparency.

Loss of Demand for Leased Space and Capital Equipment

Leasing is a means for a company to order more facility space or equipment. When capital budgets are treated no differently than operating budgets, less space/equipment will be leased. There will be less money available for equipment. Banks will have less capital, so they will be unable to lend as much. Loan covenants will be violated, and unless they are changed, (which will not happen rapidly for small and medium-sized companies, during these tight credit conditions), companies will not be able to borrow as much money. The effect on smaller companies will be significant. The sheer burden of accounting for leases will make many lessees choose to purchase instead. If more real estate/equipment is purchased, then less will be ordered on a macro level and less funding will go into creating jobs.

Lessor Comments to Standard Setting

The rules are overly complex. For example, capitalizing contingent rents to "catch" a few lease abuses, where contingent rents are a minor element, places too great a focus on anti-abuse. The proposed rules for catching a small number of abuses creates an undue burden on businesses.

- Leave lease expense straight line. This matches economic nature of right of use lease. Rent is an operating expense.
- Keep the current definitions of lease term and minimum lease payments in place for lessors and lessees. This is more objectively measurable, promotes comparability and symmetry.
- Keep the current accounting in place for contingent rents. The proposed approach includes payments that are not true liabilities.
- Leave current lessor rules in place. There are no complaints about lessor accounting.

The Performance Obligation Model Does Not Reflect Lease Economics

The performance obligation model does not match lease economics symmetry. The contract terms impact both the lessee and lessor. The lessee obligations should result in lessor rights. The leased asset should not remain on the books at its original cost. The assets in the lease are the lease receivable and the residual. The lessor's performance obligation is extinguished when the lessee accepts the asset.

Accept the De-recognition Method

The de-recognition method matches the concepts in the lessee accounting model. The residual should be accreted to its estimated fair value at expiration. The model matches the economics for lessors if the residual is accreted. The lease should be priced like an investment. The Internal Rate of Return of cash flows from rent and residual (implicit rate) should be accreted as it is an expected cash flow in the lease transaction to the lessor. Tax benefits are included in the pricing analysis and lessee benefits through lower lease rate. Triple net leases where lessee pays operating costs are not performance obligation leases. The lessor's performance obligation ends when it delivers the asset to the lessee. The lessee controls the asset for the lease term and has quiet enjoyment of the asset that the lessor legally cannot disturb. The lessor may provide services but bills lessee for services (full service lease).

Sales-type Lease Accounting

This is a major issue for captive finance activities, as leases can be financed sales or right to use contracts. The Boards have decided that leases that are financed sales of the leased asset can have gross profit recognition. In a Right of the Use of the Asset (ROU) lease, if the lessor's basis in the asset is less than the present value of the rents, there should be a gross profit recognized. It is the gain on sale of the right to use the leased asset.

Rules Should Match Needs of Relevant Audiences

As noted above, most of NPA's members are small, private businesses. As such, their business is not subject to the jurisdiction of the Securities and Exchange Commission (SEC), whose laudable interest principally is to protect stockholders (and, debt-holders), be they small or large. Our members obtain their credit principally from banks. As a condition of extending credit, every bank is free to establish the conditions that a borrower must meet. If the lender wishes to delve into the quality of leases, they have license to do so. At that point, the prospective borrower is free to explore other options, or accept the conditions of the lender. In other words, this is a private-sector solution, and we submit, a more effective one than a costly, "One Size Fits All" regulatory approach.

Leveraged Lease Accounting

This is a major issue for bank lessors as grossing up the balance sheet will create the need to raise capital or get regulatory relief. If the proposed rule goes into effect, there needs to be a long transition

period or grandfathering, as banks will have capital issues. The lease receivable is on the books of the leveraging debt lender and the liability will be on the books under the new rules. Grossing up leveraged leases will double count the receivable and debt when you look at the balance sheets of the lessee, lessor and lender. An asset should be counted as an asset for only one entity. This proposed rule promotes double counting, which does not aid accuracy or transparency.

Rulemaking Timeline

We believe the rulemaking creates many burdens upon businesses. If the rulemaking proceeds, we request four to five years to comply with the rule. A longer timeline gives smaller businesses more time to understand the requirements; develop systems for the burden of managing the complexity of disclosures; and time to develop technology systems for compliance. In many businesses, these rules may result in the need for different business processes, added accounting personnel and the identification and deployment of systems for lease analysis and judgments to make projections on value in accordance with the proposed rules. We appreciate the opportunity to comment on this Exposure Draft on behalf of the National Parking Association. The NPA Leasing Task Force, comprised of the following parking industry executives, aided in developing this comment letter:

- Central Parking System: Rick West, EVP; Cindy Baier, SVP/CFO; VP/Controller; and Adam Simmons, CPA, Director of Financial Reporting
- City of Houston Airport System: Pearl Hurd, Project Manager
- Colonial Parking Inc. (DC): Russell C. Lindner, Chairman; Andrew C. Blair, President/CEO; Dave Souders, VP/CFO; and Julienne Bramesco, VP/General Counsel; Ronald Peck, Director of Accounting
- Colonial Parking Inc. (DE): Bill Parks, CPA, CFO
- LAZ Parking: Nathan P. Owen, CFO

Sincerely,

Christine Banning, CAE, President
National Parking Association
Washington, DC