Technical Director  
International Accounting Standards Board  
1st Floor  
30 Cannon Street  
London  
EC4M 6XH  

14 December 2010  

Dear Sir / Madam  

Thank you for the opportunity to respond to the Exposure Draft – Leases (“the ED”). This letter represents the views of Marks and Spencer Group plc. In the most recently published annual results to March 2010 of Marks and Spencer Group plc, we reported revenue of £9.5 billion and a profit before tax of £703 million. Our annual operating lease rental expense is around £230 million, of which approximately 95% relates to property leases.

OBJECTIVES OF THE EXPOSURE DRAFT  

We agree with the Board’s overall objectives when developing these proposals i.e. to improve comparability of accounting, decrease complexity and ensure the accounting meets the needs of the users of the financial statements. However, we do not believe that the decisions outlined by the Board in the ED meets these objectives. In our view, the proposed model for lease accounting will not substantially enhance the quality and usefulness of financial information provided to the different user groups of the financial statements, and some of the proposals contradict the basic principles of accounting.

To discuss each of the objectives in turn:

Increased comparability  
There is a significant amount of subjectivity involved in the proposed accounting. This is likely to result in companies with similar lease arrangements accounting for such leases under different assumptions and therefore reflecting different impacts in their financial statements, and reducing the comparability between companies. Conversely, companies with different lease terms, e.g. renewal options and contingent rents, could reflect similar financial impacts as these items are not separately identifiable in the accounting. This accounting therefore does not adequately reflect the differences in the risks and rewards of the leases.

In addition, a company’s year on year results will fluctuate due to the finance charges arising from this accounting and the reassessment of the leases, distorting the underlying profitability and making the results of the business incomparable.

Reduced complexity  
There are several judgements included in the calculation of each “right to use asset” which is therefore more complex than the existing operating lease accounting. Further complexity is added by reporting the income statement impact through two lines, depreciation and finance charges, rather than one rental expense.

Metts the needs of users  
The users of the accounts understand the existing accounting and those that wish to (e.g. rating agencies) are able to make adjustments to the financial statements for their own comparability purposes. Changing the accounting makes the reported financial statements less comparable and recognition of the proposed asset and liability will cause significant confusion for many of the users.  

UBS Investment Research issued a paper on 18 October 2010 stating that whilst they support the objectives of the ED, however, as users of the financial statements, they expressed their concern over the proposals.

If the needs of the users are not fully met by the changes to lease accounting, then the significant cost to the preparers cannot be justified.
OUR PROPOSED ALTERNATIVE

Whilst we recognise the existing IAS 17 standard has some limitations, we believe these can be addressed through additional disclosures, and we have attached some proposed disclosures as an appendix to this letter. The additional disclosures would enable the users of the accounts to make their own views around the risks and rewards faced by the business, whilst removing the level of judgement suggested by the ED.

If the IASB decides that additional disclosures are insufficient, we have concerns over some of the details within the ED itself. Our principle observations are described below, followed by our detailed responses to the questions raised in the Exposure Draft.

PRINCIPLE OBSERVATIONS OF THE EXPOSURE DRAFT

Property should not be in the scope of the standard as property operating leases do exist

The ED is based on the principle that all leases are financing cash flows and that the lessee is merely choosing to pay for the asset over time rather than paying for it up front. In fact, there are other business and operational reasons why companies use leasing arrangements, particularly in the case of retail property where the option to purchase an asset is often not available, for example in retail parks and shopping centres. There is no option to purchase these assets and therefore together with the point below in relation to the recover of the asset value, the arrangements for such retail properties are truly operating leases. Property assets should therefore be excluded from the scope of the standard.

What is the “right to use asset”?

A “right to use” asset represents the ability to control an asset to recover the value of the asset through its operational use. However, property asset values are typically recovered through a combination of their value in use and their resale, as the assets appreciate in value. The value to be recovered is retained by the lessor, and therefore the ability to recover the value of the asset, i.e. the risks and rewards of the asset, remain with the lessor.

The recognition of the liability is inconsistent with the definition of a liability

The inclusion of factors such as lease renewal options and contingent rent in calculating a lease obligation does not meet the definition of a liability since there is no existing present obligation for settlement of future contingent outcomes. The inclusion of the “largest possible lease length more likely than not to occur” will result in companies recognising liabilities for amounts over and above their contractual obligation. If it is the Board’s concern that lessees are attempting to hide obligations by structuring short leases with multiple renewals, the economic reality is that neither the lessors nor the lessees are likely to be motivated to do so economically.

Transparency and comparability will deteriorate rather than improve

The ED seeks to enhance the transparency and comparability of financial statements for the users of the financial statements. However, given the different lease terms of companies and the large number of judgements to determine the value of the obligation, it may achieve the opposite effect. These judgements include the lessee's incremental borrowing rate, the expected lease term and estimates of contingent payments. These factors will result in inconsistency and reduce the reliability of financial reporting as preparers will reach different conclusions in their assumptions. Each update to the assumptions used will potentially cause volatility to the income statement. These items are therefore likely to distort the underlying business performance, which could lead to companies choosing to remove these items from their reported adjusted profits to allow the user to compare results with similarly adjusted profits of other companies. This would defeat the initial objective of the revised standard.
In addition to this, the aggregation of all the lease factors into one “right to use asset” could disguise the true risk profile of the business.

Increased administrative burden and cost

The proposed accounting will result in an increase in administrative burden on both lessee and lessor, requiring additional headcount and new systems to cope with the changes. The increased cost and complexity is likely to outweigh any potential improvement to financial reporting.

Proposed alternative

Our proposed alternative solution is that properties are scoped out of the changes to the standard and instead the disclosures to the financial statements in relation to the property lease commitments and capital commitments are enhanced and given more prominence in the financial statements. The disclosures should include detailed analysis of the discounted committed cashflows, including assumptions for future rent increases.

In order to avoid the structuring opportunities in the existing standard which the Board appears concerned about, we recommend that the standard be re-written as a principle-based standard, focusing more on those leases which are “in substance” purchases and those that more operating lease arrangements.

For those leases which are within the scope of the standard, we believe that only those payments to which the business is contractually committed, or are “virtually certain” should be included in the calculations of the right to use asset.

**DETAILED RESPONSES**

**Question 1: Lessees**

(a) Do you agree that a lessee should recognise 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?

(b) Do you agree that a lessee should recognise amortisation 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?

“Right to use” property assets do not meet the definition of an asset as properties are appreciating assets, which means that many of the economic benefits of ownership will remain with the lessor, as there would be significant residual value.

The approach adopted by the Board is based on the starting point that all leases are forms of financing. In fact, there are other business and operational reasons why companies use leasing arrangements, particularly in the case of retail property where the buy-versus-lease option is often not available, for example in retail parks and shopping centres.

Properties usually appreciate in value and will often have a greater value at the end of the lease than at the start. In contrast to this, examples where a buy-versus-lease decision is made are in relation to trucks, lorries, office equipment etc, all of which are depreciating assets for which the company has many of the risks and rewards, and for which there can be perceived to be a right to use asset which is likely to be scrapped or sold at net book value to the lessee at the end of the lease. This is not the case for properties, and we therefore not believe that a “right to use” asset should be recognised, but the current operating lease distinction and accounting should be maintained.

Under the proposed approach, there is a mismatch between the recognition of the “financing” expense and the economic benefits realised from the lease. Under the proposed model, the asset is typically amortised on a straight-line basis while the obligation is accounted for using the effective yield method. Together, this will lead to higher expenses during the early part of the lease term and lower expenses during the latter part of the lease term. This will differ from the timing of the recognition of the economic benefits. For a retail property
operating lease, for example, the economic benefits from the lease are not materially different over the lease period. However, under the proposals, the retailer would record a higher financing expense at the early part of the lease and a lower financing expense towards the end of the lease.

The existing accounting for operating leases is more reflective of the timing of economic benefits from the lease, as it is spread evenly over the life of the lease.

The replacement of rental expense for leases which are currently classified as operating leases, with a combination of amortisation and interest charge may cause confusion to the users of the financial statements. We are concerned that they may not understand the impact on the profile of expenses over the life of the lease; the impact on key metrics such as net debt; and the impact on debt covenants.

We therefore recommend that property assets are excluded from the scope of the lease.

**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?

(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?

The proposals require lessors to use a hybrid model which focuses on exposure to the risks associated with the underlying assets. If the Board believes this is appropriate for the accounting for lessor, then it should also be appropriate for the accounting for lessees. The two models should be consistent. A hybrid model for lessees would allow property leases to correctly reflect the retention of the risks and rewards of the property value by the lessor.

Paragraph BCS2 5 of the Exposure Draft states that one approach to lessor accounting would not be appropriate for all leases due to the differences in the transactions. However, we believe if this applies to lessor accounting, it must also apply to lessee accounting, as the transactions must be reflected on both sides of the arrangement.

Having an inconsistency between lessee and lessor accounting may lead to inconsistent accounting across intercompany leases which would be confusing to the readers of the different subsidiary accounts.

We therefore recommend that a single model of lessor accounting needs to be concluded as part of the finalisation of the standard.

**Question 3: Short-term leases**

The 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 twelve 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 recognise lease payments in profit or loss 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 recognise assets and liabilities arising from a short-term lease in the statement of financial position, nor derecognise any portion of the underlying asset. Such lessors would continue to recognise the underlying asset
in accordance with other IFRSs and would recognise lease payments in profit or loss 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 do not agree that the proposals in the exposure draft represent any significant level of relief to preparers as
the main burden for applying the proposal model is the cost of identifying and tracking a large number of
expected lease payments, rather than the cost of discounting those lease payments.

A more meaningful relief would be an exception to the general model on practical grounds and that lessees
apply the treatment of operating leases in the existing IAS 17 to non-core or low value leases. This method
would require a robust definition of non-core leases to prevent ambiguity around the use of this exemption. The
information provided by the non-core assets would have little value to the users of the financial statements, but
would require substantial effort to prepare.

**Definition of a lease**

**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?
(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?
(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?

We believe that the ED does not sufficiently distinguish between leases and services contracts. The focus of the
criteria is on the physical delivery or access to the asset, rather than focusing on the business purpose of the
transaction. Therefore, where the lessee is receiving a service, and is indifferent to the asset used, the
transaction should be treated as a service arrangement. A key indicator of this would be the ability of the
supplier to replace the asset and continue providing the same level of service. This would demonstrate whether
the customer is interested in the asset, or in the service which is providing through the use of the asset.

The criteria for distinguishing a lease from a contract that represents a purchase or a sale should be more aligned
with the criteria within the Revenue Recognition ED.

**Question 5: Scope exclusions**

The exposure draft proposes that a lessee or a lessor should apply the proposed IFRS 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 IFRS? Why or why not?
If not, what alternative scope would you propose and why?

We note that contracts may often include elements of intangible and tangible assets, particularly in relation to
the IT industry, where software and hardware components may be included in the same contract. The exclusion
of intangible assets from the scope of the proposals could lead to the bifurcation of lease contracts for IT
services, which include both tangible and intangible elements. This could lead to different accounting for
transactions with similar economic substance.

We do not believe that retail property leases should be included within the scope of the standard. There are
real business and operational reasons why companies use leasing arrangements, particularly in the case of retail
property where the buy-versus-lease option is often not available, for example in retail parks and shopping
centres. Properties continue to appreciate in value and will often have a greater value at the end of the lease than at the start. Therefore the majority of the risks and rewards remain with the lessor. In contrast to this, examples where we do make a buy-versus-lease decision are in relation to trucks, lorries, office equipment etc, all of which are depreciating assets for which we have many of the risks and rewards and for which there can be perceived to be a right to use asset which is likely to be scrapped or sold to the lessee at the end of the lease. This is not the case for leased properties.

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

The exposure draft proposes that lessees and lessors should apply the proposals in *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:

The FASB proposes the lessee and lessor should apply the lease accounting requirements to the combined contract.

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; and (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 proposals in *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 Board's proposal for contracts which combine service and lease components. However, as noted above, we do not believe that lessors should have two options for the accounting. If the distinction is necessary for lessors, then we believe it should be relevant for lessees as well.

**Question 7: Purchase options**

The exposure draft proposes that a lease contract should be considered as 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 would consider the existence of purchase options to be the same as options to extend the lease term and therefore the accounting treatment should reflect this and they should therefore only be recognised upon exercise.

**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 do not agree with the proposal to include amounts due under renewal options in the measurement of lease payable and receivable as we believe it is inconsistent with the Conceptual Framework and does not meet the definition of a liability. It takes account of future payments which the entity still has discretion over, and will occur at the request of the entity.
The IASB Framework states that “An essential characteristic of a liability is that the entity has a present obligation....A distinction needs to be drawn between a present obligation and a future commitment. A decision by management of an entity to acquire assets in the future does not, of itself, give rise to a present obligation.”

The exercise of a renewal option requires management to commit to an additional lease term, and therefore the intention of management to renew would not meet the essential characteristics of a liability noted above. In addition to this, the inclusion of options in the measurement of the liability does not accurately reflect the flexibility which the options provide to the business to react to changing business circumstances. For example, a ten year lease would be accounted for in the same way as a five year lease, with a renewal option for a further five years, if it is assumed that the lessee will choose to exercise the option. The accounting would not reflect the commercial flexibility that the five year lease provides the lessee.

From a lessor perspective, it may be difficult for a lessor to include the options to extend in its calculation of amounts receivable as it may not be aware of the intentions of the management of the lessee. The lessor may feel that the exercise of a renewal option is likely, and recognise an asset, but the lessee may not have communicated their intention not to renew. This could lead to inconsistencies in the treatment across leases.

The “right to use asset” would not meet the requirements of the IASB Conceptual Framework, if it were to include lease periods covered by renewal options.

The IASB Conceptual Framework states that:

4.13 The assets of an entity result from past transactions or other past events. Entities normally obtain assets by purchasing or producing them, but other transactions or events may generate assets; examples include property received by an entity from government as part of a programme to encourage economic growth in an area and the discovery of mineral deposits. Transactions or events expected to occur in the future do not in themselves give rise to assets; hence, for example, an intention to purchase inventory does not, of itself, meet the definition of an asset.

We believe that additional disclosures could mitigate the need for the inclusion of options to extend in the recognition and measurement of the lessee's right-of-use asset and recommend that only the minimum contractual term is used as the lease term.

**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? 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 measured reliably? Why or why not?

We do not agree that all contingent rentals should be included in the measurement of the leasing assets and liabilities. There is a difference between rental payments which are contingent upon an unknown variable (such as inflation) and rental payments which are contingent upon an action by the lessee (such as turnover rent). In the case of turnover rent, if the lessee chooses not to open the store, then there will usually be a minimum guaranteed rental payment. It is this minimum rental payment which should be recognised in the measurement, as the turnover-related element can be actively avoided by the lessee. To include these elements in the measurement of the liability would be contrary to the IASB Conceptual Framework:

The IASB Framework states that “An essential characteristic of a liability is that the entity has a present obligation....A distinction needs to be drawn between a present obligation and a future commitment. A decision by management of an entity to acquire assets in the future does not, of itself, give rise to a present obligation.”
We would therefore agree with the alternative view proposed by Stephen Cooper, IASB member, which holds that contingent rent should be included in measuring lease obligations where rentals vary with an index or rate, but not where they relate to usage or performance of the leased item.

IAS 36 ‘Impairment of assets’ requires that projections should be for no more than five years, unless a longer period can be justified due to the level of estimation required in further extrapolation. To create an expectation of contingent rents for more than five years would suggest a level of reliability of estimation greater than that allowed under other accounting standards. We therefore recommend that estimations of uncertain future rentals are capped to a five year period.

**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?

As mentioned in the replies to Questions 8 and 9 above, we do not support the proposal that options to extend the lease term and contingent rentals based on performance or usage are included in the measurement of lease receivables and payables as proposed by the IASB. We recommend that the reassessment of assets and liabilities should only arise in the limited circumstances where there is a significant change to the leasing situation. An annual reassessment would be extremely onerous for preparers of the accounts, and lead to a lack of comparability across periods.

**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?

As noted in our response to Question 4, we believe that additional clarification is required of the distinction between sale / purchase agreements and lease contracts. The threshold for identifying a sale within a sale and leaseback transaction should be consistent with a sale within separate lease transactions. The approach should be consistent with that set out in the revenue recognition exposure draft.

**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 or investment property as appropriate, 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?
(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?
(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?
(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 with the proposals but believe that the information should be disclosed in the notes to the accounts where there is sufficient space to explain the lease accounting appropriately.

**Question 13: Statement of comprehensive income**

Do you think that lessees and lessors should present lease income and lease expense separately from other income and expense in profit or loss (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 proposals but believe that the information should be disclosed in the notes to the accounts where there is sufficient space to explain the lease accounting appropriately.

**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 with the proposals but believe that the information should be disclosed in the notes to the accounts where there is sufficient space to explain the lease accounting appropriately.

**Question 15**

Do you agree that lessees and lessors should disclose quantitative and qualitative information that:
(a) identifies and explains the amounts recognised 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 believe that additional information should be provided in the notes the accounts, but that the disclosures this would entail could be utilised to enhance the transparency of existing lease accounting, rather than by explaining the complexity of the proposed new standard.

**Question 16**

(a) The exposure draft proposes that lessees and lessors should recognise 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?

a) We agree that a simplified retrospective approach would be preferable to full retrospective.

b) Full retrospective application would utilise excessive amounts of resources and the data needed is less likely to be available. It could mean looking back at leases for 40 years.

c) The boards should consider the transitional approach in relation to sale and leaseback transactions, as the approach taken may have implications for reserves.

**Question 17**
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 acknowledge that the IASB has done some investigation into the costs relating to the application of the new proposals, but believe that some of the key costs have been omitted from the analysis. These may include: additional permanent headcount to revisit key assumptions each financial period and calculate the impact of any changes, on top of the additional resource required to implement the changes initially; new accounting systems to record and calculate the information necessary; and new processes and controls to ensure appropriate implementation going forward.

The recent announcement from HMRC that the distinction between finance and operating leases will continue to be relevant for tax purposes will further add to the burden of the change in accounting on preparers as they will be required to maintain parallel sets of accounts for tax and accounting purposes.

Due to the amount of judgement required in determining the lease obligation, we would question the value of the new proposals to the users of the accounts, as the variability of assumptions could result in inconsistencies across companies and reduce the reliability of financial reporting, thereby reducing the benefits achieved by the changes proposed.

**Question 18**

Do you have any other comments on the proposals?

The discount rate which the ED requires companies to apply to calculate the present value of lease payments is extremely onerous, particularly in the case of property leases. Companies could use different rates for leases in different countries, different group entities and over different periods. We recommend that the Board provides additional guidance on how to calculate discount rates, and allow a standard discount rate (e.g. the group weighted average cost of capital) to be used. This would reduce the administrative burden imposed on preparers, as well as improving comparability across companies for the users of the accounts.

We believe that the Board has not addressed lease payments beyond standard rent payments in the ED. We recommend that the Board considers accounting for key money, deposits, dilapidation clauses and non-monetary incentives.

Given the concerns we have raised above, and the additional work which is required before a complete standard can be finalised, we believe that the target of issuing a final standard by June 2011 is extremely optimistic and risks an incomplete or in appropriate standard being produced. We believe that a delay in issuing the final standard is a sensible approach in order to produce a standard which meets the objectives the Board has set itself.

We support the Board’s efforts to improve financial reporting. However, we urge the Board to reconsider those our comments noted above prior to issued a final revised standard.

Yours sincerely,
For and on behalf of Marks and Spencer Group plc

Alan Stewart
Chief Finance Officer
Operating leases

Future minimum rentals payable under non-cancellable operating leases where the Group is the lessee:

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**Timing of cash flows**

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**Effect of discounting **

| Total |

*the periods used in the lower section of the table could be expanded out to give additional detail

** the discount rate used could be a standard rate across the business i.e. WACC or specific to different areas

At 31 December 2010, future rentals receivable under non-cancellable sub-leases where the Group is the lessor were £[x] m (2009: £[y] m)***

***Alternatively this rental income information could be provided as a third column in the table, resulting in a ‘Net’ Total on the far right.

The group has entered into operating leases in respect of vehicles, equipment, warehouses, office equipment and retail stores. These non-cancellable leases have remaining terms of between [x] months and [y] years. Contingent rentals are payable on certain retail store leases based on store revenues. The majority of the Group’s operating leases provide for their renewal by mutual agreement at the expiry of the lease term.

**Reconciliation of changes in committed operating lease payments**

<table>
<thead>
<tr>
<th></th>
<th>Property</th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Minimum lease payments</td>
<td>Contingent rent payments</td>
<td>Total</td>
</tr>
<tr>
<td>As at 31 December 2008 ****</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Paid during year</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Additional leases entered into</td>
<td></td>
<td></td>
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<tr>
<td>Leases cancelled</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Reassessment of contingent rentals</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>As at 31 December 2009 ****</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Paid during year</td>
<td></td>
<td></td>
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<td>Additional leases entered into</td>
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<tr>
<td>Reassessment of contingent rentals</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>As at 31 December 2010</td>
<td></td>
<td></td>
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</tr>
</tbody>
</table>

**** These numbers would agree to the table above.