September 6, 2013

Russell Golden, Chairman
Financial Accounting Standards Board
401 Merritt
PO Box 5116
Norwalk, CT 06856

Hans Hoogervorst, Chairman
International Accounting Standards Board
730 Cannon Street
London EC4M 6XH
United Kingdom

Subject: Lease Accounting Exposure Draft

Dear Chairman Golden and Chairman Hoogervorst:

Trinity Industries, Inc. is a diversified industrial company that owns a variety of market-leading businesses providing products and services to the industrial, energy, transportation, and construction sectors. As a diversified industrial company, we manufacture and sell a variety of products including railcars and railcar parts, inland barges, structural wind towers, highway products, aggregates, containers, shoring equipment, and a variety of parts and steel components. We lease a variety of equipment and facilities under operating leases in support of our multiple business segments. Through TrinityRail®, an integrated business model with our Rail Group, Trinity Industries Leasing Company is a leading provider of railcar leasing and management services with a fleet of over 74,000 railcars, representing an investment of approximately $4.0 billion in equipment operating throughout the United States, Canada, and Mexico. Substantially all of our railcars are manufactured by our Rail Group. Our lessees, primarily industrial shippers and railroads, operate primarily in the chemical, agricultural, and energy industries and range from smaller regional businesses to large corporations with extensive international lines of distribution. The terms of these leases generally vary from one to twenty years with fixed monthly rentals on railcars that have an average useful life of thirty to fifty years. As lessor, we bear residual value risk upon lease completion with no lessee guarantees or other protections. End of lease terms are typically either renewed at market rates or terminated upon return of the asset.

We are writing to you in response to the Lease Accounting Exposure Draft issued on May 16, 2013. We appreciate the amount of effort and resources the FASB and IASB have committed to this project, and the deliberative process by which alternative views are being considered. It is difficult to overstate the importance of the project and the impact that the proposed standards would have across businesses globally. We would like to offer some insights and recommendations based on our thirty years of experience in the leasing industry. Although we support the broader objectives of the project, including greater transparency regarding operating lease liabilities, **we do not agree with the changes that are proposed in the Exposure Draft.** We believe that adoption of the rules as proposed in this Exposure Draft would result in:

- Reduced transparency of financial information
- Greater susceptibility to manipulation of reported results by others from the structuring of lease terms and the increased use of subjective measures with inherently limited verifiability
- Lack of comparability across companies, across industries, and across periods of time
- Financial information that is inconsistent with the economics of the executory contracts
- Significantly increased initial and ongoing compliance costs and related professional fees
As evidence of these opinions, please consider the following:

1) **Reduced transparency of financial information**
   - Subparagraph (a) of paragraph BC3 of the Exposure Draft cites that a principal objective of the revised standards is to “ensure greater transparency in financial reporting and to better address the needs of users of the financial statements”. However, we note that the proposed leasing model incorporates various new elements of subjectivity into the lease accounting rules that do not exist under the current model, primarily the concepts of “insignificance” (in determining lease classification) and “significant economic incentive” (in determining the lease term). Both of these highly subjective concepts are key determinants of not only which assets and liabilities get recognized, but also the measurement of those assets and liabilities. The increased level of judgment and subjectivity in these concepts undermines this primary objective of the project. Diversity in the application of these principles will likely result in financial information that is not more, but less transparent, decision-useful, or comparable for its users.
   - The proposed standard would require three distinct presentations on the income statement for lessees (“lease-related amortization” for amortizing the Right Of Use asset, “interest expense” for accretion of the lease liability, and “rent expense” for lease expenses of Type B leases). This complexity undermines the objective of simplifying the reporting for the benefit of users of the financial statements.
   - Under the proposed model, it is likely that more companies will have a combination of Type A leases and Type B leases than have both operating and capital leases under the current model (e.g. a company that leases both office equipment and an office building would likely have both Type A leases and Type B leases under the proposed model, but likely classified both as operating leases under current accounting). This increased delineation of leases will increase complexity of financial information as users will be required to aggregate information from multiple locations within the financial statements in order to determine an entity’s overall lease related income/expense and cash flows in a given period.

2) **Greater susceptibility to manipulation of reported results by others from the structuring of lease terms and the increased use of subjective measures with inherently limited verifiability**
   - Under the proposed rules, financial statement preparers are given significant leeway in determining what constitutes a Type A lease versus a Type B lease. This does nothing to curb the potential for management to structure the underlying lease terms in such a way to achieve a desired accounting result; rather, it likely increases the opportunity for such activity.
   - Assumptions regarding what constitutes “significant economic incentive” in defining the lease term will significantly impact the recorded assets and liabilities as well as the recognition of any day one profit as it relates to lessors. Furthermore, the ability for companies to redefine the lease term mid-lease if those assumptions change could create erratic profit recognition, particularly among lessors where the residual asset contains a deferred profit component which could be recognized by justifying an extended lease term.
Assumptions used in determining the estimated future fair value of the residual assets for lessors of Type A leases will likely result in gains and/or losses upon the re-leaseing of an asset. This is particularly true in industries where asset values fluctuate with typical economic cycles and where a single asset may be leased many times over the span of its useful life. At each new lease inception, companies will be required to re-value their assets based on any number of market-, entity-, or asset-based factors. These types of assumptions become increasingly difficult for auditors to challenge and determine their reasonableness under the circumstances.

In determining what assets and liabilities to record, companies must determine what should be carved out as non-lease components and use judgment to determine the fair value of those components. This may lead to structuring of lease terms and management bias in estimating fair value of non-lease components in order to achieve straight line income/expense recognition for as much of the lease payments as possible.

Assumptions used to define the applicable discount rate would have a significant impact on the assets and liabilities recorded and the pattern of income/expense recognition.

Preliminary modeling performed by our company indicates that small changes to any of these assumptions would have a significant impact on reported financial information due to the nature and size of our lease fleet.

In an environment where auditors are being held to higher and higher standards of accountability, reaching consensus on conceptually subjective accounting matters among preparers, auditors, and third party specialists is becoming more and more difficult.

3) Lack of comparability across companies, across industries, and across periods of time

As a lessor of railcars with typical economic lives of thirty to forty years, which are generally leased for terms of three to ten years, we find the concept of “significant” difficult to apply in classifying our leases given that most of our leases would fall within a highly subjective range. Other companies within our industry with business models very similar to ours may end up with significantly different accounting treatment depending on a looser or more stringent interpretation of “significant”. This would drastically reduce comparability of financial information across companies in our industry.

A classification model based primarily on asset type (i.e. “property” or “non-property”) will inevitably lead to dissimilar accounting treatment for similar transactions across different industries. We strongly believe that the rights and obligations conveyed by a ten year lease on a railcar with a useful life of forty years are no different than those conveyed by a ten year lease on a building with a useful life of forty years. We fail to understand the conceptual basis for this classification model and believe that it will dramatically reduce comparability across industries.

Furthermore, as with all businesses, our leasing business goes through up and down cycles. When business is trending upwards, customers generally want extended lease terms to lock in favorable rates which they think could be rising. However, in a down market, customers are less
likely to engage in longer term leases. Applying the proposed model could result in different accounting treatment during up cycles than would be required in down cycles, since the proportion of the lease term in relation to the total economic life of the asset would fluctuate and potentially result in more leases being deemed as “insignificant” or “more than insignificant” than in prior periods. This would make our financial information much more complicated and difficult to analyze.

4) Financial information that is inconsistent with the economics of the executory contracts
   o We view a three year railcar lease and a five year railcar lease to be similar from an economic perspective; however, under the proposed model we would struggle to justify parallel accounting treatment for these two transactions since one lease might be considered “insignificant” with the other being considered “more than insignificant” in relation to the total economic life of the asset.

   o We disagree with the idea that Type A leases and Type B leases are substantially different from the economic perspective of a lessee. Both types of leases represent a financing for the use of the specified asset, regardless of whether or not a significant portion of the economic life of the asset is consumed. Furthermore, providing this distinction adds to the complexity of accounting and is likely to promote “structuring” of lease agreements to achieve a desired accounting treatment.

   o Lessee accounting for Type B leases under the proposed guidance results in arbitrarily calculated right-of-use asset since the reduction to the right-of-use asset each period is essentially a “plug” of the difference between the straight-line expense and the accretion of the lease liability as calculated under the interest method. We fail to recognize a conceptual or economic basis that justifies this treatment.

5) Significantly increased initial and ongoing compliance costs and related professional fees
   o In paragraph BC329 of the Exposure Draft, you correctly point out the fact that a large portion of the implementation costs will relate to system changes and education of employees and external stakeholders. However, we also foresee a significant data-mining exercise required to re-evaluate all current leases for information that we do not currently monitor in our leasing systems. This highly manual process required for a portfolio of thousands of leases is likely to require tens of thousands of man-hours.

   o We anticipate significant additional costs of compliance during the full retrospective adoption period. We employ significant resources for the sole purpose of accounting for our leases under the current model. To comply with the full retrospective adoption (since lessors were afforded little concession in the proposed modified retrospective approach) would require that we track all leases on two methods for a period of at least two years. The cost of this duplicative accounting during the implementation period should not be overlooked.

   o Additionally, you have stated that “the Board thinks that for most entities the ongoing costs of providing the information that this Exposure Draft would require are unlikely to be significantly higher than the costs of complying with current U.S. GAAP.” We strongly disagree with this perspective. As primarily a lessor of equipment, the added requirements to disclose rollforwards
of both the receivable and residual assets for Type A leases and to disclose the components of lease income in tabular form in addition to maturity analyses of future cash flows of Type A and Type B leases (similar to the basic requirements under the current model) will most definitely increase our ongoing compliance costs. The proposed standard would further increase our ongoing compliance costs by requiring continual assessment of equipment under lease for indications that the “significant economic incentive” threshold has been met resulting in a change to the lease term. Finally, for lessees, the increases in disclosure requirements, complexity in the determination of assets and liabilities, and the maintenance and upgrades of new lease monitoring software will also result in increased compliance costs on an ongoing basis. Concessions provided to non-public companies for reduced disclosure indicate that the Board is fully aware of the incremental costs required on an ongoing basis to comply with the proposed rules.

- Furthermore, with increasingly complex and subjective accounting treatment, companies are likely to incur significant additional audit and related fees, not only during the transition period, but also on an ongoing basis.

- As a result, reporting and lease monitoring requirements will be particularly burdensome for companies that currently operate with limited overhead capacity which will likely pressure companies towards other means of financing. Historically, these small-to-mid sized businesses have been principal beneficiaries of the leasing model when they may not have access to other resources to fund the purchase of necessary assets.

We believe that users of the financial statements primarily desire information that is easily understandable, representative of the economics of the underlying transactions, and free from management bias. Although the proposals in this exposure draft achieve the objective of recording the obligations of lessees on the balance sheet, it is our opinion that they are a large step backwards in achieving information that is more transparent, decision-useful, and less susceptible to management bias.

As the Boards continue to work towards a standard that meets the demands of the investment community and is realistically cost effective for preparers, we suggest the following:

- For reasons previously stated, we believe that the complexity of the proposed standard would result in financial information that is less decision-useful for users. The diversity among preparers in the application of the many underlying assumptions would render comparability virtually impossible. Therefore, we support the evaluation of simpler alternatives with fewer opportunities for differing interpretations of concepts which could result in significantly different accounting results. If the Boards believe that recording more leases on the balance sheets of lessees provides more useful information for users, we would suggest that this be achieved by moving the “bright lines” rather than eliminating them altogether. The presumption that removing the bright lines will limit companies’ ability to structure lease terms to achieve a desired accounting result is debatable; however, it will most definitely result in financial reporting that is more complex and difficult for users to analyze.
o For lessors, we believe that any classification of leases for specific accounting treatment should be based on the lessor’s business model (similar to the Boards’ proposal for the classification and accounting for financial instruments). Certain lessors evaluate their business as a series of financial transactions engaged for the purposes of generating financing income. Others retain greater risks of residual asset values, are actively engaged with the operation and maintenance of the assets, and intend on leasing an individual asset to many different customers or under many different leases over the span of its economic life. Lessor classification based on a business model approach would minimize management’s ability to structure leases to achieve a desired accounting result by requiring a “once, for all” determination of accounting based on the underlying business. We also believe this method would also provide more relevant and decision-useful information to users of the financial statements.

o We do not believe that the accounting treatment between lessees and lessors should necessarily be symmetrical. By nature, the assets and liabilities being accounted for are conceptually different. The lessee is accounting for its right to use an asset which it does not own (likely some sort of intangible), whereas the lessor is accounting for a tangible, long-lived asset to which it has title and ownership, regardless of a third party lease on that asset. To impose symmetrical accounting will result in accounting for long-lived assets by lessors which is not conceptually sound, nor consistent with time-tested accounting practices.

o Finally, we believe that prior to the adoption of a standard with such sweeping changes in accounting and financial reporting the Boards should perform robust cost-benefit analyses, soliciting input from both preparers and users of the financial statements. This would serve the interests of all parties by ensuring that the proposed changes meet the needs of financial statement users and are able to be implemented with a reasonable expenditure of resources for preparers.
We thank you for your consideration of our comments and suggestions and appreciate your position as a mediator between all interested parties to this issue. Our main hope is that all of the issues, from all stakeholders, will be fully developed, discussed, and well-understood prior to the issuance of new accounting standards.

Sincerely,

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