

September 13, 2013

Russ Golden, Chairman
Financial Accounting Standards Board
401 Merritt 7
P.O. Box 5116
Norwalk, CT 06856

Re: Proposed ASU, Leases (File Reference No. 2013-270)

Dear Mr. Golden and Members of the FASB Board:

The partners of Cherry Bekaert LLP wish to thank the members of the Financial Accounting Standards Board for their commitment to the highest level of quality accounting standards and for all the hard work and efforts to address a complex and challenging standard. We are equally committed to maintaining the highest level of accounting standards and thank the Board for the opportunity to comment on the proposed standard.

Question 1. Identifying a Lease.

A lease is defined as “a contract that conveys the right to use an asset (the underlying asset) for a period of time in exchange for consideration.” Do you agree with the definition? Why or why not? How would you define a lease?

We believe the definition and related illustrations provide sufficient guidance for defining a lease.

Question 2. Lessee Accounting.

Do you agree or disagree that recognition, measurement and presentation of expenses and cash flows should differ for different leases. Why or why not? If not, what alternative approach and why?

We recognize the benefits of recording the right to use an asset and the related lease obligations on the balance sheet. We also recognize there may be fundamental differences in the character of the lease depending on whether or not it consumes a substantial portion of the economic benefits of the asset (see response to question #4). Fundamentally, the obligation, whether it is a type A or B lease, is recorded at its net present value and the balance accretes over time like debt. We feel the change in the income statement and cash flows should complement the balance sheet presentation. Therefore, we question the benefits of the different treatment in the income statement and cash flows for Type A versus Type B leases.

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While we recognize there are differences in consumption of the underlying asset, we fundamentally disagree with a consumption methodology that appears to be based on achieving a desired straight-line expense recognition versus the consumption of the benefits of the right to use the asset. Once the right to use the asset has been recognized on the balance sheet, the amortization of the asset should mirror the amortization of similar assets regardless of the transaction that gave rise to the recognition of the asset. As the standard currently reads, a right to use the asset under a type B lease would be amortized at a rate that is less in the early years and increases over the life of the lease in order for the straight-line (or single line) lease expense to be achieved. . We do not feel this “decelerated amortization” reflects the economics of the transaction.

Question 3. Lessor Accounting.

Do you agree or disagree that Lessor should apply a different accounting approach to different leases. Why or why not? If not, what alternative approach and why?

No comment.

Question 4. Classification of Leases.

Do you agree or disagree that the principle on Lessee’s expected consumption of the economic benefits embedded in the underlying asset should be applied using requirements set out in paragraphs 842-10-25-5 through 25-8, which differ depending on whether asset is property. Why or why not? If not, what alternative approach and why?

We do agree that there are conceptual differences between an equipment lease and a property lease in that there is typically little to no consumption of the underlying asset over the lease term in a property-type lease. We also believe the lease isn't a purchase of the asset as much as it is a purchase of the utility of the asset. As the proposed criteria for determination of the lease type is intentionally vague (i.e. significant, substantially all, major part), we feel this will lead to companies treating leases differently, thus reducing comparability. In summary, we question whether the conceptual differences warrant the separate accounting treatment.

Question 5. Lease Term.

Do you agree or disagree with proposals on lease term, including reassessment if there is a change in relevant factors. Why or why not? How should lease term be determined and why?

While we agree that the proposed guidance is a significant improvement over the 2010 proposal, we question the difficulty of reassessing each lease for a change in terms. For smaller lease portfolios, this can be a relatively painless exercise. However, the cost could easily outweigh the benefit for companies with large lease portfolios. We believe that prior to implementing such a broad-based and potentially costly provision, a comprehensive cost benefit analysis should be completed.

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Question 6. Variable Lease Payments.

Do you agree or disagree with proposals on measurement of variable lease payments, including reassessment for change in an index or a rate. Why or why not? How should parties account for variable lease payments and why.

While we agree in theory, we believe the computations necessary to apply changes in the indices, such as the consumer price index, will likely have marginal impact on the aggregate lease obligations and right to use assets, and accordingly, we believe that the costs outweigh the benefit. Many of our clients and, in particular, our private company clients do not have the resources to reassess leases on an annual basis. We recommend that the standard include a practical expedient allowing for practitioners to omit reassessment of cumulative changes from the original assessment that are deemed immaterial. For example, if a monthly variable lease payment changes in value by 2% in year two of a lease as compared to the original expected monthly lease payment then a re-evaluation should not be required. However, if by year five of the lease, this change has grown to 10% or greater than the original expected monthly lease payment then practitioners should evaluate if this change is deemed material relative to the lease and, if so, conduct the reassessment. We also disagree with a different treatment of CPI versus LIBOR or fixed rate when computing the present value as we believe that will promote selective structuring.

Question 7. Transition.

Do you agree or disagree that lessee and lessor recognize and measure leases at the earliest period presented using modified retrospective approach or full retrospective approach. Why or why not? What, if any, additional transition issues should be considered and why?

In our opinion, we believe the modified retrospective approach is a suitable option for most companies giving users the information needed to reflect the desired changes without adding too much cost to the process. In particular, the modified retrospective approach is desirable for operating leases falling under the Type B lease with little to no retained earnings impact.

Question 8. Disclosure.

Do you agree or disagree that disclosure requirements include maturity analyses of undiscounted lease payments, reconciliations of amounts recognized in the statement of financial position and information about variable lease payments and options. Why or why not? What changes should be made and why?

With the additional judgment needed (i.e. proper lease classification, interest rate selection, reassessment criteria, term determination), we feel the disclosure requirements should be thorough enough to give the user sufficient information. We appreciate the additional complexity this may add; however, we feel this is necessary given how much management decisions and estimates on leases determine the financial statement impact.

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Question 9. Nonpublic Entities (FASB only)

Specified reliefs for nonpublic entities:

1. *To permit a nonpublic entity to make an accounting policy election to use a risk-free discount rate to measure the lease liability. If an entity elects to use a risk-free discount rate, that fact should be disclosed.*
2. *To exempt a nonpublic entity from the requirement to provide a reconciliation of the opening and closing balance of the lease liability.*

Will the above reliefs help reduce the cost of implementing new lease accounting requirements without sacrificing information necessary for users of their financial statements? Yes or no? Why or why not?

No comment

Question 10. FASB Only.

Do you agree or disagree it is not necessary to provide different recognition and measurement requirements for related-party leases. Why or why not?

We believe that accounting for all transactions including those with related parties should follow the economic substance of the transaction and we recognize the unique risk potential posed by related party transactions. Limiting the lease guidance to only legally enforceable related party leases could provide an incentive for related parties to increase the number of 'handshake' leases and be treated much differently than one that is identical in substance from a third party. This could cause the situation to worsen from that of current guidance. This could also increase the attractiveness of related party leases as they may be more easily "selectively structured" with "unwritten understandings." For example, a third party lessor might not be willing to sign a 364 day lease with no explicitly stated renewal terms (which could be accounted no differently than current operating leases under the proposal). However, a related party lessor would be far more likely to agree to such a lease with the unwritten understanding that such a lease would be renegotiated every year as though there was renewal periods or as though the lease term was greater than 1 year. Moreover, if a related party agreed to a 10 year loan to purchase a piece of property but leased that same property to an entity for only 3 years with no explicitly stated renewal periods then it would be possible to obfuscate the underlying economic substance of the transaction and the entity might record the transaction as a type A lease when in substance it is a type B lease. In addition, we believe that any proposal should also take into account anticipated changes to the VIE guidance which could create further incentive to "selectively structure" related party leases. This ambiguity could greatly affect the appropriate lease term of a related party lease and lead to a significant mismatch from the economic reality.

Question 11. FASB Only.

Do you agree or disagree it is not necessary to provide additional disclosures (Topic 850) for related party leases? Why or why not? Additional disclosure requirements?

We believe the financials should include sufficient related party disclosures for the users to assess the economics of the related party transactions for all the reasons noted in item 10 above.

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Thank you once again for allowing our firm the opportunity to comment on this important matter. We applaud the board's initiative and efforts on this important matter. We encourage the board to continue to weigh the costs of providing information to the benefits and to continue seeking a balance that justifies changes of this magnitude. We look forward to seeing the revised proposal and will continue our efforts to seek input from our clients and professionals.

Sincerely,

A handwritten signature in black ink that reads "Raymond R. Quintin". The signature is written in a cursive style with a large initial "R".

Ray Quintin, Partner

Audit Professional Practice – Technical Director