



Deloitte & Touche LLP
Ten Westport Road
PO Box 820
Wilton, CT 06897-0820
Tel: +1 203 761 3000
www.deloitte.com

September 20, 2013

Ms. Susan M. Cospers
Technical Director
Financial Accounting Standards Board
401 Merritt 7
Norwalk, CT 06856-5116

File Reference No. 2013-310

Re: Proposed Accounting Standards Update, *Definition of a Public Business Entity*

Dear Ms. Cospers:

Deloitte & Touche LLP appreciates the opportunity to provide feedback on the FASB's proposed Accounting Standards Update (ASU) *Definition of a Public Business Entity*.

We recognize that the definition of a public business entity (PBE) has recently become more significant given the current efforts of the FASB and Private Company Council (PCC) to address the accounting and financial reporting needs of private companies. We therefore believe that it is important for the PCC and FASB, when defining a PBE and determining which entities are eligible to use the PCC alternatives endorsed by the FASB, to use the observations in the proposed *Private Company Decision-Making Framework — A Guide for Evaluating Financial Accounting and Reporting Guidance for Private Companies* (the "decision framework") regarding the important factors that differentiate private companies from public companies. Accordingly, we believe that any final decisions regarding this proposed ASU should be made in conjunction with the final decision framework.

Although we understand the Board's desire to leverage some of the existing, more rules-based criteria for performing the PBE assessment, we believe that the definition of a PBE should be based on a principle that takes into account the above-cited differential factors. We recommend that the Board consider the following definition:

A PBE is an entity whose U.S. GAAP financial statements are made readily available to the public to provide financial information to holders (and potential holders) of debt or equity interests that are traded in a public market.

We believe that this definition constitutes a principle that is consistent with the various needs of private entity investors identified in the decision framework. Moreover, we think that this definition should be accompanied by implementation guidance containing examples of instances in which an entity is classified as a PBE, including criteria (a)–(d) in the current proposal's PBE definition. Further examples might be warranted on the basis of the feedback received from constituents, such as examples in which an entity is not classified as a PBE and why that is the appropriate conclusion.

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In addition to our comments on the proposed PBE definition itself, we are concerned that the proposed ASU's comment period may be too short (it is one of the shortest of any FASB proposal). As the decision framework points out, private companies have "fewer and less specialized accounting personnel" than public companies; thus, private companies may need more time to respond to exposure drafts. We therefore recommend that future PCC-related FASB proposals have longer comment periods.

The appendix below contains our detailed responses to the proposed ASU's questions for respondents as well as a few additional recommendations.

Deloitte & Touche LLP appreciates the opportunity to comment on the proposed ASU. If you have any questions regarding our comments, please contact Adrian Mills at 203-761-3208.

Yours truly,
Deloitte & Touche LLP

Cc: Robert Uhl

Appendix
Deloitte & Touche LLP
Responses to the Proposed ASU's Questions for Respondents

Question 2: *Do you agree with the definition of a public business entity included in this proposed Update? Please explain why.*

See the body of this letter and our responses to Questions 3 and 4.

Question 3: *Do you agree that a business entity that has securities that are unrestricted and that is required to provide U.S. GAAP financial statements to be made publicly available on a periodic basis pursuant to a legal or regulatory requirement should be considered a public business entity? Please explain why. Can you identify a situation in which an entity would meet this criterion but would not meet any of the other criteria identified in the definition of a public business entity? In addition to what is discussed in paragraph BC18 of this proposed Update, do you think further clarification is needed to determine what an unrestricted security is?*

As discussed in the body of this letter, a modified version of this criterion could be a principle on which to base the definition of a PBE. However, we do not believe that the criterion, as currently written, is sufficiently clear, and we think that it could have unintended consequences.

For example, it is not clear why securities restrictions preclude an entity from being a PBE (if this concept is relevant, it should be linked to an underlying principle in the guidance). It also is not clear which types of restrictions the Board had in mind. The Board should clarify this point by addressing various types of restrictions, such as those that are only temporary (e.g., expire solely with the passage of time) and those that are for certain types of investors (i.e., restrictions that are for accredited investors but that many may qualify for).

We are also concerned that this criterion could cause entities to conclude that they are PBEs without first considering why they are required to publicly disclose their financial statements. If an entity is not providing financial information for investors to use in making investment decisions about securities that are traded in a public market, we do not believe that the entity should be considered a PBE.

Question 4: *Do you agree that no public or nonpublic distinction should be made between NFPs for financial reporting purposes? Instead, the Board would consider whether all, none, or only some NFPs should be permitted to apply accounting and reporting alternatives within U.S. GAAP. Please explain why.*

We generally agree that the Board should not distinguish between public and nonpublic not-for-profit entities (NFPs), because we believe that the needs of users of NFP financial statements typically do not vary significantly. However, one inconsistency we note is that a for-profit conduit bond obligor would be considered a PBE while an NFP conduit bond obligor would not. We acknowledge the Board's aversion to creating an "ineffective bright line" among NFPs but question whether the needs of users of financial statements for holders of conduit bonds differ depending on whether the obligor is a for-profit entity or an NFP. In either case, the general

principle that the financial statements of the obligor are available in a public market to provide financial information to capital providers appears to be met.

We also agree that employee benefit plans (EBPs) should not be differentiated according to whether they are public or nonpublic. We further encourage the FASB, in addition to separately considering EBPs as part of its future standard-setting efforts, to consider reviewing aspects of existing U.S. GAAP for which constituents have asserted that the specialized nature of EBPs was not considered.

Question 5: *Should the Board consider whether to undertake a second phase of the project at a later stage to examine whether to amend existing U.S. GAAP with a new definition resulting from this proposed Update? In that second phase of the project, the Board would consider whether to (a) preserve the original scope of guidance in the Accounting Standards Codification or (b) change the scope of guidance in the Accounting Standards Codification to align with the new definition. Please explain why.*

The Board should undertake the second phase of the project as soon as possible to avoid prolonging the confusion that exists because of the number of similar definitions in the Accounting Standards Codification and to provide the appropriate information to users of PBE, private-company, NFP, and EBP financial statements.

In this second phase, the Board should consider the need for transition guidance to assist companies whose status changes as a result of switching to the proposed definition of a PBE. Further, in a manner consistent with the Board's future intentions for NFPs and EBPs, these entities may need to evaluate whether they are considered PBEs under each of the affected Codification topics.

Other Recommendations

Transition Guidance

The FASB should develop transition guidance for entities that transition in and out of being a PBE. In the absence of further guidance, it appears that a private company would need to retrospectively reverse the effects of applying accounting alternatives in all periods presented in an SEC registration statement (e.g., an initial public offering) or another entity's SEC filing (e.g., because of significant acquisition and significant investee rules). Such circumstances are not always foreseeable, and retrospectively eliminating previously elected accounting alternatives could be onerous or impractical. For example, balances related to the currently proposed accounting alternatives could affect financial statements for many years after a transaction. Also, to ensure that the opening balance sheet is correct, a private company that elected the goodwill and intangible alternatives at any point would need to adjust initial and subsequent recognition and reperform impairment tests for every year after the transaction date.

Entities Included in an SEC filing

We generally believe that entities that are not otherwise subject to an SEC filing requirement and whose financial statements are included in another entity's SEC filing (e.g., because of the requirements of Regulation S-X, Rule 3-09, "Separate Financial Statements of Subsidiaries Not Consolidated and 50 Percent or Less Owned Persons") should be considered PBEs for such a

purpose. This is because those financial statements are available in a public market to provide financial information to capital providers (i.e., there appears to be value to preparing those financial statements in a manner that is consistent with that used by the public filer). However, we recommend that the FASB solicit input from investors and the SEC not only about methods of transitioning to being a PBE but also about whether there are circumstances for which the Board should provide exceptions to the general principle. In certain instances, exceptions are made and the SEC accepts other bases of accounting, particularly when an entity's financial statements are included in another entity's SEC filing. For example, (1) IFRS-based financial statements of an investee or acquiree can be used to satisfy a U.S. GAAP registrant's significant acquiree (Regulation S-X, Rule 3-05, "Financial Statements of Businesses Acquired or to Be Acquired") or significant investment (Rule 3-09) disclosure requirements and (2) statutory-based financial statements of a sponsor of variable annuity insurance products are sometimes used to satisfy guarantor disclosure requirements for insurance product financial statements filed with the SEC (Form N4/N6). These exceptions may provide some flexibility in connection with an entity's financial statements included in another entity's SEC filing. Understanding this flexibility may lead the Board to reach a different conclusion about whether such entities should be given such an exception.