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PCC-13-02
Comment Letter No. 18
330 North Wabash, Suite 3200
Chicago, IL 60611

October 11, 2013

Via email to director@fasb.org

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

Re: Proposed Accounting Standards Update, *Applying Variable Interest Entity Guidance to Common Control Leasing Arrangements - a Proposal of the Private Company Council* (File Reference No. PCC-13-02) ("the ED")

Dear Ms. Cospers:

We are pleased to provide comments on the ED. We appreciate the challenges involved in determining whether an implicit variable interest actually exists in common control leasing arrangements, and we also understand many private company stakeholders do not believe decision-useful information is conveyed by a lessee consolidating its lessor. As such, we support providing an elective accounting alternative for private companies in this regard. Our responses to specific questions are provided in the appendix to this letter.

We would be pleased to discuss our comments with the FASB staff. Please direct questions to Lee Graul, National Director of Accounting at (312) 616-4667 or Adam Brown, Partner in the National Accounting Department at (214) 665-0673.

Very truly yours,

A handwritten signature in black ink that reads "BDO USA, LLP". The letters are written in a cursive, slightly slanted style.

BDO USA, LLP

Appendix

Question 1: Please indicate whether you primarily are a preparer, user, or public accountant. If you are a public accountant, please describe the size of your firm (in terms of number of partners or other relevant metric) and indicate whether your practice focuses primarily on public entities, private entities, or both.

BDO is the brand name for the BDO network and for each of the BDO member firms. The BDO network of independent member firms serves multinational clients through a global network of 1,118 offices in 135 countries, comprising the fifth largest accounting and consulting network in the world. BDO USA, LLP serves an array of public and private clients through more than 40 offices and more than 400 independent alliance firm locations nationwide.

Question 2: Do you agree that the accounting alternative in the proposed Update should apply to all entities except public business entities, not-for-profit entities, or employee benefit plans within the scope of Topics 960 through 965 on plan accounting? If not, what type of entities should not be included in the scope of this accounting alternative?

We agree with the scope of the ED. We note that paragraph 810-10-15-17(a) provides a scope exception to not-for-profit entities ("NFPs") from generally applying the variable interest entity ("VIE") guidance. We suggest the basis for conclusions clarify that this scope exception for NFPs is not affected by the proposed amendments.

Question 3: Do you agree that the proposed Update does not apply to public business entities and employee benefit plans because they lack the arrangements that the accounting alternative addresses? If not, please describe the arrangements that exist for those types of entities that the Board should consider in determining whether any public business entities or employee benefit plans should be included in the scope of the proposed accounting alternative.

We agree. Our experience has been that that the common control leasing arrangements within the scope of this narrowly focused issue are typically found in a private company setting.

Question 4: Do you agree with the required criteria for applying the proposed accounting alternative? If not, please explain why.

We generally agree with the required criteria. For clarity, we suggest specifying that arrangements meeting the required criteria be scoped out altogether from the VIE subsections of the Codification, rather than the proposed language that narrowly exempts an entity from "consolidation under the guidance in the VIE subsections...." As proposed, it appears an entity would still be required to evaluate whether a lessor entity is a VIE, and if so, provide the VIE-related disclosures. This analysis would also be subject to reconsideration under the ED.

Alternatively, we suggest that the Board consider whether the disclosures proposed in the ED, along with existing leasing and related party disclosures, would be sufficient to address user needs.

Furthermore, while reporting entities would still need to assess whether the required criteria for applying the proposed alternative continue to be met in subsequent periods, we believe that a simple statement to that effect in the guidance would improve its operationality. Similarly, we recommend indicating in the final amendments that the VIE subsections would apply on a prospective basis if and when the required criteria are no longer met. We believe such an approach would be simpler than requiring private companies to apply the reconsideration events guidance of the VIE subsections for arrangements within the scope of this ED.

In determining whether the required criteria are met, we recommend that the final Update clarify whether the term “leasing activities” in paragraph 810-10-15-17A contemplates lessee purchase options, as well as any other activities within the scope of Topic 840, *Leases*. Further, we note that the ED introduces the notion of “supporting leasing activities.” We agree those activities should be permitted in determining the scope and applicability of the ED. To avoid any confusion in that regard, we suggest the ED clarify that the “supporting leasing activities” would need to be evaluated under other applicable guidance (e.g., Topic 405, Topic 460) when the leasing arrangement is exempt from the VIE subsections. For example, if the Board concludes a lessee purchase option is consistent with the proposed VIE exemption, entities would still need to evaluate whether it represents a bargain purchase option under Topic 840.

Question 5: Do you agree that paragraph 810-10-55-9, which describes the effects of guarantees and joint and several liability arrangements related to a mortgage on the lessor’s assets, provides sufficient guidance to clarify what constitutes a supporting leasing activity for applying paragraph 810-10-15-17A(c)? If not, please explain why.

We believe that the description of a “supporting leasing activity” in paragraph 810-10-55-9 is operable for the typical common control leasing arrangements. In those situations, the lessor’s only asset is typically the facility leased to the operating entity (private company) and therefore the lessor has no other significant business activities. In such circumstances, other arrangements such as product purchase commitments generally would not be present since it is the operating entity that would manufacture products, not the lessor. Consequently, we believe the situations that require an analysis of other “substantial” non lease-related activities will be infrequent.

Question 6: Do you agree that the following additional disclosures about lessor entities should be provided if a private company elects the proposed accounting alternative? If not, please explain why.

- a. The key terms of the leasing arrangements**
- b. The amount of debt and/or significant liabilities of the lessor entity under common control**
- c. The key terms of existing debt agreements of the lessor entity under common control (for example, amount of debt, interest rate, maturity, pledged collateral, and guarantees)**
- d. The key terms of any other explicit interest related to the lessor entity under common control.**

Should other disclosures be required as a result of applying this alternative?

Considering the disclosures already required under Topic 840, *Leases*, we do not believe that a. is necessary. We also urge the Board to consider whether Topic 850, *Related Party Disclosures* would address d. We note the alternative accounting provided in the ED only can be applied if

Technical Director
Financial Accounting Standards Board
Page 4 of 6

substantially all activities between the private company and the lessor entity are related to leasing activities, including supporting leasing activities. As such, we do not expect “any other explicit interest” of the private company with the lessor entity under common control would be of such significance to warrant additional disclosures beyond those required under Topic 850.

Regardless of the specific disclosure requirements in this project, we believe the final amendments should encourage private companies to present them in combination with those provided under Topics 840 and 850.

We note that the ED requires disclosure of the amount of debt and/or significant liabilities of the lessor entity under common control. It is unclear whether all debt needs to be disclosed or, similar to liabilities, only those that are considered to be significant. Further, while the term “significant” may require the use of judgment, we agree that such a threshold is necessary to avoid potential disclosure overload.

Question 7: Do you agree that, generally, the primary purpose of establishing a separate lessor entity in a private company setting is for tax and estate-planning purposes and not to structure off-balance-sheet debt arrangements? If not, please explain why.

Our experience has been that that common control leasing arrangements in a private company setting are typically established for tax and estate-planning purposes.

Question 8: Would the proposed accounting alternative, including the required disclosures, address private company stakeholder concerns about relevance of consolidated information without causing a proliferation of the use of lessor entities to avoid reporting assets and liabilities for which the reporting entity is responsible? If not, why?

We note that strict criteria have to be met for applying the alternative accounting. The ED also requires significant obligations of the lessor enterprise to be disclosed, in addition to the disclosures under Topics 840 and 850. Considering the qualifying criteria and the disclosure requirements, we do not believe that the proposed amendments would lead to a proliferation of the use of lessor entities solely for the purposes of inappropriately avoiding on-balance-sheet reporting.

Question 9: Do you agree that the proposed accounting alternative, when elected, is an accounting policy election that should be applied by an entity to all current and future lessor entities under common control that meet the criteria for applying this approach?

We agree.

Question 10: Do you agree that the proposed accounting alternative should be applied using a full retrospective approach in which financial statements for each individual prior period presented and the opening balances of the earliest period presented would be adjusted to reflect the period-specific effects of applying the proposed amendments?

We believe that the information required to apply the full retrospective approach generally should be readily available, and therefore agree with that approach. However, we would not object to a modified retrospective approach in which the opening balances of equity and the balance sheet components of the current year would be adjusted to reflect the final amendments from that date forward.

Question 11: When should the proposed alternative accounting be effective? Should early application be permitted?

We do not expect the implementation of the proposed amendments would require a significant amount of time or effort. However, this question is probably best answered by preparers, particularly if a full retrospective approach is required in applying the proposed amendments.

We agree that early application should be permitted. However, if a modified retrospective approach is allowed, we suggest that the effect of the early application should be reflected from the beginning of the year of adoption instead of any interim period.

Question 12: Do you agree that the example that is codified in paragraphs 810-10-55-87 through 55-89 (described in paragraphs BC19 through BC20 of this proposed Update) should be removed? Do you agree that the removal of the example would not significantly affect public business entity stakeholders? If not, please explain why.

We agree that retaining the example in paragraphs 810-10-55-87 through 55-89 may contradict the accounting alternative provided in the ED and should be removed. Regardless, because the related guidance in paragraph 810-10-25-48 also will be superseded, we suggest highlighting in the basis for conclusions that the scope of the proposed amendments only applies to common *control* leasing arrangements and not other *related party* transactions, including those related to leasing.

We note that the implicit variable interest guidance in Section 810-10-25 will not be amended, except as noted above. Considering that no other illustration of implicit variable interests exists in the Codification, the Board might consider providing an alternative example to assist preparers and users in understanding that concept.

Question 13: The PCC considered two other alternatives (as described in paragraphs BC15 through BC18 of this proposed Update) to clarify the application of VIE guidance to common control leasing arrangements.

- a. Would either of those alternatives better address the concerns raised by private company stakeholders?**
- b. Should the PCC and the Board consider either of those alternatives in conjunction with the guidance in this proposed Update to better address the concerns raised by private company stakeholders?**

Both the alternatives have the potential to significantly affect how VIE guidance is currently understood and applied in practice. As such, we believe that if the Board intends to pursue those

Technical Director
Financial Accounting Standards Board
Page 6 of 6

alternatives, it should be in a broader forum such as the consolidation project on Principal versus Agent.