ACLI
Financial Security...for Life.

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September 29, 2016

Technical Director
FASB
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Re: Comments on Financial Accounting Standards Board (FASB) File Reference No. 2016-270, Proposed Accounting Standards Update (ASU), ***Income Taxes (Topic 740): Disclosure Framework – Changes to the Disclosure Requirements for Income Taxes***

Dear Technical Director:

The American Council of Life Insurers (ACLI)[1] greatly appreciates the opportunity to provide comments on your recently proposed ASU regarding income tax disclosures.

ACLI commends the Financial Accounting Standards Board's (FASB) comprehensive and thoughtful approach in revamping the current tax rules dealing with income tax disclosures and we are very appreciative of the opportunity we have previously been afforded to have input into the process. There are a few areas on which we have additional input and have itemized those below by paragraph as laid out in the ASU.

Section 740-10-50-10B and 740-10-50-24, Disclosure of foreign activities

We agree that the disaggregation between foreign and domestic income (or loss) from continuing operations, income tax expense (or benefit) and income taxes paid will provide greater transparency related to these activities without imposing significant incremental costs.

We recognize that the Board is concerned with providing users of the financial statements with effective and useful information related to indefinitely reinvested foreign earnings. However, we believe a

[1] The American Council of Life Insurers (ACLI) is a Washington, D.C.-based trade association with approximately 280 member companies operating in the United States and abroad. ACLI advocates in state, federal, and international forums for public policy that supports the industry marketplace and the 75 million American families that rely on life insurers' products for financial and retirement security. ACLI members offer life insurance, annuities, retirement plans, long-term care and disability income insurance, and reinsurance, representing 95 percent of industry assets, 92 percent of life insurance premiums, and 97 percent of annuity considerations in the United States. Learn more at www.acli.com.

disclosure of cash, cash equivalents and marketable securities held by foreign subsidiaries will not necessarily provide decision-useful information and could be misleading.

Companies hold cash, cash equivalents and marketable securities for multiple, varied purposes and often are required to hold a certain level of liquid assets based upon their industry, regulatory requirements, business model, products or services or management philosophy. Life insurance companies generally hold large amounts of cash, cash equivalents and marketable securities to support future policyholder liabilities and capital required by jurisdictional regulators. These instruments support the ability of insurance companies to protect their customers in the event of an insured loss. Insurance companies are subject to stringent reserve and capital requirements and generally need regulatory approval to pay any dividends. As a result, levels of cash, cash equivalents and marketable securities do not indicate the ability of a foreign insurance entity to pay dividends since certain amounts of assets are required to be maintained in the foreign jurisdiction to satisfy minimum reserve and capital requirements.

Disclosing cash, cash equivalents and marketable securities as of the balance sheet date does not necessarily provide information related to future cash flows. If the purpose of this disclosure is to allow users to use this information to project tax effects of a future repatriation, this information can be misleading.

Additionally, liquid assets do not necessarily have a direct link to foreign earnings. For example, cash can be contributed to support local operational and strategic initiatives. This cash can be used to cover expenses but does not guarantee that the future operations will generate earnings that ultimately may be remitted.

We also see this disclosure as forward-looking since its purpose is to support future projections. In addition, the analysis that would be generated by this information could be contrary to the presentation of taxes on the income statement, balance sheet and tax footnote. If a company has taken a permanent reinvestment position, the assumption is that these earnings would not be repatriated.

We believe the triggering event for disclosure is a change in the indefinite reinvestment assertion. ASC 740-30-50-3 requires a disclosure at this point, including a detailed explanation for the change and the related amount of undistributed foreign earnings. This disclosure should satisfy financial statement users' need to predict whether and when foreign earnings may be remitted and any potential tax consequences.

Section 740-10-50-12, Rate Reconciliation

We agree with the FASB's intent to align GAAP rate reconciliation disclosure requirements with the requirements of SEC Regulation S-X 201.4-08(h)(2) for public business entities. The proposed five-percent threshold for reconciling items has been standard practice for most financial statement preparers and in typical circumstances is a fair measure of a significant reconciling item.

However, the final requirement in the proposed guidance to provide an explanation of the year-to-year changes in those reconciling items is redundant and its broad nature as written could lead to extensive qualitative explanations that do not provide decision useful information to the reader. Currently, ASC 740-10-50-14 requires a qualitative disclosure for significant matters affecting comparability of information where the nature and effect is not otherwise evident from other required disclosures. For example, a public business entity might not describe a year-over-year change in tax preferred investment income if the change is not significant or unusual. However, if the company disposed of a significant portion of its portfolio and the year over year change is significant, ASC 740-10-50-14 would trigger a qualitative explanation that provides decision useful information to the financial statement reader.

In practice, low or near zero pre-tax income can be the predominant driver of large year-over-year fluctuations in an entity's effective tax rate. These situations should be apparent to a reader when the financial statements are reviewed in totality and do not require further discussion. There is also concern that the tax footnote disclosures will now be describing changes in underlying pre-tax activities that are already described in other footnotes or are omitted due to accounting guidance or materiality. In general, tax footnotes should be limited to describing the tax impacts of transactions within the financial statements and should not be providing commentary or explanations regarding business trends or changes associated with pre-tax income.

We suggest relying on the judgment of a public business entity to determine when qualitative explanations are needed as required by ASC 740-10-50-14 rather than a broad requirement to provide an explanation for all items detailed in the reconciliation. If FASB determines to keep the proposed requirement in ASC 740-10-50-12, clarification is needed to understand the distinction between this requirement and that of ASC 740-10-50-14.

Section 740-10-50-22, Enacted changes in tax law

The proposed requirement in 740-10-50-22 to provide a description of an enacted change in tax law that is probable to have an effect on the reporting entity in a future period is a forward-looking statement more like statements made in the Management's Discussion and Analysis (MD&A) section of the Form 10-K. In the MD&A, a reader recognizes that the discussion relates to what might happen based on a business entity's best estimate of the impact of future events.

In the footnotes, a reader expects to be informed of actual results. A quantitative description anticipating future impacts of enacted tax law changes using forecasted estimates in the footnotes could be misinterpreted to be more definite than is intended. A quantitative description would also be difficult to audit and disagreements between a business entity and their auditor regarding forecasted results and the tax impact of enacted tax law changes could arise. If the description were limited to qualitative statements only, this could provide a disclosure that is both useful and auditable.

Section 740-10-50-23, Government Agreements

The proposed requirement in 740-10-50-23 to disclose the description of legally enforceable agreements with a government is duplicative. Basis for conclusion 103 indicates this requirement is consistent with the scope of a current FASB project on Topic 832. The Topic 832 project does not specifically scope out agreements associated with income taxes. It further requires a description of the income statement and balance sheet line item impacted by a legally enforceable agreement which would isolate any agreements impacting income taxes.

To include a similar requirement in ASC 740-10-50-23 could result in duplicative statements within the footnotes. Additionally, having all line items impacted by legally enforceable agreements in one location of the footnotes, under the Topic 832 project, would provide more decision useful information to a reader versus reporting income taxes in isolation and all other line items together. If the final decision is to retain this disclosure in the income tax footnote, there should be a scope exception included in the Topic 832 project to eliminate duplicative disclosures.

Once again, ACLI applauds and supports FASB's thoughtful approach in updating disclosures regarding income taxes to make them more decision useful for financial statement readers. We appreciate the opportunity to submit comments and look forward to further discussing our comments or addressing any questions you might have.

Sincerely,

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