



October 18, 2013

Technical Director
Financial Accounting Standards Board
401 Merritt 7
P.O. Box 5116
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File Reference No. PCC-13-02

The Financial Reporting Executive Committee (FinREC) of the American Institute of Certified Public Accountants (AICPA) appreciates the opportunity to comment on the Proposed Accounting Standards Update—*Consolidation (Topic 810): Applying Variable Interest Entity Guidance to Common Control Leasing Arrangements* (a proposal of the Private Company Council (PCC), PCC proposal, or proposal).

We appreciate the FASB's and PCC's continuous efforts in addressing concerns of private company stakeholders. As it relates to this particular proposal, we support FASB's and PCC's intentions to exempt specified private companies from applying variable interest entity (VIE) guidance to a lessor under common control. Many private companies incur significant costs to perform the VIE assessment of and consolidate a lessor entity under common control only to realize that users of the private company's financial statements may not find such information informative. FinREC recommends that the FASB and the PCC carefully solicit the input of relevant users of financial statements of private companies as part of the due process for this proposal to consider the benefits of requiring the VIE assessment in the situation considered by this proposal when concluding on the cost and benefit evaluation of requiring such analysis. If users of the private company financial statements find the disclosures provided by this proposal a meaningful alternative to potentially consolidating the VIE under common control, we are supportive of the proposal as it will alleviate the cost for private companies.

Although FinREC appreciates the PCC's efforts to maintain momentum in addressing concerns of private company stakeholders, we are concerned that FASB has not finalized its definition of a private company. The inability to understand the population of entities that the proposed accounting alternative applies to makes developing a thoughtful response challenging. Accordingly, we have a general concern about the pace of issues that the PCC and FASB have proposed and requested feedback on prior to the population of entities being defined. However, FinREC understands that the PCC's first four proposals are topics and issues that have been concerns of various private company constituencies groups over a number of years. Accordingly, our concern with these four proposals is mitigated by our understanding of the many discussions on these topics. As the PCC and FASB solicit input on future agenda items, we encourage the Board to allow ample time for private company constituents to thoughtfully consider future

proposals by providing comment periods that acknowledge the limited resources of many of those organizations.

As it relates to this PCC proposal, we have identified certain suggestions and areas for further consideration. Specifically, we recommend that the FASB clarify or define “common control,” as it relates to this proposal (for scope purposes). See our response to Question 4 for further discussion of this matter.

In developing our responses to specific questions included in the proposal we have also considered feedback from members of the AICPA Not-For-Profit Expert Panel and AICPA Employee Benefit Plans Expert Panel. Those responses are presented herein.

Representatives of FinREC are available to discuss our comments with board members or staff at their convenience.

Sincerely,

Richard Paul
FinREC Chairman

Glenn Bradley
Chair, Applying Variable Interest Entity
Guidance to Common Control Leasing
Arrangements Comment Letter Task Force

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?

Yes, we agree. Not-for-profit entities are currently already substantially excluded from the scope of VIE guidance in US GAAP. FinREC agrees that public business entities, not-for-profit entities, and employee benefit plans within the scope of Topics 960 through 965 on plan accounting should be excluded from the scope of the accounting alternative in this proposal.

FinREC is aware that FASB has issued a proposed ASU “Definition of a public business entity” (File Reference No. 2013-310). We believe FASB should attempt to finalize that proposed ASU as soon as practicable prior to the issuance of any new proposals for private companies. FinREC believes that concluding on the definition of a public business entity versus a private entity is essential to establishing the proper framework and scope for all prospectively issued PCC accounting standards.

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.

Yes, we agree. FinREC observes that employee benefit plans would rarely, if ever, have these types of arrangements in practice. While we cannot say that a plan would never enter into this type of arrangement, we have not seen this transaction in practice.

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

We agree and specifically are concerned with any expansion in the scope of “common control.” This guidance is applicable in other areas of GAAP, such as lease accounting guidance, and an expansion would increase the risk of unintended consequences. Further, FinREC observes that this PCC proposal uses the term “common control,” yet, that specific definition does not exist in the Codification. We realize that the EITF previously discussed the definition of “common control” but did not reach conclusion in EITF Issue 02-05 “Definition of “Common Control” in Relation to FASB Statement No. 141.” We are also aware that SEC registrants continue to rely on that definition of “common control,” as described in paragraph 3 therein. Therefore, we suggest that the FASB consider defining the term “common control” to clarify its meaning for purposes of this ASU. This SEC definition of common control, and even immediate family member (also in paragraph 3), should not be considered authoritative in a private company accounting standard, yet many will look to this definition as it is the only one available. Also, these SEC definitions are not consistent with the definitions of “control” and “immediate family” in ASC 850-10-20. Further, the Board should also indicate whether “controlling financial interest” as defined in ASC 810-10-15-8 is considered “common control.”

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.

Yes, we agree.

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?

We agree that the additional disclosures included in this PCC proposal would provide decision useful information for users of private company financial statements and would not be costly for private companies to implement.

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.

Yes, we agree. Other business and family reasons include considerations of legal liability exposure, asset diversification, exit and retirement planning. Implicit in our belief that structuring off-balance-sheet debt arrangements is not a primary driver for private companies is the results of outreach done by the PCC.

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?

Yes, we believe this proposal addresses private company stakeholder concerns and will not cause a proliferation of lessor entities for the purpose of avoiding reporting assets and liabilities for which the reporting entity is responsible. Even before FIN 46R was effective, this was not the purpose in establishing these entities under common control for private companies.

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?

Yes, 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?

Yes, we agree.

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

We believe early application should be permitted.

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 recommend that the Board further consider how the removal of this example would impact public business entity preparers relying on this current guidance, as well as those private company preparers that do not elect the proposed accounting alternative, and their stakeholders. We are concerned with the removal of guidance in paragraph 810-10-25-48 and we suggest that the FASB carefully evaluate feedback from such entities regarding this question as well as removal of paragraph 810-10-25-48 to avoid potential unintended consequences.

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?

We do not believe any further consideration of the two other alternatives is necessary.