**Exposure Draft**

## *SSAP No. 22R—Leases*

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| **Hearing Date:** 2019 Summer National Meeting or Interim Conference Call | **Location:**  2019 Summer National Meeting or Interim Conference Call |
| **Deadline for Written Notice of Intent to Speak:****June 12, 2019** | **Deadline for Receipt of Written Comments:****June 12, 2019** |

Notice of Public Hearing and Request for Written Comments

**Basis for hearings**. The Statutory Accounting Principles Working Group (SAPWG) will hold a public hearing to obtain information from and views of interested individuals and organizations about the standards proposed in this Exposure Draft. The SAPWG will conduct the hearing in accordance with the National Association of Insurance Commissioners (NAIC) policy statement on open meetings. An individual or organization desiring to speak must notify the NAIC in writing by **June 12, 2019.** Speakers will be notified as to the date, location, and other details of the hearings.

**Oral presentation requirements.** The intended speaker must submit a position paper, a detailed outline of a proposed presentation or comment letter addressing the standards proposed in the Exposure Draft by **June 12, 2019**. Individuals or organizations whose submission is not received by that date will only be granted permission to present at the discretion of the SAPWG chair. All submissions should be addressed to the NAIC staff at the address listed below.

**Format of the hearings**. Speakers will be allotted up to 10 minutes for their presentations to be followed by a period for answering questions from the SAPWG. Speakers should use their allotted time to provide information in addition to their already submitted written comments as those comments will have been read and analyzed by the SAPWG. Those submissions will be included in the public record and will be available at the hearings for inspection.

**Copies**. Exposure Drafts can be obtained on the Internet at the NAIC Home Page (http://www.naic.org). The documents can be downloaded using Microsoft Word.

**Written comments**. Participation at a public hearing is not a prerequisite to submitting written comments on this Exposure Draft. Written comments are given the same consideration as public hearing testimony.

The Statutory Accounting Principles Statement of Concepts was adopted by the Accounting Practices & Procedures (EX4) Task Force on September 20, 1994, in order to provide a foundation for the evaluation of alternative accounting treatments. All issues considered by the SAPWG will be evaluated in conjunction with the objectives of statutory reporting and the concepts set forth in the Statutory Accounting Principles Statement of Concepts. Whenever possible, establish a relationship between your comments and the principles defining statutory accounting.

The exposure period is not meant to measure support for, or opposition to, a particular accounting treatment but rather to accumulate an analysis of the issues from other perspectives and persuasive comments supporting them. Therefore, form letters and objections without valid support for their conclusions are not helpful in the deliberations of the working group. Comments should not simply register your agreement or disagreement without a detailed explanation, a description of the impact of the proposed guidelines, or possible alternative recommendations for accomplishing the regulatory objective.

Any individual or organization may send written comments addressed to the Working Group to the attention of Julie Gann at jgann@naic.org, Robin Marcotte at rmarcotte@naic.org, Fatima Sediqzad at fsediqzad@naic.org and Jake Stultz at jstultz@naic.org no later than **June 12, 2019**. Electronic submission is preferred. **Jake Stultz** is the NAIC Staff that is the project lead for this topic.

National Association of Insurance Commissioners

1100 Walnut Street, Suite 1500, Kansas City, MO 64106-2197

(816) 842-3600

**Statement of Statutory Accounting Principles No. 22 – Revised**

**Leases**

# Status

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| Type of Issue  | Common Area |
| Issued  | Initial Draft; April 2019 Exposure Draft  |
| Effective Date  | January 1, 2001; Substantive revisions detailed in Issue Paper 16X are proposed to be effective January 1, 2020. |
| Affects  | Nullifies and incorporates INT 00-02, INT 00-27, INT 04-20 and INT 09-05; Nullifies INT 02-15 and INT 04-18 |
| Affected by  | No other pronouncements |
| Interpreted by  | No other pronouncements |
| Relevant Appendix A Guidance  | None |

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**Leases**

## SCOPE OF STATEMENT

1. The purpose of this statement is to establish statutory accounting principles for leases. It addresses:

a. Accounting and reporting by lessees;

b. Accounting and reporting by lessors;

c. Sale-leaseback transactions;

d. Leveraged leases for lessors;

e. Related party leases; and

f. Disclosures.

## SUMMARY CONCLUSION

2. A lease is defined as a contract or part of a contract conveying the right to control the use of property, plant or equipment (land and/or depreciable assets) for a stated period of time in exchange for consideration. This definition does not include contracts for services that do not transfer the right to use property, plant or equipment from one contracting party to the other (i.e., employee lease contracts) or service concession arrangements[[1]](#footnote-1). Agreements that do transfer the right to control the use of property, plant or equipment meet the definition of a lease even though substantial services by the contractor (lessor) may be called for in connection with the operation or maintenance of the assets. *(Staff Note – This paragraph is in the current SSAP No. 22.)*

3. Property, plant or equipment, (including computer software) as used in this SSAP, includes only land and/or depreciable assets. Therefore, inventory (including equipment parts inventory), other intangible assets, assets under construction, leases to explore for or use minerals, natural gas and similar nonregenerative resources, and leases of biological assets, such as timber cannot be the subject of a lease for accounting purposes. Additionally, non-depreciable assets, including investments and premium receivables do not meet the definition of property, plant or equipment and cannot be the subject of a lease for accounting purposes. *(Staff Note – This language reflects guidance from 842-10-15-1 and provides improved guidance on what is included in the definition of “Property, Plant and Equipment.”)*

### Determining Whether an Arrangement Contains a Lease

4. Determining whether an arrangement contains a lease that is within the scope of this SSAP should be based on the substance of the arrangement. At inception of a contract, an entity shall determine whether that contract is or contains a lease. A contract is or contains a lease if the contract conveys the right to control the use of identified property, plant or equipment (an identified asset) for a period of time in exchange for consideration. A period of time may be described in terms of the amount of use of an identified asset (for example, the number of production units that an item of equipment will be used to produce). *(Staff Note – This language reflects guidance from ASC 842-10-15-(1-3) and provides improved guidance on determining a lease and the consideration of separate contracts.)*

### Identifying an Asset

5. An asset can be identified by being explicitly or implicitly specified within the contract. Although specific property, plant or equipment may be explicitly identified in an arrangement, it is not the subject of a lease if fulfillment of the arrangement is not dependent on the use of the specified property, plant or equipment. A warranty obligation that permits or requires the substitution of the same or similar property, plant or equipment when the specified property, plant or equipment is not operating properly does not preclude lease treatment. In addition, a contractual provision (contingent or otherwise) permitting or requiring the owner/seller to substitute other property, plant or equipment for any reason on or after a specified date does not preclude lease treatment prior to the date of substitution. Property, plant or equipment has been implicitly specified if, for example, the seller owns or leases only one asset with which to fulfill the obligation and it is not economically feasible or practicable for the owner/seller to perform its obligation through the use of alternative property, plant or equipment. Property, plant or equipment can also be implicitly specified at the time the asset is made available for use by the lessee. *(Staff Note – Includes information from the original SSAP 22 paragraphs 5-7.)*

6. Even if an asset is specified, the asset does not qualify as an identified asset if the lessor has the substantive right to substitute the asset throughout the period of use. A lessor’s right to substitute an asset is substantive only if (1) the lessor has the practical ability to substitute alternative assets throughout the period of use (for example, the lessee cannot prevent the lessor from substituting an asset, and alternative assets are readily available to the lessor or could be sourced by the lessor within a reasonable period of time), and (2) the lessor would benefit economically from the exercise of its right to substitute the asset (that is, the economic benefits associated with substituting the asset is expected to exceed the costs associated with substituting the asset).

7. An entity’s evaluation of whether a lessor’s substitution right is substantive is based on facts and circumstances at inception of the contract and shall exclude consideration of future events that, at inception, are not considered likely to occur. Examples of future events that, at inception of the contract, would not be considered likely to occur and, thus, should be excluded from the evaluation include, but are not limited to, the following:

a. An agreement by a future lessee to pay an above-market rate for use of the asset;

b. The introduction of new technology that is not substantially developed at inception of the contract;

c. A substantial difference between the lessee’s use of the asset, or the performance of the asset and the use or performance considered likely at inception of the contract;

d. A substantial difference between the market price of the asset during the period of use and the market price considered likely at inception of the contract.

8. If the asset is located at the lessee’s premises or elsewhere, the costs associated with substitution are generally higher than when located at the lessor’s premises and, therefore, are more likely to exceed the benefits associated with substituting the asset. If the lessor has a right or an obligation to substitute the asset only on or after either a particular date or the occurrence of a specified event, the lessor does not have the practical ability to substitute alternative assets throughout the period of use. The lessor’s right or obligation to substitute an asset for repairs or maintenance, if the asset is not operating properly, or if a technical upgrade becomes available, does not preclude the lessee from having the right to use an identified asset. If the lessee cannot readily determine whether the lessor has a substantive substitution right, the lessee shall presume that any substitution right is not substantive.

9. A capacity portion of an asset is an identified asset if it is physically distinct (for example, a floor of a building or a segment of a pipeline that connects a single lessee to the larger pipeline). A capacity or other portion of an asset that is not physically distinct (for example, a capacity portion of a fiber optic cable) is not an identified asset, unless it represents substantially all of the capacity of the asset and thereby provides the lessee with the right to obtain substantially all of the economic benefits from use of the asset.

### Right to Control the Use of the Identified Asset

10. To determine whether a contract conveys the right to control the use of an identified asset for a period of time, an entity shall assess whether, throughout the period of use, the lessee has both: *(Staff Note – This language reflects guidance from 842-10-15-(15-22) and provides improved guidance on determining if right of control has been transferred.)*

a. The right to obtain substantially all of the economic benefits from use of the identified asset.

i. To control the use of an identified asset, a lessee is required to have the right to obtain substantially all of the economic benefits from use of the asset throughout the period of use (for example, by having exclusive use of the asset throughout that period). A lessee can obtain economic benefits from use of an asset directly or indirectly in many ways, such as by using, holding, or subleasing the asset. The economic benefits from use of an asset include its primary output and byproducts (including potential cash flows derived from these items) and other economic benefits from using the asset that could be realized from a commercial transaction with a third party.

ii. When assessing the right to obtain substantially all of the economic benefits from use of an asset, an entity shall consider the economic benefits that result from use of the asset within the defined scope of a lessee’s right to use the asset in the contract.

iii. If a contract requires a lessee to pay the lessor or another party a portion of the cash flows derived from use of an asset as consideration, those cash flows paid as consideration shall be considered to be part of the economic benefits that the lessee obtains from use of the asset. For example, if a lessee is required to pay the lessor a percentage of sales from use of retail space as consideration for that use, that requirement does not prevent the lessee from having the right to obtain substantially all of the economic benefits from use of the retail space. That is because the cash flows arising from those sales are considered to be economic benefits that the lessee obtains from use of the retail space, a portion of which it then pays to the lessor as consideration for the right to use that space.

b. The right to direct the use of the identified asset.

i. A lessee has the right to direct the use of an identified asset throughout the period of use in either of the following situations. Additionally, if the lessee in the contract is a joint operation or a joint arrangement, an entity shall consider whether the joint operation or joint arrangement has the right to control the use of an identified asset throughout the period of use.

(a) The lessee has the right to direct how and for what purpose the asset is used throughout the period of use. If the lessee has the right to control the use of an identified asset for only a portion of the term of the contract, the contract contains a lease for that portion of the term.

(b) The relevant decisions about how and for what purpose the asset is used are predetermined and at least one of the following conditions exists:

(1) The lessee has the right to operate the asset (or to direct others to operate the asset in a manner that it determines) throughout the period of use without the lessor having the right to change those operating instructions.

(2) The lessee designed the asset (or specific aspects of the asset) in a way that predetermines how and for what purpose the asset will be used throughout the period of use.

ii. The relevant decisions about how and for what purpose an asset is used can be predetermined in a number of ways. For example, the relevant decisions can be predetermined by the design of the asset or by contractual restrictions on the use of the asset.

iii. In assessing whether a lessee has the right to direct the use of an asset, an entity shall consider only rights to make decisions about the use of the asset during the period of use unless the lessee designed the asset (or specific aspects of the asset) in accordance with paragraph 10.b.i(b). Consequently, unless that condition exists, an entity shall not consider decisions that are predetermined before the period of use. For example, if a lessee is able only to specify the output of an asset before the period of use, the lessee does not have the right to direct the use of that asset. The ability to specify the output in a contract before the period of use, without any other decision-making rights relating to the use of the asset, gives a lessee the same rights as any lessee that purchases goods or services.

iv. A contract may include terms and conditions designed to protect the lessor’s interest in the asset or other assets, to protect its personnel, or to ensure the lessor’s compliance with laws or regulations. These are examples of protective rights. For example, a contract may specify the maximum amount of use of an asset or limit where or when the lessee can use the asset, may require a lessee to follow particular operating practices, or may require a lessee to inform the lessor of changes in how an asset will be used. Protective rights typically define the scope of the lessee’s right of use but do not, in isolation, prevent the lessee from having the right to direct the use of an asset.

v. A lessee has the right to direct how and for what purpose an asset is used throughout the period of use if, within the scope of its right of use defined in the contract, it can change how and for what purpose the asset is used throughout that period. In making this assessment, an entity considers the decision-making rights that are most relevant to changing how and for what purpose an asset is used throughout the period of use. Decision-making rights are relevant when they affect the economic benefits to be derived from use. The decision-making rights that are most relevant are likely to be different for different contracts, depending on the nature of the asset and the terms and conditions of the contract.

11. An entity shall reassess whether a contract is or contains a lease only if the terms and conditions of the contract are changed. *(Staff Note – This language was retained from the prior SSAP and agrees to topic 842.)*

### Separating Components of a Contract

12. An entity shall identify the separate lease components within the contract. An entity shall consider the right to use an underlying asset to be a separate lease component (that is, separate from any other lease components of the contract) if both of the following criteria are met: *(Staff Note – Paragraphs 12-16 are guidance from 842-10-15-(28-31) and provides improved guidance on how to separate the components of the contract.)*

a. The lessee can benefit from the right of use either on its own or together with other resources that are readily available to the lessee. Readily available resources are goods or services that are sold or leased separately (by the lessor or other lessors) or resources that the lessee already has obtained (from the lessor or from other transactions or events).

b. The right of use is neither highly dependent on nor highly interrelated with the other right(s) to use underlying assets in the contract. A lessee’s right to use an underlying asset is highly dependent on or highly interrelated with another right to use an underlying asset if each right of use significantly affects the other.

13. The consideration in the contract shall be allocated to each separate lease component and nonlease component of the contract. Components of a contract include only those items or activities that transfer a good or service to the lessee.

14. An entity shall account for each separate lease component separately from the nonlease components of the contract. Nonlease components are not within the scope of this statement and shall be accounted for in accordance with the statutory accounting guidance applicable to the nonlease component.

15. An entity shall combine two or more contracts, at least one of which is or contains a lease, entered into at or near the same time with the same counterparty (or related parties) and consider the contracts as a single transaction if any of the following criteria are met:

a. The contracts are negotiated as a package with the same commercial objective(s).

b. The amount of consideration to be paid in one contract depends on the price or performance of the other contract.

c. The rights to use underlying assets conveyed in the contracts are a single lease component.

16. As a practical expedient, when nonlease components are an insignificant part of a lease agreement, a lessee and a lessor may, as an accounting policy election by class of underlying asset, choose not to separate nonlease components from lease components and instead to account for each separate lease component and the nonlease components associated with that lease component as a single lease component. The nonlease components must be closely related to the elements of the lease to be recognized as a single lease component. For lease agreements between related parties, lease and nonlease components must be separated. *(Staff Note – This guidance in this paragraph is from ASC 842-10-15-37 and 42A and was suggested by IPs, with modification to clarify when the lessor and lessee are related parties or when the nonlease components are significant pieces of the contract.)*

### Modification

17. An entity shall account for a modification to a contract as a separate contract (that is, separate from the original contract) when both of the following conditions are present: *(Staff Note – Guidance for paragraphs 17-18 are from 842-10-25-(8-10) and provide updated guidance for lease modification.)*

a. The modification grants the lessee an additional right of use not included in the original lease (for example, the right to use an additional asset).

b. The lease payments increase commensurate with the standalone price for the additional right of use, adjusted for the circumstances of the particular contract. For example, the standalone price for the lease of one floor of an office building in which the lessee already leases other floors in that building may be different from the standalone price of a similar floor in a different office building, because it was not necessary for a lessor to incur costs that it would have incurred for a new lessee.

18. An entity shall account for initial direct costs, lease incentives and any other payments made to or by the entity in connection with a modification to a lease in the same manner as those items would be accounted for in connection with a new lease.

### Accounting and Reporting by Lessees

19. All leases shall be considered operating leases, which means that rental expense is recognized over the lease term, without recognition of a right-to-use asset or lease liability. Rent on operating leases, reflecting all lease considerations in paragraph 20, shall be charged to expense on a straight-line basis over the lease term. Statutory accounting rejects the recognition of a right-to-use lease asset and the associated lease liabilities. *(Staff Note – Paragraph updated with suggestions from IP comments.)*

20. The consideration in the contract for a lessee includes all of the following payments that will be made during the lease term:

a. Any fixed payments (for example, monthly service charges) or in substance fixed payments, less any incentives paid or payable to the lessee.

b. Any other variable payments that depend on an index or a rate, initially measured using the index or rate at the commencement date.

 *(Staff Note – This language was incorporated into the new SSAP.)*

*(Staff Note – Straight line information is included in the new version and the reference to the FASB Technical Bulletin has been superseded.)*

21. A lessee should recognize contingent rental expense (in annual periods as well as in interim periods) prior to the achievement of the specified target that triggers the contingent rental expense, provided that achievement of that target is considered probable. Previously recorded rental expense should be reversed into income at such time that it is probable that the specified target will not be met. *(Staff Note – Paragraphs 21-23 are from the prior SSAP as it agrees to GAAP in 842-10-55-26.)*

22. For the early termination or non-use of leased property, plant or equipment benefits, the lessee shall recognize liabilities, initially measured at fair value. Liabilities for costs to terminate a contract before the end of its term shall be recognized when the entity terminates the contract in accordance with the contract terms (i.e., gives written notice of termination or negotiated termination with the lessor).

23. Liabilities for costs that will continue to be incurred under a contract for its remaining term without economic benefit shall be recognized as the cease-date (the date the entity ceases using the right conveyed by the contract – i.e., the right to use a leased property). The fair value of the liability at the cease-use date shall be determined based on the remaining lease rentals, adjusted for the effects of any prepaid or deferred items recognized under the lease, and reduced by estimated sublease rentals that could be reasonably obtained for the property, even if the entity does not intend to enter into a sublease. Remaining lease rentals shall not be reduced to an amount less than zero.

24. An entity shall determine the lease term as the noncancellable period of the lease, together with all of the following: *(Staff Note – Paragraphs 24-26 are from 842-10-30-(1-3) and provide guidance on lease terms and purchase options. For this version of the SSAP No. 22R, this has been moved to the Accounting and Reporting by Lessees section for better clarity.)*

a. Periods covered by an option to extend the lease if the lessee is reasonably certain to exercise that option.

b. Periods covered by an option to terminate the lease if the lessee is reasonably certain not to exercise that option.

c. Periods covered by an option to extend (or not to terminate) the lease in which exercise of the option is controlled by the lessor.

25. A lessee shall reassess the lease term or a lessee option to purchase the underlying asset only if and at the point in time that any of the following occurs: *(Staff Note – This guidance is from 842-10-35-1 and clarifies when a lessee must reassess the arrangements of the lease.)*

* 1. There is a significant event or a significant change in circumstances that is within the control of the lessee that directly affects whether the lessee is reasonably certain to exercise or not to exercise an option to extend or terminate the lease or to purchase the underlying asset.
	2. There is an event that is written into the contract that obliges the lessee to exercise (or not to exercise) an option to extend or terminate the lease.
	3. The lessee elects to exercise an option even though the entity had previously determined that the lessee was not reasonably certain to do so.
	4. The lessee elects not to exercise an option even though the entity had previously determined that the lessee was reasonably certain to do so.

26. At the commencement date, an entity shall include the periods described in paragraph 24 in the lease term having considered all relevant factors that create an economic incentive for the lessee (that is, contract-based, asset-based, entity-based and market-based factors). Those factors shall be considered together, and the existence of any one factor does not necessarily signify that a lessee is reasonably certain to exercise or not to exercise an option.

27. Maintenance costs incurred by the lessee for maintenance on the leased item that do not increase the value and enhance the usefulness of the leased asset shall be expensed when incurred pursuant to *SSAP No. 19—Furniture, Fixtures, Equipment and Leasehold Improvements* (SSAP No. 19). Reimbursable deposits shall be reflected as nonadmitted assets. Deposits paid to the lessor, reimbursable when the lessee incurs costs for lease maintenance activities, shall be recorded as nonadmitted assets. When the amount on deposit is less than probable of being returned, the deposit shall be recognized as an additional lease expense. *(Staff Note – Paragraph 27 was retained from the original SSAP and includes information specific to statutory accounting for maintenance costs.)*

### Accounting and Reporting by Lessors

28. The definition of property, plant and equipment for lessors is defined in paragraph 3 and is the same as for lessees. All leases, except leveraged leases as defined in paragraph 42, shall be considered operating leases and accounted for by the lessor as follows: *(Staff Note – The language in this paragraph was retained from the prior SSAP and clarifies specific treatment that is applicable to statutory accounting.)*

a. The leased property, plant or equipment shall be included in the same balance sheet category it would be had the property, plant or equipment not been leased. The property, plant or equipment shall be depreciated following the lessor’s normal depreciation policies for such assets;

b. Rental income shall be reported as investment income as it becomes receivable according to the provisions of the lease. Rentals may be recognized before they become due, if rentals vary from the straight-line basis. The guidance in *SSAP No. 34—Investment Income Due and Accrued* shall be applied to the receivable balance; and

c. Initial direct costs shall be charged to expense when incurred and shall not be deferred and allocated over the lease term. Initial direct costs are those incremental costs that the lessor has incurred in directly evaluating, negotiating, administering and closing a lease transaction.

29. If the terms of a variable payment amount other than those in paragraph 20.b. relate to a lease component, even partially, the lessor shall not recognize those payments before the changes in facts and circumstances on which the variable payment is based occur (for example, when the lessee’s sales on which the amount of the variable payment depends occur). When the changes in facts and circumstances on which the variable payment is based occur, the lessor shall allocate those payments to the lease and nonlease components of the contract. *(Staff Note – The guidance in paragraphs 29-30 are from* *842-10-15-(40-42) as modified by ASU 2018-20 and provide further guidance for any arrangements that include variable payments.)*

30. Contingent rental income shall be recognized as revenue when the changes in the factor(s) on which the contingent lease payments is (are) based actually occur.

### Sale-Leaseback Transactions

31. Sale-leaseback transactions involve the sale of property, plant or equipment by the owner and a lease of the property, plant or equipment back to the seller. Sale-leaseback accounting is a method of accounting in which the seller-lessee records the sale and removes all property, plant or equipment and related liabilities from its balance sheet. The definition of property, plant and equipment eligible for sale-leaseback treatment is in paragraph 3. As noted in paragraph 3, non-depreciable assets, including investments and premium receivables, do not meet the definition of property, plant or equipment, are not allowed to be included in lease transactions, and therefore, are not allowed to be included in sale-leaseback transactions. Assets that do not meet the definition of property, plant and equipment in paragraph 3 may only be used in sale-leaseback transactions as permitted practices with regulatory approval. *(Staff Note – This paragraph has been added back for this draft and includes added detail to the description of assets allowed for sale-leaseback treatment in the draft. The extra detail came from discussion with regulators.)*

32. A sale of property, plant or equipment that is accompanied by a leaseback of all or any part of the property, plant or equipment for all or part of its remaining economic life shall be accounted for by the buyer-lessor and seller-lessee as a purchase and operating lease and a sale and an operating lease, respectively, unless the sale-leaseback includes sale of nonadmitted assets to a related party. If the transaction involves a sale of nonadmitted assets to a related party, the transaction shall be accounted for by the deposit method detailed in paragraph 37.

33. Sale-leaseback accounting shall be used by a seller-lessee only if a sale-leaseback transaction includes all of the following:

a. A normal leaseback. A normal leaseback is a lessee-lessor relationship that involves active use of the property by the seller-lessee in consideration for payment of rent, including contingent rentals that are based on future operations of the seller-lessee. The phrase active use of the property by the seller-lessee refers to use of the property during the lease term in the seller-lessee’s trade or business, provided that subleasing of the leased property is minor.

b. Admitted assets, if the buyer-lessor is a related party, or either admitted or nonadmitted assets if the buyer-lessor is not a related party. For purposes of this paragraph, related parties include those identified in SSAP No. 25 and entities created for the purpose of buying and leasing nonadmitted assets for the reporting entity and/or its affiliates.

34. Under sale-leaseback accounting, any profit on the sale shall be deferred and amortized in proportion to the related gross rental charged to expense over the lease term, with the exception of a sale of real estate settled entirely in cash.

35. A sale of real estate, settled entirely in cash, that is accompanied by a leaseback of all or any part of the property, plant or equipment for all or part of its remaining economic life shall be accounted for by the buyer-lessor and seller-lessee as a purchase and operating lease and a sale and an operating lease, respectively. The sale and gain shall be recognized directly to special surplus funds and subsequently amortized to unassigned funds (surplus) over the lease term. *(Staff Note – This paragraph was from the original SSAP and includes guidance specific to statutory accounting.)*

### Deposit Method and Financing Method

36. The deposit method is used when the transaction involves a sale-leaseback of nonadmitted assets to a related party. To the extent that leases between related parties are, in substance, arms-length transactions the guidance in this statement shall be applied. The determination of whether related party leases qualify as arms-length transactions is addressed in SSAP No. 25. *(Staff Note – This language was retained from the prior version of the SSAP and covers items specific to statutory accounting.)*

37. If a sale-leaseback transaction is accounted for by the deposit method, lease payments decrease and collections on the buyer-lessor's note, if any, increase the seller-lessee's deposit account. The sale-leaseback assets identified in paragraph 31 and any related debt continue to be included in the seller-lessee's balance sheet, and the seller-lessee continues to depreciate the sale-leaseback assets. A seller-lessee that is accounting for any transaction by the deposit method shall recognize a loss if at any time the net carrying amount of the sale-leaseback assets exceeds the sum of the balance in the deposit account, the fair value of the unrecorded note receivable and any debt assumed by the buyer. *(Staff Note – Paragraphs 37 to 41 were retained from the prior version of the SSAP with minor changes to incorporate guidance that was included in footnotes and to remove outdated references. These paragraphs contain information specific to statutory accounting.)*

38. If a sale-leaseback transaction is accounted for by the deposit method and then subsequently qualifies for sales recognition under paragraph 33, the transaction is accounted for using sale-leaseback accounting, and the gain or loss is recognized in accordance with the provisions of paragraph 34 of this statement. In addition, the leaseback is classified and accounted for in accordance with this statement as if the sale had been recognized at the inception of the lease. The change in the related lease accounts that would have been recorded from the inception of the lease had the transaction initially qualified for sale-leaseback accounting is included in computing the gain or loss recognized in accordance with paragraph 34 of this statement.

39. A sale-leaseback transaction that does not qualify for sale-leaseback accounting nor the deposit method shall be accounted for by the financing method. Under this method the seller-lessee shall not derecognize the transferred asset and shall account for any amounts received as a financial liability and the buyer-lessor shall not recognize the transferred asset and shall account for the amounts paid as a receivable.

40. If a sale-leaseback transaction is reported as under the financing method, lease payments, exclusive of an interest portion, decrease and collections on the buyer-lessor's note increase the seller-lessee's liability account with a portion of the lease payments being recognized under the interest method. The seller-lessee reports the sales proceeds as a liability, continues to report the sale-leaseback assets identified in paragraph 31 as an asset and continues to depreciate the sale-leaseback assets.

41. If a sale-leaseback transaction accounted for under the financing method subsequently qualifies under paragraph 33, the transaction is then recorded using sale-leaseback accounting, and the cumulative change in the related balance sheet accounts is included in the computation of the gain recognized in accordance with the provisions of paragraph 34 of this statement. In addition, the leaseback is classified and accounted for as an operating lease as if the sale had been recognized at the inception of the lease. The change in the related lease accounts from the inception of the lease to the date the sale is recognized is included in the gain recognized in accordance with paragraph 34 of this statement.

### Leveraged Leases for Lessors

42. A lessor shall record its investment in a leveraged lease. The net of the balances of the following accounts as measured in accordance with this guidance shall represent the lessor’s initial and continuing investment in leveraged leases: *(Staff Note – This paragraph is from 842-50-25-1, and the definition of a leveraged lease was retained from the original paragraph 34.)*

a. Rentals receivable

b. Investment-tax-credit receivable

c. Estimated residual value of the leased asset

d. Unearned and deferred income.

43. A lessor shall initially measure its investment in a leveraged lease net of the nonrecourse debt. The net of the balances of the following accounts shall represent the initial and continuing investment in leveraged leases: *(Staff Note – This paragraph is from 842-50-30-1 and provides information on the valuation of leveraged leases.)*

a. Rentals receivable, net of that portion of the rental applicable to principal and interest on the nonrecourse debt.

b. A receivable for the amount of the investment tax credit to be realized on the transaction.

c. The estimated residual value of the leased asset. The estimated residual value shall not exceed the amount estimated at lease inception except if the lease agreement includes a provision to escalate minimum lease payments either for increases in construction or acquisition cost of the leased property, plant or equipment or for increases in some other measure of cost or value (such as general price levels) during the construction or preacquisition period. In that case, the effect of any increases that have occurred shall be considered in the determination of the estimated residual value of the underlying asset at lease inception.

d. Unearned and deferred income consisting of both of the following:

i. The estimated pretax lease income (or loss), after deducting initial direct costs, remaining to be allocated to income over the lease term.

ii. The investment tax credit remaining to be allocated to income over the lease term.

44. The investment in leveraged leases minus deferred taxes arising from differences between pretax accounting income and taxable income shall represent the lessor’s net investment in leveraged leases for purposes of computing periodic net income from the leveraged lease. Given the original investment and using the projected cash receipts and disbursements over the term of the lease, the rate of return on the net investment in the years in which it is positive shall be computed. The rate is that rate that, when applied to the net investment in the years in which the net investment is positive, will distribute the net income to those years and is distinct from the interest rate implicit in the lease. In each year, whether positive or not, the difference between the net cash flow and the amount of income recognized, if any, shall serve to increase or reduce the net investment balance. The use of the term years is not intended to preclude application of the accounting prescribed in this paragraph to shorter accounting periods. *(Staff Note – This paragraph is from 842-50-35-2 and details tax issues with leveraged leases.)*

45. The pretax lease income (or loss) and investment tax credit elements shall be allocated in proportionate amounts from the unearned and deferred income included in the lessor’s net investment. The tax effect of the pretax lease income (or loss) recognized shall be reflected in tax expense for the year. The tax effect of the difference between pretax accounting income (or loss) and taxable income (or loss) for the year shall be charged or credited to deferred taxes. *(Staff Note – Paragraphs 68-69 are from 842-50-35-(4-5).)*

46. If, at any time during the lease term the application of the method prescribed in this section would result in a loss being allocated to future years, that loss shall be recognized immediately. This situation might arise in circumstances in which one of the important assumptions affecting net income is revised.

47. The projected timing of income tax cash flows generated by the leveraged lease is an important assumption and shall be reviewed annually, or more frequently, if events or changes in circumstances indicate that a change in timing has occurred or is projected to occur. The income effect of a change in the income tax rate shall be recognized in the first accounting period ending on or after the date on which the legislation effecting a rate change becomes law. *(Staff Note – This paragraph is from 842-50-35-9)*

48. The lessor shall record its investment net of the nonrecourse debt. In cases where the asset being leased is a nonadmitted asset, any net leveraged lease asset shall be nonadmitted. However, leveraged leases involving commercial airplanes are admitted assets. *(Staff Note – This paragraph is retained from the prior versions of the SSAP. The comment on nonrecourse debt is covered by 842-51-25-1 and the remaining items are specific to statutory accounting.)*

### Disclosures

49. The following disclosures shall be made in the financial statements of lessees: *(Staff Notes – Paragraphs 73-74, guidance for disclosures was retained from the prior SSAP and are specific to statutory accounting.)*

a. A general description of the lessee’s leasing arrangements including, but not limited to, the following:

i. Rental expense for each period for which an income statement is presented, with separate amounts for minimum rentals, contingent rentals, and sublease rentals. Rental payments under leases with terms of a month or less that were not renewed need not be included;

ii. The basis on which contingent rental payments are determined;

iii. The existence and terms of renewal or purchase options and escalation clauses; and

iv. Restrictions imposed by lease agreements, such as those concerning dividends, additional debt and further leasing;

v. Identification of lease agreements that have been terminated early or for which the lessee is no longer using the leased property, plant or equipment benefits, and the liability recognized in the financial statements under these agreements.b. For leases having initial or remaining lease terms in excess of one year:

i. Future minimum rental payments required as of the date of the latest balance sheet presented, in the aggregate and for each of the five succeeding years; and

ii. The total of minimum rentals to be received in the future under noncancelable subleases as of the date of the latest balance sheet presented.

c. For sale-leaseback transactions:

i. A description of the terms of the sale-leaseback transaction, including future commitments or obligations; and

ii. For those accounted for as deposits, (a) the obligation for future minimum lease payments as of the date of the latest balance sheet presented in the aggregate and for each of the five succeeding years and (b) the total of minimum sublease rentals, if any, to be received in the future under noncancelable subleases in the aggregate and for each of the five succeeding years.

iii. For those accounted for using the financing method, it is required to disclose the information in i. as well as the financing obligation and lease liabilities.

50. When leasing is a significant part of the lessor’s business activities in terms of revenue, net income, or assets, the following information with respect to leases shall be disclosed in the financial statements:

a. For operating leases:

i. The cost and carrying amount, if different, of property, plant or equipment on lease or held for leasing by major classes of property, plant or equipment according to nature or function, and the amount of accumulated depreciation in total as of the date of the latest balance sheet presented;

ii. Minimum future rentals on noncancelable leases as of the date of the latest balance sheet presented, in the aggregate and for each of the five succeeding years;

iii. Total contingent rentals included in income for each period for which an income statement is presented; and

iv. A general description of the lessor’s leasing arrangements.

b. For leveraged leases:

i. A description of the terms including the pretax income from the leveraged leases. For purposes of presenting the investment in a leveraged lease in the lessor’s balance sheet, the amount of related deferred taxes shall be presented separately (from the remainder of the net investment);

ii. Separate presentation (from each other) shall be made of pretax income from the leveraged lease, the tax effect of pretax income, and the amount of investment tax credit recognized as income during the period; and

iii. When leveraged leasing is a significant part of the lessor’s business activities in terms of revenue, net income, or assets, the components of the net investment balance in leveraged leases shall be disclosed.

51. Refer to the Preamble for further discussion regarding disclosure requirements.

### Relevant Literature

52. This statement rejects *ASU 2016-02, Leases*. For statutory accounting, leases are treated as operating leases for lessees and rejects the treatment as financing leases specified in 842-10-25 and rejects the recognition of the right to use assets and related liabilities. For statutory accounting, specific guidance is adopted on sale leaseback transactions, specific guidance from lessors, leveraged leases from sections 842-40 and 842-50, respectively. The financing method is rejected for statutory accounting but adopted for instances where a sale-leaseback transaction fails sale accounting. The guidance within *INT 02-15: EITF 00-11: Lessors' Evaluation of Whether Leases of Certain Integral Equipment Meet the Ownership Transfer Requirements of FASB Statement 13* applied to leases with inception between January 1, 2003 and January 1, 2020. With adoption of substantive revisions to SSAP No. 22R this guidance is nullified.

a. Accounting Standards Codification (ASC) 420-10-25 paragraphs 11-13 and ASC 420-10-30 paragraph 8 regarding the recognition of costs to terminate an operating lease before the end of the term and costs that will continue to be incurred under the contract for its remaining term without economic benefit are adopted. Other provisions of ASC 420 are rejected in SSAP No. 24.

b. *ASU 2014-05, Service Concession Arrangements* (Adopted with modification to only exclude service concession arrangements from the lease definition.)

c. *ASU 2017-10, Determining the Customer of the Operation Services* (Adopted with modification to clarify the customer in the previously adopted service concession arrangement definition.)

d. *ASU 2018-01, Land Easement Practical Expedient for Transition to Topic 842* (Rejected in its entirety.)

e. *ASU 2018-10, Codification Improvements to Topic 842, Leases* (Rejected in its entirety.)

f. *ASU 2018-11, Leases (Topic 842), Targeted Improvements* (Rejected in its entirety.)

g. *ASU 2018-20, Leases (Topic 842), Narrow-Scope Improvements for Lessors* (Rejected for statutory accounting, except for paragraph 842-10-15-(40-42) as it was modified by ASU 2018-20.)

h. *ASU 2019-01, Leases (Topic 842), Codification Improvements* (Rejected in its entirety.)

*(Staff Note – This guidance is superseded by Topic 842)*

*(Staff Note – a. through c. have been moved to paragraph 52.)*

###  Effective Date and Transition

53. This statement is effective for years beginning January 1, 2001. The substantive revisions documented in Issue Paper 16X—Leases are effective for all new leases entered into, and for existing leases reassessed due to a change in terms and conditions under paragraph 11, on or after January 1, 2020. Earlier adoption is permitted. The guidance in paragraph 34 regarding commercial airplanes was originally contained within INT 00-02: Accounting for Leveraged Leases Involving Commercial Airplanes Under SSAP No. 22—Leases and was effective March 13, 2000. The guidance in paragraph 5 was originally contained within *INT 04-20: EITF 01-8: Determining Whether an Arrangement Contains a Lease* and was effective March 13, 2005. Guidance in paragraph 27 related to maintenance costs incurred by lessee was previously included within *INT 09-05: EITF 08-3: Accounting by Lessees for Maintenance Deposits* and was effective for periods beginning September 21, 2009. The guidance in paragraphs 17 and 18 was originally contained within *INT 00-27: EITF 98-9: Accounting for Contingent Rent* and was effective September 11, 2000. *(Staff Note – Language suggested by IPs on 2-13-19. The second and all subsequent sentences are from the old SSAP No. 22R.)*

## REFERENCES

### Relevant Issue Papers

 Issue Paper No. 22—Leases

 *Issue Paper No. 16X—Leases*

*(Staff Note – Exhibit A is proposed for deletion in its entirety for SSAP No. 22R.)*

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1. A service concession arrangement is an arrangement between a public sector entity grantor and an operating entity under which the operating entity operates the grantor’s infrastructure (for example, airports, roads, bridges, tunnels, prisons and hospitals) for a specified period of time. A public-sector entity includes a governmental body or an entity to which the responsibility to provide public service has been delegated. In a service concession arrangement, both of the following conditions exist:

The grantor controls or has the ability to modify or approve the services that the operating entity must provide with the infrastructure, to whom it must provide them and at what price.

The grantor controls, through ownership, beneficial entitlement, or otherwise, any residual interest in the infrastructure at the end of the term of the arrangement. [↑](#footnote-ref-1)