

## Joint Panel on Private Standards

NASBA has joined with the Financial Accounting Foundation and the American Institute of CPAs to form a panel addressing how US accounting standards can best meet the needs of users of private company financial statements. Rick Anderson, member of the FAF Board of Trustees and chairman of Moss Adams, LLP, has been selected to lead the “blue ribbon panel.” The other panel members are to be named this month. They will represent a cross-section of financial reporting constituencies, including, investors, preparers, regulators, etc.

The FAF had heard from the Private Company Financial Reporting Committee, as well as others, that there is a need to consider the issue of GAAP for private companies, FAF President Terri Polley said. According to the US Census Bureau, there are 29,000,000 privately-held companies in the United States.

NASBA President David Costello stated: “On behalf of State Boards of Accountancy and the public which they represent and serve, NASBA is pleased to join the AICPA and FAF in a comprehensive review of the process for setting accounting standards for private companies.” ♦

## NASBA Addresses AICPA SEC Conference



Billy Atkinson

NASBA Chair Billy Atkinson and President David Costello told the AICPA’s SEC Conference in December that “the 55 State Boards of Accountancy are working with NASBA to strengthen the accounting profession.” They reminded attendees that Boards of Accountancy comprise the largest accountancy regulatory body in the world, regulating over 650,000 CPAs and over 47,000 accounting firms. The Washington, DC, conference included presentations from many SEC officials and was telecast to several locations throughout the nation.

To acquaint the audience with the work of the State Boards, NASBA Chair Atkinson told the meeting that the Texas State Board of Public Accountancy receives over 3,500 complaints per year, which are initiated by the State Board as well as the general public, Federal/State agencies and other CPAs. “On average, 250 will be dismissed, 2,500 will achieve voluntary compliance, over 600 will result in revocation or suspensions of license, and another 150 will be handled with practice restrictions, assignment of pre-issuance reviewer, reprimands or other sanctions. Those with sanctions amount to less than 1 percent of the Texas’ 70,000 licensees.”

Chair Atkinson told the CPAs: “State Boards don’t have quotas. If you get a letter from your State Board, respond timely, provide complete information, show up for informal conferences and, above all – if you have violated a Board rule – acknowledge your responsibility, make restitution (if applicable) and take steps to avoid reoccurrence....State Boards strongly favor remediation actions.” He counseled them, “Take your personal CPA license seriously in all that you do, both professionally and privately.”

Several of the conference’s speakers mentioned International Financial Reporting Standards and Chair Atkinson said: “Indeed, the ball is in the SEC’s court.... As you well know, the full weight of public confidence in financial reporting and, indeed Main Street accounting, lies in the balance with this decision.” ♦

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## Bill Calls for CPA Comptroller General

NASBA Past Chair, now US Congressman, K. Michael Conaway (R-TX) and Congressman Collin Peterson (D-MN) have introduced legislation calling for the Comptroller General of the United States to be a certified public accountant, as they both are. HR 4410 was introduced on December 19 and then referred to the House Committee on Oversight and Government Reform, whose chairman, Edolphus Towns also sits on the special commission appointed by the President to recommend at least three individuals to fill the post of Comptroller General.

“The leadership of the federal government’s chief auditing agency should have the deepest possible background in auditing,” Congressman Conaway stated. “I believe the experience of practicing as a CPA is an essential qualification for the job and demonstrates the requisite background and understanding needed to lead the GAO.”

HR 4410, as introduced by the Congressmen, states that to be eligible to be recommended to fill the office of Comptroller General, the individual: “(A) is

(Continued on page 2)

## Supreme Court Hears PCAOB Case

On December 7 the US Supreme Court heard oral arguments in *Free Enterprise Fund v. Public Company Accounting Oversight Board* and Noel Allen, as NASBA counsel who had submitted an amicus curiae brief in support of the PCAOB, attended the session. NASBA's amicus brief can be found on [www.nasba.org](http://www.nasba.org). Previously, the Free Enterprise Fund had lost their case before both a district judge and an appeals court; however, they continue to argue that the PCAOB violates the Constitution's separation of powers provisions because the PCAOB's members are not directly appointed or removed by the President but by the Securities and Exchange Commission.

During the oral arguments Chief Justice John Roberts and Associate Justices Samuel Alito and Antonin Scalia raised questions about how much control the President has over the PCAOB. Chief Justice Roberts observed: "In other words, the President can't remove the SEC commissioners at will. They can't remove the PCAOB commissioners at will. Or even if you look at it from the for-cause perspective, there has to be two layers of for-cause." Justice Ruth Bader Ginsburg asked, if the SEC were able to fire PCAOB members at will, would that make the statute constitutional. The plaintiff's attorney Michael A. Carvin

responded that it wouldn't because it "would be rewriting the statute and restriking the balance that Congress did."

NASBA's amicus brief noted that the petitioners must have suffered a specific injury by the PCAOB in order to have standing to bring their case to the Supreme Court. Justice Ginsburg raised this point when she said to Mr. Carvin, "You have another instance where Congress set up a scheme, and without having a particular case of an individual who has been hurt, you come in and say: We might sometime be hurt by this, so we want the whole thing knocked down in the absence of any concrete case."

Following the hearing, Mr. Allen commented: "Overall the justices focused less on the PCAOB and NASBA's contention that the SEC has widespread control over nearly all aspects of the PCAOB's functioning. The Court did not question the argument raised in NASBA's brief, that the PCAOB plays a vital and irreplaceable role in the regulation of accounting."

The Court's decision will not be released for several months. It could result in no change to the PCAOB, or it could result in a change in the President's relationship to the PCAOB, or it could just end in a ruling that the petitioner's claim is not proper for the Supreme Court to decide. ♦

## Bill Calls for CPA Comptroller General

*(Continued from Page 1)*

licensed or certified as a certified public accountant in a state, the District of Columbia, or a territory of the United States; (B) has significant management experience in government service; (C) has significant government auditing and accounting experience; (D) has a post-graduate degree; (E) has a professional accreditation issued by a professional association; and (F) has such other qualifications as the commission may establish."

The Comptroller General's post has been vacant since March 2008, when David Walker, CPA, resigned. Previously Charles Bowsher, CPA, held the office. Gene L. Dodaro is now serving as Acting Comptroller General. The Comptroller General is appointed for a 15-year term by the President with the Senate's approval. He or she cannot be reappointed, and can be removed by either impeachment or a joint resolution of Congress. The special 10-member Congressional Comptroller General Commission includes: Speaker of the House Nancy Pelosi, President Pro Tempore of the Senate Robert C. Byrd, Majority Leader of the House Steny H. Hoyer, Minority Leader of the House John Boehner, Majority Leader of the Senate Harry Reid, Minority Leader of the Senate Mitch McConnell, Chairman of the House Committee on Oversight and Government Reform Edolphus Towns, Ranking Member of the House Committee on Oversight and Government Reform Darrell Issa, Chairman of the Senate Committee on Homeland Security and Governmental Affairs Joseph I. Lieberman, and Ranking Member of the Senate Committee on Homeland Security and Governmental Affairs Susan

M. Collins. The Commission is presently interviewing candidates who have submitted applications for the position and is accepting letters of recommendation and additional materials applicants wish to have considered, but is no longer accepting applications. It is anticipated the Commission will submit its list of nominees to President Obama within a month.

The Comptroller General heads the Government Accountability Office, with over 3,000 employees and an annual budget of over \$500,000,000. The GAO audits the accounts and operations of federal agencies and the District of Columbia government, investigates the use of public money and evaluates programs and activities of the US government. ♦

### Request for NASBA Vice Chair Nominees

State boards have been asked to submit their recommendations for NASBA Vice Chair 2010-11 to Nominating Committee Chair Thomas J. Sadler by February 25. Under Article IV, Section 3 of NASBA's Bylaws, to be eligible to serve as Vice Chair, an individual must have served as a NASBA Director-at-Large or a Regional Director for a minimum of one year, but need not be a current member of the Board of Directors at the time of his or her election. Recommendations should be sent to [aholt@nasba.org](mailto:aholt@nasba.org) along with a bio or resume. They may also be mailed to Mr. Sadler at NASBA, 150 Fourth Avenue North, Suite 1300, Nashville, TN 37219-2417 or faxed to 615-880-4291. ♦

## Lisa Bonet Ate No Basil

Aziz Inan, a professor of electrical engineering at the University of Portland in Oregon, loves numbers. His fascination led him to recognize 12 unique days this century. The first was 10-02-2001, the second was recent, 01-02-2010. You may have already noticed their unique quality — they're palindromes. They read the same forward as backward, such as “nurses run” or what comics claim was the first sentence uttered in the Garden of Eden: “Madam I am Adam.”

As I read the article about Professor Inan, I reflected on palindromic activity not only with numbers, letters and other sequential units, but also on the behavior of firms, companies, State Boards and NASBA. It seems fitting as we begin 2010 that, whatever our enterprise, we take a glimpse backward to properly orient us going forward. The temptation some fall into is to spend as much time looking back as looking forward — and ending up with this same result. This palindromic tendency typically dampens fervor for innovation, encourages “paralysis by analysis” and makes it challenging to move progressively forward.

As I've considered the backward glance with an overwhelming emphasis on what lies ahead, I thought about the recently announced tri-party sponsorship of the private company accounting standard setting process. As you may have read in recent press releases, NASBA has joined with AICPA and the Financial Accounting Foundation (FAF) to establish a blue ribbon panel to address how U.S. accounting standards can best meet the needs of users of private company financial statements. The panel is expected to provide recommendations on the future of standard setting for private companies.

We in NASBA realize that even considering a separate set of standards for private companies is indeed controversial -- and to some outright heresy. But even the most controversial of subjects must be addressed in the light of today and the future, not just assessed on what's been the norm or accepted in the past. I am pleased that State Boards of Accountancy, which approve and oversee the application of accounting and financial reporting standards, will be integrally involved in the process of going forward in studying private company standards.

It's not business as usual: We must not simply rely on yesterday's approaches and conclusions to achieve meaningful and effective financial reporting in 2010 and beyond. Financial reporting in whatever enterprise, private or public, is not palindromic and, contrariwise, should be ever forward looking, addressing the needs, interests and concerns of the public which State Boards serve.

“Lisa Bonet Ate No Basil” is a palindrome and fairly useless at that.

*Ad astra*

*Per aspera*



David A. Costello, CPA

A handwritten signature in black ink that reads "David A. Costello".

— David A. Costello, CPA

President and CEO

## NASBA's International Presence

As 2010 begins, we look back at a busy year for Linda Biek, Director of Governmental, Professional and International Relationships, as she represented NASBA and State Boards throughout the world. Ms. Biek shared thoughts about an international code of ethics with members of the International Federation of Accountants (IFAC) in Canada and, later in the year, interacted with members of the Confederation of Asian-Pacific Accountants in Beijing, China, at an IFAC forum. Representatives from the Chartered Accountants Ireland and the Institute of Chartered Accountants of England and Wales welcomed Ms. Biek's clarification of the US regulatory system while sharing with her the foundational elements of the European system. In addition, she met with representatives of the Abschluss Prüfer Aufsichts Kommission, in Germany, to discuss the potential for their involvement in future Forums of International Accountancy Regulators hosted by NASBA. While in Europe, Ms. Biek also met

with members of the Haut Conseil du Commissariat aux Comptes (HC3), the independent regulatory authority in France. Additional information about Ms. Biek's discussions can be obtained by visiting the International section of the NASBA Web site ([www.nasba.org](http://www.nasba.org)) or contacting her directly ([lbiek@nasba.org](mailto:lbiek@nasba.org)).

In France, for example, Ms. Biek met with members of IFAC and HC3. Many Experts-Comptables choose to enter the field of auditing, which requires registration as a Statutory Auditor. Due to a law change several years ago, Statutory Auditors are not allowed to perform any other services for their audit clients. As a result of this change, many larger firms were required to modify their firm structure. This has been a source of concern for these firms and they continue to lobby for an amendment. Statutory Auditors must participate in an inspection process and violations could result in the loss of the auditor's or audit firm's ability to practice. They can appeal disciplinary decisions to their membership organization. ♦

## IRS New Year's Greeting to Tax Preparers

2010 was ushered in with letters from the Internal Revenue Service to approximately 10,000 paid tax preparers nationwide pointing out areas where preparers frequently make mistakes. In coming weeks, thousands of preparers will also be visited by IRS Revenue Agents to discuss their responsibilities to prepare accurate returns. These steps are the first in a package of initiatives that IRS Commissioner Doug Shulman termed "a monumental shift in the way the IRS will oversee tax preparers," based on the just released results of a six-month study entitled "Internal Revenue Service Return Preparer Review – December 2009."

All individuals who prepare returns for compensation and who sign those returns will be required to register and obtain an IRS preparer tax identification number. Such registration is to be phased in, with registration renewal required every three years.

For future filing seasons, all paid tax return preparers who are not CPAs, attorneys or enrolled agents in good standing with their respective licensing agencies will be required to pass competency tests and annually complete 15 hours of continuing professional education if they sign returns. Attorneys, CPAs and EAs will be exempted from the tax return preparers' CPE requirements. However, the IRS said it will consider requiring the completion of tax return preparer CPE from these licensed individuals "if data is collected in the future that identifies a need for this educational requirement. Additionally, the IRS will reach out to their licensing authorities to encourage them to support annual continuing professional education that includes federal tax law topics and updates and ethics for those individuals who are licensed by them and who prepare federal tax returns." ♦

## State Board Report

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