NASBA
State Board Report
A Digest of Current Developments Affecting State Accountancy Regulation
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Countries Told to Forgo Carve-Outs

Representatives from Bermuda, Canada, China, Denmark, Mexico, New Zealand, the Philippines, Poland, the United Kingdom and the State Boards of Accountancy were told by Fermin del Valle, former International Federation of Accountants chair, that they need to consider convergence of standards as adoption, not accommodation, of international standards. Addressing the second Forum of International Accountancy Regulators, in San Francisco, September 10-11, 2007, he said: "We have to come to grips with public regulation: The public expects an independent view. It is independent regulation on a global basis – that's what we are talking about today."

Fermin del Valle addresses the second Forum of International Accountancy Regulators (FIAR) in San Francisco, September 10-11.

The attitude taken by the United States to the adoption of high quality international financial standards will be the key to convergence around the world, Mr. del Valle explained. He called on the Financial Accounting Standards Board to stop issuing their own standards, and to instead focus on becoming an active participant in the international standard setting process. "Many of the national standard setters have accepted this, including Japan, and they are looking to the U.S. to take a similar position," he said. He warned that the period for adoption of international standards cannot be indefinite, as more countries will believe they can also set standards. He added, "European standards could also sound the death of global standards."

The converging of auditing standards is just as important as converging accounting standards, Mr. del Valle stated. He believes the Public Company Accounting Oversight Board's work would be strengthened if they worked with international standards.

Knowledge and innovation will continue to be the key drivers of accounting standards, and regulation is key to ensuring those standards are followed, he explained. However, Mr. del Valle cautioned: "Regulators must make sure not to be a barrier to innovation or knowledge generation." ♦

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Allen Sees IFRS Changing State Laws

After listening to several speakers urge the adoption of international "high quality financial standards," Noel Allen, NASBA legal counsel, took the FIAR podium and stated," I believe you are on a proper course, but let's make sure how we get there. …When states adopt standards by reference, each has different ways of doing it. If standards are changed, some states may have to go back and adopt those changes. A majority of states require adoption by reference. Will we have to tinker with many rules in states to implement IFRS? We are potentially messing around with the definition of the 'practice of accountancy.' Standards set the basis for discipline."

Currently there is no mention of IFRS in the Uniform Accountancy Act, only in Model Rule 10-3, which includes a reference to international standards. According to Mr. Allen, only one state has adopted that rule so far. However, states are picking up references to IFRS on their own: Connecticut is giving credit for license experience when using IFRS; Colorado refers to IFRS in its accounting principles section; New York is referring to international standards if you are doing that type of work; and Delaware and Pennsylvania are also bringing in references. In South Carolina

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FIAR Continues Regulators' Dialog

NASBA Chair David A. Costello called on the approximately 100 attendees at the second Forum for International Accounting Regulators to approach regulation in a positive manner: "Regulation should be positive; after all, it is done to protect the public interest. Regulation is now global as meltdowns affect everyone. So regulation must be global too. We want to continue the dialog we started last year: How can we reinforce the positive response to the public?"

President Obama is moving forward with financial reforms, Cynthia A. Fornelli, executive director of the Center for Audit Quality, told FIAR. The administration hopes to have introduced a financial consumer protection agency by the end of September, with a final measure presented to the House by the end of the year, as well as progressing toward a "single set of high quality independent accounting standards" by the end of the year. Ms. Fornelli said the SEC may not decide on its roadmap to IFRS adoption until 2011, and she believes the lack of a date certain for the adoption of IFRS discourages constituents from beginning work on transition to those standards. If the US does not have a date certain, then Japan has indicated they will not set one out either. Other countries are beginning to feel they need to reconsider IFRS as well, although, she observed, "It is hard to find anyone who does not accept the theory of a single set of standards."

The United States is the largest services trading country in the world, Christine Bliss, of the US Trade Representative's office told the meeting. She is one of the USTR's lead negotiators with regard to financial services, and she commented, "People see off-shoring as a one-way street, but it is not true – particularly in the services sector. The flow of trade is on the rise." The United States currently has 11 free trade agreements with three others waiting for enactment. As mobility rises, there is a greater demand for common standards, Ms. Bliss asserted; however, she added that trade agreements do not address standards.

The GATS (the General Agreement on Trade in Services under the World Trade Organization) calls for transparency and objectivity. GATS commitments are a way of ensuring what is being negotiated in a mutual recognition agreement will actually be of use, but those commitments will not apply until the WTO completes its "Doha round" of negotiations.

Ms. Bliss said the disciplines adopted for accounting in 1998 will not apply until the completion of the Doha round. ♦

Cynthia Fornelli speaks to attendees at 2009 FIAR about IFRS adoption.

David Costello opens the second annual Forum of International Accountancy Regulators in San Francisco, CA.

G-20 Backs International Accounting Standards

Among the recommendations coming out of the September 24-25, 2009 Pittsburgh summit of the leaders of the Group of 20 countries was the following:

"We call on our international accounting bodies to redouble their efforts to achieve a single set of high quality, global accounting standards within the context of their independent standard setting process, and complete their convergence project by June 2011. The International Accounting Standards Board's (IASB) institutional framework should further enhance the involvement of various stakeholders."

A week earlier, the Securities and Exchange Commission's new chief accountant, Jim Kroeker, stated at a conference of the New York State Society of CPAs that the Commission would revisit their roadmap to International Financial Reporting Standards: "Turning back to the roadmap will be an important priority for us this fall." Reuters quoted Mr. Kroeker as saying the more than 200 comment letters received by the SEC on its proposed IFRS roadmap were "resoundingly clear" that people support a single set of global high-quality accounting standards, but there were differences as to how they said this could be achieved. ♦

Recalling Bill Gregory


Thomas J. Sadler, CPA

The occasion of the passing of the iconic "Conscience of the Profession," Eli Mason, CPA, caused me to reflect on a series of articles he wrote about CPAs he had known. The series prompted my remembrance of CPAs who made a difference to me -- and to the profession.

I come from a small local firm in Tacoma, WA, as did another CPA, William R. Gregory. Bill was a partner in the local firm of Knight, Vale & Gregory, Certified Public Accountants. He was President of the Washington Society of Certified Public Accountants the year I graduated and began my career as a CPA. He was well known as a leader of the profession, a man of good humor and character. He exemplified for me a true professional and a real gentleman.

In 1977-1978 Bill served as Chairman of the AICPA's Accounting and Review Services Committee (ARSC). By the end of his term as Chair, his committee had drafted and approved Statement on Standards for Accounting and Review Services No.1 (SSARS).

In my opinion, with SSARS No. 1, Bill and his committee saved a place forever for small firms in the practice of professional accounting for small and privately held businesses. Before SSARS No. 1 the profession could only deliver audit opinions with financial statements or, if no audit was performed, then what was referred to as an "unaudit." Bill's conceptual genius of offering "limited assurance" in the review report and setting the minimum standards for compilations provided CPAs useful work and the public the much needed services of the review and compilation. State Boards of Accountancy also recognized these new offerings as an attest service and restricted their preparation to licensees by Statute.

In my opinion, SSARS No.1 and the recognition of these standards as an attest service by Boards propelled the growth of small and medium size firms to the over 38,000 firms in business today. Without the SSARS, the services would have been provided by others without the safeguards of the profession and without oversight by the Boards of Accountancy. My own experience in a small local CPA firm confirms the efficacy of SSARS as to the viability of small firms and the public good created and sustained.

The memory of Bill Gregory and his work on the SSARS also gives me a chance to underscore the important foundation principles for this work that Bill laid out over 30 years ago. These are:

- The review is to be performed "in accordance with standards established by the American Institute of Certified Public Accountants."
- All information is a representation of management.
- A review consists principally of inquiries and analytical procedures.
- The assurance offered by a review report is "limited."
- The CPA is independent in performance of a review.
- A CPA may perform a compilation when not independent if lack of independence is disclosed in the accountant's report.

ARSC has now proposed changes to these foundation principles with the adoption of the so-called "reliability" standards. NASBA responded to a request for comments on the standards on June 22, 2009 (see www.nasba.org). NASBA agreed with some points in the exposure draft, but rejected the core point of replacement of the "independence" standard with the "reliability" standard. The response is detailed and addresses the issues completely and professionally. It was one of 170 letters of comment received by ARSC, which is now in the process of developing its final standards.

As you read and study the ARSC exposure draft, consider these questions: Shouldn't CPAs be expected to clearly communicate accounting treatments of transactions to their clients so clients may take responsibility for their own financial statements? Are the clients of CPAs really incapable of understanding the financial factors critical to their businesses? Is there really a lack of independence when CPAs give clients their best advice and the client reflects that advice in their financial statements? Where would CPA firms and the public they serve be now without the guidance of 30 years of SSARS? Where will they be in the next 30 years if the standard of independence in a review is lost? Isn't a review engagement without independence a compilation by another name? Without independence will a review remain an attest service? If independence is diminished with whatever a CPA is associated, should that service continue to be exclusive to CPAs? Most important of all for regulators: Will the public be harmed by this change?

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Costello Decries IFRS Process

NASBA is not opposed to global standards, but to the process through which they have been developed and presented, NASBA President David A. Costello explained recently to a group of business and finance leaders hosted by the Financial Accounting Foundation. He restated his five concerns about the International Financial Reporting Standards (IFRS):

1. The International Accounting Standards Board, which issues the IFRS, is not independently structured, funded or operated. At the first sign of significant pressure, the IASB folded to political forces.
2. IFRS have been aggressively promoted, oversold and inappropriately communicated.
3. IFRS have been very poorly vetted, omitting input from the world's largest accountancy regulator – the state boards of accountancy – and NASBA.
4. There is no evidence that any thought was given to what IFRS are supposed to look like in a country such as the United States. Should there be one set of standards or two, private vs. public, GAAP vs. IFRS, carve outs and the like?
5. Misinformation is rampant about IFRS. Regularly supporters state that over 100 countries have embraced IFRS, when only 47 have fully adopted them. The total GDP for those 47 countries comprises 4 per cent of the world's GDP, which is roughly equivalent to the GDP of California plus Georgia.

President Costello said in summary: "We don't trust anything which must be hyped, misstated, carved up and carved out." ♦

SEC Releases Report on Its Madoff Failures

Despite six substantive complaints between June 1992 and December 2008, plus two articles in popular business journals, that raised red flags concerning Bernard L. Madoff's hedge fund operations, "a thorough and competent investigation or examination was never performed" by the Securities and Exchange Commission, concludes a 450-page report by the SEC's Inspector General released in early September 2009.

"At no time did the SEC ever verify Madoff's trading through an independent third party, and in fact, never actually conducted a Ponzi scheme examination or investigation of Madoff," the Inspector General found. In 1992, when the SEC did seek records from the Depository Trust Company, an independent third party, they asked for copies of the records from Mr. Madoff himself, not from DTC. Then in 2004 when the SEC's examiners drafted a letter to the National Association of Securities Dealers seeking independent trade data, "they never sent the letter, claiming it would have been too time-consuming to review the data they would have obtained." When in 2005 a request was sent to a financial institution that Madoff claimed he used to clear his trades, and a response was received that there was no transaction activity in Madoff's account for that period, the SEC's assistant director did not determine that any follow-up on that response was required.

"Several issues, including the allegation in the internal e-mails that Madoff's auditor was a related party, were never examined at all," states the report. "Yet, after Madoff confessed to operating a Ponzi scheme, a staff attorney in the Northeast Regional Office's Division of Enforcement was assigned to investigate Madoff's accountant, David Friehling, and within a few hours of obtaining the work papers, he determined that no audit work had been done."

Just prior to the 450-page report's release, SEC Chairman Mary L. Schapiro announced that since she took office in January 2009, the SEC has been making changes to help it better detect fraud: "We have streamlined our enforcement procedures and are putting more experienced staff on the frontlines. We also have bolstered our inspection program, started to revamp the way we handle hundreds of thousands of tips received annually, begun to hire new skill sets, increased internal training, and sought more resources to keep pace with financial fraudsters." The SEC also proposed new industry rules "that will better protect clients of investment advisers by mandating independent reviews to assure that a client's account contains the funds that the investment adviser says it contains."

A new enforcement director, Robert Khuzami, was appointed and the SEC has dispatched its examiners to conduct a sweep of firms that present certain risk characteristics to ensure that the clients' assets actually exist. These risk characteristics include firms with a disciplinary history, firms that use an unknown auditor or no auditor at all, and advisers whose clients' assets are held with an affiliate.

The impact of the Madoff case on state boards of accountancy will be discussed at NASBA's 2009 Annual Meeting by NASBA legal counsel Noel L. Allen. ♦

Allen Sees IFRS Changing State Laws

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Carolina licensing for general contractors added mention of international standards, so the South Carolina Board adopted a rule patterned on UAA Model Rule 10-3. States are nervous about how the international standards are vetted and regulators need to have a substantive voice in the vetting process, Mr. Allen stated.

Cases based on international standards have doubled in the last years, Mr. Allen stated. With principles-based standards there is more room for interpretation. He said he is not just worried about standards being set by politicians, but of accounting standards being set by judges. "Judges make law routinely," he noted. ♦

Murray Sees Liability Concern

While 40 years ago there was minimal audit liability risk, there has been a dramatic acceleration of audit liability costs in the western world, with risk having reached 15 percent of audit revenues, Richard H. Murray, chief claims strategist of Swiss Re, told the FIAR attendees. He stated the shared goal is: "Sustained availability on a global basis of the highest quality and value of the independent audit services." He observed that, as the Bernard Madoff case has recently shown, when individuals can't sue the direct auditor, they will pursue the auditors of the feeder fund, saying they should have seen the anomalies.

Should liability containment for auditors be sought in the United States? Mr. Murray noted the European Commission's Public Consultation on Auditor's Liability ("McGreevy Report") concluded that, in the European Union, the death of one of the major firms presented too big a risk and something should be done to contain it. The US Treasury Department's Advisory Committee on the Auditing Profession (ACAP) was split on that point. Mr. Murray sees a hazard to the public interest. He does not believe capping of liability is foreseeable or desirable in the United States, but maintains there are alternatives being developed. During a breakout session, Mr. Murray said he believes the appropriate application of proportionate liability is, theoretically, the simple way to solve the situation, but there needs to be a way to implement it. Causation needs to be factored in: Did the audit failure become the commercial loss? He stated, "There is a big business around haunting auditors with claims. Auditors have become the center of the firestorms. The profession has never sat down to figure out how we solve this." ♦

Updates Heard at FIAR

NASBA Global Strategies Committee Chair Samuel K. Cotterell asked the non-US attendees at the FIAR (approximately one-third of those in attendance) to let the State Board representatives and others present hear about professional regulatory issues they are working with. Excerpts from those responses included the following:

International attendees at the 2009 FIAR came from many countries.


Attendees at 2009 FIAR consider auditors' liability.

- Canada will implement International Financial Reporting Standards (IFRS) in 2011 and they are looking at adoption of international standards for auditing and ethics too. There is a lack of uniform regulatory policies among the 12 provinces and Bermuda, and efforts are ongoing to achieve standard policies.
- Mexico is working on establishing areas of specialization for their accountants. The Instituto Mexicano de Contadores Publicos requires quality control reviews for those firms that issue reports. Mexico will also convert to IFRS in 2011.
- Philippines has adopted IFRS; however, if IFRS is in conflict with national law, then accountants must comply with the national law. They have organized a Quality Assurance Council to determine if firms are complying with standards.
- Poland, as part of the European Union, is looking to harmonize its standards with IFRS. They are limiting liability for auditing firms to either $4 million or 20 times the audit fee, and for smaller audit firms $1 million.
- United Kingdom's government exercises oversight of the professional accountancy bodies that gives auditors licenses, but does not directly control licensing. Most day-to-day regulation is done by the profession. The UK's Financial Reporting Council is questioning if they should be registering firms.
- New Zealand has self-regulation of the profession with practice reviews required over a rolling three-year cycle. They are moving to independent oversight of an accounting standards board, but practice review will remain with the profession.
- Denmark, another EU member, must use IFRS for companies listed on the regulated markets and the government cannot establish more than minor carve outs. Now only auditors, not accountants, are recognized in Denmark and they must be approved by the government to do statutory audits.
- Brazil requires rotation of audit firms for listed companies. There is now unlimited liability for listed companies, but the professional society supports the idea of proportionate liability.

For more information, videos and handout materials from the FIAR see NASBA's Web site www.nasba.org. ♦

Chair's Memo

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Think about these questions and come to NASBA's Annual Meeting prepared to discuss them with our panelists. I'll be part of that Tuesday afternoon panel including Sheila Birch (OH), Gerald Burns (OR), Ray Stephens (OH), and moderator Rick Isserman (NY), Chair of NASBA's Regulatory Response Committee.

Bill had a great many more accomplishments as a leader of the profession, and I hope you will take a little time to look them up. He addressed the AICPA's Council in 1979, when he was elected AICPA Chairman. When I address the next Council meeting, I will be reminding them of the principles he crafted for CPAs and upon which the public has trusted for over 30 years.

--Thomas J. Sadler, CPA
Chair 2008-09

Registry Sponsors Shine at CPE Expo

NASBA hosted its first National CPE Expo September 21-23, 2009 in San Antonio, TX. Aimed at bringing together accounting and financial professionals from throughout the United States, the National CPE Expo successfully gathered attendees from across the globe who represented a variety of industries and job functions. Participants earned CPE credits, networked with peers and interacted with NASBA representatives and state board members and executive directors.

Designed to showcase members of NASBA's National Registry of CPE Sponsors, the National CPE Expo program featured over 60 CPE sessions led by 23 top learning providers who tackled technical, business and regulatory issues. Each attendee had an opportunity to customize his/her schedule and select courses in several disciplines, such as accounting, audit, finance, taxes, regulatory ethics, business management and organization, marketing and communications. In addition to the CPE courses offered, NASBA utilized the opportunity to discuss and promote the importance of quality CPE to the profession and the public, as well as provide a forum to address industry trends through its various general sessions that featured respected industry experts.

More than 50 companies provided information, tools and emerging solutions in the Exhibit Hall during the National CPE Expo, including NASBA and state boards of accountancy. Attendees learned about NASBA and its products and services at NASBA's booth, and spoke with state board executive directors about the role of state boards of accountancy in serving the accounting profession at a booth specifically for state boards of accountancy.

As the Expo came to a close, NASBA announced Boston, MA, will be the host city of its second annual National CPE Expo, in 2010. David Costello stated he believes the National CPE Expo provides the perfect opportunity to gather accounting professionals and regulators to share, communicate, learn and network: "Boston is a hub of education, finance and government activities and is a prime location for next year's event."

The 2009 National CPE Expo provided attendees with not only CPE and the opportunity to maintain licensure, but it also offered them – and all involved – a better understanding of NASBA, its role in the accounting profession, the products and services developed by NASBA to assist state boards and CPAs, as well as how state boards of accountancy serve the public and the accounting profession. ♦

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