NASBA

State Board Report

A Digest of Current Developments Affecting State Accountancy Regulation

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Auditing Standards Converging

Over five years, US auditing standards and international auditing standards will be converged, Harold Monk, Jr., chairman of the AICPA Auditing Standards Board told the CPT/Baruch conference in December. Although he said "an audit is an audit regardless of where it is performed," he added, "We are converging – not adopting – there will continue to be differences, but they will be few and far between."

The ASB is now engaged in a clarity project rewriting its entire set of auditing standards for non-issuers. Each standard is being rewritten so there is an introduction and an objective to show what is expected to be achieved, plus a glossary of terms that will continually be updated.

Mr. Monk explained the clarity project has three goals: To address concerns over length and complexity of the standards; make the standards easier to read, understand and implement; and lead to enhancements in audit quality. Some standards have already been released in the new format and he encouraged professionals to send their comments on those standards to the ASB.

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Boards' Communications Officers Talk

Trade show exhibits, newsletters and PowerPoint presentations were discussed during the first conference call for state accountancy board communications officers, moderated by Communications Committee Chair Sally Flowers on December 16. Approximately 20 states were represented on the call. The Committee is posting recommended communications projects for the boards on its Web page at www.nasba.org.

Boards were encouraged to send information on their successful communication projects to NASBA Communications Director Thomas Kenny at tkenny@nasba.org. A poll on board newsletters was recently conducted by the Communications Committee and future polls about other aspects of this topic are planned, with the results being shared on the Web page.

Among the projects mentioned during the December call was the Texas Board's *Candidate Chronicle*, which is produced twice a year and displayed on its Web site. The New Hampshire Board has developed a PowerPoint presentation for CPA candidates that it will make available to other boards. The boards in Illinois and Oklahoma have set up informational booths at their state societies' trade shows.

Ms. Flowers said the Communications Committee intends to develop public service advertisements that all boards could use to let the public know who the boards are, what they do, what licensees should do and how to contact the board. ♦

CPT Conference on Auditing and Ethics

Restoring the public's trust is a game of inches and yards, Congressman K. Michael Conaway (R –TX) told those attending the "Ensuring Integrity: Third Annual Auditing Conference," co-sponsored by the NASBA Center for the Public Trust and Baruch College on December 4. Trust "is gained back in inches, but lost in yards," he explained. He stressed the need for those in the accounting profession to hold each other accountable.

"It can no longer be acceptable to simply go-along-to-get-along; you must demand and expect that all accountants – and politicians – uphold the highest ethical standards. Inevitably, individuals will fail. When they do, they must face appropriate and meaningful penalties," Congressman Conaway stated. "There has never been a more important time for Americans to be able to trust the financial industry…. It is your responsibility to not only individually ensure the accuracy of the information you present, but also to collectively ensure that your profession does all it can to maintain the confidence of investors," he stated.

Baruch College Professor Douglas Carmichael, former PCAOB chief auditor, observed, "Certainly these are interesting times for auditors. As early as November 2007 auditors were being criticized for enforcing auditing standards too rigorously – now they are being criticized for not having done enough." He moderated a panel of CPAs and attorneys discussing the implementation of AICPA Risk Assessment Standards No. 104-111 and Consideration of Fraud, No.

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SEC Report Supports Fair Value

Investors generally believe fair value accounting increases financial reporting transparency, the Securities and Exchange Commission reported to Congress on December 30. The SEC's study, mandated by Congress through the Emergency Economic Stabilization Act of 2008, resulted in a 211-page report (see www.sec.gov) which includes six recommendations as developed by the Commission's staff:

1. Statement of Financial Accounting Standards FAS No. 157, Fair Value Measurement, should be improved, but not suspended.
2. Existing fair value and mark-to-market requirements should not be suspended.
3. While the Staff does not recommend a suspension of existing fair value standards, additional measures should be taken to improve the application and practice related to existing fair value requirements (particularly as they relate to both Level 2 and Level 3 estimates).
4. The accounting for financial asset impairments should be readdressed.
5. Implement further guidance to foster the use of sound judgment.
6. Accounting standards should continue to be established to meet the needs of investors.

NASBA had sent a letter to the SEC on October 27 (see www.nasba.org) which stated: "Valuing assets and liabilities at fair value results in reporting gains and losses as the market position improves or suffers, respectively." The letter encouraged the SEC "to withstand the temptation of a 'quick fix' to fair value accounting." ♦

Mary Schapiro Picked for SEC Chair

Mary Schapiro, a Securities and Exchange Commission member 1988-1993, has been selected by President Barak Obama to be the next chairman for the SEC. In mid-December SEC Chairman Christopher Cox announced he would leave the Commission when President George Bush's administration ends. Ms. Schapiro is chief executive of the Financial Industry Regulatory Authority.

Ms. Schapiro is a former chairman of the Commodity Futures Trading Commission. The *Wall Street Journal* commented: "Many believe that the SEC will be merged with the CFTC, or could have some of its responsibilities reassigned in the big regulatory revamp that's expected to come…." ♦

CPT Conference on Auditing and Ethics

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99. Professor Carmichael asked if the new standards would affect the auditor's liability risk.

Michael Young of Wilkie Farr & Gallagher, responded: "What comes through is the auditor has the responsibility for the detection of fraud no matter how GAAS is stated." When a case gets into court, "the defense comes down to making excuses or changing the subject," and, in the typical four-week trial, the jury "gets sick of hearing excuses," he observed. The auditor's mindset should be: "I have the responsibility to detect fraud," he advised. Work papers will not get the auditor off if fraud is not detected, because clues will seep into those work papers. "How the standard is written really does not make a difference," Mr. Young said.

David Simko of Ernst & Young, LLP, said the PCAOB's new risk standards will not change the guidance the firm gives to its auditors substantially. He commented that thanks, in part, to the PCAOB, "It is now hip to be an auditor again."

Audit firms are viewed as a great place to work internationally, Donald Nicolaisen, co-chair of the US Treasury Department's Advisory Committee on the Auditing Profession, said in looking at the findings of ACAP. He commented that the audit process is global and its effectiveness "is dependent on a strong global organization." Mr. Nicolaisen noted that he, and ACAP Co-Chair Arthur Levitt, had recommended Congress consider establishing a statutory audit firm structure. He forecast that the audit profession would come under another round of regulatory reform.

In his concluding remarks on the conference, Larry Bridgesmith, CPT board member, said, "We cannot tolerate ethical unaccountability…The soft powers of influence, modeling and mentoring are what impact cultures over time." For more coverage of the CPT Conference see *Ethics Matters*. ♦

Auditing Standards Converging

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Thomas Ray, the Public Company Accounting Oversight Board's chief auditor and director of professional standards, also told the conference about his organization's current projects, including new and proposed standards. Comments on the PCAOB's "Proposed Auditing Standards Related to the Auditor's Assessment of and Response to Risk and Conforming Amendments to PCAOB Standards," Release No. 2008-06, are due by February 18, 2009 (see www.pcaobus.org). Mr. Ray said the new standards: reflect more risk-based audit approaches; enhance the integration of the audit of financial statements with the audit of internal control over financial reporting; integrate the auditor's current responsibilities for considering fraud; and reduce unnecessary difference with risk assessment standards of other standard setters. As the ASB is moving to make their standards look more like the international standards, the PCAOB is pointing out the differences in its standards with the international standards. "We would like to try to avoid unnecessary differences," Mr. Ray remarked. ♦

Let's Stay On the Horse


Costello

The Securities and Exchange Commission (SEC) recently released its "Roadmap For The Potential Use Of Financial Statements Prepared In Accordance With International Financial Reporting Standards By U.S. Issuers." The Roadmap, in effect, places the stamp of approval on a significant and sure-to-be challenged approach to replacing Generally Accepted Accounting Principles (GAAP) with International Financial Reporting Standards (IFRS).

As I follow the super promotion, and yes even the hype, of wholesale adoption by the U.S. of IFRS, I'm reminded of an old tale: The story goes that one proud Irish racehorse owner was annoyed with the running of his horse at the races. He turned on the losing jockey and snapped, "Flaherty, could you not have raced faster?" The spunky young man replied, "Sure I could have, but you know we are supposed to stay on the horse."

NASBA Chair Tom Sadler and I are sending a response to the SEC's Roadmap. Our comments to the SEC are based on the excellent work of NASBA's Regulatory Response Committee, chaired by Rick Isserman (NY). Bottom line of our response is that we are saying to the SEC, "Whoa! Let's stay on the horse a while longer."

I don't understand the rush to adoption of IFRS by the profession, the SEC and other international bodies. Can you remember any movement in accounting standards with such far-reaching implications being so thinly deliberated? One would think that the overhaul and replacement of GAAP and the Financial Accounting Standards Board (FASB) would involve all major vested groups, particularly the largest accounting regulator in the world — State Boards of Accountancy. Ignoring State Boards in this process would demean the over 500,000 licensed CPAs and the public served by the boards! On behalf of the public in 50 states and five jurisdictions and the CPAs licensed therein, NASBA and the boards will not stay on the sidelines. Our response to the SEC will include the following:

The Myth of IFRS Adoption — It is asserted that over 100 countries have adopted IFRS. Not so! Many of the so-called adopting countries have retained legacy practices, national interest applications and political adaptations.

The "Principles-Based" Hype — IFRS supposedly takes a "principles-based" approach to standard setting and implementation, rather than the prescriptive, less judgment-oriented "rules-based" approach of GAAP. To assert that a "rules-based" approach to standards diminishes judgment and that "principles-based" increases the judgment factor begs for objective authority. An effective argument might be made that more judgment increases the probability of engineering transactions to fit the principles. One possible illustration of the judgment application under the "principles-based" approach was the recent change in the IFRS rules that weakened "mark-to-market" accounting. In a time of crisis, we must have standards which aren't maneuverable, but are applied consistently albeit sometimes painfully. We believe there can be an acceptable and artful balance.

The Independence Issue — Independence is the hallmark of the public's expectations of accounting professionals and the regulatory processes relating to their licensing and practice. There are grave threats to the independence of the IASB, the body which promulgates IFRS and which would eventually replace or marginalize the FASB. Unlike the FASB, which is funded by assessments on issuers as mandated by the Sarbanes-Oxley Act, the IASB is dependent on voluntary funding, including that of multinational corporations and public accounting firms. This lack of independence is a giant step backward for regulators in the U.S. — all the way back to 1933.

There are other compelling reasons to be more deliberate, discerning and judicious in our approach to accepting IFRS including: added enforcement difficulties, reduction in influence of the United States in standard setting, increased presumption of State regulation, conversion costs for businesses at a time of economic stress, and propagation of the hoax that IFRS is superior to a convergence of existing U.S. and international standards on a cautious, yet progressive, basis.

There are some national accounting regulators, there is an element of the accounting profession and there are no doubt some political influences which favor jumping off the GAAP/FASB horse because it just seems too rigid, too inflexible and just not internationally relevant. We might buy that, and could even accept that, if in fact open, transparent dialogue, debate and deliberation among all the relevant public interest groups produced the rationale for such acceptance. For now, we in NASBA would urge the SEC and others to stay mounted and be the catalyst for the inclusive debate required of IFRS.

Ad astra, Per aspera

David A. Costello

— David A. Costello, CPA
President and CEO

NY Mandates Quality Review

It has been 60 years since New York's accountancy law substantially changed, but as 2008 ended, change finally was on its way (A.11696-A/S.7497-B). According to the New York State Society of CPAs, New York's Senate and Assembly have been considering legislation for ten years. The new law: expands the regulated scope of practice; requires mandatory peer review; expands qualifying experience for licensure to include tax preparation and tax advisory services; requires continuing professional education for all CPAs, including those in industry; and provides substantial equivalency and temporary practice privileges for out-of-state CPAs.

The law becomes effective 180 days after signed by Governor David A. Paterson, except for the mandated quality review provision which takes effect January 1, 2012. The mandatory review covers all registered public accounting firms other than sole proprietorships or firms with two or fewer accounting professionals that perform attest services and all firms that perform attest services for New York State governmental entities or perform attest services specifically required to be performed under New York State law. The discovery of Bernard L. Madoff's alleged financial wrongdoing underscored the need for required peer review of even the smallest accounting firms in New York.

All firms providing public accountancy attestation and compilation services in New York will need to be registered with the state. Currently sole proprietorships do not need to be registered. ♦

No Clean Opinions for the Feds

The federal government began preparing consolidated financial statements 12 years ago, but, once again, the Government Accountability Office announced it was prevented from expressing an opinion on the US government's consolidated financial statements, other than the Statement of Social Insurance, because of numerous material internal control weaknesses and limitations. Acting Controller General Gene L. Dodaro said, as discussed in the 2008 Financial Report, "the federal government is on an unsustainable long-term fiscal path."

Mr. Dodaro said there are three major impediments that continue to prevent the GAO from rendering an opinion on the accrual basis consolidated financial statements: "(1) financial management problems at the Department of Defense; (2) the federal government's inability to adequately account for and reconcile intragovernmental activity and balances between federal agencies, and (3) the federal government's ineffective process for preparing the consolidated financial statements." He said there were at least three agencies that did not get clean opinions: the Department of Defense, the Department of Homeland Security and the National Aeronautics and Space Administration.

Continued improvement of financial information "needs to be a top priority of the new administration and Congress," he said. ♦

Trading Partners

A glimpse of the many trade agreements being considered was presented by Todd Nissen of the Office of the US Trade Representative (USTR) at the last meeting of the NASBA/AICPA International Qualifications Appraisal Board (IQAB). A PowerPoint identifying and outlining what those agreements accomplish ("Trade Agreements and the Accounting Profession") can be found in the "news" section of www.nasba.org. ♦

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FASB and IASB Name Advisory Group

The Financial Crisis Advisory Group (FCAG), a body created by the Financial Accounting Standards Board and the International Accounting Standards Board, will hold its first meeting this month. The Advisory Group is to consider how improvements in financial reporting could help enhance investor confidence in financial markets. It has also been asked to identify significant accounting issues that require urgent attention by the FASB and IASBA, as well as issues for longer-term consideration.

The FCAG has two co-chairs: one from Europe, Hans Hoogervorst, Chairman, AFM (the Netherlands Authority for the Financial Markets) and one from North America, Harvey Goldschmid, former SEC Commissioner. It has 16 members, including from the United States: John Bogle, founder, Vanguard; Jerry Corrigan, Goldman Sachs and former president of the New York Federal Reserve; Raudline Etienne, chief investment office of the New York State Common Retirement Fund; Gene Ludwig, former US Controller of the Currency; and Donald Nicolaisen, former chief accountant of the Securities and Exchange Commission.

Recommendations from the Advisory Group will be jointly considered by the FASB and IASB. Among the topics they have been invited to discuss are: areas where financial reporting helped identify issues of concern during the credit crisis; the relationship between fair value and off balance sheet accounting and the current crisis; and the independence of accounting standard-setters and governmental actions to the global financial crisis. ♦