

September 7, 2007

Public Company Accounting Oversight Board
Office of the Secretary PCAOB
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Re: PCAOB Rulemaking Docket Matter No. 017 - Proposed Ethics and Independence Rule 3526, *Communication with Audit Committees Concerning Independence*; Proposed Amendment to Rule 3523, *Tax Services for Persons in Financial Reporting Oversight Roles*; Implementation Schedule for Rule 3523

To the Members of the Board:

PricewaterhouseCoopers LLP ("PwC") appreciates the opportunity to provide comments on the Public Company Accounting Oversight Board's (the "Board") proposed Ethics and Independence Rule 3526, *Communication with Audit Committees Concerning Independence* ("Rule 3526") and proposed amendment to Rule 3523, *Tax Services for Persons in Financial Reporting Oversight Roles* ("Rule 3523").

We support the proposed amendment to Rule 3523, but believe that the rule should be further modified so that the transition period applies to all individuals in a financial reporting oversight role (FROR) regardless of when they become subject to the rule. Likewise, we agree with the Board's proposed new Rule 3526, but believe that it could be enhanced as detailed in our comments below.

Amendments to Rule 3523

Application of Rule 3523 during the professional engagement period

If amended as proposed, Rule 3523 would apply to the professional engagement period in new audit client acceptance situations. We fully support this proposal since it maintains a level of auditor independence commensurate with the principal goal of investor protection and does so without imposing unnecessary burdens that could limit a registrant's choice of auditors. (This is discussed at greater length in our comment letter of May 18, 2007, regarding the Board's concept release concerning the scope of Rule 3523).

We also agree with the Board that, as stated in the eighth paragraph of Part II of the Release, it is unnecessary to restrict the provision of tax services during the portion of the audit period that precedes the professional engagement period in order to preserve auditor independence. The Board's rationale for this conclusion follows that sentence, which we agree with as well. To ensure that the strength of this conclusion is not diluted, if the

Board decides to include this paragraph in the release accompanying the final rule, we recommend that the last two sentences in that paragraph be deleted. Those sentences send a contradictory message by calling for firms to assess whether their independence is impaired despite the Board's conclusion that restrictions are unnecessary to preserve independence. We believe the Board's conclusions on these matters are sufficient to stand on their own and any language accompanying such conclusions that introduces confusion or sends mixed messages should be avoided. As a practical matter, we expect that firms will be alert to unique circumstances that deserve analysis. Accordingly, it is unnecessary to include language in the Release that attempts to capture those situations with a broad-brush approach that risks confusing readers and dilutes the Board's message.

Broadening the circumstances in which the 180-day transition period should apply

In its previous consideration of Rule 3523, the Board concluded that it was appropriate to provide a 180-day transition period to ensure that individuals in a FROR are not subjected to undue hardship because they are hired or promoted into a FROR (including other change in employment events) at an audit client when the tax services they receive are both: (1) provided pursuant to an engagement that was in process before the hiring, promotion, or other change in employment event; and (2) completed on or before 180 days after the hiring or promotion event.

The practice of granting such a transition period, concurrent with the adoption of a newly promulgated independence standard, is a well-established and generally accepted practice. A prominent example includes the transitional provisions granted under the Securities and Exchange Commission's November 2000 final rule release, *Revision of the Commission's Auditor Independence Requirements*, which contains transition periods relating to certain financial interests and all the employment provisions. Such allowances represent an equitable approach that balances the threats to independence with undue hardship considerations. We support this approach and believe that the Board should extend the existing transitional provisions of Rule 3523 to include individuals in FRORs who become subject to the rule by virtue of a merger or acquisition, an IPO or new audit appointments as the same principle of avoiding undue hardship on individuals in FRORs previously embraced by the Board is equally applicable to such events and, therefore, should be subject to consistent treatment.

In these circumstances, absent equitable allowances for transition, where the prospective auditor had previously been engaged to prepare the personal tax return of an individual in a FROR, it is necessary to attempt to complete the assignment prior to the effective date of the merger or acquisition or, in the case of an IPO or new audit appointment, the earlier of signing the engagement letter or commencing audit procedures. The completion of outstanding tax work, however, may present considerable difficulties in practice, given the wide range of compulsory tax return filing dates, which vary from

country to country.¹ In addition, many jurisdictions do not have facilities to request extensions to filing, as noted in the comment described on page 5 of the Release.

The absence of transitional relief may cause unnecessary hardship for individuals in FRORs whose tax return preparation work was well underway at the point of the IPO, merger or acquisition or new audit appointment. Individuals in FRORs may be left with uncompleted returns, requiring them to seek a new provider to finish the return. This has cost implications for the individual in a FROR (or their employer, if the employer has agreed to bear the cost of the return preparation) and compliance implications with the attendant risk of incurring penalties and interest for late filing. Most, if not all, foreign jurisdictions attribute full responsibility for timely filing to the taxpayer concerned rather than the preparer.

As the Board has already concluded that it is possible to balance the threats to independence while avoiding undue hardship for individuals in FRORs, we believe it appropriate to adopt a consistent approach that allows transition periods for IPOs, mergers or acquisitions, and new audit client acceptance situations. Recognizing that there may be other situations where a transition period would be appropriate (e.g., a reverse merger with an existing registrant), and that it is unreasonable to expect the Board to envision all such situations, we believe that it would be appropriate for the Board to also provide audit committees with some degree of flexibility in utilizing, as may be appropriate in the circumstances, the 180-day transition period in other comparable situations relating to tax services provided to individuals in FRORs.

Proposed Rule 3526

Initial communication with the audit committee

We support the Board's newly proposed Rule 3526, which would supersede the Independence Standards Board's Standard No. 1, *Communications with Audit Committees*, and its related interpretations. We believe that the proposed requirement to undertake independence discussions with the audit committee *prior* to engagement serves to emphasize the critical importance of auditor independence through transparent discussions undertaken at the outset of the professional engagement. The timing of such communications will provide a level of prominence to auditor independence and heightened awareness that will assist both audit committees and the auditors they retain in fulfilling their respective obligations.

Period to be covered by the initial communication

¹ Examples of non-US filing deadlines include: UK – January 31st, South Africa – February 28th, Japan – March 15th, Russia – April 30th, Germany – May 31st, and Australia – October 31st.

The Board has requested comments about the period to which the initial communication should relate. As defined within the Board's current rules, existing independence requirements apply to the "audit and professional engagement period". This long-standing, widely-known, and generally accepted principle is based on the understanding that the period during which the "reasonable investor" would expect the auditor to maintain independence with respect to the audit client includes the period covered by the financial statements on which the auditor reports (the audit period), as well as the period during which the auditor has been engaged to perform the audit (the professional engagement period). As such, we believe that, if appointment occurs during the audit period, the initial communication should cover relationships that exist or existed during the period covered by the audit that are thought to bear on the auditor's independence.

Sometimes an auditor is asked to propose on the audit of a future period e.g., respond by September 1, 2007 to a request for proposal with respect to the audit period beginning on January 1, 2008 (this is in contrast to the timing contemplated in the preceding paragraph). We suggest that for purposes of the initial communication in this circumstance, the auditor (1) make the audit committee aware of any relationships that exist at the time of the proposal and are subject to the required proposed communication; (2) discuss how these relationships bear on auditor independence; and (3) discuss any actions required.

Disclosures relating to individuals in FRORs

With regard to the proposed disclosure requirement relating to individuals in a FROR, we suggest that the Board provide an exemption in circumstances where applicable legal restrictions (such as privacy and confidentiality regulations) impede an auditor's ability to fully comply with this disclosure requirement.

We would be pleased to discuss our comments and to answer any questions that the PCAOB staff or the Board may have. Please contact Joseph Marucci (201-521-4470) regarding our submission.

Sincerely,



PricewaterhouseCoopers LLP