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**MEMORANDUM**

To  
Office of the Secretary  
Public Company Accounting Oversight Board  
1666 K Street, N. W.  
Washington, D.C. 2006-2803  
United States

Date  
24 July, 2006

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From  
Frans Samyn

*By email - Comments@pcaobus.org*

Dear Mr. Secretary,

**PCAOB Release No. 2006-004**

BDO International is a global network of independent professional accounting firms in over 100 countries worldwide. This letter is the response of BDO Global Coordination B.V., on behalf of the BDO International network to your request for comments on the Public Company Accounting Oversight Board's proposed rules, *Proposed Rules on Periodic Reporting by Registered Public Accounting Firms*. We thank you for the opportunity to comment. We are committed to working with the Board and other regulators to help ensure a strong global regulatory environment.

We recognise the importance of restoring and maintaining public confidence in financial reporting and in capital markets, particularly in the U.S. given the size of its capital markets. We commend you for the steps already taken to reach these goals. Since the formation of the Board, many non-US countries have instituted or strengthened their own regulatory bodies, while other countries are currently in the process of creating such bodies. To avoid overlap and duplication of effort wherever possible, we encourage you to continue work in a cooperative fashion with these national regulators that are striving towards the same goals and to provide accommodations for non-US registered firms whenever reasonable.

We acknowledge that the PCAOB proposal seeks to accomplish its reporting goals without imposing unnecessary burdens on registered firms and that it has eliminated some of the burdensome aspects of Form 1. Our major concern, however, is that the proposal does not sufficiently recognise certain legal impediments imposed by foreign jurisdictions. In addition, the requirement for all registered accounting firms to report information as of a particular date (which date and content may be different from the informational reporting date of non-US regulators) seems overly burdensome. Since the goal is principally to provide a profile of a firm at a point in time, we believe that the Board should allow firms flexibility in the selection of their reporting periods. Last, we believe that certain reporting requirements are unnecessary because the information is publicly available and provides no additional benefit to investors or the Board.

Our specific comments are provided below.

**Legal Impediments**

As discussed above, we continue to have concerns regarding legal impediments faced by our non-U.S. Member Firms in meeting the Board's proposed reporting requirements. For example, in some countries it would be illegal for our Member Firms to provide certain information, to give consent to the Board to access documents, or to provide testimony. This obstacle often cannot be overcome by gaining prior client or individual consent.

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Requirement to Provide Withheld Information – We appreciate the Board’s accommodation under Rule 2207, eliminating the need to file legal support for information that is withheld by a firm from Forms 2 and 3. However, we are concerned that Rule 2207(e) may ultimately require a firm to file an amended Form 2 or Form 3 to provide the withheld information. Our Member Firms will not be able to remit information that they are legally restricted from providing. We recommend that the rule include the language such as “to the extent permitted by national law.”

Consent to Cooperate – Under proposed Form 2, Item 9.1(a), a registered firm may be required to affirm that it consents to cooperate in and comply with **any** request for testimony or the production of documents made by the Board. As noted above, in some countries it would be illegal for our Member Firms to consent to give access to certain documents. We recommend that the item include the language such as “to the extent permitted by national law.”

Public Availability of Information Submitted to the Board – Under proposed Rule 2300(c) (2) (ii), a firm would be able to request confidential treatment of information. To support this request, the rule would require a firm to provide:

“a detailed explanation of the basis for asserting that the information is protected by law from public disclosure and a copy of the specific provision of law that the request claims protects the information from public disclosure.”

We recommend that the Board remove the term “detailed”, as the requirement to provide a detailed explanation is unduly burdensome. Implicit in the requirement of an explanation is the notion of adequacy, and we believe that the benchmark for this requirement should be “adequate” rather than “detailed.” Also, we recommend that the item include language such as “to the extent permitted by national law.” Although information may be available, in certain jurisdictions, the local law would prohibit its release.

### **Single Reporting Date**

Annual Reporting - The proposed rules would require each registered public accounting firm to file an annual report by June 30 covering the period from April 1 to March 31. We understand that the reason for a single reporting date is to assist the Board in organising its annual inspection program. We suggest that the Board allow flexible reporting from April to December, that is, outside the busy season months.

Many large firms have years that end between April and December and foreign regulator reporting requirements that occur within that period. Requiring firms to submit their annual reports, covering any 12-month period, in the April to December period would allow these firms to limit the number of times they have to gather financial data, furthering the Board’s goal of not imposing any unnecessary burdens. This flexible reporting requirement also would allow the Board to coordinate its work with non-U.S. regulators and generate inspection efficiencies. For example, we understand that the Canadian Public Accounting Board performs its annual inspections of some firms in the period from April to August and other firms in the period from September to December. The annual reporting requirement for information to the Canadian Public Accountability Board has a November 30<sup>th</sup> deadline.

The submission of annual reports over a period of time should more closely match the Board’s use of the reports since the inspections are also staggered. This reporting model is based on the SEC’s registrant reporting model in which issuers are allowed to report based on their actual year-ends. Investors have not found that varying report dates are an impediment to registrant analysis.

Fee Analysis - Proposed Form 2, Item 3.2 would require firms to report fees based on the same 12-month reporting period ending March 31, reported in percentages not dollars. In the proposing release, the Board observes that the purpose of the fee information is to “provide a picture of how the firm’s services for issuer audit clients compared generally with the firm’s services for other clients, and will also provide a picture of the allocation of services the firm provided to issuer audit clients.” As we discussed above, we recommend that reporting, including the reporting of fees, be based on the firm’s selected 12-month reporting period. The purpose of this requirement is to present a profile of a firm rather than provide specific fee information. Consequently, the use of any 12-month reporting period selected by a firm would lighten the firm’s reporting burden while meeting the Board’s reporting objective.

Number of Issuers – We recommend that proposed Form 2 include an item requiring firms to report the number of issuers for which the firm issued audit reports during the prior calendar year. Alternatively, the Form 2 report cover could include the following checkboxes, with the requirement that the firm check the appropriate box:

- The firm has issued audit reports for over 100 issuers.
- The firm has issued audit reports with respect to 100 or fewer issuers.

Under Rule 4003, firms that issued audit reports with respect to more than 100 issuers during the prior calendar year are subject to regular inspections. The Board could consider, as we suggested above, requiring information on the number of issuers for which the firm issued audit reports on a calendar year basis. Alternatively, the Board could consider conforming Rule 4003 to the Form 2 reporting period.

### **Current Reporting**

Redundant Requirements – We observe that the reportable events of proposed Form 3, Items 2.1 and 2.4 are already required to be reported under SEC rules, Item 4.02 of Form 8-K and Rule 10A, respectively. In keeping with the Board’s goal of limiting the burden of its rules, we recommend that these rules be eliminated as they are redundant. We do not believe that reporting these items to the Board, in addition to the SEC, will provide additional investor protection. We believe the role of the Board is firm oversight, and that the role of investor protection and issuer oversight properly belongs to the SEC.

Number of Clients – Under proposed Items 2.2 and 2.3, a registered firm would be required to report a change in its status from or to a firm with 100 or fewer issuer clients within 14 days after the calendar year in which the change occurs. We believe that this change in status provides important information about the profile of a firm and acknowledge that it is important for the Board’s inspection planning purposes. However, since the Item 2.2 and 2.3 reporting requirements are defined in terms of “a calendar year,” we believe that it is sufficient for firms to simply report the number of audit reports issued in the preceding calendar year on Form 2. If the Board disagrees, we urge the Board to extend the reporting deadline to 45 days after the calendar year end.

Criminal Proceedings – Under proposed Form 3, Item 2.5 – 2.9 and 5.1, a firm would provide information relating to certain criminal, governmental, administrative and disciplinary proceedings involving it and its personnel. As discussed above, in some countries it would be illegal for our Member Firm to provide certain information. This obstacle often cannot be overcome by gaining prior individual consent. Further, home country privacy laws may prevent disclosure even with consent. We recommend that the reporting requirements include the qualification “to the extent permitted by national law.”

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When the firm is legally able to provide information on criminal, governmental, administrative and disciplinary proceedings, we recommend a ninety rather than a fourteen day reporting deadline. In these circumstances, the firm would need to assess the situation, determine whether it should or could be reported, and obtain a legal opinion. We believe the need for the firms to report such information quickly should be balanced with their need to report these situations properly and in accordance with home country law.

Individual's Fitness – Under proposed Form 3, Item 2.6, a firm would provide information on a defined individual that is charged with a crime that “if proven, would bear materially on the individual's fitness to provide *audit services to issuers*”. The notion of “bear materially on the individual's fitness” is a very judgmental reporting standard. We recommend that the Board's define this reporting standard with a brighter line.

Catch-Up Reporting – Proposed Rule 2203 would require registered firms to provide a catch-up special report for any Form 3 reportable events that occurred between a firm's Form 1 information cut-off date and the effective date of Rule 2203. We recommend that the Rule 2203 reporting events that are similar to Form 3, Items 2.5 – 2.9 include only convictions, settlements against, and outstanding situations at the effective date of Form 3. That is, we believe that the situations that have been positively resolved are not relevant for purposes of the catch-up reporting.

## **General**

Firm's Offices – Proposed Form 2, Item 5.1 would require firms to list the address of each of the firm's offices. We recommend that for non-U.S. firms, the listing requirement be limited to the offices authorised to issue reports. For example, BDO Dunwoody LLP has 95 offices in Canada. However, only 3 of these offices issue audit reports on issuers. We believe that it is the information on these reporting offices that is relevant and that should be reported.

Amended Form 2 or 3 – Proposed Rule 2205 would require a firm that becomes aware that it has filed an incorrect Form 2 or 3, to file an amended, complete report. We recommend that the Board adopt an amendment process similar to the SEC process. That is, the Board should require only the affected items to be re-filed on the amended report.

## **Conclusion**

There are compelling reasons for the Board to implement an annual and current reporting process for registered public accounting firms, and we support the Board in this effort. We recommend that the Board provide flexibility in reporting periods and recognise certain non-U.S. legal reporting impediments prior to adoption of the reporting rules. In an accounting world in which accounting professionals and market regulators are working toward harmonisation and convergence of financial reporting standards, the Board's recognition of the non-U.S. legal reporting impediments is particularly important.

Please feel free to contact us should you have any queries about us, our international network of firms, or our comments.

Yours faithfully,  
BDO Global Coordination B.V.

  
Frans Samyn  
Chief Executive Officer