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certified public accountants

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February 28, 2012

Office of the Secretary
Public Company Accounting Oversight Board
1666 K Street, N.W.
Washington, D.C. 20006-2803

Submitted via email to: comments@pcaobus.org

Re: PCAOB Release No. 2011-008—Proposed Auditing Standard on Communications with Audit Committees and Related Amendments to PCAOB Standards

PCAOB Rulemaking Docket Matter No. 30

The New York State Society of Certified Public Accountants (NYSSCPA), representing more than 28,000 CPAs in public practice, industry, government and education, welcomes the opportunity to comment on the above captioned release.

The NYSSCPA's Auditing Standards, SEC Practice and Stock Brokerage Committees deliberated the release and prepared the attached comments. If you would like additional discussion with us, please contact Jan C. Herringer, Chair of the Auditing Standards Committee at (212) 885-8133, or Ernest J. Markezin, NYSSCPA staff, at (212) 719-8303.

Sincerely,

NYSSCPA

Richard E. Piluso
President

Attachment

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NEW YORK STATE SOCIETY OF

CERTIFIED PUBLIC ACCOUNTANTS

COMMENTS ON

PCAOB RELEASE NO. 2011-008—PROPOSED AUDITING STANDARD ON COMMUNICATIONS WITH AUDIT COMMITTEES AND RELATED AMENDMENTS TO PCAOB STANDARDS

PCAOB RULEMAKING DOCKET MATTER NO. 30

February 28, 2012

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New York State Society of Certified Public Accountants

Comments on

PCAOB Release No. 2011-007—Proposed Auditing Standard on Communications with Audit Committees and Related Amendments to PCAOB Standards

PCAOB Rulemaking Docket Matter No. 30

We appreciate the opportunity to comment on the Public Company Accounting Oversight Board's (PCAOB or the Board) Proposed Auditing Standard, *Communications With Audit Committees* (Proposed Standard). This letter is organized by first providing our answers to the questions posed in the proposed standard followed by our comments and suggestions for improvements.

Overall we support the provisions in the Proposed Standard. We believe that audit committees fulfill an important role in enhancing audit quality and that this standard appropriately recognizes their contribution in this regard. Further, the significance of effective two-way communication to a properly planned and executed audit cannot be overstated and we fully support those provisions in the Proposed Standard that advance such communication.

Responses to Questions Posed - Section VI (pages 11 to 13)

1. Are the communication requirements in the new proposed standard appropriately aligned with the performance requirements in the risk assessment standards, where applicable? If not, why?

Yes, we believe the Proposed Standard's requirements are aligned with the auditor performance requirements included in the risk assessment standards.

2. The communication requirements included in the new proposed standard are based on the results of procedures performed during the audit. Are there additional matters that should be communicated to the audit committee that also are based on existing auditor performance obligations?

We do not believe there are any necessary additional requirements.

3. The auditor is required to have the engagement letter executed by the appropriate party or parties on behalf of the company. If the appropriate party or parties is other than the audit committee, or its chair on behalf of the audit committee, the auditor should determine that the audit committee has acknowledged and agreed to the terms of the engagement.

a. Is the requirement in the standard clear?

The requirement is clear.

b. As stated, the new proposed standard allows the acknowledgment by the audit committee to be oral. Should the acknowledgement by the audit committee, or its chair on behalf of the audit committee, be required to be in a written form or is oral acknowledgment sufficient?

We believe that this acknowledgement should be in writing to avoid any misunderstanding about the nature of the engagement and the responsibilities of each of the parties.

4. Is the requirement for the auditor to communicate significant unusual transactions to the audit committee appropriate? If not, how should the requirement be modified?

We believe that it is appropriate to require the auditor to communicate significant unusual transactions only when such transactions have been determined to represent a significant risk in accordance with the guidance in PCAOB Auditing Standard No. 12, *Identifying and Assessing Risks of Material Misstatement*, paragraphs 70-71 (Factors Relevant to Identifying Significant Risks). Unless the significant unusual transaction has been determined to be a significant risk, because it results in (a) extended auditing procedures, (b) there is the likelihood of a material misstatement of the financial statements, or (c) the business rationale of a significant transaction is suspect, we do not believe it is necessary to require communication of the information in Proposed Standard paragraph 14 to the audit committee. We recommend revising Proposed Standard paragraph 14 to require communication only when the transaction has been assessed as a significant risk. Nevertheless, such a requirement would not prohibit an auditor from discussing any other matter which in the auditor's judgment warrants communication under Proposed Standard paragraph 23 of the proposal.

5. Is the requirement appropriate for the auditor to communicate to the audit committee his or her views regarding significant accounting or auditing matters when the auditor is aware that management has consulted with other accountants about such matters and the auditor has identified a concern regarding these matters? If not, how should the requirement be modified?

Yes. If the auditor believes that management has consulted with other accountants and a concern has been identified, then we believe the auditor should express his or her views to both the audit committee and management, stating the basis of concern and the rationale for his or her views.

6. Are the amendments to other PCAOB standards appropriate? If not, why?

Yes, the amendments to the other PCAOB standards are appropriate.

7. The Board requests comments regarding the audits of brokers and dealers on the following matters:

a. Whether the communication requirements under the Board's interim standard, AU sec. 380, should be applicable to audits of brokers and dealers if audits of brokers and dealers

are to be performed under PCAOB standards before the new proposed standard becomes effective?

We support providing transitional guidance to those brokers and dealers that have been following the provisions of the American Institute of Certified Public Accountants (AICPA) Auditing Standards (SAS), specifically SAS 114, *The Auditor's Communication With Those Charged With Governance*, to address the anticipated United States Securities Exchange Commission (SEC) proposal that would require audits of brokers and dealers to comply with the auditing standards of the PCAOB, which are currently less robust than SAS 114 with respect to communicating with "those charged with governance." SAS 114 applies to all audits regardless of an entity's governance structure or size and as such we believe that the communication requirements should be applicable to all audits of brokers and dealers. However, we recognize that there are many different governance structures and we support providing flexibility and auditor judgment in determining to whom to make the required communications.

If so, should it be applicable to audits of all brokers and dealers?

See above.

b. Whether the auditor's communications to audit committees included in the new proposed standard should be applicable to all audits of brokers and dealers?

While we believe that the auditor's communications to audit committees, as set out in the Proposed Standard, should be applicable to all audits, we believe that (1) guidance needs to be provided regarding to whom auditors should communicate with when all those charged with governance are also involved in managing the entity, and (2) that further clarification is needed about the matters to communicate in such circumstances since many of the communications required by the Proposed Standard may not be applicable to the audits of smaller brokers and dealers.

c. Are there any communication requirements specific to audits of brokers and dealers that should be added to the new proposed standard?

Brokers and dealers most frequent financial reporting responsibility is their periodic Financial and Operational Combined Uniform Single report ("FOCUS") filings with the SEC. This report presents information that is, as a practical matter, a financial report and for introducing brokers is recognized as being of greater importance than the annual audited financial statements. The PCAOB should require communications regarding this report with the audit committee (or equivalent body).

Alternatively, are there any communication requirements contained in the new proposed standard that should not be applicable [to] the audits of brokers and dealers? If so, provide examples and explanations for why the communication requirements for audits of brokers and dealers should be different from other audits covered by the new proposed standard.

The applicability of the communication requirements would be driven by the specific facts and circumstances of each situation. As such, and as permitted by PCAOB Section 3., Professional Standards, Rule 3101, *Certain Terms Used in Auditing and Related Professional Practice Standards*, any requirement whereby the circumstances did not exist would not be applicable.

Paragraph Level Comments and Suggestions for Improvements

Paragraph 2. "Nothing in this standard precludes the auditor from communicating other matters to the audit committee."

We believe this is also stated in Proposed Standard paragraph 23 and recommend that this duplication be deleted. However, if the Board believes this is a distinct requirement then that distinction should be more clearly stated.

This paragraph references Appendix B which lists other PCAOB rules and standards that require communication of matters to the audit committee. This listing refers to AU 316 and AU 317, while footnote 35 to Proposed Standard paragraph 23 also cites these standards. We recommend that footnote 35 be removed.

Paragraph 3. The objectives of the auditor are to:
a. Communicate to the audit committee the responsibilities of the auditor in relation to the audit and establish an understanding of the terms of the audit engagement with the audit committee;

We suggest that the "objective" be contained in the engagement letter itself which sets forth the responsibilities of both the auditor and management. Therefore, we recommend the following wording: "Establish with the audit committee an understanding of the terms of the audit engagement which include communication of the auditor's and management's responsibilities in relation to the audit."

Paragraph 6. The auditor should record the understanding of the terms of the audit engagement in an engagement letter and provide the engagement letter to the audit committee annually.

In order for the audit committee to effectively oversee the audit and "establish an understanding of the terms of the audit" (for example, audit fees and the preapproval of permissible audit and nonaudit services), the final standard should require that the engagement letter be obtained prior to the start of field work. Therefore we recommend that the timing of the engagement letter be specifically addressed.

We note that Proposed Standard paragraph 7 seems to allow for the engagement letter to be at a date after the engagement begins, but before the engagement ends. That paragraph states: "If the auditor cannot establish an understanding of the terms of the audit engagement with the audit committee, the auditor should decline to … continue … the engagement." In view of our recommendation, we suggest the word "continue" be deleted from paragraph 7.

Paragraph 6. If the appropriate party or parties is other than the audit committee, or its chair on behalf of the audit committee, the auditor should determine that the audit committee has acknowledged and agreed to the terms of the engagement.

Question 3 makes it clear that the proposal allows the acknowledgment to be oral; however, we believe this evidence is insufficient "to establish an understanding of the terms" of the audit; the acknowledgement from the audit committee should be in writing.

Paragraph 7. If the auditor cannot establish an understanding of the terms of the audit engagement with the audit committee, the auditor should decline to accept, continue, or perform the engagement.

The difference between "decline to accept" and "decline…to perform" the engagement is not clear, and we recommend deleting one or the other phrases.

Paragraph 9
Note: This overview is intended to provide information about the audit, but not specific details that would compromise the effectiveness of the audit procedures.

The Note to this paragraph also is applicable to paragraph 10(d) that discusses the scope of audit procedures performed by other auditors. We recommend that the Note be a footnote to both paragraphs 9 and 10(d).

Paragraph 10
b. The extent to which the auditor plans to use the work of the company's internal audit function in an audit of financial statements;
c. The extent to which the auditor plans to use the work of internal auditors, company personnel (in addition to internal auditors), and third parties working under the direction of management or the audit committee when performing an audit of internal control over financial reporting;

Paragraph 10(b) uses the phrase "work of the company's internal audit function" whereas 10(c) uses "work of internal auditors." We recommend that 10(c) be restated as "work of the company's internal audit function" unless there is some other distinction being made in which case these paragraphs should be clarified.

d. The names, locations, planned roles, and responsibilities, including the scope of audit procedures, of other independent public accounting firms or other persons, who are not employed by the auditor, that perform audit procedures in the current period audit; and

If the audit committee is engaging these other parties, their retention should be documented in the initial engagement letter, or in separate engagement letters. This common situation should be discussed in the final standard.

Paragraph 11. The auditor should communicate to the audit committee significant changes to the planned audit strategy or the significant risks initially identified and the reasons for such changes.

We believe that any significant change in any of the communications in paragraphs 9 and 10 should be conveyed to the audit committee, as soon as is practicable.

Paragraph 12. Accounting policies, practices, and estimates; Critical accounting policies and practices; Critical accounting estimates

The disclosures covered in this paragraph are required disclosures in financial statements and in filings with the SEC, and the audit committee is required to read such financial statements and filings. In that all of these disclosures are prepared by management and that the audit committee has an open line of communication with management and oversees the financial reporting process, we do not believe these disclosure should be required to be made by the auditor (except to the extent already required by the SEC's rules and regulations, e.g., Reg. S-X Rule 2-07, *Communication with Audit Committees*). If the audit committee needs this information we believe it can be acquired directly from management. However, we believe that such matters as set out in paragraph 12 may, based on auditor judgment, be considered necessary to discuss based on the specific facts and circumstances and, for this reason, we suggest revising the guidance in paragraph 12 so that it is not a requirement.

Notwithstanding the above, we provide the following other comments on the requirements of paragraph 12:

Paragraph 12(a). Significant accounting policies and practices.

This term is defined in footnote 15. We recommend that it be defined in Appendix A and footnote 15 be deleted.

Paragraph 12(b). Critical accounting policies and practices.

The Note under 12(b)(2) is largely repeated in Proposed Standard Appendix A except for the substitution of "financial position" for "financial condition," and the omission of "and results [of operations]." We would include the last sentence from the Note that states "Critical accounting policies and practices are tailored to specific events in the current year and the accounting policies and practices that are considered critical might change from year to year," in the definition in Appendix A at A4.

To achieve better cohesion, we recommend placing like items together, thus paragraph 13(a) discussing qualitative aspects of "significant accounting policies and practices" should be moved to 12(a) ("significant accounting policies and practices").

The Note to 13(a) (belongs with the discussion at 12(c); whereas 13(b) is best understood in the context of paragraph 12(b) and should become 12(b)(3). Lastly, conclusions about "critical accounting estimates" should be included in the communication discussion under 12(c).

Paragraph 19. The auditor should communicate to the audit committee those corrected misstatements that might not have been detected except through the auditing procedures performed, and discuss with the audit committee the implications that such corrected misstatements might have on the company's financial reporting process.

We believe that only corrected material misstatements should be communicated or where the auditor has concluded that the company's internal controls over financial reporting were not effectively designed and/or implemented, such that they result in a significant deficiency or material weakness. Additionally, since the communication described in this paragraph, as we understand it, relates to AU sec. 325, *Communications About Control Deficiencies in an Audit of Financial Statements*, we recommend providing a cross reference to that standard to clarify the relationship between the two standards.

Appendix A – Definitions.

Definition of an audit committee.

We recommend that language similar to that found in SAS 114 (AU 380.16), *The Auditor's Communication with Those Charged with Governance*, be incorporated into the final standard. This paragraph states:

> "When the appropriate person(s) with whom to communicate are not clearly identifiable, the auditor and the engaging party should agree on the relevant person(s) within the entity's governance structure with whom the auditor will communicate."

Appendix C – Matters Included in the Audit Engagement Letter.

Paragraph C1.b.2. An audit includes:
a. Integrated audit: In fulfillment of the responsibilities noted above, the auditor should communicate:

> **1. To the audit committee and management: all material weaknesses in internal control over financial reporting identified during the audit in writing.**

Insert comma "identified during the audit, in writing."

Paragraph C1.b. 2.a.4. To the board of directors: if the auditor becomes aware that the oversight of the company's external financial reporting and internal control over financial reporting by the audit committee is ineffective, that conclusion, in writing.

If the auditor determines that the audit committee is ineffective, he or she would then conclude there is a control deficiency in the company's internal control over financial reporting, therefore, we recommend that this paragraph should be footnoted and linked to paragraph 79 of AS 5, *An Audit of Internal Control Over Financial Reporting That Is Integrated with An Audit of Financial Statements - Communicating Certain Matters*, and paragraph 5 of AU 325, *Communications About Control Deficiencies in an Audit of Financial Statements.*