September 5, 2006

Nancy M. Morris
Secretary
U.S. Securities and Exchange Commission
100 F. Street, NE
Washington, DC 20549-1090

Re: File Number S7-11-06

Dear Ms. Morris:

Thank you very much for the opportunity to provide my perspective to the Securities and Exchange Commission ("the Commission"). I would like to provide the following feedback to the questions raised by Concept Release 34-54122.

1. A) Would additional guidance to management on how to evaluate the effectiveness of a company's internal control over financial reporting be useful? B) If so, would additional guidance be useful to all reporting companies subject to the Section 404 requirements or only to a sub-group of companies? C) What are the potential limitations to developing guidance that can be applied by most or all reporting companies subject to the Section 404 requirements?

Response

A) Yes, additional guidance to management would be helpful. However, I am concerned that management guidance, unless carefully articulated, could create conflicts and ambiguities with guidance provided in Auditing Standard 2 ("AS 2"). Consequently, it is important that additional management guidance be consistent with AS 2.

B) The guidance should be applicable to all public companies, including accelerated filers, small companies and foreign private filers, since they all have a responsibility to implement and maintain appropriate internal controls.

C) The guidelines need to be flexible enough to allow each management team to use their own judgment. This judgment should include the selection of key controls, the appropriate level of documentation, and the appropriate level of testing for their environment. Management's assessment should be driven by good judgment, and not the fear of an adverse opinion from their external auditor. Accordingly, the additional guidance should reiterate that managements approach to documentation and testing may differ substantially from the approach used by the auditor.

2. Are there special issues applicable to foreign private issuers that the Commission should consider in developing guidance to management on how to evaluate the effectiveness of a company's internal control over financial reporting? If so, what are these? Are such considerations applicable to all foreign private issuers or only to a sub-group of these filers?

Response

Foreign Private Issuers should be held to the same standard as U.S. registrants. However, due to the number of implementation obstacles facing foreign private issuers, an extension of the deadline for submission of their first management assessment would be appropriate.

3. Should additional guidance be limited to the articulation of broad principles or should it be more detailed?

Response

With the guidance available in AS 2, COSO, and a plethora of other sources, management has plenty of detailed information available to them. The additional guidance for management should be principle based and focus on providing management with flexible, cost effective guidance that frees management to focus on key risks at their companies.

4. Are there additional topics, beyond what is addressed in this Concept Release, that the Commission should consider issuing guidance on? If so, what are those topics?

Response

The Commission should consider a concurrent release of clarification for AS 2. Additional management guidance will inevitably create confusion and conflicts on specific issues. These issues need to be anticipated and responded to concurrent with the release of the management guidance.

5. Would additional guidance in the format of a Commission rule be preferable to interpretive guidance? Why or why not?

Response

Interpretive guidance and examples of key controls and appropriate levels of documentation and testing would be helpful. There is a significant amount of unnecessary work being performed today. This is partly due to external auditors who are incented – due to increased firm revenue, partner compensation, and a conservative risk focus - to recommend more documentation and test work than necessary.

6. What types of evaluation approaches have managements of accelerated filers found most effective and efficient in assessing internal control financial reporting? What approaches have not worked, and why?

Response

The use of the top-down risk-based approach with selective identification of key controls and appropriate documentation by the process owner has proved effective.

7. A) Are there potential drawbacks to or other concerns about providing additional guidance that the Commission should consider? If so, what are they? B) How might those drawbacks or other concerns best be mitigated? C) Would more detailed Commission guidance hamper future efforts by others in this area?

Response

A) Yes, additional guidance has the potential to create confusion and more work for registrants. It could also result in perceived conflicts if the spirit or the language is different than AS 2.

B) These problems could be mitigated in either of the following ways. First, make sure the spirit and the language is congruent with AS 2. Second, rather than issuing separate management guidance, issue clarifications to AS 2, and mandate that AS 2 is applicable to management.

C) Yes, the more detailed the guidance is, the more complicated future efforts will become.

8. A) Why have the majority of companies who have completed an assessment, domestic and foreign, selected the COSO framework rather than one of the other frameworks available, such as the Turnbull Report? Is it due to a lack of awareness, knowledge, training, pressure from auditors, or some other reason? B) Would companies benefit from the development of additional frameworks?

Response

A) The COSO framework was available, previously accepted, and easy to understand and implement. It was much more well-known in the U.S. than other frameworks such as the Turnbull Report.

B) No, the development of additional frameworks would not provide substantial benefits to registrants. One widely used framework would create more consistency and ease implementation across companies.

9. A) Should the guidance incorporate the May 16, 2005 "Staff Statement on Management's Report on Internal Control Over Financial Reporting"? B) Should any portions of the May 16, 2005 guidance be modified or eliminated? C) Are there additional topics that the guidance should address that were not addressed by that statement? For example, are there any topics in the staffs "Management's Report on Internal Control Over Financial Reporting and Certification of Disclosure in Exchange Act Periodic Reports Frequently Asked Questions (revised October 6,2004)" that should be incorporated into any guidance the Commission might issue?

Response

A) Yes, the May 16, 2005 guidance should be incorporated, by reference, into the additional management guidance.

B) The cost of section 404 compliance should still be a primary concern for the Commission. While the May 16, 2005 guidance helped, there is still a significant amount of inefficiency in the way the public accounting firms are executing their audits. This guidance should be reiterated to the public accounting firms, particularly the points regarding audit integration, risk-based focus, use of judgment and reliance on the work of others .

C) The topics covered in the October 6, 2004 document were helpful and should be incorporated, again by reference, into the additional management guidance.

10. We also seek input on the appropriate role of outside auditors in connection with the management assessment required by Section 404(a) of Sarbanes-Oxley, and on the manner in which outside auditors provide the attestation required by Section 404(b). Should possible alternatives to the current approach be considered and if so, what? Would these alternatives provide investors with similar benefits without the same level of cost? How would these alternatives work?

Response

The issuance of an independent audit report on the effectiveness of internal controls provides comfort to the investing public. The current approach is appropriate. However, the auditors should reduce costs by focusing more on audit integration, use of a risk-based approach, use of judgment and reliance on the work of others.

11.What guidance is needed to help management implement a "top-down, risk-based approach to identifying risks to reliable financial reporting and the related internal controls?

Response

More examples would be helpful.

12. Does the existing guidance, which has been used by management of accelerated filers, provide sufficient information regarding the identification of controls that address the risks of material misstatement? Would additional guidance on identifying controls that address these risks be helpful?

Response

Yes, the existing guidance provides sufficient information regarding controls that address the risk of misstatement. The Commission should reiterate that registrants and their auditors may use their professional judgment and come to different conclusions about specific controls.

13. In light of the forthcoming COSO guidance for smaller public companies, what additional guidance is necessary on risk assessment or the identification of controls that address the risks?

Response

Smaller public companies should have the flexibility to execute an assessment that is appropriate for their organization. One set of guidance should be used for all companies, but it needs to provide the flexibility necessary for many target registrants.

14. In areas where companies identified significant start-up efforts in the first year (e.g., documentation of the design of controls and remediation of deficiencies) will the COSO guidance for smaller public companies adequately assist companies that have not yet complied with Section 404 to efficiently and effectively conduct a risk assessment and identify controls that address the risks? Are there areas that have not yet been addressed or need further emphasis?

Response

The COSO guidance, along with the experience of accelerated filers and public accounting firms should provide adequate information for an effective review. However, most registrants will still experience high year one start-up costs.

15. What guidance is needed about the role of entity-level controls in evaluating and assessing the effectiveness of internal control over financial reporting? What specific entity-level control issues should be addressed (e.g., **GAAP** expertise, the role of the audit committee, using entity-level controls rather than low-level account and transactional controls)? Should these issues be addressed differently for larger companies and smaller companies?

Response

Other than IT general controls, most of these entity-level controls are well understood. The standard should be the same for all companies, but it should allow enough flexibility for different sized companies.

16. Should guidance be given about the appropriateness of and extent to which quantitative and qualitative factors, such as likelihood of an error, should be used when assessing risks and identifying controls for the entity? If so, what factors should be addressed in the guidance? If so, how should that guidance reflect the special characteristics and needs of smaller public companies?

Response

No additional guidance is needed.

17. Should the Commission provide management with guidance about fraud controls? If so, what type of guidance? Is there existing private sector guidance that companies have found useful in this area? For example, have companies found the 2002 guidance issued by the AICPA Fraud Task Force entitled "Management Antifraud Programs and Controls" useful in assessing these risks and controls?

Response

Yes, the 2002 AICPA guidance is helpful. Additional guidance is not necessary.

18. Should guidance be issued to help companies with multiple locations or business units to understand how those affect their risk assessment and control identification activities? How are companies currently determining which locations or units to test?

Response

There is currently adequate guidance to scope management's assessment. However, interpretive guidance that addresses controls that span both headquarters and other significant locations might be helpful.

19. What type of guidance would help explain how entity-level controls can reduce or eliminate the need for testing at the individual account or transaction level? If applicable, please provide specific examples of types of entity-level controls that have been useful in reducing testing elsewhere.

Response

Interpretive guidance with specific examples of entity level controls that would allow the registrant to reduce the scope and extent of process level testing would be helpful. Furthermore, there is still considerable confusion about entity and company-level Information Technology controls. Also, specific guidance regarding the reliance on automated controls that reduce the amount of manual control testing would be helpful.

20. Would guidance on how management's assessment can be based on evidence other than that derived from separate evaluation-type testing of controls, such as on-going monitoring activities, be useful? What are some of the sources of evidence that companies find most useful in ongoing monitoring of control effectiveness? Would guidance be useful about how management's daily interaction with controls can be used to support its assessment?

Response

Yes, clarification of the use of on-going monitoring activities could dramatically reduce internal costs as well as external audit fees. Management is explicitly responsible for the effectiveness of controls in their area. They have traditionally used on-going – and in some cases, real-time - monitoring and reporting tools to track and monitor the effectiveness of those controls.

Management should be allowed and encouraged to utilize these internal mechanisms as part of management's assessment of internal controls. Management should also be able to test these controls for design and operational effectiveness. Not only will this eliminate redundant third-party testing and reduce registrant cost, but it will also provide focus on the highest risk areas.

21. What considerations are appropriate to ensure that the guidance is responsive to the special characteristics of entity-level controls and management at smaller public companies? What type of guidance would be useful to small public companies with regard to those areas?

Response

As previously stated, flexibility and reliance on management's judgment is important when dealing with small public companies. In many cases they simply do not have the organizational maturity to have implemented comprehensive entity-level controls.

22. In situations where management determines that separate evaluation-type testing is necessary, what type of additional guidance to assist management in varying the nature and extent of the evaluation procedures supporting its assessment would be helpful? Would guidance be useful on how risk, materiality, attributes of the controls themselves, and other factors play a role in the judgments about when to use separate evaluations versus relying on ongoing monitoring activities?

Response

Specific examples where monitoring activities can be utilized instead of separate evaluations would be beneficial.

23. Would guidance be useful on the timing of management testing of controls and the need to update evidence and conclusions from prior testing to the assessment "as of" date?

Response

Reiterating that interim testing with a “roll-forward” follow-up is acceptable would be helpful.

24. What type of guidance would be appropriate regarding the evaluation of identified internal control deficiencies? Are there particular issues in evaluating deficient controls that have only an indirect relationship to a specific financial statement account or disclosure? If so, what are some of the key considerations currently being used when evaluating the control deficiency?

Response

Adequate guidance regarding the evaluation of identified deficiencies is available.

25. Would guidance be helpful regarding the definitions of the terms "material weakness" and "significant deficiency"? If so, please explain any issues that should be addressed in the guidance.

Response

Adequate guidance regarding these definitions is available.

26. Would guidance be useful on factors that management should consider in determining whether management could conclude that no material weakness in internal control over financial reporting exists despite the discovery of a need to correct a financial statement error as part of the financial statement close process? If so, please explain.

Response

No additional guidance is needed.

27. Would guidance be useful in addressing the circumstances under which a restatement of previously reported financial information would not lead to the conclusion that a material weakness exists in the company's internal control over financial reporting?

Response

Adequate guidance is already available.

28. How have companies been able to use technology to gain efficiency in evaluating the effectiveness of internal controls (e.g., by automating the effectiveness testing of automated controls or through benchmarking strategies)?

Response

There are not many tools available for this automation. If companies are allowed to rely upon their on-going internal monitoring, much of this automation has already occurred.

29. Is guidance needed to help companies determine which IT general controls should be tested? How are companies determining which IT general controls could impact IT application controls directly related to the preparation of financial statements?

Response

Yes, there is still much confusion regarding IT general controls. Specific examples would be helpful.

30. Has management generally been utilizing proprietary IT frameworks as a guide in conducting the IT portion of their assessments? If so, which frameworks? Which components of those frameworks have been particularly useful? Which components of those frameworks go beyond the objectives of reliable financial reporting?

Response

A heavy focus on COBIT combined with some internal IT control guidelines has been used.

31. Were the levels of documentation performed by management in the initial years of completing the assessment beyond what was needed to identify controls for testing? If so, why (e.g., business reasons, auditor required, or unsure about "key" controls)? Would specific guidance help companies avoid this issue in the future? If so, what factors should be considered?

Response

In the initial years, the level of documentation and test work was significantly beyond what was needed. The problems included confusion about what constituted a key control, how many a company should have, and what elements needed to be documented. Now that many firms have been through 3-4 years of documentation and testing, it is probably too late to provide additional guidance.

32. What guidance is needed about the form, nature, and extent of documentation that management must maintain as evidence for its assessment of risks to financial reporting and control identification? Are there certain factors to consider in making judgments about the nature and extent of documentation (e.g., entity factors, process, or account complexity factors)? If so, what are they?

Response

Now that registrants understand how many key controls (and which key controls) need to be documented, this process is much simpler. The form, nature, and extent – at least for accelerated filers – has already been decided and is part of the on-going SOX work.

33. What guidance is needed about the extent of documentation that management must maintain about its evaluation procedures that support its annual assessment of internal control over financial reporting?

Response

No additional guidance is needed.

34. Is guidance needed about documentation for information technology controls? If so, is guidance needed for both documentation of the controls and documentation of the testing for the assessment?

Response

Yes, additional guidance is needed for information technology controls. Guidance regarding documenting and testing IT general controls as well as application level controls would be helpful.

Conclusion

1) Additional guidance from the SEC would be helpful, but it needs to be carefully articulated so that it doesn’t conflict with AS 2, which could cause a lot more work for registrants and auditors.
2) The guidance needs to be principles based and provide management with flexibility to execute the assessment based on their professional judgment rather than complying with external auditor demands.

3) The guidance should include a heavy focus on cost control and remind external auditors to perform a risk based, integrated audit, with reliance on the work of management and Internal Audit.
4) It should also remind the external auditor that management's assessment approach and the auditor's approach may differ significantly (hopefully resulting in less management and external auditor work and cost).
5) Finally, the PCAOB needs to improve the timeliness of their audits of the public accounting firms, so that the firms can, in turn, modify their audit process of the registrants quicker. Those reviews also need to clarify ambiguities and reinforce the need for external auditors to be more cost effective. External auditors need quicker affirmation from the PCAOB that their top-down, risk-based approaches (theoretically reducing audit time and cost) are appropriate.

Several of these responses reflect the opinion that guidance examples would be helpful. Should the SEC also deem it helpful to provide such examples in future guidance, the most useful examples would be developed through targeted workshops or discussions with registrants. Furthermore, accelerated filers and other organizations in the third or fourth year of complying with AS 2 would most likely have the experience needed to help develop practical examples that are cost-effective yet meet the spirit of the objectives of AS 2.

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