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February 26, 2007

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

Re: File Number S7-24-06

Dear Ms. Morris:

The American Bankers Association (ABA) appreciates the opportunity to comment on the Securities and Exchange Commission's (Commission) proposal, *Management's Report on Internal Control Over Financial Reporting* (proposal). ABA brings together all categories of banking institutions to best represent the interests of the rapidly changing industry. Its membership – which includes community, regional, and money center banks and holding companies, as well as savings associations, trust companies and savings banks – makes the ABA the largest banking trade organization in the country.

We commend the Commission on its rapid release of the proposal and its efforts to assist filers with meeting the requirements of Section 404 of the Sarbanes-Oxley Act of 2002 (Section 404). The series of roundtables and public comment documents that the Commission has sponsored and solicited have resulted in the identification of a host of Section 404 issues, many of which the Commission has addressed in the proposal. The Commission has also recognized and responded to the unique circumstances and concerns of non-accelerated filers in terms of cost barriers and operational differences that they have from larger companies. The proposal accomplishes the promulgation of efficient guidance for management that has the potential to reduce costs of compliance for all filers while retaining the strong investor protections and risk focus of Section 404, essentially a win-win for investors and the companies in which they invest.

We continue to have concerns about the practical application of the proposal and the deadline by which smaller companies must implement the proposed guidance to comply with the requirements of Section 404. The first concern relates primarily to the ability of companies to implement the guidance successfully and efficiently to the satisfaction of their external auditors. The second concern is centered on the short timeline within which this standard will be released as final without trial, as well as on the need for further appropriate delay in the applicability to smaller companies.

Implementation

Our primary concern with respect to implementation involves the uncertainty as to auditor reactions to the combination of the Commission's final management guidance and the final auditing standards published by the Public Company Accounting Oversight Board (PCAOB). In May 2005, the PCAOB issued guidance that included many of the provisions that are now being proposed for inclusion in the final auditing standards. Although there was some improvement with regard to the audit firms' reactions to the May 2005 guidance, the level of improvement was insufficient. Clearly, time has passed and new audits are underway, which could result in further improvements; however, what is the incentive for audit firms to relinquish more business, even if many clients and shareholders view it as over-auditing?

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The Commission and the PCAOB are proposing important changes that should help streamline both the work and costs of Section 404, while maintaining the integrity of the internal control audit. However, these proposals will only be successful if the auditing firms accept these streamlining efforts. The realization of the goals of these efforts will be measured by: (1) an evaluation by individual filers as to whether the work and costs are reduced, and (2) the efficiency inspections of auditing firms by the PCAOB. We believe that the Commission and PCAOB have achieved the proper balance with their proposals, but monitoring the results will be extremely important in determining the success of the changes.

Timing

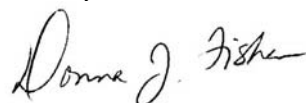
We are also concerned about the timing of both the Commission and PCAOB proposals, which were published at calendar year-end, when most filers are busy closing books and preparing for annual audits. Further, the comment periods ran the length of time that most companies are under audit and when public company filings for accelerated filers are due. This comment period did not allow filers sufficient time to analyze and respond to the proposal and, therefore, may result in less robust responses from affected companies. That said, the relief that the proposed guidance could provide is promising and needed, and for those reasons the final issuance should not be delayed. However, in order to allow sufficient time for non-accelerated filers to implement the guidance in the Commission's proposal and auditors to adjust to using the PCAOB's new auditing standards, it is necessary to provide non-accelerated filers with adequate notice (a minimum of one full year in the case of calendar year companies) so that they are not expected to invest in outdated processes and have sufficient time to understand and implement any new guidance.

We appreciate the delay of the compliance date for non-accelerated filers, and we recommend that it be further delayed until calendar year 2009 (for calendar year filers). The previous extension granted to non-accelerated filers delayed the financial burdens of Section 404 and the strain on valuable resources until costs could be reduced through experience, additional guidance for management, and improvements in the compliance process. The effect of those improvements and additional guidance, which are proposed and not yet final, will not be known until sometime late in calendar year 2008, when the PCAOB completes its efficiency inspections of audit firms for Section 404 compliance for calendar year 2007 filings. At that time, PCAOB will have had a chance to evaluate whether the revised guidance is working and internal and external costs reductions are realized. This review process should be completed and benefits assessed before non-accelerated filers are required to begin complying with Section 404. This will prevent these smaller companies from wasting valuable resources on unnecessary testing and overpaying consultants and auditors for unnecessary internal control work. Thus, under our proposed alteration in the time application, non-accelerated filers would complete management's certification for calendar year 2009 annual filings and be subject to auditor attestations for calendar year 2010.

Conclusion

We recognize the significant work that the Commission has undertaken in order to improve the Section 404 process and we thank you for addressing our concerns in the proposal. Please contact Charlie Gilman, ABA's Accounting Policy Advisor (202-663-4986 or cgilman@aba.com), or me with any questions.

Sincerely,



Donna J. Fisher

February 26, 2007

APPENDIX

Specific Questions

The following are ABA's responses to individual questions posed in the proposal.

Will the proposed interpretive guidance be helpful to management in completing its annual evaluation process? Does the proposed guidance allow for management to conduct an efficient and effective evaluation? If not, why not?

This question gets right to the heart of our concerns about implementation, which is that the changes are beneficial only if external auditors accept them. This acceptance remains to be seen.

Do the topics addressed in the existing staff guidance (May 2005 Staff Guidance and Frequently Asked Questions (revised October 6, 2004)) continue to be relevant or should such guidance be retracted? If yes, which topics should be kept or retracted?

The Commission and PCAOB proposals appear appropriately to incorporate the most pertinent topics of the 2005 staff guidance.

Will the proposed guidance require unnecessary changes to evaluation processes that companies have already established? If yes, please describe.

The proposal appears to address adequately the issue of the proposal's impact on established evaluation processes.

Will the guidance for disclosures about material weaknesses result in sufficient information to investors and if not, how would you change the guidance?

Yes. The oft-cited lack of market reaction to material weakness disclosures, as measured by share price fluctuations, demonstrates that the disclosure and reporting process surrounding Section 404 compliance is of questionable value to investors.

Should the guidance be issued as an interpretation or should it, or any part, be codified as a Commission rule?

The issue of whether the proposal should be issued as an interpretation or a rule is related directly to whether the guidance is widely accepted and to the ability of the Commission to enforce the guidance in either form if acceptance proves tepid. At this point, we recommend the proposal be released as interpretive guidance.

Should compliance with the interpretive guidance, if issued in final form, be voluntary, as proposed, or mandatory?

As previously mentioned in comment letters to the Commission, ABA supports voluntary compliance with the interpretive guidance so that companies that are currently in compliance with the requirements of Section 404 will not be required to change and incur additional costs.

Does the proposed revision offer too much or too little assurance to management that it is conducting a satisfactory evaluation if it complies with the interpretive guidance?

We believe the language in the proposal is valuable. As mentioned above, the real test is whether auditors subsequently accept the results of companies' application of the guidance.