
BRIEFING PAPER

COMPLIANCE WITH AUDITING AND RELATED PROFESSIONAL PRACTICE STANDARDS AND ADVISORY GROUPS

JUNE 30, 2003 PUBLIC MEETING OF THE BOARD

At its public meeting on June 30, 2003, the Public Company Accounting Oversight Board (the "Board" or "PCAOB") will consider whether to adopt, and submit for the approval of the Securities and Exchange Commission (the "SEC") a final rule requiring compliance with the standards adopted by the Board. The Board will also consider adopting a rule relating to the formation of advisory groups under Section 103(a)(4) of the Act.

Compliance with Auditing and Related Professional Standards

As a corollary to the Board's exclusive, statutory authority to establish and amend auditing and related professional practice standards, all public accounting firms that are registered with the Board must comply with the Board's standards. While this requirement is implicit in the Act, the Board has codified the obligation of registered firms to comply with the Board's standards in Rule 3100. Any registered public accounting firm or person associated with such a firm that fails to adhere to the Board's standards may be subject to a Board disciplinary proceeding.

Advisory Groups

The Board will also consider adopting a rule on the formation of advisory groups – Rule 3700. The Rule would provide that the Board may form one or more advisory groups to assist it in carrying out its responsibilities. Advisory groups would be composed of individuals with expertise in a variety of fields, including accounting, auditing, corporate finance and corporate governance, investing in public companies, and any other area that the Board deems relevant to one or more auditing or professional practice standards. The Rule would also provide that members of any advisory group would be selected by the Board based upon nominations, including self-

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nominations, received from any person or organization. Membership in an advisory group would be personal to the member and the duties and responsibilities of the member could not be delegated to others. Further, the Rule would provide for members to be subject to the provisions of the Board's Ethics Code^{1/} that require members to –

- avoid actual or perceived conflicts of interest;
- disclose, and, if necessary, recuse themselves from consideration of, matters that might be viewed as impairing the member's objectivity;
- not disclose non-public Board information; and,
- with respect to any private publication or public statement about the Board or the advisory group, or either of their activities, not speak on behalf of the Board unless authorized to do so.

In addition, the Board will consider whether to issue a Release discussing nominations and qualifications of members, terms and conditions of membership, the conduct of meetings, and other matters related to its use of a standing advisory group (the "SAG"). In summary:

- The SAG would consist of approximately 25 members. These members would come from a variety of fields, and would include practicing auditors, preparers of financial statements, the investor community, state accounting regulators, academics and others selected by the Board from nominations, including self-nominations.
- The Board would seek individuals with integrity and a working knowledge of one or more of the following subjects – generally accepted accounting standards, generally accepted auditing standards, public company financial statements, corporate governance and other pertinent areas.
- In addition to requiring compliance with certain provisions of the Board's Ethics Code, the Board would require as conditions of membership that SAG members (i) act in the public interest in their individual capacities; (ii) withdraw or recuse themselves from certain matters that pose potential conflicts; and (iii) attend meetings and dedicate 50 to 100 hours per year (and more if needed) to SAG service on a voluntary basis.

^{1/} See PCAOB Release No. 2003-008 (June 30, 2003) which includes the entire text of the Board's Ethics Code.

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- The SAG's first Chair will be the Board's Chief Auditor and Director of Professional Standards who will prepare the SAG's meeting agendas, organize and oversee meetings and act as the general liaison to the Board.
- The SAG will hold at least two open meetings a year (and may have more), and any final decisions on recommendations to the Board will be made at an open meeting. Presentation of SAG recommendations will be made to the Board at an open meeting of the Board.

Public Comment

Proposed Rule 3100 (and a related definition) and proposed Rule 3700 were released for public comment on April 18, 2003. The board received 22 written comment letters. In response to these comments, the Board's final Rules both clarify and modify certain aspects of the proposed Rules. Most importantly, the revisions to the Rules as originally proposed would –

- use "Auditing and Related Professional Practice Standards" as the defined term in Rule 1001, instead of the term Professional Auditing Standards;
- clarify Rule 3700(c) to provide for the acceptance of nominations for the SAG from any person or organization, including self-nominations, rather than listing specific groups. A note to the Rule has been added to clarify that the Board will announce, from time to time, periods during which it will receive nominations to an advisory group; and
- add to Rule 3700(e) a provision that SAG members would, in addition to the Ethics Code provisions set forth in the proposing release, be subject to EC10, which prohibits speaking on behalf of the Board without Board approval, with respect to any private publication or public statement about the Board or the SAG.

Adoption Procedures

If adopted by the Board, the proposed Rules will be submitted to the Securities and Exchange Commission for approval. Pursuant to Section 107 of the Act, Board Rules do not take effect unless approved by the Commission.

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The PCAOB is a private-sector, non-profit corporation, created by the Sarbanes-Oxley Act of 2002, to oversee the audits of public companies in order to protect the interests of investors and further the public interest in the preparation of informative, fair, and independent audit reports.

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