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THE NEWSLETTER FROM BDO'S NATIONAL ASSURANCE PRACTICE

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THE 2011 AICPA SEC AND PCAOB CONFERENCE

The annual AICPA National Conference on Current SEC and PCAOB Developments held on December 5-7, in Washington, DC, provided insights into the Securities and Exchange Commission (SEC or Commission) staff's views on various accounting and reporting issues. The remarks made by members of the Office of the Chief Accountant and slides presented by the Division of Corporation Finance may be accessed at the SEC's website, www.sec.gov, under Speeches & Public Statements.

OVERVIEW

Consistent with prior years, a key topic at the 2011 conference was whether US issuers will transition to International Financial Reporting Standards (IFRS) – a decision that has been deferred by the SEC until at least 2012. The staff emphasized that the convergence process between the Financial Accounting Standards Board (FASB) and the International Accounting Standards Board (IASB), as well as its own work plan regarding the incorporation of IFRS for US issuers, are key considerations for any decision. Both projects have experienced significant delays and the staff provided updates on their status.

The SEC staff also stressed the importance of complete and transparent disclosures from the perspective of an investor. Registrants were urged to pay particular attention to disclosures involving liquidity, goodwill impairment and pension plans as they could be particularly relevant in the current economic environment.

The following comments provide additional insight into the SEC staff positions on these and other accounting and reporting issues.

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INTERNATIONAL FINANCIAL REPORTING STANDARDS FOR US ISSUERS

In 2010, SEC Chairman Schapiro was optimistic that by mid 2011 a decision would be made as to whether IFRS should be incorporated into the US reporting system. The original timeline was predicated on the completion of the convergence projects of the FASB and the IASB (as outlined in their work plan at the time) and the staff's execution of its work plan. Both were to provide important information necessary for the Commission's consideration of IFRS. As most are aware, there have been delays in both projects and the SEC staff acknowledged that a decision would not be made in 2011.

CONVERGENCE

Based on input from constituents, the boards are now focused on key projects (e.g., revenue, leases and financial instruments) and are providing additional time for added deliberation and due process. As a result, the remaining projects from the original Memorandum of Understanding (MOU) have been delayed even further. The SEC staff was supportive of these changes in focus and emphasized that the ultimate success of the convergence project should be measured by the quality of the resulting output and not by the delays. But the SEC staff expressed concern regarding the prospect of convergence on financial instruments. The staff cautioned that it is critical that all steps be taken to maximize the possibility of converged, high-quality standards. To ensure an optimal outcome, the staff stressed that MOU projects should be handled with integrated teams, joint deliberations and shared timelines and objectives.

SEC STAFF WORK PLAN

In 2010, the SEC staff was directed to develop and execute a work plan whose purpose was to assist the Commission in determining whether, when and how to transition to IFRS. The work plan was to address specific areas including: (a) the development and application of IFRS, (b) the independence of the standard setters, (c) investor understanding and education, (d) the US regulatory environment, (e) the impact on issuers, and (f) human capital readiness.

The staff indicated that it is in the final stages of the "field work" and that a few additional months will be needed to produce the final report. In the meantime, two progress reports have been recently released – one that compares US GAAP and IFRS and another that analyzes IFRS in practice. In the latter report the staff observed that financial statements appear to comply with IFRS but noted two overriding themes. First, the staff felt that transparency and clarity could be enhanced. Second, the staff noted that diversity in the application of IFRS presented challenges in comparing financial statements across countries and industries. However, the SEC staff observed that such diversity was not unexpected and that other factors such as global auditing standards and local enforcement impact how a standard is applied.

The staff is also developing, for the Commission's consideration, an approach on incorporation of IFRS into the US financial reporting system. As with the convergence project, the staff emphasized that the focus should be on establishing a strong and lasting framework and not on delays in timing. In the view of the SEC staff such a framework should:

- Demonstrate the US commitment to the continued development and use of high quality global accounting standards.
- Provide clear US authority over standards applicable to the US capital markets.
- Provide the US a strong voice in the process of establishing global accounting standards.
- Be responsive to change.
- Consider the retention of "US GAAP" to mitigate costs and complexity (e.g., contracts or US laws that specifically refer to US GAAP).

FINANCIAL REPORTING SERIES

In 2011, the SEC introduced a new program referred to as the Financial Reporting Series. Under the program a series of roundtables will be held each year to provide a forum for open and informed discussions on some of the most difficult financial reporting topics. The participants will represent a cross section of stakeholders – investors, preparers, auditors – and interested observers (FASB, PCAOB, regulatory bodies) will be invited, when appropriate. The objectives are twofold: (a) to identify risks involving financial reporting early and to respond proactively and (b) to develop a comprehensive and integrated approach with other regulatory agencies to address such risks.

The kick-off was held in November with a roundtable discussion on uncertainty in financial reporting and, in particular, issues involving measurement and disclosure. The SEC staff observed three overriding themes from the perspective of the investor:

- Financial reporting should focus on past events and not on projections in the future (i.e., financial reporting and not financial analysis).
- Financial results should be reported in a transparent, objective and comparable manner.
- A reporting framework should be developed to better capture how inputs are used to generate investor value.

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ACCOUNTING

PRICING SERVICES

Determining the fair value of some financial instruments can be a complex process that relies heavily on assumptions and estimates. As a result, third-party pricing services are often used to assist management in estimating and disclosing the fair value of such instruments. Although pricing may be performed for a broad range of securities, it typically involves level 2 inputs (i.e., quoted prices for similar instruments that may or may not be actively traded). Regardless of third-party involvement, the SEC staff stressed that management is ultimately responsible for: (a) complying with GAAP (including disclosures), (b) maintaining appropriate internal controls to prevent or detect material misstatements, and (c) assessing such controls on an annual basis.

To ensure that the fair value measurements and disclosures are appropriate, management needs to understand the valuation techniques, assumptions and inputs used by the pricing service. To gain such an understanding, management could be required to perform procedures different from those used with other specialists. For example, when dealing with actuaries in connection with a pension plan, management may be involved in determining certain assumptions and may have visibility into the methodology used. Pricing services, on the other hand, typically make assumptions about inputs (e.g., what qualifies as a similar security or an inactive market) without management involvement or insight.

As a result, management needs to consider how the pricing service developed the assumptions and models in order to ensure the estimates are consistent with that of a market participant and properly classified within the fair value hierarchy. If such information is not available, or accompanied by caveats and disclaimers, management may not have enough information to assess the appropriateness of the price and compliance with the standards.

In terms of controls and procedures, the SEC staff cautioned registrants that using pricing service information to estimate fair value introduces additional risks as to the reliability of financial reporting. The pricing information may be incomplete or inaccurate and the prices may not be exit prices or consistent with fair value definitions. When assessing the risk of material misstatements related to estimated fair values the staff encouraged registrants to consider the following:

- Nature and complexity – issuer, term, coupon, collateral, cash flow waterfall, priority in default and other key drivers of value.
- Level of market activity – normal activity in the market and any changes, the nature of the market (balances, exchange) and the analysis of bid-ask spreads.
- Availability of market data – data compilation, timeliness, alternative markets and assessment of trades for adequate size and distress.

The SEC staff also described some procedures in practice that registrants may consider when designing controls to address identified risks. For example, some registrants obtain detailed information (e.g., assumptions and inputs) from a pricing service for securities whose valuations appear unusual or unexpected (a “pricing challenge”) or for a sample of selected securities (a “deep dive”). Some monitor the pricing service assumptions, including any changes, or relevant market data. And others review and consider the information provided in independent audit reports on internal controls of pricing services. However, registrants were advised to approach this last procedure with caution since the reports may explicitly exclude an evaluation of the accuracy of the estimated prices, the assumptions or inputs used in the valuation, or the observable or unobservable nature of inputs.

In March and September of 2008, the staff issued letters to registrants urging greater transparency regarding fair value measurements in Management’s Discussion and Analysis (MD&A). Registrants were encouraged to revisit the guidance in these “Dear CFO Letters” which are available on the SEC’s website at *www.sec.gov/divisions/corpfin/guidance/fairvalueltr0308.htm* and *www.sec.gov/divisions/corpfin/guidance/fairvalueltr0908.htm*.

Additionally, the staff suggested that management consider the following questions when using third-party pricing services:

- Do we have sufficient information about the values provided by pricing services to know that we are complying with US GAAP?
- Have we adequately considered the judgments that have been made by third parties in order to be comfortable with our responsibility for the reasonableness of such judgments?
- Do we have a sufficient understanding of the sources of information and the processes used to develop it to identify risks to reliable financial reporting?
- Have we identified, documented and tested controls to adequately address the risks to reliable financial reporting?

LEASE ACCOUNTING

Under US GAAP, the concept of minimum lease payments in connection with lease classification is fairly clear. If the present value of such payments exceeds 90 percent of the fair value of the asset, the arrangement (from the perspective of the lessee) is accounted for as a capital

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lease. The difficulty arises in identifying the types, and amounts, of payments that must be considered in determining minimum lease payments.

The SEC staff noted that guidance regarding non-performance default covenants may be overlooked in practice. These covenants typically relate to the financial condition of a company (e.g., maintenance of ratios) and, in the event of a default, may require the lessee to make additional payments or purchase the asset. Payments under such default covenants may only be excluded from minimum lease payments if all of the following conditions are met:

- The provision is customary in financing arrangements.
- The occurrence of the event of default is objectively determinable.
- The determination of the event of default is based on pre-defined criteria.
- It is reasonable to assume the event of default will not occur.

The SEC staff shared a number of observations when considering the criteria for purposes of assessing classification. First, a subjective acceleration clause would not satisfy the second or third condition and would require inclusion in the minimum lease payments. Second, when assessing a default covenant the probability that the clause would actually be invoked by the lessor should not be considered. And lastly, if the criteria are not met, the minimum lease payments should include the maximum amount the lessee could be required to pay. In light of these observations, registrants may need to review their lease agreements and revisit their prior accounting conclusions.

ERROR CORRECTIONS

The SEC staff noted that some registrants are improperly accounting for errors in previously issued financial statements as reclassifications. An error, as defined, is a misapplication of US GAAP involving “recognition, measurement, presentation or disclosure.” In contrast, a reclassification is a change from one acceptable presentation under US GAAP to another. For example, a registrant may have initially believed it was the principal in an arrangement and later concluded it was the agent. In this scenario, the revision to reflect revenue on a net basis rather than gross would be a correction of an error.

Restated financial statements are required to include extensive disclosure to highlight the nature and impact of a correction of an error. What was unclear in practice was when these disclosures could be removed in connection with an initial registration statement. The SEC staff clarified that restatement disclosures must be retained until an update of the annual financial statements is reflected in the filing. In a fact pattern described by the staff, a company filed an initial registration statement (including annual financial statements for 2008-2010); an error was identified during the SEC review process; and a pre-effective amendment was filed with restated 2009 financial statements. The restatement disclosures would only be removed when the financial statements were updated to include a more recent annual fiscal year (i.e., when 2011 financial statements were issued).

The point of the restatement disclosures is to provide investors sufficient time to understand and consider the adjustments. As such, registrants were advised to contact the SEC staff prior to filing if the application of this guidance would result in disclosures being included in a filing for only a very short period of time. The staff also clarified that any revisions to financial statements to comply with “public company GAAP” (including SEC rules) made in connection with an initial registration statement would not be viewed as error corrections.

INCOME TAXES

When assessing whether deferred tax assets are realizable, all available information – both negative and positive – must be considered. US GAAP states that “forming a conclusion that a valuation allowance is not needed is difficult when there is negative evidence such as cumulative losses in recent years.” The SEC staff indicated that it would be difficult to conclude that the current economic downturn is an aberration. Cumulative losses in recent years are a significant source of negative evidence that would be difficult to overcome.

SEC RULES

PRO FORMA FINANCIAL INFORMATION

In certain circumstances (e.g., significant business combinations or dispositions), Article 11 of Regulation S-X requires registrants to present pro forma financial information. The information is intended to show investors how a specific transaction or event may have affected the historical financial statements and is accomplished by way of discrete adjustments to historical financial information.

Adjustments to the historical financial information may only be reflected if they are: (a) directly attributable to the specific transaction, (b) factually supportable, and (c) for purposes of the pro forma income statement only, expected to have a continuing impact. However the terms are not defined and questions and inconsistent application have arisen in practice.

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The SEC staff clarified that an adjustment must be directly attributable to the "specific" transaction that triggered the pro forma requirement. As an example, the staff described an initial registration statement that included pro forma financial information for a probable business combination. In this scenario, reflecting the incremental costs of becoming a public company or eliminating any goodwill impairment charge previously recognized by the target would be inappropriate since neither relates to the specific transaction that triggered the pro forma disclosure – namely the currently contemplated acquisition.

To be considered factually supportable, the staff believes an adjustment must be supported by documented evidence (e.g., an executed agreement or completed transaction) and free of uncertainty. For example, adjusting for the estimated effects of compensation agreements a company "expects" to negotiate with employees would be inappropriate. Similarly, compensation expense based on a workforce termination in connection with a business combination should not be eliminated because the related effects on revenue and operations are too uncertain.

Lastly, continuing impact is interpreted as an impact that extends beyond one fiscal year. Acquisition costs should not be reflected in a pro forma income statement since they are non-recurring.

NON-GAAP MEASURES

In 2010, the SEC staff revised its interpretive guidance on non-GAAP measures. Certain restrictions and prohibitions were removed with the hope that the measures would provide useful information for investors. Unfortunately, the staff noted an increase in the presentation of inappropriate and misleading non-GAAP measures. In one particularly troubling case, a registrant removed an expense that was not only traditional and recurring in nature, but the largest operating expense on its income statement. Registrants were warned that non-GAAP measures that are misleading will not be allowed in any communications – whether inside or outside a filing (e.g., press releases on earnings releases).

DISCLOSURES

The SEC staff stressed that investors need complete and transparent disclosures in order to make informed investment decisions. Despite repeated reminders through comment letters, conferences and speeches, the staff noted that there is still room for improvement. Some disclosures do not comply with US GAAP or IFRS; others are not transparent or clear. The staff provided the following observations and suggestions for registrants to consider when drafting their disclosures. Some may be particularly pertinent in light of the current economic environment. Others may be familiar from similar observations made in years past.

DISCLOSURE OVERLOAD

The SEC staff noted that there is a general sense of "disclosure overload." The FASB continues to require more extensive and prescriptive disclosures, some of which duplicate disclosures already required under Regulations S-K or S-X. Registrants who have expanded their disclosures in response to SEC staff comment letters are often hesitant to remove them for fear of another comment. The staff was hopeful that this issue may be addressed through the FASB's current framework project but offered a few suggestions in the meantime.

First, disclosure is not required for matters that are immaterial. Staff Accounting Bulletin 74 disclosures on the impact of recently issued, but not yet adopted, standards should be limited to those that are expected to materially affect a registrant. Similarly, accounting estimates and policies that are not expected to have a material effect on the financial statements are not necessary. Second, disclosures should be prepared for investors and not for the SEC staff. If a disclosure relates to a prior staff comment or matter that is no longer relevant or material it should be removed. And lastly, if the same information is required in the notes to the financial statements and the forepart of the document (e.g., litigation or critical accounting estimates), cross-referencing may be an option. However, registrants should be mindful that the notes to the financial statements must stand on their own.

LIQUIDITY IN MD&A

A robust discussion of liquidity allows investors to understand the liquidity and funding risks facing a registrant. Over the years the staff has provided suggestions for improving the usefulness of such discussions. In 2003, the SEC staff issued guidance regarding MD&A in Financial Reporting Release 72. And again in 2010, the staff issued guidance specific to liquidity and capital resources disclosures within MD&A in Financial Reporting Release 83. The SEC staff encouraged registrants to consider the guidance when drafting their discussions. The interpretive releases are available on the SEC's website at *www.sec.gov/rules/interp/33-8350.htm* and *www.sec.gov/rules/interp/2010/33-9144.pdf*.

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SEGMENTS

Investors continue to indicate that disaggregated information is useful in understanding a registrant's operations and assessing its prospects for the future. As such, the SEC staff continues to focus on compliance with the reporting requirements and shared a number of observations. Operating segments may not be aggregated into a reporting segment if they do not share similar economic characteristics (one of a number of characteristics specified in US GAAP). The economic measures for such an analysis are not pre-defined and may vary by registrant based on the industry or key drivers of the business (e.g., gross profit or operating profit).

Registrants should consider the underlying objectives of the disclosure. If separate disclosure would impact an investor's ability to understand past performance and assess the prospects for the future, disaggregated information should be provided. Segments should be discussed on a consistent basis in all communications (whether inside or outside public filings). If a more granular discussion of the business is important and presented in communications with investors (e.g., earnings releases or investor calls), similar discussions should appear in publicly filed documents. Lastly, registrants should be alert to possible changes in the identification or aggregation of operating segments as a result of changes in the business or manner in which it is conducted (e.g., changes in internal reporting, managerial or organizational changes, and acquisitions or dispositions).

GOODWILL IMPAIRMENT

Proper identification of reporting units is a critical first step to any goodwill impairment assessment. Since errors continue to arise in the identification of these units, the staff reminded registrants of the interplay with segment reporting. First, a reporting segment that is an aggregation of operating segments cannot be a reporting unit. By definition, a reporting unit is an operating segment or one level lower. Second, only components that have similar economic characteristics and are within the same operating segment may be aggregated into a reporting unit.

If a reporting unit with material goodwill is at risk of failing the first quantitative step in a goodwill impairment assessment (i.e., its fair value is not substantially in excess of its carrying value), the disclosures in the critical accounting estimates section of MD&A should be expanded. As described in Section 9510 of the Financial Reporting Manual (FRM), registrants should disclose: (a) the percentage by which fair value exceeded carrying value, (b) the amount of goodwill allocated to the reporting unit, (c) the key assumptions driving fair value, and (d) any uncertainty or potential events that could negatively effect the key assumptions.

As for recent changes in the goodwill impairment assessment model, the staff noted that it does not expect the introduction of the optional qualitative assessment to materially change the outcome of the testing. Nor does it believe registrants must disclose whether or not a qualitative assessment was performed.

PENSION AND OTHER POSTEMPLOYMENT BENEFIT (OPEB) PLANS

Low interest rates and declining returns on plan assets have negatively impacted the funding status of many plans. Some registrants, in order to meet their minimum statutory funding requirements, may need to increase the amount of future contributions. Others may decide to change their asset investment strategies to better align their maturities with the future benefit payouts (i.e., invest in fixed income securities). The staff noted that such changes should be addressed in MD&A, as well as the anticipated effects on expected returns and future funding obligations. Discount rates must be reevaluated each year to determine whether they reflect current effective settlement rates. The staff would expect a decline in interest rates to be accompanied by a similar decline in the discount rate.

Some registrants are changing their accounting policies to accelerate the recognition of actuarial gains and losses; a change that must be accompanied by a preferability letter from the registrant's auditor. The staff observed that the revised accounting would likely be viewed as: (a) more transparent, (b) more consistent with IFRS, or (c) a means to eliminate the deferral of losses to future years. If gains and losses will only be recognized once a year in connection with the annual measurement date, registrants should disclose any significant fourth quarter adjustments and provide foreshadowing disclosures in quarterly MD&A, if warranted.

LOSS CONTINGENCIES

Disclosures regarding loss contingencies are required under both US GAAP and SEC rules (e.g., legal proceedings, MD&A). Although all of these disclosures alert readers to potential losses that may occur, the specific objectives and requirements are different. The focus in MD&A is on the potential impact on future operations and liquidity (known uncertainties) and in legal proceedings on asserted claims that exceed 10 percent of current assets. As a result, the SEC staff cautioned registrants against replicating forepart disclosures in the notes to the financial statements.

If a loss is reasonably possible (including a loss in excess of any amounts accrued), registrants must provide either: (a) an estimate of the loss (an amount or range) or (b) a statement that an amount cannot be estimated (after a concerted effort has been made). If the impact is expected to be immaterial, the staff believes an affirmative statement to that effect is necessary to make any disclosure that is made transparent and complete. The staff also reminded registrants that losses may be disclosed in the aggregate and that a link between

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a particular case and a loss is not necessary. For example, if a registrant is involved in multiple legal proceedings and some losses are estimable and others are not, a statement to that effect along with a range of losses would be sufficient.

The staff noted that litigation typically evolves over time and accruals and disclosures should evolve in a similar fashion. Litigation should be monitored on a regular basis and disclosures updated as matters progress (i.e., material losses should be preceded by foreshadowing disclosure and there should not be any "surprises"). If legal fees are material, registrants should include an accounting policy stating whether fees are recognized as incurred or on the same basis as the loss contingencies (i.e., accrued when probable and estimable). Lastly, if the estimated losses are presented net of third-party recoveries under US GAAP, registrants should disclose: (a) the amount of the estimated recoveries, (b) any uncertainties or limitations involving recovery, and (c) the income statement classification.

FOREIGN OPERATIONS

INTERNAL CONTROL AND KNOWLEDGE OF US GAAP

In 2010, the SEC staff began issuing comment letters to domestic issuers whose operations were substantially outside the US; a process that was expanded in 2011 to include foreign private issuers. The letters focus on registrants that either became public through reverse acquisitions with US public shells or elected to report under US GAAP. They are designed to determine whether there is sufficient knowledge and capability to prepare US GAAP financial statements.

The letters request specific information as to the nature of US GAAP experience (e.g., professional qualifications, work experience, education and training) for those individuals responsible for maintaining the books and records and for preparing the financial statements, including any third-party CPAs or consultants. If there appears to be a lack of US GAAP experience the SEC staff is challenging any assertion that the internal control over financial reporting is effective. The goal of the letters is to disclose material weaknesses, if appropriate, and ultimately to improve the overall quality of financial reporting.

FOREIGN INCOME TAXES

Under US GAAP, deferred taxes are not provided for an investment in a foreign subsidiary that is essentially permanent in duration (i.e., intent is to reinvest the earnings in the subsidiary). However, if plans change and earnings are expected to be repatriated, taxes must be accrued and paid. The SEC staff believes the potential impact of such decisions on a company's liquidity is important for investors. As such, registrants who intend to reinvest indefinitely should include the following in their liquidity discussions:

- The amount of cash and short term investments held by the foreign subsidiaries (i.e., funds unavailable for domestic operations).
- A statement that the company would need to accrue and pay taxes if repatriated.
- A statement that the company does not intend to repatriate the funds, if true.

Some foreign countries, such as Ireland, have very low tax rates. In light of the current climate, the staff noted that such rates may not be sustainable in the future and increases in statutory rates could negatively impact a registrant's liquidity. If a registrant derives a disproportionate amount of its profit from such countries, the pre-tax income and effective tax rates of the operations conducted in each country should be disclosed. Such disaggregated disclosures would also help investors in understanding a registrant's consolidated tax position.

INVOLVEMENT WITH VARIABLE INTEREST ENTITIES (VIES)

In China, foreigners (individuals or corporations) are not allowed to hold direct ownership in Chinese businesses involved in certain industries. As a result, control is often based on contractual arrangements and the rights they convey to the various parties. The SEC staff urged registrants to perform a thorough and comprehensive review of such contractual arrangements to ensure that consolidation of a VIE is appropriate (i.e., that the registrant is in fact the primary beneficiary).

Detailed information regarding the contractual arrangement, as well as management's assessment, is critical if investors are to understand the basis of accounting and the risks involved. Registrants should describe how power and economic benefits have been granted under the contract. Significant terms such as renewal dates and opportunities for the VIE operator to exit the contract should be disclosed. Lastly, registrants should identify and describe risks and uncertainties including: (a) uncertainties regarding enforcement and regulations and (b) the potential for conflicts of interest between the owners of the subsidiary and the VIE.

If consolidation is deemed appropriate, registrants should disclose their financial position, performance and cash flows apart from those of the VIE. This disclosure may be provided in a narrative or through condensed, consolidating financial information.

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FOREIGN CURRENCY FLUCTUATIONS

There has been significant volatility in exchange rates over the last year. As a result, the staff reminded registrants of their reporting obligations regarding foreign currency exchange rate risk under Item 305 of Regulation S-K. Specifically, registrants are responsible for disclosing: (a) the nature of the currency risk, (b) how the risk is managed, (c) any changes in either the currency risk or how it is managed, and (d) the impact of any known trends or anticipated exchange rates on future reporting periods. Registrants should also consider the impact of exchange rate fluctuations on key performance measures such as backlog or same store sales.

INTERNATIONAL

CANADIAN ADOPTION OF IFRS

For years beginning on or after January 1, 2011, Canadian-listed companies are required to prepare financial statements in accordance with IFRS, including interim financial statements issued prior to the first annual IFRS financial statements. During this transition year, registration statements filed by foreign private issuers could result in financial statements prepared under inconsistent bases of accounting (interims under IFRS and recent annuals under previous GAAP).

Form 20-F (general instruction G) specifically addresses this lack of comparability and provides guidance, in the form of three presentation options, for interim financial statements in the year of transition. However, the alternatives offered require the registrant to either maintain financial information for these periods under US GAAP or previous GAAP or to recast prior periods to IFRS. As a result, many registrants may find these alternatives difficult from a recordkeeping or cost/benefit perspective.

Any financial statement presentation that does not comply with the options outlined in Form 20-F must be pre-cleared with the SEC staff. The staff reminded registrants that the financial statement presentation must provide a "bridge" for investors between the annual financial statements (based on previous GAAP reconciled to US GAAP) and the IFRS financial information. While other alternatives may be acceptable, the staff provided two approaches for registrants to consider when developing their submissions, as outlined in Section 6340 of the FRM. Both approaches require the inclusion of three years of previous GAAP annual financial statements reconciled to US GAAP.

- Bridging forward to IFRS – the IFRS interim financial statements (including comparative and cumulative year to date periods) would be IAS 34 compliant and contain enhanced IFRS 1 reconciliations and disclosures typically included in an annual set of IFRS first-time adoption financial statements.
- Bridging back to US GAAP – the IFRS interim financial statements (including comparative periods and cumulative year to date periods) would be IAS 34 compliant and reconciled to US GAAP.

RULE CHANGES EFFECTIVE FOR 2011

In 2008, the SEC finalized its rules on reporting enhancements for foreign private issuers. Many of the provisions – perhaps the most significant – were delayed and became effective for years ending on or after December 15, 2011. The staff highlighted some of the changes that will directly impact the annual reports filed on Form 20-F:

- The filing date has been accelerated from six months after year end to four months (i.e., annual reports for calendar year registrants will be due April 30, 2012).
- Reconciliations of registrant financial statements to US GAAP, if required, must comply with Item 18 of Form 20-F. In addition to describing and quantifying material differences, foreign private issuers will now be required to provide all other information required by US GAAP and Regulation S-X (e.g., disclosures).

IFRS AS ISSUED BY THE IASB

The SEC staff reminded registrants and auditors that the US GAAP reconciliation may only be omitted if the financial statements have been prepared in accordance with "IFRS as issued by the IASB." If the specific phrase is not included in both the financial statements and the audit report the filing will need to be amended to include either the appropriate wording or a US GAAP reconciliation.

XBRL FILINGS

The XBRL filing date for IFRS issuers, originally scheduled for June of 2011, has been deferred. The IFRS XBRL taxonomy is currently being expanded to include elements commonly used in practice and definitions. After completion and SEC approval, the staff expects at least a six month transition period, consistent with the transition period provided in the original rule, before filings will be required.

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COMMENT LETTERS AND CONSULTATIONS

The SEC staff instituted a number of procedural changes relating to the comment process. Comment letters are now being sent directly to registrants (generally the CEO or CFO) via email. To facilitate the process, registrants were encouraged to keep their EDGAR contact information current. Beginning in January 2012, the release of filing review correspondence will be accelerated. Comment letters and responses will now be published beginning 20 business days after completion of a review rather than the previous policy of 45 days.

The staff in the Office of the Chief Accountant has set up an informal, no-name consultation process referred as the "accountant on call." The hotline is intended to assist registrants in identifying literature to consider when analyzing a particular accounting issue. The SEC staff stressed that the role is to assist a registrant in its research and that staff positions or staff "leanings" will not be provided.

THE AUDITING PROFESSION

The PCAOB issued two concept releases in 2011, one on the auditor reporting model and the other on auditor independence (including mandatory audit firm rotation). PCAOB Chairman Doty stressed that the objective of the first release is to make the audit report more relevant and useful to investors – not to change the role of the auditor. Based on the comment letters received, stakeholders generally agreed that the "pass/fail" opinion should be retained but believed that changes should be made to address the information gap and expectation gap that exist today. However, he noted that there was no similar widespread support for any of the alternatives proposed.

As for the second concept release, the discussion focused on possible mandatory audit firm rotation, a concept that has been the subject of heated debate. Chairman Doty acknowledged that mandatory term limits would present implementation challenges but noted that such a model currently exists in a number of countries and has recently been proposed by the European Commission. He emphasized that the objective is to reduce pressure on an auditor's independence, objectivity and professional skepticism and that auditor rotation is simply one approach being considered. Stakeholders were encouraged to share their ideas regarding other reforms or alternative actions, if any, that could accomplish this stated goal.

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