

**CENTER FOR AUDIT QUALITY
INTERNATIONAL PRACTICES TASK FORCE
March 4, 2008 Teleconference
HIGHLIGHTS**

The CAQ SEC Regulations Committee's International Practices Task Force (the "Task Force") meets periodically with the Staff of the SEC to discuss emerging technical accounting and reporting issues relating to SEC rules and regulations. The purpose of the following highlights is to summarize the issues discussed at the meetings. These highlights have not been considered and acted on by senior technical committees of the AICPA, or by the Financial Accounting Standards Board, and do not represent an official position of either organization. In addition, these highlights are not authoritative positions or interpretations issued by the SEC or its Staff. The highlights were not transcribed by the SEC and have not been considered or acted upon by the SEC or its Staff. Accordingly, these highlights do not constitute an official statement of the views of the Commission or of the Staff of the Commission.

ATTENDANCE

Task Force Members

D.J. Gannon, Chairman (Deloitte & Touche)
Paul Curth (Ernst & Young)
Jon Fehleison (KPMG)
Steve Krohn (KPMG)
Debra MacLaughlin (BDO)
Tim Martin (McGladrey & Pullen)
Carol Riehl-Banford (Grant Thornton)
David Schmid (PwC)

Observers

Wayne Carnall (SEC Staff Observer) Paul Dudek (SEC Staff Observer)
Chris Holmes (SEC Regulations Committee Observer)
Cheryl Linthicum (SEC Staff Observer)
Craig Olinger (SEC Staff Observer)
Annette Schumacher Barr (CAQ Staff Observer)
John Wolfson (SEC Regulations Committee Observer)

Agenda Topics

I. SEC Release on Acceptance from Foreign Private Issuers of Financial Statements Prepared in Accordance with IFRS Without Reconciliation to U.S. GAAP

Background

On December 21, 2007, the SEC adopted its final rule *Acceptance from Foreign Private Issuers of Financial Statements Prepared in Accordance with IFRS Without Reconciliation to U.S. GAAP*. Since the issuance of the final rule, several implementation questions have arisen.

Conclusion

In an effort to promote consistency in the application of the final rule and reduce uncertainties foreign private issuers may face, the Task Force has developed an implementation questions document (see Appendix A). The SEC staff has indicated that it does not object to the views expressed therein

Implementation Questions:**SEC Release No. 33-8879 – *Acceptance From Foreign Private Issuers of Financial Statements Prepared in Accordance with International Financial Reporting Standards Without Reconciliation to U.S. GAAP***

On December 21, 2007, the SEC adopted its final rule *Acceptance from Foreign Private Issuers of Financial Statements prepared in Accordance with International Financial Reporting Standards without Reconciliation to U.S. GAAP*. Since the issuance of the final rules and adopting release, several implementation questions have arisen. In an effort to promote consistency in the application of the final rules and reduce uncertainties foreign private issuers may encounter, the CAQ International Practices Task Force discussed the following implementation questions with the SEC Staff and the SEC Staff has indicated that it does not object to the views expressed in the answers set forth below. The parenthetical references are to pages in Release No. 33-8879 (hereinafter, referred to as the “adopting release” or “Release”) and are included to facilitate reference to the Release as it relates to the specific question.

Compliance Date and Transition

The Release defines the “Compliance Date” and states that “amendments regarding acceptance of financial statements prepared in accordance with IFRS as issued by the IASB are applicable to financial statements for financial years ending after November 15, 2007 and interim periods within those years contained in filings made after the effective date.” Based on the publication date in the Federal Register, the effective date is March 4, 2008. Pursuant to the adopting release, a foreign private issuer (“FPI”) is eligible to omit the reconciliation to U.S. GAAP if it states, unreservedly and explicitly in an appropriate note to the financial statements, that its financial statements are in compliance with IFRS as issued by the IASB. Also, the independent auditor must opine in its report on whether those annual financial statements comply with IFRS as issued by the IASB (Page 30 and Item 17(c) of Form 20-F).

- Q1. For filings made after the effective date that include annual financial statements for periods after the Compliance Date, are the comparative financial statements presented for periods ending prior to the Compliance Date required to be reconciled to U.S. GAAP if they were prepared in accordance with IFRS as issued by the IASB?

Example Scenario: An FPI with a December 31 year-end files its annual report on Form 20-F in April 2008. The Form 20-F includes audited financial statements for the years ended December 31, 2007, 2006 and 2005. The FPI states unreservedly and explicitly in a note to the financial statements that its financial statements are in compliance with IFRS as issued by the IASB. Also, the independent auditors opine in their report that those financial statements comply with IFRS as issued by the IASB. Is the FPI required to provide a reconciliation from IFRS as issued by the IASB to U.S. GAAP with respect to 2006 and 2005 in its 2007 Form 20-F?

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- A. No. If for all periods presented, the FPI states unreservedly and explicitly in a note to the financial statements that its financial statements are in compliance with IFRS as issued by the IASB, and the independent auditors opine in their report that those financial statements comply with IFRS as issued by the IASB, a reconciliation to U.S. GAAP is not required for any of the periods presented. Because 2006 and 2005 are comparative periods to 2007, and 2007 does not require a reconciliation to U.S. GAAP, the reconciliation to U.S. GAAP that was previously prepared for 2006 and 2005 may be excluded.

Example Scenario: An FPI with a December 31 year-end files a registration statement (or does a take-down on a shelf registration statement) on Form F-3 between March 4 and March 31, 2008 that incorporates its 2006 Form 20-F. The 2006 Form 20-F includes audited financial statements for the years ended December 31, 2006, 2005 and 2004 that indicated the basis of accounting as IFRS as adopted by European Union, and did not contain specific reference to IFRS as issued by IASB, although there are no differences. When the FPI releases its 2007 financial statements, the FPI will state unreservedly and explicitly that its financial statements are in compliance with IFRS as issued by the IASB for the year ending December 31, 2007 and interim periods within 2007.

- Q2. Is the FPI required to provide reconciliation from IFRS as issued by the IASB to U.S. GAAP with respect to the interim periods either included, or incorporated by reference, in the registration statement?
- A. No. The required interim financial information for 2007 and 2006 prepared in accordance with IFRS as issued by the IASB should be included or incorporated by reference in the registration statement. The interim financial statements for 2007 and 2006 should include an assertion that they are in compliance with IAS 34. As the interim period for 2007 is within the financial year ending after November 15, 2007, a reconciliation would not be required for that period, and one would not be required for the 2006 interim period that is presented for comparative purposes. In a Form F-3, the registrant would have to incorporate by reference the Form 20-F, which would include a reconciliation to U.S. GAAP for the three years ended December 31, 2006. In addition, the FPI should reissue the financial statements for the three years ended December 31, 2006 and related auditors' report in a Form 20-F/A, which is incorporated by reference to the registration statement, and include in the notes to the financial statements a statement of unreserved and explicit compliance with IFRS as issued by the IASB and auditors' report opining on that compliance. The U.S. GAAP reconciliation for the three years ended December 31, 2006 should be included or incorporated by reference in the registration statement until such time as audited financial statements prepared in accordance with IFRS as issued by the IASB for the year ending December 31, 2007 have been filed. Situations in which prior year U.S. GAAP financial information would need to be restated (e.g., discontinued

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operations, change in accounting principle) can be discussed with the SEC Staff if restated information is not readily available or determinable.

Unreserved and Explicit Statement of Compliance with IFRS as issued by the IASB

Under the amendments to Items 17 and 18 of Form 20-F, an FPI is eligible to omit the reconciliation to U.S. GAAP if (1) it states, unreservedly and explicitly in a note to the financial statements, that its financial statements are in compliance with IFRS as issued by the IASB, and (2) its independent auditor opines in its report that those financial statements comply with IFRS as issued by the IASB.

- Q3. Would the unreserved and explicit statement of compliance by an FPI be satisfied if there is a statement in the notes to the financial statements that there are no significant differences between the primary GAAP used in the preparation of the financial statements and IFRS as issued by the IASB?
- A. No. The unreserved and explicit statement of compliance by an FPI must be clear with respect to IFRS as issued by the IASB.
- Q4. Would the unreserved and explicit statement of compliance by an FPI be satisfied if there is a statement in the notes to the financial statements stating that “the financial statements have been prepared in accordance with International Financial Reporting Standards”?
- A. No. The unreserved and explicit statement of compliance by an FPI must be clear with respect to IFRS as issued by the IASB. For example: “The financial statements have been prepared in accordance with International Financial Reporting Standards as issued by the International Accounting Standards Board.”

Auditors’ report

- Q5. FPIs often are required to prepare their financial statements in accordance with a jurisdictional variation of IFRS for purposes of their home country regulatory filing. Accordingly, FPIs that prepare their financial statements in accordance with a jurisdictional variation of IFRS (for example, Australian IFRS) would only be able to eliminate the U.S. GAAP reconciliation if the financial statements also complied with IFRS as issued by the IASB. (However, see *Special Instruction for Certain European Issuers* in Items 17 and 18 of the revised Form 20-F with respect to the EU IAS 39 Carve Out). In cases where there is no difference in the financial statements between IFRS as issued by the IASB and a jurisdictional variation of IFRS, the FPI may have to provide a dual statement of compliance with both IFRS as issued by the IASB and the jurisdictional variation of IFRS in a note to the financial statements. In those situations, is an auditors’ report required

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to provide also a dual opinion on both jurisdictional IFRS and IFRS as issued by the IASB?

- A. No. The amendment to Item 17 requires that an auditors' report include an opinion on whether the financial statements comply with IFRS as issued by the IASB. An auditors' opinion with respect to the jurisdictional IFRS may be provided, but is not required for purposes of filing with the SEC.

The Effect of the Release on the Application of Rules 3-05 and 3-09

The Release did not make any changes to Rules 3-05 and 3-09 of Regulation S-X. However, the Release states that the amendments adopted to accept IFRS financial statements without a U.S. GAAP reconciliation will apply equally in their application (Page 58). For example, both foreign private issuers and U.S. companies that acquire a "significant" foreign business will be permitted, pursuant to the amendments' effect on Rule 3-05, to include the acquiree's financial statements prepared either in accordance with IFRS as issued by the IASB without reconciling to U.S. GAAP, in accordance with U.S. GAAP, or in accordance with another comprehensive basis of accounting reconciled to U.S. GAAP. The same is true for the financial statements of a "significant" foreign investee under Rule 3-09 (Page 60).

- Q6. The Release does not specifically address the reconciliation requirements in situations where a registrant that prepares its financial statements using IFRS as issued by the IASB without a reconciliation to U.S. GAAP is required to present Rule 3-05 or Rule 3-09 financial statements where such financial statements are not presented in accordance with IFRS as issued by the IASB.

Example Scenario: A registrant that prepares its financial statements using IFRS as issued by the IASB and files with the SEC without a reconciliation to U.S. GAAP acquires a company or has a significant equity method accounted investee domiciled in Brazil. The Brazilian company prepares its financial statements using Brazilian GAAP. The significant acquiree/investee would likely have to present to the registrant a reconciliation from Brazilian GAAP to IFRS as issued by the IASB in order for the registrant to meet the Article 11 pro forma requirements or perform its equity method accounting.

Is the significant acquiree/investee required to present a reconciliation to U.S. GAAP in a footnote to the Brazilian GAAP financial statements filed by the registrant under Rules 3-05 or 3-09?

- A. Yes. If the Rule 3-05 or Rule 3-09 financial statements of a foreign business are not presented in accordance with IFRS as issued by the IASB or U.S. GAAP, a reconciliation to U.S. GAAP meeting the requirements of Item 17 of Form 20-F is

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- required. Reconciliation from another GAAP to IFRS as issued by the IASB would not satisfy the SEC's reconciliation requirements.
- Q7. An FPI that prepares its financial statements in accordance with IFRS as issued by the IASB performs the significance tests under Rules 3-05 and 3-09 using IFRS as issued by the IASB (page 59). Before the adoption of the final rule, because U.S. GAAP was used in performing such tests for prior periods, such tests might have produced different results than if such tests were performed using amounts based on IFRS as issued by the IASB. Is an FPI required to re-perform significance tests using information based on IFRS as issued by the IASB for periods preceding the current year that are also included in the filing to re-evaluate whether financial statements must be filed for back years to comply with Rules 3-05 and 3-09?
- A. No. Significance testing based on IFRS as issued by the IASB is only required to be performed on a prospective basis beginning with financial years ending after November 15, 2007 made in filings after March 4, 2008. However, if the investor or investee restates its IFRS financial statements for an accounting change, correction of an error, or for a discontinued operation, then it would be necessary to re-perform the prior year significance test using IFRS data as restated.
- Q8. Example Scenario: An FPI with a December 31 year-end was previously required to provide financial information pursuant to Rule 3-09 because the significance tests applied by using U.S. GAAP were met. However, such significance tests would not have been met in prior years by using IFRS as issued by the IASB. The FPI prepares its financial statements in accordance with IFRS as issued by the IASB for all periods presented. The significance tests for Rule 3-09 are based on IFRS as issued by the IASB for December 31, 2007 and the minimum thresholds for significance are not met. Can financial information pursuant to Rule 3-09 be excluded from the Form 20-F for the year ended December 31, 2007 because the minimum thresholds for significance are not met for any of the years in the three years ended December 31, 2007 using IFRS as issued by the IASB?
- A. Yes. The financial information pursuant to Rule 3-09 could be excluded for all periods from the Form 20-F for the year ended December 31, 2007 because U.S. GAAP information is no longer required for any of the periods presented as discussed in the response to Q1 above, and the financial information pursuant to Rule 3-09 was previously only required because the significance tests using U.S. GAAP were met.
- Q9. The significance testing guidance set forth in S-X 1-02(w) provides relief for registrants in situations where consolidated income of the registrant is at least 10 percent lower than the average of the last five fiscal years, in which case the average should be used as the denominator in the computation. If the timing of

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IFRS adoption is such that an FPI does not have five years of historical information prepared in accordance with IFRS, may the FPI use a shorter time period (e.g., dating back to time of adoption of IFRS)?

- A. FPIs with unusual situations should consult with the SEC Staff regarding the application of the significance test.
- Q10. Is the Compliance Date as to whether the financial statements of other entities pursuant to Rules 3-05 and 3-09 must be reconciled to U.S. GAAP based on the year-end of the other entity or the year-end of the registrant?
- A. The Compliance Date for the U.S. GAAP reconciliation requirement is based on the later of the year-end of the registrant or the year-end of the other entity whose financial statements are required to be included in the registrant's filing.

Example Scenario 1: A registrant with a December 31 year-end files a registration statement on March 5, 2008 that includes audited financial statements for the three years ended December 31, 2007. The registrant had a greater than 40% and less than 50% acquisition of a foreign business in April 2007, for which two years of IFRS as issued by the IASB financial statements would satisfy the requirements of Rule 3-05. Financial statements of the acquired entity are required for the two years ended December 31, 2006. Do the financial statements of the acquired entity for the two years ended December 31, 2006 have to be reconciled to U.S. GAAP?

In Example Scenario 1, the registrant would be able to present the two years of IFRS financial statements of the acquiree without reconciliation to U.S. GAAP because the latest year-end of the registrant included in the registration statement is subsequent to November 15, 2007.

Example Scenario 2: A registrant with a September 30 year-end files its Form 20-F on March 5, 2008 that includes audited financial statements for the three years ended September 30, 2007 in accordance with U.S. GAAP or including a reconciliation to U.S. GAAP. The registrant had a greater than 30% significant foreign investee under Rule 3-09 for which three years of financial statements are required. The foreign investee has a December 31 year-end and prepares its financial statements in accordance with IFRS as issued by the IASB. Do the financial statements of the foreign investee for the three years ended December 31, 2007, which will be included as an amendment to the registrant's Form 20-F, have to be reconciled to U.S. GAAP?

In Example Scenario 2, the registrant would be able to present the three years of IFRS as issued by the IASB financial statements of the foreign investee without

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reconciliation to U.S. GAAP because the year-end of the foreign investee is subsequent to November 15, 2007.

Selected Financial Data

- Q11. Example Scenario: An FPI with a December 31 year-end files its annual report on Form 20-F in April 2008. The Form 20-F includes audited financial statements for the years ended December 31, 2007, 2006 and 2005 prepared in accordance with IFRS as issued by the IASB. An FPI that prepares its financial statements using IFRS as issued by the IASB is not required to provide selected financial data on a basis reconciled to U.S. GAAP after the Compliance Date. For periods prior to the Compliance Date, is the FPI required to provide the selected financial data on a basis reconciled to U.S. GAAP?
- A. Since the selected financial data for periods presented prior to the Compliance Date are derived from financial statements prepared using IFRS as issued by the IASB without reconciliation to U.S. GAAP, such U.S. GAAP selected financial data is not required to be presented. However, if such selected financial data is derived from financial statements prepared using another comprehensive basis of accounting that is required to be reconciled to U.S. GAAP, the FPI is required to provide selected financial data on a basis reconciled to U.S. GAAP.

Pro Forma Financial Information

- Q12. The Release provides that an FPI using IFRS as issued by the IASB will prepare the pro forma financial information by presenting its IFRS results and converting the financial statements of the business acquired into IFRS as issued by the IASB (Page 61). However, registrants that presented their financial statements in accordance with another comprehensive basis of accounting (“Primary GAAP”) that is reconciled to U.S. GAAP have historically been permitted to present Article 11 pro forma financial information either in the Primary GAAP with a reconciliation to U.S. GAAP or U.S. GAAP. The Release states that “the pro forma results must be presented using the same basis of accounting as the issuer” (Page 61). Is the wording quoted from the Release intended to change the historical prior practice that allowed pro forma information to be prepared in either Primary GAAP reconciled to U.S. GAAP or U.S. GAAP?
- A. No. There was no intent to change historical practice.

Applicability to Form 10-K filers

- Q13. The Release amended S-X 4-01 *Form, Order and Terminology*, by adding guidance on the application of Regulation S-X for financial statements of FPIs. The new S-X 4-01(a)(2) states the following:

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In all filings of foreign private issuers (see §230.405 of this chapter), except as stated otherwise in the applicable form, the financial statements may be prepared according to a comprehensive set of accounting principles, other than those generally accepted in the United States or International Financial Reporting Standards as issued by the International Accounting Standards Board, if a reconciliation to U. S. Generally Accepted Accounting Principles and the provisions of Regulation S-X of the type specified in Item 18 of Form 20-F (§249.220 of this chapter) is also filed as part of the financial statements. Alternatively, the financial statements may be prepared according to U.S. Generally Accepted Accounting Principles or International Financial Reporting Standards as issued by the International Accounting Standards Board. [Emphasis added]

The SEC forms used by domestic filers (e.g., Form 10-K) do not explicitly state that U.S. GAAP should be used. However, the adopting release does state that the elimination of the U.S. GAAP reconciliation is not extended to FPIs that do not file their annual report on Form 20-F (Page 29). Can an FPI that files with the SEC using domestic forms present its financial statements in accordance with IFRS as issued by the IASB?

- A. No. The amendments adopted apply only to FPIs that file on the F Forms (e.g., F-1, 20-F).

FPI Voluntarily Provides a U.S. GAAP Reconciliation in its Form 20-F

An FPI that files financial statements prepared in accordance with IFRS as issued by the IASB is not required to provide a reconciliation to U.S. GAAP (Revised Item 17(c) of Form 20-F). However, the Release does not specifically prohibit FPIs that file financial statements using IFRS as issued by the IASB from providing a reconciliation to U.S. GAAP or other forms of U.S GAAP information on a voluntary basis.

Q14. If an FPI that files financial statements prepared in accordance with IFRS as issued by the IASB and is not otherwise required to provide a reconciliation to U.S. GAAP elects to present U.S. GAAP information on a voluntary basis, is the FPI required to comply with the reconciliation requirements of Items 17 or 18 of Form 20-F?

- A. An FPI that elects to provide U.S. GAAP information in the financial statements on a voluntary basis should comply with the reconciliation requirements of the applicable Form, which could be Item 18 of Form 20-F in certain registration statements. An FPI that provides U.S. GAAP information outside the financial statements in an SEC filing on a voluntary basis is not necessarily required to comply with the reconciliation requirements of Item 17 or 18 of Form 20-F,

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however, the U.S. GAAP information cannot include a material misstatement or omission.

- Q15. Is an FPI that files financial statements prepared in accordance with IFRS as issued by the IASB and voluntarily provides a reconciliation to U.S. GAAP within the financial statements required to provide additional selected financial data in accordance with U.S. GAAP?
- A. Yes. An FPI that files financial statements prepared in accordance with IFRS as issued by the IASB and elects to provide a reconciliation to U.S. GAAP in its financial statements should provide additional selected financial data in accordance with U.S. GAAP.

First Time Adopters of IFRS

- Q16. The SEC's first-time adopter of IFRS rules (General Instructions G.(f)(2)(B)) provide three options by which an issuer relying on the IFRS first-time adopter two-year accommodation could satisfy the interim financial statement requirements of Item 8.A.5 of Form 20-F in a transitional registration statement. Pursuant to the option provided in General Instruction G.(f)(2)(B)(iii), an issuer provides condensed U.S. GAAP information as the bridge between the three years of previous GAAP financial statements and the two periods of IFRS interim information. Before the adopting release, under this option an issuer would provide three financial years of audited financial statements prepared in accordance with previous GAAP with reconciliation to U.S. GAAP; interim statements for the current and comparable prior year period prepared in accordance with IFRS with reconciliation to U.S. GAAP; and condensed financial information prepared in accordance with U.S. GAAP for the most recent financial year and the current and comparable prior year interim period. While not mentioned in the Release, the revised General Instruction G.(f)(2)(B)(iii) (Page 105) has omitted the reference to reconciliation to U.S. GAAP not only with respect to the interim statements prepared in accordance with IFRS as issued by the IASB, but also with respect to the previous GAAP annual financial statements. However, the requirement to provide condensed financial information prepared in accordance with U.S. GAAP for the most recent financial year and the current and comparable prior year interim period has been maintained. Are the three financial years prepared in accordance with previous GAAP required to be reconciled to U.S. GAAP?
- A. Yes. The revised General Instruction G.(h)(2) states that the U.S. GAAP reconciliation should be provided for the same periods as the financial statements prepared in accordance with previous GAAP.

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- Q17. General Instruction G.(c) Selected Financial Data, which was not amended by the Release, requires selected financial data for 5 years in accordance with U.S. GAAP except if the issuer is otherwise permitted to omit selected financial data for either or both of the earliest two years of the five-year period pursuant to Item 3.A.1 of Form 20-F. Is a first-time adopter of IFRS required to present selected financial data in accordance with U.S. GAAP for those periods that are presented in accordance with IFRS as issued by the IASB and are not required to be reconciled to U.S. GAAP?
- A. No. A first-time adopter of IFRS is not required to present selected financial data in accordance with U.S. GAAP for those periods that are presented in accordance with IFRS as issued by the IASB and are not required to be reconciled to U.S. GAAP. First-time adopters of IFRS are permitted to follow the guidance in Item 3.A of Form 20-F, which does not require selected financial data on a U.S. GAAP basis when the financial statements are presented in conformity with IFRS as issued by the IASB

Industry Guides

- Q18. The SEC did not propose, nor did it adopt, any specific amendments with respect to information to be disclosed pursuant to Industry Guides. For example, Industry Guide disclosure is intended to provide a “track-record” of trend information such as loan quality information for banks providing disclosure under Industry Guide 3 or property casualty loss reserve development under Industry Guide 6. Are FPIs that prepare their financial statements in accordance with IFRS as issued by the IASB required to continue to provide the Industry Guide Information?
- A. Yes. FPIs should continue to provide the disclosures required by the Industry Guides. However, the disclosures should be based on information determined in accordance with IFRS as issued by the IASB.

Three Years of Financial Statements

- Q19. Does the Release change the number of periods of financial statements required to be presented if an FPI presents its financial statements in accordance with IFRS as issued by the IASB?
- A. No. The adopting release did not change Item 17(a) of Form 20-F which specifies that financial statements are required for the same fiscal years as if Form 10 or Form 10-K were being filed.