



CENTER FOR AUDIT QUALITY

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CAQ Alert #2009-88 – October 5, 2009

DEAR CENTER MEMBERS

SEC Announces Final Deferral of 404(b) Requirement for Smaller Public Companies: *Now Required for Fiscal Years Ending on or After June 15, 2010*

On October 2, 2009, the [Securities and Exchange Commission](#) (SEC or the Commission) [announced](#) an additional six-month deferral for non-accelerated filers from complying with the provisions of [Section 404\(b\) of the Sarbanes-Oxley Act of 2002](#). Under this extension, non-accelerated filers (smallest public companies with a public float below \$75 million) will now be required to provide the auditor attestation reports in their annual reports for fiscal years ending on or after June 15, 2010. The expiration date previously had been for fiscal years ending on or after December 15, 2009.

The six-month deferral was granted as a result of the delayed issuance of the SEC's [cost-benefit study](#) conducted by its Office of Economic Analysis. The study was conducted to determine whether additional guidance provided to company management and auditors in 2007 was effective in reducing the costs of compliance. Because the study was published less than three months before the December 15 deadline, the Commission determined that a six-month deferral is appropriate and reasonable so that small public companies and their auditors can better plan for the required auditor attestation.

Commissioner Luis A. Aguilar acknowledged that as a result of the many deferrals in the past “there is uncertainty among investors and among non-accelerated filers about whether and when compliance with Section 404(b) would actually be required. In light of this uncertainty, I want to highlight that in today's deferral, the Commission is for the first time resolving that uncertainty by making it clear that all public companies, regardless of size, will be required to comply with Section 404(b) of the Sarbanes-Oxley Act, and that non-accelerated filers will begin complying in their first annual report for fiscal years ending on or after June 15, 2010.”

SEC Chairman Mary Schapiro stated, “Since there will be no further Commission extensions, it is important for all public companies and their auditors to act with deliberate speed to move toward full Section 404 compliance.”

CAQ Resources

The [Center for Audit Quality](#) (CAQ) has compiled a summary of resources below for auditors whose clients have elected to either take or not take advantage of the 404(b) deferral.

Clients Electing to NOT Take Advantage of the 404(b) Deferral

The CAQ has compiled a summary of Auditing Standard No. 5 (AS 5), [*An Audit of Internal Control Over Financial Reporting That Is Integrated with An Audit of Financial Statements*](#) resources for consideration by auditors of non-accelerated filers who will not be taking advantage of the six-month deferral of Section 404(b) of the Sarbanes-Oxley Act.

Type		Resource
CAQ Alerts	CAQ Alert #2009-21	COSO Issues Guidance on Monitoring Internal Control Systems, February 25, 2009
	CAQ Alert #2009-14	CAQ Publishes “Lessons Learned” on Performing an Audit of Internal Control in an Integrated Audit, February 9, 2009
	CAQ Alert #2009-09	PCAOB Issues Guidance on Auditing Internal Control Over Financial Reporting in Smaller Public Companies, January 29, 2009
	CAQ Alert #2008-94	SEC's Findings of Section 404(a) Deficiencies for First Time Filers, December 31, 2008
	CAQ Alert #2008-81	Section 404(b) Reporting by Non-Accelerated Filers After Exiting Accelerated Filer Status, November 25, 2008
	CAQ Alert #2007-66	Items to Consider Regarding Management's Report on Internal Control for Audits of Non-Accelerated Filers, December 19, 2007
CAQ Publications	CAQ Lessons Learned	<i>Performing an Audit of Internal Control In an Integrated Audit</i>
CAQ Webcasts	September 16, 2009	<u>AS 5 Implementation for Audits of Non-Accelerated Filers: Part III – Evaluating Deficiencies and Wrapping Up the Audit Presentation Slides</u>
	June 24, 2009	<u>AS 5 Implementation for Audits of Non-Accelerated Filers: Part II – Testing Controls Presentation Slides</u>
	May 28, 2009	<u>AS 5 Implementation for Audits of Non-Accelerated Filers: Part I – The Fundamentals Presentation Slides</u>

September 25, 2008	<u>AS 5: Preparing for Integrated Audits of Non-Accelerated Filers</u> <u>Presentation Slides</u>
October 4, 2007	<u>PCAOB Insights on Internal Control: A Discussion on Auditing Standard No. 5</u> <u>Presentation Slides</u>

CAQ AS 5 Web
Resource

[*Resources for Integrated Audits of Non-Accelerated Filers*](#)

Clients Electing to Take Advantage of the 404(b) Deferral

The CAQ alerts below cover topics on management's assessment of internal control over financial reporting under Section 404(a) as well as related auditor considerations when there is no corresponding auditor attestation conducted.

[CAQ Alert #2008-94](#)

SEC's Finding of 404(a) Deficiencies for First Time Filers, December 31, 2008

[CAQ Alert #2007-66](#)

Items to Consider Regarding Management's Report on Internal Control for Audits of Non-Accelerated Filers, December 19, 2007

Other Related Resources

[CAQ Alert #2009-05](#)

SEC Staff Extends Section 404 Cost-Benefit Survey to January 31, 2009, January 21, 2009

[CAQ Alert #2008-81](#)

Section 404(b) Reporting by Non-Accelerated Filers After Exiting Accelerated Filer Status, November 25, 2008

[CAQ Alert #2008-35](#)

SEC Approves 1-Year Extension of Section 404 Attestation Requirements for Smaller Companies and Gains Approval for Cost-Benefit Study, June 26, 2008

[CAQ Alert #2008-08](#)

SEC Proposes 1-Year Extension of Section 404 Attestation Requirement While Cost-Benefit Study is Underway, February 4, 2008

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Stay Informed

As a member of the CAQ, you will receive timely communication of regulatory developments and technical updates on important matters related to various standard-setters, regulators and others, as well as the activities of the CAQ. To stay abreast of these and other relevant events in public company audit practice, please visit the CAQ Web site at www.thecaq.org. Also, we welcome any suggestions or questions - please send them by email to center@thecaq.org.

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