

THE CENTER FOR PUBLIC COMPANY AUDIT FIRMS
SEC Regulations Committee
June 14, 2005 - Joint Meeting with SEC Staff
SEC Offices – Washington DC

HIGHLIGHTS

NOTICE: The AICPA SEC Regulations Committee 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.

I. ATTENDANCE

A. SEC Regulations Committee

Jay Hartig, Chair
Gerard Brinkman
Jack Ciesielski
Greg Clifton
Melanie Dolan
Clarence Ebersole
David Follett
Karin French
Steve Henning
Chris Holmes
Jeff Lenz
Scott Pohlman
Amy Ripepi
John Wolfson

B. Securities and Exchange Commission

Office of the Chief Accountant

Don Nicolaisen, Chief Accountant
John Albert, Senior Associate Chief Accountant
Jennifer Burns, Professional Accounting Fellow
Cathy Cole, Associate Chief Accountant
Chris Cornett, Intern

Greg Cross, Assistant Chief Accountant
Brian Croteau, Associate Chief Accountant
Loren Eggleton, Intern
Mike Gaynor, Professional Accounting Fellow
Amy Hargrett, Assistant Chief Accountant
Mike Kigin, Associate Chief Accountant
Timothy Kviz, Professional Accounting Fellow
Brian Roberson, Professional Accounting Fellow
Nancy Salisbury, Senior Associate Chief Accountant
Kevin Stout, Staff Accountant
Charlotte Thomas, Research Specialist
Cheryl Tjon-Hing, Valuation Specialist
Joe Ucuzoglu, Professional Accounting Fellow

Division of Corporation Finance

Carol Stacey, Chief Accountant
Craig Olinger, Deputy Chief Accountant
Louise Dorsey, Associate Chief Accountant
Stephanie Hunsaker, Assistant Chief Accountant
Todd Hardiman, Associate Chief Accountant
Joel Levine, Associate Chief Accountant
Rachel Mincin, Associate Chief Accountant
Leslie Overton, Associate Chief Accountant
David Sherman, Academic Fellow
Sondra Stokes, Associate Chief Accountant

Division of Enforcement

Susan Markel, Chief Accountant
Charles Wright, Senior Legal Advisor

Division of Investment Management

Brian Bullard, Chief Accountant
Toai Cheng, Assistant Chief Accountant
Jane Renspecher, Assistant Chief Accountant

C. AICPA Center for Public Company Audit Firms

Lillian Ceynowa
Annette Schumacher Barr

D. Guests

Bob Guido, PwC
Isabel Tang, Student Intern

II. OPENING REMARKS

Don Nicolaisen opened the meeting by summarizing the following priorities currently being addressed by the Staff:

A. Off-Balance Sheet Transactions and Related Financial Statement Disclosure Study

- The study has been completed and was subsequently issued by the SEC on June 15, 2005. The study can be found at the following address: <http://www.sec.gov/news/studies/soxoffbalancerpt.pdf>
- The study, which represents the work of more than 100 staff members, focuses on many areas including definitions of terms, balance sheet transparency and issues related to rules-based accounting. The main recommendations in the study include certain initiatives to improve transparency in financial reporting. Consistent with these initiatives, the staff made several specific recommendations to accounting standards setters focused in areas such as defined benefit pension and other postretirement benefit plan accounting, lease accounting, financial instruments/derivatives and consolidation concepts.
- With regard to balance sheet transparency, the study addresses the question of whether the balance sheet is more transparent than it was before the provisions of Sarbanes Oxley were implemented. Although the study answers this question affirmatively, it states that there remains room for improvement. Particularly in light of the pension and lease accounting issues noted in conjunction with this study, the Staff commented that there exists the need for a refocus on the transparency and understandability of the balance sheet.

B. Stock Option Accounting

- Mr. Nicolaisen stated that an important part of OCA's agenda is to ensure that registrants implement the provisions of FAS 123-R accurately. The Staff issued SAB 107 to provide guidance on the Staff's views regarding the valuation of share-based payment arrangements for public companies. In addition, the Commission delayed the adoption date of the standard for public companies to annual periods beginning after June 15, 2005, to allow registrants additional time to prepare for adoption. Further, the Staff also noted that it expects the PCAOB to issue audit guidance related to FAS 123-R adoption.
- Mr. Nicolaisen expressed his view that issuing a new standard in December with implementation required within a short period of time thereafter (e.g. January) can be problematic unless the standard is very straightforward. He believes registrants should be given appropriate time to digest and implement the provisions of a new standard, including the development and implementation of appropriate internal controls related to the new standard. He mentioned that S-O Sec. 404 plays a role in the need for registrants to be

given longer lead times to implement new standards. He also stated he has communicated this concern to the FASB.

C. International Convergence

- Mr. Nicolaisen discussed a statement by the SEC Staff entitled “A Securities Regulator Looks at Convergence” which was published in April 2005 and is posted to the SEC website at (<http://www.sec.gov/news/speech/spch040605dtn.htm>). The publication discusses certain issues related to convergence including how and when the US GAAP reconciliation may be eliminated. Mr. Nicolaisen further commented that if the Committee of European Security Regulators (CESR) insists on a requirement to reconcile from U.S. GAAP to IFRS, then this could cause U. S. constituents to ask us to re-examine whether we would eliminate our reconciliation requirement in those circumstances. He stated he believes that efforts should be focused on achieving the best reporting possible for all investors versus requiring reconciliations between one set of high quality accounting standards to another.

D. XBRL

- The SEC Staff want XBRL to be a successful method of reporting financial information. Mr. Nicolaisen states that the key to this success is the definitions that are inherent in the taxonomies (i.e., what to include and in how much detail to include).
- Mr. Nicolaisen commented that “information delayed is the same as bad information” and that successful implementation of XBRL is critical to the ability to provide investors with timely financial information. As a result, the Staff will continue to focus on resolving various questions and issues surrounding XBRL implementation.

E. 2006 Agenda

- Mr. Nicolaisen stated that his office is currently in the process of setting the agenda for calendar year 2006, adding that the agenda will be significant and aggressive. Issues that will likely be included on the agenda are independence (reform and codification) and global accounting and auditing. Regarding independence, he added that the Staff would like to get good guidance directly to audit committees.

III. DIVISION UPDATES

A. OCA Update

- Recent Organizational and Staff Changes

Jack Albert stated OCA has reached its maximum budgeted number of personnel (roughly 60 people).

B. Division of Corporation Finance Update

- Recent Organizational and Staff Changes

Carol Stacey stated that Division staffing levels are slightly over 500 people (with a ceiling of 540) and that the Division continues to recruit accounting personnel in an effort to maintain a staff of 250 accountants. One new academic fellow (Andy McClelland) will join the Division staff in August and one new MBA associate will be added to the Division in the near future.

- Performance Budget

Branch Chiefs are in place in every group (2-3 Branch Chiefs in each group) and the Division has been working to train its newly-hired accountants, many of whom are completing their first (probationary) year of employment with the SEC. It is expected that next year's volume of reviewed filings will increase along with the staff's experience level. Ms. Stacey referred the Committee to the SEC Performance Budget for 2006 which provides performance targets related to the percentage of public companies reviews performed each year (Sarbanes-Oxley mandates the Division to complete reviews for all public companies at least once every three years). The Performance Budget can be found on the SEC website at <http://www.sec.gov/about/2006budgetperform.pdf>

- Comments Relating to Financial Instruments

The Division has issued an increased number of comments related to financial instruments recently as this remains an area of the Staff's focus in its review of filings.

- Accounting and Disclosure Outline

The Staff stated that it will not update the Accounting and Disclosure Outline (the "Outline") during the Summer of 2005 due to the lack of significant new material but would probably update the Outline sometime in the Fall of 2005.

- Office of Global Security Risk

A new office within the Division was recently created: The Office of Global Security Risk. This office will issue comments to companies who do business with countries identified by the U. S. Department of State as state-sponsors of terrorism.. Comments issued will relate to additional disclosures needed regarding the business and reputational risks these companies face as a result of conducting business with these nations.

- Pending Rulemaking Projects: Securities Offering Reform and Shell Company Use of Form S-8 and Form 8-K.

The Division is working to issue final rules on two proposed rules: 1) Securities Offering Reform and 2) Use of Form S-8 and Form 8-K by Shell Companies. With respect to the latter, Ms. Stacey noted that the definition of “Shell” will be slightly modified in the final rule from the definition in the proposal. The new definition reflects comments received in the exposure process. With respect to timing, Ms. Stacey added that the Division hopes to issue these final rules in the near term.

(New rules were subsequently adopted on June 29. See Release 33-8587 and Release 33-8591.)

- Comment Letters Requesting National Office Concurrence

The Committee asked the Staff about a number of recent second or third-round comment letters that requested concurrence from the registrant’s independent accountant’s National Office on the responses to all SEC comments contained in a comment letter. Ms. Stacey indicated that she was not aware of this practice and that she would look into the matter. She added that the Staff will occasionally ask whether the firm’s national office has been involved in certain (more contentious) issues identified in the comment process.

- Public Release of Comment Letters and Registrant Responses.

- Ms. Stacey noted that certain comment letters and responses are available on the SEC website. Guidance on how to search for EDGAR correspondence can be found on the SEC website at

<http://www.sec.gov/answers/edgarletters.htm>

- Technology problems continue and posting of comment letters and company responses have been temporarily suspended until such issues can be resolved.
- Regarding Rule 83 requests, if a registrant requests confidential treatment for an entire response letter, the Staff is required to send notice back to the company that such a request is not appropriate. If Rule 83 requests are made for specific information contained in the company responses, the information is automatically redacted before posting to the website. If the request for confidential treatment is later denied, the comment response will be revised to insert the redacted portion and reposted to the website to provide the information. Ms. Stacey advised caution in asking for confidential treatment since historically the majority of requests for confidential treatment have not been supported by the requester, resulting in the release of that information under FOIA.

- A completion notice will be issued upon completion of all reviews, which should be at least 45 days prior to posting the comment letters and responses to the SEC website. The staff noted that it is unsure of when the 45 day schedule will be achieved on a consistent basis for all reviews but added that many completion notices have been issued to registrants for completed reviews.

- Form 11-K Filings

The Staff noted that there has been no change in the Form 11-K reporting requirements since last year (i.e. auditor's reports on Form 11-Ks filed with the SEC refer to PCAOB standards while auditor's reports on financial statements filed with the Department of Labor (DOL) refer to GAAS). Ms. Stacey agreed to inform the Committee if the DOL indicates any change in their reporting policy.

C. Enforcement Update

- Recent Organizational and Staff Changes

Susan Markel stated that the Enforcement Division has approximately 100 accounting staff across the country. She added that the number of accountants at SEC Headquarters is down slightly and that the Division is always looking to add qualified individuals to its staff.

- Recent Enforcement Cases and Investigations

Ms. Markel stated that recent enforcement cases have focused on structured finance transactions and insurance activities. The Staff is currently conducting risk-based investigations to identify areas of misconduct. The Division also continues to take referrals from the Division of Corporation Finance and tips from the website (which now number approximately 20,000 per month, all of which are investigated).

- 404 Reports/Material Weaknesses

It was noted that so far 12% of accelerated filers disclosed a material weakness in their 404 reports. The Committee asked what material weaknesses would trigger an enforcement action. The Staff responded that neither the reporting of a material weakness or a restatement automatically lead to an enforcement case. However, in cases where an entity continually reports both material weaknesses and restatements, an enforcement inquiry could be initiated. Depending on the nature of the material weakness, the Staff might also question how the auditors were able to issue an opinion on the financial statements. The Staff also noted that currently they are focusing on the adequacy of disclosure surrounding material weaknesses.

- Section 10A Letters

Ms. Markel asked the Committee for input regarding why no 10A letters have been issued in the last 12 months (with only 7 letters filed in the previous year). The Committee stated that boards of directors and audit committees facing potential 10A investigations are reacting quickly and taking appropriate and timely corrective action. The Committee views this as an indication that the Rule has been successful in accomplishing its intended objectives.

D. Division of Investment Management (IM) Update

- Recent Organizational and Staff Changes

Brian Bullard reported that IM staffing levels have not changed since the April 2005 meeting. He added that the majority of the new hires in the Division were hired in the last year and that the speed of reviews will likely increase as new staff members gain experience. The Division is on target to meet the review requirements imposed by Sarbanes-Oxley.

- Review Matters

Mr. Bullard stated that the Division has been finding more serious issues in filing reviews. In these circumstances, the Staff is asking whether a registrant's independent accountant's National Office has been involved.

IV. 404 UPDATE

Nancy Salisbury described the following recent developments regarding 404 implementation:

- Roundtable on Implementation of Internal Control Reporting Provisions.

The roundtable was held on April 13, 2005. The transcript of the roundtable can be found at

<http://www.sec.gov/spotlight/soxcomp/soxcomp-trans.txt>

- Commission Statement on Implementation of Internal Control Reporting Requirements

This Statement was issued on May 16, 2005. It can be found on the SEC website at: <http://www.sec.gov/news/press/2005-74.htm>.

- Staff Statement on Management's Report on Internal Control Over Financial Reporting

This Statement was also issued on May 16, 2005. It can be found on the SEC website at: <http://www.sec.gov/info/accountants/stafficreporting.htm>

- PCAOB staff Questions and Answers document and Board Policy Statement issued on May 16, 2005. It can be found on the PCAOB website at: http://www.pcaob.org/Standards/Staff_Questions_and_Answers/2005/05-16.pdf

The Staff outlined the following fact patterns for recent frequently asked questions that it has received regarding 404:

1. **Background:** A calendar year-end registrant that is eligible for the 45 day Exemptive Order files its initial 2004 Form 10-K in a timely fashion on March 10, 2005. In accordance with the Exemptive Order, the Form 10-K contains only the financial statement opinion. However, the registrant then misses the 45 day deadline to file its Form 10-K/A to include its 404 report. Subsequent to the 45 day deadline, the registrant completes its 404 work and prepares its Form 10-K/A.

Question: In the Form 10-K/A to be filed after the 45 day deadline, are the financial statements required to be included in the filing and if so, is the opinion date of the company's independent registered public accounting firm's report on the financial statements required to be updated from the previous issuance on March 10, 2005?

Staff Comment: The Staff stated that for filings preceding the expiration date of the PCAOB's temporary transition rule related to AS 2 (July 15, 2005), neither SEC nor PCAOB rules require an auditor to update its opinion on the financial statements. Therefore, Item 8 is not required to be filed and just the report on internal control over financial reporting could be filed in the Form 10-K/A. *(Subsequent to the Joint meeting, the SEC staff stated that this is the case for filings made after July 15, 2005 as well).*

Background: A calendar year-end registrant files its 2004 Form 10-K containing a disclaimer 404 report received from its independent registered public accounting firm.

Question: Is the company required to obtain an opinion other than the disclaimer report from its auditors and refile its Form 10-K?

Staff Comment: Yes. PCAOB No. 2 defines a "disclaimer" as a "report" and Rule 2-02(f) of Regulation S-X states that "The attestation report on management's assessment of internal control over financial reporting shall...state the opinion of the accountant as to whether management's assessment of the effectiveness of internal control over financial reporting is fairly stated in all material respects, or must include an opinion to the effect that an overall opinion cannot be expressed." However, in cases where the disclaimer could be replaced by an opinion if additional work is performed, the Staff stated that it will require registrants to complete its 404 assessment, include an opinion from its independent accountants that is other than a "disclaimer" and file a Form 10-K/A to replace the previously issued 404 disclaimer opinion.

2. In response to questions regarding 404 reporting for foreign registrants that issue two sets of financial statements (one set on local GAAP and one set on US GAAP), the Staff is considering whether two separate 404 reports are permitted to be issued. The Staff commented that specific language in the 404 report to exclude the US GAAP reconciliation is not permitted.
3. The Staff commented that it was also receiving numerous questions regarding the effects on disclosure controls and procedures and internal control over financial reporting and disclosures thereof in cases where financial statements have been restated and material weaknesses have been identified.

V. MATERIALITY UPDATE

Brian Roberson gave a status update of the staff's limited scope project that focuses on the quantification of misstatements that will be assessed for materiality. The intent is to address diversity in the treatment of the current year effects of prior year differences when quantifying current year errors. Although work continues on this project, whether or when guidance will be issued is still unknown. With respect to the format of the guidance, the staff thought that it would likely be a Staff Accounting Bulletin. The Staff does not plan to amend or supersede SAB Topic 1-M but is considering instead the creation of a separate SAB Topic, such as Topic 1-N.

VI. STATUS OF HIGHLIGHTS COMPILATION PROJECT

The Committee provided an update of its project to create a compilation of SEC Regulations Committee meeting discussion documents, noting that the compilation is now updated through the September 2004 meeting highlights. The Committee expects to have a draft to the Staff sometime before the September 2005 meeting. In the interim, the Committee would welcome any feedback from the Staff regarding the presentation of superseded guidance. Carol Stacey noted that the Staff Training Manual update would take priority over any Staff review of this compilation.

VII. CURRENT PRACTICE ISSUES

- A. Applying the Guidance in EITF 03-13 to Discontinued Operations (Discussion Document C from the April 2005 Joint Meeting) – See Attachment A
- B. Applying Rules 3-09 and 4-08(g) When an Investor Adopts EITF 02-14 for an Investment in In-Substance Common Stock (Discussion Document E from the April 2005 Joint Meeting) – See Attachment B
- C. Applying Rule 3-09 in the year a formerly consolidated subsidiary becomes an equity method investee (Discussion Document H from the April 2005 Joint Meeting) – See Attachment C
- D. Clarification of Instruction 4 of Item 2.01 of Form 8-K : Computing the investment test for significance of a disposed business under Rule 1-02(w) of

Regulation S-X (Discussion Document F from the April 2005 Joint Meeting)
– See Attachment D

- E. Withdrawal of Management's Report on Internal Control Over Financial Reporting on Item 4.02 8-K – Staff confirmation of the conclusion outlined in Attachment E
- F. Status update of the chart on what types of reports should refer to PCAOB standards and what firms are required to be registered (Discussion Document A from the June 15, 2004 meeting) – See Attachment F
- G. Pre-approval of employee benefit plans and disclosure of fees in the proxy – See Attachment G.

ATTACHMENT A

Discussion Document C from the April 2005 Joint Meeting

Topic: Applying the Guidance in EITF 03-13 to Discontinued Operations

Question: Should companies apply retrospective application to its historical financial statements included or incorporated by reference in a 1933 Act filing or proxy statement for significant events or circumstances occurring after the latest balance sheet date but before the effective date of the 1933 Act filing or the mailing date of the proxy statement when those events or circumstances will change the assessment of discontinued operations pursuant to paragraph 42 of FASB Statement No. 144, *Accounting for the Impairment or Disposal of Long-Lived Assets* (Statement 144), for components that were previously disposed of or classified as held for sale?

Background: Statement 144 requires a company to reclassify prior period financial statements for a discontinued operation once financial statements are issued including the date of sale, or the date of classification as held for sale. However, Statement 144 precludes a company from reporting discontinued operations when the date of sale, or classification as held for sale, occurs after the balance sheet. For changes in discontinued operations classifications, the SEC staff has insisted on retrospective application of historical financial statements to be included or incorporated by reference in a 1933 Act filing or proxy statement once the company has filed subsequent interim period financial statements that reflect the discontinued operations treatment. When the date of sale, or classification as held for sale, occurs after the latest balance sheet included in a 1933 Act filing or proxy statement, Article 11 pro forma financial statements should be presented for all periods to give effect to the actual or probable disposition, if significant.

Discussion: EITF Issue No. 03-13, *Applying the Conditions in Paragraph 42 of FASB Statement No. 144 in Determining Whether to Report Discontinued Operations* (EITF 03-13), which became effective for components disposed of or classified as held for sale in fiscal periods beginning after December 15, 2004, requires companies to assess whether the criteria in paragraph 42 of Statement 144 have been met from the date the component initially meets the criteria to be classified as held for sale or is disposed of through one year after the date the component is actually disposed of. During this assessment period, reclassification into and out of discontinued operations for all periods presented may be required. EITF 03-13 also requires that the evaluation of whether the criteria in paragraph 42 of Statement 144 are expected to be met for a component that is either disposed of or classified as held for sale at the balance sheet date should include significant events or circumstances that occur after the balance sheet date but before the issuance of the financial statements. For example, if a significant event occurs after the latest balance sheet date but before the issuance of the financial statements that results in an expectation that the criteria in paragraph 42 of Statement 144 will be met by the end of the assessment period, the component's operations should be presented as discontinued operations in those financial statements.

View A – Companies should apply retrospective application to its historical financial statements included or incorporated by reference in a 1933 Act filing or proxy statement

for significant events or circumstances occurring after the latest balance sheet date but before the effective date of the 1933 Act filing or proxy statement when those events or circumstances will change the assessment of discontinued operations pursuant to paragraph 42 of Statement 144 for components that were previously disposed of or classified as held for sale. Because the company's financial statements must comply with GAAP at the time of effectiveness or mailing of the registration statement or proxy statement, retrospective application is required.

View B - Because the change to the discontinued operations treatment has not yet been reflected in the most recent period for which historical financial statements are included or incorporated by reference in the 1933 Act filing or proxy statement, the company should not apply retrospective application to those historical financial statements for significant events or circumstances occurring after the issuance of those financial statements but before the effective date of the 1933 Act filing or the mailing date of the proxy statement. However, if the pending retrospective application to reclassify discontinued operations is significant at the 10% level under S-X Rule 1-02(w), pursuant to Article 11-01(b)(2) companies should provide supplemental Article 11 pro forma financial information for the latest interim period and prior three annual periods.

Committee Recommendation: The committee supports View B. In adopting View B as its recommendation, the Committee discussed whether the application EITF 03-13 should result in a different model for determining whether previously issued annual financial statements should apply retrospective application in connection with a 1933 Act filing or proxy statement than is generally followed when subsequent events occur. In the Committee's deliberations, a consensus was reached that the application of EITF 03-13 should follow the model of certain other subsequent events such as a change in reportable segments, adoption of certain new accounting principle requiring retrospective application of prior periods as well as initially reporting discontinued operations under paragraph 42 of FAS 142; that is, previously issued annual financial statements would not apply retrospective application in connection with a 1933 Act filing or proxy statement unless the accounting for those subsequent events is reflected in interim financial statements that have already been issued at the effective date of the 1933 Act filing or the mailing date of the proxy statement.

The Committee also believes it is important to focus on the fact that the fact pattern addressed by this paper is one where the subsequent event occurs *after* the financial statements are first issued (i.e., the event occurs between the date of the first issuance and a reissuance). (If the subsequent event occurred before the financial statements were first issued, EITF 03-13 is clear that the financial statements must reflect the effect of the subsequent event.)

Section AU 560.08 of the *Codification of Statements on Auditing Standards* states "When financial statements are reissued, for example, in reports filed with the Securities and Exchange Commission or other regulatory agencies, events that require disclosure in the reissued financial statements to keep them from being misleading may have occurred subsequent to the original issuance of the financial statements." Under View B, this would be accomplished through footnote disclosure and pro forma information. Section AU 560.08 continues, "Events occurring between the time of original issuance and reissuance of financial statements should not result in adjustment of the financial

statements unless the adjustment meets the criteria for the correction of an error or the criteria for prior period adjustments set forth in Opinions of the Accounting Principles Board.” Based on this literature, events that would have been considered in the preparation of the financial statements, had they occurred before the date of first issuance, do not require adjustment to the financial statements when they occur between the original issuance date and the reissuance date. Examples of such events include (a) learning new information about the status of a contingency and (b) the refinancing of short-term obligations on a long-term basis (applying paragraph 11 of FASB Statement 6, which requires the consideration of events through the date the balance sheet is *issued*). The Committee believes that the requirement in paragraph 15 of EITF 03-13 to consider “significant events or circumstances that occur after the balance sheet date but before the *issuance* of the financial statements” (emphasis added) should be applied in the same manner.

The Committee believes that requiring a different model for the application of EITF 03-13 would place an additional burden on registrants to potentially apply retrospective application to their annual financial statements on a more frequent basis and, in addition, would call into question the existing model for accounting for other subsequent events such as those outlined above.

Provided below are two illustrative examples (for a calendar year-end registrant) of the application of View B for the Staff’s consideration:

Illustration No. 1 – Subsequent Event Occurs Before First Issuance

March 14, 2005	Registrant files 2004 Form 10-K
May 4, 2005	Registrant files March 31, 2005 Form 10-Q
July 26, 2005	Event occurs that causes company to report discontinued operations for a component under EITF 03-13
August 4, 2005	Registrant files June 30, 2005 Form 10-Q which reports the discontinued operation
September 1, 2005	Registrant files a new registration statement

In this example, the September 2005 registration statement will need to either include or incorporate by reference the audited financial statements for each of the three years in the period ended December 31, 2004 as well as the unaudited financial statements for the six months ended June 30, 2005 and 2004. Under View B, because the discontinued operation was reported in the June 30, 2005 and 2004 interim financial statements, the registrant is required to apply retrospective application to its annual financial statements for each of the three years in the period ended December 31, 2004 included/incorporated by reference in the registration statement to reflect the component as a discontinued operation.

Illustration No. 2 – Subsequent Event Occurs After First Issuance

March 14, 2005	Registrant files 2004 Form 10-K
May 4, 2005	Registrant files March 31, 2005 Form 10-Q
May 15, 2005	Event occurs that will require the company to report discontinued operations under EITF 03-13
May 20, 2005	Registrant files a new registration statement

In this illustration, the most recent financial statements included in the registration statement were first issued before the date of the subsequent event affecting discontinued operations accounting. The registration statement was filed before financial statements reflecting the component as a discontinued operation were issued (i.e., June 30, 2005 interim financial statements). Under View B, the registrant would not be required to apply retrospective application to its prior period annual financial statements. It would be required to do so only after financial statements reflecting the component as a discontinued operation are issued. Instead, the registrant would provide pro forma information reflecting the effect of the discontinued operations.

Staff Response: The Staff recognizes the practical difficulties associated with View A. Accordingly the Staff will not object to View B.

ATTACHMENT B

Discussion Document E from the April 2005 Joint Meeting

Topic: Applying Rules 3-09 and 4-08(g) When an Investor Adopts EITF 02-14 for an Investment in In-Substance Common Stock

Background: EITF Issue No. 02-14, *Whether an Investor Should Apply the Equity Method of Accounting to Investments Other Than Common Stock* (EITF 02-14), requires an investor that has the ability to exercise significant influence over the operating and financial policies of the investee to apply the equity method of accounting only when it has an investment(s) in common stock and/or an investment that is in-substance common stock. The Task Force believes that in-substance common stock is an investment in an entity that has risk and reward characteristics that are substantially similar to that entity's common stock. For investments that are in-substance common stock but were not accounted for under the equity method of accounting prior to the consensuses in EITF 02-14, the equity method of accounting should be applied for reporting periods beginning after September 15, 2004. The effect of adopting the consensuses in EITF 02-14 should be reported in the beginning of the reporting period of adoption similar to a cumulative effect of a change in accounting principle pursuant to Opinion 20. Pro forma disclosure of the effect of the change in accounting principle in periods presented prior to the initial application of these consensuses is not required.

Rule 3-09 of Regulation S-X requires that the registrant's Form 10-K contain separate financial statements, prepared in accordance with Regulation S-X for investees accounted for by the equity method when such entities are individually significant (i.e., the equity investee meets either the investment or income test at the 20% level). The Staff Training Manual (III.A of Topic 2) states that "the financial statements required should be for the same annual audited periods as required by SX 3-01 and 3-02." The Staff Training Manual also indicates that "financial statements are not required for periods prior to the registrant's ownership of the investment." Rule 4-08(g) of Regulation S-X requires the registrant's consolidated financial statements in annual reports on Form 10-K to include disclosure in the notes to the financial statements of summarized financial information about equity investees if, individually or in the aggregate, they are significant at the 10% level under any one of the three significant subsidiary tests.

Question: When a registrant adopts EITF 02-14 for investments that are in-substance common stock but were not previously accounted for under the equity method (and would not be considered a correction of an error), how should the significant test under S-X 3-09 be computed and what Rule 3-09 financial statements should be included in the registrant's Form 10-K?

View A – The significance test under S-X 3-09 would be computed using the registrants' ownership percentage of the results of the equity investee as if the investment was accounted for under the equity method of accounting for the full fiscal year. If the equity investee would have been significant for any period presented had the company applied the equity method in those periods, insofar as practicable, the registrant should provide separate financial statements (audited for those periods in which the equity investee is

significant) of the equity investee for the same dates and for the same periods as the registrant's audited financial statements.

View B – Notwithstanding the fact that the registrant had a prior ownership interest in the equity investee, the adoption of EITF 02-14 should be treated similar to the acquisition of an equity investee. As such, the significance test would be computed using the results from the date of adoption (i.e. commencement of equity method accounting) through the end of the fiscal year and, if significant, separate audited financial statements of the equity investee would only be required in the year of adoption as well as in subsequent years (i.e., separate financial statements of the equity investee would not be required prior to the initial adoption of EITF 02-14).

Committee Recommendation: The committee supports View B. Committee offers the following example to outline its view:

Facts: A calendar year-end registrant adopts EITF 02-14 effective October 1, 2004 for an investment and, as a result, commences equity method accounting on that date. In preparation of the registrant's 2004 Form 10-K, the following test is performed to determine whether the investment is significant under Rule 3-09 of Regulation S-X:

$$\frac{\text{Numerator (*)} = \text{ownership \% of equity investee results :October 1, 2004 – December 31, 2004}}{\text{Denominator} \quad \text{Consolidated results : January 1, 2004 – December 31, 2004}}$$

(*) - the cumulative catch-up adjustment upon adoption of EITF 02-14 is not included in the numerator.

The Committee believes that a literal application of Rule 3-09 of Regulation S-X indicates that the significance test would be computed using only the results of the investee from the period of time beginning when the investment was accounted for under the equity method through the end of the reporting period. This application is consistent with historical practice of Rule 3-09. Regarding the cumulative catch-up adjustment upon adoption of EITF 02-14, the Committee believes that such adjustment would be excluded from the computation of significance under Rule 3-09. Regarding the financial statement requirements, the Committee believes that a literal application of Rule 3-09 only requires financial statements from the period of time beginning when the investment was accounted for under the equity method and that should the preparation of those financial statement not be practicable, then registrants should discuss the issue with the Staff. The Committee believes that this is consistent with historical practice as well.

The Committee also believes that providing investee financial statements for any period prior to the time the investment was accounted for by the equity method is conceptually more analogous to providing pre-acquisition financial statements to comply with Rule 3-05. The Committee notes that changing the approach to consolidating entities due to changes in accounting standards (e.g., upon adoption of FIN 46) has historically not been considered the type of extraordinary corporate event that triggered the need for Rule 3-05 financial statements, and the Committee believes that that is the appropriate approach in this situation as well.

Staff Response: The Staff takes View B and does not object to the conclusion in the Committee's example outlined above.

ATTACHMENT C

Discussion Document H from the April 2005 Joint Meeting

Topic: Applying Rule 3-09 in the year a formerly consolidated subsidiary becomes an equity method investee

Question 1: How should a registrant apply the income test in Rule 1-02(w) in determining significance in the year a formerly consolidated wholly-owned or majority-owned subsidiary becomes an equity method investee?

Background: Under Rule 3-09, the significance of a registrant's equity investee is determined by reference to the significance tests in Rule 1-02(w). The income test requires the comparison of income from continuing operations before income taxes, extraordinary items, and cumulative effect of a change in accounting principle of the equity method investee with such income of the registrant. Although not specified in Rule 1-02(w), the SEC staff also believes that the income test should include the gain/loss from the disposition of an equity method investee.

View A – The registrant should calculate the income test based on the registrant's equity in the investee's pretax earnings for the period of the fiscal year in which it was accounted for by the equity method. In addition, any gain or loss arising from the transaction that caused the former subsidiary to become an equity investee should not be included in the significance test.

View B – The registrant should calculate the income test based on the registrant's equity in the investee's pretax earnings for the full fiscal year. That is, the significance test would be based on the actual ownership interest for the respective periods of the fiscal year. In addition, any gain or loss related to changes in ownership of the subsidiary/investee would be included in the significance test.

View C– The registrant should calculate the income test based on the registrant's equity ownership interest applied to the gross pretax earnings of the subsidiary/investee for the full fiscal year. View C essentially represents a pro forma computation as if the equity interest had been held since the beginning of the year. View C attempts to approximate the likely results of the income test in subsequent years. Any gain or loss arising from the transaction that caused the former subsidiary to become an equity investee should not be included in the significance test.

Committee Recommendation: The committee supports View A.

Staff Response: The Staff takes View A, with modification. The Staff stated that any gain or loss related to changes in ownership of the subsidiary/investee should be included in the significance test (the Committee's view under View A was that any gain or loss should not be included). The Staff further commented that if the equity investee would be determined to be significant under View B, then the Staff would expect robust disclosure in the registrant's Management Discussion and Analysis in its Form 10-K

since such significance would indicate that the results of operations of the former wholly-owned subsidiary was material to the registrant and should be discussed.

Note: See discussion document B for additional discussion of the determination of significance under S-X 3-09.

Question 2: If significant, what Rule 3-09 financial statements should be presented in the registrant's Form 10-K in the year a formerly consolidated wholly-owned or majority-owned subsidiary becomes an equity method investee?

Background: Under Rule 3-09, equity investees are considered to be individually significant if they meet either the investment test or the income test at the 20% level. Insofar as practicable, the separate financial statements of the equity investee should be as of the same dates and for the same periods as the registrant's audited consolidated financial statements. However, the SEC Staff Training Manual ("STM") states "Audited or unaudited SX 3-09 financial statements are not required for **periods prior to the registrant's ownership of the investment...**" The SEC STM does not address the situation where the registrant had a prior majority ownership interest and previously consolidated the equity investee.

The March 20, 2001 SEC Regulations Committee Meeting ("March 2001 Meeting") addressed the issue of Rule 3-09 financial statements in the year in which an investee is acquired. However, this issue assumed that the registrant had no prior ownership interest in the equity investee. The SEC Staff indicated that if financial statements specified by Rule 3-09 could not be obtained without undue difficulty or cost then it would favorably consider the inclusion of equity investee financial statements for the entire year in lieu of financial statements from the date of acquisition.

View A – The registrant only should provide audited financial statements of the equity method investee for the period of the fiscal year in which it was accounted for by the equity method. If it is impractical to obtain audited financial statements only for this period, the registrant should consider the relief provided in the March 2001 Meeting.

View B – The registrant should provide financial statements of the equity method investee/former subsidiary for all periods (i.e., three years). Only the most recent year would be required to be audited. Periods in which the business was consolidated would not be required to be audited.

View C – The registrant should provide financial statements of the equity method investee/former subsidiary for all periods (i.e., three years). Because of the significance test, the most recent year would be required to be audited. Further, the registrant should determine whether the subsidiary was significant in earlier years to determine whether those years must be separately audited.

Committee Recommendation: The committee supports View A.

Staff Response: The Staff takes View A.

ATTACHMENT D

Discussion Document F from the April 2005 Joint Meeting

Topic: Clarification of Instruction 4 of Item 2.01 of Form 8-K

Question 1: How should companies apply the guidance in Instruction 4 of Item 2.01 of Form 8-K to the acquisition or disposition of a business for purposes of determining whether and how that acquisition or disposition must be reported in Form 8-K?

Background: Companies must file an Item 2.01 Form 8-K when the company or any of its majority owned subsidiaries has completed an acquisition or disposition of a significant amount of assets not in the ordinary course of business. Instruction 4 of Item 2.01 of Form 8-K states “An acquisition or disposition shall be deemed to involve a significant amount of assets: (i) if the registrant's and its other subsidiaries' equity in the net book value of such assets or the amount paid or received for the assets upon such acquisition or disposition exceeded 10% of the total assets of the registrant and its consolidated subsidiaries; or (ii) if it involved a business (see 17 CFR 210.11-01(d)) that is significant (see 17 CFR 210.11-01(b)).” For purposes of condition (ii), an acquisition or disposition of a business is significant if any of the significance tests pursuant to Rule 1-02(w) (i.e., the asset, income, or investment test) are met at the 20% or 10% level, respectively.

The issue is what reporting under Items 2.01 and 9.01 is required for an acquisition or disposition of a *business* that does not meet the 20% / 10% thresholds, but where the *asset* acquisition or disposition embedded in the transaction meets the significance tests in Item 2.01 that apply to asset acquisitions and dispositions. The following examples illustrate such transactions.

Example 1 – A company acquires a business. The significance of the business acquired under Rule 1-02(w) is less than 20%. The purchase price is equal to 19% of the company's total assets as of its latest fiscal year-end.

Example 2 – A company sells a business. The significance of the business sold under Rule 1-02(w) is less than 10%. The amount received is equal to 19% of the company's total assets as of its latest fiscal year-end. (See Question 2 below for further discussion regarding the significance of this disposition. It is presumed to be an insignificant business disposition for purposes of the discussion in Question 1.)

View A – For purposes of determining whether the acquisition or disposition of a business involves a significant amount of assets, both conditions (i) and (ii) are applicable. Notwithstanding the fact that condition (ii) only applies to the acquisition or disposition of a business, condition (i) applies to the acquisition or disposition of all assets, including assets acquired or disposed of in businesses acquisition or disposition transactions.

The effect of applying this view in the examples above is as follows. The company must report the transaction under Item 2.01. The company must also consider the requirements

of Item 9.01. Since neither transaction constitutes the acquisition of a significant business, no historical financial statements are required pursuant to Item 9.01(a). Since the asset acquisition/disposition aspect of the transaction must be described in answer to Item 2.01, Item 9.01(b) applies, and the company must determine whether pro forma information required by Article 11 of Regulation S-X is required. Rule 11-01(a) calls for pro forma information when the conditions listed in the Rule exist. Rules 11-01(a)(1), (2), and (4) call for pro forma information if a significant acquisition or disposition of *businesses* has occurred. That is not the case here, so these rules do not apply. However, Rule 11-01(a)(8) calls for pro forma information if “[c]onsummation of other events or transaction has occurred ... for which disclosure of pro forma financial information would be material to investors.” Therefore, the company must consider whether pro forma information would be material to investors and provide whatever pro forma information it thinks would be material. Since the business acquired/sold is not significant, the company might conclude that only pro forma balance sheet information needs to be provided. In addition, since the significant aspects of the transactions (e.g., the disbursement or receipt of a significant amount of cash) are easily understood, the company might conclude that only a narrative description of the pro forma effects of the transaction needs to be furnished (as permitted by Rule 11-02(b)(1)).

View B – For purposes of determining whether the acquisition or disposition of a business involves a significant amount of assets, only condition (ii) is applicable. Because condition (ii) specifically relates to the acquisition or disposition of a business, condition (i) is not applicable. Under this approach, although the example transactions might need to be reported under other items (e.g., Item 1.01 if the transaction involved a material definitive agreement) or might voluntarily be reported under Item 8.01, the company is not required to report it under Item 2.01, and no pro forma information called for by Item 9.01(b) is required.

Committee Recommendation: The Committee agrees that View B is a reasonable interpretation of the existing rules, but that View A appears to be the more appropriate result consistent with timely disclosure and investor protection. In either case, the committee recommends that the Staff provide guidance to clarify the intent and application of the Form 8-K instruction.

Staff Response: Staff believes that View B is consistent with the existing rules.

June 2005 Update – Additional Committee Question:

Question 2: When a business is disposed of, how should the significance percentage under the investment test be calculated?

View A – In a disposition of a business, the numerator for the investment test should be the proceeds received. (Under this view, the disposition transaction in Example 2 in Question 1 above would be considered significant.)

In an acquisition transaction, the investment test is essentially a purchase price test, designed to identify transactions that are significant, notwithstanding the fact that the historical accounts of the business acquired (measured based on assets or pretax income)

may not be significant. A similar approach should be used to identify significant business dispositions. If the historical accounts of a business that was sold are not significant, the business disposition is nonetheless significant if the proceeds were significant.

View B – In a disposition of a business, the numerator for the investment test should be the historical/book value of the net assets of the business sold. (Under this view, the disposition transaction in Example 2 in Question 1 above would not be considered significant.)

Using the historical book value, rather than the proceeds, represents the literal application of Rule 1-02(w). In addition, if the business sold had historically been insignificant, pro forma income statements reflecting the removal of that business would not differ significantly from the historical income statements or be particularly relevant.

Committee Recommendation: The Committee supports View B. The Committee believes that View B is the approach consistently used in practice.

Staff Response: The Staff takes View A.

ATTACHMENT E

Topic: Withdrawal of Management's Report on Internal Control Over Financial Reporting on Item 4.02 8-K

(See September 13, 2005 Joint Meeting Highlights)

ATTACHMENT F:

Clarification of PCAOB registration requirements and reports to which Standard No. 1 applies

The Staff noted that the chart is finalized and would be sent to the committee in the immediate future. Note: The chart was approved and issued subsequent to the meeting – see Section VI.A. of the June 15, 2004 Joint Meeting Highlights (as amended on June 17, 2005) at the following URL:

http://cpcf.aicpa.org/NR/rdonlyres/EA72D25D-4C98-46F3-A2A5-E39D8FF7D8FB/0/2004_0615_highlights.pdf

ATTACHMENT G

Topic: Pre-approval of employee benefit plans and disclosure of fees in the proxy.

(Topic deferred and to be readdressed with the SEC Staff at a later date)