SEC Regulations Committee Highlights

Joint Meeting with SEC Staff - March 12, 1998

Location: SEC Headquarters – Washington, D.C.

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**

Robert H. Herz, Chairman
Val Bitton
Mark Bagaason
Ernie Baugh
Ed Coulson
David Einhorn
Jay Hartig
Terri Iannaconi
Rodney Liddle
Eric Press
Tony Ressino
Amy Ripepi
Stewart Sandman
Bill Travis
Bill Yeates

B. **Securities and Exchange Commission**

Office of the Chief Accountant

Jane Adams, Deputy Chief Accountant
Scott Bayless, Assistant Chief Accountant
Donna Coallier, Professional Accounting Fellow
Jeffrey Jones, Professional Accounting Fellow
Mike Kigin, Associate Chief Accountant
Leslie Overton, Assistant Chief Accountant
Armando Pimentel, Professional Accounting Fellow
Cody Smith, Professional Accounting Fellow
Walter Teets, Academic Accounting Fellow
Bob Uhl, Professional Accounting Fellow

Division of Corporation Finance

Robert Bayless, Chief Accountant
Craig Olinger, Deputy Chief Accountant

Division of Market Regulation

Matt Hughey

C. **AICPA**

Annette Schumacher Barr, Technical Manager
Brad Davidson, Technical Manager

D. **Guests**

Kenny Chatelain, Coopers & Lybrand
Debra Mac Laughlin, BDO Seidman

II. ORGANIZATIONAL/STAFF CHANGES

Robert Bayless reported that the Division of Corporation Finance will be expanding the number of offices in operations from 9 to 12. A list of the new offices is included as Attachment A to these highlights.

Jane Adams announced that the Office of the Chief Accountant is seeking an additional professional accounting fellow with a background in financial instruments and financial services. Applications for this position will be accepted until April 10th, 1998.

III. STATUS OF COMPANY REGISTRATION

Craig Olinger reported that press reports regarding SEC proposal of "company registration" rules in the summer of 1998 are not entirely accurate. Proposed rules refining the registration process are expected by the end of 1998. The staff does not consider the proposal to be "company registration." Instead, it will be a comprehensive look at the entire registration process. Issues to be addressed may include:

- The communications outside the prospectus at or near the time of an offering
- Prospectus delivery requirements
- Private versus public offerings-distinctions and integration
- Improvements in the quality of disclosures
- The staff's administrative process regarding registrations.

IV. OBSERVATIONS ON SAB 98

Cody Smith made the following staff observations relating to Staff Accounting Bulletin (SAB) No. 98:

On February 3, 1998, the Commission issued SAB 98. SAB 98 makes technical revisions to various existing SABs to be consistent with the requirements of FASB Statement No. 128, Earnings Per Share. The SAB is effective immediately.

SAB 98 amends SAB Topic 1:B:2 and 1:B:3 to remove the previous requirement to delete historical earnings per share since deleting historical earnings per share is inconsistent with Statement 128. Pro forma information may be required under Article 11, and may be presented on the face of the income statement.

SAB 98 amends SAB Topic 3:A to delete the references to supplemental earnings per share in APB 15. The staff still expects registrants to provide the same information outside the financial statements if material based on the requirements of Article 11.

SAB 98 amends SAB Topic 4:D with respect to the calculation of earnings per share in an IPO. Previously, Topic 4:D specified a computation method to be applied to all prior periods presented to reflect the dilutive nature of stocks and warrants issued within a one year period prior to the IPO at prices below the IPO price. The revised guidance requires registrants to follow Statement 128 (which generally requires issuances to be reflected from issuance date forward) but cautions registrants that the staff considers issuances for nominal consideration before an IPO to be in-substance stock splits that should be retroactively reflected under Statement 128.

Issuances for which the recording of compensation or other expense has been appropriately considered under APB Opinion 25 or FASB Statement 123 ordinarily would not be considered nominal issuances. Also, issuances in exchange for assets (e.g. SAB 48 transactions) would not be considered nominal issuances unless the fair value of the assets is nominal in relation to the fair value of the equity instrument issued. The staff anticipates that nominal issuances will likely be limited to issuances to investors or promoters for considerably less than fair value. The revisions do not change existing requirements to recognize expense for stock or options issued in exchange for employee or non-employee services under APB Opinion 25 or FASB Statement 123. However, for financial statements for periods ending prior to December 15, 1997, the staff will not object to the continued application of SAB 83 as long as the registrant included SAB 74 disclosure as to what the earnings per share will be under Statement 128 and SAB 98 once adopted.

SAB 98 retains the guidance in SAB Topic 6:B:1 that calls for presentation of earnings available to common shareholders on the face of the income statement. SAB 98 amends Topic 6:B:1 to suggest how registrants who elect to present Comprehensive Income under FASB Statement 130 on the face of the income statement should report income available to common shareholders.

SAB 98 amends SAB Topic 6:G to change the references to basic and diluted earnings per share from primary and fully diluted earnings per share.

V. REVISED STAFF LEGAL BULLETIN NO. 5

Craig Olinger briefly discussed the revision to Staff Legal Bulletin 5. Jane Adams reported that she had reminded members of the Committee on Corporate Reporting of the Financial Executives Institute as to registrants' obligations to report the costs associated with year 2000 remediation.

VI. FASB STATEMENT NO. 131 AND MD&A

Craig Olinger stated that a decision to early adopt FAS 131 does not relieve the

issuer of the obligation to recast segment data for all years presented, unless to do so would be impractical. Companies that expect a material future change in their segment data are encouraged to apply the provisions of SAB 74, including: (1) a discussion of the standards and its requirement, and (2) the impact on their current segment groupings.

VII. PLAIN ENGLISH RULES

Craig Olinger discussed the recently adopted Plain English rules, noting that they will require registrants to follow six key elements of plain english when drafting the cover page, summary and risk factors section of prospectuses. The final rules, which are effective October 1, 1998, are substantially the same as the proposed rules. Elements in the proposed rules that were not adopted include limitations on the number of risk factors, ranking of risk factors, and overall length of the prospectus summary. Current Rule 421(B), which requires the entire prospectus to be written in clear and concise language, has been strengthened.

Bob Herz asked how the rules will be enforced in the review process. Mr. Olinger responded that the staff is being trained to evaluate "plain english" disclosures and does not intend to act as "grammar police". Amy Ripepi noted that the "Plain English" restatement of the risk factors on the ratio of earnings to fixed charges appears to change the calculation. Craig responded that no change to the substance of the rule was intended.

VIII. RECENT AMENDMENTS TO REGULATIONS

Craig Olinger briefly discussed the recent amendments to Regulation S. The amendments are designed to eliminate abusive practices under Regulation S, while preserving the benefits of the rule for capital formation. The amendments will affect offshore offerings of equity securities, including convertible securities, by US companies. Key provisions of the amendments include: the classification of offshore placements of equity securities of domestic issuers under Regulation S as "restricted securities" within the meaning of Rule 144, so that resales without registration will be restricted; lengthening of the holding period under Regulation S from 40 days to one year; and certification and legending requirements for the securities.

IX. FRR 50: RECOGNITION OF THE INDEPENDENCE STANDARDS BOARD

Scott Bayless briefly discussed Financial Reporting Release (FRR) 50 which recognizes the Independence Standards Board (ISB) as the authoritative standard-setting body for auditor independence.

Mr. Bayless stated that new questions regarding interpretation of SEC independence requirements should now be referred to the ISB staff. He also indicated that the release provides that the Commission and its staff will consult with the ISB during the course of ISB consideration of standards or interpretations, including those dealing with matters addressed by existing SEC guidance. As the ISB reconsiders and effectuates changes in independence standards and practices that involve existing SEC guidance, the Commission will consider modifying or withdrawing its conflicting guidance unless the Commission determines that it should not accept the

ISB position in a particular area.

X. BROKER DEALER YEAR 2000 REPORTS

Matt Hughey of the Division of Market Regulation described the recently proposed rules that would require broker-dealers to report on Year 2000 readiness. The proposed rules would also require auditors to attest to some relevant assertions.. The intent of the attestation rules was to require from auditors the lowest level of exposure while still rendering an attest report (rather than agreed-upon procedures). The $100,000 minimum net capital requirement for the broker-dealer report would cover about 2,200 of the 7,800 registered broker-dealers. The items to be discussed in the report (not attested to by the auditor) would include:

(1) Whether the board of directors (or similar body) of the broker-dealer has approved and funded plans for preparing and testing the broker-dealer's computer systems for potential computer problems caused by Year 2000 Problems;

(2) Whether the broker-dealer's plans exist in writing and address all of a broker-dealer's major computer systems wherever located throughout the world;

(3) Whether the broker-dealer has assigned existing employees, hired new employees, or engaged third parties to provide assistance in avoiding Year 2000 Problems; and if so, the work that these individuals have performed as of the date of each report;

(4) What is the broker-dealer's current progress on each stage of preparation for potential computer problems caused by Year 2000 Problems. These stages are:

(i) awareness of potential Year 2000 Problems;

(ii) assessment of what steps the broker-dealer must take to avoid Year 2000 Problems;

(iii) implementation of the steps needed to avoid Year 2000 Problems;

(iv) internal testing of software designed to avoid Year 2000 Problems, including the number and the nature of the exceptions resulting from such testing;

(v) integrated or industry-wide testing of software designed to avoid Year 2000 Problems (including testing with other broker-dealers, other financial institutions, customers, and vendors), including the number and the nature of the exceptions resulting from such testing; and

(vi) implementation of tested software that will avoid Year 2000 Problems;

(5) Whether the broker-dealer has written contingency plans in the event that, after December 31, 1999, it has computer problems caused by Year 2000 Problems; and

(6) Identify what levels of the broker-dealer's management are responsible for addressing potential computer problems caused by Year 2000 Problems, including a

description of these individuals' responsibilities regarding the Year 2000 and an estimate of the percentage of time that each individual has spent on Year 2000 issues during the preceding twelve month period; in each report, the broker-dealer shall identify a contact person regarding Year 2000 matters.

The second report for broker dealers and the two follow-up reports for transfer agents will require a series of assertions by management. The information in these assertions overlaps somewhat with the items required to be discussed. The intent of the overlap is to limit the assertions to items to which the Commission believes can be the subject of auditor attestation. Those assertions are as follows:

(1) Whether the broker-dealer has developed written plans for preparing and testing the broker-dealer's computer systems for potential Year 2000 Problems;

(2) Whether the board of directors (or similar body) of the broker-dealer has approved the plans described in (1) above;

(3) Whether a member of the broker-dealer's board of directors (or similar body) is responsible for the execution of the plans described in (1) above:

(4) Whether the broker-dealer's plans described in (1) above address the broker-dealer's domestic and international operations, including the activities of each of the firm's subsidiaries, affiliates, and divisions. (These provisions do not apply to subsidiaries, affiliates, and divisions of the broker-dealer that are regulated by U.S. or foreign regulators other than the Commission);

(5) Whether the broker-dealer has assigned existing employees, hired new employees, or engaged third parties to implement the broker-dealer's plans described in (1) above;

(6) Whether the broker-dealer or third party has conducted internal testing, whether such testing is on schedule in accordance with the plan described in paragraph (1) above, and whether the broker-dealer has determined as a result of the internal testing that the firm has modified its software to correct Year 2000 Problems; and

(7) Whether the broker-dealer has conducted external or industry-wide testing, whether such testing is on schedule in accordance with the plan described in paragraph (1) above, and whether the broker-dealer has determined as a result of the external or industry-wide testing that the firm has modified its software to correct Year 2000 Problems.

Comments on the proposed release are due on or about April 13, 1998.

XI. SECPS NOTIFICATION REQUIREMENTS

Scott Bayless and Bob Herz discussed the staff's views of the profession's proposal to change the SECPS requirement for the auditor to notify the staff of the termination of an audit relationship. The SECPS and the SEC Regulations Committee proposed an "exception reporting" requirement whereby the auditor would notify the staff only if the registrant does not provide a Form 8-K to the auditor. The staff would accept this change only if the auditor were also required to check EDGAR to verify that the 8-K

was filed. The SECPS is not willing to make auditors responsible for verifying that filings were made. Bob Herz asked whether a change to the "15 day letter" requirements might be made to require the auditor to file that letter directly with the staff, covering notification of termination and disagreements. Scott's reaction was that this would not satisfy the need for timely reporting of the termination.

XII. TOTAL RETURN SWAPS

Armando Pimentel addressed questions surrounding his remarks at the SEC Developments Conference in which the staff required consolidation of an SPE in a total return swap because the registrant retained "all of the substantive risks and rewards" in the arrangement. He stressed that his remarks were not intended to change practice or define the term "substantive" -- in the particular fact pattern, the registrant had in fact retained all of the risks and rewards.

XIII. DISCOUNTS ON RESTRICTED STOCK

The Committee asked the staff to participate in an effort to produce a "best practices" paper regarding valuations of restricted stock. The intent would be to reduce preparer uncertainty and inconsistency in the discount that the staff will accept. Donna Coallier reported that valuations were discussed in a recent training session held by the Division of Corporation Finance. Jay Hartig explained that rejection of company-specific valuations by the staff is of particular concern. Craig Olinger replied that often a "company-specific" valuation incorrectly excludes recent company developments such as contemporaneous issuances of equity for cash, and is based mainly on general information. Donna Coallier offered to review examples of valuations in connection with the staff's review of the "best practices" paper.

XIV. FASB STATEMENT NO. 123 PRO FORMA DISCLOSURES

Robert Bayless discussed the staff's reaction to a paper prepared by the Employee Benefits Task Force regarding materiality criteria and FAS 123 pro forma disclosures. Mr. Bayless indicated that a written response would be forthcoming. [Note: The Committee subsequently received a written response from the staff; see Attachment B to these highlights.] He expressed disagreement with the conclusion that materiality should be measured only quantitatively or based on the determination of whether an auditor might qualify their report because of its omission. He noted that the Commission viewed the required disclosure as a reasonable compromise from the FASB's preferred position of income statement recognition, and to eliminate that disclosure would be a breech of that compromise. He also observed that the public outcry over the proposed standard is difficult to reconcile with the frequent omission of the information because the effect is immaterial. Mr. Bayless also indicated that the Division's selection criteria for reviewing filings on Form S-2 and S-3 may be modified to include consideration of whether the issuer has reasonably excluded FAS 123 pro forma disclosures. The information gathered from these reviews will help the staff decide whether additional guidance on this issue is necessary.

XV. SECURITIZATION OF SUBPRIME LOANS

Robert Uhl discussed recent media reports of lenders eliminating recognition of gains on the sale of loans under SFAS No. 125. The staff will make an announcement at

the next EITF meeting that includes four major points:

1) Recognition of gain on the sale of loans is not elective.

2) In estimating the fair value of retained and new interests, the assumptions used must be reasonable and supportable.

3) Assumptions and methodologies used to estimate the fair value of similar instruments must be consistent.

4) Significant assumptions used in estimating the fair value of retained and new interests at the balance sheet date should be disclosed. Significant assumptions generally include default rates, interest rates and prepayment rates.

XVI. RULE 3-05 SIGNIFICANCE TEST AND EXCHANGE TRANSACTIONS

Craig Olinger discussed the following fact pattern and analysis:

A registrant and another party may each contribute businesses to a Newco (or "joint venture"), receiving in exchange an equity interest in the combined company. In this transaction, the registrant is giving the other party an interest in a formerly consolidated business in exchange for an equity interest in the other party's business.

Instruction 2 to Item 2 of Form 8-K specifies that dispositions and acquisitions effected through exchange transactions each be reported under that Item. The Item specifies separate thresholds for determining when each of those transactions is significant. The significance of the disposition and acquisition should be evaluated separately in determining whether pro forma information about the disposition (and receipt of an equity investment) is required, and whether audited financial statements of the business contributed by the other party are required.

Pro forma financial statements should be furnished to reflect the effects of a disposition of a controlling interest in a business if the business is a "significant subsidiary" exceeding the 10% level under the tests in Rule 1-02(w) of Regulation S-X. Retention of an equity interest in the business (or the newly combined businesses) does not alter that requirement.

The acquisition of an interest in a business to be accounted for using the equity method is deemed the acquisition of a business. Therefore, if the interest in the joint venture will be accounted for using the equity method, financial statements of the business or businesses contributed by the other party may be required under Rule 3-05 of Regulation S-X. The asset, investment and pretax earnings tests of Rule 1-02(w) should be based on the acquired percentage of the other party's business compared to the registrant's historical financial statements (without adjustment for the related disposition of the business contributed by the registrant to the joint venture). Whether or not the transaction is accounted for at fair value, the investment test should be based on the fair value of the consideration given up or the consideration received, whichever is more reliably determinable.

If reporting of both the disposition and the acquisition are required by Form 8-K, a

registrant may be unable to present a pro forma income statement depicting the joint venture formation because financial statements of the business contributed by the other party are not available. Those financial statements and related pro forma financial statements need not be filed until 75 days after the transaction is consummated. Pro forma financial statements depicting a significant disposition are required to be filed within 15 business days of the disposition. In these circumstances, the initial Form 8-K reporting the transaction should include a narrative description of the effects of the disposition, quantified to the extent practicable, with complete pro forma information depicting the effects of the exchange of interests furnished at the time that the audited financial statements of the acquired business are filed.

XVII. PRORATA CONSOLIDATION

Bob Herz noted that Robert Bayless has asked for the Committee's views about when prorata consolidation is considered appropriate. Bob stated that although no formal research was done, the Committee discussed the issue and agreed that prorata consolidation (other than in foreign issuer filings) is generally considered appropriate only for undivided interests. While this is most prevalent in some industries such as in oil and gas and construction projects, it may be appropriate in other circumstances provided there are undivided interests. However, "synthetic" undivided interests (such as might be created with corporate structures) should not qualify for such treatment. A Committee member noted that prorata statements could also be shown on a supplemental basis.

XVIII. PRO FORMA FINANCIAL STATEMENTS THAT INCLUDE COST-SAVING ADJUSTMENTS

Robert Bayless agreed to share ideas with the Filing Issues Task Force related to reporting expected cost savings and similar matters in pro forma financial statements. The emphasis of this effort will be to help issuers present information that is meaningful to investors while clearly distinguishing pro forma financial information in accordance with regulation S-X from other forward-looking information.

XIX. POOLING OF INTEREST CRITERIA

. Tainted Treasury Shares and the Acquisition of Preferred Shares

Jeff Jones discussed a pooling issue in which the company wanted to acquire the minority interest of a subsidiary in a target company. The registrant proposed to issue tainted treasury shares to acquire the outstanding minority interest and thereby cure the taint for the instant pooling transaction. The staff concluded that issuing tainted treasury shares for this purpose would not cure the taint for the instant pooling transaction. The staff would reach a similar conclusion if an issuer proposed to use tainted treasury shares to acquire other securities of the target company.

A. Litigation Tracking Warrants

Donna Coallier discussed a pooling issue in which a registrant had a contingent asset that could be realized upon favorable settlement of certain

litigation. The registrant did not believe that the trading value of its shares in the market properly included the value of the contingent asset. As a result, the registrant proposed to issue a warrant that they believed would capture and isolate the value of the contingent asset. The registrant planned to issue one warrant to each shareholder for each share outstanding as of a date shortly following a business combination. At issue was whether such an issuance would preclude pooling of interest accounting for the business combination that preceded the issuance.

The planned warrants were to be detachable and freely tradable separately from the common stock of the company. The warrants would be issued equally to issuer and combining company shareholders alike. The warrant would give the holder the right to obtain a variable amount stock for nominal consideration. The number of shares the holder available at exercise would vary based upon the amount of settlement received from the litigation. As a result, common stockholders that do not or cannot exercise warrants upon settlement of the litigation will be diluted to the extent of exercise by warrant holders that do exercise.

The staff concluded that if the company issued these warrants subsequent to consummation of a business combination, pooling of interest accounting would not be appropriate for the business combination. The staff believed that the instrument effectively separated the combined entity into two components: the contingent asset and the remainder of the company. Upon issuance of the warrant, the shareholders would be able to trade the value of the contingent asset separately from the rest of the company's value. The staff believed that such an ability was inconsistent with the introduction to paragraph 48 which requires that there be no planned transactions that are inconsistent with the combining of the entire existing common stock interests of the combining companies. In addition, the staff believed that the warrant issuance has the same economic effect as a spin-off of the contingent asset, which would be precluded by paragraph 48c.

B. **Systematic Patterns**

Donna Coallier discussed a pooling issue related to systematic patterns. She referred to a registrant that had submitted a formulaic systematic pattern based on the company's projections of annual treasury stock needs. The company projected its treasury stock needs based on the degree to which vested options were in or out of the money and historical exercise experience that had been compiled by its human resources department. The systematic pattern provided that the annual estimate of share needs would be repurchased ratably each day, after giving effect to legal black out periods. The staff concurred that the repurchase program described by the registrant qualified as a systematic pattern since it had explicit criteria that specified the amount and timing of shares to be repurchased.

However, in the first quarter in 1997, a decision was made to purchase additional shares beyond the number specified by systematic pattern. Specifically, due to sharp increases in the company's stock price, the company believed that a larger number of shares would be purchased in the first quarter, and adjusted repurchases accordingly. The systematic pattern

did not specify a criteria that would result in an immediate increase in share repurchases upon an increase in stock price. Rather, increases would be spread over time as through the mechanics of the systematic pattern. As a result, the staff concluded that the additional shares purchased beyond the number specified by the systematic pattern would be considered tainted shares that should be included in the company's 90% test in evaluating whether pooling of interest treatment is appropriate for business combinations.

XX. STAFF ANNOUNCEMENTS

The staff distributed the following written announcements:

. Impact of FASB Statement No. 128, "Earnings Per Share"

In February 1997, the FASB issued Statement No. 128, "Earnings per Share." The Statement establishes standards for computing and presenting earnings per share (EPS). It simplifies and supersedes the existing EPS guidance found in APB Opinion 15 and its 102 interpretations. The Statement is effective for financial statements issued for periods ending after December 31, 1997.

Audit literature may not permit an independent accountant to reissue its report on financial statements for inclusion in a Form S-3 after the registrant has reported its EPS initially in accordance with SFAS No. 128 in a Form 10-Q or in a press release. The staff will let firms decide for themselves whether they can permit reissuance of their opinion without restatement in this circumstance. However, if restated financial statements are not filed (under cover of Form 8-K, Item 5, for example), then the Form S-3 must present, at least, selected financial data (even though not required by instructions to Form S-3) that includes the restated EPS numbers (basic and diluted) for all periods, with prominent disclosure that the EPS data is restated in accordance with SFAS 128. This position is similar to the staff's position regarding stock splits that occur subsequent to filing of a Form 10-K that is incorporated by reference into a Form S-3.

See also the discussion below regarding filing of restated Financial Data Schedules.

A. Retroactive Changes and the Financial Data Schedule

Financial Data Schedules (FDS) are required to be included in EDGAR filings pursuant to Item 601(c) of Regulation S-K and Regulation S-B. Item 601(c)(iii) specifies when an amended or restated FDS is required to be filed. A restated FDS is required if any of the amounts reported in a previously submitted FDS are restated due to, for example, a pooling of interests or an accounting principle change. FAS 128 (Earnings per Share) is an example of a new accounting standard that requires retroactive restatement which will trigger an obligation to file restated FDSs.

Item 601(c)(2)(iii) specifies that restated FDSs should be filed for each affected period during the latest three fiscal years and interim periods of the

latest two fiscal years; except that a restated FDS need not be furnished for any period for which a FDS was not previously required to be furnished. The first filing made with the Commission which includes restated financial statements must include the restated FDS information. For registrants with a year-end of December 31, restated FDSs must be included with Form 10-K for the year ended December 31, 1997.

Even though the restatement may involve only a single item, such as EPS, the restated FDS must include all the required responses previously filed in addition to the restated item. (The tags in the FDS will not be changed in the near future to correspond to the new captions under FAS 128, so registrant should just report basic EPS for <EPS-Primary> and diluted EPS for <EPS-Diluted>. Filers should not change the tags. If they do, they will receive warning messages when they file.)

B. **Disclosures about Segments (FASB Statement No. 131)**

Disclosures specified by FASB Statement No. 131, Disclosures about Segments of an Enterprise and Related Information, are not required until annual financial statements for a year beginning after December 15, 1997 are presented. A registrant's election to adopt SFAS 131 in its annual financial statements earlier than required does not change the requirement to re-cast segment data for all years presented, unless impracticable. Companies should consider the requirement s of SAB 74 (see below) in light of the recent issuance of SFAS 131. Companies that expect a material future change in their segment financial information are encouraged to apply the provisions of SAB 74, including: (1) a discussion of the standard and its requirements, and (2) the impact on their current segment groupings.

Some companies may elect to furnish unaudited SFAS 131 segment data outside of annual financial statements or in interim statements earlier than required. If that data is presented, we believe unaudited segment information on the same basis should be furnished for the prior comparable period and all prior years included or incorporated by reference in the filing. However, the previously filed annual financial statements may always be incorporated by reference into a registration statement without revision to recast the segment data.

Items 101 and 303 of Regulation S-K require certain disclosures based on terms defined in SFAS 14, the previous segment standard. We will not object if companies electing to apply SFAS 131 early use the definitions of segments, products and services, and geographic areas in SFAS 131 in their responses to Item 101 and 303 of Regulation S-K. Of course, the disclosure must continue to be balanced and complete.

C. **Accounting and Disclosure by Physician Practice Management Companies**

Amortization PPMs may recognize "goodwill," in connection with a business combination with medical practices, or "capitalized management contract costs, " in connection with exchange transactions and management services

arrangements with medical practices. Factors inherent in this industry raise questions about the use of long amortization periods for these intangible assets. For example, significantly increased competition, industry consolidation, changing third party reimbursement requirements, technological medical innovation, an uncertain regulatory future, the ability of a PPM and the medical practices to perform under the terms of the services arrangement over an extended period, the uncertain continuity of revenues upon departure of key owner/physicians of the practice, and the relative infancy of the medical practice management industry make it difficult to assert that the PPM arrangement with the medical practices will survive and provide a competitive advantage on a long-term basis. The staff believes a relatively short amortization period is generally appropriate and does not contemplate circumstances where an amortization period in excess of twenty-five years would be justified.