SEC Regulations Committee

July 12, 2018 - Joint Meeting with SEC Staff
SEC Offices – Washington, DC

HIGHLIGHTS

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These highlights were prepared by a representative of CAQ who attended the meeting and do not purport to be a transcript of the matters discussed. The views attributed to the SEC staff are informal views of one or more of the staff members present, do not constitute an official statement of the views of the Commission or of the staff of the Commission and should not be relied upon as authoritative.

As available on this website, highlights of Joint Meetings of the SEC Regulations Committee and the SEC staff are not updated for the subsequent issuance of technical pronouncements or positions taken by the SEC staff, nor are they deleted when they are superseded by the issuance of subsequent highlights or authoritative accounting or auditing literature. As a result, the information, commentary or guidance contained herein may not be current or accurate and the CAQ is under no obligation to update such information. Readers are therefore urged to refer to current authoritative or source material.

I. ATTENDANCE

SEC Regulations Committee	Securities and Exchange Commission	Observers and Guests
Christine Davine, Chair	***Division of Corporation Finance (Division)***	Chris Alabi, CAQ Observer
Steven Jacobs, Vice-Chair	Kyle Moffatt, Chief Accountant	Paula Hamric, BDO
Jason Cuomo	Patrick Gilmore, Deputy Chief Accountant	Annette Schumacher Barr, CAQ Observer
Brad Davidson	Lindsay McCord, Deputy Chief Accountant	
Rich Davisson	Craig Olinger, Senior Advisor to the Chief Accountant	
Liz Gantnier	Shelly Luisi, Associate Director - Chief Risk Officer	
Jon Guthart	Christy Adams, Associate Chief Accountant	
John May	Tricia Armelin, Associate Chief Accountant	
Ravi Raghunathan	Jessica Barberich, Associate Chief Accountant	
Jake Vossen	Jaime John, Associate Chief Accountant	
	Ryan Milne, Associate Chief Accountant	
	Eiko Yaoita Pyles, CF-OCA Rotator	
	Robert Klein, CF-OCA Rotator	
	Mark Green, Senior Special Counsel	
	Office of Chief Accountant	
	Michel Dusza, Professional Accounting Fellow	
	Sheri York, Professional Accounting Fellow	
	Office of Small Business Policy	
	Jenny Riegel - Special Counsel	
	Amy Reischauer- Acting Chief	
	Office of Risk and Strategy (ORS)	
	Catherine Brown, Deputy Chief Risk Officer	

II. CURRENT FINANCIAL REPORTING MATTERS

A. New Revenue Recognition Disclosures under ASC 606

The staff shared some observations from its limited number of reviews of first-time adopters of the new revenue standard, ASC 606, *Revenue from Contracts with Customers*, but believes it is too early to consider any observations to be trends or otherwise noteworthy. The staff will continue to review the new disclosures in the normal course of the Division's filing review program and will issue comments to the extent that there appear to be material items that conflict with the standard, or material disclosures that are missing.

As with any other area of GAAP, the staff noted that to the extent a company's prior disclosures are not materially deficient, the company may choose to revise or improve its disclosures in future filings. The staff also encourages audit committees to engage with management and the external auditors in understanding where a company is relative to the standard's requirements and investor and regulatory feedback. Particular areas that are good topics to include in the discussion are the use of significant judgments in the application of the revenue standard, such as the identification of performance obligations and principal versus agent determinations, as well as the disclosures relating to disaggregation of revenue streams.

B. Release through EDGAR of Serious Deficiency Letters

The staff discussed a recent announcement that "serious deficiency letters" will be made public via EDGAR within 10 calendar days of issuance. In some cases, a registration statement or offering document is so deficient that the staff will send the registrant a serious deficiency letter indicating that the staff is deferring its review of the filing until it is amended to resolve the deficiencies.

The staff clarified that a serious deficiencies letter would be released within 10 calendar days of issuance only for *publicly* filed registration statements or offering documents. With respect to draft submissions on a non-public basis, the staff will continue its standard practice of issuing letters for any deficient documents. This correspondence would only be released with the entire SEC correspondence after completion of the review process in the normal timeframe (that is, no sooner than 20 business days after completion of the review).

C. Recent Amendments to SRC Definition – Transition Questions

On June 28, the Commission approved amendments to raise the thresholds in the smaller reporting company (SRC) definition, thereby expanding the number of companies eligible to comply with current scaled disclosure requirements. Under the amendments, a company with less than $250 million of public float as of the relevant determination date will be eligible to provide scaled disclosures as an SRC. A company with less than $100 million in annual revenues[1] and either no public float or a public float that is less than $700 million as of the relevant determination date will also be eligible to provide scaled disclosures as an SRC.

In addition, the amendments revise Rule 3-05(b)(2)(iv) of Regulation S-X to increase the net revenue threshold in that rule from $50 million to $100 million. As a result, a company may omit financial statements of businesses acquired or to be acquired for the earliest of the three fiscal years otherwise required by Rule 3-05 if the net revenues of that business are less than $100 million in its most recently completed fiscal year.

The Committee and staff discussed various transition questions related to the implementation of these amendments. The staff clarified that the amendments cannot be applied to any filing made before September 10, 2018, the effective date of the amendments. The staff also clarified that, for the SRC definition, the guidance in Exchange Act Rules CDI 130.04 is still applicable, that is "the determination date for smaller reporting company status is the last business day of the second fiscal quarter." Therefore, a company whose revenues fall below the threshold will have to wait until the determination date to evaluate whether they qualify as an SRC based upon their public float (or lack thereof) at that time.

The staff also noted that they intend to issue guidance to assist registrants with additional transition and other questions including whether the amendments can be applied to filings on or after September 10, 2018 for periods or events that occurred prior to the effectiveness. Meanwhile, registrants are encouraged to call the Office of Small Business Policy (202-551-3460) with questions.

[Note: Subsequent to the meeting (on August 10, 2018) the SEC issued a Small Entity Compliance Guide for Issuers addressing the amendments to the SRC definition.]

D. Rule 3-10 of Regulation S-X

The Committee inquired about the application of Rule 3-13 to Rule 3-10 of Regulation S-X. The staff indicated that it grants relief in limited circumstances where literal application results in disclosures beyond those intended by the rule.

[Note: Subsequent to the meeting, the SEC on July 24 issued a release proposing, among other things, to revise Rules 3-10 and 3-16 of Regulation S-X. See Release No. 33-10526.. Comments are due 60 days after posting in the Federal Register.*]*

E. Financial statement requirements in an S-4 and/or merger proxy for an operating company merging with a SPAC

The Committee and the staff discussed transactions in a Form S-4 and/or merger proxy for which public Special Purpose Acquisition Companies (SPACs) are consummating mergers with private operating companies. In particular, the audit requirements for the private operating company in the Form S-4/merger proxy prior

[1] Based on annual revenues in the most recent fiscal year completed before the last business day of the second fiscal quarter.

to consummation of the transaction were discussed.

F. Emerging Growth Company (EGC) Transition Issues

The Committee and the staff discussed the status of EGC issues raised at prior meetings related to losing EGC status in the year public companies are required to adopt new accounting standards when they have elected to use private company dates. Generally, if an EGC loses its status after it would have had to adopt a standard absent the extended transition, the issuer should adopt the standard in its next filing after losing status. The staff recently objected to a request for relief from adopting a new accounting standard in the year the company lost its EGC status due to becoming a large accelerated filer. In addition, the staff indicated registrants are encouraged to discuss specific facts and circumstances with the staff.

G. Other Items Discussed

1. Critical Audit Matters (CAMs)

The Committee and the staff discussed PCAOB Auditing Standard (AS) 3101, *The Auditor's Report on an Audit of Financial Statements When the Auditor Expresses an Unqualified Opinion*, and specifically perspectives, observations, expectations and training relating to the future implementation of CAMs.

2. Non-GAAP Measures

The staff observed that comments are still being issued on individually tailored accounting principles in relation to non-GAAP measures.