

State Board Report

A Digest of Current Developments Affecting State Accountancy Regulation

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No GAO Fix for Concentration

When the General Accountability Office surveyed a random sample of almost 600 companies on their experience with their auditors (as reported in GAO-08-163), 82 percent of the large public companies, drawn from the FORTUNE 1000, saw their choice of auditor as limited to three or fewer firms, and about 60 percent viewed competition in their audit market as insufficient. However, most of the small public companies reported being satisfied with the auditor choices available to them.

The GAO report states: “Academics and business groups have put forth proposals to reduce audit market concentration and address challenges facing smaller accounting firms, including capping auditors’ liability and creating an office to share technical expertise... Given the lack of significant adverse effect of concentration in the current environment and that no clear consensus exists on how to reduce concentration, no compelling need for immediate action appears to exist.” ♦

Regional Directors Promote ALD

At their January 18, 2008 meeting in California, the NASBA Board of Directors elected Billy M. Atkinson (TX) Board Secretary, passed a resolution supporting the continuation of the efforts of NASBA’s National Examination Preparedness Committee, and heard reports on the progress of the Mobility Task Force, International Regulators Conference Committee, and the CPA Licensing Examinations Committee. They also learned the Regional Directors will be working to get all states actively participating in the Accountancy Licensing Database (ALD), as part of the drive to ease licensee interstate mobility while ensuring the boards’ ability to regulate all who offer professional services within their jurisdictions. Just as NASBA is working to have all states adopt the revisions to the Uniform Accountancy Act’s Section 23, which enables most CPAs to offer services without additional notice or fees, the ALD helps the boards have current information on the individuals and firms practicing in their states.

Michael Skinner (GA), chair of the Committee on Relations with Member Boards, told the Board of Directors that the Regional Directors are ready to do all they can to promote the use of the ALD in their states. They noted that, while the public protection value of the ALD is obvious to all, the growth of the database has been slower than anticipated. “Our committee has taken on the challenge to try to make this a higher priority among the state board members,” Mr. Skinner told the Board. President David Costello has pledged NASBA staff support to smooth technical difficulties state boards might encounter in bringing their licensee information on to the database.

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Comment Period on Education Rules Ends

As of January 31, 2008 the official comment period on the NASBA Education Committee’s proposed revisions to Uniform Accountancy Act Model Rules 5-1 and 5-2 has ended. Committee Chair Billy M. Atkinson reported approximately 25 comments had been received, and the Education Committee intends to carefully consider each suggestion. While these comments have meaningful points to consider, they generally would not require major changes in the proposed rules, Mr. Atkinson observed. This is a sharp contrast to the 178 comments received when the first revisions to these rules were proposed early in 2005.

To ensure appropriate input on these rules, the Education Committee worked with a task force including individuals from the state boards, education and accreditation organizations to develop a framework for revision, and then to modify that framework. In February 2007 the Education Committee sponsored a NASBA “Joint Panel on Education” to gather additional input from over 80 stakeholders, followed by soliciting comments at the June 2007 Regional Meetings. Finally, in November 2007, the new exposure draft of the revised rules was released for public comment.

The Education Committee is scheduled to meet in mid-March and then bring its final recommendations to the NASBA Board’s April meeting. ♦

IFAC Regulation Policy Released

Professional accounting associations need to have an ongoing dialogue with government to determine the right balance between self-regulation with public oversight and external regulation, the International Federation of Accountants explains in its policy position on “Regulation of the Accountancy Profession,” dated December 2007. The policy position can be found on www.ifac.org/Members/Pubs-Details.tmpl?PubID=1196815423246019&Category=Policy%20Positions. IFAC has 157 members and associates in 123 countries, representing more than 2.5 million accountants. NASBA is the only IFAC member representing government accountancy boards.

IFAC’s position paper states:

“The role of government in regulation of the accountancy profession is to ensure that regulation is achieving its public interest objective to ensure – at the lowest possible cost – quality, and consistency of quality, in the supply of accountancy services. To do this effectively, governments need to:

- Understand the nature and characteristics of the issues that regulation is seeking to address;

- Have in place a system for monitoring the performance of the body charged with regulating the accounting profession;
- Be focused on outcomes, in this case the overall quality and consistency of accounting services; and
- Have an ability to amend legislation and regulation quickly where circumstances require.”

The paper notes, “Whether the regulation by a professional institute or by a government or independent agency, the monitoring should encompass the adequacy and quality of the resources available to the organization.”

IFAC calls for regulation that is “proportionate, transparent, non-discriminatory, targeted, implemented consistently and fairly, and subject to regular review.” The paper concludes by stating: “Finally, while regulation helps to ensure the quality of services that professional accountants provide, ultimately it is the ability of the profession to put the public interest first that will earn the profession the respect of communities and regulators around the world.” ♦

Supreme Court Denies Stoneridge

In a split decision, on January 15, 2008, the Supreme Court ruled that the private right of action under §10 (b) of the Securities Exchange Act of 1934 only extends to third parties in corporate fraud cases if the investors relied on actions by those parties when making investment decisions. A class-action suit by investors, with Stoneridge Investment Partners, LLC, the lead plaintiff, was filed against Scientific-Atlantic, Inc., and Motorola, Inc., which were suppliers and later customers of Charter Communications, Inc. Although the plaintiffs agreed to arrangements that allowed Charter to mislead its auditor and issue a misleading financial

statement affecting the stock price, the US Supreme Court concluded that the customer/supplier companies could not be sued because the investors did not rely upon their statements or representations. Therefore, the Supreme Court affirmed the judgment of the Court of Appeals in case No. 06-43 Stoneridge Investment Partners, LLC, petitioner v. Scientific-Atlanta, Inc., et.al.

As the *Wall Street Journal* commented: “In the latest of a series of victories for Wall Street, the Supreme Court sharply limited the ability of shareholders defrauded by a company to sue other parties, including advisers, lawyers and accountants....In particular, the ruling dims the hopes for shareholders in big accounting frauds, such as Enron Corp., where the perpetrator is bankrupt but firms that allegedly contributed to the fraud remain in business.”

Scientific-Atlanta, Inc., had supplied digital cable converter boxes to Charter, a cable operator, which it then furnished to its customers. To mislead the auditors, Charter came up with a plan to overpay Scientific \$20 for each box until the end of the year, with the understanding that Scientific would subsequently return the overpayment by purchasing advertising from Charter. Then Charter would record the advertising purchases as revenue and capitalize its purchase of the boxes. This would give the appearance that Charter had met its projected revenue and operating cash flow numbers.

Writing the majority opinion, Justice Arthur M. Kennedy stated that Congress, in §104 of the Private Securities Litigation Act of 1995 (PSLRA), 109 Stat. 757, “directed prosecution of aiders and abettors by the SEC.” ♦

NASBA Regional Meetings

It’s not too early to start making plans to attend NASBA’s Regional Meetings. The Eastern Regional will be held June 11-13 in the Grove Park Inn in Asheville, NC, and the Western Regional will be held June 18-20 at the Hyatt Regency in Newport Beach, CA. These are NASBA’s most interactive meetings, when participants are asked to share their views and experiences, as well as hear about the latest regulatory developments. Among the topics scheduled for discussion are: coordinating enforcement efforts; recognizing non-US professionals; ethics education before and after licensure; facing international standards; and activities of national task forces. Meeting details can be found on www.nasba.org. ♦

President's Memo

A NASBA Ad

Super Bowl Sunday: Giants 17, Patriots 14! Tom Brady's quest for four Super Bowl rings halted; the record undefeated season for the Patriots ends; and Eli, not Peyton, Manning is raking in the accolades and all that comes with that. And then there were the ads. The ads — images and messages— the memories of which, for better or worse, will far outlive those of the game itself.

We'll not soon forget the scene capturing political rivals James Carville and former Senate Leader Bill Frist agreeing to get a coke, riding a tourist van together with the sounds sung softly in the background: *"Why don't we step outside and change our view. We don't see eye to eye sometimes it's true..."*

And how can we not connect squirrels and Bridgestone. Perhaps you saw the ad. Little squirrel goes out into the street, finds and gnaws on an acorn. Car is fast approaching, squirrel screams, animals all about are screaming, and car passengers are screaming at the thought of running over the little furry animal. Then, almost magically, the car swerves at the last instant and is able to miss the squirrel and stay on the road — thanks to the car's Bridgestone high traction tires. We're told: *"For drivers who want to get the most out of their cars, it's Bridgestone and nothing else."*

There were many other outstanding ads during the four quarters of the game: Audi ("Godfather" scene); Doritos (mouse trap); E-Trade (baby trader/advisor); Pepsi (Justin Timberlake) to name a few. And they all sought to position themselves within a memorable game to make their own ongoing images and messages more memorable.

We too in NASBA have a commercial. Yes, it's different than the Super Bowl's ads, but we are positioning it within a memorable event, a special conference: On May 19 the NASBA National Examination Preparedness Committee is hosting *"Conference on the State of the Examination."* The site is Dallas and, by the time you're reading this, you may very well have received the details of the Conference. And we want every state board represented there. Some will recall our previous three major examination conferences: May 10, 2001; January 9, 2002; and September 14, 2005. These past conferences brought together representatives from our member boards to discuss various aspects of the CPA examination and, together with NASBA leadership, forged an improved path for progress.

We are now approaching the halfway point in the term of our Computer-Based-Testing agreement (CBT). And as we enter into long-term planning of various aspects of the Uniform CPA Examination and its international implications, we need to again meet with you, our boards. We want to talk to you about our progress using computer-based testing and, importantly, our potential. We need to engage you in discussion about the CBT agreement including such topics as: cost control, policies and procedures guiding the examination, provision for contingencies and opportunities for contract enhancements. It is also now time to talk about international delivery, its implications, security issues, competitive credentials and a growing international population interested in the CPA Examination.

We seek to assess at this May conference your level of satisfaction/dissatisfaction with our CBT agreement and, moreover, where we can continue to improve to make the CPA Examination—the state boards' licensing examination —the very best it can be for you, the major stakeholders.

We look forward to our conversation with you at the May conference. To slightly paraphrase the top rated Bridgestone Super Bowl ad: *"For state board regulators who want to get the most out of their licensing examination, it's the May 19 Conference and nothing else."*

*Ad astra,
Per aspera.*



David A. Costello, CPA

A handwritten signature in dark ink, appearing to read "David A. Costello". The signature is fluid and cursive.

David A. Costello, CPA
President and CEO

Global Support for Convergence

Based on roundtable discussions held with hundreds of stakeholders from dozens of countries, the six largest global accounting networks' leaders concluded: "...it is clear that the will of the global capital markets community is to move toward adoption of a single set of uniform, high-quality accounting standards, and there is a high level of confidence that this goal can be achieved." The roundtables' conclusions were presented at their Fourth Global Public Policy Symposium, held in New York in January. The joint document, from the leaders of PricewaterhouseCoopers, KPMG International, Worldwide Grant Thornton International, Deloitte Touche Tohmatsu, BDO International, and Ernst & Young, on which the discussions were based was entitled: "Global Capital Markets and the Global Economy," and can be found on [http://www.pwc.com/Extweb/pwcpublications.nsf/docid/A3263860A2AC0059802572220057EF35/\\$file/vision.pdf](http://www.pwc.com/Extweb/pwcpublications.nsf/docid/A3263860A2AC0059802572220057EF35/$file/vision.pdf).

The roundtable participants expressed a preference for principles-based, rather than rules-based standards, and to advance that dialogue a white paper by the network firms on principles-based standards was released at January's symposium. Its introduction states: "...we may be well served by acknowledging that neither a purely rules-based nor a purely principles-based system has ever existed or will ever exist. Every accounting standard will exist somewhere along a spectrum between rules and principles. The goal must be to seek the 'sweet spot' on that spectrum."

Six key elements of a high-quality principles-based accounting standard are identified in the white paper:

1. Faithful presentation of economic reality.
2. Responsive to users' needs for clarity and transparency.

3. Consistency with a clear Conceptual Framework.
4. Based on an appropriately-defined scope that addresses a broad area of accounting.
5. Written in clear, concise and plain language.
6. Allows for the use of reasonable judgment.

The firms then comment: "The financial reporting process will be less driven by seeking to identify the rule that directs how to record a transaction or make a disclosure, and will place more emphasis on the exercise of professional judgment....Regulators will need to focus on the soundness of the underlying judgments that are the very essence of good business reporting and external auditing." ♦

Directors Promote ALD

(From page 1)

Ken Bishop, Mobility Task Force chair, reported 34 states have now voiced their support for moving forward on increasing mobility through the Section 23 model. By the end of 2009, the Task Force anticipates there will be 40 states that have passed mobility legislation. His group is assisting states in drafting bills that fit Section 23's concepts into their accountancy acts.

NASBA is planning for a May 2008 special examination conference, Joseph Cote, Chief Operating Officer, told the Board. The conference will discuss the current Uniform CPA Examination and the current computer-based-testing agreement. It will also cover examination possibilities for the future. It is hoped that all state boards will be represented at this conference.

Also being developed by NASBA is a conference of international regulators of the accounting profession which tentatively is scheduled for October in Boston, following the Annual Meeting, President Costello reported. ♦

State Board Report

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