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May 24, 2006

Ms. Sharon Macey  
Audit and Attest Standards  
American Institute of Certified Public Accountants  
1211 Avenue of the Americas  
New York, New York 10036-8775

By e-mail: [smacey@aicpa.org](mailto:smacey@aicpa.org)

Re: Auditing Standards Board's Exposure Draft of a Proposed Statement on Auditing Standards: The Auditor's Communication with those Charged with Governance

Dear Ms. Macey:

The New York State Society of Certified Public Accountants, the oldest state accounting association, represents approximately 30,000 CPAs that will implement the provisions proposed standard in the above captioned exposure draft. NYSSCPA thanks AICPA for the opportunity to comment on its exposure draft.

The NYSSCPA's Auditing Standards and Procedures Committee deliberated the exposure draft and prepared the attached comments. If you would like additional discussion with us, please contact Mark I. Mycio the Chair of the Auditing Standards and Procedures Committee at (212) 372-1421, or Ernest J. Markezin, NYSSCPA staff at (212) 719-8303.

Sincerely,

Stephen F. Langowski  
President

Attachment



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**NEW YORK STATE SOCIETY OF  
CERTIFIED PUBLIC ACCOUNTANTS**

**COMMENTS TO THE AUDITING STANDARDS BOARD ON THE  
PROPOSED STATEMENT ON AUDITING STANDARDS:  
THE AUDITOR'S COMMUNICATION WITH THOSE CHARGED WITH  
GOVERNANCE (March 6, 2006)**

**MAY 24, 2006**

**Principal Drafters**

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Ernest J. Markezin

## COMMENTS

Overall, we support (a) the improved communication procedures between the auditor and those charged with governance; (b) those communications that should be in writing; (c) the auditor's assessment of the adequacy of the entire process and (d) the documentation requirements. We offer the following suggestions for the improvement of the proposed Statement:

1. In the third sentence of paragraph 2, we suggest the removal of the word "additional." Thus, the last part of this sentence would read "or by external requirements."
2. Given that the standard requires that communications be made on a timely basis (in paragraph 3), we suggest the deletion of the word "timely" in paragraph 4(b) (as this has already been stated in paragraph 3). Further, the requirement in paragraph 46 ("Communications with those charged with governance should be made on a sufficiently timely basis to enable those charged with governance to take appropriate action") should be moved to paragraph 3. This paragraph should also state that the timing of such communications should occur prior to the report release date.
3. In paragraph 4(a) the word "mutual" implies that the auditor and those in charge of governance have the exact same relationship with each other. Since it is the auditor who determines both the scope and timing of the audit procedures, and not those charged with governance, the word "mutual" should be deleted. Since paragraph 4(a) is essentially a header, with the discussion of the topic in more detail later in the Statement, we suggest adding cross-references to those other paragraphs (i.e., 18(b), 25 to 28).
4. Paragraph 4(b) assumes that the auditor has knowledge of the legal responsibilities of those with an oversight role over the financial reporting process. Because responsibilities of a board of directors are governed by state law and are limited by a litigated series of principles, we believe that auditors should not be charged with attempting to fulfill those responsibilities. Therefore, we would delete the words "that are relevant" and substitute "that may be relevant."
5. Also, we note that paragraphs 3 and 4(c) have the objective of assisting those charged with governance in fulfilling their responsibilities (in overseeing the financial reporting process per paragraph 3). However, neither this Statement nor any other auditing standard provides the auditor with any guidance regarding all the legal requirements of those charged with governance in their oversight of the financial statement process. Therefore, we recommend that more emphasis be placed on communications *from* those charged with governance *to* the auditor where they would request whatever information or assistance they believe is necessary to fulfill their oversight role. This would move the burden properly to those in the oversight role to determine the sufficiency of any communications with the auditor.
6. Paragraph 6 discusses an effective two-way communication between the auditor and those charged with governance. While this Statement discusses the desirability of "two-way" communications, it is noted that no information is required to be given by those charged with governance (e.g., the audit committee, or the Board) to the

auditor. [See item 5 above.] Should auditors assume that “two-way” and “mutual” (used elsewhere in this standard) have the exact same meanings? As mentioned above, the term “mutual” implies the two parties have the exact same relationship with each other (which we do not believe actually can exist between the auditor and with those charged with governance), while “two-way” does not have such an implication. Thus, wherever the term “mutual” appears in this Statement, we would change it to “two-way.”

7. Short of legislation or judicial interpretations regarding the duties of those with an oversight role over non-public companies, how will a constructive working relationship (paragraphs 6 and 51), “two-way” and “mutual” communications develop when there is no legal requirement for such a dialogue? [See items 5 and 6 above.]
8. Paragraph 7 addresses management’s duty to communicate matters of governance interest to those charged with governance and says the auditor cannot relieve management of this responsibility. Conversely, paragraph 19 says the communication by management with those charged with governance does not relieve the auditor of his communication responsibilities. Paragraph 7 should be combined with paragraph 19.
9. The word “IDENTIFY” should be added to the beginning of the title THOSE CHARGED WITH GOVERNANCE to clearly delineate the paragraphs that follow, since all of the ensuing discussion merely requires the auditor to find out with whom exactly to communicate.
10. It is clear that paragraph 13 merely contains some suggestions, and is not intended to cover what may legally be required of auditors or audit committees. While we believe that auditors should understand the duties (as they are spelled out under applicable state law and judicial interpretations) of the board, the audit committee and other committees, we recommend that this standard not address what the boundaries of “good governance” might be until this is a specific requirement of the auditing standards.
11. The last bullet to paragraph 14 should be cross-reference to AU Section 310, “Appointment of the Independent Auditor,” paragraph .07.
12. With regard to paragraph 19, a summary may be sufficient only when management’s communication is deemed adequate. We suggest that in instances where “adequacy” is a difficult judgment call, all significant findings should be communicated directly to those charged with governance, not just to management with a summary communicated to those charged with governance.
13. Paragraph 20 presumes that the auditor knows the legal responsibilities of those charged with governance, and as mentioned above, may be problematic.
14. Paragraph 21. The use of the phrase “or other form of contract that records the terms of the engagement” means in writing. We believe that either this Statement, or another that will amend standard AU 310, require that the engagement letter for every financial statement audit be in writing. There will then be a record of all the “protective” language found in paragraphs 22 and 23. Furthermore, the engagement

letter should identify the governing party, and such governing party should be one of the signatories of the engagement letter.

15. Paragraph 24 discusses communications relating to SAS 8, *Other Information in Documents Containing Audited Financial Statements*. The language in this paragraph should be included in the engagement letter, and either AU 310 be amended to include such language, or if AU 550 needs to be “refreshed” to include language regarding discussions with those charged with governance, SAS 8 should be revised. We recommend the deletion of this entire paragraph.
16. Paragraphs 26 and 27 discuss elective communications. We recommend that these two paragraphs be moved to an appendix to the Standard under “Other Elective Communications.”
17. We recommend adding the word “significant” before “accounting practices” in paragraph 29(a).
18. At paragraph 29(c), the standard uses the term “trivial.” The auditing literature uses “material,” “immaterial,” “significant” and “not significant,” and for that reason we would change “trivial” to “not significant,” rather than begin using a new term related to materiality.
19. Regarding paragraph 29(e), as discussed above, it is not clear that auditors know exactly what is relevant to those charged with the oversight of the financial reporting process. We suggest either an exposition of the issues that are relevant to the oversight of the financial reporting process, or a cross-reference to where this information may be found. Paragraph 20 says “Nothing precludes the auditor from communicating other matters of which the auditor is aware, that in the auditor’s professional judgment, are significant to the responsibilities of those charged with governance.” The difference between these two paragraphs is unclear, other than that 29(e) is a written communication, and that 20 may be oral. Paragraph 20 should be combined with 29(e).
20. In paragraph 30(a) we would add “immaterial” and “may” in the second sentence so it would read: “The auditor also may communicate other corrected immaterial misstatements, such as frequently recurring immaterial misstatements that may indicate a particular bias in the preparation of the financial statements.”
21. In paragraph 30(b), it is not clear which “cases” the ASB had in mind where the auditor would give management’s representations to those charged with governance. This point should be clarified and expanded.
22. In the second sentence of paragraph 31 we would delete “including” and add “which term includes” in order to clarify that accounting practices include policies, estimates and disclosures.
23. In paragraph 34, the standard again uses the term “trivial.” As mentioned above, we suggest substituting “immaterial” (if that is what the ASB intended) rather than using a term related to materiality that is not in the auditing literature.

24. Paragraph 39 addresses two-way communication and establishing a mutual understanding. For the reasons previously expressed, we recommend that “two-way” be substituted for “mutual.”
25. The last sentence in paragraph 39 (“Difficulty in establishing a mutual understanding may indicate that the two-way communication ... is not effective”). This is a statement that is necessarily true by the nature of its form and adds little to the Standard. It is also noted that this concept is expanded in paragraph 51 to add that inadequate communications may indicate an unsatisfactory control environment. This sentence (in paragraph 39) should be deleted or expanded. Both this paragraph and paragraph 51 should be merged into paragraph 53.
26. The paragraph 40 expectation by the auditor of those charged with governance should be included in the auditor’s engagement letter.
27. We recommend that paragraph 49 be cross-referenced to AU 319, AU 322 and AU 325, and that this assessment of the control environment be documented.
28. The last sentence in paragraph 51 implies that such inadequacy is the fault of those charged with governance. While we would not like to think so, the lack of a constructive working relationship may very well be the failure of the auditor to communicate clearly and concisely. Before the auditor attempts to assess the risks of material misstatements due to an “inadequate two-way communication,” this Standard should discuss how to measure and weigh who is not effectively communicating – the auditor or those charged with governance.
29. Paragraph 52 mentions “willingness and capacity;” however, it is not clear what “capacity” means. Does it mean the governance people do not have the knowledge needed, cannot express themselves adequately, or are just not capable? The Standard needs an explanation of what the ASB means by “capacity” regarding meeting in executive session with the auditors.
30. Paragraph 53 addresses situations in which the communications with those charged with governance is not adequate, and in which the auditor should consider the effect on the assessment of the control environment and risks of material misstatements. The last sentence of paragraph 39 and paragraph 51 should be merged into this paragraph.
31. Regarding the first two bullets under paragraph 53, without any standard as to how to measure whether two-way (mutual) communication between the auditor and those in charge of governance are satisfactory or acceptable, we would be surprised to find such a modification of the opinion. As to obtaining legal advice, again without any standard to measure the two-way communication, what legal standard can or should lawyers apply? and, consequently, what legal advice can a lawyer give the auditor other than to modify the opinion or withdraw from the audit? Is there a third course of action? In the ASB’s collective experience, are there any other legal remedies to “fix” an inadequate two-way communication?
32. Paragraph 54 should be less wordy and simply say “all communication should be documented.”