Proposed Changes in Public Company Auditing Standards

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On December 11, 2013, the public comment period will close on two new auditing standards proposed by the Public Company Accounting Oversight Board (PCAOB) to improve the informational value of the auditor's report. These proposed standards, if adopted, would change the role of auditors and expand the scope of the auditor's report.

The first proposed auditing standard, the so-called "The Auditor's Report on an Audit of Financial Statements When the Auditor Expresses an Unqualified Opinion" (the "Proposed Auditor Reporting Standard"), would require the auditor's report to disclose "critical audit matters," as well as information relating to the auditor's tenure and independence from the company.

The second proposed auditing standard, the so-called "The Auditor's Responsibilities Regarding Other Information in Certain Documents Containing Audited Financial Statements and the Related Auditor's Report" (the "Proposed Other Information Standard"), would potentially expand the auditor's responsibilities with regard to the evaluation of "other information," included in the company's annual report filed with the Securities and Exchange Commission (SEC).

Critical Audit Matters

The Proposed Auditor Reporting Standard would require auditors to report on "critical audit matters," defined as matters that: i) involve the most difficult, subjective, or complex audit judgments; ii) pose the most difficulty to the auditor in obtaining sufficient appropriate evidence; or iii) pose the most difficulty in forming an opinion on the financial statements. In determining what is a critical audit matter, auditors would be able to consider a (not dispositive) list of factors enumerated in the proposal. Reporting on critical audit matters may require disclosure of information that would not be otherwise disclosed by the company, such as internal investigations or significant deficiencies in internal control over financial reporting.

Other Information

The Proposed Other Information Standard would expand the auditor's responsibilities with respect to the review and evaluation of "other information," information that is outside of the audited financial statements but is included in the annual report filed with the SEC, such as selected financial data and MD&A. Currently, auditors only have an obligation to read and consider other information and discuss potential inconsistencies with management and/or the audit committee. However, the proposed standards would require auditors to make an affirmative statement as to whether other information is materially inconsistent with information shown in the financial statements.

Potential Impact

The proposed standards have drawn negative reactions from both companies and auditors. The top concerns of companies are potential delay in the auditing process, potential increase in audit costs, repetitive disclosure, and disclosure of information that would not be otherwise required to be disclosed. Also, the proposed standards would leave the determination of the scope of disclosure in the hands of auditors, thus causing potential conflicts between auditors, audit committees, and companies. While auditors may be concerned about increased potential liability resulting from their added responsibilities, others fear that extensive disclosures will be viewed as a way of disaffirming the auditor's responsibilities for the audit or expressing something less than an unqualified opinion.

About the Authors

Bonnie J Roe is a partner in the Corporate group of Cohen & Gresser LLP, where she represents publicly and privately held companies and investment funds. Ms. Roe has thirty years of experience advising public companies on securities law compliance, corporate governance and mergers and acquisitions. She has served as counsel for issuers, underwriters and placement agents in connection with public and private offerings. Ms. Roe was named as one of New York's *Super Lawyers* for Securities & Corporate Finance in 2011, 2012 and 2013 and is mentioned in Who's Who in America and Who's Who in American Law.

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