

requested to do so, the FASB will make information and staff reasonably available to facilitate our, or our staff's, understanding and implementation of a FASB standard.

The Commission and its staff intend to work with the FAF and the Board to ensure that proper oversight procedures and policies are in place to allow the Commission to assess whether the FASB continues to meet the characteristics of an accounting-standard setter that are discussed in the Sarbanes-Oxley Act.

### C. Key FASB Initiatives

As noted earlier, the Commission has treated FASB accounting standards as "authoritative" since 1973. In order for U.S. accounting standards to remain relevant and to continue to improve, however, the Commission expects the FASB to:

- Consider, in adopting accounting principles, the extent to which international convergence on high quality accounting standards is necessary or appropriate in the public interest and for the protection of investors,<sup>15</sup> including consideration of moving towards greater reliance on principles-based accounting standards whenever it is reasonable to do so;
- Take reasonable steps to continue to improve the timeliness with which it completes its projects, while satisfying appropriate public notice and comment requirements;<sup>16</sup> and
- Continue to be objective in its decision-making and to weigh carefully the views of its constituents and the expected benefits and perceived costs of each standard.<sup>17</sup>

### D. FASB's Independence

While effective oversight of the FASB's activities is necessary in order for the Commission to carry out its responsibilities under the securities laws, we recognize the importance of the FASB's independence. By virtue of today's Commission determination, the FASB will continue its role as the preeminent accounting standard setter in the private sector. In performing this role, the FASB must use independent judgment in setting standards and should not be constrained in its

exploration and discussion of issues. This is necessary to ensure that the standards developed are free from bias and have the maximum credibility in the business and investing communities.<sup>18</sup>

### E. Conclusion

Based on available information, the organizational structure, operating activities, and procedures of the FAF and FASB meet the criteria in section 108 the Sarbanes-Oxley Act.<sup>19</sup> In addition, the Commission has determined that the FASB has the capacity to assist the Commission in fulfilling the requirements of subsection 19(a) of the Securities Act of 1933 and section 13(b) of the Securities Exchange Act of 1934 and is capable of improving both the accuracy and effectiveness of financial reporting and the protection of investors under the securities laws.<sup>20</sup> Accordingly, the standards set by the FASB are recognized as "generally accepted" under section 108 of the Sarbanes-Oxley Act.

As required under the securities laws, including the Sarbanes-Oxley Act, the Commission will monitor the FASB's procedures, qualifications, capabilities, activities, and results, as well as the FAF's and FASB's ongoing compliance with the expectations and views expressed in this policy statement. We will issue an appropriate revision of this policy statement if we determine that the FAF or FASB no longer meets the statutory criteria or expectations discussed in this policy statement, or if we consider it otherwise necessary or appropriate to do so.

### III. Regulatory Requirements

This policy statement is not an agency rule requiring notice of proposed rulemaking, opportunities for public participation, and prior publication under the provisions of the

<sup>18</sup> The occasions where the Commission has not accepted a particular FASB standard have been rare due, in part, to our recognition and support of FASB's independence. As noted elsewhere in this release, the Commission and its staff do not prohibit the FASB from addressing a particular topic and do not dictate the direction or outcome of specific FASB projects provided that the conclusions reached by the FASB are in the interest of investor protection.

<sup>19</sup> As noted above, one of the statutory criteria is that the recognized accounting body is funded as provided in section 109 of the Sarbanes-Oxley Act. We are providing an endorsement of the FASB so that it may begin to work with the Public Company Accounting Oversight Board to implement the funding mechanisms in section 109. Our recognition of the FASB is in anticipation of and with the expectation that this funding will be forthcoming in the near term.

<sup>20</sup> See, section 108(a) of the Sarbanes-Oxley Act; section 19(b)(1)(B) of the Securities Act of 1933, 15 U.S. 77s(b)(1)(B).

Administrative Procedure Act (APA). Similarly, the provisions of the Regulatory Flexibility Act, which apply only when notice and comment are required by the APA or another statute, are not applicable.

### IV. Codification Update

The "Codification of Financial Reporting Policies" announced in Financial Reporting Release No. 1 (April 15, 1982) [47 FR 21028] is updated as follows:

1. By adding at the end of Section 101, under the Financial Reporting Number (FR-70) assigned to this policy statement, the text in the policy statement beginning with the second paragraph in Section I. and all of Section II. of this release.

2. By renumbering the footnotes from this release that are included in the Codification to run consecutively from number one through number 18.

The Codification is a separate publication of the Commission. It will not be published in the **Federal Register/Code of Federal Regulations**.

By the Commission.

Dated: April 25, 2003.

**J. Lynn Taylor,**

*Assistant Secretary.*

[FR Doc. 03-10716 Filed 4-30-03; 8:45 am]

BILLING CODE 8010-01-P

## SECURITIES AND EXCHANGE COMMISSION

**Securities Act of 1933, Release No. 8222/April 25, 2003, Securities Exchange Act of 1934, Release No. 47745/April 25, 2003; Order Regarding Section 103(a)(3)(B) of the Sarbanes-Oxley Act of 2002**

The Sarbanes-Oxley Act of 2002 ("Act") established the Public Company Accounting Oversight Board ("PCAOB") and charged it with the responsibility of overseeing the audits of public companies that are subject to the U.S. Federal securities laws. Under the Act, the PCAOB's duties include the establishment of auditing, quality control, ethics, independence and other standards relating to public company audits. In connection with this standard-setting responsibility, section 103(a)(3)(B) of the Act provides that the PCAOB may adopt "any portion of any statement of auditing standards or other professional standards that the [PCAOB] determines satisfy the requirements of [the Act] and that were proposed by 1 or more professional groups of accountants' as initial or transitional standards, to the extent the PCAOB determines necessary. This section of

<sup>15</sup> We expect that during its deliberations of an accounting issue the FASB will consider, among other things, international accounting standards addressing that issue.

<sup>16</sup> These ideas, among others, are embodied in the FASB's current Rules of Procedure. To the extent that the FAF or FASB determines that inadequate staffing or resources hampers the timeliness of the FASB's processes, the Commission will review requests for increases in the FASB's budget in accordance with the procedures in section 109(e) of the Sarbanes-Oxley Act.

<sup>17</sup> *Id.*

the Act also provides that any such initial or transitional standards shall be separately approved by the Commission at the time it makes the determination required by section 101(d) of the Act, without regard to the procedures that otherwise would apply to Commission approval of PCAOB rules.

The PCAOB has determined that it is necessary in the public interest and for the protection of investors to adopt initial or transitional professional standards (which it refers to as "interim" standards) as permitted by section 103(a)(3)(B) of the Act. In this connection, the PCAOB has advised the Commission that it has adopted the following rules setting forth interim standards that the PCAOB finds satisfy the requirements of section 103(a)(3)(A)(i) of the Act.

#### **Rule 3200T. Interim Auditing Standards**

In connection with the preparation or issuance of any audit report, a registered public accounting firm, and its associated persons, shall comply with generally accepted auditing standards, as described in the AICPA Auditing Standards Board's Statement of Auditing Standards No. 95, as in existence on April 16, 2003 (Codification of Statements on Auditing Standards, AU § 150 (AICPA 2002)).

**Note:** Under section 102(a) of the Act, public accounting firms are not required to be registered with the Board until 180 days after the date of the determination of the Commission under section 101(d) that the Board has the capacity to carry out the requirements of Title I of the Act (the "mandatory registration date"). The Board intends that, during the period preceding the mandatory registration date, the Interim Auditing Standards apply to public accounting firms that would be required to be registered after the mandatory registration date and to associated persons of those firms, as if those firms were registered public accounting firms.

#### **Rule 3300T. Interim Attestation Standards**

In connection with an engagement (i) described in the AICPA's Auditing Standards Board's Statement on Standards for Attestation Engagements No. 10 (Codification of Statements on Auditing Standards, AT § 101.01 (AICPA 2002)) and (ii) related to the preparation or issuance of audit reports for issuers, a registered public accounting firm, and its associated persons, shall comply with the AICPA Auditing Standards Board's Statements on Standards for Attestation Engagements, and related interpretations and Statements of Position, as in existence on April 16, 2003.

**Note:** The Board intends that, during the period preceding the mandatory registration date, the Interim Attestation Standards apply to public accounting firms that would be required to be registered after the mandatory registration date and to associated persons of those firms, as if those firms were registered public accounting firms.

#### **Rule 3400T. Interim Quality Control Standards**

A registered public accounting firm, and its associated persons, shall comply with quality control standards, as described in—

(a) the AICPA's Auditing Standards Board's Statements on Quality Control Standards, as in existence on April 16, 2003 (AICPA Professional Standards, QC §§ 20–40 (AICPA 2002)); and

(b) the AICPA SEC Practice Section's Requirements of Membership (d), (f) (first sentence), (l), (m), (n)(1) and (o), as in existence on April 16, 2003 (AICPA SEC Practice Section Manual § 1000.08(d), (f), (j), (m), (n)(1) and (o)).

**Note:** The second sentence of requirement (f) of the AICPA SEC Practice Section's Requirements of Membership provided for the AICPA's peer review committee to "authorize alternative procedures" when the requirement for a concurring review could not be met because of the size of the firm. This provision is not adopted as part of the Board's Interim Quality Control Standards. After the effective date of the Interim Quality Control Standards, requests for authorization of alternative procedures to a concurring review may, however, be directed to the Board.

**Note:** The Board intends that, during the period preceding the mandatory registration date, the Interim Quality Control Standards apply to public accounting firms that would be required to be registered after the mandatory registration date and to associated persons of those firms, as if those firms were registered public accounting firms.

#### **Rule 3500T. Interim Ethics Standards**

In connection with the preparation or issuance of any audit report, a registered public accounting firm, and its associated persons, shall comply with ethics standards, as described in the AICPA's Code of Professional Conduct Rule 102, and interpretations and rulings thereunder, as in existence on April 16, 2003 (AICPA Professional Standards, ET §§ 102 and 191 (AICPA 2002)).

**Note:** The Board intends that, during the period preceding the mandatory registration date, the Interim Ethics Standards apply to public accounting firms that would be required to be registered after the mandatory registration date and to associated persons of those firms, as if those firms were registered public accounting firms.

#### **Rule 3600T. Interim Independence Standards**

In connection with the preparation or issuance of any audit report, a registered public accounting firm, and its associated persons, shall comply with independence standards—

(1) as described in the AICPA's Code of Professional Conduct Rule 101, and interpretations and rulings thereunder, as in existence on April 16, 2003 (AICPA Professional Standards, ET §§ 101 and 191 (AICPA 2002)); and

(2) Standards Nos. 1, 2, and 3, and Interpretations 99–1, 00–1, and 00–2, of the Independence Standards Board.

**Note:** The Board's Interim Independence Standards do not supercede the Commission's auditor independence rules. See Rule 2–01 of Reg. S–X, 17 CFR 240.2–01. Therefore, to the extent that a provision of the Commission's rule is more restrictive—or less restrictive—than the Board's Interim Independence Standards, a registered public accounting firm must comply with the more restrictive rule.

**Note:** The Board intends that, during the period preceding the mandatory registration date, the Interim Independence Standards apply to public accounting firms that would be required to be registered after the mandatory registration date and to associated persons of those firms, as if those firms were registered public accounting firms.

Each of the interim standards set forth above would remain in effect until modified or superceded, either by PCAOB action approved by the Commission as provided in the Act, or by Commission action pursuant to its independent authority under the federal securities laws and the rules and regulations thereunder. The Commission finds that the adoption of interim professional standards is consistent with the requirements of the Act and the federal securities laws and is necessary or appropriate in the public interest or for the protection of investors. Accordingly,

*It is Ordered* that PCAOB Rules 3200T through 3600T, setting forth interim professional standards for use in connection with the audits of public companies, are hereby approved.

By the Commission.

**Jonathan G. Katz,**

*Secretary.*

[FR Doc. 03–10781 Filed 4–30–03; 8:45 am]

BILLING CODE 8010–01–P

## **SECURITIES AND EXCHANGE COMMISSION**

**Securities Act of 1933, Release No. 8223/April 25, 2003, Securities Exchange Act of 1934, Release No. 47746/April 25, 2003; Order Regarding Section 101(d) of the Sarbanes-Oxley Act of 2002**

The Sarbanes-Oxley Act of 2002 ("Act") established the Public Company Accounting Oversight Board ("PCAOB") and charged it with the responsibility of overseeing the audits of public companies that are subject to the U.S. Federal securities laws. Under the Act, the PCAOB's duties include registering public accounting firms; establishing auditing, quality control, ethics, independence and other standards relating to public company audits; conducting inspections, investigations and disciplinary proceedings of