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In This Issue:

SEC Proposes Easing Requirements for Foreign Filings

If Eligible, a Foreign Private Issuer Would Not Reconcile IFRS Financial Statements to U.S. GAAP

The Proposal and Eligibility

The SEC proposes to drop its U.S. GAAP reconciliation requirement for foreign private issuers that prepare financial statements in accordance with International Financial Reporting Standards (IFRSs). Here are the proposed eligibility requirements:

- The issuer's financial statements must fully comply with the International Accounting Standards Board's (IASB's) published, English language version of its standards.
- The issuer must make prominent footnote disclosure stating "unreservedly and explicitly" that the financial statements comply with IFRSs as published by the IASB.
- The independent auditor must opine in a similar fashion.

Existing reconciliation requirements stay in place for foreign private issuers that file their financial statements under other sets of accounting standards or do not fully comply with IFRSs as published by the IASB.

The SEC seeks comment by September 24, 2007. To encourage comprehensive input, the proposal contains dozens of questions on which the SEC requests perspective — respondents need not address all of these. The questions relate to the overall approach and considerations made, technical amendments to the SEC's rules and regulations, IFRSs standard-setting and practice, and general policy areas.

The proposal also seeks input on shortening from six months the filing dates for foreign private issuers using IFRSs. Driven in large part by the need to reconcile to U.S. GAAP, foreign issuers (unlike domestic filers) currently have an additional three months to file their financial statements with the SEC.

Important Step in a Continued Movement

Under a variety of current rules adopted in 1982, a foreign private issuer whose SEC-filed financial statements are prepared on a non-U.S. GAAP basis of accounting must identify and quantify material differences between non-U.S. and U.S. GAAP (and applicable SEC rules and regulations). Reconciliation requirements have helped the SEC simultaneously satisfy two important policy concerns: (1) investors' need for consistent information and (2) the public interest served by a variety of investment opportunities, including foreign securities.

In encouraging the acceptance of global accounting standards and reducing regulatory burdens, the SEC has recognized that information required by IFRSs may be adequate for investors even if that information is not the same as information required under U.S. GAAP.

According to the proposed rule, over the long term the SEC hopes to "help investors to understand investment opportunities more clearly and with greater comparability than if they had to gain familiarity with a multiplicity of national accounting standards." In 2005, the SEC's then chief accountant developed an "IFRS Roadmap," with the goal of achieving a single set of high-quality, globally accepted accounting standards. The proposed rule is an important step toward that goal.

Sometime later this summer, look for the SEC to release an even more intriguing proposal, at least for U.S. companies. In a planned concept release, the SEC is expected to seek feedback on whether U.S. domestic issuers should have the choice of preparing their own financial statements in accordance with IFRSs (see Deloitte & Touche's May 14, 2007, *Heads Up*).

Key Considerations

What will prompt the SEC to drop the reconciliation requirement? The proposed rule identifies the following three important considerations:

- Continued progress toward convergence between U.S. GAAP and IFRSs as published by the IASB — the SEC places particular significance on the robust process for the joint development of high-quality IASB and FASB standards.
- Consistent and faithful application of IFRSs as opposed to a multiplicity of standards "under the same name." The proposed rule identifies the SEC's ongoing reviews of IFRSs-based filings, a March 2007 roundtable, and the regulatory framework designed to identify and address inconsistent and inaccurate applications of IFRSs internationally as important factors in evaluating this consideration.
- The IASB's sustainability, governance, and continued operation in a stand-alone manner.

Emphasis on Standards "As Published by the IASB"

Some companies apply so-called jurisdictional variations of IFRSs, disclosing, for example, that "the accompanying financial statements have been prepared in accordance with International Financial Reporting Standards as applied in Country X." The proposed amendments would not apply to issuers using a jurisdictional or other variation of IFRSs. An issuer that does not state unreservedly and explicitly that its financial statements comply with IFRSs as published by the IASB, or for which the auditor's report does not similarly opine, would continue to be required to provide a U.S. GAAP reconciliation. The SEC staff noted during its reviews of IFRSs filings that audit firms generally have not opined on compliance with IFRSs as published by the IASB.

The SEC staff believes that a "multiplicity of divergent standards using the same name" does little to achieve the benefits associated with a single set of globally accepted standards.

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