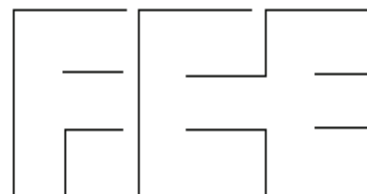


Date  
29 February 2008

Le Président

Fédération  
des Experts  
Comptables  
Européens  
AISBL

Avenue d'Auderghem 22-28/8  
1040 Bruxelles  
Tél. 32 (0) 2 285 40 85  
Fax: 32 (0) 2 231 11 12  
E-mail: [secretariat@fee.be](mailto:secretariat@fee.be)



J. Gordon Seymour  
Office of the Secretary  
Public Company Accounting Oversight Board  
1666 K Street, NW  
USA - Washington D.C. 20006-2803  
Email: [comments@pcaobus.org](mailto:comments@pcaobus.org)

Dear Mr. Seymour,

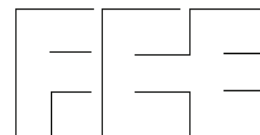
**Public Company Accounting Oversight Board Proposed Policy Statement: Guidance Regarding Implementation of PCAOB Rule 4012**

FEE (Fédération des Experts Comptables Européens – European Federation of Accountants) is the representative organisation for the accountancy profession in Europe. FEE's membership consists of 44 professional institutes of accountants from 32 countries. FEE Member Bodies are present in all 27 Member States of the European Union and they represent more than 500,000 accountants in Europe.

FEE's objectives are:

- To promote and advance the interests of the European accountancy profession in the broadest sense recognising the public interest in the work of the profession;
- To work towards the enhancement, harmonisation and liberalisation of the practice and regulation of accountancy, statutory audit and financial reporting in Europe in both the public and private sector, taking account of developments at a worldwide level and, where necessary, promoting and defending specific European interests;
- To promote co-operation among the professional accountancy bodies in Europe in relation to issues of common interest in both the public and private sector;
- To identify developments that may have an impact on the practice of accountancy, statutory audit and financial reporting at an early stage, to advise Member Bodies of such developments and, in conjunction with Member Bodies, to seek to influence the outcome;
- To be the sole representative and consultative organisation of the European accountancy profession in relation to the EU institutions;
- To represent the European accountancy profession at the international level.

FEE is pleased to comment on the Public Company Accounting Oversight Board (PCAOB) Release No. 2007-011 of 5 December 2007 – Request for Public Comment on Proposed Policy Statement: Guidance Regarding Implementation of PCOAB Rule 4012 (the Proposed Policy Statement).



FEE notes with interest the PCAOB Proposed Policy Statement in view of FEE's own substantial contribution to recent discussions in Europe over the future direction of requirements and guidance relating to quality assurance systems. In particular FEE:

- Published in December 2006 its Position Paper "Quality Assurance Arrangements Across Europe"<sup>1</sup>;
- Organised a first high level conference on 12 October 2006<sup>2</sup> (at which the Chairman and a Board Member from the PCAOB spoke) including a session on the issues raised by the Position Paper;
- Held a second high level conference on 27 November 2007<sup>3</sup> (at which the Chairman and a senior staff member from the PCAOB spoke) including a panel discussion on quality assurance systems in Europe; and
- Issued from June to October 2007 four comment letters to the European Commission on the Possible contents of the future Commission Recommendation on quality assurance for statutory auditors and audit firms auditing public interest entities<sup>4</sup>.

We are supportive of the proposed objectives of the PCAOB which we believe include:

- Increasing the level of reliance on independent audit oversight entities located in the home countries of registered non-U.S. audit firms;
- Moving toward full reliance on a non-U.S. oversight entity;
- Providing additional guidance to non-U.S. oversight entities regarding the implementation of Rule 4012;
- Avoiding a "check-the-box" approach and retaining discretion to evaluate each oversight entity based on overarching principles.

Overall, whilst FEE considers the initiative of the PCAOB to be a step in the right direction, particularly the aim of increasing the level of reliance on non-U.S. oversight entities to move toward full reliance, we have a number of concerns about the Proposed Policy Statement and question whether the proposed objectives will actually be achieved in practice.

## Overriding principles based on existing FEE policy

In preparing this response, we have applied four overriding principles which are based on FEE policy previously established in our Position Paper *Quality Assurance Arrangements Across Europe* and which FEE continues to fully support:

1. The Directive on Statutory Audit of Annual Accounts and Consolidated Accounts of 17 May 2006<sup>5</sup>, as approved by the European Parliament and European Council, (the Statutory Audit Directive) including in Article 29 requirements related to quality assurance systems, in Article 32 the principles of public oversight, in Article 34 the mutual recognition of regulatory arrangements between Member States and in Articles 45 to 47 the equivalence stipulations with third countries. All European Union Member States have to implement the requirements of the Statutory Audit Directive in their local laws and regulations by mid 2008.
2. In the light of the extraterritoriality of oversight and quality assurance regulations, FEE encourages coordination, cooperation and mutual recognition between European Union

---

<sup>1</sup> [http://www.fee.be/publications/default.asp?library\\_ref=4&content\\_ref=629](http://www.fee.be/publications/default.asp?library_ref=4&content_ref=629)

<sup>2</sup> [http://www.fee.be/news/default.asp?library\\_ref=2&content\\_ref=574](http://www.fee.be/news/default.asp?library_ref=2&content_ref=574)

<sup>3</sup> [http://www.fee.be/news/default.asp?library\\_ref=2&content\\_ref=677](http://www.fee.be/news/default.asp?library_ref=2&content_ref=677)

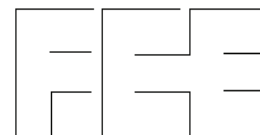
<sup>4</sup> [http://www.fee.be/publications/default.asp?library\\_ref=4&content\\_ref=754](http://www.fee.be/publications/default.asp?library_ref=4&content_ref=754)

[http://www.fee.be/publications/default.asp?library\\_ref=4&content\\_ref=746](http://www.fee.be/publications/default.asp?library_ref=4&content_ref=746)

[http://www.fee.be/publications/default.asp?library\\_ref=4&content\\_ref=719](http://www.fee.be/publications/default.asp?library_ref=4&content_ref=719)

[http://www.fee.be/publications/default.asp?library\\_ref=4&content\\_ref=733](http://www.fee.be/publications/default.asp?library_ref=4&content_ref=733)

<sup>5</sup> [http://eur-lex.europa.eu/LexUriServ/site/en/oj/2006/l\\_157/l\\_15720060609en00870107.pdf](http://eur-lex.europa.eu/LexUriServ/site/en/oj/2006/l_157/l_15720060609en00870107.pdf).



and third countries to minimize duplication of inspections and to avoid legal conflicts by effective full reliance on home country oversight systems.

3. Seen the Statutory Audit Directive is applicable on all statutory audits in the European Union of both listed and unlisted entity accounts, FEE favours one quality assurance system for audit firms auditing both listed and unlisted entities, as the application of different parallel quality assurance systems is a very significant burden on audit firms and will result in a considerable amount of duplication in the assessment of the internal quality control system of audit firms.
4. For high quality audits in the European Union, there is a need to involve experts or specialists, including practitioners, in the public oversight systems and in inspections. In a considerable number of European countries, involvement of professionals and practitioners appears inevitable due to the possible limited ability to recruit experienced and knowledgeable non-practitioners and possible limited financial resources for organising and *maintaining* a separate system of quality assurance for listed entities.

## **Responses to Questions asked by the PCAOB**

*1. If a non-U.S. auditor oversight entity meets the essential criteria set forth in the proposed Policy Statement, are there reasons why the Board should not increase its level of reliance on inspections conducted by such an independent non-U.S. oversight entity? What are the benefits and costs of full reliance?*

Where a non-U.S. oversight body satisfies the PCAOB essential criteria, there should be a strong presumption that the PCAOB can place full reliance on such a body.

However, we believe that it should not be a pre-requisite for full reliance that every essential criteria be satisfied, which appears to be in line with the PCAOB's objective to avoid applying a "check-the-box" approach and retain discretion to evaluate each oversight entity based on overarching principles.

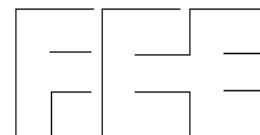
The significant benefits from a true "full reliance" approach are:

- Cost savings for oversight bodies and audit firms through the elimination of duplication of inspections;
- Increased opportunities to expand the focus of inspections on audit quality thereby better protecting investors;
- Avoid efforts to resolve legal conflicts for oversight bodies, companies and audit firms by recognising the sovereignty of third countries and their right to oversee audit firms in their domestic markets.

We are not aware of any substantial costs associated with full reliance.

As avoiding duplication of inspections and thus their convergence ought to be the ultimate goal, mutual recognition of public oversight systems should be envisioned. However, we regret to have to note that the PCAOB definition of "full reliance" is different from mutual recognition or the principle of recognition of home country public oversight systems or reciprocity in legal terms. The PCAOB "full reliance" is in fact limited or partial reliance as continued PCAOB involvement is envisioned in planning inspections, reporting on inspections, observing inspections including accompanying inspection teams, interviewing key firm personnel, reviewing audit working papers, etc. In our opinion, it should be clarified that 'observing inspections' means observing the inspection process without direct participation in the performance of inspections.

The establishment of the International Forum of Independent Audit Regulators (IFIAR) on 15 September 2006 is relevant in this respect. Regulators from within the European Union and outside the European Union should be encouraged to co-ordinate and co-operate with each other to ensure that oversight regimes are of equivalent quality, to promote future confidence



and minimise, or at least accommodate to a reasonable degree, the serious concerns and issues related to duplication of oversight, quality assurance reviews, inspections and penalties for statutory auditors and audit firms. At a European Union level, the Statutory Audit Directive forms the basis for such co-ordination and co-operation with third countries, the application of which is monitored by the European Commission.

*2. Are the essential criteria set forth in section III.C. of the Policy Statement appropriate? Are there additional factors that should be considered? Should the criteria be modified in any way?*

Although it is the PCAOB's objective to avoid applying a "check-the-box" approach, the use of the 'essential criteria' under each of the five key principles could result in a "check-the box" mentality when assessing a third country's oversight system.

FEE is of the opinion that the PCAOB should apply a risk-based approach whereby low risk countries or countries with a small number of insignificant foreign private issuers (FPIs) could be scoped out of any US inspection system; this is in line with the approach taken towards companies which report under the Sarbanes Oxley Act regarding effectiveness of internal controls. The PCAOB should then assess each of the five 'key principles' in the Proposed Policy Statement using the existing essential criteria as general (but not absolute) indicators of acceptability. The PCAOB needs to retain a degree of flexibility when assessing a third country oversight system. To not place reliance on a third country oversight system that failed to satisfy just one of the essential criteria might not best serve the interests of US investors.

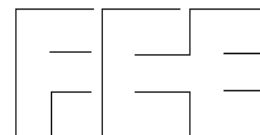
We have the following detailed comments on the Essential Criteria:

Principle 1: Adequacy and Integrity of the Non-U.S. System:

- Essential Criteria 2: in line with the requirements of the Statutory Audit Directive, the management and governance body should include a majority of people who are knowledgeable about, inter alia, auditing, not be "comprised" (i.e., exclusively) of such people;
- Essential Criteria 5 and 6:
  - Seen the convergence trends between the U.S., the European Union, and other third countries International Financial Reporting Standards (IFRSs), International Standards on Auditing (ISAs) as issued by the International Auditing and Assurance Standards Board (IAASB) and the IFAC Code of Ethics are a more widely used and relevant benchmark than U.S. Generally Accepted Accounting Principles (U.S. GAAP) and U.S. Generally Accepted Auditing Standards (U.S. GAAS);
  - Given the rule amendments of the U.S. Securities and Exchange Commission (SEC) to accept financial statements, covering years ended after 15 November 2007, of FPIs in the U.S. without reconciliation to U.S. GAAP if they are prepared using IFRSs as issued by the International Accounting Standards Board (IASB)<sup>6</sup>, the knowledge of IFRSs rather than U.S. GAAP is vital for the inspection of FPIs;
  - The vast majority of audits of FPIs and multi-national SEC registrants are performed by members of the Forum of Firms<sup>7</sup>, which consists of 17 full members and 4 provisional members (including the 6 largest audit firms), and which undertake their audits using the ISAs, and supplement them with elements of PCAOB auditing standards if relevant;
  - Therefore, we question whether the criteria would reach the desired aim and are best suited to contribute to the achievement of audit quality.
- Essential Criteria 8: it should be noted that disclosure of information obtained during an audit to any third party, including foreign oversight authorities, is restricted by local legal

<sup>6</sup> <http://www.sec.gov/rules/final/2007/33-8879.pdf>

<sup>7</sup> [http://www.ifac.org/Forum\\_of\\_Firms/](http://www.ifac.org/Forum_of_Firms/)



impediments related to confidentiality, data protection, professional secrecy, etc. in a number of European Union jurisdictions;

- Essential Criteria 11(b): reference is made to our more detailed comments under Principle 4 and Essential Criteria 3, related to either countries with very few FPIs or countries with few FPIs in certain industry segments, as publication of the audit firm inspection report may have adverse consequences for the FPI itself.

#### Principle 2: Independence of the Non-U.S. System:

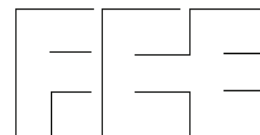
- Essential Criteria 1: in line with the requirements of the Statutory Audit Directive, the governing body should include a majority of non-practitioners with practitioners being defined as current accountants, current auditors or persons currently affiliated with an audit firms or the audit profession. However, the life-long exclusion of former accountants or auditors without any form of cooling-off period appears unnecessary and is contradictory to Essential Criteria 2 in Principle 1;
- Essential Criteria 2: in line with the requirements of the Statutory Audit Directive, the management of an oversight body should include a majority of people who are neither practicing auditors nor affiliated with an audit firm, not be “comprised” (i.e., exclusively) of such people;
- Essential Criteria 4: as already explained in further detail in the ‘overriding principles based on existing FEE policy’ above, for high quality audits in the European Union, there is a need to involve experts or specialists, including practitioners, in the performance of inspections. Therefore, the inspection staff should be under the direct control and supervision of people who are neither practicing auditors nor affiliated with an audit firm, not be “comprised” of such people. Such direct control and supervision would include control over the inspection process, certification of inspectors, training of inspectors and reporting on inspections.

#### Principle 4: Transparency of the Non-U.S System:

- Essential Criteria 3(b) and 4:
  - FEE is not in favour of the publication of the results of an individual inspection of an audit firm auditing FPIs by the PCAOB because such reports might unintentionally reveal confidential and market sensitive company information and have adverse consequences for the FPIs due to the limited population of FPIs for many audit firms and in many countries either in total or in a specific industry segment;
  - As already noted above in relation to Principle 1, Essential Criteria 8, there are local legal impediments in certain jurisdictions related to confidentiality, data protection, professional secrecy, etc. in respect of the publication of individual inspections reports;
  - In this respect, it is also important to note that the Sarbanes Oxley Act does not dictate the PCAOB reporting model and allows for some flexibility, especially in the case of the involvement of non-U.S. oversight systems. Section 104 (g) of the Sarbanes-Oxley Act of 2002 calls for a written report of the findings of the PCAOB for each inspection made available in appropriate detail to the public including deficiencies in the audit firm’s quality control systems not addressed within 12 months after the date of the inspection report;
  - FEE therefore recommends that the PCAOB and the non-U.S. oversight body combine their public reporting on inspections of non-U.S. audit firms in order to avoid differences in form, content and timing of the inspection reports.

#### Principle 5: Historical Performance:

- Essential Criteria 1: the words “more mature” would merit some further clarification. We would wish to avoid a situation where full reliance cannot be placed on any non-U.S.



oversight system because “more mature” is defined as a period in excess of five years (i.e., the PCAOB’s own degree of maturity);

- Essential Criteria 2: any assessment of what sanction is “appropriate” must be for the relevant non-U.S. oversight body to decide. If not, local audit firms will be exposed to significant uncertainty and the risk of double jeopardy.

We invite the PCAOB to consider modifying its Essential Criteria in line with our comments above. We do not believe that any additional factors should be included.

*3. Would meeting the essential criteria set forth in section III.C. – along with a satisfactory on-site assessment by the Board of the entity's inspection practices through a period of joint inspections – provide sufficient assurance that the oversight entity's inspection program merits full reliance?*

As already explained in our response to Questions 1 and 2 above, FEE is of the opinion that the PCAOB should apply a risk-based approach coupled with the use of a certain degree of flexibility when assessing a third country oversight system. Full reliance should not be predicated on compliance with each and every essential criteria. The PCAOB should accept that non-U.S. oversight systems need not be identical to the US oversight model.

In this respect, we repeat that the PCAOB definition of “full reliance” is in fact limited or partial reliance as no mutual recognition or recognition of home country public oversight systems is envisioned for non-U.S. oversight systems.

It should also be noted that joint inspections should not be a pre-requisite for placing full reliance. There are some jurisdictions where local legal and other impediments prevent joint inspections.

*4. The Board has carefully balanced the requirements of the Act and those of non-U.S. jurisdictions (including laws related to data protection, confidentiality and other important legal requirements). Are there additional differences between U.S. and non-U.S. auditor oversight regimes that should be considered? Would those differences suggest greater or less reliance?*

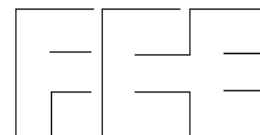
As already explained in the ‘overriding principles based on existing FEE policy’ above, the PCAOB should accept that many foreign jurisdictions will need to draw upon active practitioners to perform inspections. The PCAOB should not see this as a breach of an essential criteria provided that those practitioners that are performing inspections are under the control and supervision of independent oversight staff.

*5. As described in section III.B. of the Policy Statement, does the Policy Statement establish the appropriate nature and level of reliance?*

As already explained in our response to Questions 1 and 3 above, FEE repeats that the PCAOB definition of “full reliance” is in fact limited or partial reliance as no mutual recognition or recognition of home country public oversight systems is envisioned for non-U.S. oversight systems due to the continued active involvement of the PCAOB in the foreign oversight process.

*6. Will the proposed approach adequately protect the interests of investors in U.S. issuers audited by non-U.S. audit firms?*

FEE fully agrees that an effective and efficient quality assurance system under independent public oversight is one of the key drivers of audit quality, contributes to the enhancement of trust and confidence in the capital markets and leads to better protection of investor’s interests.



In a global economy, investor protection appears best served by relying on home country public oversight systems which are independent and which operate effective and efficient inspection systems, so avoiding duplication of inspections. Indeed, a considerable number of U.S. listed companies audited by non-U.S. audit firms tend to be multi-national companies with multiple listings on stock exchanges around the world, including U.S., European and others. In our electronic age, U.S. and other investors frequently use the possibility to directly invest in U.S. issuers on capital markets outside of the U.S. where the PCAOB Rule 4012 and the Proposed Policy Statement are not applicable on top of the home country system.

It should be noted that investor protection is high on the agenda within the European Union, as for instance evidenced by the issuance of a Directive on the exercise of certain rights of shareholders in listed companies on 11 July 2007<sup>8</sup>. By not accepting complete “full reliance” on the independent oversight and inspection systems implemented in the European Union under the Statutory Audit Directive this could imply that investors in listed entities in the European Union (both FPI’s and non FPI’s) have less investor protection than those investing in companies located in the U.S. The action proposed by the PCAOB could call into question the integrity of the oversight and inspection systems in the European Union as prescribed in the Statutory Audit Directive which, in our view, would be detrimental to the workings of the capital markets around the world.

We would be pleased to discuss with you any aspect of this letter you may wish to raise with us and to send you copies of the paper or letters produced by FEE if these would be of interest to the PCAOB.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Jacques Potdevin', written over a horizontal line.

Jacques Potdevin  
President

Ref.: AUD/HB-SH/PJ

---

<sup>8</sup> <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2007:184:0017:0024:EN:PDF>