

March 10, 2008

Securities and Exchange Commission
Attn: Nancy M. Morris, Secretary
100 F Street, N.E.
Washington, D.C. 20549-1090

Re: **Release No. 33-8889; 34-57258; File No. S7-06-03**
Internal Control Over Financial Reporting in Exchange Act Periodic Reports of Non-Accelerated Filers

Dear Ms. Morris:

Deloitte & Touche LLP is pleased to respond to the request for comments from the Securities and Exchange Commission (the “Commission” or the “SEC”) with respect to the above referenced proposal to amend temporary rules that were published on December 21, 2006, in Release No. 33-8760 [FR 76580]. If approved, the proposed amendments would provide an additional one year deferral of the requirements in Section 404(b) of the Sarbanes-Oxley Act of 2002 such that non-accelerated filers would not be required to provide the auditor’s attestation report on internal control over financial reporting (hereinafter, ICFR) until filing annual reports for fiscal years ending on or after December 15, 2009. Below please find our responses to the questions directly relevant to auditors in the proposal.

Is it appropriate to provide a further extension of the auditor attestation requirement for non-accelerated filers as proposed? If so, should we postpone this requirement for an additional year as proposed, or would a longer or shorter timeframe be more appropriate?

We believe investors have greatly benefited from reporting about the effectiveness of ICFR and that such reporting by management and the related requirement for an auditor’s attestation report has improved disclosures to investors about internal control related matters, enhanced the reliability of financial statements, and has placed a stronger focus on the importance of management’s responsibilities relative to the establishment and maintenance of effective ICFR. As such, we believe Section 404 — both the requirement for management’s assessment as well as the audit requirement — should continue to be applicable to all public companies.

This view is supported by a recent “Yellow Card Trend Alert” from Glass Lewis & Co., which states:

“For the first time in a decade, companies of all sizes filed fewer restatements to correct accounting errors than they did in the previous year. Also, after three rounds of internal-control audits, companies disclosed fewer material weaknesses than in 2006....the tide is turning. SOX 404 is working. Investors are basing decisions on more accurate financial

reports than ever. One of the greatest competitive advantages of the U.S. capital markets – reliable and transparent financial statements – is as strong as it’s ever been.”¹

The Glass Lewis & Co. report continues on to say that, despite the overall reductions in material weaknesses reported, material weaknesses at microcap companies continued to climb in 2007. As a result, this report raises the question: “...how many more material weaknesses would be discovered if independent accounting firms were required to conduct internal control audits at these companies?”² This question can only be answered through implementation of 404(b) at non-accelerated filers. Benefits of complete Section 404 reporting, including the auditor’s report on ICFR, should be available to all investors.

With respect to the proposal to further delay the implementation of an ICFR audit for non-accelerated filers, we recognize that activities are currently underway that are specifically designed to benefit the implementation of Section 404 at smaller public companies. These activities include the PCAOB’s development of guidance for applying AS 5 in a smaller company environment³ and COSO’s proposed *Guidance on Monitoring Internal Control Systems*. Because this additional guidance from the PCAOB and COSO is not yet completed, another one year deferral of the ICFR audit requirement for non-accelerated filers may be helpful for facilitating the implementation of Section 404(b) for this group of companies. Therefore, we do not object to an additional one year deferral of the ICFR audit requirement for non-accelerated filers.

However, we are concerned that, with a deferral, there is a risk of lack of preparedness on the part of companies for the ICFR audit, notwithstanding the deferral, due to a loss of credibility that the audit requirement will ever be enforced. Such lack of preparedness on the part of companies generally creates inefficiencies in the audit process. As such, we recommend that the Commission’s adopting release approving a deferral should encourage companies and auditors to take appropriate steps in 2008 in order to plan and prepare for the implementation of the ICFR audit requirement for years ending after December 15, 2009. The audit process becomes much more efficient if the auditor coordinates with management in advance and is able to use management’s work to the maximum extent permitted under the PCAOB audit standards.

Would the proposed deferral of the auditor’s attestation report requirement make the application of Section 404 requirements more or less efficient and effective for non-accelerated filers?

We believe the impact of the proposed deferral on non-accelerated filers and the efficiency and effectiveness of the application of Section 404 is dependent upon how companies and auditors use the extra year to prepare for full implementation of Section 404 in 2009.

As discussed in our response above, we believe the best opportunities for efficiency and effectiveness in the Section 404(b) process can be realized if the auditor is able to use management’s work related to their Section 404 assessment process to the maximum extent permitted under the PCAOB audit standards. With a deferral, management and auditors should take steps in 2008 to plan and prepare for implementation of Section 404(b) during 2009. While

¹ Glass Lewis & Co., *The Tide is Turning*, January 15, 2008, p. 1.

² *Ibid*, page 7.

³ See *PCAOB Preliminary Staff views: An Audit of Internal Control That is Integrated with an Audit of Financial Statements: Guidance for Auditors of Smaller Public Companies*, October 17, 2007.

management's assessment of ICFR and the audit of ICFR are separate activities and need not be conducted in the same manner, there is important interaction between the two and advanced coordination can greatly facilitate the implementation process. For instance, in 2008 such advanced planning and coordination could include gaining an understanding of management's ICFR assessment process, consideration of how management's work may be used by the auditor, and consideration of how the auditors may be able to use the company's documentation as evidential matter to support the auditor's opinion. Taking these steps during 2008 will not only facilitate an efficient integrated audit process for the 2009 audit, but may also enable auditors to begin to leverage management's work for purposes of the 2008 financial statement audit.

We support the Commission's goal of reducing unnecessary costs and work associated with Section 404, while maintaining the same benefits and protections to investors. Various studies and surveys support the conclusion that significant reductions in overall Section 404 costs (internal management costs as well as external audit fees) have been achieved since the first year of implementation.⁴ Additionally, we believe that the combined efforts of the SEC, the PCAOB, the Committee of Sponsoring Organizations ("COSO"), as well as efforts by the profession have supported improvements in the Section 404 process and have provided opportunities to reduce costs (both internal and external) of complying with the requirements.

As the SEC undertakes its study on the costs and benefits of 404 and evaluates whether the new SEC management guidance and AS 5 are having the intended effect of facilitating more cost-effective ICFR evaluations and audits, we believe it will be important for the SEC to seek input not only from companies, but also from investors, audit committees, and auditors. As direct users and beneficiaries of the Section 404 disclosures, investors and audit committees would be able to provide critical insights regarding the benefits of Section 404. Additionally, auditors will be able to provide direct insights as to efficiencies gained as a result of AS 5 and, if possible, how additional efficiencies might be gained.

It is also important to recognize that efficiencies achieved by companies and auditors will vary significantly based on the facts and circumstances for each particular company. Opportunities for cost reductions are dependent on (a) the extent that management has re-assessed its overall ICFR assessment process and undertaken a controls rationalization process to focus its assessment on those controls that impact its financial statement reporting, (b) the auditor's ability to adjust and scale the nature, timing, and extent of audit work, based on the size and complexity of the issuer's operations, and (c) the extent that the auditor has been able to leverage management's process, including maximizing the use of the work of others (as appropriate under the PCAOB audit standards). Therefore, although we believe greater efficiencies were achieved during 2007 as a result of the new guidance provided by the Commission and the PCAOB, experience in gaining efficiencies in 2007 will vary, and opportunities may exist to further optimize the latest guidance and gain additional efficiencies in 2008.

⁴ The Sarbanes-Oxley Section 404 Costs and Implementation Issues: Spring 2006 Survey Update by CRA International indicates that total 404 costs declined significantly in year 2 of implementation, falling 30.7 percent for Smaller Companies and 43.9 percent for Larger Companies. Additionally, results of the March 2006 and May 2007 FEI Surveys on SOX Section 404 Implementation indicate that the total average cost for Section 404 compliance was \$3.8 million during fiscal year 2005, down 16.3 percent from 2004, and \$2.9 million in 2006, 23.2 percent less than 2005.

As non-accelerated filers have not yet been required to file the auditor's attestation report on ICFR and because the extent of the auditor's efficiency is dependent upon management's efforts in each individual circumstance, it is difficult to predict the impact of AS 5 on audit fees for this group of companies which have not yet been subject to an audit of ICFR. However, we do believe the revised auditing standard, as well as the PCAOB's audit guide for applying AS 5 in a smaller company environment⁵ will (1) promote an effective and efficient audit of ICFR and (2) result in audit fees that are lower than they would have been if the PCAOB had not revised its guidance.

We also believe it is important to recognize that, although the implementation of the requirement to audit ICFR has been a significant factor in audit costs, there are a number of other significant factors that impact audit costs in general, outside of the Section 404 audit requirements. Other significant factors increasing audit costs include additional audit procedures and documentation requirements based on other new auditing and accounting standards (including the implementation of recommendations from the inspection process), increased demand and intense competition for accounting and auditing resources, increased compliance and regulatory requirements for auditors, practice protection costs, and litigation. We encourage the Commission, in its broader regulatory role, to consider these other factors and their cumulative impact on audit costs and steps that might be taken to mitigate these factors, without impacting investor protection.

If you have any questions or would like to discuss our views further, please contact Robert Kueppers at (212) 492-4241, James Schnurr at (203) 761-3539, or John Fogarty at (203) 761-3227.

Sincerely,

/s/ Deloitte & Touche LLP

cc: Chairman Christopher Cox
Commissioner Paul Atkins
Commissioner Kathleen Casey
Conrad Hewitt, Chief Accountant
John White, Director, Division of Corporation Finance
Zoe-Vonna Palmrose, Deputy Chief Accountant for Professional Practice

Mark W. Olson, Chairman of the PCAOB
Daniel L. Goelzer, Member
Bill Gradison, Member
Charles D. Niemeier, Member
Thomas Ray, Chief Auditor and Director of Professional Standards

⁵ See *PCAOB Preliminary Staff views: An Audit of Internal Control That is Integrated with an Audit of Financial Statements: Guidance for Auditors of Smaller Public Companies*, October 17, 2007.