



27 January 2009

Mr. J. Gordon Seymour
Office of the Secretary
Public Company Accounting Oversight Board
1666 K Street, NW
USA – Washington DC 20006-2803

Email: comments@pcaobus.org

Ref.: AUD/HvD/HB/SH

Dear Mr. Seymour,

Re: FEE Comments on PCAOB Release No. 2008-007, Rulemaking Docket Matter No. 027, Rule Amendments concerning the Timing of Certain Inspections of non-US Firms, and Other Issues relating to Inspections of Non-US Firms

FEE is pleased to provide you below with its comments on the Public Company Accounting Oversight Board (PCAOB) Rule Amendments concerning the Timing of Certain Inspections of non-US Firms, and Other Issues relating to Inspections of Non-US Firms of 4 December 2008 (the Proposed Rule Amendments).

FEE is the Fédération des Experts comptables Européens (Federation of European Accountants). It represents 43 professional institutes of accountants and auditors from 32 European countries, including all of the 27 EU Member States. In representing the European accountancy profession, FEE recognises the public interest. It has a combined membership of more than 500.000 professional accountants, working in different capacities in public practice, small and big firms, government and education, who all contribute to a more efficient, transparent and sustainable European economy.

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

- Published in December 2006 its Position Paper "Quality Assurance Arrangements Across Europe"¹;
- Organised a first high level conference on 12 October 2006² (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 2007³ (at which the Chairman and a senior staff member from the PCAOB spoke) including a panel discussion on quality assurance systems in Europe;
- Held a third high level conference on 9 December 2008⁴ (at which the Chairman and a senior staff member from the PCAOB spoke) including an international panel debate on Home Country Oversight, Mutual Reliance on Joint Inspections: Achievements, Challenges and Practicalities;
- Issued from June 2007 to September 2008 seven 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 and on a possible proposed adequacy decision for third country competent authorities; and
- Submitted a comment letter to the PCOAB on 29 February 2008 on the Proposed Policy Statement: Guidance Regarding Implementation of PCAOB Rule 4012.

Although non-U.S. audit firms are rarely responsible for the delay in PCAOB inspections and whilst we doubt that the proposed deferral times will be adequate in every case to fully resolve outstanding issues, we are generally supportive of the initiative underlying the proposed Rule Amendments Concerning the Timing of Certain Inspections and the Extension of the Deadline for Certain 2008 and 2009 Inspections on Non-U.S. Firms as well as the Transparency Concerning Delayed Inspections.

However, we would like to repeat a number of major comments we had made previously, which appear to be winning international recognition and outline a series of concerns about the Registered Firms' Obligations as suggested in the Proposed Rule Amendments.

Mutual recognition and full reliance on third country public oversight bodies is the only practicable solution

In the light of the extraterritoriality of oversight and quality assurance regulations, FEE repeats that it strongly encourages coordination, cooperation and mutual recognition between European Union and third countries to minimise duplication of inspections and to avoid legal conflicts by effective full reliance on home country oversight systems.

1 http://www.fee.be/publications/default.asp?library_ref=4&content_ref=629

2 http://www.fee.be/news/default.asp?library_ref=2&content_ref=574

3 http://www.fee.be/news/default.asp?library_ref=2&category_ref=124&wp=1&content_ref=951

4 http://www.fee.be/news/default.asp?library_ref=2&category_ref=214&content_ref=937



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;
- Prevent conflicts of laws and regulations 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.

As avoiding duplication of inspections and thus their convergence ought to be the ultimate goal, mutual recognition of public oversight systems should be aimed at.

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 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.

At the European Commission International Conference on Auditor Oversight on 10 December 2008 in Brussels, there was a strong call to work towards mutual recognition and full reliance on home country oversight systems from the majority of auditor’s oversight bodies present, from EU Member States and non-EU countries alike.

The Sarbanes-Oxley Act and PCAOB Rules should be reconsidered to not preclude international cooperation

As mentioned above, at European Union level, the Statutory Audit Directive forms the basis for co-ordination and co-operation with third countries and for mutual recognition of and full reliance on European auditor’s oversight bodies. The implementation of the Statutory Audit Directive in EU Member States is nearing completion and its application is closely monitored by the European Commission. The European Commission actually enforces its authority and has taken certain EU Member States to court for delaying the implementation of the Directive and those which will not implement the court’s ruling may face significant fines.

Seven years after the issuance of the Sarbanes-Oxley Act (the Act), we believe that the circumstances in some parts of the world, notably in Europe, have significantly changed and warrant reconsideration of certain parts of the Act and/or PCOAB rules.

In this respect, FEE ventures to make reference to Section 106 on Foreign public accounting firms of the Act and more specifically to the Exemption authority in subsection (c) which allows the Board and/or the US Securities and Exchange Commission (SEC), by rule, regulation or order to exempt any foreign public accounting firm, or any class of such firms, from any provision of the Act, the rules of the PCAOB or the SEC.

FEE strongly encourages the PCAOB and the SEC to give due consideration to such reconsideration of certain parts of the Act and/or PCAOB rules.



Conflicts of laws are counterproductive and should be avoided

Conflicts of law are a major issue for regulators, oversight bodies and audit firms alike. The PCAOB Proposed Rule Amendments would essentially force non-U.S. firms in some countries to choose between violating either their home country laws and regulations or the PCAOB Rules.

Non-U.S. audit firms are looking for their national regulators, the PCAOB and the European Commission to contribute to resolving such legal obstacles as they are not of the making of the audit firms. It should be noted that all audit firms in a particular jurisdiction are ordinarily in a similar situation, which could lead to the impossibility for entities of having their financial statements audited. Footnote 35 in the Proposed Rule Amendments is of particular concern to us in this respect.

It also needs to be observed that violation of law, regulations or rules as such calls the integrity of all parties and indeed the law itself into question and is therefore decidedly not in the public interest. This means that this particular aspect of the PCAOB proposals fail the test of being in the public interest or for the protection of investors, which cannot be the intention of the Act.

Additional disclosures related to the firm's inspection in audit reports are inappropriate

FEE is fully supportive of the use of International Standards on Auditing (ISAs) as a framework to conduct audits of financial statements. In respect of the audit report, the objective for the auditor is to form an opinion and to report on the financial statements of a specific entity or group of entities; the goal of an audit report is not to report on certain matters related to the auditor or his audit firm. Additionally, as the audit report forms an integral part of the annual report of the audited entity or group of entities, such entities are unwilling to have to include information related to the audit firm's inspection in their annual reports.

Therefore, FEE strongly opposes the proposed additional disclosures related to the firm's inspection in the audit report as suggested in the Proposed Rule Amendments.

For further information on this letter, please contact Mrs. Hilde Blomme from the FEE Secretariat.

Yours sincerely,

A handwritten signature in black ink, appearing to be 'H. van Damme', written over a horizontal line.

Hans van Damme
FEE President