



5 August 2004

Mr Jonathan G. Katz
Securities and Exchange Commission
450 Fifth Street
NW
Washington
DC 20549-0609

By email: rule-comments@sec.gov

Dear Mr Katz

File No. PCAOB-2004-006: PCAOB Rulemaking Docket No. 009

PCAOB Rule 3101: Certain Terms Used in Auditing and Related Professional Practice Standards

The Institute of Chartered Accountants in England & Wales (ICAEW) is pleased to comment on the SEC's exposure of the PCAOB's Rule 3101. The ICAEW is the largest individual body of professionally qualified accountants in Europe with over 126,000 members who work in many sectors in business and the public sector, as well as practising as accountants and auditors. We operate under a Royal Charter that requires us to act in the public interest

Improvements to the rule made by the PCAOB

We are pleased that some improvements have been made in the rule approved by the PCAOB. In particular, in relation to presumptively mandatory responsibilities, we welcome the removal of text which elaborated on references to 'evidence' and the 'objectives of the standard' in circumstances where such responsibilities are not discharged.

Outstanding issues

The approval of this rule by the SEC will be seen as addressing the need for clarity in relation to the different levels of responsibility that auditing standards impose on auditors. We agree that there are certain basic requirements that auditors must be required to comply with at all times and that parameters need to be set when auditors exercise judgement. However, we also believe that there are risks that the rule might have unintended consequences depending on how unconditional responsibilities are imposed and presumptively mandatory responsibilities are enforced.

1. Imposing unconditional responsibilities

It is important for the PCAOB and the SEC to consider very carefully how often and to what extent they impose unconditional responsibilities on auditors. Standard setters all over the world are under pressure and there is a risk that an 'if in doubt, mandate' approach will be taken which may ultimately be counterproductive and detrimental to audit quality and the



interests of investors. Any use of the words 'must', 'shall' or 'is required' should be considered very carefully. The ill-considered use of these words in circumstances where a mandated procedure is inappropriate may all too easily result in the unthinking performance of procedures for their own sake.

2. Enforcement of presumptively mandatory responsibilities

Rule 3101 states that failure to discharge a presumptively mandatory responsibility is a violation of the relevant standard and Rule 3100 unless the auditor demonstrates that, in the circumstances, compliance with the specified responsibility was not necessary to achieve the objectives of the standard. The rule does not specify *how* auditors should demonstrate this but, by inference, demonstration must be in writing and must be more than a simple 'not applicable' statement. The effect of this could be to prompt auditors, particularly auditors of smaller entities, to produce extensive and unnecessary documentation in circumstances where a procedure is not followed simply because it is not applicable.

Promoting high quality audits

We encourage the SEC and the PCAOB to promote the efficient and intelligent use of auditors' time and expertise by exercising caution when considering the imposition of unconditional responsibilities.

We also encourage the PCAOB and the SEC to consider making a commitment to a timely review of the application and enforcement of the rule in due course to assess whether it has resulted in unnecessary audit procedures and documentation.

We hope you find these comments helpful and we welcome continued dialogue with the SEC and the PCAOB on how, in the interests of investors globally, we can promote auditing of the highest quality.

Yours sincerely



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