

18 September 2006

Our Ref: ICAEW response: 54/06

Ms Nancy M. Morris
Secretary
Securities and Exchange Commission
100 F Street, NE
Washington DC 20549-1090
USA

By e-mail: rule-comments@sec.gov

Dear Ms Morris

File Number S7-11-06

CONCEPT RELEASE CONCERNING MANAGEMENT'S REPORTS ON INTERNAL CONTROL OVER FINANCIAL REPORTING

The Institute of Chartered Accountants in England and Wales (ICAEW) welcomes the opportunity to comment on the SEC's Concept Release published in July 2006.

The ICAEW is the largest professional accountancy body in Europe, with more than 128,000 members. The prestigious qualifications offered by the ICAEW are recognised around the world and allow members to call themselves Chartered Accountants and to use the designatory letters ACA or FCA. The ICAEW operates under a Royal Charter, working in the public interest. Its primary objectives are to educate and train Chartered Accountants, to maintain high standards for professional conduct among members, to provide services to its members and students, and to advance the theory and practice of accountancy.

The ICAEW is an experienced and significant contributor and commentator on corporate governance, risk management and internal control, as well as on accounting and auditing. Our contributions to risk management and internal control include:

- our publication in 1999 of the Turnbull guidance, *Internal Control: Guidance for Directors on the Combined Code*;
- our support to the Financial Reporting Council (FRC) in the preparation of its 2004 guide *The Turnbull guidance as an evaluation framework for the purposes of Section 404(a) of the Sarbanes-Oxley Act*;



- our project management support in 2004/5 to the FRC Turnbull Review Group that, founded on evidence-based policy making, produced the revised Turnbull guidance in October 2005;
- our substantial contribution to the March 2005 discussion paper *Risk management and internal control in the EU* and the related follow-up paper in April 2006, published by FEE, the representative body of the European accountancy profession;
- the comment letters that we have previously provided to the SEC and to the PCAOB; and
- the ongoing work of expert committees of members in public practice and in business in the areas of PCAOB auditing standards and corporate governance, with a sub-group dedicated to UK/US issues.

We are therefore pleased to submit our comments on the SEC Concept Release. Our supporting answers to the 35 questions posed by the SEC are set out in the appendix to this letter and are mostly quite brief. This reflects our strong belief that the SEC should provide high-level guidance that would not be dependent on the information and opinions requested in many of the questions.

1 The need for a fundamental change in implementation approach

The approach to implementing section 404 of the Sarbanes-Oxley Act (section 404), in large part based on the PCAOB's Auditing Standard No. 2 (AS2), has led to changes in behaviour that were not originally envisaged by Congress or the SEC. The question facing regulators, politicians, investors and business in the United States is what needs to be done to establish a sense of proportion in the implementation of section 404.

We believe that the SEC must take this opportunity to initiate a fundamental change of approach to implementing the reporting and attestation requirements of section 404 and, in particular, a fundamental change to the requirements of AS2. Palliatives and additional layers of literature will not help. The requirements of section 404 continue to command broad support in principle. However, there is a risk that unless the SEC signals a fundamental change in implementation approach, pressure for amendment of section 404 will become compelling and precipitate a divisive polarisation of opinion.

We are concerned that certain comments from the SEC could be interpreted as indicating an unwillingness to consider fundamental change. For example, on page 5 of the Concept Release the SEC states that '*in writing any guidance we will be sensitive to the fact that many companies already have invested substantial resources to establish and document programs and procedures to perform their assessments over the last few years*'. Whilst we appreciate that the SEC may wish to acknowledge the substantial costs already incurred by accelerated filers in complying with the current regime for implementing section 404, we believe that sound economic principles demand that the costs previously incurred are seen as sunk costs that are not relevant to the development of future regulatory policy.

Nevertheless, we recognise that in considering a fundamental change in implementation approach it will be important for the SEC to take account of the costs to companies of such a change. The SEC will also need to help companies avoid unnecessary further costs relating

to a regime which the SEC intends to change. The timing of any SEC announcement about its future plans is therefore important to issuers as they approach their third year of implementation, or their first year in the case of some FPIs.

In order to ensure that the SEC and the PCAOB resolve the many and complex issues associated with section 404, particularly 404(b), including the alignment of PCAOB requirements to those of the SEC to ensure that guidance for management and auditors does not diverge, a measured approach is needed. The SEC has shown flexibility and sensitivity in its approach to the implementation timetable and we hope that this will continue with the transitional arrangements that may become necessary to ensure a successful fundamental change in implementation approach in the future. It would be helpful for the SEC to make an announcement of its intentions as soon as is practically possible.

2 Responsibility for internal control and related reporting

We are concerned about the premise of the Concept Release that more rulemaking from the SEC will solve the implementation problems of section 404. Whilst such an approach might provide management with some initial certainty, we fear that in the longer term it will merely generate calls for further clarifying rules and interpretations. In our view, SEC rulemaking should be limited to making clear who has responsibility for what and why. Beyond that, the SEC's role in relation to how responsibilities are exercised and discharged should be limited to issuing high-level guidance.

Section 404 places a clear responsibility on management in respect of assessing and reporting on internal control over financial reporting. However, this responsibility should be seen in a broader context in which responsibility for a company's systems of risk management and internal control lies with its board, audit committee and management. They should understand their responsibilities and ensure, taking professional advice where appropriate, that control systems are working properly to address significant risks to achieving the company's objectives. This is common-sense business practice as well as good corporate governance.

It is therefore the responsibility of the boards and management of issuers and not the responsibility of regulators or auditors to ensure the implementation of effective internal control over financial reporting in the context of their own company and it is for management to report on this. Page 20 of the Concept Release highlights the consequences of losing sight of these principles when it states *'that management may have unnecessarily tested controls using separate evaluation-type testing in connection with its annual assessment, rather than relying on its ongoing monitoring activities, which may include, for example, cumulative knowledge and experiences from its daily interactions with controls.'*

The crux of the issue is that management should not be remade in the image of the regulators and auditors. At the centre of any on-going activities to assess internal control should always be management's knowledge and experience of:

- Running the business;
- Establishing high-level controls that define the culture of the business; and
- Reviewing business performance using informed and reasoned judgement and scepticism.

3 A vision for new SEC guidance

We recommend that the objective of the SEC should be a high-level document of say 10 to 15 pages based on general principles that can be applied by the management of all sizes of company. The SEC should be requiring and enabling the management of issuers to think for themselves. There is always a temptation for regulators to provide many detailed requirements, the objective of which is to tighten the accountability of management. However, a balance has to be struck to ensure that more detailed requirements do not merely lead to a loss of direct ownership by management. The approach we propose will also help to address the concerns of smaller issuers about regulatory overload.

In our view, smaller company concerns about internal control reporting could be much reduced if guidance were pitched at the right level, i.e. if it were high-level and principles-based, and if it were combined with a statement from the SEC that issuers should apply the guidance in a way that is appropriate to the company's circumstances and proportionate to the risks that the internal control system is intended to address. Such guidance would be scalable and there would be no need to blur investors' perception of the SEC's brand and the quality of issuers by differentiating the application of section 404 between different sizes of registrants.

We are sure that the SEC will receive many calls to be specific and a considerable volume of detailed suggestions for what it should include in the document that results from the Concept Release consultation. Focus on the objective set out above should help to ensure that extraneous detail is not included in any draft guidance.

The risk of litigants and regulators second guessing the judgements of management and auditors is often cited in debates over rules-based or principles-based regulation. A reduction in the risk of inconsistent interpretation is often seen as a key factor in favour of rules. However, rules do not necessarily reduce, and certainly do not eliminate, the need for judgement. Nor do rules necessarily promote consistency, especially for a topic as complex as assessing the effectiveness of internal control over financial reporting. When standards for issuers and auditors are more rules-based, the role of judgement is simply transferred to the application of increasingly esoteric rules. Often such standards do not require more procedures and *less* judgement, but more procedures and *more* judgement.

We set out below a suggested structure for SEC guidance. This is based on an approach that found widespread support in the initial development and the more recent review of the Turnbull guidance in the UK. Over the past few years it has also been used as the basis for the development of internal control requirements in other jurisdictions, such as Hong Kong.

1. *Introduction*
 - The importance of internal control over financial reporting
 - Objectives of the guidance
 - Relevant aspects of SEC Rule 13a -15 (for context)
2. *Maintaining a sound system of internal control over financial reporting*
 - Responsibilities of management and others for maintaining the system
 - Elements of a sound system of internal control over financial reporting
3. *Management's process for assessing the effectiveness of internal control over financial reporting*
 - Responsibilities of management and others for the review process
 - Activities involved in assessing effectiveness
 - Considerations relevant to the identification of material weaknesses (see below)
 - Documentation of the assessment process (see below)
4. *Reporting*
 - Matters to be covered in reporting by management
 - Reporting issues of significance that require the exercise of management judgement
 - Relevant aspects of SEC Rule 13a -15
5. *Appendix*
 - Potential areas of significance to consider when assessing the effectiveness of the system of internal control over financial reporting
 - Suggested questions for management to consider concerning key controls over financial reporting.

The topics of material weakness and documentation are included in the outline of the high-level guidance set out above as implementation of section 404 indicates that fundamental changes need to be made in these areas. Our suggestions are as follows:

- The SEC should take direct responsibility for the term 'material weakness' as this has direct relevance for issuers. The matter should not be delegated to the PCAOB. We suggest that the guidance could, without formally defining the term, state that it is for the board and audit committee of the issuer to establish qualitative and quantitative factors to be considered by management in judging what is a material weakness in the context of the company and its financial statements. The need to exercise judgement should be strongly emphasised together with a reminder that the focus should only be on key controls that are most likely to reduce the risk of a material error in the financial statements.
- There is a need to keep documentation up to date and the formality of appropriate documentation can bring added rigour to internal processes and be of assistance to directors and management. Nevertheless, documentation should be aimed at providing reasonable evidence and should not become an end in itself. Documentation needed to satisfy the requirements of regulators and auditors should be aligned with the needs of management in running the business and in discharging their responsibilities to investors.

4. Internal control frameworks

The availability of internal control frameworks has not represented a weak link in the implementation of section 404. There is a substantial amount of knowledge and experience in the market place, including internal control frameworks, guidance and methodologies to assist management make their assessment of internal control over financial reporting. There is no need for the SEC to enter this market place, nor to second guess management by endorsing particular solutions. We believe that, other than the SEC providing high-level guidance, it should be left to others to provide 'how to' guidance and solutions.

This approach would appear to deal with the following concerns noted in the Concept Release:

- Page 4 states *'it is impractical to prescribe a single methodology that meets the needs of every company'*.
- Page 8 states that *'any additional management guidance that we may issue is not intended to replace or modify the COSO framework or any other suitable framework.'*

5. Implications of the primacy of management guidance for the PCAOB

We applaud the SEC's two-stage approach of firstly *'seeking comment on a variety of issues that might be the subject of Commission guidance for management'* before, secondly, preparing a draft document for public exposure to solicit further comments. We believe that a similar two-stage approach should be adopted by the PCAOB.

Mindful that many section 404 implementation problems are attributed to AS2, we believe that consultation by the PCAOB should commence after the SEC has published draft guidance to management, including guidance on material weaknesses and documentation. There are two reasons for this:

- The nature and scope of the auditors' attestation and reporting on management's assessment will be fundamentally affected by the SEC's guidance to management on that assessment.
- The primacy accorded to management's assessment of the effectiveness of internal control over financial reporting raises fundamental questions about the need for auditors to undertake their own separate audit of the effectiveness of internal control over financial reporting as is currently the case under AS2.

In relation to these points, the PCAOB should also seek views on the fundamental question of whether the auditor's attestation needs to take the form of an audit in order to meet the reported intentions of Congress. It is our belief that not all 'attestations' are audits and our answer to question 10 refers to an alternative approach that has been adopted by the UK Auditing Practices Board.

We would welcome the opportunity to discuss our comments in further detail. Please do not hesitate to contact me or Jonathan Hunt, Head of Corporate Governance (jonathan.hunt@icaew.co.uk).

Yours sincerely

A handwritten signature in black ink that reads "Robert Hodgkinson". The signature is written in a cursive, flowing style.

Robert Hodgkinson
Executive Director, Technical
Direct line: +44 (0)20 7920 8492
E-mail: robert.hodgkinson@icaew.co.uk

cc: SEC Chairman
SEC Commissioners
PCAOB Chairman

The Questions

	<u>Introduction</u>	<u>Comment</u>
1a	Would additional guidance to management on how to evaluate the effectiveness of a company's internal control over financial reporting be useful?	<p>Minimum, high-level guidance is needed from the SEC with a strong emphasis on judgement (see section 3 of the letter).</p> <p>The SEC should take the opportunity to break the cycle of ever more levels of detailed rules and pronouncements.</p> <p>Beyond high-level guidance from the SEC, solutions should be developed by other market participants.</p>
1b	If so, would additional guidance be useful to all reporting companies subject to the Section 404 requirements or only to a sub-group of companies?	All companies (see comment on smaller companies in section 3 of the letter).
1c	What are the potential limitations to developing guidance that can be applied by most or all reporting companies subject to the Section 404 requirements?	None, as long as the guidance is minimum high-level guidance. If this were not the case, then any guidance could become over-prescriptive and potentially labelled as an inappropriate 'one-size fits all' approach.
2a	Are there special issues applicable to foreign private issuers that the Commission should consider in developing guidance to management on how to evaluate the effectiveness of a company's internal control over financial reporting?	<p>There are issues, such as the implementation of IFRS, about which the SEC is already aware and has been sensitive to in the past. In so far as special issues at the conceptual level of giving guidance, there should be none.</p> <p>If the SEC guidance is high-level and principles-based it is potentially more likely to accommodate the frameworks used in other countries.</p> <p>We recommend continued reference by the SEC to other frameworks as outlined in Footnote 68 to SEC Rule 33-8238.</p>
2b	If so, what are these?	Not applicable.

2c	Are such considerations applicable to all foreign private issuers or only to a sub-group of these filers?	Not applicable.
3	Should additional guidance be limited to articulation of broad principles or should it be more detailed?	Broad principles only.
4a	Are there additional topics, beyond what is addressed in this Concept Release, that the Commission should consider issuing guidance on?	No.
4b	If so, what are those topics?	Not applicable.
5a	Would additional guidance in the format of a Commission rule be preferable to interpretive guidance?	No, see sections 2 and 3 of the letter.
5b	Why or why not?	As 5(a) above.
6a	What types of evaluation approaches have managements of accelerated filers found most effective and efficient in assessing internal control over financial reporting?	<p>Commencing with a top-down, risk-based approach, dealing with issues that are of high-level significance, starting the process at board and audit committee level and applying judgement.</p> <p>The crux of the issue is that management should not be remade in the image of the regulators and auditors. At the centre of any on-going activities to assess internal control should always be management's knowledge and experience of:</p> <ul style="list-style-type: none"> • Running the business; • Establishing high-level controls that define the culture of the business; and • Reviewing business performance using informed and reasoned judgement and scepticism.
6b	What approaches have not worked, and why?	Commencing with a bottom-up, detailed transactional level approach that lacks focus on the risk of material misstatement, is driven by documentation, and where the costs and benefits are fundamentally misaligned.

7a	Are there potential drawbacks to or other concerns about providing additional guidance that the Commission should consider?	See comments in sections 3 and 4 of the letter.
7b	If so, what are they?	As 7(a) above.
7c	How might those drawbacks or other concerns best be mitigated?	As 7(a) above.
7d	Would more detailed Commission guidance hamper future efforts by others in this area?	Yes. See section 4 of the letter.
8a	Why have the majority of companies who have completed an assessment, domestic and foreign, selected the COSO framework rather than one of the other frameworks available, such as the Turnbull Report?	<p>We believe that, as COSO is the accepted framework in the US, issuers and their auditors may, in the early years of implementing section 404, have found it more convenient to use the US framework for a US law.</p> <p>There are 43 specific references to COSO in AS2, 3 general references to other frameworks, but no specific references to Turnbull or CoCo, being the two other examples of recognised frameworks specifically mentioned in Footnote 68 to SEC Rule 33-8238. Both Turnbull and CoCo are generally aligned to COSO.</p> <p>FPIs have learnt from the experiences of US domestic registrants and their auditors who have used COSO. This does not, in future, preclude the use by issuers of other existing frameworks or frameworks that may yet be developed.</p>
8b	Is it due to a lack of awareness, knowledge, training, pressure from auditors, or some other reason?	See 8(a) above.

8c	Would companies benefit from the development of additional frameworks?	Yes, competition in the market place is good. We would prefer to see any such publicly available frameworks continue to be established by independent bodies of consisting of experienced experts as well as a range of individuals from relevant stakeholders. The body must also follow due-process procedures, including the broad distribution of the framework for public comment.
9a	Should the guidance incorporate the May 16, 2005 “Staff Statement on Management’s Report on Internal Control Over Financial Reporting”?	Yes, but only to the extent that it is consistent with a high-level, principles-based approach with a strong emphasis on judgement and the focus should only be on key controls that are most likely to reduce the risk of a material error in the financial statements.
9b	Should any portions of the May 16, 2005 guidance be modified or eliminated?	As 9(a) above.
9c	Are there additional topics that the guidance should address that were not addressed by that statement? For example, are there any topics in the staff’s “Management’s Report on Internal Control Over Financial Reporting and Certification of Disclosure in Exchange Act Periodic Reports Frequently Asked Questions (revised October 6, 2004)” that should be incorporated into any guidance the Commission might issue?	As 9(a) above.
10a	We also seek input on the appropriate role of outside auditors in connection with the management assessment required by Section 404(a) of Sarbanes-Oxley, and on the manner in which outside auditors provide the attestation required by Section 404(b). Should possible alternatives to the current approach be considered and if so, what?	<p>Yes. There are existing alternatives to the approach taken by AS2.</p> <p>When considering alternatives, the SEC should seriously consider the UK approach as currently outlined in paragraphs 30 to 55 of Bulletin 2006/5 issued by the UK’s audit standard setter, the Auditing Practices Board which can be found on their website www.frc.org.uk/apb</p>

10b	<p>Would these alternatives provide investors with similar benefits without the same level of cost?</p>	<p>Similar, but not necessarily the same, benefits; and at much reduced costs.</p> <p>Brief details of the UK approach are provided below in 10(c).</p> <p>We suggest that if emphasis is placed on the significant risks identified by management, the board and its audit committee; alongside consideration of the control environment, then this can provide investors with comfort without all the costs and low-level detail associated with AS2.</p> <p>In 2005, the Turnbull Review Group in the UK considered whether the current responsibilities of the external auditors provided value for the board of directors and shareholders, and whether there was a case for the auditors' responsibilities to be added to or otherwise changed.</p> <p>Responses to the public consultation exercise were consistent, with similar views being held by business, investors and the accountancy profession.</p> <p>The general view was that the activities of the auditor in reviewing the company's internal control statement, while limited, provide additional assurance to boards and shareholders and should therefore continue to be undertaken.</p> <p>The existing powers and remit of the external auditors were considered sufficient and there was virtually no support or demand from investors or companies for an increased role for the auditors, which supports the conclusion that investors and companies see at best only limited benefits from an increased role which would not be justified on a cost-benefit analysis.</p>
-----	---	--

10c	How would these alternatives work?	<p>Auditors are required under the UK Listing Rules to review the board’s compliance statement relating to its review of the internal control system (provision C.2.1 of the Combined Code). Auditing Practices Board (APB) guidance states that auditors should evaluate whether the company’s published statement on internal control is supported by documentation and appropriately reflects the board’s process of reviewing the system of internal control. The auditors will add an additional paragraph to their audit report if they believe that the board’s internal control statement is inconsistent with the auditors’ knowledge.</p> <p>In reviewing the company’s internal control statement the auditors will also draw on the knowledge of the company that they have obtained during the audit of the financial statements.</p> <p>In summary, auditors have limited involvement over and above the control testing that they undertake as part of their financial statement audit. This limited involvement is focused around looking at high-level issues. Their reporting is similarly focussed at the high-level. The emphasis is on review and not on the higher level of assurance associated with audit.</p>
	<u>Risk and control identification</u>	
11	What guidance is needed to help management implement a “top-down, risk-based” approach to identifying risks to reliable financial reporting and the related internal controls?	No guidance is needed. Just a statement from the SEC that management needs to adopt this approach. Allow management to use their judgement, thinking for themselves, about the risks to financial reporting in the context of their own organisation using their accumulated knowledge of running the business.

12a	Does the existing guidance, which has been used by management of accelerated filers, provide sufficient information regarding the identification of controls that address the risks of material misstatement?	Yes the guidance available in the market place should be able to provide sufficient guidance if it is thoughtfully used and adopted to suit the circumstances of the company concerned.
12b	Would additional guidance on identifying controls that address these risks be helpful?	Yes, but such 'how to' guidance should not be provided by regulators.
13	In light of the forthcoming COSO guidance for smaller public companies, what additional guidance is necessary on risk assessment or the identification of controls that address the risks?	None.
14a	In areas where companies identified significant start-up efforts in the first year (e.g., documentation of the design of controls and remediation of deficiencies) will the COSO guidance for smaller public companies adequately assist companies that have not yet complied with Section 404 to efficiently and effectively conduct a risk assessment and identify controls that address the risks?	Yes.
14b	Are there areas that have not yet been addressed or need further emphasis?	No, other than a general reminder that many of the problems that caused the financial scandals that gave rise to the Sarbanes-Oxley Act were not due to low level controls but were rather at the entity control level with poor tone at the top of some organisations.
15a	What guidance is needed about the role of entity-level controls in evaluating and assessing the effectiveness of internal control over financial reporting?	Minimum guidance at most. A statement from the SEC that entity level controls are a key area and will vary in importance from company to company may be sufficient.
15b	What specific entity-level control issues should be addressed (e.g., GAAP expertise, the role of the audit committee, using entity-level controls rather than low-level account and transactional controls)?	As 15(a) above.

15c	Should these issues be addressed differently for larger companies and smaller companies?	No. See comment on smaller companies in section 3 of the letter.
16a	Should guidance be given about the appropriateness of and extent to which quantitative and qualitative factors, such as likelihood of an error, should be used when assessing risks and identifying controls for the entity?	No.
16b	If so, what factors should be addressed in the guidance?	Not applicable.
16c	If so, how should that guidance reflect the special characteristics and needs of smaller public companies?	Not applicable.
17a	Should the Commission provide management with guidance about fraud controls?	No, just a statement from the SEC that it recognises that the identification of fraud controls is a management judgement and is a company-specific matter.
17b	If so, what type of guidance?	Not applicable.
17c	Is there existing private sector guidance that companies have found useful in this area?	Not applicable.
17d	For example, have companies found the 2002 guidance issued by the AICPA Fraud Task Force entitled “Management Antifraud Programs and Controls” useful in assessing these risks and controls?	Not applicable.
18a	Should guidance be issued to help companies with multiple locations or business units to understand how those affect their risk assessment and control identification activities?	No. This matter is for management to judge and will vary from company to company.
18b	How are companies currently determining which locations or units to test?	By the use of judgement.

	<u>Management's evaluation</u>	
19a	What type of guidance would help explain how entity-level controls can reduce or eliminate the need for testing at the individual account or transaction level?	The guidance can be provided by other means.
19b	If applicable, please provide specific examples of types of entity-level controls that have been useful in reducing testing elsewhere.	Not applicable.
20a	Would guidance on how management's assessment can be based on evidence other than that derived from separate evaluation-type testing of controls, such as on-going monitoring activities, be useful?	Just a statement to that effect, nothing more. Individuals with common-sense and judgment should be able to deal with on-going monitoring issues without the need for more detailed guidance from the SEC.
20b	What are some of the sources of evidence that companies find most useful in ongoing monitoring of control effectiveness?	Not applicable.
20c	Would guidance be useful about how management's daily interaction with controls can be used to support its assessment?	No.
21a	What considerations are appropriate to ensure that the guidance is responsive to the special characteristics of entity-level controls and management at smaller public companies?	See comment in section 3 of the letter.
21b	What type of guidance would be useful to small public companies with regard to those areas?	As 21(a) above.
22a	In situations where management determines that separate evaluation-type testing is necessary, what type of additional guidance to assist management in varying the nature and extent of the evaluation procedures supporting its assessment would be helpful?	Guidance is needed, but we do not think that this should be provided by the SEC.

22b	Would guidance be useful on how risk, materiality, attributes of the controls themselves, and other factors play a role in the judgments about when to use separate evaluations versus relying on ongoing monitoring activities?	No.
23	Would guidance be useful on the timing of management testing of controls and the need to update evidence and conclusions from prior testing to the assessment “as of” date?	Guidance is needed, but we do not think that this should be provided by the SEC.
24a	What type of guidance would be appropriate regarding the evaluation of identified internal control deficiencies?	Guidance is needed, but we do not think that this should be provided by the SEC.
24b	Are there particular issues in evaluating deficient controls that have only an indirect relationship to a specific financial statement account or disclosure?	Not applicable.
24c	If so, what are some of the key considerations currently being used when evaluating the control deficiency?	Not applicable.
25a	Would guidance be helpful regarding the definitions of the terms “material weakness” and “significant deficiency”?	See comment in section 3 of the letter. We recommend that: (1) the SEC, taking direct responsibility for the term ‘material weakness’ could without formally defining the term, state that it is for the board and audit committee of the issuer to establish qualitative and quantitative factors to be considered by management in judging what is a material weakness in the context of the company and its financial statements. The need to exercise judgement should be strongly emphasised; and (2) the SEC completely dispense with the class of deficiencies called ‘significant deficiencies’
25b	If so, please explain any issues that should be addressed in the guidance.	As 25(a) above.

26a	Would guidance be useful on factors that management should consider in determining whether management could conclude that no material weakness in internal control over financial reporting exists despite the discovery of a need to correct a financial statement error as part of the financial statement close process?	Yes, this should be covered at a high level in the guidance referred to in section 3 of the letter.
26b	If so, please explain.	As 26(a) above
27	Would guidance be useful in addressing the circumstances under which a restatement of previously reported financial information would not lead to the conclusion that a material weakness exists in the company's internal control over financial reporting?	No. Just a statement to that effect, set out the principle and let others use judgement.
28	How have companies been able to use technology to gain efficiency in evaluating the effectiveness of internal controls (e.g., by automating the effectiveness testing of automated controls or through benchmarking strategies)?	Not relevant to the drafting of the SEC guidance.
29a	Is guidance needed to help companies determine which IT general controls should be tested?	No. The market can provide such 'how to' information. As noted in section 3 of the main letter, extraneous detail should be avoided.
29b	How are companies determining which IT general controls could impact IT application controls directly related to the preparation of financial statements?	Not relevant to the drafting of the SEC guidance.
30a	Has management generally been utilizing proprietary IT frameworks as a guide in conducting the IT portion of their assessments?	Not relevant to the drafting of the SEC guidance.
30b	If so, which frameworks?	Not applicable.
30c	Which components of those frameworks have been particularly useful?	Not applicable.
30d	Which components of those frameworks go beyond the objectives of reliable financial reporting?	Not applicable.

	<u>Documentation to support the assessment</u>	
31a	Were the levels of documentation performed by management in the initial years of completing the assessment beyond what was needed to identify controls for testing?	Yes. The need to documentation has been a major driver of costs and consumer of management time and resources.
31b	If so, why (e.g., business reasons, auditor required, or unsure about “key” controls)?	See section 3 of the letter. Much of the documentation requirements have been driven by AS2.
31c	Would specific guidance help companies avoid this issue in the future?	Yes, see section 3 of the letter.
31d	If so, what factors should be considered?	See section 3 of the letter.
32a	What guidance is needed about the form, nature, and extent of documentation that management must maintain as evidence for its assessment of risks to financial reporting and control identification?	See section 3 of the letter.
32b	Are there certain factors to consider in making judgments about the nature and extent of documentation (e.g., entity factors, process, or account complexity factors)?	See section 3 of the letter.
32c	If so, what are they?	Not applicable.
33	What guidance is needed about the extent of documentation that management must maintain about its evaluation procedures that support its annual assessment of internal control over financial reporting?	None.
34a	Is guidance needed about documentation for information technology controls?	No.
34b	If so, is guidance needed for both documentation of the controls and documentation of the testing for the assessment?	Not applicable.

35a	How might guidance be helpful in addressing the flexibility and cost containment needs of smaller public companies?	See section 3 in the letter.
35b	What guidance is appropriate for smaller public companies with regard to documentation?	None.