BROWN-FORMAN

FRED AMENT
VICE PRESIDENT,
GENERAL AUDITOR

JANE MORREAU
VICE PRESIDENT,
CONTROLLER

March 31, 2005

Jonathan G. Katz
Secretary
Securities and Exchange Commission
450 Fifth Street, NW
Washington, DC 20549

Re: File Number 4-497, Experience with Implementing the Requirements of Section 404 of the Sarbanes-Oxley Act of 2004

Dear Mr. Katz:

Summary

Our company firmly believes that strong corporate governance practices and a highly ethical management team are critical components of all companies. We also believe that effective internal controls are pivotal to ensure that financial statements are properly stated. At Brown-Forman, we have managed our business for years with a strong code of conduct, and have long had an active Internal Audit Department and Audit Committee reviewing the effectiveness of our internal controls. While we applaud the goal of Sarbanes-Oxley (SOX) in fostering the public's confidence in corporate financial statements, we believe that Auditing Standard No. 2 has exceeded the initial intent of the Act. Our experience indicates that the accounting firms are trying to protect themselves from their regulator, the PCAOB, and are pushing their clients for entirely too much documentation to support management's assertions. In addition, the Standard as written leaves far too much room for auditor judgment and provides too little specific guidance. This "one-size fits all" approach is inappropriate for a conservative company like ours. Perhaps, the SEC can figure out who is conservative and who is pushing the envelope. **We suggest that the stringent standards be applied to known offenders such as those subject to fines or making financial restatements.**

There is a larger question that is driving a lot of this work, which is, "what is materiality?" The SEC must adopt a simple definition that the investor can understand. Because we do not know what materiality is, the auditors do not know where to stop. The investor shrugs their shoulders because everything is "material." **The SEC should adopt a quantification rule so that companies, their auditors and investors have some guidance as to what is considered material.** Until the SEC addresses these issues, the overall cost to comply will continue to be significant and the overall benefit to shareholders will be minimal.

<u>Costs Exceed Benefits</u>

While the intent of the Sarbanes-Oxley Act was to restore the public's confidence in Corporate America, we believe the price of complying with SOX (particularly Section 404) far outweighs the benefits and have far exceeded expectations. Highly publicized scandals at Enron, Worldcom and others certainly shook the public's perception of public companies and the reliability of financial statements produced by these companies. However, the intentional, deceptive acts committed by management at some companies and the gross neglect exhibited by external auditors in other instances have caused the pendulum to swing too far. **We believe the PCAOB requirements included in Auditing Standard No. 2 are far too arduous, especially for a conservative, well intentioned company such as ours.**

Auditing Standard No. 2, as written, sets an impractical baseline from which internal controls should operate. The COSO framework, which has been established as the standard of choice, is an extremely idealistic framework. External auditors are holding companies to this idealistic COSO standard which sets unreasonably high control expectations and is not cost beneficial. Many companies identify hundreds of deficiencies using this framework. The identification of a single deficiency requires many hours of work to properly evaluate the magnitude of the deficiency (e.g., whether the deficiency might constitute a significant deficiency or material weakness). In addition, ranking the deficiency is based on a complex and judgmental deficiency evaluation framework developed by the accounting firms themselves. This is a significant time commitment that often results in a company investing hundreds or even thousands of hours identifying minor control deficiencies that will not materially impact the reliability of the financial statements. **The evaluation of each and every deficiency without selectivity or discrimination is not in the best interest of the shareholders, as the overall impact likely would not cause an investor or a potential investor to make a different decision about the company.**

Recommendation:
We believe existing standards should be amended to make clear that audits of internal controls are executed at levels that will identify any material weakness and not at levels that are meant to identify less important deficiencies. For example, our outside auditor has stated that a control that is not evidenced is basically a control that did not happen. In response, we are now requiring all management reviews or other controls to be evidenced in writing. These additions do not assure that an important process or review was conducted properly and we do not believe the increased documentation will eliminate errors. In reality, it is not at all true that a control must be in writing to be effective, and evidencing all controls in writing is not a very efficient way to run a business. Many great controls occur through verbal conversations, e-mails, or real time during a meeting. The fact that the control is not evidenced in writing does not mean the control is not effective nor taking place. While we agree that a non-evidenced control is difficult to test, the difficulty is really with the external auditor testing the control. Since management is involved directly with the control, we have the evidence we need.

Insufficient Reliance on Control Environment

The Standard also places too much weight on the initiation of a transaction and far too little weight on the overall control environment and financial monitoring processes. Our company has a robust financial monitoring process, in which our costs and revenues are scrutinized very closely each and every month. We are confident that our monthly analytical review processes would catch any intentional or unintentional error well below the materiality threshold. However, we are now required by the Standard to document every significant financial process from beginning to end. While we are in no way saying that these types of controls are not important or required, we believe a robust monitoring process should enable us to eliminate some of the required testing of controls. As further evidence of this point, if you consider the frauds at Enron and Worldcom, the driving force of those frauds was the inadequate control environment and tone at the top. Manipulation of the financials at Enron and WorldCom were done by the top levels of management, not at the sales order or purchase order entry points.

Recommendation:
The SEC needs to re-evaluate the importance of identifying and testing every "key control" and instead allow companies to focus on the company-wide controls and the overall control environment. By doing so, the overall level of effort to comply will be significantly reduced without compromising the laudable intent of the law.

Annual Testing Requirement Excessive

The amount of testing required on an annual basis to satisfy the standard results in significant, misplaced costs to our company. Currently, the Standard requires that every key control be tested on an annual basis, and we have identified nearly 800 controls at Brown-Forman that would require testing every year. Further, our external auditor is requiring that some subset of those controls be tested within the last 60 to 90 days of the fiscal year, resulting in some tests being performed multiple times annually. Requiring that every control be tested annually results in significant labor hours being spent testing rather than improving or making processes more efficient.

Recommendation:
We believe that management and the external auditor should be given the flexibility to rotate the testing of most controls to every two or three years, especially if controls were successfully tested in the first year of implementation. By doing so, the amount of effort to satisfy the testing requirements of Section 404 will be significantly reduced and much more cost effective. We ask who is deriving the benefit from the millions of dollars

and thousands of hours spent on this endeavor except for the accounting firms?

We believe the SEC should reconsider the requirements of Auditing Standard No. 2, and reduce the requirements to comply with the Standard to a more reasonably attainable level. Factors to consider include developing a more reasonable internal framework as a baseline, allowing more flexibility in the testing requirements, and placing more emphasis on evaluating the control environment (i.e. tone at the top). By doing so, companies can reduce the amount of documentation and testing required and decrease the overall cost of complying with SOX (multi-millions of dollars for our Company) without increasing the risk of financial misstatement.

Lack of Guidance from the SEC

As written, Auditing Standard No. 2 is far too vague for a reasonable person to properly interpret the meaning of the standard. Due to the unclear nature of the Standard, interpretations vary greatly between accounting firms and even within firms from partner to partner. This lack of consistency could result in one company disclosing a material weakness while the same issue is labeled a significant deficiency at another company. The lack of specificity within the standard has placed the external auditor in a position to dictate what is required of management for its assertion, and we believe the accounting firms are taking an overly conservative stance. The external auditor’s requirement of management is further distorted due to their overall fear of how the PCAOB will evaluate the auditor’s work papers and evaluations of management assertions. This fear and lack of guidance has forced the auditor to require far too much documentation and testing to support management’s assertion.

Recommendation:
Without guidance, the inclination is for the external auditor to cover all of their risks, and this has caused audit fees to skyrocket, further increasing the overall cost of SOX to our company and shareholders.

As with any new standard, it takes some time for reasonable guidance and various interpretations to emerge. However, the PCAOB has tried to create a single standard to govern a very complex topic. In our opinion, creating a standard for internal controls is just as complex as creating standards for financial statements. At last count, there are 153 FASB Standards, most of which are very specific to certain financial issues or industries. Yet, the PCAOB has tried to establish a standard that covers all situations and all industries. This is no small task, and is in reality an impossible task that has caused significant uncertainty and confusion over implementing the Standard. Couple this confusion with a rush to implement the law, and you have inefficiencies and distortions.

While we appreciate the complexity and challenge faced by the SEC, **we believe the SEC needs to better define the requirements of SOX by asking the question "what is the goal we are trying to achieve?"** The April Roundtable is a great starting point, and we appreciate that the Board is open to input. We believe the SEC should provide additional guidance on many of the controversial topics such as levels of documentation/testing, reliance on the work of others, etc. We also hope that the SEC sets reasonable guidelines during their initial SOX audits of the external auditors. By doing so, the external auditors will be more knowledgeable about the requirements and can begin to use more realistic judgment during subsequent years. Improved judgment should also lead to reduced audit fees, which have more than doubled for our company.

Documentation Requirements Too Stringent

The amount of documentation and testing required to comply with Sarbanes-Oxley is too stringent and unnecessary. The amount of effort expended by various parts of our organization on documentation over the past two years has been overwhelming. Our finance team has been especially distracted as their efforts were spent documenting and testing controls instead of spending time on improving inefficiencies and streamlining processes. The amount of time dealing with paper trails is counterproductive, not just from a cost basis, but by derailing our own internal auditors from more important and possibly more significant issues. More importantly, the process to date has only proved to us what we already knew -- that we do have a solid internal control foundation that allows us to present accurate financial statements and disclosures as required by the securities laws and as deserved by our shareholders.

At the end of the day, our shareholders are the biggest losers in this process, as we spent monies and time away from building our great brands and providing even better returns to our shareholders.

Our company has spent the better part of two years preparing process-related documentation to the level our outside auditor believes is necessary to comply with SOX. The level of additional documentation spirals out of logical control when our auditor requires evidence that each control is working.

Recommendation:
We believe the SEC needs to take a hard look at the level of documentation required and look for ways to minimize the amount of documentation required to satisfy the outside auditors. This can be done by giving the external auditors more leeway (or even encouragement) to utilize inquiry and observation instead of relying mainly on testing for written evidence. This approach also minimizes the records that needs to be retained and stored, another cost to our company and shareholders that should not be forgotten.

Closing

We would like to commend the SEC for its efforts to date and their willingness to solicit suggestions for improving the Section 404 process. We hope our suggestions along with others will assist the SEC in improving and refining the auditing standard.

Please feel free to contact us for clarification. We are pleased to participate in this process to moderate these standards.

Sincerely,

Fred Ament
Vice President and General Auditor

Jane Morreau
Vice President and Controller