CURRENT DEVELOPMENTS IN THE DIVISION OF CORPORATION FINANCE

National Conference on Current SEC & PCAOB Developments

Wayne Carnall
Chief Accountant
Division of Corporation Finance
December 7, 2009
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Topics

• Communications and transparency
• Reviews and issues
• Goals for the future
Review of Last Year’s Goals

1. Complete CF-OCA reorganization  1. Accomplished
2. Continue the outreach program  2. Accomplished – ongoing
3. Keep current the Financial Reporting Manual and develop interpretations that will be part of C&DIs -  3. Accomplished – ongoing
4. Update/eliminate certain information on our website  4. Partially accomplished
5. Develop “No Action” style letters for certain items  5. Not done
6. Keep current the guidance for smaller issuers  6. Accomplished – ongoing
7. Issue guidance on areas of focus for community banks  7. Accomplished - ongoing
COMMUNICATIONS & TRANSPARENCY
Communications

• Outreach Program
  ❖ Accounting Firms
  ❖ Investor Groups
  ❖ Other Organizations

• Letters – waivers, interpretations, etc.
  dcaoleters@sec.gov

• E-mail vs. phone calls
  ❖ Efficiency
  ❖ Future Guidance
New Dear CFO Letter

MD&A Disclosure Regarding Provision and Allowance for Loan Loss

• Issued in August 2009
• Can be found at

http://www.sec.gov/divisions/corpfin/guidance/loanlossesltr0809.htm
New Dear CFO Letter

• Why did we issue the letter?
• Topics
  ❖ Higher-Risk Loans
  ❖ Changes in Practice
  ❖ Declines in Collateral Value
  ❖ Other
• The last paragraph – what did we mean?
SEC Staff Review of Common Financial Reporting Issues Facing Smaller Issuers

Wayne Carnall, Chief Accountant
Steven Jacobs, Associate Chief Accountant
Jennifer Thompson, Accounting Branch Chief
Christopher White, Accounting Branch Chief
Kevin Vaughn, Accounting Branch Chief
Cicely LaMothe, Accounting Branch Chief
Joel Parker, Accounting Branch Chief
Brian K. Bhandari, Accounting Branch Chief

Division of Corporation Finance

December 2009
PCAOB Forum - Smaller Issuers
New Topics - 2009

- Impairments and Related Disclosure
- Reverse merger and “Back-door” Registrations
- Related Party Transaction
  - Restricted Net Assets
  - SRC Transitions and Determinations
  - DC&P and ICFR
Areas of Frequent Staff Comment – Financial Institutions

Stephanie L. Hunsaker
Associate Chief Accountant
Division of Corporation Finance
December 2009
Frequent Areas of Staff Comment

1. Allowance for Loan Losses
2. Troubled Debt Restructurings (TDRs)
3. Other Real Estate Owned (OREO)
4. Purchased Loans
5. U.S. Treasury Mortgage Modification Programs
6. Securities Impairment
7. Goodwill Impairment
8. Deferred Tax Asset Valuation
9. Fair Value Disclosures
10. TARP Transactions
11. Regulatory Actions or Recommendations
12. FDIC Assisted Transactions
Financial Reporting Manual

- Objective
- Location
- Updating
  - March 2009
  - June 2009
  - September 2009
- 2010 and beyond
REVIEWS

&

ISSUES
Responding to Comment Letters

- My experience
- My recommendation
Development of an EITF Issue
Deferred Acquisition Costs

The Review Team – AD 1
Jim Rosenberg
Carlton Tartar
Don Abbott
Christine Allen

CF-OCA
Craig Olinger
Todd Hardiman

OCA
Shelly Luisi
Jeff Kessman
Comments on IFRS Filings

- IFRS 7 – expanded disclosure
- IAS 39 – amendments – reclassification
  - *Extensive disclosure requirements*
- SIC 12 – (Consolidation of Special Purpose Entities)
- IAS 17 – Sales Leaseback
- IAS 7 - Cash equivalents
- Etc.
Materiality

- Experiences this past year
- In preparing a “SAB 99” memo -
  - Companies are simply listing the 8 points in SAB 99 and indicating “no” and concluding the error is not material
  - Companies should provide company specific information on their assertion
- Correcting errors - disclosure
I have made this letter (10-K) longer than usual (necessary), only because I have not had the time to make it shorter.
Simplification

• Codification – describe concepts
• Avoid redundancy
• Write for the investor – not the SEC staff
• Disclosure checklist – starting point not ending point
• View the 10-K/10-Q as a communication document – not a compliance document
  ❖ Be consistent with other communications – analysts calls, press releases, etc.
  ❖ Non GAAP
Goals for the Future
Projects On My List

• Item 11(b) of Form S-3
• Rule 3-05 - Acquired business
• Rules 3-09 and 4-08(g) and – Equity Affiliates
• Article 11- Pro-Forma information
Does the acquiree's significance exceed 50%?

Have the acquiree's separate financial statements been filed previously?

Is the acquiree's significance:
greater than 50% but less than 70% and are its operating results included in the registrant's audited financial statements for 9 months or more?

or
greater than or equal to 70% and less than 80% and its operating results have been included in the registrant's audited financial statements for 21 months or more?

or
greater than or equal to 80% and its operating results have been included in the registrant's audited financial statements for 33 months or more?

Is the registration statement being declared effective less than 75 days after consummation of the acquisition?

The acquiree's financial statements are not required.

The acquiree's financial statements are required.

Acquirer's financial statements are not required in the registration statement, but are required to be filed on Form 8-K no later than the sum of 4 business days plus 71 calendar days after consummation of the acquisition.

Have the acquiree's separate financial statements been filed previously and are its operating results included in the registrant's audited financial statements for 9 months or more?

The acquiree's financial statements are not required.

The acquiree's financial statements are required.

Has consummation of the acquisition occurred?

Yes

No

Is the acquiree a "Business" under 11-01(d) of Regulation S-X?

Is this a Form S-4 or merger proxy statement?

Yes

No

Does the acquiree's significance exceed 20%?

Acquisition accounting or reorganization of entities under common control?

Yes

No

Have the registrant's financial statements already been restated to reflect the reorganization?

Yes

No

The acquiree’s financial statements are not required.

The acquiree’s financial statements are required.

S-X 3-05 does not apply

See special rules

S-X 3-05 does not apply

The acquiree’s financial statements are not required.

Acquirer’s financial statements are required.

Go to next page.

Continued from prior page.

See special rules
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<th>Affiliate B</th>
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Communication Goals

- Continue the outreach program
- Keep current the *Financial Reporting Manual* and develop interpretations that will be part of C&DIs
- Update/eliminate certain information on our website
- Develop “No Action” style letters for certain items
- Keep current the guidance for smaller issuers
- Keep current the guidance on areas of focus for community banks
- Develop guidance for 8-K filings
Niels Bohr
Danish Physicist (1885-1962)

*Prediction is very difficult, especially about the future.*