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April 5, 2006

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OFFICE OF THE SECRETARY

Ms. Nancy M. Morris
Federal Advisory Committee Management Officer
Securities and Exchange Commission
100 F Street, N.E.
Washington, DC 20549-9303

Re: Advisory Committee on Smaller Public Companies; File No. 265-23

Dear Ms. Morris:

The California Bankers Association ("CBA") appreciates the opportunity to comment on the recommendations of the SEC's Advisory Committee on Smaller Public Companies ("Committee"). CBA is a nonprofit organization that represents most of the commercial banks and savings associations in the state of California. A substantial majority of CBA members are community banks with less than \$500 million in assets. We note initially that banks are already subject to governance requirements similar to those enacted by the Sarbanes-Oxley Act. Many of these requirements were introduced by the Federal Deposit Insurance Corporation Improvement Act ("FDICIA").

We commend the Committee for its efforts to find ways to reduce the burden and costs faced by smaller public companies in complying with governance regulations. Banks that are publicly held incur substantial costs as a result of the Sarbanes-Oxley Act, particularly Section 404. In our own survey of CBA members, a certain publicly held bank's internal monitoring costs incurred during the first year of compliance were more than ten times that of a privately held bank of similar size. It is our hope that, as a result of the Committee's recommendations, public companies' compliance costs will be more in line with the concomitant benefits imparted to the public.

Scaled Section 404 requirements. CBA supports the Committee's recommendation to scale monitoring requirements affecting smaller public companies. Those costs consist of additional auditor and consultant fees, additional compliance staff, and lost productivity because of diversion of staff from their regular responsibilities. We support the proposal to make the rules more cost-effective, and if necessary, to reevaluate and consider amending Accounting Standard 2 ("AS2"). One change in particular that would be helpful is clarification that only an auditor's attestation relating to Section 404 is required, rather than an attestation and an audit opinion.

Insider loans. We also support the Committee's recommendation that SEC staff provide clarifying guidance on the types of transactions that fall outside the prohibition against insider loans. While loans made in accordance with the Federal Reserve's Regulation O are exempt from the prohibition, guidance is needed on what constitutes "a personal loan" and what activities constitute "arranging" for an extension of credit. Smaller banks, which typically do not have extensive legal resources to interpret ambiguous regulatory language, would particularly benefit from guidance on such issues as cashless exercises of stock options, indemnity advances, relocation accommodations, and split dollar life insurance policies.

Safe harbor for compliance. CBA generally supports establishing a "safe harbor" protecting companies from regulatory or legal action when their reports are prepared in accordance with accounting standards. We note, however, that accounting standards have substantially increased in complexity and volume, making it extremely onerous for businesses to ensure absolute compliance with generally accepted accounting principles ("GAAP"). Here again, smaller banks would have to expend relatively significant resources in the form of research and consultant costs to ensure compliance with these ever-changing and growing standards. Specific guidance should be crafted with audit professionals in mind to alleviate their perceived need to recommend as a matter of course the most conservative approaches possible. It is quite often their desires to protect themselves from liability that unnecessarily drive up compliance costs for companies.

Micro-cap and small cap companies. The Committee recommends relief for micro-cap and small cap companies with respect to internal and external monitoring, and that FASB permit micro-cap companies to apply the same extended effective dates for new issuances that are allowed for private companies. Micro-cap and small cap companies have the same resource constraints that private companies have, and we concur that they should be afforded the relief as proposed.

Materiality and restatements. CBA supports the issuance of additional guidance with respect to materiality related to previously-issued financial statements. Such guidance could go far to help banks and other companies understand the circumstances in which a change in a prior period would require an expensive and potentially damaging restatement of prior reports. Determining materiality can be a highly subjective exercise, and subjectivity in the current environment tends to motivate auditors to force restatements that do not necessarily result in information that is any more useful to third parties. The recommended solution of disclosing to fully explain and present the impact of the changes is a viable method to convey such accounting changes to investors.

We support involving auditing firms other than the Big Four in SEC, PCAOB, and FASB forums and meetings as a means to reduce limited auditor choice. Some community banks have voiced concerns about price, service issues, and the lack of priority given to them from the major accounting firms. The concentration of services is also perceived to foster the overly conservative culture discussed above, which leads directly to higher compliance costs. The development of additional external accounting expertise would help alleviate some of these concerns.

Ms. Nancy M. Norris

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Auditor-client relations. We support the recommendation that the SEC and other entities monitor the state of interactions between auditors and their clients. We believe one of the major sources of tension is the accounting firms' fear of the PCAOB. The firms' reaction to the agency has lead, for example, to their not relying at all on clients' monitoring efforts and to generate their own results independently, at great costs to the client. In situations where the PCAOB's rules provide a certain level of flexibility, the accounting firms appear to apply only the most stringent interpretations. Decisions are driven by risk avoidance where the goal is absolute assurance rather than reasonable assurance.

Another significant change in the auditor-client relationship is the shift away from the auditor acting as trusted advisor, and much too far toward its role as independent examiner. Both of these roles existed historically and should continue to exist. However, the current regulatory environment fosters a strong reluctance by auditors to offer constructive advice for fear of tainting their independence, or at least appearing to do so. Conversely, companies may be more reluctant to seek advice from, or share draft statements with, their auditors for fear that their auditors would feel obligated to cite them.

CBA once again commends the Committee for these much needed proposals. Smaller banks, having more limited resources, are laboring under the current requirements, and would appreciate any relief that could be afforded. Please do not hesitate to contact the undersigned if you have any questions.

Sincerely,



Leland Chan
General Counsel