



American Institute of Certified Public Accountants

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Mr. A. Clarence Sampson
Chief Accountant
Securities and Exchange Commission
500 North Capitol Street
Washington, D.C. 20549

January 13, 1981

Dear Clarence:

Following our meeting on December 18, Allen Cooper called the members of our Committee to request that they provide me examples of services of the type we discussed. While I haven't heard from a number of members, I believe that the services listed in the attached schedule are representative.

Members of the Committee were also requested to express their views concerning the reasonableness of various fee level limitations on such services. It seems that 1% of audit fees would be an appropriate cut off with a de minimus amount, say \$1000, which would be acceptable without regard to the percentage relationship. The latter threshold would avoid the problem created by nonrecurring services (that might not meet an "emergency" test) for a registrant whose audit fees are not large. I wouldn't expect this de minimus test to come into play very often for a multinational registrant. As soon as I have sufficient responses to conclude that the 1% and \$1000 tests are reasonable for accounting firms of various sizes, I'll call you to confirm that fact. In the meantime, I'd suggest that you proceed on that basis.

Finally, I agreed to provide you with a summary of the arguments in favor of modification of SAB No. 39. While I'm sure this list is not exhaustive, the following seem to me to be the important considerations:

1. There is no impairment of independence in fact

The types of services that we discussed do not constitute managerial or decision-making activities. They are, instead, typically routine and mechanical in nature. A mutuality of interest with the client does not develop from performing these services and there is no impairment of the auditor's objectivity in conducting his examination. These distinctions of role and the underlying rationale are recognized throughout Accounting Series Releases on

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the subject of independence, including ASR Nos. 126 and 234 which are cited in SAB No. 39, but do not seem to have been taken into consideration in the preparation of SAB No. 39 itself.

In many instances, the services are provided because the unit involved is not of sufficient size to justify the employment of accounting personnel, even on a part time basis. In some instances, it is a temporary (start-up or liquidation) situation. Frequently, the location is not visited as part of the audit or, if visited, procedures performed are minimal and are applied to various units on a rotating basis. This relationship is logical - if the unit were significant, the registrant would employ qualified personnel rather than look to its auditor for this assistance.

Except in unusual circumstances, the fee is insignificant - often a couple of hundred dollars or less. Ordinarily such services are provided as an accommodation rather than because of their financial impact.

2. There is no effect on the appearance of independence

In countries other than the U.S., it is frequently customary for services of the type proscribed by SAB No. 39 to be provided by the auditor. There is nothing about these relationships that would cause informed observers in these countries to have any concern about independence. As for U.S. investors, the appearance of independence is a consideration only because ASR No. 250 has no materiality or de minimus standard and therefore nonaudit services are described which would be of no consequence to anyone informed of the amounts involved, which are often a fraction of 1% of audit fees. Further, senior management, and often audit committees, are aware of the services being provided through compilation of the information required for ASR No. 250 disclosures. We are not aware of any concerns expressed by registrants about the effect of such services on independence - in fact or appearance - and in the current environment, they are certainly sensitive to independence considerations.

3. The services are in compliance with the local independence requirements

While we would not suggest that the SEC adopt the lowest common denominator in independence requirements, we do believe that there should be some concern about

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imposing stringent U.S. requirements on foreign accountants, who are in compliance with their local rules, without a clearly demonstrated need for such restrictions.

4. There is a need for the services

There are a number of reasons why such services are needed and contribute to the quality of financial information. The services may be provided when local personnel do not have English language capabilities or the skills to record and summarize information in a form suitable for U.S. reporting purposes, or where there are legal requirements for such services to be performed by the foreign accountant.

Several of the examples in the attached schedule demonstrate the need for these services and additional examples will be provided upon request.

5. Hiring another firm to provide the services may not be a practical solution

The solution is not so simple as switching the services to another accounting firm. In some instances, there may not be another firm in the area where the foreign unit of the registrant is located. Where there are other firms available, they may not want to do the work - fees are minimal and tight time deadlines often exist. Another firm may not be willing to divert its resources to such services which provide little incentive or reward. As indicated previously, firms generally provide these services as an accommodation, not because they are significant financially or otherwise rewarding. Finally, and probably most important, registrants are reluctant to make their records available to another firm that they don't know and who may well be serving their competition. This is so for legitimate reasons of confidentiality - concerns that are often greater overseas than they are in the U.S.

6. There is precedent for a less restrictive standard

ASR No. 112 is titled "Independence of Accountants Examining a Nonmaterial Segment of an International Business". As a basis for concluding that a less restrictive standard concerning the ownership of securities would be appropriate in the circumstances described, ASR No. 112 states "We believe that the purposes of Rule 2-01 would be adequately served by a less restrictive construction". We believe that the

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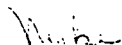
same consideration is appropriate here. The Commission's objectives can be adequately served by a less restrictive construction than that set forth in SAB No. 39.

We note that the SAB cites Rule 2-01(b) prior to concluding that "no standard of materiality is relevant." Uncited are the number of situations in which the opposite is true, for example ASR No. 112 and the part of ASR No. 234 which permits financial interests in immaterial nonclient affiliates of audit clients. Also cited as a reason, without explanation, is "practicality". As indicated above, we believe that practical considerations would lead to a different answer.

Clarence, the profession and the Commission share a common commitment to maintaining independence. We are not seeking to diminish that commitment in any way. What we are seeking is modification of an unnecessarily restrictive solution to what is generally not a problem.

We sincerely appreciate your willingness to consider our concerns.

Sincerely,



J. Michael Cook, Chairman
Committee on SEC Regulations

Enclosure

Examples of service

Bookkeeping services for an immaterial subsidiary in the Far East.

Accounting and bookkeeping services for immaterial South American subsidiary that is not audited as part of consolidated group.

Maintain books and records for inactive U.K. subsidiary with no employees.

Assist in preparation of financial reports during start-up of U.K. subsidiary's operations.

Assist in preparation of financial reports during start-up of subsidiary's operations in Hong Kong.

Record transactions in legal books of Central American subsidiary; initial bookkeeping performed by subsidiary on computer. No audit services are provided to subsidiary.

Bookkeeping services for inactive South American subsidiary.

Bookkeeping services for subsidiary in liquidation in South America. Investment in subsidiary has been written off by parent company. Liquidation process expected to continue for "some time."

Maintain books of newly formed subsidiary in Brazil until subsidiary employs its own accountant.

Maintain books and prepare statutory financial statements for European subsidiary with no employees.

Post statutory books and records and "prepare an audited report" for Swiss subsidiary in process of liquidation. Primary asset is cash held for subsequent repatriation to U.S. Subsidiary is "virtually dormant."

Maintain general ledger for Puerto Rican subsidiary for legal purposes, based on information provided by U.S. parent company.

Routine accounting and bookkeeping services for New Zealand subsidiary which are customarily provided by auditors in that country.

One-time bookkeeping assistance to put books on a current basis for 50%-owned foreign subsidiary.

Assist foreign subsidiary prepare statutory and U.S. GAAP financial statements and U.S. GAAP "report package."

Draft minutes of annual general meeting of Hong Kong subsidiary based on information provided by subsidiary's personnel.

Note - In all examples, assets and operations of entity to which services are provided are not material to consolidated financial statements.