

SAS No. 96, *Audit Documentation*, also stated that, “the auditor has an ethical, and in some situations a legal, obligation to maintain the confidentiality of client information,” and referenced Rule 301, *Confidential Client Information*, of the AICPA’s Code of Professional Conduct. Again, the Board’s proposed standard on audit documentation did not include this provision. In adopting certain interim standards and rules as of April 16, 2003, the Board did not adopt Rule 301 of the AICPA’s Code of Professional Conduct. In this standard on audit documentation, the Board seeks neither to establish confidentiality standards nor to modify or detract from any existing applicable confidentiality requirements.

### III. Date of Effectiveness of the Proposed Rule and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the Board consents, the Commission will:

- (a) By order approve such proposed rule; or
- (b) Institute proceedings to determine whether the proposed rule should be disapproved.

### IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule is consistent with the requirements of Title I of the Act. Comments may be submitted by any of the following methods:

#### *Electronic Comments*

- Use the Commission’s Internet comment form (<http://www.sec.gov/rules/pcaob.shtml>); or
- Send an e-mail to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File No. PCAOB–2004–05 on the subject line.

#### *Paper Comments*

- Send paper comments in triplicate to Jonathan G. Katz, Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609.

All submissions should refer to File No. PCAOB–2004–05. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your

comments more efficiently, please use only one method. The Commission will post all comments on the Commission’s Internet Web site (<http://www.sec.gov/rules/pcaob.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission’s Public Reference Section, 450 Fifth Street, NW., Washington, DC 20549. Copies of such filing also will be available for inspection and copying at the principal office of PCAOB. All comments received will be posted without change; we do not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File No. PCAOB–2004–05 and should be submitted on or before August 10, 2004.

By the Commission.  
**Margaret H. McFarland**,  
*Deputy Secretary*.  
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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–50020]

### Extension of Order Regarding Broker-Dealer Financial Statement Requirements Under Section 17 of the Exchange Act

July 14, 2004.

The Securities and Exchange Commission (“Commission”) is extending its Order, originally issued on August 4, 2003 (the “2003 Order”) <sup>1</sup> under Section 17(e) of the Securities Exchange Act of 1934 (“Exchange Act”), regarding audits of financial statements of broker-dealers that are not issuers (“non-public broker-dealers”). The 2003 Order provided that non-public broker-dealers may file with the Commission and may send to their customers documents and information required by Section 17(e) certified by an independent public accountant, instead of by a registered public accounting firm, until January 1, 2005, unless rules are in place regarding Board registration

of auditors of non-public broker-dealers that set an earlier date.

Section 17(e)(1)(A) of the Exchange Act requires that every registered broker-dealer annually file with the Commission a certified balance sheet and income statement, and Section 17(e)(1)(B) requires that the broker-dealer annually send to its customers its “certified balance sheet.” <sup>2</sup> The Sarbanes-Oxley Act of 2002 (“Act”) <sup>3</sup> established the Public Company Accounting Oversight Board (“Board”) <sup>4</sup> and amended Section 17(e) to replace the words “an independent public accountant” with “a registered public accounting firm.” <sup>5</sup>

The Act establishes a deadline for registration with the Board of auditors of financial statements of “issuers,” as that term is defined in the Act. <sup>6</sup> The Act does not provide a deadline for registration of auditors of non-public broker-dealers.

The 2003 Order expires January 1, 2005. Application of registration requirements and procedures to auditors of non-public broker-dealers is still being considered. The Commission has therefore determined that extending the Order is consistent with the public interest and the protection of investors.

Accordingly, *it is ordered*, pursuant to Section 17(e) of the Exchange Act, that non-public broker-dealers may file with the Commission a balance sheet and income statement and may send to their customers a balance sheet certified by an independent public accountant, instead of by a registered public accounting firm, for fiscal years ending before January 1, 2006, unless the Commission has approved rules regarding Board registration of auditors of non-public broker-dealers that set an earlier date.

By the Commission.  
**Margaret H. McFarland**,  
*Deputy Secretary*.  
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<sup>2</sup> Exchange Act Rule 17a–5 requires registered broker-dealers to provide to the Commission and to customers of the broker-dealer other specified financial information.

<sup>3</sup> Public Law 107–204.

<sup>4</sup> Section 101 of the Act.

<sup>5</sup> Section 205(c)(2) of the Act.

<sup>6</sup> Section 2 of the Act defines “issuer.” Section 102 of the Act establishes a specific deadline by which auditors of issuers must register with the Board. Based on the statutory deadline of 180 days after the Commission determined the Board was ready to carry out the requirements of the Act, that date was October 22, 2003. *See* Exchange Act Release No. 48180 (July 16, 2003). The registration deadline for non-U.S. public accounting firms has been extended to July 19, 2004. *See* Exchange Act Release No. 49473 (March 25, 2004).

<sup>1</sup> Exchange Act Release No. 48281.