

L·B·B BRIEFS

FOR SMALLER REPORTING COMPANIES

Issuers should be aware of the exceptions provided in Form 10-K (and similarly in Form 10-Q) for smaller reporting companies, in addition to the more obvious Item 8 and Item 9 differences, the following is taken directly from Item 1A. Risk Factors - "Set forth, under the caption "Risk Factors," where appropriate, the risk factors described in Item 503(c) of Regulation S-K applicable to the registrant. Provide any discussion of risk factors in plain English in accordance with Rule 421(d) of the Securities Act of 1933. Smaller reporting companies are NOT required to provide the information required by this item." Awareness of the exceptions can save smaller reporting companies time and fees.

GAAP / IFRS Convergence Plan All But Abandoned - SEC's Acting Chief Accountant Gives Little Insight into IFRS Alternatives. With the SEC's plan for moving the U.S. closer to the global set of accounting standards being all but abandoned, the question remains as to what the agency will do next in the area of international accounting rules.

James Kroeker, the agency's acting chief accountant, said during the Practising Law Institute's annual SEC Speaks conference on February 7, 2009, that SEC Chairman Mary Schapiro has "made it clear" that she and commission staff will be taking a new look at IFRS. The SEC proposed adopting the international rules in Release No. 33-8982, *Roadmap for the Potential Use of Financial Statements Prepared in Accordance with International Financial Reporting Standards by U.S. Issuers*, which was issued on November 14, 2008. The proposal's 90-day comment period was set to end on February 19, 2009, but was extended to April 20 as a result of several requests from corporate issuers asking for extra time. Kroeker also reminded his fellow panelists that the roadmap is "just a proposal." In addition, Kroeker said that while it would be premature to discuss alternatives to IFRS before the comment period ends, one alternative would be to adopt certain aspects of the standards.

Significant development in equity-linked instruments with reset provisions. Effective January 1, 2009, EITF 07-05 *Determining Whether an Instrument (or Embedded Feature) is Indexed to a Company's Own Stock*, will significantly affect the application of SFAS 133 and EITF 00-19 to both freestanding and embedded derivative financial instruments.

Upon its effectiveness, contracts (warrants, conversion features in debt, etc) that embody or embodied full-ratchet or reset provisions (that is, the strike, exercise or conversion prices adjust to pricing in subsequent sales or issuances) will no longer meet the definition of Indexed to a Company's Own Stock and, accordingly, will not meet the exemptions for equity classification provided in SFAS 133.11(a) or EITF 00-19. Those instruments that were previously classified in equity will require reclassification to liabilities and ongoing measurement under SFAS 133. The Consensus is effective for companies with fiscal year ends beginning after December 15, 2008. For December 31 year ends, disclosures under SAB 74 should be considered.

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