

Small Business Securities Bulletin

A periodic bulletin keeping small businesses informed about current developments in securities law and related matters



[Penny Somer-Greif](mailto:psomergreif@ober.com) | psomergreif@ober.com

PCAOB Adopts New Auditing Standard No. 16 - Communications with Audit Committees

Last month the PCAOB adopted new [Auditing Standard No. 16, *Communications with Audit Committees* \[PDF\]](#) (and related rule amendments), which upon approval by the SEC will replace its interim standards AU sec. 380, Communication With Audit Committees, and AU sec. 310, Appointment of the Independent Auditor. The PCAOB adopted the new standard “to improve the audit by enhancing communications between auditors and audit committees.” Like the interim communication standard it replaces, the new standard requires the auditor of an SEC reporting company to communicate certain matters to the company’s audit committee about the audit and the company’s financial statements, but updates these requirements. While retaining and enhancing existing requirements, it also “adds new communication requirements that are generally linked to performance requirements in other PCAOB standards.” For example, Standard No. 16 requires the auditor to inform the audit committee about the overall audit strategy and the results of the audit prior to issuance of the audit report, whereas the current standard requires only “incidental” communication with the audit committee related to, and only after issuance of, the report. Among other new requirements, auditors will be required to discuss with audit committees significant transactions outside the normal course of business, including “[t]he auditor’s understanding of the business rationale for [such] transactions.” All such communications may be made either orally or in writing, and as indicated above, must be made prior to the issuance of the audit report.

Pursuant to Section 104 of the Jumpstart Our Business Startups Act, rules adopted by the PCAOB after April 5, 2012 do not apply to the audits of emerging growth companies (defined as companies with less than \$1 billion in gross annual revenues that first sold common stock pursuant to an effective registration statement after December 8, 2011) unless the SEC determines that the application of such standard to emerging growth companies is necessary or appropriate. The PCAOB plans to request that the SEC approve the application of new Auditing Standard No. 16 and the related amendments to the audits of emerging growth companies. The PCAOB anticipates that the new standard will be effective for audits of fiscal years beginning on or after December 15, 2012 (in other words, for calendar-year end companies, the 2013 audit).

A copy of Auditing Standard No. 16 is available at

http://pcaobus.org/Rules/Rulemaking/Docket030/Release_2012-004.pdf. Audit committees may want to review the new standard so that they understand the topics that their auditors will be required to discuss with them once the new standard is approved by the SEC and is effective.

About Ober Kaler

Ober|Kaler is a national law firm that provides integrated regulatory, transaction and litigation services to financial, health care, construction and other business organizations. The firm has more than 130 attorneys in offices in Baltimore, MD, Washington, DC and Falls Church, VA. For more information, visit www.ober.com

About Me

I am a former SEC attorney who also has prior "big firm" experience. I assist public as well as private companies with compliance with federal and state securities laws, including assisting public companies with their reporting obligations under the Securities Exchange Act of 1934, at competitive billing rates. Please contact me if you would like more information about my practice or to discuss how I can be of assistance to you. Visit my bio at www.ober.com/attorneys/penny-somer-greif.

This Bulletin contains only a general overview of the matters discussed herein and should not be construed as providing legal advice. If you have any questions about the information in this Bulletin or would like additional information with respect to these matters, please contact me at 410.347.7341 or via e-mail at psomergreif@ober.com.

Feel free to — and please do — forward this Bulletin to anyone that you think might be interested in it. If you did not receive this Bulletin from Ober|Kaler directly, you may sign up to receive future Bulletins like this via e-mail at: marketing@ober.com

This publication contains only a general overview of the matters discussed herein and should not be construed as providing legal advice.

Copyright© 2012, Ober, Kaler, Grimes & Shriver