

June 9, 2000

Mr. Purdy Crawford  
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Dear Mr. Crawford:

**FIVE-YEAR REVIEW OF SECURITIES LEGISLATION IN ONTARIO - SECURITIES REVIEW  
ADVISORY COMMITTEE'S REQUEST FOR COMMENTS**

My comments are focused on Section 21 concerning Financial Disclosure. I also have a closing comment related to the Multi-Jurisdictional Disclosure System ("MJDS"). I feel qualified to comment on these items as a partner in the National Accounting and Assurance Services Department of PricewaterhouseCoopers, and a former member of the CICA Accounting Standards Board ("AcSB") and various Canadian and International task forces.

The comments which follow reflect my own views from my experiences and observations, and do not necessarily reflect those of my firm or the AcSB, with which I have been associated.

The Request for Comments notes that to date, the Commission has chosen not to exercise its rule-making powers in any manner that overrides the standards set out in the CICA Handbook. I congratulate the Commission for its wisdom in exercising restraint, despite the times when it is clear that there has been some level of frustration or impatience with respect to the standards as they exist. In my view, the Canadian markets have been generally well served by the standards that have been developed by the CICA, which are based on a sound, consistent, conceptual framework. The AcSB

has been careful to avoid reacting to inappropriate external influences while at the same time reacting to real concerns that need to be addressed. Moreover, a regulatory approach to standard-setting has generally not worked well in the jurisdictions where it has been applied.

That is not to say that all is perfect in the Canadian standard-setting scene – far from it. However, I don't think that any other system could have bettered what the CICA has achieved to date.

Unfortunately, though, there are new pressures and realities such that it may not be possible for the AcSB to achieve the pace and sophistication necessary to maintain a separate set of domestic accounting standards that will always be “harmonized”.

The Request for Comments raises a particular question that is a good demonstration of my concerns. The paper questions whether traditional GAAP and GAAS financial statements are adequate in today's markets, and uses the example of whether the accounting for compensation options conforms to standards of good corporate governance. (Aside from the fact that the question is biased and invites only one answer, the fact that there are constant criticisms in the press about the lack of expense recognition is an indication that things need to be reviewed. From a theoretical perspective, the current Canadian practices are clearly deficient.)

In fact, the AcSB has a project underway to require that an expense be recognized in certain situations. The AcSB has chosen to borrow from the extensive U.S. experience in this area and is working to adopt as part of Canadian GAAP the extensive U.S. standards and practices on the subject. This is not an easy project that can be completed quickly. The U.S. standards are complex, and are not documented in one place. Moreover, what constitutes U.S. GAAP is comprised not just of the actual words in the rules, but the practices and interpretations that can be found in many places. Articulating these in the context of the CICA Handbook is not a simple task, but it is one that must be done. I don't think the Commission should be fussing about this area at this time. What is required is being done as quickly as possible in the Canadian environment. Admittedly, it is possible that a regulatory solution might be achieved more quickly, but I think the product could suffer unnecessarily.

However, the way in which this “harmonization” project has to be achieved leads into my most fundamental concern about financial disclosure in Canada, and which is the subject of the second part of your questions in Section 21 – uniform International accounting standards.

It is critical that we move towards uniform International accounting standards, so that differences in the way in which financial information is required to be communicated do not impede the rapidly escalating pace of global capital flows. Differences in financial reporting requirements will put the countries that do not participate in the global language at a serious competitive disadvantage, and Canada cannot afford to be so disadvantaged.

The AcSB has been working diligently to harmonize Canadian standards with those in the U.S. and internationally to ensure that there are not inappropriate reporting differences. In fact, harmonization has occurred in such major areas as tax and pension accounting. The pace of such harmonization and convergence is accelerating such that the number of major differences will decrease even further in the next short while (particularly with respect to the accounting for business combinations). This is no accident. The CICA, FASB and IASC realize convergence is necessary and are focusing on that.

However, despite all best attempts to come up with “harmonized” accounting standards, we are finding that standards that might appear to be the same can have quite different results in their application in some respects. (We are encountering this currently with the accounting for both income taxes and pension costs.) Although the effects are generally not wide-spread, they can be a cause for concern for companies affected, who spend an inordinate amount of time and expense dealing with the nuances. I have no doubt that the same result will occur when the AcSB finalizes its stock compensation project.

Differences in the form and presentation of standards in various jurisdictions, as well as the effects of interpretations issued by other authoritative bodies, make it difficult, if not impossible, to articulate another body’s standards without simply photocopying, or wholesale endorsement of the other body’s standards. In fact, photocopying is difficult, since the source page can change later.

As long as standards appear to be different, or are written in a different form, there will always be valid interpretations that lead to different treatments by reporting issuers. I don’t believe that the CICA will ever be in a position to bring Canadian standards to a point where we can say they are not different from U.S. standards or International standards. Or if they do achieve that position, it will be but for an instant, because all standards are constantly changing, being reinterpreted, refined, etc. The ability to keep local standards sufficiently “in sync” with those elsewhere is also affected by funding and staff resources, the volunteer nature of Canadian standard-setting as compared to the full-time resources in place (or coming) elsewhere, and the requirements of due process.

As a result, if as a regulator the OSC is going to facilitate uniform International accounting standards, I don't think it will be able to do so under the umbrella of standards as written by the CICA as constituting Canadian GAAP. The OSC must therefore adopt reforms that permit issuers to file financial statements in Canada in accordance with the uniform International accounting standards.

This raises two issues. The first is whether those standards must be just International standards. The second is whether the resulting financial statements should be reconciled to Canadian GAAP.

In my experience, there is little interest in Canada at this time in International accounting standards. If we want to attract foreign capital to the Canadian markets, we have to address this issue, but the most immediate pressure is coming from within. Whatever solution we provide for non-Canadian companies must be given to Canadian entities.

For example, a foreign company raising capital or filing continuous disclosure documents in Canada could prepare its basic financial statements in accordance with International accounting standards or U.S. GAAP. However, a Canadian company is not permitted to do so.

Moreover, Canadian companies are increasingly looking to the U.S. markets for capital, and are competing against U.S. companies for that capital and for other business transactions including mergers, acquisitions, dispositions, etc. Because Canadian companies presently are not permitted to prepare their financial statements in the same "language" as their U.S. competitors, they resort to certain "back-door" mechanisms such as two sets of financial statements, which can lead to confusion.

In my opinion, Canadian regulators need to quickly adopt a regime whereby Canadian companies can prepare documents on a basis consistent with their primary competitors, which is not possible today without certain costs and unease about the process being followed.

My vision is that any company could raise capital in Canada and satisfy its reporting obligations by preparing its documents in accordance with Canadian GAAP, U.S. GAAP, or International GAAP, without reconciliation to a Canadian benchmark. I believe that U.S. GAAP must be permitted, in spite of a world wide desire for common global standards, until such time as the U.S. embraces International standards as acceptable for primary financial statements within U.S. borders. Although not without faults, U.S. GAAP is arguably the most comprehensive and sophisticated set of accounting principles in the world. To accept International GAAP without accepting U.S. GAAP would, in my view, not address the concerns of most of the market participants in Canada.

The driving factor behind acceptance of a set of standards should not be local views as to what is the “right” accounting, but recognition that the standards have been developed by a competent body with sufficient resources, processes, oversight and input from all interested parties that the product can be considered high quality. I think that can now be said of both International and U.S. accounting standard setting.

I don’t believe reconciliation is necessary, once IOSCO and the OSC conclude that International standards are an appropriate basis for the basic financial statements. Although, as I noted earlier, there are differences even in a “harmonized” world, I don’t believe that the nuances in the differences are sufficient to require a reconciliation to aid a user’s understanding of the financial statements. (I like Molson’s Joe, and like him, I am Canadian, but I don’t think that we need to be so “Canadian” that we won’t let people read and interpret International and U.S. GAAP financial statements without a Canadian GAAP interpretation beside it.) There is nothing so unique about Canadian standards that a Canadian user is placed at undue risk by relying on financial statements prepared in accordance with International or U.S. standards (recognizing that a user should be reasonably well-informed to start, and actually read and interpret the financial statements and notes). Moreover, as noted, it is critical that we turn to the processes by which the standards are developed, and not personal or local views on specific outputs.

I think acceptance of financial statements without reconciliation is consistent with the OSC’s acceptance, in lieu of an AIF, of a foreign company’s 10-K or Form 20-F as filed with the SEC.

Staff at the OSC have questioned whether Canadian practitioners have the experience to deal with U.S. GAAP and GAAS such that this proposal would be viable. In that regard, I have no hesitation in saying “generally, yes”. Admittedly, there are practitioners who wouldn’t have sufficient (if any) expertise, but for those with clients where U.S. standards matter, we have tooled ourselves to deal with it.

However, in light of the five-year review, I think it is appropriate to talk about processes and resources as well as laws, regulations and rules. In that regard, I must challenge the OSC back, and ask whether it has the resources and competencies necessary to deal with U.S. matters as it is required to do today?

As you know, the MJDS system was agreed between Canada and the U.S. to facilitate cross-border filings of senior Canadian and U.S. issuers. Canadians have been the primary beneficiaries, since the

flow of filings is southbound much more than northbound. We are at serious risk of losing the MJDS because, from the SEC's perspective, it isn't working. SEC staff claim that there are deficiencies in the quality of the filings that cause them great concern.

The OSC has an obligation under the MJDS to review and challenge, where appropriate, the U.S. elements of MJDS filings. However, there is a perception in the market that the OSC is not able to deal with this, and there is no evidence that it has done so in a tangible way such that its regulatory presence is felt.

This is indeed unfortunate if the behaviour of companies and their advisors, and a lack of domestic enforcement, leads to a loss of the MJDS. I urge the OSC, as part of this current review, to quickly determine whether anything can be done to salvage what is about to be lost.

I trust that these comments will be useful to your Committee in its review. I would be pleased to discuss my views with you if you desire.

Yours very truly,

(signed) "Michael A. Tambosso"

Michael A. Tambosso, CA

cc: Tricia O'Malley, FCA, Chair, CICA Accounting Standards Board  
Robert T. Rutherford, FCA, Vice-President, Standards, CICA  
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