

# LEGAL UPDATE

September 8, 2008 By: *Edward C. Normandin and Megan J. Penick*

## SEC PROPOSES CHANGE FROM U.S. GAAP TO INTERNATIONAL STANDARDS

The Securities and Exchange Commission (“SEC”) recently announced its initial steps toward potentially replacing U.S. generally accepted accounting principles (“GAAP”) in SEC financial reporting with a widely-used set of international standards called International Financial Reporting Standards (“IFRS”). The SEC plans to issue a proposal on what it calls a “roadmap” for the adoption of IFRS by U.S. reporting companies. The proposed roadmap will provide for a decision by the SEC in 2011. Under the proposal, IFRS would become the governing accounting standard for U.S. reporting companies, with large accelerated filers being required to switch to IFRS by 2014 and accelerated and non-accelerated filers following in 2015 and 2016, respectively. The SEC will allow a select number of large accelerated filers to file using IFRS with U.S. GAAP reconciliation beginning in 2009.

The SEC cited the increasing integration of the world’s capital markets and the increasing ownership of foreign stock by U.S. investors as important factors in its decision to propose the switch to IFRS. According to the SEC, IFRS is currently used in more than 100 countries, including those in the European Union, Australia, and others, such as Canada, that are in the process of converting to IFRS. The SEC believes the use of IFRS by U.S. reporting companies instead of U.S. GAAP would allow investors to directly compare the financial statements of many companies listed overseas and foreign private companies reporting in the U.S. (which are already permitted to file using IFRS) with domestic U.S. reporting companies. Due to the differences in standards between U.S. GAAP and IFRS, it is widely believed that investors cannot easily conduct side-by-side comparisons of U.S. issuers to foreign issuers. By instituting the requirement of IFRS for all U.S. reporting companies, along with the introduction of interactive data tagging for financial information in SEC reports, or XBRL (which the SEC has proposed large accelerated filers adhere to beginning in December 2008, with smaller companies to follow), U.S. and foreign investors should find it easier to compare financial information from company to company. In addition, the SEC is hopeful that such a change will bring significant cost savings to companies with foreign subsidiaries since those companies would no longer be required to maintain separate accounting standards for SEC filings and local regulatory and statutory filings.

The SEC plans to release its roadmap, which it will make available for public comment, citing specific steps that must be achieved before the SEC can make its decision in 2011 on whether U.S. reporting companies will be required to use IFRS. Some of the milestones the SEC will be tracking include:

- monitoring how well early adopters of IFRS do in adapting to IFRS reporting;
- monitoring transition costs;
- ensuring there is adequate education on IFRS available in U.S. accounting schools as well as opportunities for investors and practicing accountants to be trained in IFRS;
- setting up XBRL for IFRS financial statements; and
- monitoring the funding mechanism of the International Accounting Standards Board (“IASB”), the entity that oversees IFRS, to ensure it maintains its independence.

The IASB, a body based in London, is responsible for overseeing IFRS and setting accounting standards deemed to be in the public interest. The U.S. equivalent, the Financial Accounting Standards Board (“FASB”), has been working with the IASB in setting compatible standards for U.S. GAAP and IFRS since 2002 and since 2006 has been working with the IASB to create a common set of high-quality global accounting standards. Should the U.S. fully adopt IFRS, the IASB will have ultimate oversight authority of IFRS and the FASB would likely relinquish some of its authority and work as more of an interim standard setter for those rules that have not yet been interpreted by the IASB.

The SEC announced it will publish its roadmap on the adoption of IFRS in the near future. After its publication, the proposed roadmap will be open for public comment for a period of 60 days.

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*The foregoing is merely a discussion of the proposed SEC rules and is not intended to provide legal advice. If you have any questions regarding the proposed roadmap, please contact an attorney in Pryor Cashman’s Securities and Corporate Finance Group.*

## ABOUT THE AUTHORS



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Edward Normandin devotes his practice to counseling clients on general corporate matters, including mergers and acquisitions, public and private debt and equity financing transactions, joint ventures, securities law compliance, venture capital financing, corporate formation and governance. He has handled complex domestic and international transactions for Pryor Cashman's diverse client base.

Ed has represented clients at every stage of development, with such clients ranging from start-up ventures to publicly traded corporations engaged in a wide range of industries, including pharmaceutical, advertising and media, entertainment, energy, manufacturing software and health services, among many others.

Prior to joining Pryor Cashman in 2000, Ed practiced law with a New Jersey firm where, in addition to his current areas of focus, he represented corporate borrowers and financial institutions in bank lending transactions and counseled clients in technology-related transactions.

Before he became an attorney, Ed served as an active-duty officer in the United States Army and held finance-related positions at several large corporations.

Ed is a 1998 graduate of the State University of New York at Buffalo Law School, where he also earned a Certificate of Concentration in Financing Transactions. Ed has a B.S. in Economics from Siena College and an M.B.A. from Bryant University, where he had a concentration in finance.



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Prior to joining Pryor Cashman, Megan worked as a Consultant at Goldman Sachs in its Hedge Fund Strategies Group and served as General Counsel at Global Holding and Investment Co., LLC.

Before embarking on her legal career, Megan spent nearly two years living and working in Beijing, China, where she served as the English-language editor at Women of China magazine, a publication of the All China Women's Federation, while pursuing Chinese language studies.