One Year Later

Ethics, profits and restoring the public trust

A round-table discussion hosted by Deloitte & Touche

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The Sarbanes-Oxley Act was passed in July 2002 following a litany of high-profile corporate scandals and the bursting of the stock market bubble. The legislation created the Public Accounting Oversight Board and prescribes new codes of conduct for public companies and the accounting profession. Issues surrounding Sarbanes-Oxley were discussed recently by panelists in Miami. Participants were:

- Carlos A. Sabater, managing partner, South Florida & Puerto Rico, Deloitte & Touche, LLP; and
- Anthony J. Macaione, senior VP, Perry Ellis International;
- Serge G. Martin, partner, Steel Hector & Davis, Miami.
- Dana A. Forgione, Ph.D., director, School of Accounting, Florida International University;

The participants felt that Sarbanes-Oxley has had limited impact, so far but it is too early to make a judgement on whether or not it will be catalyst to restore public confidence. Among some of their other thoughts:

- The act has caused senior management to focus more on internal ethics and fraud prevention mechanism, which has either added to their workload or caused the need to add personnel and other resources.
- There is concern about taking attention away from strategy and operations to cope with and implement Sarbanes-Oxley.
- The act will create the desired outcomes of getting companies to be more conservative on their audits and financial reporting, but it has also had a significant impact in terms of real and opportunity costs.
- Board audit committee are taking their responsibilities very seriously.
- The act has made some headway in helping to stem further erosion of public trust, but the public will continue to watch how reforms are implemented and whether more corporate criminals are indicted, convicted and sentenced.
- All participants concurred that you cannot regulate integrity. While stricter legislation will help, it still comes down to the personal integrity of the people in positions of power.

- The best way to foster an environment of ethics and integrity is for senior management to set the tone from the top.

This transcript has been edited from its original form.

Moderator: You have heard about venture capitalists and their elevator pitches. If you are in an elevator and have to tell a CEO about the most important thing he or she needs to know about Sarbanes-Oxley, what would you say?

Macaione: I think one of the really notable things about Sarbanes-Oxley is it mandates that the CEO and CFO become intimately involved in disclosure management. In the past, it had largely been delegated to other professionals.

I think in trying to bring about a change in consciousness and culture, the tactic the drafters of Sarbanes took was to directly impose on certain functions and certain individuals, expanded and clearly defined responsibilities. And it starts with the CEO. Obviously the audit committee and the CFO are also singled out in many respects, but your question goes to the CEO.

Certification is the most visible and tangible example of that. But obviously in getting to certification, the CEO would have to go through steps and procedures that may not have, in the past, taken as much time and energy from the CEO. I think today that's part and parcel of being CEO. It is no longer an elective decision you may make to be hands on; it is a mandate.

Sabater: I am on the elevator so much, this is probably not a hypothetical situation. It is probably one that happens all the time. CEOs are really trying to find out what this is all about. The best advice I could give them is flat although Sarbanes-Oxley was created by legislation, it is more about personal integrity and business ethics than it is about specific rules and regulations.

But it has more to do with personal integrity and business ethics than it does about the specific rules and regulations that Sarbanes is all about.

As a CEO, he or she is in a unique position to do the governance, not to mention audit fees.

Moderator: How much is it costing your company to comply with the act?

Macaione: We are still going through a lot of the numbers internally. I think we have yet to feel the impact of the cost to be incurred as we get further down the section 404 road [having internal controls documented and tested]. Over the next 12 months, we will clearly see an increase in cost, whether that's internal cost or external as we bring in outside consultants to assist us. I would expect a significant increase from what we are spending today in corporate issues around Sarbanes requires the top people in the company to be dealing with it. It is not something you can delegate to the lowest level of the organization and say 'you deal with it.'

It requires the CEO, the CFO, the controller, the internal auditor and information officer to be involved. It is costly. However, I, for one, certainly don't want to see another Enron. And I think what we have seen with respect to Sarbanes-Oxley is clearly a step in the right direction.

Macaione: One of the words I have heard repeatedly is distraction and trying to stay informed, and the amount of research and reading required to stay on top of what is going on. Clearly, there has been a deflection from what you should be focusing on a day-to-day basis. There is a push-pull going on with your daily focus.
one thing that the companies really need to do now, that is to set the tone from the top. And I think that really becomes his or her job, to set that tone. If they can get that right, I think the rules and regulations will be burdensome, but a non issue for organizations that are running ethically.

**Forgione:** It drives home the importance of integrity from the top down. And I don’t think we can rely on the concept of rules-based procedures here.

There has got to be a principle involved that we are going to assure and take personal responsibility that the information we are giving out to investors is fair and not misleading. I think that’s really what it is all about.

**Moderator:** Tony, I’m sure you have had more than an elevator discussion with your CEO.

**Macaione:** When the initial legislation came out even prior to last July, a lot of discussion was going on internally to expand and increase the level of involvement that both the CEO and CFO had not only in the operations of the business, but more involved in the day-to-day accounting, finance, legal and risk management. This way, everybody was on the same page, focusing on key risk areas of the business, and the type of information required for disclosure.

There have been many water cooler and hallway discussions on Sarbanes topics and how Sarbanes may or may not impact the Perry Ellis business. The legislation has brought many members of the company together in a very cohesive way from different areas of business. In essence, the Act has helped formalize many processes that were done in an informal way in the past.

**Moderator:** Are there unexpected things in Sarbanes that when you initially looked at the legislation you didn’t anticipate?

**Sabater:** I have been surprised with the way the audit committees have reacted. Traditionally the audit committee seemed to be somewhat inactive in many cases. Audit committees have taken this very, very seriously. Some have argued that they have even taken further oversight action. That’s their prerogative. But that’s kind of surprising.

**Moderator:** Is it becoming more difficult to talk board members into being on the audit committee? It seems like the real hot seat is being the “financial expert.”

**Sabater:** The audit committee financial expert has been referred to as the most valuable job in America at times. And finding somebody who has the qualifications to serve on the board and also has the financial expertise to serve on the audit committee is a unique individual.

**Martin:** One of the things I have seen fairly recently is that individuals approached as potential board members are now, in some cases, hiring professionals to assist them in their personal due diligence in deciding whether a particular opportunity makes sense for them professionally and from a risk standpoint.

**Moderator:** Tony, what was the experience at Perry Ellis in looking at the audit committee and who is your financial expert?

**Macaione:** We have a financial expert on our audit committee who is the chairman: Joe Lacher, the president of BellSouth, Florida.

We have an audit committee that has been very involved with the business, and recently have increased the frequency of getting together. In the past, the committee met on a quarterly basis, now it is on a more frequent basis to review and discuss the various sections of Sarbanes.

**Moderator:** Dana, what is your perspective on the audit committee?

**Forgione:** I think it’s interesting Tony said immediately, ‘yes, we have [a financial expert] and here is his name.’ Because I know that has been expressed as one of the real concerns. If we designate this individual, what elevated liability is he going to have?

If no one is really sure how their responsibility is going to be interpreted by courts and juries down the road, we really have to guess as to what this person needs to be like, and if we guess wrong, what exposure do we have?

The concern is that some boards might say, ‘well, we’re not going to designate anybody as a financial expert, we will say we don’t have one. And that way we are protected if we are not given some sort of a safe harbor.’

I think also the expertise required is fairly narrow. You have to be someone who understands U.S. GAAP [Generally Accepted Accounting Principles] and audit standards and someone who has experience in applying them.

The European Union and Japan and other countries have all chimed in and said, ‘hey, wait a minute, we might have experts, but their primary expertise has to be in our own country’s standards or international standards, and the U.S. standards should be a secondary factor.’ You are going to exclude a whole class of people who are highly qualified using this definition. So they are wanting a broader definition.

What about people who have experience in preparing audits or financial reports or using audit standards but that have not been registered or reported with the SEC? Wouldn’t they also be qualified individuals?

What about people who have been career SEC staffers or others who haven’t signed an audit report but who are highly qualified individuals? This definition really needs to be nailed down. What protections are there if we say ‘this guy is our expert and here is his name,’ and down the road somebody says, ‘wait a minute, he never signed an audit report, so he wasn’t qualified, and now you have liability?’

**Moderator:** Is there a scarce supply of people with the qualifications and the willingness to do it, or do some companies have to take extraordinary steps to go out and find them?

**Sabater:** Yes, yes and yes. When you couple the liability and the concerns of serving on a public company board with the time commitment now that is being put on audit committee members and, with the way Dana described it, with the kind of the narrow band of expertise that is required, it’s a tough job to fill.

A company that is very serious about filling that role and does an appropriate search will find someone to fill it. I think there are enough people willing to step up and play this very crucial role.

**Moderator:** Let’s broaden out a little more to the board of directors in general. Any sense in a change in the number of people willing to serve on boards?

**Sabater:** I don’t think I have seen a dropoff in terms of

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**Section 404**

Section 404 mandates an annual evaluation of internal controls and procedures for financial reporting. It also requires the company’s independent auditor to issue a separate report that attests to management’s assertion on the effectiveness of internal controls and procedures for financial reporting.

— Deloitte & Touche
Serge G. Martin

Martin is a partner in the Miami office of international law firm Steel Hector & Davis. His practice areas include corporate governance, financial services, mergers and acquisitions, private placements, technology and venture capital. He has represented domestic and foreign corporations in a variety of securities transactions. Martin also counsels public companies on their disclosure and reporting obligations.

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people wanting to be on the board of good companies. But there has been a dropoff in the number of people that want to be on boards of companies that are on the edge in terms of their business plans and their financial liability.

I think if you asked people if they want to be on the boards of well-run companies like Priceline, I'm sure that they would have quite a number that would like to do that. However, if you start dipping down into companies that are high-risk technology companies, I think that's where they are saying, 'wait a minute, I'm not sure I want to be a part of that company.'

Moderator: What changes have you made at your organizations following enactment of the legislation?

Macario: Over the last two years we have increased head count in certain areas of the business that focus on the compliance side, such as accounting and legal.

Two years ago I was working six days a week, 12 hours a day. Today, my days and hours are just as long, yet responsibilities have grown significantly with Sarbanes, which means I have had to surround myself with more technical talent in order to manage many aspects of the act.

Sabater: The first thing we did was to ensure that our firm was in full compliance with the law. It directly impacted us.

There are limitations on the type of work that we can provide to our clients. So certainly there are changes in the way we conduct our business going forward.

But probably the most important thing, and I saw this directly and was part of it, was immediately getting in front of our people and continuing to emphasize the importance of quality in their work, the importance of their personal integrity and business ethics.

And it wasn't just a matter of encouragement; it was a matter of almost a zero-defect policy, one where we were only rewarding, compensating and promoting those that were fully on board with respect to having that right business ethic. And I think that's probably the most important thing that we did, just continuing to emphasize that.

Moderator: Serge, what has been the impact on Steel Hector and other law firms?

Martin: Regulation of the professional responsibilities of lawyers has historically been a matter of state law. And Sarbanes-Oxley includes a rare, some might say unprecedented, federalization of the responsibilities of lawyers. And even before the SEC regulations promulgated pursuant to those provisions of Sarbanes were finalized, we were conducting internal programs to educate not just securities lawyers but commercial lawyers, who may only have tangential involvement with securities matters, about the responsibilities that they may have under this new proposed set of rules.

The rules have now been finalized in part and are still the subject of continuing debate and analysis both within and outside the SEC, so the rules may change further.

But the idea of lawyers being subject to federal professional responsibilities that are layered on top of their state professional responsibilities has required us to be fairly active in making sure people know at least when they ought to get someone involved who has an intimate knowledge of the area.

Moderator: What do you think Sarbanes-Oxley has done best in plugging regulatory problems that preceded Enron, Andersen, WorldCom and some of the other

Compared with six months ago, how much trust do you now have in:

**Accounting/auditing firms**

- More
- Same
- Less

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- Very
- Somewhat
- Not at all

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accounting scandals?

Forgione: I think it has still not adequately addressed the issue of related-party transactions and what is the reportable entity. And I think that has under-told frauds for the last several hundred years, if not a thousand years, and still has not been adequately addressed.

The whole issue of being able to separate out certain transactions into a non-reportable entity that is controlled directly or indirectly by company management is one of the major cruxes of the problem. I don't believe it addresses that at all.

The audit standards currently require that when there is a related-party transaction, the auditor is supposed to make sure that both sides of the transaction get audited on the assumption that it may be specifically structured to obscure the true nature of the transaction.

My experience is that doesn't always get done adequately. And I think the new public oversight board has the opportunity to raise the audit expectations for when there is a related party transaction and require auditors to go further.

Sabater: A lot of companies have adequate and, in many cases, excellent internal controls. But there was a lack of documentation around those controls, there was actually a lack of testing around those controls. This is probably one of the most controversial areas because it requires the most effort from companies.

But with the new regulations, companies are having to look at their entire business and all of their different business units and document in a detailed manner what exactly those controls are. Now, management will have
in corporate organizations are now spending so much more time on securities compliance.

**Sabater:** I would say they worry not only about the many requirements, but also about the significant penalties for not complying. If you look at the language, it is onerous. When you see criminal penalties and financial penalties, it is a natural reaction to be overwhelmed and to worry. And you are too overwhelmed by the enormity of the regulations coming at you to worry.

We are in the business of helping companies just when they get to that point, where they are really worried about it, and we say, 'let's take this one step at a time.'

I think a lot of companies are finding themselves going to their accounting firms, to their lawyers and others and they are saying, 'help me out.' This is a time of consultation; this is a time of everybody getting their heads together and getting to the right answer.

But I don't think it is a time for panic, and there has been a little bit of panic.

**Macario:** On a daily basis, I am receiving Sarbanes solicitation materials in the mail or a phone call. There is continuous solicitation from outside consultants wanting to assist Perry Ellis in complying with various sections of the act.

One thing I caution people within Perry Ellis and colleagues of mine is the need to be very careful of the solicitations, and properly evaluate the necessity to bring in outside consultancy expertise. There are many organizations out there trying to capitalize on the panic that is going on. The Section 404 readiness was all I literally heard in the office, up until the time it was delayed. We're continuously evaluating when and where there is the need of bringing in outside consultation. Organizations need to take their time to really understand the credentials and expertise of the consulting firms brought in to assist in this process. It goes back to one of my earlier comments: There is still confusion in the marketplace interpreting various sections of the Act, how to implement sections, and how much outside assistance will be required. Perry Ellis has been consulting regularly with our outside auditing firm and securities counsel to assist us in this process.

**Moderator:** What would you like to see happen next to address some of these other issues?

**Forgione:** One thing I read in the comments sent to the SEC is that independence obligations should not just be applied to the auditors and the members of the audit committee, but should also apply to the general counsel and some of the other folks involved.

There are certain sanctions being applied to investment analysts that are nowhere near the regulations that have come down on the accountants, and I think that plays a major role.

**Sabater:** If we are going to rely on Sarbanes-Oxley to cure corporate misbehavior, we're in trouble. That's a given. I can't imagine anyone expecting legislation to cure the problems you are describing.

The only thing that will cure corporate misbehavior will be establishing a culture within companies that really puts at the top the ethics and integrity in everything they do. I think that's the key.

When we look at clients we want to serve, before we have a conversation about their financial position or about what their business is all about, we ask the core

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**Dana A. Forgione**

Forgione is director of Florida International University's School of Accounting, where he also serves as a professor. He is a certified public accountant, a certified management accountant, and a certified fraud examiner.

He is a consultant to health care organizations. He previously served as co-advisor to the MBA Healthcare Management Program at the Merrick School of Business, University of Baltimore and held a joint appointment at the School of Pharmacy, University of Maryland.

Forgione has been a member of the international board of regents for the Association of Certified Fraud Examiners.


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‘When new hires start at Perry Ellis, they are educated on the industry, the company, the management team and the behavioral “ethical” environment. We start from the very first day, making sure people understand the culture we are operating in. We expect people to operate at a high degree of ethical integrity at all times and we have zero tolerance for people who do not operate with that modus operandi; unethical behavior is very unforgiving behavior at Perry Ellis.’

Anthony J. Maccione

question: Is this a management team, is this a board that has integrity, that has the highest ethics? And if you can’t get past that answer, nothing else matters.

Moderator: In the new environment, who is setting the tone of being on the up and up? Has it shifted more to the boards these days, away from CEOs, or is it still more the CEOs?

Sabater: I think the boards are playing a key role and the CEOs are playing a key role. It goes right down the chain of command within companies. It is going to take a team effort and time to have that culture really take hold and become part of everything a company does.

Take, for example, today when we go out to colleges and recruit, many of the conversations we have are in the area of how we perceive the ethical environment to be and what we are accepting from them.

And so it really goes from the top of the organization all the way through the brand-new hires, because it’s a situation where one or two bad apples can really, as we found out with Arthur Andersen, bring down an entire organization.

Maccione: I think there is a much greater awareness today than there has been in the past. I think it starts at the CEO level. One of the “hats” our CEO wears on a regular basis is chief ethics officer. There are numerous lieutenants throughout the organization wearing similar hats that are the ethics messengers throughout the whole organization, including myself, to ensure that everybody within Perry understands the importance of working in an ethical organization.

It is through education, training and leading by example from the CEO and other top management that you can successfully push down ethics throughout the entire organization.

When new hires start at Perry Ellis, they are educated on the industry, the company, the management team and the behavioral “ethical” environment. We start from the very first day, making sure people understand the culture we are operating in. We expect people to operate at a high degree of ethical integrity at all times and we have zero tolerance for people who do not operate with that modus operandi; unethical behavior is very unforgiving behavior at Perry Ellis.

Businesses will continue re-educating themselves on ethics. People have been unethical since the beginning of time; you are always going to have unethical people in any organization.

You need to have deterrents and an educational program in place so that people understand that unethical behavior will not be tolerated.

I’m sure there are many companies out there that have that same mentality of educating employees and stressing good behavior.

Moderator: How much interaction can there be between the audit firm and the consultants who may be picking up work formerly done by the auditing firm?

Sabater: If you look at the relationship between the auditors and the consulting side, Sarbanes-Oxley clearly outlines a number of services that cannot be performed by audit firms to their own audit clients.

Our view around this issue is very clear: We will comply with Sarbanes and the specific prohibited services. But auditing is very complex. And companies are getting more and more complicated in the area of derivatives and in terms of off-balance sheet financing arrangements, for example, and accounting issues that involve different valuation assumptions.

I don’t really know how you can be effective in terms of auditing without having the capabilities in terms of valuations and understanding complex financial instruments. We are very happy as a firm to be able to have and to be able to draw on the expertise in performing our audits, of folks with that type of experience.

At the same time, we audit roughly 25 percent of the country’s public companies. That leaves 75 percent that are not audit clients. We are happier then you can imagine to work with those companies and bring value to them.

So I think it is certainly a new environment. And the relationships between the auditors and the consultants have to be monitored very carefully. But, I think it can and should be managed, and I think you get a right answer.

Moderator: Some people said the $500 million settlement the SEC agreed upon with MCI [formerly WorldCom] and the lack of jury verdicts is an indication that the SEC is letting some corporate criminals off relatively easily.

Do you think that’s a widespread perception both within your professions and among the public? You are smiling, Dana.

Forgione: The reason I’m smiling is because the Association of Certified Fraud Examiners has a saying that white collar crime is the crime of choice for the 21st century because if you rob a 7-Eleven with a gun you go to jail; if you extort millions from investors, you probably won’t go to jail. And the payoff is just not commensurate with the punishment, or the other way around, the punishment is not commensurate with the crime.

I think the key factor there is to make it commensurate. It may not make sense to put a CEO in jail. It may make sense to make him endure some of the pain and suffering he inflicted on the widows and orphans.

Martin: Well, Sarbanes-Oxley extended the maximum potential penalties for a number of things that were already criminalized prior to Sarbanes. So I think it may be legitimate to ask whether enforcement is more the issue than changing of statutes?

And certainly while the SEC has been very active on the regulatory front in the last few years, we have gone through a period of time when it has seemed at least to some observers that the nation’s enforcement on the security side was in the hands of the attorney general of the state of New York and not of the federal government, where it traditionally resides.

I think there is room to ask whether the SEC should have been doing more and should still be doing more on the enforcement side.

Moderator: Some people look at the possibility of Martha Stewart going to jail and wondering why other executives have not. Is there an example being made of her and has the SEC been too easy on some other people who may have caused a lot more widespread harm?

Sabater: I don’t know about Martha Stewart. But I will tell you that with time, I think we will see significant penalties. We will see convictions if appropriate, and we may see jail time. I think that we just need to take a deep breath and not necessarily go on a witch hunt and try to worry about who ends up in jail and how soon after the frauds were committed. I think we need to let the system work. And I’m in favor of seeing those that
Commit criminal acts be punished accordingly.

**Moderator:** Obviously, there were some problems at Andersen, which toppled a huge organization that had tendrils all over the world. But some people might argue that most of those people had nothing to do with Enron. Has some of this been a witch hunt?

**Martin:** I think when you get into the question of how you punish an organization as opposed to an individual for egregious conduct, you are looking at a very complex scenario. Because there are going to be people involved and probably many more people who were not involved.

But you are dealing with an organization. You have to find a way to impose a penalty on an organization. It is frequently very difficult to do that effectively without causing a lot of harm to people who really don’t deserve to be punished as individuals, but who, because of the impact on the organization, end up suffering. So it may not be intended as a witch hunt, and yet innocent people may be adversely affected. I’m not sure how you solve that.

**Sabater:** There has definitely been some overreach in certain areas. But there has been real loss, real pain and real deterioration in the confidence of corporate America that has hurt the country significantly.

And so to have those things occur and then call going after incidences of corporate fraud a witch hunt is hard to imagine, given the extent of the losses. But there is always an overreach whenever there is prosecution and whenever there are firms and companies investigated.

**Martin:** I think maybe I would call it a bow string effect, rather than a witch hunt. I think there obviously has been a real problem with a bow string effect because things snap from one extreme to the other in a reactionary fashion. I think there is probably some of that. But I don’t see a witch hunt, I don’t see targets irrationally being pursued.

**Moderator:** A final question: Do you think public companies will ever regain the trust of the investing public and, if so, how soon might that happen?

**Martin:** I think it will happen. But I think it takes a lot longer to win it back than it takes to lose it.

**Sabater:** I couldn’t tell you when, but I think it will happen.

In our firm, we are going to have to play a major role in helping to regain that confidence and we are committed to doing that. If everybody that has a leadership role makes that same type of commitment I think we will get there.

We need to get there.

**Macione:** I think eventually we will get there. It is going to take us some time. As each new scandal is uncovered, or another earnings restatement occurs, the investment community is going to continue looking at these events as a negative, as opposed to a positive, development resulting from Sarbanes.

At some point, people are going to feel more comfortable that effective processes, procedures and awareness are in place to prevent the next future Enron.

We still need to get through some tough times before people start to say, ‘yes, I believe there is a solid system in place.’ Eventually, we will gain back not only investor confidence, but also public trust.

**Forgione:** I couldn’t agree more. I think Americans are forgiving people with a short memory. I think in time, confidence will be regained, but confidence has to be earned, trust has to be earned.

I think with people, doing the right things consistently over time is what it is going to take to earn that trust back.

Dana A. Forgione

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**New board to oversee public company accounting**

Congress created the Public Company Accounting Oversight Board, nicknamed peek-a-boo, as a private sector, nonprofit corporation to oversee the audits of public companies.

The board stumbled when former SEC Chairman Harvey L. Pitt failed to offer full disclosure to fellow commissioners when they voted for former FBI Director William Webster to lead the accounting oversight board. Webster had led the audit committee of U.S. Technologies, which replaced its outside auditors after they questioned lax internal controls.

The SEC, under new Chairman William Donaldson, selected New York Federal Reserve Bank President William McDonough to replace Webster.

**Moderator:** We have a new organization now, the Public Company Accounting Oversight Board. What are your thoughts about its members?

**Martin:** I think the process of selecting members for what is now affectionately known as peek-a-boo has been put into the political spotlight from the very beginning when there were some steps forward and then steps back in terms of the original chairmanship.

But to say that the process is being politicized, I think, is naive. We are talking about a political solution to a corporate governance problem, which is governance in sort of a modified democratic system in a commercial world. So these are all political arenas of one type or another. I think it’s appropriate that the vetting of these candidates be part of the political process.

I think the concern being posed by some consumer watchdog groups, and some institutional investors, is that there aren’t independent enough minded people being put in peek-a-boo who will shake things up.

The question of whether things really need to be shaken up or simply need to be gone through in a more methodical or less sexy fashion is often not addressed when that case is being made.

**Moderator:** Dana, what are your thoughts about the board?

**Forgione:** Well, it certainly is a major change. It takes a lot of authority away from the AICPA [American Institute of Certified Public Accountants]. I think they have an opportunity to break some molds and traditions and hardened arteries and make some innovation and change come about in the profession. I think that’s good.

**Moderator:** What do you think the first signs are going to be that would indicate whether the board is going to be effective in doing its job or be viewed as not really effective?

**Forgione:** Well, I think we need to see them come down with a coherent, consistent, clear set of definitions and implementation rules. I think that’s one of the things that is sort of in a vacuum right now. Nobody knows how to implement this material.

And if they do a good job of bringing that into place, and also doing it in a way that’s consistent with Europe and other countries around the world so we don’t have any of these unintended conflicts that arise, I think that will be a real test of how effective it will be.

**Moderator:** Are they going to need to make an example of some company to be effective, or do they not have to do that?

**Forgione:** I think if there is an egregious case that comes up and they don’t deal with effectively, it will destroy their credibility.