

ExecutiveMemo

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A newsletter of the Illinois Manufacturers' Association

January 27, 2010

BRIEFLY

NAM Manufacturing Summit, April 14-15, Washington, DC

The NAM held its inaugural Manufacturing Summit in Spring 2009. Over 300 manufacturers gathered in Washington, DC. By all accounts, the Summit was a great success. As Congress is primed to consider action on a host of anti-competitive measures, American manufacturers must continue to stand up and communicate the negative repercussions of proposed legislation. Attend the Summit and speak out for manufacturing in America.

Register for the Summit by visiting www.nam.org/mfgsummit. Contact Tara Smith, the NAM's Director of Public Affairs, at 202-637-3014 with additional questions or concerns.

SBA offers "Going International Web Chat" Thursday, January 28th, noon-1:00 pm, CST

The SBA's January Web Chat will highlight exporting basics and general SBA capital and credit programs for small business owners. Entering foreign markets can be a great way to boost sales and SBA offers loan programs to help small businesses expand or develop an export market. Business owners can find out if they are ready for exporting and learn more about how to get started. Richard Ginsburg and Patrick Tunison of SBA's Office of International Trade will co-host the January Web Chat on "Small Business Exporting and Access to Credit." Chat participants will have direct, real-time access to the Web chats via questions they submit online in advance and during the live session, with instant answers. WHEN: January 28, 2010, 1 p.m. CST. Participants can join the live Web chat by going online to www.sba.gov, and clicking "Online Business Chat." Web chat participants may post questions before the January 28th chat by visiting <http://web.sba.gov/livemeeting/Jan10>. To review archives of past Web chats, visit www.sba.gov/tools/monthlywebchat/index.html.

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IMA joins Chemical Safety Coalition

The Illinois Manufacturers' Association has joined a number of organizations from across the U.S. to form a national Coalition for Chemical Safety. The Coalition is a non-profit organization committed to protecting families and communities while encouraging the development of safe green chemicals for tomorrow. While this issue is often debated on a chemical by chemical basis, the Coalition believes it can only be thoroughly addressed through an overhaul of federal chemical safety law.

The Toxic Substances Control Act, or TSCA, is federal legislation governing chemical usage in the United States. When it was enacted in 1976, TSCA reflected scientific knowledge at the time, and addressed major concerns about chemical usage in the United States. Among other accomplishments, TSCA banned the use of PCBs and lead-based paint, restricted the use of asbestos, and regulated radon in public buildings. However, since its enactment 33 years ago, TSCA has not been updated.

Without an effective and up-to-date framework for governing chemicals, the manufacturing industry would be a very different place. With lax regulations, competitors would

have more leeway to use cheaper, more dangerous, chemicals in the tools, toys and parts that are manufactured each day. In addition, if federal regulations aren't updated, states may continue to create their own regulations to fill the void (as they do now).

However, if our regulatory framework becomes too stringent, companies will struggle to compete with global competitors in countries like China, where regulations are more lax. If certain chemicals are banned or restricted, manufacturers may have to change their production process and utilize more expensive chemicals. Dealing with these costly regulations will hurt companies across the industry, employees and the American economy at large.

In short, regulations that do not balance the needs of business with the need for protecting Americans will surely harm manufacturing. The Coalition for Chemical Safety is the voice to guide a reform that protects the environment, while ensuring that manufacturing continues to be a successful component of the American economy.

For more information on the Coalition for Chemical Safety, visit: www.coalitionforchemsafety.com/default.aspx.

Ready set, wait? IFRS adoption option raises questions for private companies

January 1, 2010 marked the first day that Small and Medium-Sized Entities (SMEs) with a December 31 fiscal year end were eligible to adopt a new version of International Financial Reporting Standards (IFRS). IFRS for SMEs represents a significantly scaled-down version of IFRS designed specifically for companies that do not have "public accountability." Entities with "public accountability" include those that have publicly traded debt or equity securities, along with those

that hold assets in a fiduciary capacity for a broad group of outsiders as a primary business. This latter group includes banks, credit unions, insurance companies, and similar types of organizations. While community banks and credit unions would not be eligible to use the new IFRS for SMEs standard, most private companies in the U.S. meet the definition of an SME. Yet according to professional standards and banking experts from Plante & Moran,

See **IFRS ADOPTION**, page 2

IMA'S EXECUTIVE MEMO IS UNDERWRITTEN BY:



EXPERIENCE RESPONSIVENESS.

Of 838 clients surveyed, 98% say Plante & Moran is responsive to their needs.

PLLC, many companies are still unaware of the pros and cons of converting to IFRS.

First, some background. IFRS are the international counterpart to U.S. generally accepted accounting principles (U.S. GAAP) and represent an accounting framework that's used in more than 100 countries throughout the world. Most major economic markets either currently require public companies to prepare their financial statements in accordance with IFRS or have a plan to switch to IFRS in the coming years. For example, public companies in the European Union have been using IFRS since 2005 and those in Canada will be making the change in 2011. While IFRS have been in place for more than 30 years, the new IFRS for SMEs standard was issued in July 2009 to provide an alternative financial reporting framework designed for the needs and capabilities of Small and Medium-Sized Entities. Plante & Moran's David Grubb, CPA, says IFRS for SMEs has been evolving throughout the past decade.

"This standard has been in the works since 2003 and has generated a significant amount of interest because it provides relief for private companies from the most complex areas in IFRS and US GAAP," says Grubb, a partner on Plante & Moran's professional standards team. "For example, under IFRS for SMEs, goodwill will be amortized rather than tested for impairment and the standard includes a simplified set of financial statement disclosures."

One measure of the simplification brought about by IFRS for SMEs is the size of the standard relative to IFRS and U.S. GAAP. The IFRS for SMEs standard totals 230 pages, whereas the full set of IFRS totals approximately 2,800 pages and U.S. GAAP is estimated to fill nearly 17,000 pages.

Making a change to prepare financial statements in accordance with IFRS is an important decision. Many forward-looking business owners and executives are looking at IFRS as the future of financial reporting and are already beginning to prepare their organizations for the change. Still, Brian Pollice, partner-in-charge of Plante & Moran's financial institution practice, says it is important for private companies to understand that a change to IFRS is not simply an exercise in changing accounting policies.

"The adoption of a new set of financial reporting standards affects information technology systems, internal control processes, employee compensation and benefit arrangements, vendor and sales contracts, loan agreements, and many other aspects of the organization," explains Pollice. "At the same time, progressive companies that have

adopted IFRS used the change process as an opportunity to re-evaluate various aspects of their businesses and to make improvements, thereby leveraging the investment. At the initial adoption of IFRS, companies may have the opportunity to mark certain fixed and intangible assets to current fair value and rebuild equity."

Pollice adds that because nonpublic companies in the United States do not have any legal or regulatory requirements that mandate the use of U.S. GAAP to prepare their financial statements, they can switch to IFRS for SMEs to prepare financial statements, as long as users of those financial statements are willing to accept them.

"Companies considering a change to IFRS should discuss the decision early in the process with their bankers and other lending sources and financial partners," affirms Pollice.

Plante & Moran has a team of international accounting specialists charged with evaluating what a change to IFRS means to Small and Medium-Sized Entities, and offers IFRS impact assessments, implementation planning, conversion assistance, and ongoing technical support.

For more information visit www.plantemoran.com/services/audit-accounting/international-financial-reporting-standards-ifrs/pages/home.aspx.

U.S. Supreme Court decision allows companies to participate in elections

On January 21st, the U.S. Supreme Court issued its opinion in *Citizens United v Federal Elections Commission*, reversing its 1990 decision in *Austin v Chamber of Commerce*. The Court also struck down part of the McCain-Feingold campaign finance law that barred union and corporate issue ads in the final days before an election. Law firm Dykema acted as legal counsel in the original 1990 Austin case, and was asked to file an amicus brief in the current *Citizens United* case arguing that Austin should be reversed. Dykema attorneys Gary Gordon, Jason Hanselman and Alan Wilk authored the amicus brief in *Citizens United*, contending that the corporate expenditure restrictions that were upheld in *Austin* are unconstitutional. Gordon, former Chief Deputy of the Michigan Attorney General's Office, had represented Austin in the 1990 case.

The opinion in *Citizens United v Federal Elections Commission* will have immediate and potentially far-reaching impact on Federal elections in Illinois. Of specific interest to Michigan corporations is the Court's reversal of its 1990 decision

in *Austin v Chamber of Commerce*. The Court in Austin had confirmed Michigan's statutory ban on corporate direct expenditures in candidate elections.

Justice Kennedy wrote the primary opinion for the 5-4 majority, with Justice Stevens authoring the dissent, joined by Justices Ginsburg, Sotomayor, and Breyer. The Court stated that *Austin's* censorship is vast in reach, suppressing the speech of both for-profit and nonprofit, both small and large, corporations.' The Court went on to hold that 'There is no basis for the proposition that, in the political speech context, the government may impose restrictions on certain disfavored speakers,' explaining that 'the government may regulate corporate speech through disclaimer and disclosure requirements, but it may not suppress that speech altogether.'

Until January 21st, corporations desiring to address issues related to candidates for office were prevented from acting directly in these elections. **A result of today's ruling is that businesses operating under a corporate form will now be able to make direct expenditures in support or in opposition to individual candidates.** Other reporting requirements and disclosure of the source of the expenditure may still apply.

This case levels the playing field and allows corporations to participate in certain ways in candidate elections. Dykema's amicus brief argued that there is no valid reason that chambers of commerce, trade associations, and other corporations should be prohibited from meaningful participation in elections merely due to their business structure. This decision will allow those organizations currently involved to have new options for the upcoming elections. In addition, it may open the door for new organizations to enter the election process who may not have been involved before. Dykema has been working with several interested clients on these matters to explore how this decision might affect them and how they can implement a strategy given this change in law. We expect that the timing of the decision will mean that such strategies will have to be reviewed quickly so that they are available for the 2010 elections.

As campaign finance lawyers, Dykema's job now is to effectively and creatively turn what were previously considered 'soft money' expenditures into hard money expenditures while still complying with the restrictions that the Supreme Court did not address in *Citizens United*. Dykema plans to conduct a seminar in the next few weeks to discuss this decision.

For additional information, please contact Dykema's Mike Murphy by email at mmurphy@dykema.com or Mark Boozell at mboozell@dykema.com. Source: Dykema.

EPA tightens air quality standard for Nitrogen Dioxide

The USEPA announced on January 25th that it was issuing a new 1-hour air quality standard for nitrogen dioxide (NO₂) that will emphasize measurements near roadways and urban communities to protect against peak short-term exposures. The previous annual air quality standard of 53 parts per billion (ppb) is also being retained. This is the first change in the national NO₂ air quality standard in 35 years.

The new NO₂ standard was first proposed by USEPA on June 26th at which time comments were being sought on USEPA's intent to set the 1-hour standard in the range of 80 to 100 ppb. At that time, USEPA also sought comments on setting the standard as low as 65 ppb or as high as 150 ppb. USEPA has decided to set the standard at 100 ppb which is at the high end of their proposed range.

This decision to set the standard at the high end of the range greatly reduces the number of areas in the country that would not meet the 1-hour standard, based on air measurements from 2006-2008. In fact, the only place that will not meet that standard is in.....you guessed it, Illinois. The Illinois EPA monitor at the Chicago Transit Authority at 320 S. Franklin recorded a value of 116 ppb which exceeds the new standard. However, it is important to note that the USEPA's proposal will require nearly 200 additional monitoring sites near roadways and in cer-

tain urban areas that are not now be monitored. Illinois already meets or comes close to meeting that requirement and it is unlikely that new monitoring will reveal any additional problem areas. It should also be noted that Illinois already meets the annual standard of 53 ppb.

In terms of strategies to meet the new standard, it is unlikely that anything new will be needed. Approximately 60% of the NO₂ emissions come from transportation, 20% from power generation, and 10% from industry. The on-the-books regulations coupled with the clean car standards should be enough to address any problems. Therefore, Illinois industry should not expect this new standard to trigger any additional control strategy requirements.

The USEPA expects to publish the new standard in the *Federal Register* in the next week or so. Areas not meeting the new standard will be designated by January 2012 based on existing data and by 2016 or 2017 based on the new monitors, which are to be in place by 2015. The new standard is required to be met within 5 years of the designation of the areas that do not attain, which will be 2021 or 2022. Although the Chicago CTA site is not attaining the standard based on 2006-2008 data, it is likely that it will show attainment based on 2007-2010 data or shortly thereafter.

Author Dave Kolaz is the IMA's environmental consultant. Further information regarding the new NO₂ standard can be found at www.epa.gov/air/nitrogenoxides/actions.html#jan10.

DATES OF NOTE

More information/events may be found at <http://www.ima-net.org/calendar.cfm> and <http://www.ima-net.org/MIT/open.cfm>
Email: jstanley@ima-net.org

January 29, 2010

IMA's Small Manufacturers Council, Oak Brook

The Small Manufacturers Council provides a forum for key representatives of small manufacturers to meet and discuss industry trends from a governmental standpoint as well as innovations that can effect day to day efforts. SMC also provides a unified small manufacturer's voice to the IMA and to convey IMA's ideals to small manufacturers. Join us for informative meetings that provide substantive information you need in today's competitive manufacturing environment. You'll be glad you did. Contact Kimberly McNamara, 800-875-4462, ext 2109, Email: kmcnamara@ima-net.org. For more information, visit <http://www.ima-net.org/smc09.cfm>.

February 9, 2010

IMA-MIT Event: World Class Negotiating Skills, DePaul University O'Hare Campus, 3166 S. River Rd., Des Plaines

This interactive, one-day workshop will consider both the selling and purchasing aspect of business negotiations. It will provide effective solutions and settings in which to practice negotiating skills. Attendees will learn how to formulate strategies, overcome potential difficulties and apply proven principles to make business transactions more productive for all involved.

February 18, 2010

IMA Breakfast Briefing — Managing & Closing Workers' Compensation Claims in a Cost Effective Manner

Mon Ami Gabi—Oak Brook Center Mall (SE corner), Oak Brook— (see ad, this page, lower left)

February 24, 2010

IMA-MIT Event: Strategic Planning and Goal Setting — DePaul University O'Hare Campus, 3166 River Rd, Des Plaines

Effective strategic planning and thinking skills combined with the ability to set compelling and achievable goals are at the core of all successful leaders and help to establish the foundation for sustainable business success. The ability to develop winning business strategies and then take those strategies from plan to action (or to rethink them on short notice) sets true leaders apart from their peers. Forward-looking strategy formulation can become a key competitive differentiator and provide a clear "road-map" and path for success.

March 4, 2010

IMA-MIT Event: Consultative Selling Skills for Sales Professional, DePaul University O'Hare Campus, 3166 S River Rd., Des Plaines

Be ready to turn your "lean and mean" sales team into 'customer friendly' advisors your clients will trust to help them make complex buying decisions. Get a better grasp of the needs and vision of your customers, and leave with tools you need to develop great working relationships with key decision makers.

IMA Breakfast Briefings 2010 . . .

Managing and Closing Workers' Compensation Claims in a Cost-Effective Manner

Thursday • February 18, 2010 • 8:00-11:00 am

Mon Ami Gabi Restaurant, Oak Brook Center Mall (SE corner) Oak Brook
presented by Richard Lenkov, Bryce Downey & Lenkov LLC

Workers' compensation costs are skyrocketing nationwide. Part of that increase is because the number of workers' compensation claims involving more than 30 days away from work increased by 15 percent in the past four years. The more complex the claim, the more money employers are spending.

These costs can spiral out of control unless they are managed effectively. This session will give you the practical tools necessary to effectively handle your workers' compensation claims and close them, in the most cost-effective manner possible.

You will learn how to: avoid claims in the first place and to properly handle injuries when they first occur, conduct early and thorough investigations without ever retaining an attorney, manage vendors and reduce their costs, reduce attorneys' fees and expenses, move injured workers from collecting benefits back to work, know when it is more cost effective to settle vs. trying a case, use litigation tools to your advantage, leverage a claimant's past medical history to your advantage, and get money back via subrogation.

REGISTER ONLINE at: www.ima-net.org

Cost per session: \$60 IMA member ♦ \$85 non-members

Questions? Contact Kimberly McNamara at kmcnamara@ima-net.org or 630-368-5300, Ext. 2109

Natural gas market volatility

The current weather situation has thrown some weather forecasters off guard. Several early season forecasts were betting on El Nino (warming of the waters in the equatorial Pacific) to bring warmer temperatures to the heartland this winter. But other elements at play, such as heavier snowpack in Canada and the northern states and some changes in jet stream patterns have overpowered El Nino, allowing blasts of arctic air to proliferate major portions of the United States. In the Midwest part of the country, this has resulted in temperatures well below normal expectations and we expect this to continue for several weeks. Consequently, natural gas pricing has risen rather sharply due to this development. Fortunately, IMA member participants who enrolled last year in Constellation NewEnergy Gas' Managed Portfolio (MP) Program — including utility storage management and the proprietary Minimize Volatile Pricing (MVP) Program — are well insulated from this market development as two-thirds of their expected winter usage was purchased over the last 12 months at more favorable price levels. When volatile market events like this occur, it is easy to see the value and benefit of a diversified natural gas purchasing strategy.

This significant cold snap is reducing what was a record high natural gas storage volume which had been the predominant factor in producing and maintaining lower natural gas pricing. As this storage overhang goes away, there is increased potential for a return to a more bullish outlook for long term prices.

To learn more about natural gas market volatility, and how Constellation NewEnergy Gas can help your business be more prepared by customizing a diversified natural gas purchasing strategy, please contact Constellation NewEnergy Gas Sr. Business Development Manager, Jeff Abeln at 312-704-8527 or via email at jeff.abeln@constellation.com.

SEC adopts rules relating to risk, compensation and corporate governance

On December 16, 2009, the Securities and Exchange Commission ("SEC") adopted final rules requiring enhanced disclosures relating to risk, compensation and corporate governance. The new rules become effective February 28, 2010 and will apply to the upcoming proxy season. Following is a brief summary.

- Risk Management and Compensation Policies. Companies will be required to enhance their disclosures relating to how their compensation policies and practices relate to risk management efforts. These enhanced disclosures will help investors to evaluate whether the company's compensation policies and practices incentivize excessive or inappropriate risk-taking. Companies also must discuss the board's role in risk management oversight.
 - Board Leadership Structure. The new rules require companies to disclose more details relating to the board's leadership structure, including whether the company has a combined or separate chief executive officer and chairman position or whether the company has a lead director. Companies are also expected to justify why the current structure is appropriate.
 - Greater Detail for Directors and Nominees. The new rules provide for enhanced disclosures relating to director and nominee experience. First, the company must disclose the director's or nominee's particular experience, qualifications, attributes, and skills which the board considered when deciding to ask the individual to become a director. Second, the rules require disclosure of any public company or registered investment company directorships held by a director or nominee during the past five years. Finally, disclosures must cover the director or nominee's involvement in certain legal proceedings going back ten years, rather than the current five years. In addition, the list of legal proceedings covered by the disclosure rule has expanded.
 - Director Diversity. The new rules require a company to disclose whether, and if so how, a nominating committee considers diversity in identifying director nominees. If the nominating committee has a diversity policy, the disclosures should cover the implementation of the policy and its effectiveness.
 - Quicker Shareholder Voting Results. Under the new rules, shareholder voting results must be disclosed within four business days after the end of the shareholder meeting on Form 8-K, rather than waiting to disclose the results in the next quarterly report.
 - Summary Compensation Table. The SEC approved revisions to the reporting of stock and option awards in the Summary Compensation Table and the Director Compensation Table. Companies will have to report the value of options when they are awarded, instead of the current requirement to report the annual accounting charge.
 - Compensation Consultants. Under the new rules, in certain circumstances, particularly where the relationship may raise a potential conflict of interest, companies must disclose fees paid to compensation consultants.
- The new rules contain a number of other changes. If you have any questions, please contact Daniel A. Kaufman, Partner, at Michael Best & Friedrich.

Dan Kaufman can be reached at dakaufman@michaelbest.com and Charmaine Butler can be reached at cmbutler@michaelbest.com. You may also contact Dan or Charmaine via phone at 312-222-0800.

Illinois Manufacturers' Association 2010 Business Day at the Capitol

WEDNESDAY • MAY 5, 2010 • SPRINGFIELD

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