June 7, 2024

Office of the Secretary
Public Company Accounting Oversight Board
1666 K Street, N.W.
Washington, DC 20006-2803

RE: PCAOB Rulemaking Docket Matter No. 055

Dear Madam Secretary:

We appreciate the opportunity to comment on the proposing release, *Firm Reporting*, included in Public Company Accounting Oversight Board ("PCAOB" or the "Board") Release 2024-003 ("the proposal"). Our purpose is to build trust in society and solve important problems. The primary way we fulfill that purpose is by providing quality, independent audits of financial statements and internal control over financial reporting (ICFR). Auditors play an important role in the capital markets and contribute to investor confidence through issuance of informative, accurate, and independent reports. We share the PCAOB's objective of promoting audit quality. It is and always will be our number one priority.

We are committed to transparency about our audit practice and routinely provide important information to the PCAOB, other global regulators and policymakers, audit committees, and the public at large. For more than a decade, we have published a voluntary annual *Audit Quality Report* (AQR) in the US that describes the actions we take as a firm to support and continually enhance audit quality.[1] We are committed to such transparency and therefore supportive of setting expectations for firms to publicly release information that stakeholders can use to evaluate audit quality, including to understand a firm's governance and leadership.

Additionally, global network firms like ours that are inspected annually receive and respond in a timely manner to requests that are tailored to the firm as part of the PCAOB's inspection program. We have fully dedicated resources to respond to such requests timely and thoroughly on an ongoing basis throughout the year in relation to firm and engagement data and our approach to audit quality. We support the objectives of the PCAOB's inspection program and the PCAOB's ability to gather much of the information addressed by the proposal. This process affords firms important protections under Section 105(b)(5)(A) of the Sarbanes-Oxley Act of 2002 (SOX), which Congress designed to provide appropriate legal protections to maintain confidentiality over information and promote open exchanges between registered firms and the PCAOB.

However, we do not support the manner in which the proposal would require certain information to be reported, as well as certain specific proposed requirements (e.g., those related to the submission of US GAAP financial statements and reporting of certain material events), based on concerns more fully described in this letter. Our concerns include the insufficient and speculative nature of any benefits, unjustified costs, and outsized unintended consequences (such as inappropriate conclusions being drawn from public reporting of certain information and public disclosure of sensitive, proprietary information).

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1 A copy of our 2023 AQR and the subsequent January 2024 update are available here. We publish both our AQR and a separate transparency report to comply with Article 45 (5)(e) of the European Union's Directive on Statutory Audit 2006/43/EC ("the EU Directive on Statutory Audits") in relation to our audits of public interest entities in Europe. In this letter, when we speak directly about what we as a firm publish in relation to audit quality, we refer to our AQR. When we make a recommendation, we use wider terms such as "quality/transparency reporting" and "quality/transparency report."

The proposal also raises fundamental questions of whether the PCAOB can or should require certain reporting outside of its inspection authority and process.

Our most significant concerns relate to the following. We discuss these and other concerns in this cover letter and the Appendix, which also includes detailed feedback on specific reporting matters.

- The proposal does not adequately consider the role of audit committees (who owe a fiduciary duty to investors) in oversight of the auditor and the disclosures they are required to provide to explain how they executed that oversight, including to inform the appointment ratification vote.

- The proposal contains an unhelpful “cookie cutter” approach to reporting information to facilitate easier collection and analysis of data by the PCAOB and make certain matters transparent, but the information to be collected is so varied in nature as to render the expanded Forms 2 and 3 more misleading and costly than helpful.

- The proposal undermines the confidentiality framework in SOX, raising concerns that the information will be used in inappropriate ways that increase costs without any meaningful benefit to audit quality.

- The economic analysis does not sufficiently or persuasively articulate the benefits of the proposal, nor provide any evidence that there are information gaps in light of what is already being provided by firms and the PCAOB today in their respective quality/transparency and inspection reports. Although the Board states on its website that “The Board has made it a strategic priority to interact more often and more directly with audit committees,”[2] there is no evidence that the Board is substantively engaging with the audit committee community in a meaningful way to understand what information is not being disclosed that would be useful to audit committees in performing their duties.

We acknowledge the Board’s objectives articulated in the proposing release: to improve and modernize reporting requirements; address potential gaps in the information available to the PCAOB, investors, audit committees, and other stakeholders; and facilitate more complete, standardized, and timely reporting of firm information. We have specifically considered the proposal from two important perspectives: what information may be relevant to report publicly to give transparency about the firm and its approach to audit quality and, separately, what does the PCAOB reasonably need to facilitate its regulatory functions and under what statutory provisions is it appropriate to obtain such information. An important backdrop to our response, including our recommendations for alternative approaches, is how we as a firm think about our external communications related to audit quality today. And, to be clear, we have not previously, nor do we in this comment letter, raise concerns about providing the information that is appropriate or necessary as part of the PCAOB’s inspection process, which is subject to clear and appropriate provisions for confidentiality and due process.

We recommend that the Board consider preferable alternatives that would better serve stakeholders, including audit committees executing their statutory oversight role and fiduciary responsibilities. Alternatives that incorporate providing information to, and allowing the assessment by, audit committees, as well as enhancing PCAOB communications to its stakeholders, would be more likely to provide greater benefits to investors and the capital markets, minimize unintended consequences (such as inappropriate conclusions being drawn from the public reporting of certain information and public disclosure of sensitive, proprietary information), and would be consistent with both the PCAOB’s remit and its objective of adopting standards that meaningfully improve audit quality.

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[2] See PCAOB website section Information for Audit Committees.

Static reporting of matters such as firm governance and leadership on Form 2 will not result in meaningful incremental transparency for investors and other stakeholders, but a focus on quality/transparency reporting could achieve the Board's objectives.

Any requirements for expanded – and public – firm reporting should advance the ability of stakeholders (including investors and audit committees) to gain a holistic understanding of a firm's approach to audit quality through the eyes of the firm's leadership to provide context to the firm's audit reports issued with respect to the financial statements of public companies and registered brokers and dealers.

We are concerned, however, with the assumption underpinning the proposal that investors need access to detailed audit firm information (that is not already available) regarding a firm's capacity, incentives, and constraints, to benefit from audit reports. While there may be merit in requiring transparency about certain topics to provide users of firms' audit reports with additional context about audit quality and how firms manage themselves to achieve quality, we do not believe a comprehensive disclosure framework is necessary.[3]

Further, it is unlikely that investors will gain any meaningful benefit based on the use of static, form-based reporting to collect and disseminate the information (e.g., reporting of required information on Form 2). The proposal appears based on the idea investors will access and analyze Form 2 data to seek insights about the firms, but that assumption is questionable given that the proposal notes that investors "may not be aware of or find value in PCAOB inspection reports."[4] This is concerning because the PCAOB has a fundamental role to inspect audit firms and has the ability to provide timely and meaningful communications to its stakeholders about its observations related to audit quality based on the outcomes of its inspections and enforcement actions. The PCAOB's open access to people and information from firms gives it a unique perspective that enables it to give appropriate context about trends it is observing in relation to firms' systems of quality control (QC),[5] including firm governance and leadership. From that perspective, it also can identify quality risks that should be carefully considered and addressed. If investors are not aware of or getting value out of inspection reports, perhaps that is where greater focus is warranted. Given the fast pace of change in the profession, including the potential for artificial intelligence to be used by issuers and by auditors in their work, it is difficult to understand why the rigid form-based approach would be preferable or more useful than an approach that involves auditors engaging directly with audit committees or ongoing engagement by the PCAOB with firms through its inspection process.

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[3] The proposal inappropriately imposes a governance and public disclosure framework that appears to be intended to mirror the framework required for public companies, but that framework does not serve the same public interests when applied to independent public accounting firms. For example, page 31 of the proposal notes that "[i]n the public company context, it has long been observed that when companies have to formulate disclosures on processes, it may influence their approach to them." There are important differences that have not been expressly considered. Most notably, investors are not investing in registered accounting firms. Investors need decision-useful information, primarily based on a company's financial statements and regulatory disclosures, so they can make investment decisions in relation to a public company (e.g., whether to buy, hold, or divest shares). However, investors cannot be presumed to need the same level of information about an audit firm to benefit from its audit report as is necessary to assess an investment in a public company.

[4] PCAOB Release 2024-003, page 47.

[5] Upon implementation of QC 1000, *A Firm's System of Quality Control* (PCAOB Release 2024-005), it is reasonable to expect an increased focus within PCAOB inspections on firms' systems of QC, providing the PCAOB with greater insights into quality risks and how firms are addressing them and additional data on which to base communications such as Spotlights. In her statement on QC 1000, Chair Erica Williams noted that it "will ensure accountability by requiring an annual evaluation on QC system effectiveness, and annual reporting to the PCAOB, by firms that perform or have responsibilities with respect to engagements under PCAOB standards. That reporting must be personally certified by both the individual assigned ultimate responsibility and accountability for the firm's QC system as a whole and the individual assigned operational responsibility and accountability for the QC system. Simply designing elaborate processes on paper won't be enough. Firm leadership will have a personal stake in delivering results and additional incentives to fix problems quickly."

We recommend the Board consider whether an alternative approach, described more fully below, would achieve its objectives and be scalable for registered accounting firms that are inactive or subject to similar, but not identical, disclosure requirements in other jurisdictions.[6] These suggestions are preliminary in nature and should be considered as part of a broader outreach and stakeholder engagement program before moving forward that includes understanding how publicly available information that is already included in firms' quality/transparency reports[7] about matters addressed by the proposal is or is not being used and why (e.g., information about firms' legal structures and ownership and governance structures). Our suggestions are intended to be read in conjunction with the additional context described throughout this letter and in the Appendix, when applicable.

Consider replacing proposed Form 2 requirements to report matters related to audit firm governance information with a principles-based requirement for quality/transparency reporting for registered accounting firms of a certain size.

As a firm implements the recently approved QC 1000, it may need to make significant investments in its system of QC and to take a fresh look at what it is communicating externally in light of the specific requirements related to information and communication. Accordingly, there is merit in the PCAOB exploring how voluntary reporting of certain topics, including those related to audit firm governance and leadership, can be expanded to more firms – to facilitate more holistic and transparent communications about audit quality.

We recommend the Board consider an alternative of requiring quality/transparency reporting (i.e., required issuance of a quality/transparency report that addresses specific topics) for registered accounting firms that issue audit reports for more than 100 issuers per year. This approach would be similar to the differential thresholds established in QC 1000, where the PCAOB has determined "incremental requirements of firms with larger PCAOB audit practices is appropriate and that the complexities inherent to large and complex firms are likely to give rise to quality risks for which the incremental requirements would be appropriate quality responses."[8] It stands to reason that these are the firms investor-related groups are most interested in understanding, given these firms audit a significant majority of the market capitalization of issuers reporting on Form 10-K, 20-F, and Form 40-F.

To enable robust reporting through the eyes of firm leadership, such reporting would need to be more principles-based[9] than the proposal, in a manner similar to what is required in the EU Directive on Statutory Audits, which requires such reports for firms that audit public interest entities in Europe. Taking care not to create new or conflicting requirements with established law and regulation could address some concerns about scalability of the proposal as well. This approach would likely provide more

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[6] Within our network, member firms without a significant issuer practice have concerns about scalability of both this and the metrics proposal (PCAOB Release 2024-002, *Firm and Engagement Metrics*). Many of the 62 member firms in our network that are registered public accounting firms are also required to publish transparency reports or do so voluntarily (e.g., to comply with the EU Directive on Statutory Audits). Of the 62 registered accounting firms in the PwC network who would be subject to the proposal, however, 25 do not perform issuer or broker-dealer audits or play a substantial role in such audits (i.e., 40% are inactive). As highlighted on page 54 of PCAOB Release 2024-005 (QC 1000), approximately 51% of all registered public accounting firms have not performed an engagement under PCAOB standards for an issuer or broker-dealer in the past five years.

[7] We are aware that at least 7 other US annually inspected firms (or approximately half of the firms that audit a significant majority of the market capitalization of issuers reporting on Form 10-K, Form 20-F, and Form 40-F) publish voluntary reports about audit quality, although we acknowledge there is variability in how they do so.

[8] PCAOB Release 2024-005, page 66.

[9] Doing so would also align with the approach used for other disclosure frameworks that provide quantitative and qualitative indicators (e.g., the SEC's approach to requiring management's discussion and analysis in public company annual reports).

informational value yet at the same time be more cost-effective. Notably, this approach fully aligns with the specific ACAP recommendation that urged the PCAOB to require that "larger auditing firms produce a public annual report incorporating … information required by the EU's Eighth Directive, Article 40 PCAOB 6 Transparency Report deemed appropriate by the PCAOB."[10]

The requirements underpinning this quality/transparency reporting could address topics contemplated by the proposed changes to Form 2, as well as those covered by the EU Directive on Statutory Audits, including:

- A brief discussion of the legal structure and ownership of the firm – but not specific disclosures of processes and voting rights that address how the firm manages its operations
- Key officers of the firm, which we recommend defining as:
    - The principal executive officer(s) of the firm (as the individual(s) with ultimate responsibility and accountability for the firm's system of QC as a whole)
    - The executive officer(s) who oversees the firm's audit practice
    - The individual assigned operational responsibility and accountability for the system of QC as a whole
- A brief discussion of the governance structure of the firm, including whether the firm has a governing board or management committee that has oversight over the principal executive officer(s)
- Discussion of activities the firm has undertaken to address quality
- A brief discussion of how the firm manages cybersecurity risks
- Metrics or transparency data points that the firm believes are useful in managing and monitoring quality
- Indication on Form 2 of whether the firm has publicly issued a quality/transparency report and link to where that report may be accessed

Registered accounting firms that issue fewer than 100 issuer reports could be encouraged to develop a quality/transparency report and indicate whether it has been filed on Form 2. After a period of implementation, the PCAOB could undertake a study of the quality/transparency reports, highlight best practices, and consider, in further consultation with firms and other stakeholders, whether changes may be necessary to Form 2 to enable the Board to collect relevant information in a more systematic way.

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[10] We observe that the rulemaking proposal appears to be driven in part by the PCAOB's renewed focus on responding to the Department of the Treasury's Advisory Committee on the Auditing Profession (ACAP)'s Final Report from October 2008 that also (1) recommended that the PCAOB enhance firm reporting and monitoring and (2) emphasized the risk that the failure of a large audit firm could have disruptive effects on the ability of firms to conduct quality audits and on the audit market.

Enhance the dialogue with audit committees about audit quality and consider other complementary actions.

Audit committees have statutory responsibilities for direct oversight of auditors, including understanding the firm's approach to audit quality, a model that is appropriate because the audit committee has the ability to engage directly with the auditor and obtain the necessary context as part of a robust two-way dialogue. The audit committee must include at least one person who meets the qualifications of a financial expert, which enhances the ability of the audit committee to perform its role. The PCAOB's website notes the important role that audit committees play, stating, "Audit committees play a vital role in promoting high quality auditing through their oversight of the audit process and the auditor. An engaged and informed audit committee serves as an effective force multiplier in promoting audit quality for the benefit of investors."[11]

Consistent with their oversight role as set forth in SOX, audit committees should be the primary recipients of any expanded reporting to further enhance their direct oversight responsibilities. While the proposal does not suggest that there are pervasive concerns about audit committees failing at their fiduciary duty to investors, nor has the SEC stated this to be the case, there may nevertheless be an opportunity to enhance auditor communications with audit committees given their important role.

In making this recommendation, we reflected on the robust two-way dialogue our engagement teams have with audit committees today. As noted in the proposal, audit committees have access to information about firms in a number of ways that facilitate their oversight responsibilities.[12] For example, audit committees of NYSE-listed companies are required by Rule 303A.07 of the NYSE Listed Company Manual to have charters that require them to obtain and review, at least annually, reports from the company's independent auditors describing the audit firm's internal QC procedures and other related topics. We share our annual AQR with all our audit clients' audit committees because we believe a dialogue with them about our audit practice (including transparency data points) helps them discharge their oversight responsibilities. To help them understand our quality results, we share information about our internal monitoring as well as the PCAOB's inspection process (including our results as noted in the PCAOB's inspection reports) as well as the actions we take to monitor and remediate issues that may affect audit quality.

Should the PCAOB find our recommended approach useful, targeted outreach to audit committee members – in particular, to those audited by firms who may not be communicating externally about audit quality – would be helpful to determine whether there is an information gap such that expanded reporting would be beneficial to them and at what cost.

For example, amendments could be made to AS 1301, *Communications with Audit Committees*, to facilitate more robust dialogue on matters such as:

- How the firm's system of QC supports the consistent performance of quality engagements
- The results of the firm's monitoring activities and external inspections as well as the firm's response
- How the firm has responded to emerging developments and changes in the circumstances of the firm or its engagements, including how the system of QC has been adapted to respond to such changes

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[11] See PCAOB website section Information for Audit Committees.

[12] PCAOB Release 2024-003, page 48.

- Other factors that contribute to audit quality (e.g., the firm's approach to compliance with independence and ethical requirements, engagement-level metrics that may be relevant)

Through changes to AS 1301 or QC 1000, firms could be required to discuss with the audit committee their required quality/transparency report, when applicable (and could be encouraged to do so when such a report is voluntarily issued) as part of planning considerations (e.g., when discussing appointment and retention, understanding the terms of the audit, and the overall audit strategy). These communications could be updated as necessary (e.g., when the firm's PCAOB inspection reports are made public), including at the request of the audit committee (e.g., if external events arise related to audit quality). We would anticipate the firm's system of QC would likely establish policies and procedures addressing circumstances in which additional communication with audit committees may be necessary (e.g., a cybersecurity incident, settled enforcement actions related to the firm).

Disclosures by audit committees are the primary way in which they relay their judgments made in discharging their responsibilities to oversee management and the auditor to investors. As the proposal notes, to inform the appointment ratification vote, "disclosures in annual company proxy statements indicate that some audit committees consider a variety of public and non-public information when appointing their auditor, including public data regarding the candidate firm and its peer firms."[13] If investors believe they do not have sufficient information to make voting decisions, this could be addressed by the SEC taking action to strengthen disclosures by audit committees to require them to disclose how they considered quantitative and qualitative factors in forming a view about the quality of the audit and in making recommendations to appoint or reappoint the audit firm based on its approach to audit quality. This topic was last explored by the SEC in a 2015 concept release,[14] and there is a robust comment file to consider. This could be revisited as a complementary action that has a higher likelihood of achieving the PCAOB's objectives at a lower cost; it also would be mindful of the respective roles of investors, audit committees, and firms.

The approach to collecting information about material events on Form 3 should be reconsidered. However, there is an opportunity for the PCAOB to enhance its communications to stakeholders about the potential risks to quality those events may create.

Additional firm reporting without complementary action by the PCAOB and others is likely to fall short of stakeholders' expectations. This is because certain actions the Board discusses in the proposing release appear to fall outside the Board's mandate – that is, those similar to what would be expected of a prudential regulator. For example, the proposing release notes that:

> [T]he Board's mandate extends to monitoring firms and the audit market for disruptions, including those related to firm viability, staffing, or potential legal liabilities. For example, in the event of a solvency-threatening event at an audit firm, the Board would need adequate information to assess whether that failure may have a disproportionate impact on a particular sector and the extent to which other audit firms are positioned to absorb the threatened firm's companies under audit. The Board would also need adequate information to respond to inquiries from its oversight authorities, the SEC and Congress, and to share pertinent information with other regulators as appropriate.[15]

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[13] PCAOB Release 2024-003, page 53.

[14] See the Securities and Exchange Commission 2015 concept release on Possible Revisions to Audit Committee Disclosures and our comment letter on the concept release.

[15] PCAOB Release 2024-003, page 11.

The PCAOB should not unilaterally assign itself prudential regulator-type responsibilities absent legal authority (i.e., without further action by Congress), and the proposed amendments to Form 3 and requirements to obtain financial statements from the largest firms could be viewed by investors as the PCAOB doing so. However, the PCAOB has an important role in relation to certain material events, which can be fulfilled as part of its existing inspection program, the focus of which will be undoubtedly enhanced as a result of firms' implementation of aspects of QC 1000. If the PCAOB is not already becoming aware of such circumstances as part of the dialogue in its inspection program, the PCAOB could explicitly expand its data collection requests to address matters such as those proposed to be reported on Form 3. For example, in inspecting an individual firm's system of QC, the PCAOB is in a position to evaluate whether there are matters that threaten a particular firm's ability to perform quality audits or compromise the ability of its system of QC to obtain reasonable assurance. Based on its understanding of the firm and dialogue with leadership on matters such as firm strategy and operations as part of inspections, the PCAOB can tailor its inspection approach to consider whether there are new quality risks that may arise from these types of events and understand how, if at all, the firm has responded to mitigate those quality risks. Should the Board have concerns with the appropriateness of the firm's responses, it is able to timely report the results of an inspection. This ongoing approach to considering how certain matters may impact a firm's system of QC and its achievement of reasonable assurance through periodic inspections helps the Board proactively monitor potential declines in quality long before a catastrophic event may occur.

More broadly, we see merit in the PCAOB considering, based on its observations of firms and their systems of QC gleaned from its inspections[16] and enforcement regimes, whether there are opportunities to communicate with stakeholders its observations on:

- Best practices related to firm governance and leadership
- Risks to quality that may emerge as a result of changes to firms' operational structures and how firms are mitigating those risks
- Root causes of inspection findings, including how the Board believes it can take actions to reduce the reoccurrence of findings and quality issues more broadly

These recommendations are premised on the Board making meaningful and continued progress on its goal of enhancing inspections, including the objectives of increasing transparency in reporting inspection results and improving the timeliness of inspection reports.

Similarly, the proposed enhancements to the dialogue between auditors and audit committees we suggest could be complemented by SEC efforts to enhance disclosures by audit committees (as described above). This holistic and continued focus on audit quality and transparency, rather than a potentially outsized approach to data collection, is likely to benefit the PCAOB's stakeholders.

Recent standard-setting process observations

Broadly, we observe that the PCAOB's recent standard-setting process appears to lack meaningful engagement with a wide range of stakeholders, instead giving disproportional weight to a small but vocal minority. These and other stakeholders may not appreciate the manner in which firms are already interacting with the PCAOB on the topics addressed in the proposal or the impacts of what is proposed.

[16] Rule 4010, *Board Public Reports,* permits the Board at any time to publish reports concerning findings and results of its various inspections. Such reports may include discussion of criticisms of or potential defects in QC of any firm or firms that were the subject of a Board inspection, subject to certain confidentiality provisions. Rule 4010 would allow the Board the opportunity to highlight any emerging measures or lack of response to quality risks that appear to cut across the audit profession.

Specifically, both this proposal and the concurrent metrics proposal appear to primarily be responsive to a few voices on topics that have been explored for decades and not advanced for good, thoughtfully considered reasons – but which have now been issued without consideration of how the landscape (including quality/transparency reporting) has changed. For these proposals, a limited 60-day notice and comment period significantly hinders the ability of those most affected by the proposals to adequately study and develop positions on complex and extensive new requirements. This is particularly problematic due to the issuance of lengthy, intersecting standards (some with new requirements that go beyond what was proposed) in the middle of that comment period.[17] These proposals demonstrate a need for more meaningful engagement and outreach than the high-level discussions at the PCAOB's SEIAG and Investor Advisory Group to date.

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We[18] appreciate the opportunity to provide input and would be pleased to engage with the Board and its staff on this topic. Please contact Brian Croteau at brian.t.croteau@pwc.com or Tim Carey at d.timothy.carey@pwc.com regarding our submission.

Sincerely,

PricewaterhouseCoopers LLP

PricewaterhouseCoopers LLP

[17] On May 13, 2024, the Board approved two new standards: QC 1000 and AS 1000, *General Responsibilities of the Auditor in Conducting an Audit* (PCAOB Release 2024-004). There are ways in which this proposal and the metrics proposal (PCAOB Release 2024-002) interact with QC 1000 and AS 1000 that require stakeholders to study and consider the effects in combination. In totality, stakeholders will also need to review over 600 pages of rulemaking to determine the nature and extent of feedback to the SEC as part of its approval process. Among other topics, we expect commenters to raise concerns about new or significantly changed requirements in those standards that appear in the version of the rule adopted by the PCAOB but were not described in the proposals.

[18] Reference to "we" and "our" in this letter are to PricewaterhouseCoopers LLP, a US member firm of the PwC global network. References to the "PwC global network" are to the PwC network, which consists of firms that are separate legal entities. Firms in the PwC network are members in, or have other connections to, PricewaterhouseCoopers International Limited (PwCIL), an English private company limited by guarantee. PwCIL does not practice accountancy or provide services to clients. The PwC network is not one international partnership, and PwC member firms are not otherwise legal partners with each other. A member firm cannot act as an agent of PwCIL or any other member firm and cannot obligate PwCIL or any other member firm. Similarly, PwCIL cannot act as an agent of any member firm and cannot obligate any member firm. While this response has been developed by a US member firm, we have solicited feedback from other member firms within our network that would also be subject to the proposal to inform our response.

Appendix

We are committed to transparency about our audit practice and routinely provide important information to the PCAOB, other global regulators and policymakers, audit committees, and the public at large.

In the US, we voluntarily include information on many of the firm reporting topics addressed in the proposal in our publicly available, annual AQR. The information we present aligns with how we manage our audit practice and explains how we support audit quality. The qualitative and quantitative information (which we refer to as "transparency data points") in the AQR collectively provides insight through the eyes of firm leadership into how the culture and leadership of our firm, developments or trends related to audit performance, and the operation and effectiveness of our system of QC relate to audit quality. While the topics included in our report are generally consistent year over year, the nature of our reporting is not static. Rather, it evolves and expands to provide greater transparency on how we manage and measure ourselves, and, importantly, how we hold ourselves accountable.

This transparency is important to the work we do to promote reliable financial reporting through the issuance of informative, accurate, and independent auditor's reports. We have included our AQR in our public response to the past several PCAOB inspection reports and also maintain the information on our public website, in addition to sharing the AQR directly with all our audit clients' audit committees.

We acknowledge there is variability among firms in relation to voluntary reporting about audit quality. The choices a firm makes about the nature and extent of information to include in its own quality/transparency report can be considered by an audit committee in its oversight, including whether to select or retain an auditor, and by investors in determining whether such information (or the lack of transparency) results in a perceived risk that should inform decision-making.

Any requirements for expanded – and public – firm reporting should be informed by an analysis of what is already being commonly communicated by firms, either voluntarily or where required by law or regulation (e.g., in accordance with the EU Directive on Statutory Audits), with the goal of forming a view about what topics are essential to discuss and why. The purpose of this reporting would be to advance the ability of stakeholders (including investors and audit committees) to gain a holistic understanding of a firm's approach to audit quality through the eyes of the firm's leadership to provide context to the firm's audit reports issued with respect to the financial statements of public companies and registered brokers and dealers.

The proposal contains an unhelpful "cookie cutter" approach to reporting information to facilitate easier collection and analysis of data by the PCAOB and make certain matters transparent, but the information to be collected is so varied in nature as to render the expanded Forms 2 and 3 more misleading and costly than helpful.

The proposal would significantly expand public reporting on Form 2 and require expanded confidential event-driven special reporting on Form 3 in a manner similar to what is expected of public companies. Based on the PCAOB's own economic analysis, there is no evidence that different governance practices have a significant impact on audit quality. As a result, users of Form 2 may draw inappropriate conclusions. The economic analysis suggests, based on a *Journal of Accountancy* article, that "private equity investment in a firm could have implications for the firm's independence, the approach the firm takes for making decisions, or the allocation of resources to the firm's provision of audit services."[19] However, a firm applying QC 1000 would likely consider whether its structure (including any external investors) impacts its assessment of quality risks and accordingly design appropriate responses – and may communicate more holistically in its quality/ transparency report about the firm's strategy and key judgments made about its audit practice that may affect audit quality.

[19] PCAOB Release 2024-003, page 59.

The proposal also raises questions of (1) what is needed by the PCAOB, (2) when, and (3) for what purpose (including how the PCAOB might be expected to respond upon attaining this information). Any potential benefits of the PCAOB being able to standardize its collection of such information on a fixed timeline using its existing web-based forms, including to facilitate academic research, need to be weighed against the cost of that collection (including from the perspective of potentially diverting significant firm resources away from audit quality) and whether it is appropriate to impose those costs on over 1500 registered accounting firms, as well as whether such information needs to be made public.

Through its inspection process, the PCAOB today can and does request and receive some information contemplated by the proposal, including information on the firm's legal structure, organization, and governance.[20] The Board's proposal acknowledges that it "routinely collects supplemental audit firm information through the inspection process"[21] and receives additional information in response to periodic requests through its inspection function. Firms provide this information under the appropriate confidentiality protections afforded by SOX 105(b)(5)(A), which the PCAOB acknowledges would not apply to aspects of its proposal.[22]

While we understand the PCAOB often does not make data collection requests to triennially inspected audit firms each year in the same manner as annually inspected firms, it could opt to increase the frequency or extent of these requests to address the matters covered in the proposal that are consistent with its mandate (to the extent permitted by a firm's local laws and regulations). The PCAOB could also consider further standardizing the manner in which such requests are collected to support the Board's inspection program (e.g., via enhanced web-based structured data collection or other technology). Rather than using a static format in Form 2 on a fixed date as proposed or request sensitive, proprietary event-driven information on Form 3, an expanded data collection request program embedded within the Board's inspection program would allow the PCAOB to tailor its requests and focus on what is most relevant to the firm that it is planning to inspect, including following up when additional information is needed.

The proposal undermines the confidentiality framework in SOX, raising concerns that the information will be used in inappropriate ways that increase costs without any meaningful benefit to audit quality.

We are concerned that the proposal relies too heavily on a mission to "protect investors" without sufficient reason to conclude investors will be materially benefited. In addition, by requiring expansive public reporting, the proposal does not give sufficient weight to the way Congress envisioned investors would be protected, which is through the PCAOB's inspection process, a process that Congress carefully structured with appropriate confidentiality safeguards to encourage robust exchanges of information and perspectives between the firms and the PCAOB. Through SOX, Congress created the PCAOB to establish a supervisory, non-adversarial regulatory framework that was carefully structured to encourage robust exchanges of information and perspectives between the Board and the firms, and, as a result, aims to improve the quality and reliability of audits of public companies. The legislative history of SOX demonstrates that Congress recognized that the success of such a framework depends on the confidentiality of the PCAOB's inspection process, which was a recurrent theme in the testimony of

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[20] New Item 1.4 of Form 2 would require public reporting of detailed audit firm governance information and naming of individuals who have significant responsibilities for the system of QC. Certain of these disclosures replicate matters that would be required to be discussed on Form QC, which would not be publicly available.

[21] PCAOB Release 2024-003, page 49.

[22] Even when the proposal indicates that certain information is intended to be confidential under SOX Section 102(e), the ability to maintain such intended confidentiality when information is provided to third parties, including other regulators, is questionable.

witnesses at Congressional hearings investigating the prior system.[23] Accordingly, Congress enacted Section 105(b)(5)(A) of SOX, which provides for statutory protection of PCAOB inspection-related material and ensures that other federal, state, or non-US regulatory authorities that receive information from the Board maintain its confidentiality. The Board's proposal, however, disregards this legislative policy choice and essentially circumvents the PCAOB's well-established inspection process, using current PCAOB forms that are not necessarily suited for purpose and potentially do not provide the same statutory confidentiality protections intended by Congress.

In particular, the proposal would mandate a varied basket of new disclosures, a subset of which are proposed to be deemed "confidential" by the Board on filings under Forms 2 and 3, and others of which would be publicly disclosed on amended Form 2. For example, we are concerned with the emphasis in proposed Item 8.1. on firm reporting to the PCAOB of liquidity and financial resources and other operational-type matters (e.g., material financial arrangements, loan covenants, pension liabilities). As an initial matter, we do not believe the PCAOB should require reporting of these matters, especially communication of "anticipated" events, even confidentially on Form 3. These are matters of great judgment and commercial sensitivity in which context and understanding are important, and standardized reporting could likely result in critical misinterpretations. Submission of relevant financial information in the context of inspections provides for helpful dialogue and context that could aid a greater understanding of the sensitivity of the information requested and its relevance (or lack thereof) to a firm's audit practice. By contrast, the stringently character-restricted written narrative suggested in the proposal could lead to misunderstandings. Moreover, submission in the context of inspections governed by Section 104 would, as noted above, extend the statutory confidentiality protections established under Section 105(b)(5) of SOX to this information.

These considerations regarding the information identified for confidential reporting are particularly critical because the Board asserts in its proposing release that those categories of information would be principally designed to assist the PCAOB in monitoring events "that may bear on a firm's financial condition or solvency."[24] Yet, Congress did not establish the PCAOB to act as a prudential regulator of registered accounting firms, nor were the existing confidentiality provisions of SOX crafted with that form of oversight in mind. Thus, at a minimum, if the Board proceeds with these confidential elements of firm reporting – all of which would sit at the outer bounds of its regulatory authority – it is imperative that the Board accord the most stringent confidentiality protections that are currently authorized under the Act to any information it seeks to collect.

We acknowledge that, despite our reservations, the Board may determine to require at least some of the data in the proposal to be reported on existing PCAOB forms. In this regard, we observe that the PCAOB noted in the release text that the purpose of Form 3 reporting is principally to alert the Board to the occurrence of events that may, depending upon the situation, have more immediate bearing on how the Board carries out its regulatory responsibilities regarding the firm.[25] Notwithstanding the above, if reporting of certain select matters would *directly assist in facilitating analysis and planning related to the Board's inspection responsibilities* (emphasis added), the Board could explore whether those matters should be provided confidentially as part of Form 3. For example, the focus of any incremental reporting to the PCAOB on material events could be on matters that are reasonably likely to have a significant (or

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[23] See Testimony of Shaun F. O'Malley, former Chairman of the Panel on Audit Effectiveness, in which he testified: "One advantage in having Congress establish a new organization to assume the peer review, investigatory, and disciplinary functions of the profession is that Congress can provide statutory confidentiality protection for the materials, interviews, and findings developed as part of the organization's review and/or disciplinary processes. These processes in the past have been hampered by distrust and by concerns that the materials developed were not protected." See *Accounting Reform and Investor Protection: Hearing on S. 2763 Before the S. Comm. on Banking, Housing, and Urban Affairs*, 107th Cong. 723 (February 2002).

[24] PCAOB Release 2024-003, page 20.

[25] PCAOB Release 2024-003, page 36.

material) impact on the design and effective operation of the firm's system of QC (for example, because of the impact on the firm's quality objectives, risks, or responses). Guidance would be needed to help a firm make such a judgment, but this may include, for example, external investment or changes to the provisions of audit services. Based on the filing of the Form 3, the PCAOB could then follow up with the firm as part of the inspection process to obtain additional information relevant to the inspection of the firm's system of QC. We note, however, that meaningful engagement with all stakeholders, rather than relying on the Board's time-limited comment letter process, would be beneficial to its understanding of how certain information such as this could be useful if provided with dialogue, context, and robust confidentiality protections.

The approach to assertions of conflicts with US law should apply equally for any new reporting on Form 2.

Non-US firms in certain jurisdictions will be unable to provide certain information as contemplated by this proposal as a result of compliance with local laws regarding data privacy and professional confidentiality, raising issues contemplated by Rule 2207. The Board's proposal fails to meaningfully consider this possibility, as its conclusory assertion that it "do[es] not foresee a realistic possibility that any law would prohibit a firm from providing the information"[26] falls well short of justifying the attempt to require non-US firms to violate local laws. Indeed, the proposed expansion of mandatory disclosures directly increases the likelihood that a firm may be legally barred from providing the relevant information. Any determination of whether a conflict of law exists and prohibits disclosure must be made at the local level and requires a reasoned, jurisdiction-by-jurisdiction legal analysis. The Board appears not to have made any attempt in that regard, and the lack of engagement with a broad set of stakeholders has resulted in the Board developing a proposal that creates unnecessary risk of legal conflicts. We strongly urge the Board to maintain the well-established rulemaking history that recognizes and respects non-US firms' distinct legal obligations and preserves the right for firms to assert a conflict of law. Similar to the views expressed herein on confidentiality, there is a long rulemaking history that should not be undermined by this proposal, as the reasons for the approach taken when finalizing rules addressing Forms 2 and 3 remain valid.

The economic analysis does not sufficiently or persuasively articulate the benefits of the proposal, nor provide any evidence that there are information gaps in light of what is already being provided by firms and the PCAOB today in their respective quality/transparency and inspection reports. Although the Board states on its website that "The Board has made it a strategic priority to interact more often and more directly with audit committees," there is no evidence that the Board is substantively engaging with the audit committee community in a meaningful way to understand what information is not being disclosed that would be useful to audit committees in performing their duties.

The Board's economic analysis acknowledges: "[w]hile the proposed disclosures would not necessarily have a direct relationship to audit quality, they *may enhance* audit quality as investors and audit committees iteratively select and monitor firms and advance their understanding of the information content of the proposed disclosures through communication with firms and evaluation of firm characteristics."[27] This is not a meaningful benefit. Shareholder voting on a proposal to ratify the appointment of the audit firm is not required under US laws, and, in many cases, the ratification vote is non-binding.[28]

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[26] PCAOB Release 2024-003, page 22.

[27] PCAOB Release 2024-003, page 68 (emphasis added).

[28] PCAOB Release 2024-003, page 53.

Additionally, the economic analysis relies on various academic studies and feedback from a limited population of investor representatives citing previous ACAP recommendations, including broad and unsubstantiated statements such as that disclosure of the expanded audit reporting as proposed "would aid investor and audit committee decision-making."[29] However, the Board's economic analysis acknowledges that it does not monitor or track specific uses of information already required to be provided by audit firms on Forms 2 and 3.[30]

The proposal does not clarify whether there are information gaps in what is already provided by firms who prepare quality/transparency reports, nor does it discuss ways to expand or enhance what is already done today to meet the expectations of investors about topics addressed in the proposal without imposing undue burdens on firms. For example, comments from investor representatives at the November 2022 Standards and Emerging Issues Advisory Group (SEIAG) meeting suggest that certain investors and investor-related groups calling for additional audit firm reporting were unaware of the qualitative and quantitative information firms are already providing.[31] We and other firms have invested significant efforts and resources to provide transparency, even in the absence of a regulatory requirement to do so. Accordingly, those making recommendations for more or different information should be asked to describe how similar information is being utilized and, with some level of specificity, what it is they would find incrementally useful, and why.

Further outreach and stakeholder engagement is necessary before moving forward. The PCAOB's rulemaking and future multi-stakeholder dialogue should be informed through an in-depth analysis of information that is currently produced in quality/transparency reports; the PCAOB could then seek detailed feedback from investors, audit committees, and registered accounting firms on the content included or omitted from such reports. Creating a new regulatory regime – without considering whether what is in place already could serve as the basis for wider application – is likely to create additional cost and disruption in the ecosystem for little apparent benefit.

It is important, however, to be clear about inherent limitations of what could be reported by firms. Even if firms provided significantly more public information about their operations, such information would not allow investors to be able to accurately assess a firm's capacity, incentives, and constraints, nor is it necessary for investors to do so to make investment decisions. Rather, investors' primary manner in which to understand the firms and potential issues that may compromise a firm's ability to issue informative, accurate, and independent reports is – and should continue to be – through understanding (1) the judgments made by the issuer's audit committee in overseeing the audit and appointing and re-appointing the auditor; (2) the results of the PCAOB's inspection program, including any publication of QC criticisms that the PCAOB has determined have not been sufficiently addressed in a timely manner or through PCAOB publications pursuant to Rule 4010; (3) results of PCAOB and SEC enforcement actions; and (4) communications made by firms in their quality/transparency reports. The inspection process should result in the PCAOB evaluating whether there is information indicative of quality issues at a firm and communicating such findings in inspection reports, which would benefit investors more than what is proposed to be included in Form 2 – limited additional data without sufficient context to understand a firm's approach to audit quality.

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[29] PCAOB Release 2024-003, page 51.

[30] PCAOB Release 2024-003, pages 46-47.

[31] See SEIAG meeting recording, including discussion by CFA Institute representative Sandra Peters during the afternoon session beginning at 25:30.

The following additional matters warrant the Board's further evaluation before finalizing the proposal.

Consolidated financial statements

PCAOB staff can request financial information, including financial statements, for any firm, as part of the inspection process, which affords it the appropriate confidentiality protections. While we appreciate the proposed requirement is meant to be scalable, and a longer effective date has been suggested to enable firms to comply, we do not believe it is appropriate to require firms to file confidential financial statements prepared in accordance with US GAAP with the PCAOB. Additionally, the requirement to reconcile for the first two years negates the benefit of a transition period, as the reconciliation is likely to entail the same time and cost as preparing US GAAP/IFRS financial statements.

The economic analysis underestimates the nature and extent of this process – we believe the cost would be significant with little, if any, incremental benefit. Most importantly, the proposed reporting requirement would require firms to invest time and cost in preparing information in another basis of accounting – one that is not being used to make decisions related to the audit practice or potentially by external lenders (although if the firm does prepare financial statements under US GAAP for any reason, including for its lenders or investees, the PCAOB could request to receive those, too). For example, the proposal may result in the firm needing to maintain two sets of books and records: one for managing and monitoring the business and complying with partnership and lending agreements, and another for compliance with PCAOB reporting requirements.

The proposal would also require financial statements delineated by service lines as defined by the PCAOB (i.e., audit services, other accounting services, tax services, and non-audit services subject to PCAOB oversight). We question the Board's authority to require financial information regarding services outside the Board's jurisdiction. Indeed, in the context of its recent Rule 2400 proposal, the Board has stressed the importance of not overstating its regulatory authority; for example, in that proposal, the Board stated: "Anchored by our statutory mandates, the PCAOB's oversight extends only to work performed in connection with audits of issuers and broker-dealers."[32] Moreover, although the rationale for this requirement is linked to the premise of segment reporting, this often may not be how the firm actually manages its business and would result in unnecessary additional effort and cost for little, if any, incremental benefit.

Finally, we do not believe the Board's goal of comparability will be achieved in light of the different structures of registered accounting firms that are likely to exist. We also do not believe it is appropriate to require firms to reconcile their financial statements to US GAAP as part of the transition. We recommend the PCAOB continue to collect relevant financial information during the inspection process, such that the PCAOB can have one-on-one interaction and engage in a dialogue to understand the facts and circumstances specific to each firm. This dialogue could include consideration of any qualitative descriptions of significant differences the firm may have prepared to illustrate how its financial statements differ from US GAAP. As part of inspections, in particular of the firm's system of QC, the PCAOB could seek to understand how the firm has considered quality risks and responses related to liquidity or financial resources.

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[32] PCAOB Release 2024-001, *Proposals Regarding False or Misleading Statements Concerning PCAOB Registration and Oversight and Constructive Requests to Withdraw from Registration* (the "Rule 2400 proposal"), page 2.

Fees billed to audit clients and other financial information

We understand the desire to disaggregate the disclosure of fees to issuer audit clients between issuers and broker-dealers, as this may provide relevant information about the nature of the firm's activities. In line with existing Form 2 disclosure requirements, we understand the need to provide a basis of comparison for the extent of the issuer audit client practice versus other audit services. However, we do not believe it is appropriate to require the "audit services for others" category to be further disaggregated, as that information is not relevant to the PCAOB's oversight responsibilities and would result in unnecessary costs to compile if firms are not already monitoring information in this way.

We interpret Item 3.2.2-4 as requiring disclosure of these types of fees in the aggregate, rather than those attributed to issuer audit clients. If this is not the Board's intent, we suggest this be clarified.

Discussion of networks in Form 2

We do not support the extent of changes proposed to Part V of Form 2 to require public disclosure of detailed discussion of the legal and ownership structure of the network and network-related financial obligations of the registered accounting firm (e.g., loans and funding arrangements to or from the network member firm) or how audit client information may be shared. These complex matters require confidential treatment and risk being misunderstood by stakeholders who do not have the benefit of two-way dialogue with the firm. These discussions would be better suited between the firm and the PCAOB as part of the inspection process. Network structures are often complex, wherein each firm in the network is a separate legal entity for purposes not limited to compliance with local laws and regulations. Similarly, each firm in a network is generally separate from the "global" or coordinating legal entity. It is not feasible to tailor descriptions of these network matters, such as financial and information sharing-arrangements, to address all potential considerations related to the varying regulatory environments and legal systems of other jurisdictions, significantly increasing the potential for misunderstanding that could have unintended legal and financial implications for firms. Further, the proposal improperly would require firms to disclose confidential, proprietary, and commercially sensitive information regarding their network-related arrangements.

In practice, as noted in QC 1000, "networks may be structured in a variety of ways and could include arrangements between firms for the purpose of sharing knowledge; developing and implementing consistent policies, tools, and methodologies; conducting multi-location engagements; or executing other types of business or service matters. Networks may include both registered and unregistered accounting firms."[33] While such transparency may be viewed as helpful in principle (assuming that it is possible to provide a proper explanation of the legal structure of a network that avoids the types of misunderstandings referenced above), we question whether it is possible to form conclusions about quality as a result of reviewing what is proposed to be included in Form 2. For example:

- The PCAOB states in the proposing release that "[n]etwork arrangements have provided members with benefits that research has found have contributed to higher quality audits."[34] Will a reader of a Form 2 conclude that an engagement or the firm performing it has higher quality simply because the firm is a member of a network?

- On the other hand, will a reader question a firm's commitment to quality if it has not pursued becoming part of a network (e.g., because it does not find it necessary to do so based on the size of its issuer practice or its decision to use audit tools developed by a third party)?

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33 PCAOB Release 2024-005, pages A1-A4, note to paragraph .09 of QC 1000.

34 PCAOB Release 2024-003, page 33.

These examples illustrate unintended consequences that could arise as a result of the PCAOB requiring public reporting without sufficient guidance or context to enable a user of the information to understand how it may affect the firm's approach to audit quality. Consistent with our other recommendations, we believe information on a firm's participation in a network, and the network arrangements that govern that participation, should be (confidentially) collected by the PCAOB as part of its inspection program, rather than statically and publicly collected via Form 2.

Consistent with guidance in the final release on Form AP,[35] the PCAOB should also clarify that by "network" arrangements, the proposal is not referring to subsidiaries of the registrant, other entities controlled by the registered firm issuing the audit report, or other non-accounting firm affiliates (e.g., related entities with the registered firm that provide tax, valuation, or other assistance to the registered firm as part of the audit) whose work on audits would be supervised by and recorded in the working papers of the registered firm.

Description of the firm's independent oversight function, including identification of participating individuals

During the comment period on this proposal, the PCAOB issued its adopting release on QC 1000, which contains a new requirement that registered accounting firms with 100 issuer clients implement an External Quality Control Function (EQCF). We note here our objection to this requirement, which was described for the first time in its final rule and, because it was not in the proposing release for QC 1000, not appropriately exposed for comment. The requirement introduces a new fundamental flaw to QC 1000 related to the required role, which would conflict with SOX by requiring the firm to take certain actions the PCAOB is prevented from taking itself and therefore cannot require a firm to take.[36] Specifically, there is no appropriate way for one or more individuals to perform the EQCF role without disclosure of non-public QC criticism(s) in Part II of the PCAOB's inspection reports and related analysis by the firm of the nature and severity of such matters in reaching any conclusions about the effectiveness of its system of QC. The requirement to adopt an EQCF also places unnecessary costs and burdens on firms without sufficient benefits to justify those costs. Unfortunately, given the lack of opportunity for comment on this far-reaching provision that is inappropriately analogized to the Engagement Quality Reviewer (EQR) for an audit,[37] our objections to this new, unproposed requirement and concerns on due process will need to be raised for the first time in our comment letter to the SEC during its notice and comment period, despite our past and current extensive efforts to be active, timely, and productive in providing our feedback to the PCAOB to support its standard-setting processes.

This EQCF requirement contained in the final QC 1000 proposal bears on the proposal that is the subject of this letter because the firm reporting proposal would require the firm to include on Form 2 a description of the firm's independent oversight function and to identify participating individuals. In any event, like EQRs, there should not be required disclosures of any individuals involved in any new role that is intended to be similar to an EQR, or what the PCAOB describes in its proposal as an EQCF.

Material event reporting on Form 3

As discussed above, we are troubled by the requirement to disclose a wide range of specified "material events," defined as "any event or matter that poses a material risk, or represents a material change, to the

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35 PCAOB Release 2015-008, *Improving the Transparency of Audits: Rules to Require Disclosure of Certain Audit Participants on a New PCAOB Form and Related Amendments to Auditing Standards*, pages 23-24.

36 There are a range of other flaws with the EQCF requirement, but we reserve further comment given our overall concern that the proposed underlying requirement is not supportable as it violates provisions of SOX.

37 PCAOB Release 2024-005, page 121.

firm's organization, operations, liquidity or financial resources, or provision of audit services"[38] (e.g., any event or matter reasonably likely to materially affect firm revenue, certain lending arrangements, changes in unfunded pension liabilities, agreements for spin-offs). The release further explains that the PCAOB "intend[s] 'material' in this context to refer to surrounding circumstances that may affect the audit practice or companies under audit so as to influence the degree of trust or reliance that a reasonable investor would place in the audit report and therefore the financial statements. For example, organizational changes at an audit firm that require a vote of the partnership would likely be material."[39]

These unconventional uses of the term "material" do not align to any current definition of the term in the securities laws, case law, or common commercial agreements. Even more concerning, the proposal suggests that firms should disclose events that are merely "anticipated and may still be developing."[40] The release alludes to the difficulty of judgment required in determining when this requirement would be triggered: "[T]he timeframe for reporting would begin to run after the firm determines that it is substantially likely that the event will occur. In some instances, it may not be possible to reach such a level of certainty regarding planned events until the firm has definitively entered into an agreement regarding the event. We note that, where, for example, the firm has begun to prepare public relations plans, such as a press release, that is suggestive that the firm has determined there is a substantial likelihood that the event will occur."[41] This ambiguity leaves the firms subject to second-guessing and therefore would likely result in overreporting, with the attendant increased costs and unnecessary exposure of highly proprietary information.

As a result, firms will be burdened with reporting to the PCAOB in a manner more consistent with the construct of a prudential regulator, which the PCAOB is not. It is worth noting that some of the arrangements that would be required to be reported on Form 3, with little to no benefit to audit quality, could relate to highly sensitive matters, including pending litigation and competitively sensitive information (such as financing arrangements and acquisition activity). Without the protection of SOX Section 105 confidentiality, private litigants will be tempted to serve discovery requests on the PCAOB, and firms will face additional litigation costs related to those requests. In addition, competitors may seek to garner an advantage through competitively sensitive disclosures.

The acceleration of the Form 3 filing date

We do not support the acceleration of the Form 3 filing date nor the requirement that certain events be reported more promptly than 14 days "as warranted." The Board had previously concluded not to establish a 14-day requirement when originally developing requirements for Form 3, and there do not appear to be compelling reasons to shorten the timeline now. In fact, we believe the incremental matters that would be required to be reported may warrant additional legal advice before the firm can conclude it has a reporting obligation (e.g., due to the complexity involving the interaction between US and non-US laws).

The economic analysis seems to minimize these potential legal challenges, noting: "The costs associated with the accelerated filing deadlines are likely to be greater for firms that, due to operating circumstances, currently take all of the 30-day period to complete and file Form 3. These firms may have to allocate additional resources—such as in-house personnel or capital investment in automated filing processes—to comply with the proposed accelerated deadlines."[42] While this may be the case in certain instances, in others, the 30-day period may be necessary to fully evaluate the circumstances and prepare a complete and accurate Form 3. Finally, in addition to the potential costs described in the release (potential processing changes, expedited review, and revised administrative efforts for filing), there would also be

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[38] PCAOB Release 2024-003, page 35.

[39] PCAOB Release 2024-003, page 38.

[40] PCAOB Release 2024-003, page 20.

[41] PCAOB Release 2024-003, page 38.

[42] PCAOB Release 2024-003, page 79.

costs involved to establish policies and procedures in the firm's system of QC to more frequently monitor such events and determine when a reporting obligation is triggered.

Cybersecurity

We generally do not object to the requirement to report on significant cybersecurity incidents on a confidential basis, but we have concerns about how the PCAOB defines "significant cybersecurity incidents." We note that the proposed requirement in Item 9.1 uses a number of different terms from a variety of different data protection laws in an attempt to describe when a cybersecurity incident may be "significant" and therefore require reporting to the PCAOB. Some of these terms are not well-defined or are defined using terms that would independently benefit from further definitions, such as the term "critical operations." We recommend the Board clarify the requirement and the terms therein to focus on those incidents that qualify as "significant."

And while we understand the need for the firm to consider whether any unauthorized access has resulted in, or is reasonably likely to result in, substantial harm, we are concerned about the implications of having to evaluate substantial harm to third parties, including investors. This incident reporting requirement is the first of its kind, where compromised entities are required to assess the potential for harm from the perspective of a third-party organization, such as its clients or investors, instead of from the perspective of an individual (i.e., a data subject whose personal data is compromised). Harm is a subjective measurement that is personalized due to the entity victimized by an event. This requirement may create practical challenges due to the indirect nature of the relationship between the firm and investors and the lack of information the firm may have related to other factors potentially impacting a company's determination of harm. As part of our terms of engagement with clients, we may have obligations to notify them of incidents involving their data, which may then trigger reporting requirements for the company to the SEC. We believe the concept of "harm" should be considered by the company, not the firm, in those circumstances. For this reason, language requiring the assessment of "substantial harm" to third parties should not be included in any reporting required by a final standard.

Finally, we are concerned that the requirement to disclose any cybersecurity incident that has led to unauthorized access to information systems of the firm could be interpreted as applying to information systems and information that are not used by the firm's audit practice. We do not believe this appropriate, as the PCAOB's oversight does not extend to other practice areas, and we suggest this be clarified.

We appreciate that the filing deadline for significant cybersecurity incidents is based on the day the firm determines that the cybersecurity event is significant, not the date on which the firm becomes aware of such incident. Nevertheless, we are concerned that a five-day reporting period may not be sufficient to prepare the required reporting, for example if involvement of legal counsel is necessary. It may be preferable for the reporting on Form 3 to simply focus on notifying the PCAOB that there has been a significant cybersecurity event, and for the follow-up discussion between the Board and the firm on the nature of the incident to occur as part of the inspection process subject to the SOX Section 105 confidentiality provisions (similar to our feedback on the other matters proposed to be reported on Form 3).

Effective date

The proposed implementation periods for changes to both annual and special reporting are insufficient, even if we were able be supportive of the proposal, since there would be need to develop and implement the necessary tools and systems to facilitate such reporting. In light of our extensive concerns and the limited comment period, we respectfully request the Board to reconsider the proposal. Extending the implementation period would not address our fundamental concerns.