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

Re: PCAOB Rulemaking Docket Matter No. 029: Supplemental Request for Comment: Rules to Require Disclosure of Certain Audit Participants on a New PCAOB Form

Dear Office of the Secretary:

The Center for Audit Quality (CAQ) is an autonomous public policy organization dedicated to enhancing investor confidence and public trust in the global capital markets. The CAQ fosters high quality performance by public company auditors, convenes and collaborates with other stakeholders to advance the discussion of critical issues requiring action and intervention, and advocates policies and standards that promote public company auditors' objectivity, effectiveness, and responsiveness to dynamic market conditions. Based in Washington, D.C., the CAQ is affiliated with the American Institute of Certified Public Accountants.

The CAQ welcomes the opportunity to comment on the Public Company Accounting Oversight Board's (PCAOB or the Board) *Supplemental Request for Comment: Rules to Require Disclosure of Certain Audit Participants on a New PCAOB Form* (the Supplemental Request). This letter represents the observations of the CAQ, but not necessarily the views of any specific firm, individual, or CAQ Governing Board member.

Similar to views previously expressed on this topic,¹ the CAQ supports the PCAOB's efforts to be responsive to calls from financial statement users for increased transparency around the audit. We also commend the Board for its responsiveness to concerns raised and recommendations made by a variety of stakeholders regarding identifying the engagement partner in the auditor's report by proposing disclosure of this information in the newly created Form AP, *Auditor Reporting of Certain Audit Participants* (Form AP). We believe providing the engagement partner name through Form AP would avoid many of the practical challenges and significant legal impediments that would arise from providing this information in the auditor's report.²

¹ See the CAQ's comment letters to the PCAOB dated September 11, 2009, January 9, 2012, and February 3, 2014.

² Ibid.

The CAQ also supports providing information about certain other audit participants to financial statement users to assist in enhancing their understanding of the auditor's role and responsibilities. For many of the same reasons noted above relating to identifying the engagement partner on Form AP, we believe providing information about certain other audit participants through Form AP would also be more appropriate than providing this information in the auditor's report. We continue to believe, however, that there would be benefits if the PCAOB provided additional clarity and implementation guidance on disclosures related to these audit participants, particularly as it relates to the ability to use estimates when determining each firm's level of participation. We also believe adjusting the filing deadline and having additional time to implement those disclosure requirements would allow audit firms to address many of these challenges. We discuss these items further in Appendix I, including other alternatives the Board could consider.

We set forth our observations regarding identifying the engagement partner and certain other participants in the audit within Form AP in this letter, and have organized them as follows:

- Transparency and Accessibility of Information
- Voluntary Disclosure in the Auditor's Report
- Scope of the Proposal
- Other Considerations

Please refer to Appendix I for additional discussion on liability considerations with respect to Form AP and other matters, specifically related to the Board's questions on disclosure of certain other firm participants, costs of Form AP disclosure relative to disclosure in the auditor's report, the Form AP filing deadline, and feasibility of the proposed effective date.

Transparency and Accessibility of Information

The CAQ supports the identification of the engagement partner and certain other audit participants in Form AP, as compared to the auditor's report, as we believe Form AP would avoid the potential challenges in obtaining consents from the engagement partner and certain other participants in the audits. We also believe that identification of this information in Form AP would facilitate effective and efficient access of this information by investors and other stakeholders.

It appears that Form AP would be an accessible, searchable form of information for investors and other stakeholders in that the identification of the engagement partner and certain other audit participants would be centralized in one location for all issuer audits. In making investment decisions, investors and other stakeholders may already look to multiple sources of information, including PCAOB information about registered firms (e.g., inspection reports) and issuer filings with the Securities and Exchange Commission (SEC); providing the information addressed in the Supplemental Request for all issuer audits in a centralized location on the PCAOB's website would facilitate easier access to that information by investors and other stakeholders who may consider it relevant to their decision making. Form AP would also provide a consistent data format that would appear to allow for the development of searchable functionalities (e.g., search by engagement partner to find the audits of companies that he or she is leading or has led as well as by company to find the engagement partner and/or other audit participants involved in the audit).

Further, Form AP affords the additional benefit to audit firms of being able to provide this information after the filing of the auditor's report, whereas being required to include such information in the auditor's report would have diverted the auditor's attention at a critical point of the audit (e.g., the completion phase) to accumulate information from other participants and make any necessary estimates. However, we believe modifying the Form AP filing deadline by either extending the deadline for filing Form AP to 60 days to incorporate the 45-day time period required to finalize audit documentation or by allowing Form AP to be filed periodically covering multiple audits in a single form would provide audit firms with more time to gather the

necessary information, while still meeting the needs of investors and other stakeholders. Please refer to Appendix I for additional discussion and possible alternatives with respect to the proposed 30-day filing deadline.

Voluntary Disclosure in the Auditor's Report

With respect to the Board's consideration of allowing an audit firm to voluntarily identify the engagement partner and provide information about certain other audit participants in the auditor's report, we continue to have concerns that disclosing this information in the auditor's report, whether required or voluntary, could result in increased risk of liability under Section 11 of the Securities Act of 1933.³ In addition, the practical challenges that would result from the obligation to obtain consents related to securities filings, as referenced in our past comment letters, would present risks of delays in capital raising activities of issuers. We believe, given the increased litigation risk and practical challenges, it would be exceptionally rare that audit firms would voluntarily disclose this information in the auditor's report.

As the Board considers the most appropriate means of disclosing this information to investors and other stakeholders who may find it meaningful, we encourage the Board to also consider the SEC's recently issued Concept Release No. 33-9862, *Possible Revisions to Audit Committee Disclosures* (Concept Release). The SEC's Concept Release explores, among other potential disclosures regarding the audit committee's oversight of the external auditor, the potential disclosure of the name of the engagement partner and information about other audit participants by audit committees in the proxy or in other alternative locations. Given the audit committee's critical role in hiring, compensating, and overseeing the external auditor, disclosure by the audit committee as contemplated in the Concept Release should also be considered.

Scope of the Proposal

Emerging Growth Companies (EGC)

Similar to views expressed in our previous letter,⁴ we believe the requirement to disclose the engagement partner and additional information about certain other audit participants should apply to audits of EGCs. EGCs exhibit characteristics similar to other issuers (e.g., investors are directly investing in the EGC itself), and investors and other stakeholders would benefit from similar reporting requirements.

Brokers and Dealers

We continue to believe non-issuer brokers and dealers should be excluded from the requirement to disclose the engagement partner and additional information about other audit participants, consistent with views expressed in our last comment letter.⁵ Due to the closely held ownership structure of non-issuer brokers and dealers and the fact that investors are not directly investing in the brokers and dealers themselves (i.e., an investor is not purchasing equity in the brokers and dealers), we do not believe that disclosure of information about the engagement partner and other audit participants would provide financial statement users of non-issuer brokers and dealers with additional relevant information.

³ Additionally, we note that liability could also attach to the engagement partner and/or other firm participants named in the auditor's report under Section 10(b) of the Securities Exchange Act of 1934 and Rule 10b-5 as a "maker" of the statements as construed by the recent Supreme Court decision in *Janus*.

⁴ See the CAQ's comment letter to the PCAOB dated February 3, 2014.

⁵ *Ibid*.

Other Considerations

Single Form AP Covering Multiple Audits

We believe the Board should allow audit firms flexibility in filing Form AP, in particular allowing information from multiple audits to be addressed within the same Form AP. As some firms may have to file hundreds of these forms within a short period of time, particularly for calendar year-end issuers, it would ease the administrative burden on both the audit firms filing the forms and likely the PCAOB staff reviewing them if this information could be consolidated on fewer forms. One approach may be to allow firms the flexibility of consolidating all of the information from audits with auditor's report dates falling within a specific date range (e.g., issued within the month of February) on a single Form AP, with a specific due date for those audits falling within the range (e.g., 60 days after month end of the issuance of the auditor's report). We explore this approach in more detail in Appendix I, "*Form AP Filing Deadline*." The ability to incorporate information from multiple audits on a single Form AP would also be consistent with Form 3 reporting, which allows multiple events to be filed on one form.⁶

Filing of Form AP When Auditor's Report is Reissued

We also believe the Board should consider clarifying requirements with respect to the filing of Form AP when an auditor's report is reissued. It is unclear from the Supplemental Request as to whether a new Form AP would be required for all auditor's report reissuances or just when the auditor's report is dual-dated. In the Supplemental Request, the Board states, "Since the obligation to file Form AP would be tied to the issuance of the auditor's report, if the auditor's report is reissued and dual-dated, a new Form AP would be required even when no other information on the form changed."⁷ However, the discussion of the proposed effective date in the Supplemental Request mentions reissuance but does *not* discuss dual-dating.⁸ Reissuances of auditor's reports that would not result in any corresponding changes to Form AP would occur often (e.g., due to filing of multiple registration statements or amendments),⁹ and it is not clear whether a new Form AP would be required or provide incremental information in each of these instances.

We understand that filing of Form AP is proposed to be tied to the auditor's report but we do not believe it is necessary to file Form AP in these circumstances unless there is a change in the information provided in Form AP. Therefore, we suggest the Board clearly state that re-filing of Form AP should only be required when the date of the auditor's report has been updated *and* there has been a change in other information provided in Form AP (e.g., when the engagement partner has changed, when a change in the audit has occurred resulting in additional audit hours incurred such that the level of participation of other firms has changed to an extent to warrant movement to another range, such as moving from the 10-20% range in participation to 20-30%, or to require separate identification of a firm not previously required to be disclosed). We believe this approach would alleviate the administrative burden of filing Form AP multiple times when the relevant information it contains has not changed from the prior filing. Furthermore, users of this information would not need to continually compare subsequent Form AP filings for auditor's report reissuances to determine whether the information has changed.

The CAQ acknowledges the Board's responsiveness to concerns raised and recommendations made by commenters about identifying the engagement partner and providing information about certain other audit participants in the auditor's report by proposing to disclose this information in Form AP. We believe providing this information in Form AP is a better alternative to the auditor's report as it would avoid many of the practical

⁶ See PCAOB Staff Questions and Answers, *Special Reporting on Form 3*, Question 17.

⁷ See pg. 9 of the Supplemental Request.

⁸ See pg. 16 of the Supplemental Request.

⁹ See AU 560.08, which notes that financial statements are reissued when included in reports filed with the SEC.

challenges and significant legal impediments that would result from providing this information in the auditor's report. Disclosure in Form AP could also facilitate effective and efficient access to this information by investors and other stakeholders, by centralizing the information in one dedicated location that would allow for it to be searchable.

Should the Board require the identification of the engagement partner and providing other audit participant information in Form AP, the profession would benefit from additional clarification and implementation guidance, particularly with respect to disclosure of other audit firm participants and matters related to disclosing their level of participation. Specifically, as discussed further in Appendix I, we believe this guidance should recognize the challenges in determining the relevant audit hours and allow audit firms flexibility in determining reasonable estimates of audit hours for reporting purposes, due to both the complexity of accounting for audit hours in multi-purpose testing and additional audit hours that may be incurred after the proposed Form AP filing deadline. We also believe adjusting the filing deadline and having additional time to implement those disclosure requirements would better allow audit firms to address these implementation challenges, as further discussed in Appendix I.

The CAQ appreciates the opportunity to comment on the Supplemental Request and would be pleased to discuss our comments or answer any questions that the PCAOB staff or the Board may have regarding the views expressed in this letter.

Sincerely,



Cynthia M. Fornelli
Executive Director
Center for Audit Quality

cc:

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Appendix I – Liability Considerations and Other Matters

Note: This appendix presents the CAQ’s views regarding the Board’s questions on liability considerations, disclosure of certain other firm participants, costs of Form AP disclosure relative to disclosure in the auditor’s report, the Form AP filing deadline, and feasibility of the proposed effective date.

Liability Considerations with Form AP

Question 3: Would disclosure on Form AP mitigate commenters’ concerns about liability? Are there potential unintended consequences, including liability related consequences under federal or state law, of the Form AP approach? If so, what are the consequences? How might the Board address them?

Disclosing the name of the engagement partner and other firm participants on Form AP rather than in the auditor’s report should avoid the risk that those persons would be liable for the contents of the auditor’s report under Section 11 of the Securities Act of 1933.

Currently, plaintiffs have the ability to identify the engagement partner through various means (e.g., in discovery during litigation or through an annual shareholders meeting) should they desire that information. Because of evolving case law there remains a potential for increased liability under the general anti-fraud provisions, particularly Section 10(b) of the Securities Exchange Act of 1934 and Rule 10b-5, for the engagement partner and other firm participants disclosed in Form AP. It is unclear whether this liability risk will significantly increase with Form AP.

Additional Clarity and Enhancements Suggested to the Disclosure of Certain Other Participants

Determination of Firm Participation

We appreciate the Board’s proposed use of a range approach for disclosing the level of participation by other audit firms, which reduces some of the administrative burden that precise calculations of audit hours would impose on reporting each audit participant and related participation rates.

However, as previously mentioned, we continue to believe there are implementation challenges associated with the use of audit hours as a metric, including accounting for audit hours incurred by other participants who perform multi-purpose testing (e.g., statutory audits of subsidiaries performed abroad where the same work is also utilized for the consolidated issuer audit. See further discussion of this point below.)¹⁰ In addition, the disclosure of participation using audit hours by country, for example, could result in disclosure of information about the issuer’s operations that are otherwise not required to be disclosed by the issuer, such as through the SEC’s requirements for segment reporting. Should the PCAOB move forward with using audit hours to determine the level of firm participation, we believe the profession would benefit from implementation guidance that specifically recognizes the challenges in determining the relevant audit hours and allows audit firms flexibility to make a reasonable estimate of those hours.

Accumulating and reporting time spent by other audit participants is complex, and precise information may not always be readily available for reporting on the proposed Form AP. For instance, regulations in many jurisdictions outside of the United States require statutory audits of local subsidiaries, with some requiring an audit of each separate legal entity within that local jurisdiction. As a result, there could be multiple statutory entities that comprise an accounting unit that is in the scope of the issuer’s consolidated audit. The component materiality for purposes of the issuer’s consolidated audit may be different than the materiality used for the statutory audit. In completing the required procedures for the issuer’s consolidated audit, the component team

¹⁰ See the CAQ’s comment letter to the PCAOB dated February 3, 2014.

may use information from audit procedures performed for the statutory entities so as not to duplicate effort for both objectives. In most cases, time incurred by the component team is accumulated only for the audit of statutory entities. Accordingly, there may be limited information readily available regarding the exact amount of time incurred for purposes of the issuer's consolidated audit. Accumulating this information for reporting purposes could therefore require estimates and judgments.

Further, the calculation of firm participation could result in a percentage that approaches the upper bound of a range and the lower bound of the next range (e.g., 19% or 21%). In those instances, the firm's methodology for estimating audit hours would become relevant in determining the range category in which a participating firm should be captured. In an effort to provide timely and accurate information, consistent with the Board's intended objectives, the profession would benefit from the Board's direction on whether estimation of those audit hours is acceptable, and to what extent the Board would be comfortable in allowing firms flexibility in making a reasonable estimate.

Disclosure of Nonaccounting Firm Participants

Question 7: This supplemental request for comment contemplates not requiring disclosure of nonaccounting firm participants in the audit as previously proposed. Is it an appropriate approach to not require disclosure of nonaccounting firm audit participants? If not, should the Board adopt the requirements as proposed in the 2013 Release or the narrower, more tailored approach described in Section V of this supplemental request, which would not require disclosure of information about nonaccounting firm participants controlled by or under common control with the accounting firm issuing the auditor's report, with control as defined in Section V?

We believe it is an appropriate approach to not require disclosure of nonaccounting firm participants as we do not believe this disclosure would be meaningful and could be subject to misinterpretation. Under the 2013 Re-proposal, the extent of participation for these nonaccounting firms would have been aggregated into the category "persons in [country] not employed by our firm."¹¹ However, many of these nonaccounting firm participants would still be subject to direct supervision by the engagement team and/or subject to the quality control systems of the audit firm, and this disclosure may give the mistaken impression that this is not the case.

The more tailored disclosure approach proposed by the Board, which would not require disclosure of information about nonaccounting firm participants controlled by or under common control with the accounting firm issuing the auditor's report, could result in inconsistent disclosures of relative participation. The structure of the accounting firms, which varies across firms, would drive inclusion or exclusion of these nonaccounting firm participants in the disclosure. We believe instead that the focus should be on how these nonaccounting firm participants function and are supervised by audit engagement teams, which generally does not vary across firms. As a result, we believe a better and more consistent approach would be not requiring disclosure of any of the nonaccounting firm participants.

Costs of Form AP Disclosure Relative to Disclosure in the Auditor's Report

Question 2: What are the costs of Form AP compared to the costs of disclosure in the auditor's report?

The CAQ believes there will be initial implementation costs for audit firms to develop systems and processes to compile and report information about the engagement partner and certain other firm participants in Form AP. Such initial costs would include developing processes to gather the information, particularly information related to other firm participants, followed by ongoing costs associated with maintenance efforts. However, these costs, in our opinion, would be significantly less than the overall cost of including this information in the auditor's

¹¹ See pg. 10 of the Supplemental Request.

report, which would require obtaining consents for auditor's report disclosure as well as indirect costs with respect to potential Section 11 liability. The costs associated with implementation, especially with respect to developing systems and related processes around determining the level of participation from other firms, would likely be highest in the initial year and decrease over time once the developed systems and related processes are refined and only need to be maintained. Furthermore, the potential search capabilities and centralized location of Form AP provide incremental benefits that could outweigh some of the related costs of Form AP.

Form AP Filing Deadline

Question 6: Is 30 calendar days after the filing of the auditor's report (and 10 calendar days in the case of an IPO) an appropriate amount of time for firms to file Forms AP? Should the deadline be shorter or longer? Why? Are there circumstances that might necessitate a different filing deadline? For example, should there be a longer deadline (e.g., 60 days) in the first year of implementation?

We believe the Board should consider modifying the Form AP filing deadline by extending the deadline for filing Form AP beyond the 30-day period proposed and/or allowing Form AP to be filed periodically covering multiple audits. Extending the deadline would allow more time for determining relative participation of other participating firms, while periodic reporting would allow multiple audits to be addressed on a single Form AP. As mentioned previously in the section entitled "Other Considerations" in the body of this letter, we believe filing individual Form APs for each audit would create an administrative burden that could be lessened by allowing multiple reports to be included in a single Form AP. We recommend that the Board evaluate these suggested approaches, explained further below:

1. *Extending Form AP's filing deadline to 60 days* – This would allow additional time after the 45 days required to finalize audit documentation as per Auditing Standard No. 3, *Audit Documentation*, to incorporate those audit hours into the total calculated audit hours. It would also minimize the need for estimates of audit hours in determining relative participation of certain participating firms.
2. *Filing Form AP periodically* – The filing deadline would be determined based on a set number of days (e.g., 60 days after month end of the issuance of the auditor's report). This would allow multiple audits to be filed on a single Form AP, as discussed previously in the section "Other Considerations" in the body of this letter, and would alleviate the administrative burden of filing multiple forms by consolidating this information.
3. *Combination of the preceding approaches* – The determination of whether the Form AP deadline would be extended or Form AP would be filed periodically could be dependent on the number of issuers that the firm audits. As an example, if the number of issuers a firm audits is above a certain threshold (e.g., 100 or 200 issuers), then the audit firm could benefit from periodic filing of Form AP by reducing the administrative burden of filing multiple forms. Under this approach, audit firms that audit less than an established threshold of issuers, would benefit from an extended filing deadline for each audit's Form AP filing (e.g., 60 days after the date of the auditor's report).

Feasibility of Proposed Effective Date

Question 12: Assuming the Board adopts a rule during 2015, would it be feasible to make the requirement, either in the auditor's report or on Form AP, effective for auditors' reports issued or reissued on or after June 30, 2016, or three months after the SEC approves the requirements, whichever is later? How much time following SEC approval would firms need to implement the requirement either in the auditor's report or on Form AP?

Assuming the Board moves forward with requiring the identification of the engagement partner and providing certain other audit participant information in Form AP, we believe it would be difficult for audit firms to implement this requirement for auditors' reports issued or reissued on or after June 30, 2016 (or three months

after SEC approval). As discussed under “Other Considerations” in the body of the letter, audit firms may need clarification from the PCAOB on issues such as the ability to file multiple auditor’s reports on one Form AP and filing Form APs in reissuance circumstances. Also, audit firms will likely need additional time to develop internal systems, processes and quality controls to validate the information, particularly the information on other audit participants and their extent of participation, and determine that it is provided accurately and within the required timeframe.

To allow time for the PCAOB to address the implementation issues raised in this letter, we recommend that the Board either: (1) provide a phased-in adoption approach, in which the engagement partner disclosure in Form AP would be effective for audit reports issued on or after June 30, 2016 (or three months after SEC approval), while the more time-intensive disclosure of other audit participants, including their level of participation, would be effective in the following year or (2) allow adoption one year after the PCAOB finalizes the standard. These suggested changes to the effective date would allow audit firms (and the PCAOB) the necessary time to work through any implementation challenges, including those previously identified in the sections entitled “Other Considerations” in the body of this letter and “*Additional Clarity and Enhancements Suggested to the Disclosure of Certain Other Participants*” and “*Form AP Filing Deadline*” in this Appendix I.