



March 12, 2014

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

Re: PCAOB Release (No. 2013-009) on *Improving the Transparency of Audits: Proposed Amendments to PCAOB Auditing Standards to Provide Disclosure in the Auditor's Report of Certain Participants in the Audit* (PCAOB Rulemaking Docket Matter No. 029)

Ladies and Gentlemen:

The Society of Corporate Secretaries and Governance Professionals appreciates the opportunity to provide comments on the Public Company Accounting Oversight Board's ("PCAOB" or "Board") repropoed auditing standards, *Improving the Transparency of Audits: Proposed Amendments to PCAOB Auditing Standards to Provide Disclosure in the Auditor's Report of Certain Participants in the Audit* (the "Reproposal"), issued on December 4, 2013.

Founded in 1946, the Society is a professional membership association of more than 3,200 corporate and assistant secretaries, in-house counsel, outside counsel and other governance professionals who serve approximately 1,600 entities, including 1,200 public companies of almost every size and industry. Society members are responsible for supporting the work of corporate boards of directors and the executive managements of their companies on corporate governance and disclosure matters.

General Comment

The Reproposal seeks to require audit firms to disclose in their auditor's reports : (1) the name of the engagement partner on the most recent audit and (2) the names, locations, and extent of participation of other participants in the audit ("Audit Participants"). The Board states such disclosure "would add to the mix of information that investors and other financial statement users have about public companies, which they would find useful."¹

The Society appreciates the PCAOB's efforts to improve the transparency of public company audits in its mission to "further the public interest in the preparation of 'informative, accurate, and independent audit reports.'"² However, with respect to the Reproposal, the Society believes that the information sought is of little use to investors, particularly when the costs to companies are considered. The Society concurs with many other commenters on the Reproposal that the PCAOB should more closely examine the significant practical issues and potential for unintended adverse consequences associated with the proposed disclosure. If, after consideration of the comment letters and further examination of the issues raised in those letters, the PCAOB nevertheless determines to propose to

¹ Id. at page 3.

² PCAOB Release No. 2013-009, page 2.

require the publication of such information, the Society requests that the PCAOB fully consider alternative means for the publication of this information, including -- as many commenters have suggested -- by establishing a new PCAOB reporting mechanism for such information, either in existing PCAOB Form 2 or more frequent PCAOB reporting forms designed specifically for this purpose.

The Society concurs in large part with the views expressed in numerous letters submitted to the PCAOB regarding the Reproposal by organizations that represent the interests of public companies and public company boards of directors, audit committees, auditing firms and investors. Rather than restate at length the viewpoints discussed in those and numerous other letters making similar comments, this letter outlines the overarching points of concern that the Society has with the Reproposal, as well as alternatives that we believe can mitigate some of those concerns.

The PCAOB Has Not Demonstrated the Utility of the Information Sought Under the Reproposal

In response to the PCAOB's request for comment on the usefulness of the proposed information, the Society believes that the information sought under the Reproposal will have little usefulness for investors generally. In fact, as explained in more detail below, the Society is concerned that the proposed information would likely mislead or confuse investors about the engagement partner's role in the audit process and, therefore, about the audit process itself. The Society recognizes that certain other regulatory bodies, as well as certain investors generally not identified in the PCAOB's Reproposal, have suggested that the information might be helpful. But we believe that the PCAOB should not base its Reproposal on opaque opinions regarding investor interest in the information. We note the PCAOB's assertions that it has gathered such evidence, such as that "[f]rom its Investor Advisory Group ("IAG") and Standing Advisory Group ("SAG"), as well as from meetings with investors and other financial statement users, . . . that many people, particularly investors, want more information about the independent audit, such as information about those who conduct it." The Reproposal does not, however, disclose the identity of the investors and other financial statements users or explain the number or nature of the "many people, particularly investors" who want the proposed information. The Society believes that the PCAOB should inform the public about the number and nature of these commenters so that the sources that help to form the basis of the Reproposal are known.³

This is particularly true in light of the view expressed by many commenters, which the Society shares, that any benefit resulting from publication of the information would be significantly outweighed by the associated burdens and costs to provide the information. This is particularly so when one considers the potential effect that companies with financial, regulatory, legal or other issues would have in terms of fewer engagement partner candidates and, as a result of this competitive disadvantage, be subject to higher audit fees. These and other issues are addressed more fully below.

The PCAOB Minimizes Implications for Increased Securities Act Liability

³ In this regard, the Society notes the December 4, 2013 statement of PCAOB Board Member Jeanette M. Franzel that: "The key questions surrounding this proposal are whether and how additional transparency about the identities of engagement partners and other participants in audits would solve a particular need or problem, serve appropriate policy objectives, achieve certain benefits, and impose compliance or other costs. Frankly, it is surprising that we are at this point in the standard-setting process with such basic questions still unanswered."

The Society is concerned that the PCAOB has unduly minimized the significant implications associated with its assumption that engagement partners and Audit Participants would be subject to liability under Securities Act Section 11 and could be subject to increased liability under Exchange Act Section 10(b) and Rule 10b-5 as a result of needing to consent to the inclusion of their name in the auditor's report.

The Society believes that the PCAOB's mission is too significant to base proposed standards or requirements on assumptions and beliefs.⁴ The Society strongly encourages the PCAOB to carefully explore and consider the unintended consequences and costs to multiple parties that would likely result from the application of liability under Securities Act Section 11 or Exchange Act Section 10(b) and Rule 10b-1 to engagement partners and Audit Participants, and the likely impact on audit costs to registrants, prior to moving forward with the Reproposal.

The PCAOB Should Consider the Increased Costs and Practical Implications of Obtaining Consents For Registration Statements

The Society is concerned that the PCAOB has not fully considered the practical, logistical and timing issues and corresponding increased costs that would result from the requirement that engagement partners and Audit Participants provide their consent to be named in an auditor's report as a result of the Reproposal. These issues and costs, which would be even more significant and complicated when a company is seeking to file a Securities Act registration statement subsequent to the date of a recent auditor's report, include:

- the challenge of obtaining in a timely fashion consents from engagement partners that are unavailable for any reason, including but not limited to resignation or retirement from the audit firm, or because they have rotated off the engagement;
- the challenges of obtaining in a timely fashion consents from numerous non-U.S. Audit Participants in different jurisdictions, each of which may have different procedures and legal requirements associated with giving consent for an SEC filing; and
- the potential that underwriters of a registered offering may require comfort letters from each Audit Participant, which would create additional significant timing and logistical issues and result in increased costs to the public company.

The Society believes that the PCAOB must more fully recognize that the assumed consent requirement has the significant potential of disrupting the timing of securities offerings. Timing delays in any securities offering can result in missed opportunities and significant costs for companies and their security holders. The Society believes that these costs ultimately would be borne by the very investors that the PCAOB seeks to assist under the Reproposal. Accordingly, the Society suggests that the PCAOB

⁴ The Society notes the December 4, 2013 statement of PCAOB Board Member Jay D. Hanson on the Reproposal that: "I do have strong reservations about today's proposal and take exception to a number of generalizations in the release about what the Board believes." As to this and the prior footnote in this letter, the Society is fully aware that in many instances the board or other governing body of a regulatory body seeking to implement regulations or standards will have dissenting members. However, where strong dissent bears directly on the foundation for a proposal, a regulatory body should not act upon it until the cause for such dissent is addressed or mitigated.

directly address these specific issues before moving forward with the Reproposal and, at a minimum, consider alternative vehicles for the publication of the information sought by the Reproposal.

Naming the Engagement Partner Could Confuse Investors By Overemphasizing the Role

The Society concurs with the views expressed by numerous commenters on the Reproposal that naming the engagement partner and Audit Participants as defined in the Reproposal can have the effect of misleading or confusing investors rather than providing them with useful information. As the PCAOB is well aware, the audit of a public company involves extensive work by multiple parties, including those within the audit firm itself, and the public company's management and financial reporting team. The audit itself is also the product of the audit firm's quality control standards. The identity of the engagement partner could have the unintended consequence of significantly overemphasizing the role of that individual in the execution and results of the audit. Similarly, Audit Participants, as the PCAOB is well aware, perform under the direction of the principal audit firm. Requiring the name of an Audit Participant based only on hours worked on the audit could have the unintended consequence of significantly overemphasizing the role of a particular Audit Participant.

Identification Will Chill Audit Firm Partners Willing to be Named and Increase Costs

The Society agrees with concerns that a requirement to identify public company engagement partners will have a chilling effect on the willingness of audit firm partners to serve as engagement partners for public companies facing business, financial, legal, or regulatory challenges that may result in stock price declines and resulting shareholder litigation. This is due to the potential liability noted above as well as concerns about professional and personal reputational risk. If this is the case, such companies would therefore potentially face increased audit costs and fewer audit firm and engagement partner candidates. The Society also believes it is possible that a small group of engagement partners who are willing to be named, and who have not been associated with a company that has restated its financials, will emerge and will seek a premium for being willing to be named.

For all of the reasons stated above, the Society believes that the PCAOB should reconsider the basis for and competitive effects of the Reproposal as well as its assumptions concerning liability, all in light of the comments it receives in the comment process. If the PCAOB nevertheless decides to require publication of the information suggested in the Reproposal, the Society respectfully requests that such information not be included in any filing with the Securities and Exchange Commission.

The PCAOB Should Propose Alternative Methods of Publication of the Information

The Society concurs with numerous other commenters on the Reproposal that, if the identification of engagement partners and Audit Participants is required, the PCAOB should not require the information to be disclosed in any SEC filing.⁵ Rather, the PCAOB itself should provide alternative vehicles for publication of such information, including by:

⁵ In this regard, the Society calls attention to the December 4, 2013 statement of PCAOB Board Member Jay D. Hanson that: "In my view, requiring these disclosures in the audit report — as opposed to on our website in a firm's annual filing on Form 2 or another filing — involves substantial uncertainties and potentially unnecessary risks. I believe that the evidence cited in the release for the potential benefits of the disclosures is weak. And certainly the incremental benefit, if any, from including the disclosure in the audit report rather than in another filing is minimal, at best."

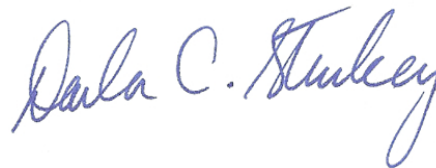
- providing for such information in PCAOB Form 2, which could be amended more frequently than annually in order to provide investors with more timely information; or
- creating a new PCAOB form for such information, which could be designed in an investor-friendly way; and
- allowing the information to be posted on the PCAOB website.

The Threshold for Defining Audit Participants Should be Modified

The Society also requests that the PCAOB re-examine the threshold for defining Audit Participants. The Society believes that the naming of an Audit Participant, if required, should be based on substantive and qualitative factors using principles to be set forth by the PCAOB rather than on simple hours spent that may not appropriately reflect the qualitative contribution of the Audit Participant.

The Society commends the PCAOB for extending the comment period on the Reproposal and appreciates this opportunity to share our views with you. We would be happy to provide you with further information to the extent you would find it helpful.

Respectfully submitted,



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