File No. PCAOB 2011-01
Consists of 95 Pages

SECURITIES AND EXCHANGE COMMISSION

Washington, DC 20549

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Form 19b-4

Proposed Rules

By

Public Company Accounting Oversight Board



In accordance with Rule 19b-4 under the
Securities Exchange Act of 1934

1. Text of the Proposed Rules

(a) Pursuant to the provisions of Section 107(b) of the Sarbanes-Oxley Act of 2002 (the "Act"), the Public Company Accounting Oversight Board (the "Board" or the "PCAOB") is filing with the Securities and Exchange Commission ("SEC" or "Commission") a proposed temporary rule (PCAOB Rule 4020T) to establish an interim inspection program related to audits of brokers and dealers. The proposed rule and related proposed rule amendments to PCAOB Rule 1001 are attached as Exhibit A.

(b) The proposed rule will have a direct effect on existing PCAOB Rule 1001 by amending it to add notes following Rules 1001(a)(v), 1001(a)(vi), and 1001(p)(vi).

(c) PCAOB Rules 1001(a)(v) and 1001(a)(vi) have been addressed in the following PCAOB filings in accordance with Rule 19b-4 under the Securities Exchange Act of 1934:

PCAOB Rules 1001(a)(v) and 1001(a)(vi): PCAOB 2003-03 (May 6, 2003)

PCAOB Rule 1001(p)(vi): PCAOB 2003-08 (October 7, 2003)

2. Procedures of the Board

(a) The Board approved the proposed rule amendments, and authorized them for filing with the SEC, at its open meeting on June 14, 2011. No other action by the Board is necessary for the filing of the proposed rule amendments.

(b) Questions regarding this rule filing may be directed to Michael Stevenson, Deputy General Counsel (202-207-9054; stevensonm@pcaobus.org)

or Jennifer G. Williams, Assistant General Counsel (202-591-4173; williamsjg@pcaobus.org).

3. Board's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rules Change

(a) Purpose

In 2010, the Dodd-Frank Wall Street Reform and Consumer Protection Act amended the Sarbanes-Oxley Act of 2002 to give the Board oversight authority with respect to audits of brokers and dealers that are registered with the Commission. Among other things, Section 104(a)(2)(A) of the Act, as amended, authorized the Board to establish, by rule, a program of inspection for auditors of brokers and dealers. The amended Act leaves to the Board (subject to the approval of the Commission) important questions concerning the elements of an inspection program for auditors of brokers and dealers, including (1) whether to differentiate among classes of brokers and dealers; (2) whether differing inspection schedules would be appropriate with respect to auditors that issue audit reports only for brokers or dealers that do not receive, handle, or hold customer securities or cash or are not members of the Securities Investor Protection Corporation; and (3) whether to exempt any public accounting firm from such an inspection program, and thus, from the requirement to be registered with the Board.

The Board has adopted a temporary rule for an interim inspection program related to audits of brokers and dealers. If approved by the Commission, the temporary rule will allow the Board to begin the work of assessing the degree of

compliance of registered public accounting firms and their associated persons with the Act, the Board's rules, the Commission's rules, and professional standards in connection with the performance of audits, issuance of audit reports, and related matters involving brokers and dealers. The Board also expects that information gathered through the interim inspection program will be useful in making judgments about the scope of a permanent inspection program for auditors of brokers and dealers, including consideration of potential costs and regulatory burdens that would be imposed on different categories of registered public accounting firms and classes of brokers and dealers.

(b) Statutory Basis

The statutory basis for the proposed rules is Title I of the Act.

4. Board's Statement on Burden on Competition

The Board does not believe that the proposed rules will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The proposed rule changes would apply equally to all registered public accounting firms that audit brokers and dealers.

5. Board's Statement on Comments on the Proposed Rules Change Received from Members, Participants or Others

The Board initially released the proposed rules for public comment on December 14, 2010. See Exhibit 2(a)(A). The Board received 12 written comment letters relating to its initial proposed rules. See Exhibits 2(a)(B) and 2(a)(C).

The Board has carefully considered all comments it has received. The Board's responses to the comments it received and the changes made to the rules in response to the comments received are summarized in Exhibit 3 to this filing.

6. Extension of Time Period for Commission Action

The Board does not at this time consent to an extension of the time period specified in Section 19(b)(2) of the Securities Exchange Act of 1934.

7. Basis for Summary Effectiveness Pursuant to Section 19(b)(3) or for Accelerated Effectiveness Pursuant to Section 19(b)(2)

Not applicable.

8. Proposed Rules Based on Rules of Another Board or of the Commission

Not applicable.

9. Exhibits

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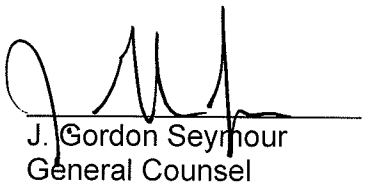
| Exhibit A – | Text of the Proposed Rules |
| Exhibit 1 – | Form of Notice of Proposed Rules for Publication in the Federal Register |
| Exhibit 2(a)(A) – | PCAOB Release No. 2010-008 (December 14, 2010) |
| Exhibit 2(a)(B) – | Alphabetical List of Comments |
| Exhibit 2(a)(C) – | Comment Letters Received on Proposed Rules in PCAOB Release No. 2010-008 |
| Exhibit 3 – | PCAOB Release No. 2011-001 (June 14, 2011) |

10. Signatures

Pursuant to the requirements of the Act and the Securities Exchange Act of 1934, as amended, the Board has duly caused this filing to be signed on its behalf by the undersigned thereunto duly authorized.

Public Company Accounting Oversight Board

By: 

J. Gordon Seymour
General Counsel
and Secretary

June 21, 2011

Exhibit A – Text of the Proposed Rules

The Board is amending Section 1 of its rules by adding notes following Rules 1001(a)(v), 1001(a)(vi), and 1001(p)(vi), and Section 4 of its rules by adding Rule 4020T. The relevant portion of the rules, as amended, is set out below. Language added by this amendment is underlined. Other text that remains unchanged is indicated by "* * *" in the text below.

RULES OF THE BOARD

SECTION 1. GENERAL PROVISIONS

* * *

Rule 1001. Definitions of Terms Employed in Rules

* * *

(a)(v) Audit

* * *

Note: Effective [insert effective date of Rule 4020T], pursuant to Rule 4020T, when used in Rule 3502, Section 5 of the Rules of the Board, or the definition of "disciplinary proceeding" in Rule 1001(d)(i), the term "audit" has the meaning provided in Section 110 of the Act.

(a)(vi) Audit Report

* * *

Note: Effective [insert effective date of Rule 4020T], pursuant to Rule 4020T, when used in Rule 3502, Section 5 of the Rules of the Board, or the definition of "disciplinary proceeding" in Rule 1001(d)(i), the term "audit report" has the meaning provided in Section 110 of the Act.

* * *

(p)(vi) Professional Standards

* * *

Note: Effective [insert effective date of Rule 4020T], pursuant to Rule 4020T, when used in Rule 3502, Section 5 of the Rules of the Board, or the definition of "disciplinary proceeding" in Rule 1001(d)(i), the term "professional standards" has the meaning provided in Section 110 of the Act.

* * *

SECTION 4. INSPECTIONS

* * *

Rule 4020T. Interim Inspection Program Related to Audits of Brokers and Dealers

(a) Purposes of Interim Inspection Program

This rule provides for an interim program of inspection in connection with audits of brokers and dealers in order, among other things –

(1) to assess the degree of compliance of registered public accounting firms and their associated persons with the Act, the Board's rules, the Commission's rules, and professional standards in connection with the performance of audits, issuance of audit reports, and related matters involving brokers and dealers;

(2) to inform the Board's consideration, in connection with establishing a permanent program of inspection to assess the matters described in paragraph (1), of –

(i) whether to differentiate among classes of brokers and dealers;

(ii) whether to exempt any category of public accounting firms; and

(iii) the establishment of minimum inspection frequency schedules.

(b) Definitions

When used in this rule, the term "interim program," means the interim program of inspection described in paragraph (c). When used in this rule, Rule 3502, Section 5 of the Rules of the Board, or the definition of "disciplinary proceeding" in Rule 1001(d)(i), the terms "audit," "audit report," and "professional standards" have the meaning provided in Section 110 of the Act.

(c) Interim Program of Inspection

On an interim basis, the Board shall conduct a program of inspection, for the purposes described in paragraph (a), that may include inspection procedures to assess the policies, practices, and procedures of any registered public accounting firm related to the performance of audits or the issuance of audit reports for any broker or dealer after July 21, 2010 and related matters involving brokers and dealers. The provisions of Rules 4000(b), 4000(c), 4004, 4006, 4007, 4008, 4009 and 4010 shall apply to the interim program.

(d) Reporting

No less frequently than every twelve months, beginning twelve months after the date this rule takes effect and continuing until rules for a permanent program of inspection in connection with audits of brokers and dealers take effect, the Board will publish a report that describes the progress of the interim program, including data about the number of registered public accounting firms and the number of broker or dealer audits that have been subjected to inspection procedures and any significant observations from those procedures.

EXHIBIT 1

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34- ; File No. PCAOB-2011-01)

[Date]

Public Company Accounting Oversight Board; Notice of Filing of Proposed Rules on an Interim Program of Inspections of Auditors of Brokers and Dealers.

Pursuant to Section 107(b) of the Sarbanes-Oxley Act of 2002 (the "Act"), notice is hereby given that on June 21, 2011, the Public Company Accounting Oversight Board (the "Board" or the "PCAOB") filed with the Securities and Exchange Commission (the "Commission") the proposed rules described in items I, II, and III below, which items have been prepared by the Board. The Commission is publishing this notice to solicit comments on the proposed rules from interested persons.

I. Board's Statement of the Terms of Substance of the Proposed Rules

On June 14, 2011, the Board adopted a temporary rule for an interim inspection program related to audits of brokers and dealers. The proposed Rule 4020T amends Section 4 of the Board's rules. The Board also adopted amendments to Section 1 of its rules to add notes following Rules 1001(a)(v), 1001(a)(vi), and 1001(p)(vi).

The text of the proposed amendments is set out below. Language added by the amendments is underlined.

## SECTION 1. GENERAL PROVISIONS

### Rule 1001. Definitions of Terms Employed in Rules

* * *

(a)(v) Audit

* * *

Note: Effective [insert effective date of Rule 4020T], pursuant to Rule 4020T, when used in Rule 3502, Section 5 of the Rules of the Board, or the definition of "disciplinary proceeding" in Rule 1001(d)(i), the term "audit" has the meaning provided in Section 110 of the Act.

(a)(vi) Audit Report

* * *

Note: Effective [insert effective date of Rule 4020T], pursuant to Rule 4020T, when used in Rule 3502, Section 5 of the Rules of the Board, or the definition of "disciplinary proceeding" in Rule 1001(d)(i), the term "audit report" has the meaning provided in Section 110 of the Act.

* * *

(p)(vi) Professional Standards

* * *

Note: Effective [insert effective date of Rule 4020T], pursuant to Rule 4020T, when used in Rule 3502, Section 5 of the Rules of the Board, or the definition of "disciplinary proceeding" in Rule 1001(d)(i), the term "professional standards" has the meaning provided in Section 110 of the Act.

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## SECTION 4. INSPECTIONS

* * *

### Rule 4020T. Interim Inspection Program Related to Audits of Brokers and Dealers

(a) Purposes of Interim Inspection Program

This rule provides for an interim program of inspection in connection with audits of brokers and dealers in order, among other things –

(1) to assess the degree of compliance of registered public accounting firms and their associated persons with the Act, the Board's rules, the Commission's rules, and professional standards in connection with the performance of audits, issuance of audit reports, and related matters involving brokers and dealers;

(2) to inform the Board's consideration, in connection with establishing a permanent program of inspection to assess the matters described in paragraph (1), of –

(i) whether to differentiate among classes of brokers and dealers;

(ii) whether to exempt any category of public accounting firms; and

(iii) the establishment of minimum inspection frequency schedules.

(b) Definitions

When used in this rule, the term "interim program," means the interim program of inspection described in paragraph (c). When used in this rule, Rule 3502, Section 5 of the Rules of the Board, or the definition of "disciplinary proceeding" in Rule 1001(d)(i), the terms "audit," "audit report," and "professional standards" have the meaning provided in Section 110 of the Act.

(c) Interim Program of Inspection

On an interim basis, the Board shall conduct a program of inspection, for the purposes described in paragraph (a), that may include inspection procedures to assess the policies, practices, and procedures of any registered public accounting firm related to the performance of audits or the issuance of audit reports for any broker or dealer after July 21, 2010 and related matters involving brokers and dealers. The provisions of Rules 4000(b), 4000(c), 4004, 4006, 4007, 4008, 4009 and 4010 shall apply to the interim program.

(d) Reporting

No less frequently than every twelve months, beginning twelve months after the date this rule takes effect and continuing until rules for a permanent program of inspection in connection with audits of brokers and dealers take effect, the Board will publish a report that describes the progress of the interim

program, including data about the number of registered public accounting firms and the number of broker or dealer audits that have been subjected to inspection procedures and any significant observations from those procedures.

## II. Board's Statement of the Purpose of, and Statutory Basis for, the Proposed Rules

In its filing with the Commission, the Board included statements concerning the purpose of, and basis for, the proposed rules and discussed any comments it received on the proposed rules. The text of these statements may be examined at the places specified in Item IV below. The Board has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

### A. Board's Statement of the Purpose of, and Statutory Basis for, the Proposed Rules

(a) Purpose

On July 21, 2010, the Dodd-Frank Wall Street Reform and Consumer Protection Act[1] amended the Sarbanes-Oxley Act to give the Board oversight authority with respect to audits of brokers and dealers that are registered with the Commission. Among other things, the amended Act authorizes the Board to establish an inspection program by rule.[2] Section 104(a)(2) of the Act (1) provides that, in establishing the program, the Board may allow for differentiation among classes of brokers and dealers; (2) requires that the Board consider whether differing inspection schedules would be appropriate with respect to auditors that issue audit reports only for brokers or dealers that do not receive,

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[1] Pub. L. No. 111-203, 124 Stat. 1376 (July 21, 2010).

[2] Section 104(a)(2)(A) of the Act, as amended.

handle, or hold customer securities or cash or are not members of the Securities Investor Protection Corporation; and (3) provides that if the Board exempts any public accounting firm from such an inspection program, the firm would not be required to register with the Board.

In a release issued on December 14, 2010, the Board explained that it intended to take a careful and informed approach to those questions in establishing a permanent program that appropriately protects the public interest and the interests of investors, including consideration of potential costs and regulatory burdens that would be imposed on different categories of registered public accounting firms and classes of brokers and dealers. The Board also explained that it did not intend to make the necessary judgments without first gathering and assessing relevant information, but that it did not intend to postpone all use of its new inspection authority until after those judgments were made. Accordingly, the Board proposed for public comment a temporary rule for an interim program of inspection that would allow the Board to begin inspections of relevant audits and auditors and provide a source of information to help guide decisions about the scope and elements of a permanent program.

(b) Statutory Basis

The statutory basis for the proposed rules is Title I of the Act.

B. Board's Statement on Burden on Competition

The Board does not believe that the proposed rule changes will result in any burden on competition that is not necessary or appropriate in furtherance of

the purposes of the Act. The proposed rule changes would apply equally to all registered public accounting firms that audit brokers and dealers.

C. Board's Statement on Comments on the Proposed Rules Received from Members, Participants or Others

The Board released the proposed rule amendment for public comment in Release 2010-008 (December 14, 2010). A copy of Release No. 2010-008 and the comment letters received in response to the PCAOB's request for comment are available on the PCAOB's Web site at http://www.pcaobus.org/Rules/Rulemaking/Pages/Docket032. The Board received twelve written comment letters. The Board has carefully considered the comment letters, as discussed below.

1. Scope of the Interim Program

The temporary rule that the Board proposed did not reflect any exercise of the Board's authority to differentiate among classes of brokers and dealers or to exempt any category of public accounting firm. The Board received a number of comments addressing the inclusive scope of the proposed interim program. Some commenters supported the proposed scope, while nevertheless suggesting that the Board focus its interim inspection efforts on audits of certain categories of brokers and dealers, such as those that have possession and control of customer cash and securities or act as clearing, carrying, or custodial brokers. One of those commenters also suggested that the Board consider, in connection with a permanent program, whether the public interest would be best served by focusing on those that carry accounts and maintain customer cash and securities.

Other commenters disagreed with the proposed approach. They argued, and some submitted data intended to support the argument, that certain categories of brokers and dealers pose little or no risk to the investing public. They suggested that the Board could identify those categories by focusing on factors such as whether the broker or dealer has custody of, or meaningful access to, client assets, or whether it is exclusively an introducing broker or dealer. These commenters suggested that the Board either should exempt the auditors of low-risk categories of firms from the Board's authority without delay or should collect and study currently available data on the question before subjecting auditors of all brokers and dealers to an inspection program. One commenter expressed concern that PCAOB regulation would significantly increase the cost of an audit to these entities, potentially forcing some of them out of business, with no corresponding contribution to meaningful protection of investors. Other commenters similarly expressed concern that the costs of compliance with PCAOB regulation may negatively impact auditors of introducing brokers and dealers, which are typically small businesses.

After considering these comments, the Board decided to adopt a temporary rule for an interim program of the same scope as proposed. The Board explained in the release that the inclusive scope of the interim program should not be construed as either foreshadowing the likely scope of a permanent program or suggesting that every broker or dealer auditor will be inspected as part of the interim program. The Board expects to be able to gather the information necessary to inform its consideration of a permanent program without

having to inspect most firms during the interim program. The Board intends to consider carefully whether there should be exemptions from the permanent program. For example, the Board expects to give consideration to whether a broker's or dealer's meaningful access to client assets is a relevant factor in determining the investor protection and public interest benefits of PCAOB oversight of the auditor of that broker or dealer.

The Board continues to believe, however, that information gathered during the course of the interim program will be relevant to making appropriate judgments about that question and other significant elements of a permanent inspection program. While data of the type submitted by commenters who favor immediate exemptions will also be relevant to those judgments, the Board believes that it is not prepared at the present time to conclude that such data is the only type of information that will be relevant or that an analysis of all such data necessarily compels the exemptions urged by these commenters.

2. Processes Relating to Inspectors' Firm-Specific Observations

A few commenters requested clarification on how the Board will bring deficiencies to the firm's attention and what the Board's expectations would be for the firm to address the issues. Two commenters suggested that the Board address that point in the text of the rule. In response to the commenters, the Board described in the release the general communication process between PCAOB inspectors and the audit engagement team or other representatives of the firm. The Board anticipates that communications with firms will follow a course similar to that in inspections of auditors of issuers, but the Board believes

that the details of the process are subject to variation in light of circumstances during an inspection.

The proposing release included references to the possibility of firm-specific inspection reports during the interim program.[3] Commenters sought clarification on what they saw as a tension between references to that possibility and the statement in the proposing release that the Board would expect results of inspection procedures performed under the interim program to be included in firm-specific reports, if at all, only after rules for a permanent program take effect.

The Board intends for inspection procedures performed on a firm as part of the interim program to constitute a foundational portion of the first inspection of the firm's audit practice related to brokers and dealers, which would be completed after a permanent program is established. This means that, for firms that audit brokers or dealers but not issuers, the Board does not expect to issue a firm-specific inspection report unless and until a permanent program replaces the interim program, the firm is included in the scope of the permanent program, and the firm has been inspected under the permanent program.[4] Unusual

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[3] The proposing release stated that nothing in the temporary rule "would necessarily preclude the Board from issuing a firm-specific inspection report on, or including, inspection observations from the interim program before a permanent program takes effect." Proposing release at 11, n.21. The proposing release also noted that inspection procedures performed in the interim program would be carried out in accordance with, and subject to, the provisions of Section 104 of the Act, including provisions concerning a firm's opportunities to respond to a draft inspection report and to seek Commission review of certain matters in a final inspection. See proposing release at 6, n.10.

[4] While the interim program is in place, a Board inspection of a firm that performs audit work for issuers and for brokers or dealers would include the full, regular inspection – including the firm-specific inspection report – of the firm's

circumstances, however, could give rise to exceptions. As a precaution in light of that possibility, the Board has incorporated in the final version of Rule 4020T the provisions of PCAOB Rule 4007, Procedures Concerning Draft Inspection Reports, PCAOB Rule 4008, Procedures Concerning Final Inspection Reports, and PCAOB Rule 4009, Firm Response to Quality Control Defects.[5]

Commenters also expressed concern about including observations from the interim inspection program in a firm-specific inspection report that may be issued years later, after the permanent program is established and after the relevant standards and rules, as well as the firm's practices, may have changed. The commenters urged the Board to reconsider including observations from interim program procedures in the first firm-specific report. These commenters also requested clarification on whether the eventual report would present cumulative findings or deficiencies observed.

During the interim program, the Board will be obtaining a broad view of practice related to audits of brokers and dealers under current standards and

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issuer practice. Such an inspection could also include inspection procedures under the interim program with respect to the firm's broker and dealer practice. As with firms that audit brokers or dealers but not issuers, the Board, absent unusual circumstances, would not incorporate any evaluation of the firm's broker and dealer practice into the public portion of a firm-specific report before the report on the first inspection of the firm that occurs after a permanent program takes effect and would not include observations from the interim program procedures in the nonpublic portion of any such report.

[5] Rule 4007 was not incorporated in the version of Rule 4020T that the Board proposed, and commenters noted the discrepancy between the omission of a provision incorporating Rule 4007 and the proposing release's references to the possibility of firm-specific inspection reports. To fully address that discrepancy, the Board has also incorporated Rules 4008 and 4009 in the final version of Rule 4020T.

interpretive guidance, and at the same time the standards and rules applicable to the audits will be evolving. Having both that broad view and the new standards as a foundation will be helpful to making consistent and meaningful evaluations of the types of quality control issues that, going forward, firms need to address in their practices related to audits of brokers and dealers. It is possible that observations from interim program procedures will be relevant to the Board's inspection-related dialogue with a particular firm – though not necessarily with every firm – even after standards and rules have changed, and it may be appropriate for aspects of those observations to be included in the first inspection report that addresses the firm's audit practice related to audits of brokers and dealers. The Board does not contemplate that firms' first reports will routinely serve as historical records of all observations from interim program procedures. Depending on the circumstances, however, aspects of some observations may retain their relevance to an assessment of audit quality issues at a particular firm even at the time of the first report, and those aspects may be discussed in a report. If that occurs, the Board intends that the report will make clear the timing of the original inspection observation at issue.

3. General Reports During the Inspection Period

The temporary rule provides that the Board will publish a report on the interim program no less frequently than every twelve months, beginning twelve months after the date the rule takes effect and continuing until rules for a permanent program take effect. Each report will describe the progress of the interim program and any significant observations that either may bear on the

Board's consideration of a permanent program or the publication of which may otherwise be appropriate to protect the interests of investors or to further the public interest.

Commenters supported the Board's proposal to publish a report at least annually on the progress of the interim inspection program. Some commenters suggested that the Board include in the report sufficient details on the nature and types of brokers and dealers inspected and group the inspection observations based on these classifications to help public accounting firms understand the specific issues identified in the report. The Board will take those suggestions into consideration when preparing the progress reports.

4. Voluntary Cooperation

Two commenters inquired about the Board's expectations for voluntary cooperation. Specifically, commenters sought clarification on whether the procedures with which the Board may request voluntary cooperation would include actual inspections of audits of brokers and dealers or be limited in scope. These commenters also requested information on the timing of the voluntary cooperation and the identity of registered public accounting firms expected to cooperate voluntarily.

The Board explained in the release that it does not have any expectation for particular firms to cooperate voluntarily, or have a view that there is a particular scope of procedures to which firms should voluntarily consent. The Board's ongoing inspections of auditors of issuers include inspections of some firms that audit brokers and dealers in addition to issuers. During regular

inspections of any such firm's issuer audit practice before Rule 4020T takes effect, inspection staff may discuss with the firm the possibility of the firm submitting voluntarily to inspection procedures concerning its audit practice related to brokers and dealers. The Board does not contemplate discussing the possibility of voluntary cooperation with any firm that the Board is not otherwise inspecting because of the firm's issuer audit practice.

III. Date of Effectiveness of the Proposed Rules and Timing for Commission Action

Within 45 days of the date of publication of this notice in the Federal Register or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the Board consents, the Commission will:

(A) by order approve or disapprove such proposed rules; or

(B) institute proceedings to determine whether the proposed rules should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rules are consistent with the requirements of Title I of the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 100 F Street, NE, Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to

the proposed rules that are filed with the Commission, and all written communications relating to the proposed rules between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the PCAOB. All submissions should refer to File No. PCAOB-2011-01 and should be submitted within [ ] days.

By the Commission.

Secretary

PCAOB
Public Company Accounting Oversight Board

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Washington, DC 20006
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| PROPOSED TEMPORARY RULE FOR AN INTERIM PROGRAM OF INSPECTION RELATED TO AUDITS OF BROKERS AND DEALERS | PCAOB Release No. 2010-008<br>December 14, 2010<br><br>PCAOB Rulemaking<br>Docket Matter No. 32 |

Summary: The Public Company Accounting Oversight Board, pursuant to its authority under recent amendments to the Sarbanes-Oxley Act of 2002, is proposing a temporary rule to establish an interim inspection program related to audits of brokers and dealers. The temporary rule would serve two principal purposes. It would allow the Board to assess registered public accounting firms' current compliance with laws, rules, and standards in performing audits with respect to brokers and dealers. It would also inform the Board's decisions about significant elements of a permanent inspection program, including whether to differentiate among classes of brokers and dealers, whether to exempt any categories of public accounting firms, and what minimum inspection frequency schedules to establish.

PCAOB
Public Company Accounting Oversight Board

## RELEASE

Public Comment: Interested persons may submit written comments to the Board. Such comments should be sent to the Office of the Secretary, PCAOB, 1666 K Street, N.W., Washington, D.C. 20006-2803. Comments also may be submitted by e-mail to comments@pcaobus.org or through the Board's Web site at www.pcaobus.org. All comments should refer to PCAOB Rulemaking Docket Matter No. 32 in the subject or reference line. Comments should be received by the Board no later than February 15, 2011.

Board Contacts: Michael Stevenson, Deputy General Counsel (202/207-9054, stevensonm@pcaobus.org); Robert E. Burns, Associate General Counsel (202/207-9153, burnsr@pcaobus.org).

### I. Introduction

The Sarbanes-Oxley Act of 2002 ("the Act"), as originally enacted, made it unlawful for public accounting firms that were not registered with the Public Company Accounting Oversight Board ("PCAOB" or "the Board") to prepare or issue, or to participate in the preparation or issuance of, any audit report with respect to any issuer (generally defined to encompass most public companies the securities of which trade in U.S. capital markets[1/]). The Act also authorized and charged the Board to carry out a range of oversight responsibilities related to issuer audits. Those responsibilities include conducting a program of inspections of registered public accounting firms in connection with their performance of audits, issuance of audit reports, and related

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[1/] As defined in Section 2(a)(7) of the Act, "issuer" means an issuer (as defined in Section 3 of the Securities Exchange Act of 1934 ("Exchange Act")) the securities of which are registered under Section 12 of the Exchange Act, or that is required to file reports under Section 15(d) of the Exchange Act, or that files or has filed a registration statement that has not yet become effective under the Securities Act of 1933 and that it has not withdrawn.

## RELEASE

matters involving issuers.[2/] The Board has been conducting such a program for several years.[3/]

On July 21, 2010, the Dodd-Frank Wall Street Reform and Consumer Protection Act[4/] amended various provisions of the Act ("the Dodd-Frank amendments"). Among other things, the Dodd-Frank amendments gave the Board oversight authority with respect to audits of brokers and dealers that are registered with the Securities and Exchange Commission ("Commission"). Specifically, the Dodd-Frank amendments provide the Board with authority to carry out the same oversight responsibilities it has carried out with respect to issuer audits – standards-setting, inspections, and investigations and disciplinary proceedings – in connection with registered public accounting firms' audits of brokers and dealers.[5/] The legislative history notes that this new authority "enables the PCAOB to use its inspection and disciplinary processes to identify auditors that lack expertise or fail to exercise care in broker and dealer audits, identify and address deficiencies in their practices, and, where appropriate, suspend or bar them from conducting such audits."[6/]

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[2/] See Section 104(a)(1) of the Act (originally Section 104(a) of the Act).

[3/] Information about the Board's inspection program related to audits of issuers, including rules, general reports, and the public portions of reports on inspections of individual firms, is available at pcaobus.org/Inspections/Pages/default.aspx.

[4/] Pub. L. No. 111-203, 124 Stat. 1376 (July 21, 2010).

[5/] The Dodd-Frank amendments to Section 102(a) of the Act also expanded the Act's registration requirement by making it unlawful for any person that is not a registered public accounting firm to prepare or issue, or to participate in the preparation or issuance of, any audit report with respect to any broker or dealer. Even before the Dodd-Frank amendments, however, Section 17(e)(1)(A) of the Exchange Act, as amended in 2002, required that the balance sheets and income statements filed with the Commission by registered brokers or dealers be certified by a public accounting firm registered with the PCAOB.

[6/] S. Rep. No. 176, 111th Cong., 2d Sess. (April 30, 2010) at 154.

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The Dodd-Frank amendments do not prescribe a specific program of inspection of registered public accounting firms that provide audit reports for a broker or dealer. Rather, the Dodd-Frank amendments authorize the Board to establish such a program by rule,[7/] and leave to the Board important questions concerning the elements of the program. Among other things, Section 104(a)(2) of the Act, as amended, (1) provides that, in establishing the program, the Board may allow for differentiation among classes of brokers and dealers; (2) requires that the Board consider whether differing inspection schedules would be appropriate with respect to auditors that issue audit reports only for brokers or dealers that do not receive, handle, or hold customer securities or cash or are not members of the Securities Investor Protection Corporation; and (3) provides that if the Board exempts any public accounting firm from such an inspection program, the firm would not be required to register with the Board.

The Board intends to take a careful and informed approach to those questions in establishing a permanent inspection program for auditors of brokers and dealers. In doing so, the Board will be guided by the Act's core directive to the Board: "to oversee the audit of companies that are subject to the securities laws, and related matters, in order to protect the interests of investors and further the public interest in the preparation of informative, accurate, and independent audit reports."[8/]

Establishing the elements of an inspection program that appropriately protects and furthers those interests necessarily involves consideration of potential costs and regulatory burdens that would be imposed on different categories of registered public accounting firms and classes of brokers and dealers. The Board does not intend to attempt to make the judgments necessary to establish a permanent program of inspection without first gathering and assessing relevant information. At the same time, some exercise of this new inspection authority may serve the investor protection and public interests described above even before fully informed judgments can be made about all elements of a permanent program.

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[7/] Section 104(a)(2)(A) of the Act, as amended.

[8/] Section 101(a) of the Act, as amended. In connection with expanding the Board's authority to encompass audits of brokers and dealers, the quoted language's reference to "companies" replaced the Act's original, narrower reference to "companies the securities of which are sold to, and held by and for, public investors."

## RELEASE

Accordingly, the Board is proposing a temporary rule that would establish an interim program of inspection related to audits of brokers and dealers. An interim inspection program would both allow the Board to begin inspection work without delay and provide a source of information to help guide decisions about the scope and elements of a permanent program.

### II. The Proposed Interim Inspection Program

The interim program would have two purposes. First, it would enable the Board to begin the work of assessing the degree of compliance of registered public accounting firms and their associated persons with the Act, the Board's rules, the Commission's rules, and professional standards in connection with the performance of audits, issuance of audit reports, and related matters involving brokers and dealers. Second, it would inform the Board's eventual determinations about the elements of a permanent program, including whether and how to differentiate among classes of brokers and dealers, whether to exempt any category of public accounting firm, and the establishment of minimum inspection frequency schedules.[9/]

#### A. Scope, Focus, and Duration of the Interim Program

To inform the Board's determinations about a permanent program, the interim program would include within its scope all categories of registered public accounting firms that audit brokers and dealers and all classes of securities brokers and dealers audited by them. The inclusive scope of the interim program, though, should not be construed as either foreshadowing the likely scope of a permanent program or suggesting that every broker or dealer auditor will be subject to inspection procedures as part of the interim program.

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[9/] Any temporary rule that the Board adopts for an interim program would take effect only if approved by the Commission. Before later adopting any final rules for a permanent program of inspection, the Board would seek public comment on proposed rules for such a program. Final rules for a permanent program would take effect only if separately approved by the Commission, a process that typically includes a separate round of public notice and comment.

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The inspection procedures performed in the interim program would be carried out in accordance with, and subject to, the provisions of Section 104 of the Act.[10/] The substantive focus of those procedures will be on compliance with applicable Board and Commission rules and professional standards. At this time, the standards that apply to audits of brokers and dealers have not changed from what they were before the Dodd-Frank amendments. The Commission has provided transitional guidance on this point, stating that "references in Commission rules and staff guidance and in the federal securities laws to GAAS [Generally Accepted Auditing Standards] or to specific standards under GAAS, as they relate to non-issuer brokers or dealers, should continue to be understood to mean auditing standards generally accepted in the United States of America, plus any applicable rules of the Commission."[11/]

The Board recognizes that the applicable standards refer to the role of interpretive publications, including auditing guidance in Audit and Accounting Guides published by the American Institute of Certified Public Accountants ("AICPA"), and that the AICPA publishes an Audit and Accounting Guide on Brokers and Dealers in Securities. The standards state that such publications "are not auditing standards" but are "recommendations on the application of the [auditing standards] in specific circumstances, including engagements for entities in specialized industries."[12/] The standards also provide, however, that the auditor "should be aware of and consider"

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[10/] Among other things, this means that the confidentiality provisions of Sections 104(g)(2) and 105(b)(5) of the Act will apply, as will the provisions for a firm to review and respond to a draft inspection report (Section 104(f)) and to seek Commission review of certain matters (Section 104(h)). Additional issues related to inspection reports are discussed below.

[11/] Exchange Act Rel. No. 62991 (September 24, 2010). The release includes a footnote, immediately following the phrase "auditing standards generally accepted in the United States of America" quoted above, that reads "Audit and attestation standards established by the AICPA." The release also notes that "[m]any parts of Commission rules and staff guidance related to obligations of brokers and dealers refer to GAAS and contain requirements for audits to be conducted in accordance with GAAS." Id. at 2 n.5 (citing, e.g., Rule 17a-5(g)(1) under the Exchange Act).

[12/] Statement on Auditing Standards No. 98, AU § 150.05.

## RELEASE

applicable interpretive publications and that an auditor who does not apply the published interpretive guidance "should be prepared to explain how he or she complied with the [auditing standards] addressed by" the guidance.[13/]

In assessing compliance during an interim inspection program, the Board would take appropriate account of the interpretive guidance. The Board anticipates that an important benefit of an interim inspection program would be to afford the Board a broad view of what actual practice has been in light of the guidance.

In addition, the Board expects that the rules and standards governing broker-dealer audits will evolve during the interim inspection program. The requirement today for brokers and dealers to include audited financial statements in the annual reports they make with the Commission derives from Commission Rule 17a-5 under the Exchange Act, *Reports to be Made by Certain Brokers and Dealers* ("Rule17a-5"). That rule requires, among other things, that the audit include a review of the accounting system, a review of the internal accounting control and procedures for safeguarding securities, and all procedures necessary to enable the auditor to express an opinion on the following:

- the statements of financial condition, results of operations, and cash flows;

- the computation of net capital pursuant to Rule 15c3-1 under the Exchange Act;

- the computation for determination of reserve requirements pursuant to Exhibit A to Rule 15c3-3 under the Exchange Act; and

- information relating to the possession or control requirements under Rule 15c3-3.[14/]

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[13/] Statement on Auditing Standards No. 95, AU § 150.06.

[14/] See generally Letter of November 18, 2010, from Robert W. Cook, Director, Commission's Division of Trading and Markets, and James L. Kroeker, Chief Accountant, Commission's Office of Chief Accountant, to AICPA Stockbrokerage and Investment Banking Expert Panel (available on the Commission's web site at http://sec.gov/news/whatsnew/wn111810.shtml).

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The Commission has announced its intention to propose amendments to update and strengthen Rule 17a-5.

The Board also has authority to establish, subject to approval by the Commission, professional standards and rules applicable to audits of brokers and dealers. The Board intends to adopt such standards, and related rules,[15/] informed at least in part by information gathered early in the interim inspection program. In particular, the Board is evaluating whether to issue or amend auditing or attestation standards to provide specific procedures regarding the regulatory reports required under SEC Rule 17a-5, such as, among other things, the reports on internal accounting controls and on the procedures for safeguarding customer securities, and the computation of net capital.[16/] The Board anticipates that relevant PCAOB standards and rule amendments, if approved by the Commission to supplant the currently applicable standards, will eventually take effect for audits that will be subject to review as part of, though near the end of, the interim inspection program.

The proposed temporary rule would make cooperation with Board inspection procedures under the interim program mandatory for registered firms and their associated persons. Even before any such rule takes effect, however, the Board expects to be able to conduct relevant procedures with the voluntary cooperation of certain firms. Subject to consideration of comments on the proposed temporary rule, the Board anticipates that it would adopt a version of the temporary rule in 2011 and, if the Commission approves the rule, carry out procedures under the interim program in

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[15/] Current Board rules applicable to the conduct of audits are typically framed in terms of audits of issuers, either specifically or by incorporating other terms that are defined by reference to issuers. This should not be understood generally to mean, however, that the Board's current rules do not apply to registered public accounting firms that audit brokers or dealers, or that those rules have no application at all to audits of brokers or dealers. The applicability of any Board rule must be judged on its specific terms. Firms that are registered with the Board solely because they audit brokers or dealers have, for example, the same obligations as issuer auditors to comply with Board rules on annual and special reporting (Rules 2200-2207).

[16/] See Broker-Dealer Audit Considerations (PCAOB Staff Briefing Paper for the Board's Standing Advisory Group) (July 15, 2010) at 4 (available at on the Board's web site at pcaobus.org/News/Events/Pages/07152010_SAGMeeting.aspx).

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2011 and 2012 and possibly into 2013. At that point, the Board anticipates being in a position to propose rules for a permanent program.

B. Reporting and Related Matters

The proposed temporary rule provides that no less frequently than every twelve months, beginning twelve months after the date the rule takes effect and continuing until rules for a permanent program take effect, the Board will publish a report on the interim program. Each report would describe the progress of the interim program and any significant observations that either may bear on the Board's consideration of a permanent program or the publication of which may otherwise be appropriate to protect the interests of investors or to further the public interest. As is typical of Board inspection reports, consistent with restrictions imposed by the Act,[17/] the reports would not identify brokers or dealers the audits of which are the subject of observations described in the report. As is also typical of general Board reports collecting observations from numerous inspections, the reports would not identify the registered public accounting firm or firms to which the observations relate.

As with any Board inspection, the inspection procedures would involve identifying audit deficiencies and bringing them to the firm's attention with the expectation that the firm will address the deficiencies and take steps to avoid future such deficiencies. The Board would also report to the Commission, and could report to certain other authorities (including the Financial Industry Regulatory Authority ("FINRA")), information suggesting violations of law or rules by brokers and dealers.[18/] In addition, if appropriate, information obtained through the interim program could lead the Board to commence an investigation or disciplinary proceeding concerning the conduct of a registered public accounting firm or associated persons of such firms.[19]

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[17/] See Section 105(b)(5)(A) of the Act; See Statement Concerning the Issuance of Inspection Reports, PCAOB Release No. 104-2004-001 (August 26, 2004) ("Statement Concerning Inspection Reports") at 4-6.

[18/] See Section 104(c) of the Act and PCAOB Rule 4004; see also Section 105(b)(5)(B)(V) of the Act, as amended.

[19/] The Board intends to propose comprehensive conforming amendments to align its existing rules with the Dodd-Frank amendments. In the interim, the proposed rule for an interim inspection program would incorporate in the Board's rules on

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The Board would also issue firm-specific inspection reports that encompass inspection procedures performed as part of the interim program, although the Board would expect to do so only after rules for a permanent program take effect. The Board expects inspection procedures performed on a firm as part of the interim program to constitute a foundational portion of the first inspection of the firm's broker and dealer audit practice, which eventually would be completed and encompassed within a firm-specific inspection report following the establishment of the permanent program if the firm is included in the permanent program.[20/] During the interim program, the Board will be obtaining a broad view of practice under current standards and interpretive guidance, and at the same time the standards and rules applicable to the audits will be evolving. Having both that broad view and the new standards as a foundation will be helpful to making consistent and meaningful evaluations of the types of quality control issues that, going forward, firms need to address in their practices related to audits of brokers and dealers.[21/]

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investigations and adjudications the revised definitions of "audit," "audit report," and "professional standards" now found in Section 110 of the Act. This will make clear that the Board's enforcement rules – which encompass, among other things, "the provisions of the securities laws relating to the preparation and issuance of audit reports and the obligations and liabilities of accountants with respect thereto" – will encompass the obligations of auditors with respect to audit reports for brokers and dealers, such as those obligations set out in Rule 17a-5. Information about Board investigations and disciplinary proceedings is subject to restrictions on public disclosure, as described in Sections 105(b)(5), 105(c)(2), and 105(d)(1)(C) of the Act, unless and until a Board-imposed sanction takes effect. See Statement Concerning Inspection Reports at 8-9.

[20/] If the Board exempts a firm from the permanent program, the Board would not issue an individual report on the interim program's procedures concerning that firm, principally because a complete inspection of the firm, including finalizing consideration of the sufficiency of the firm's quality control system in light of the inspection observations, would not have been conducted.

[21/] While the interim program is in place, a Board inspection of a firm that performs audit work for issuers and for brokers or dealers would include the full, regular inspection – including the firm-specific inspection report – of the firm's issuer practice. Such an inspection could also include inspection procedures under the interim program with respect to the firm's broker and dealer practice, but the Board would not expect to incorporate any evaluation of the firm's broker and dealer practice into the public portion

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III. Request for Public Comment

Interested persons are encouraged to submit their views to the Board. The Board seeks comment on all aspects of the proposal. Written comments should be sent to the Office of the Secretary, PCAOB, 1666 K Street, N.W., Washington, D.C. 20006-2803. Comments also may be submitted by e-mail to comments@pcaobus.org or through the Board's Web site at www.pcaobus.org. All comments should refer to PCAOB Rulemaking Docket Matter No. 32 in the subject or reference line and should be received by the Board no later than February 15, 2011. The Board will consider all timely comments.

On the 14th day of December, in the year 2010, the foregoing was, in accordance with the bylaws of the Public Company Accounting Oversight Board,

ADOPTED BY THE BOARD.

/s/ J. Gordon Seymour

J. Gordon Seymour
Secretary

December 14, 2010

Appendix –

Proposed Rule Amendments

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of a firm-specific report before the first inspection of the firm that occurs after a permanent program takes effect. Nothing in the temporary rule, however, would necessarily preclude the Board from issuing a firm-specific inspection report on, or including, inspection observations from the interim program before a permanent program takes effect.

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Public Company Accounting Oversight Board

Appendix – Proposed Rule Amendments

The Board proposes to amend Section 1 of its rules by adding notes following Rules 1001(a)(v), 1001(a)(vi), and 1001(p)(vi), and Section 4 of its rules by adding Rule 4020T. The text of the proposed notes and proposed Rule is set out below.

## RULES OF THE BOARD

## SECTION 1. GENERAL PROVISIONS

* * *

### Rule 1001. Definitions of Terms Employed in Rules

* * *

**(a)(v) Audit**

* * *

Note: Effective [insert effective date of Rule 4020T], pursuant to Rule 4020T, when used in Rule 3502, Section 5 of the Rules of the Board, or the definition of "disciplinary proceeding" in Rule 1001(d)(i), the term "audit" has the meaning provided in Section 110 of the Act.

**(a)(vi) Audit Report**

* * *

Note: Effective [insert effective date of Rule 4020T], pursuant to Rule 4020T, when used in Rule 3502, Section 5 of the Rules of the Board, or the definition of "disciplinary proceeding" in Rule 1001(d)(i), the term "audit report" has the meaning provided in Section 110 of the Act.

* * *

**(p)(vi) Professional Standards**

* * *

Note: Effective [insert effective date of Rule 4020T], pursuant to Rule 4020T, when used in Rule 3502, Section 5 of the Rules of the Board, or the definition of "disciplinary proceeding" in Rule 1001(d)(i), the term

"professional standards" has the meaning provided in Section 110 of the Act.

* * *

## SECTION 4. INSPECTIONS

* * *

### Rule 4020T. Interim Inspection Program Related to Audits of Brokers and Dealers

**(a) Purposes of Interim Inspection Program**

This rule provides for an interim program of inspection in connection with audits of brokers and dealers in order, among other things –

(1) to assess the degree of compliance of registered public accounting firms and their associated persons with the Act, the Board's rules, the Commission's rules, and professional standards in connection with the performance of audits, issuance of audit reports, and related matters involving brokers and dealers;

(2) to inform the Board's consideration, in connection with establishing a permanent program of inspection to assess the matters described in paragraph (1), of –

(i) whether to differentiate among classes of brokers and dealers;

(ii) whether to exempt any category of public accounting firms; and

(iii) the establishment of minimum inspection frequency schedules.

**(b) Definitions**

When used in this rule, the terms "broker" and "dealer" have the meaning provided in Section 110 of the Act, and "interim program," means the interim program of inspection described in paragraph (c). When used in this rule, Rule 3502, Section 5 of the Rules of the Board, or the definition of "disciplinary proceeding" in Rule 1001(d)(i), the terms "audit," "audit report," and "professional standards" have the meaning provided in Section 110 of the Act.

**(c) Interim Program of Inspection**

On an interim basis, the Board shall conduct a program of inspection, for the purposes described in paragraph (a), that may include inspection procedures to assess the policies, practices, and procedures of any registered public accounting firm related

to the performance of audits or the issuance of audit reports for any broker or dealer after July 21, 2010. The provisions of Rules 4000(b), 4000(c), 4004, 4006, and 4010 shall apply to the interim program.

**(d) Reporting**

No less frequently than every twelve months, beginning twelve months after the date this rule takes effect and continuing until rules for a permanent program of inspection in connection with audits of brokers and dealers take effect, the Board will publish a report that describes the progress of the interim program, including data about the number of registered public accounting firms and the number of broker or dealer audits that have been subjected to inspection procedures and any significant observations from those procedures.

PCAOB
Public Company Accounting Oversight Board

**Exhibit 2(a)(B)**

**Alphabetical List of Comments**

| |
|---|
| American Institute of Certified Public Accountants |
| Accounting Principles and Auditing Standards Committee of the California Society of Certified Public Accountants |
| Center for Audit Quality |
| Chris Barnard, Actuary |
| Financial Services Institute |
| Grant Thornton LLP |
| Hon. Spencer Bachus, Chairman, Committee on Financial Services, and Hon. Scott Garret, Chairman, Subcommittee on Capital Markets and Government Sponsored Enterprises |
| Hon. John Campbell, the Hon. Michael K. Conaway, the Hon. Bill Flores, the Hon. Lynn Jenkins, the Hon. Steven Palazzo, the Hon. Collin C. Peterson, the Hon. Jim Renacci, and the Hon. Brad Sherman, Members of the United States House of Representatives |
| KPMG LLP |
| McGladrey & Pullen, LLP |
| National Association of Independent Broker Dealers |
| Third Party Marketers Association |

American Institute of CPAs
1455 Pennsylvania Avenue, NW
Washington, DC 20004-1081

February 15, 2011

***Via Electronic Mail***

Office of the Secretary
Public Company Accounting Oversight Board
1666 K Street, NW
Washington, D.C. 20006-2083

Re: *Proposed Temporary Rule for an Interim Program of Inspection Related to Audits of Brokers and Dealers, PCAOB Rulemaking Docket Matter No. 32*

Dear Office of the Secretary:

The American Institute of Certified Public Accountants ("AICPA") is pleased to comment on the Public Company Accounting Oversight Board's ("PCAOB" or "Board") proposed temporary rule to establish an interim inspection program ("Proposed Interim Inspection Rule") related to brokers and dealers, as published in PCAOB Release No. 2010-008 on December 14, 2010, and in furtherance of oversight and rulemaking authority granted to the PCAOB as a result of the Dodd-Frank Wall Street Reform and Consumer Protection Act ("the Dodd-Frank Act"). The AICPA is the largest professional association of certified public accountants in the United States, with over 370,000 members in business, industry, public practice, government, and education. It is from this diverse perspective that we provide our comments and recommendations.

Overall, we support the Board's Proposed Interim Inspection Rule as a means to strengthen investor protections in the U.S. securities markets. However, we are convinced that PCAOB registration and new inspections should apply only to auditors whose broker-dealer clients hold and invest customer securities or cash (clearing, carrying and/or custodial) and thus present actual risk to investors. We appreciate the Board's desire to use its interim inspection program to gather critical information so that it can methodically determine what a final rule should encompass for those auditors of broker-dealers ultimately subjected to this registration and new inspection regime. Given

that the interim rule may vary significantly from a final rule, AICPA recommends that the interim inspection program's scope focus solely on firms which are *already subject* to PCAOB inspections (by virtue of auditing issuers) and those firms which audit *clearing, carrying or custodial* broker-dealers (but may not currently be subject to PCAOB inspection).

## I. AICPA's Position regarding PCAOB oversight of Broker-Dealers

The AICPA firmly believes that PCAOB registration and inspection should apply to auditors of those broker-dealers holding and investing customer cash or securities (clearing, carrying and/or custodial). These broker-dealers present the only realistic risk to investors because of the activities they perform on behalf of investors. Introducing broker-dealers, on the other hand, do not or only have a limited right to handle cash, and accordingly pose no systemic risk to the markets and investors. We believe the auditors of this class of broker-dealers can and should be handled differently[1].

The SEC has noted that broker-dealers that are not carrying, clearing or custodial firms are of enough risk to investors that their audits should be subject to PCAOB regulation because these broker-dealers are permitted to receive customer cash or securities on a limited basis.

We disagree with this conclusion. The Customer Protection Rule, or Rule 15c3-3, does, in fact, contain three exemptions that permit broker-dealers other than those that perform custodial or clearing functions to handle customer funds and securities on a limited basis[2]. Under these circumstances, all broker-dealers must "promptly transmit" funds and securities when received. Additionally, and, more importantly, these broker-dealers are required to maintain procedures designed to ***prevent*** their customers from transmitting funds to the broker-dealer firm. These procedures must also address the actions the broker-dealer will take to advise its customers (in writing) should a customer

[1] On January 21, 2011, the AICPA's Peer Review Board approved a revision to the AICPA peer review program which will result in a greater emphasis being placed on the audits of introducing broker-dealers during the performance of peer reviews.

[2] Broker-dealers in certain mutual fund or life insurance products, broker-dealers who clear on a "receive versus delivery/delivery versus payment" basis and introducing brokers on a fully-disclosed basis.

send funds to the introducing brokerage firm in error[3]. Accordingly, these entities do not typically receive funds or securities and are therefore at a risk level that does not warrant PCAOB oversight[4]. Since resources are scarce in any oversight regime, we believe PCAOB should focus its resources on those broker-dealers that pose the only realistic risk (custodial, clearing and/or carrying).

Interestingly, during legislative consideration of Section 982 of the Dodd Frank Act granting the PCAOB its new rulemaking authority, Josephine Wang, General Counsel of the Securities Investor Protection Corporation (SIPC) indicated that between 1995 and 2008, the agency liquidated 52 introducing brokers at a cost to SIPC of approximately $137 million.[5] However, our further analysis of this data indicates that there have only been 10 liquidations involving introducing broker-dealers since 2003[6] with a ***net cost*** to SIPC of virtually zero. Of those 10 liquidations, 4 broker-dealer firms did not file financial statements with the SEC after 2001. Of the 6 remaining, at least 2 were audited by firms *registered with and inspected by* the PCAOB as of the date of their most recent SEC-filing[7].

## II. Suggested inspection process (limited to auditors already subject to PCAOB inspection and auditors of clearing and carrying BDs)

The AICPA appreciates the Board's desire to use its interim inspection program as a means to inform its thought process as it formulates a permanent inspection program and, specifically, to assess whether the program should exempt certain classes of broker-dealers from PCAOB oversight. Because the final, permanent inspection program could vary significantly at the end of the interim program, AICPA recommends that the interim inspection program's scope focus solely on firms which are *currently subject* to PCAOB inspections (by virtue of auditing issuers) and those firms which audit *clearing, carrying or custodial* broker-dealers. Among these firms, the PCAOB could, on a voluntary basis,

[3] SEC Release No. 34-31511 (No, 93-6, November 1993).
[4] All broker-dealers are subject to examination by the SEC and a self-regulatory organization, or "SRO," such as the Financial Industry Regulatory Authority (FINRA)..
[5] SIPC letter dated November 2, 2009.
[6] Since Sarbanes-Oxley Act, creating the PCAOB, was passed in 2002, we believe the relevant universe is liquidations which have occurred beginning in 2003.
[7] These firms were registered and inspected with the PCAOB because they audited issuers.

additionally discuss and study the audits of introducing broker-dealer clients performed by these audit firms to assess whether a later rule inspecting introducing broker dealers is warranted.

Because the differences among classes of broker-dealers and the universe of potentially affected parties under this proposed rule are significant[8], the issuance of an overly broad interim rule could create significant confusion and undue costs on firms who ultimately may not be covered in a final rule.

As noted above, we understand that there may be certain instances where introducing broker-dealers may have brief and limited access to investor funds. In such situations, where there may be a heightened opportunity for fraud or malfeasance, rather than automatically extending new oversight over the auditors of introducing broker-dealers, a fresh discussion of the different benefits to investors of oversight by principal and secondary regulators may more appropriately solicit ideas for stronger safeguards by the principal regulators themselves. This sort of collaboration and study can ensure that regulations by the PCAOB, the SEC, and FINRA related to introducing broker-dealers and their auditors are the right kinds of regulation, the most effective forms of regulation, and fully warranted regulations.

## III. Conclusion

Overall, the AICPA supports the PCAOB's new authority under the Dodd Frank Act and an interim rulemaking program to determine the level of oversight over auditors of clearing, carrying, and custodial broker-dealers. Indeed, the AICPA endorsed Section 982 of the Dodd-Frank Act, at the time of passage, and believes that this rulemaking will ultimately prove to be an important investor protection created by the passage of this provision. However, we are convinced that the cost of including auditors of introducing

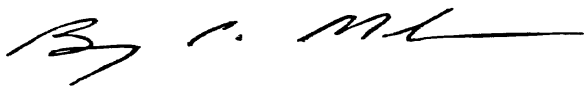
[8] Indeed, as of December 1, 2010 there were approximately 4,538 active broker-dealer firms (of the 5,000+ registered with the SEC), and 868 audit firms registered with the PCAOB by virtue of having a broker-dealer client. Of those broker-dealers, the vast majority – an estimated 90% - are introducing broker-dealers, who do not have access to investor funds. Consequently, the potential pool of audit firms covered by the PCAOB's new regulations will vary greatly based upon which classes of broker-dealers are ultimately included in the rule.

broker-dealers under PCAOB oversight clearly outweighs the benefits. Accordingly, we urge the PCAOB not to extend oversight authority to these auditors and suggest additional study, in conjunction with the principal regulators of broker-dealers, the SEC and FINRA.

An interim rule which focuses on broker-dealers which present a realistic level of risk, while performing additional due diligence where such research is required, will lead to the best outcome for investors, auditors of broker-dealers, and broker-dealers. In addition, we believe that the AICPA's peer review program will continue to be an important safeguard overseeing the work of auditors of introducing broker-dealers.

We appreciate the opportunity to comment and welcome the opportunity to serve as a resource to the PCAOB on these issues. If we can be of further assistance, please contact me at (212) 596-6001.

Sincerely,



Barry C. Melancon, CPA
AICPA President & CEO
cc:

PCAOB
James R. Doty, Chairman
Lewis H. Ferguson, Member
Daniel L. Goelzer, Member
Jay D. Hanson, Member
Steven B. Harris, Member
Martin F. Baumann, Chief Auditor and Director of Professional Standards

SEC
Chairman Mary L. Schapiro
Commissioner Luis A. Aguilar
Commissioner Kathleen L. Casey
Commissioner Troy A. Paredes
Commissioner Elisse B. Walter

CalCPA

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February 8, 2011

Office of the Secretary
PCAOB
1666 K Street, N.W.
Washington D.C. 20006-2803

Re: Comments Regarding PCAOB Rulemaking Docket Matter No. 32
Proposed Temporary Rule for an Interim Program of Inspection Related to Audits of Brokers and Dealers

Board Members:

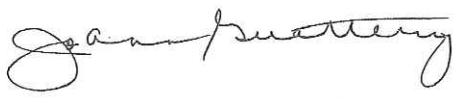
The Accounting Principles and Auditing Standards Committee (the AP&AS "Committee") of the California Society of Certified Public Accountants ("CalCPA") is pleased to provide our comments to the PCAOB on the proposed temporary rule for inspection of brokers and dealers.

The AP&AS Committee is the senior technical committee of CalCPA. CalCPA has approximately 35,000 members. The Committee is composed of 50 members, of whom 67 percent are from local or regional firms, 23 percent are sole practitioners in public practice, 5 percent are in industry and 5 percent are in academia. Several of our member's firms audit brokers and dealers.

The Committee supports the proposed temporary rule as it is responsive to the requirements for such a program as set forth in the Dodd-Frank Wall Street Reform and Consumer Protection Act. Ultimately, the Board will determine whether to retain an inspection program for those brokers who do not receive, handle or hold customer securities or cash or are not members of the Securities Investor Protection Corporation, based upon the results of the interim inspection program.

We thank the Board for the opportunity to comment on the proposed standard. We would be glad to discuss our opinions with the Board should they have any questions or require any additional information.

Very truly yours,



JoAnn Guattery, Chair
Accounting Principles and Auditing Standards Committee
California Society of Certified Public Accountants


February 15, 2011



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

**Re: Request for Public Comment: *Proposed Temporary Rule for an Interim Program of Inspection Related to Audits of Brokers and Dealers*, PCAOB Rulemaking Docket Matter No. 32**

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 (AICPA). The CAQ appreciates the opportunity to respond to the Public Company Accounting Oversight Board's (PCAOB or the Board) *Proposed Temporary Rule for an Interim Program of Inspection Related to Audits of Brokers and Dealers* (proposed temporary rule), as published in PCAOB Release No. 2010-008 dated December 14, 2010 (release). This letter represents the observations of the CAQ, but not necessarily the views of any specific firm, individual or CAQ Governing Board member.

The Dodd-Frank Wall Street Reform and Consumer Protection Act (the Dodd-Frank Act) amended various provisions of the Sarbanes-Oxley Act of 2002 (the Act) by giving the Board oversight authority with respect to audits of brokers and dealers. These amendments provide the Board with oversight authority to promulgate standards, conduct inspections, and undertake investigations and disciplinary proceedings with respect to audits of brokers and dealers. Given the Dodd-Frank Act does not prescribe a specific program of inspections for registered public accounting firms that conduct audits of brokers and dealers, we believe the Board's approach of proposing a temporary rule for an interim program of inspection related to audits of brokers and dealers is an appropriate and reasonable approach. This will allow the Board to assess public accounting firms' current adherence to professional standards, the Act, and the U.S. Securities and Exchange Commission's (SEC or the Commission) rules, as well as inform the Board's decision about significant elements of a permanent inspection program. Although we support the Board's information gathering approach, we encourage the Board to focus a significant portion of its efforts on audits of brokers and

dealers that are considered to be of greater significance to investors and other users. For example, brokers and dealers that have possession and control of customer securities – or act as clearing, carrying or custodial brokers – are typically considered to be of greater significance to investors and other users than introducing brokers that accept customers' orders but the orders are processed or "cleared" through another broker, known as a clearing broker.[1]

Further, the Board references "classes" of brokers and dealers a number of times throughout the release and the proposed temporary rule. Given there is no description or clear understanding of what constitutes such "classes," we recommend that the Board specifically define what is meant by "classes" of brokers and dealers.

While we understand and support the Board's intent is to inform its decisions in determining a permanent inspection program, we do, however, seek clarity on how the interim inspection program will be executed, as described below.

***PCAOB Progress Reports***

The CAQ commends the Board on its plan to at least every 12 months publish reports on the interim inspection program's progress and significant observations that either may bear on the Board's consideration of a permanent program or otherwise may be appropriate to protect the interests of investors or to further the public interest. We believe that such transparent reports will be helpful not only in informing the public as to the Board's progress but also in improving audit quality. These reports will clarify the Board's expectations for effective audits of brokers and dealers as well as focus registered public accounting firms on improving their work in areas where common deficiencies, if any, are identified. As the Board contemplates the structure and detail of these reports, we encourage the PCAOB to consider reporting its observations by different types of brokers and dealers whose audits were inspected during the interim inspection program. Including this level of detail in the Board's progress reports will be informative to the public and investors in understanding how the Board ultimately determines the scope of the permanent inspection program. In addition, we believe this information will be helpful to the registered public accounting firms that perform such audits by enhancing their level of understanding of the Board's expectations and observations with regard to engagements related to the different types of brokers and dealers. We understand the level of detail will have to be balanced with making certain that the registered public accounting firm and broker-dealer are not identified or could potentially be identified, but we believe such balance could be achieved.

***Conducting Inspections***

We note that proposed temporary Rule 4020T(a)(1), *Interim Inspection Program Related to Audits of Brokers and Dealers,* indicates that one of the purposes of the interim inspection program is to "assess the degree of compliance of registered public accounting firms and their associated persons with the Act, the Board's rules, the Commission's rules, and professional standards in connection with the performance of audits, issuance of audit reports, and *related matters involving brokers and dealers."* We believe the Board should clarify what it means by "related matters" to enable registered public accounting firms to fully understand the Board's expectations and execute against them.

In addition, we encourage the Board to elaborate on its expectations related to the voluntary cooperation of "certain" firms under the interim inspection program prior to the proposed temporary rules taking effect. Page 8 of the release states, "even before any such rule takes effect….the Board expects to be able to conduct relevant procedures with the voluntary cooperation of certain firms." The Board should clarify what it means by "relevant procedures" during the voluntary period. For example, does the Board anticipate that inspection procedures performed during the voluntary period will include actual inspection of audits of brokers and

[1] As described in the PCAOB's July 15, 2010 Standing Advisory Group Meeting Briefing Memo entitled, "Broker-Dealer Audit Considerations." http://pcaobus.org/News/Events/Documents/07152010_SAGMeeting/Broker_Dealer.pdf

dealers or be limited to scoping procedures? In addition, we encourage the Board to elaborate on the timing of such procedures (e.g., inspection of 2010 broker-dealer audits will be conducted beginning in the second quarter of 2011, limited to inspections of broker-dealer audits with year-end dates after the enactment of the Dodd-Frank Act) and indicate which firms are expected to voluntarily cooperate (e.g., previously inspected firms or firms that have never been subjected to inspection).

***Firm-Specific Inspection Reports***

We have noted some inconsistencies between the release language and the proposed temporary rule amendments regarding firm-specific inspection reports and seek clarification regarding the process by which the Board will report inspection deficiencies in such reports. Specifically, during the course of the interim inspection program it is not sufficiently clear how inspection findings will be communicated to the firm, what opportunities the firm will have in responding to such findings, or the timing and extent to which interim inspection findings will be communicated in firm-specific reports. For example:

1) When inspection findings are communicated to the firm during the interim program, it is not clear if the findings will be communicated orally or in writing and what opportunities the firm will have to respond to such findings.

   Page 9 of the release states that the Board will bring identified audit deficiencies "to the firm's attention with the expectation that the firm will address the deficiencies and take steps to avoid future such deficiencies." We are unclear how the Board intends to communicate those deficiencies throughout the interim inspection period or what the Board's expectations are for the firms to respond to deficiencies noted. The proposed temporary rule amendments in the Appendix to the release do not discuss any procedures to allow a firm to respond to inspection findings during the interim inspection period. We recommend the Board clarify the process as to how the firm can expect to receive and address comments from the Board (i.e., whether comments from the Board are anticipated to be written or oral and the expectations by the PCAOB for firm responses thereto) during the interim inspection program.

2) It is not clear whether the Board intends to issue the public portion of a firm-specific report before the permanent rule takes effect and, if so, what opportunities the firm will have to respond to a draft inspection report before it is made public.

   First, page 10 of the release states that the Board would issue firm-specific inspection reports that encompass procedures performed during the interim period but "would expect" to do so only after the permanent program takes effect. Further, footnote 21 in the release states that:

   > While the interim program is in place, a Board inspection of a firm that performs audit work for issuers and for brokers or dealers would include the full, regular inspection – including the firm-specific inspection report – of the firm's issuer practice. Such an inspection could also include inspection procedures under the interim program with respect to the firm's broker and dealer practice, but the Board would not expect to incorporate any evaluation of the firm's broker and dealer practice into the public portion of a firm-specific report before the first inspection of the firm that occurs after a permanent program takes effect. Nothing in the temporary rule, however, would necessarily preclude the Board from issuing a firm-specific inspection report on, or including, inspection observations from the interim program before a permanent program takes effect.

   In addition, we note the Board has stated in the release that inspection observations will constitute a "foundational portion" of the first inspection and firm-specific inspection report only after the permanent program takes effect in order to make "consistent and meaningful evaluations of the types of quality control issues that going forward, firms need to address in their practices." [Emphasis added.] We agree

with such an approach, because the professional standards and the Commission's rules regarding brokers and dealers are anticipated to be amended and/or replaced over the three-year interim inspection period and firms' quality control systems likewise will be evolving in response to changed standards and rules.

Based on these discussions in the release, our expectation is that, until the permanent rule takes effect, the Board will not be commenting on a firm's broker and dealer practice's inspection results in the public portion of inspection reports of firms currently subject to inspection and will not be issuing public inspection reports on firms that audit brokers and dealers and currently are not subject to inspection. We recommend the Board clearly state so in the final temporary rule.

On the other hand, if the Board intends to publicly issue firm-specific broker and dealer inspection results prior to the permanent rule taking effect, it is not clear if the firm will have an opportunity to respond before an inspection report is made public. Would the Board follow the same procedures as are currently required by Section 4, *Inspections* of the PCAOB's rules? We note that footnote 10 of the release states that "[a]mong other things…the confidentiality provisions of Sections 104(g)(2) and 105(b)(5) of the Act will apply, as will the provisions for a firm to review and respond to a *draft inspection report*." Although there is a reference to a draft inspection report in the release, the Board has not included Rule 4007, *Procedures Concerning Draft Inspection Reports* as applicable to the interim inspection program under proposed temporary Rule 4020T. Further, the proposed temporary rule amendments in the Appendix to the release do not discuss any provisions for issuance of a draft inspection report or procedures to allow a firm to respond to a draft inspection report during the interim inspection program.

3) It is not clear what interim inspection observations the Board intends to include in the initial firm-specific reports released after a permanent program takes effect.

We note that the Board expects to issue firm-specific inspection reports after rules for a permanent program take effect. As stated above, the Board has explained that inspection observations noted throughout the interim inspection period will constitute a "foundational portion" of the first inspection and firm-specific inspection report issued after the permanent program takes effect. The PCAOB expects that this process will result in "consistent and meaningful evaluations of the types of quality control issues that going forward, firms need to address in their practices.[2]" Although we expect that the Board would only include observations noted during the interim inspection period that would have an impact on a firm going forward, the release does not address what specifically the Board intends to include in the initial firm-specific inspection report. For example, it is not clear as to whether potential deficiencies included in a firm-specific report will be cumulative in nature – that is, whether inspection comments will be cumulative over the course of the three years of the interim inspection program.

Because there could be a significant time lag between the date of interim inspection(s) and the date of the initial report issuance under the permanent program - a period of time during which there likely will be changes in standards and rules and changes in firms' quality controls and procedures, we believe there is a risk that the initial firm-inspection reports under the permanent program could be based on outdated information that would be inappropriate, and particularly so if reported to the public. As such, we urge the Board to reconsider whether it is helpful to include findings from the interim program in the first firm-specific reports under the permanent program.

Lastly, in order to avoid possible confusion, we recommend the Board describe in the final temporary inspection rule (as opposed to only being discussed in the release accompanying the final temporary rule) the process for the PCAOB to communicate findings and audit firms to respond to such findings as well as the

[2] Page 10 of the Release

protocol for including findings from the interim program in a firm-specific inspection report issued after the permanent program takes effect.

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The CAQ appreciates the opportunity to comment on the proposed temporary rule and would welcome the opportunity to respond to any questions you may have regarding any of the comments and recommendations included in this letter.

Sincerely,

Cynthia M. Fornelli
Executive Director
Center for Audit Quality

cc: PCAOB
James R. Doty, Chairman
Lewis H. Ferguson, Member
Daniel L. Goelzer, Member
Jay D. Hanson, Member
Steven B. Harris, Member
George Diacont, Director, Division of Registration and Inspections

SEC
Chairman Mary L. Schapiro
Commissioner Luis A. Aguilar
Commissioner Kathleen L. Casey
Commissioner Troy A. Paredes
Commissioner Elisse B. Walter
James L. Kroeker, Chief Accountant
Brian T. Croteau, Deputy Chief Accountant

Please note that the comments expressed herein are solely my personal views

Public Company Accounting Oversight Board
1666 K Street, N.W.
Washington, D.C. 20006-2803
United States

Chris Barnard
Actuary

27 January 2011

- **Release No. 2010-008**
- **PCAOB Rulemaking Docket Matter No. 032**
- **Proposed Temporary Rule for an Interim Program of Inspection Related to Audits of Brokers and Dealers**

Dear Sir.

Thank you for giving us the opportunity to comment on your Proposed Temporary Rule for an Interim Program of Inspection Related to Audits of Brokers and Dealers.

The rule requires that the audit include a review of the accounting system, a review of the internal accounting control and procedures for safeguarding securities, and all other procedures necessary to enable the auditor to express an opinion on the following:

- the statements of financial condition, results of operations, and cash flows;
- the computation of net capital pursuant to Rule 15c3-1 under the Exchange Act;
- the computation for determination of reserve requirements pursuant to Exhibit A to Rule 15c3-3 under the Exchange Act; and
- information relating to the possession or control requirements under Rule 15c3-3.

I support these objectives. I would expect that the proposed inspections would promote improvements in the auditing of brokers and dealers, which is an area requiring more oversight, and would result in significantly more robust audits of brokers and dealers in the future. However, the auditor cannot provide absolute assurance, nor should we expect it to.

I also support that the proposed interim inspections should be used to assess the quality of current audits, and to garner information which would help to inform the Board's decisions

about significant elements of a permanent inspection program. According to Daniel L. Goelzer, Acting Chairman of the Board:

> About 520 brokerage firms provide clearing or custodial services. Many of the others are introducing firms that, at least in theory, do not have access to client funds or securities. Some are floor brokers without public clients; some are insurance agents that sell products that are technically securities; some are finders active in the M&A market; some are captives that serve the trading needs of a single, affiliated client. Other categories undoubtedly exist. This diversity raises questions about whether we should devote resources to inspecting the auditors of all of these types of brokers and dealers or whether some of their auditors can safely be exempted from PCAOB oversight without compromising investor protection.
> While the Board does not yet have the answers to those questions, the temporary rule will allow the Board to begin inspections of broker-dealer audits so that we can develop an empirical basis on which to eventually address them.[1]

I fully agree with this. Mr Goelzer has highlighted some of the different businesses and roles that brokers and dealers are involved in. In terms of the proposed temporary rule, I would recommend that the Board should focus on those entities that have access to client funds or securities, and establish a minimum threshold size of entity, which could be inspected. Furthermore, I would recommend that inspections be carried out at least every twelve months, and that the proposed temporary rule should cover at least two inspections per entity, in order that comparative analyses can be made of the results between consecutive inspections.

The release states that the Board expects the rules and standards governing audits of brokers and dealers to evolve during the interim program. The release also states that the PCAOB expects to report conduct that suggests a violation of SEC or other rules by brokers and dealers, to the SEC, FINRA or other authorities. I would support this approach.

Yours faithfully

C.R.B

Chris Barnard

[1] Satement on Proposed Temporary Rule for an Interim Program of Inspection Related to Audits of Brokers and Dealers by Daniel L. Goelzer, Acting Chairman, PCAOB, December 14 2010.

FINANCIAL SERVICES INSTITUTE
VOICE OF INDEPENDENT BROKER-DEALERS AND INDEPENDENT FINANCIAL ADVISORS
www.financialservices.org

VIA ELECTRONIC MAIL

February 15, 2011

J. Gordon Seymour
Office of the Secretary
PCAOB
1666 K Street, N.W.
Washington, DC 20006

RE: Proposed Temporary Rule for an Interim Inspection Program for the Audits of Brokers and Dealers

Dear Mr. Seymour:

On December 14, 2010, the Public Company Accounting Oversight Board (PCAOB) published Release No. 2010-008, which proposes a temporary rule to establish an interim inspection program related to audits of brokers and dealers (Proposed Rule)[1]. The Proposed Rule would allow the Board to assess registered public accounting firms' current compliance with laws, rules, and standards in performing audits with respect to brokers and dealers. Moreover, it would inform the Board's decisions about significant elements of a permanent inspection program, including whether to differentiate among classes of brokers and dealers, whether to exempt any categories of public accounting firms, and what minimum inspection frequency schedules to establish.

The Financial Services Institute (FSI)[2] welcomes this opportunity to comment on the Proposed Rule. We believe that the interim inspection program contained in the Proposed Rule is premature and will add an unnecessary burden to introducing broker-dealers. We urge the PCAOB to collect and study all available data from the Securities and Exchange Commission (SEC), the Financial Industry Regulatory Authority (FINRA), the Securities Investor Protection Corporation (SIPC), industry experts, and industry associations before subjecting all public accounting firms that audit brokers and dealers to the interim inspection program. Our concerns are addressed in more detail below.

Background on FSI Members

FSI represents independent broker-dealers (IBD) and the independent financial advisors that affiliate with them. The IBD community has been an important and active part of the lives of American investors for more than 30 years. The IBD business model focuses on comprehensive financial planning services and unbiased investment advice. IBD firms also share a number of other similar business characteristics. They generally clear their securities business on a fully disclosed basis; primarily engage in the sale of packaged products, such as mutual funds and

[1] *See* Proposed Temporary Rule for an Interim Inspection Program for the Audits of Brokers and Dealers, PCAOB Release No. 2010-008 (Dec. 14, 2010), *available at* http://pcaobus.org/News/Releases/Pages/12142010_BrokerDealer.aspx

[2] The Financial Services Institute is an advocacy organization for the financial services industry – the only one of its kind – FSI is the voice of independent broker-dealers and independent financial advisors in Washington, D.C. Established in January 2004, FSI's mission is to create a healthier regulatory environment for their members through aggressive and effective advocacy, education and public awareness. FSI represents more than 120 independent broker-dealers and more than 15,000 independent financial advisors, reaching more than 15 million households. FSI is headquartered in Atlanta, GA with an office in Washington, D.C.

variable insurance products; take a comprehensive approach to their clients' financial goals and objectives; and provide investment advisory services through either affiliated registered investment adviser firms or such firms owned by their registered representatives. Due to their unique business model, IBDs and their affiliated financial advisors are especially well positioned to provide middle-class Americans with the financial advice, products, and services necessary to achieve their financial goals and objectives.

In the U.S., approximately 201,000 financial advisors – or 64% percent of all practicing registered representatives – operate as self-employed independent contractors, rather than employees, of their affiliated broker-dealer firm.[3] These financial advisors provide comprehensive and affordable financial services that help millions of individuals, families, small businesses, associations, organizations, and retirement plans with financial education, planning, implementation, and investment monitoring. Clients of independent financial advisors are typically "main street America" – it is, in fact, almost part of the "charter" of the independent channel. The core market of advisors affiliated with IBDs is clients who have tens and hundreds of thousands as opposed to millions of dollars to invest. Independent financial advisors are entrepreneurial business owners who typically have strong ties, visibility, and individual name recognition within their communities and client base. Most of their new clients come through referrals from existing clients or other centers of influence.[4] Independent financial advisors get to know their clients personally and provide them investment advice in face-to-face meetings. Due to their close ties to the communities in which they operate their small businesses, we believe these financial advisors have a strong incentive to make the achievement of their clients' investment objectives their primary goal.

FSI is the advocacy organization for IBDs and independent financial advisors. Member firms formed FSI to improve their compliance efforts and promote the IBD business model. FSI is committed to preserving the valuable role that IBDs and independent advisors play in helping Americans plan for and achieve their financial goals. FSI's mission is to ensure our members operate in a regulatory environment that is fair and balanced. FSI's advocacy efforts on behalf of our members include industry surveys, research, and outreach to legislators, regulators, and policymakers. FSI also provides our members with an appropriate forum to share best practices in an effort to improve their compliance, operations, and marketing efforts.

Comments on the Proposed Rule

As stated above, FSI believes that the interim inspection program contained in the Proposed Rule is premature and will add an unnecessary burden to introducing broker-dealers. We urge the PCAOB to collect and study all available data from the SEC, FINRA, SIPC, industry experts, and industry associations before subjecting all public accounting firms that audit brokers and dealers to the interim inspection program. Our concerns are addressed in more detail below.

- **Premature Nature of the Interim Program** – On July 21, 2010, the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act)[5] was signed into law. Among other things, the Dodd-Frank Act amended various provisions of the Sarbanes-Oxley Act of 2002 (Sarbanes-Oxley Act). These amendments gave the PCAOB oversight authority with respect to audits of brokers and dealers that are registered with the SEC. Specifically, the Dodd-Frank Act amendments provide the PCAOB with authority to carry

[3] Cerulli Associates at http://www.cerulli.com/.
[4] These "centers of influence" may include lawyers, accountants, human resources managers, or other trusted advisors.
[5] Dodd-Frank Wall Street Reform and Consumer Protection Act, Public Law No: 111-20, *available at* http://docs.house.gov/rules/finserv/111_hr4173_finsrvcr.pdf.

out the same oversight responsibilities it has with respect to issuer audits in connection with registered public accounting firms' audits of brokers and dealers.

As noted in the Release to the Proposed Rule, the Dodd-Frank Act does not prescribe a specific program of inspection of registered public accounting firms that provide audit reports for a broker or dealer. Rather, the Dodd-Frank Act authorizes the PCAOB to establish such a program by rule, and leaves to the PCAOB important questions concerning the elements of the program. Among other things, Section 104(a)(2) of the Sarbanes-Oxley Act, as amended, provides that, (1) in establishing the program, the Board may allow for differentiation among classes of brokers and dealers; (2) the PCAOB may consider whether differing inspection schedules would be appropriate with respect to auditors that issue audit reports only for brokers or dealers that do not receive, handle, or hold customer securities or cash or are not members of the Securities Investor Protection Corporation; and (3) if the PCAOB exempts any public accounting firm from such an inspection program, the firm would not be required to register.[6]

Under the authority granted to the PCAOB under this amendment, it has proposed a temporary rule that would establish an interim program of inspection related to audits of **all** brokers and dealers, regardless of the type of broker or dealer. FSI strongly urges the PCAOB to reconsider the Proposed Rule because requiring the auditors of introducing broker-dealers to be subject to the oversight of the PCAOB would significantly increase the cost of doing business for this segment of the securities industry without a corresponding improvement to investor protection.

An introducing broker-dealer accepts customers' orders but the orders are processed or "cleared" through another broker, known as a carrying broker. A carrying broker is a broker-dealer that holds customer accounts for introducing broker-dealers and is typically a clearing firm for introducing firms. The carrying broker-dealer receives payments and securities from the clients and handles record keeping for these accounts. In recognition of the risk inherent in entrusting a firm with custody of investor assets, the carrying broker is subject to Securities Exchange Act Rule 15c3-3 that includes requirements regarding establishing a customer reserve as well as specific requirements regarding possession and control of customer securities.[7] Introducing broker-dealers bring customer accounts and assets to a carrying or clearing broker-dealer for safekeeping. Because introducing broker-dealers do not hold customer assets, they generally do not have to comply with Rule 15c3-3.[8]

While introducing broker-dealers do have direct contact with investors, they do not represent a significant risk to convert client funds or securities to their own use. SEC and FINRA Rules prohibit them from having custody of customer funds.[9] In order to insure they do not obtain custody of investor funds and securities, introducing firms are required to have policies and procedures in place to make sure their client's funds are promptly

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[6] *See* Proposed Temporary Rule for an Interim Inspection Program for the Audits of Brokers and Dealers, PCAOB Release No. 2010-008, 4, citing Section 104(a)(2)(A) of the Act, as amended

[7] All brokers or dealers who do not meet the exemption requirements of Rule 15c3-3(k) are required to comply with Rule 15c3-3. Carrying brokers generally do not meet the exemption requirements of Rule 15c3-3(k).

[8] See Rule 15c3-3(k)(2)(ii), which indicates that provisions of Rule 15c3-3 are not applicable to an introducing broker or dealer.

[9] An introducing broker-dealer's FINRA Membership Agreement does not permit the firm to receive/hold customer funds or securities. *See also,* The Securities Exchange Act of 1934, Customer Protection Reserves and Custody of Securities, 17 C.F.R. § 240.15c3-3.

transmitted[10] to the clearing broker-dealer who holds the assets on behalf of the client.[11] These policies and procedures include the following:

- A prohibition on accepting cash or cash equivalent payments from clients,
- A prohibition on accepting checks made payable to the individual financial advisor,
- A prohibition on accepting checks made payable to the broker-dealer,
- Tracking and blottering all checks received, and
- Tracking and blottering all securities received.

While the risk to investors at introducing broker-dealers is low, the cost of audits by PCAOB registered and inspected accounting is significant. If introducing broker-dealers were required to have their auditors subject to PCAOB oversight, it would result in significant additional expense. Our members tell us that the cost of a financial audit would increase from $5,000 to $10,000 per year, to an estimated $50,000 to $100,000 per year for the typical introducing broker-dealer firm. Such a large increase would place a significant additional burden on small introducing broker-dealers and could potentially force them out of business. Those firms who can bear the additional costs will be forced to pass on the expense to the investor. In either case, the result is a decrease in access to professional financial advice and service.

Additionally, this substantial increase in costs will not improve investor protection because there are existing mechanisms in place to insure that conversion of client assets does not occur at introducing firms. For example, FINRA and the SEC examine more than half of the 4,570 registered broker-dealer firms each year.[12] These regulators test for compliance with federal securities laws, self-regulatory organization rules and compliance with the broker-dealers written supervisory procedures. Since the oversight examinations performed by FINRA and the SEC provide the necessary investor protection, PCAOB oversight of auditors of introducing broker-dealers is duplicative and unnecessary.

Accordingly, we believe that the PCAOB should further study the important distinction between an introducing broker-dealer and a carrying broker-dealer, prior to applying the interim program to all broker-dealers. We believe that the interim program should exclude introducing broker-dealers, and that further analysis and study should be conducted related to PCAOB oversight of introducing broker-dealers. Applying an expensive oversight program in an effort to better understand the current environment is not a prudent approach. We urge the PCAOB to rethink and revamp the contemplated interim program.

- **Mandatory Participation** – Page 8 of the Release announcing the Proposed Rule provides that "the proposed temporary rule would make cooperation with Board inspection procedures under the interim program mandatory for registered firms and their

[10] *See* SEC Release No. 34-31511. "A broker or dealer is deemed to 'promptly transmit' all funds and to 'promptly deliver' all securities…where such transmission or delivery is made no later than noon of the next business day after the receipt of such funds or securities; provided, however, that such prompt transmission or delivery shall not be required to be effected prior to the settlement date for such transaction."

[11] See generally, Rule 15c3-3(k)(2)(i) of the Securities Exchange Act of 1934, available at http://www.law.uc.edu/CCL/34ActRls/rule15c3-3.html#k.2.i.

[12] Rick Ketchum, Chairman & CEO of FINRA, before the NAVA Government & Regulatory Affairs Conference (June 8, 2009), available at http://www.finra.org/Newsroom/speeches/Ketchum/P118889.

associated persons."[13] Moreover, Section 4 of Rule 4020T would make participation in the program mandatory for all broker-dealers.

FSI believes the Board should consider voluntary participation in the interim inspection program for auditors of introducing broker-dealer that are already subject to PCAOB oversight in an effort to assess the need for the participation of all introducing broker-dealers. We believe that this approach will serve the PCAOBs' desire for additional information on introducing broker-dealer oversight, while reducing the cost and expense related to PCAOB oversight as contemplated in the interim program.

Moreover, FSI believes that there needs to be additional study of the merits of covering auditors of introducing broker-dealers in the interim program. We believe that the PCAOB should collect and study all available data from the SEC, FINRA, SIPC, industry experts, and industry associations before subjecting all categories of registered public accounting firms that audit brokers and dealers to the interim program. If the research indicates that auditors of introducing broker-dealers should be covered, the PCAOB can then issue a second rulemaking covering them, but not without collecting and studying the facts and performing a careful cost-benefit analysis first.

Conclusion

We are committed to constructive engagement in the regulatory process and, therefore, welcome the opportunity to comment on the Proposed Rule. As stated above, FSI believes that the interim program should be voluntary for introducing broker-dealers and that additional study should be completed on the merits of covering auditors of introducing broker-dealers in the interim program.

Thank you for your consideration of our comments. Should you have any questions, please contact me at 202 379-0943.

Respectfully submitted,

Dale E. Brown, CAE
President & CEO

[13] *See* Proposed Temporary Rule for an Interim Inspection Program for the Audits of Brokers and Dealers, PCAOB Release No. 2010-008, 8.

February 14, 2011

Office of the Secretary
Public Company Accounting Oversight Board
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Re: PCAOB Rulemaking Docket Matter No. 32, *Proposed Temporary Rule for an Interim Program of Inspection Related to Audits of Brokers and Dealers*

Dear Board Members and Staff:

We appreciate the opportunity to comment on the Public Company Accounting Oversight Board's (Board) *Proposed Temporary Rule for an Interim Program of Inspection Related to Audits of Brokers and Dealers* and respectfully submit our comments and recommendations thereon.

We support the temporary inspection program related to audits of broker-dealers, particularly because such a program is intended to influence the development of more permanent inspection rules and, at the same time, evaluate a registered public accounting firm's adherence to applicable standards and other professional requirements. We believe the temporary program should include the various classes of broker-dealers in order for the Board to make informative decisions related to the permanent program. However, we would encourage the Board to develop a risk profile for the various classes of broker-dealer entities and focus the interim inspections on those deemed of higher risk. In that regard, we suggest seeking input from industry and profession groups to assist the Board in identifying and weighting the appropriate risk factors.

The Board has appropriately acknowledged the professional standards that currently apply to audits of broker-dealers. We believe that the temporary inspection program must carefully take into consideration these professional standards. Inspectors will need to be knowledgeable of the broker-dealer industry, as well as understand the guidance provided by the American Institute of Certified Public Accountant's (AICPA) *Audit Guide for Brokers and Dealers in Securities*. As professional standards have and will continue to evolve, inspection findings should be based on what is currently required, while bearing in mind what might need to change to further protect the public interest. In this regard, we believe that the Board should be cautious about setting new standards prior to the completion of the temporary inspection program, including consideration and discussion of the findings with profession and firm representatives, such as the AICPA Stockbrokerage and Investment Banking Expert Panel.

We also agree with the proposed mechanisms for providing feedback to the inspected firms and the issuance of a formal report that describes the progress of the temporary inspection program and the Board's significant observations. However, we strongly recommend that the Board keep separate the process for reporting on inspections of a registered firm's audits of issuers, as we are concerned that combining the communication of findings may result in report issuance delays and potential confusion in interpreting the PCAOB's comments.

We would be pleased to discuss our letter with you. If you have any questions, please contact Karin A. French, National Managing Partner of Professional Standards, at (312) 602-9160.

Sincerely,

United States House of Representatives
Committee on Financial Services
Washington, D.C. 20515

BARNEY FRANK, MA, RANKING MEMBER

May 27, 2011

Mr. James Doty
Chairman
Public Company Accounting Oversight Board
1666 K Street, N.W.
Washington, DC 20006

Dear Chairman Doty:

We write to you about the Public Company Accounting Oversight Board's (PCAOB) proposed interim rule to implement Section 982 of the Dodd-Frank Wall Street Reform and Consumer Protection Act (P.L. 111-203), and the costs and benefits of that rule as it applies to the auditors of introducing broker-dealers.

We believe that the case has yet to be made for the PCAOB to extend its oversight to include the auditors of introducing broker-dealers. Introducing broker-dealers are typically small businesses, with reduced capital requirements and limited infrastructure and staff. Because many auditors of these firms are also small businesses, compliance with a new Federal regulatory regime may present particular challenges. Furthermore, introducing broker-dealers may not accept client funds and if they receive client funds inadvertently, safeguards exist to ensure that these entities do not keep the money. Thus, it is difficult to envision how an inspection of an introducing broker-dealer's auditor would protect the broker-dealer's customers.

The PCAOB should conduct more research to determine whether inspections of their auditors would deter the introducing broker-dealers from committing securities fraud. The Board should also demonstrate that the benefits to investors from comprehensively regulating the auditors of introducing broker-dealers would exceed the costs of compliance.

The exercise of the PCAOB's new authority should enhance investor protection without overly burdening the compliance regime for auditors, particularly small auditing firms, which may be disproportionately affected by complying with the Board's new rules.

Thank you for your attention to this important matter.

Sincerely,

SPENCER BACHUS
Chairman
Committee on Financial Services

SCOTT GARRETT
Chairman
Subcommittee on Capital Markets and
Government Sponsored Enterprises

# Congress of the United States
## Washington, DC 20515

February 14, 2011

Mr. Jim Doty, Chairman
PCAOB
1666 K Street, NW
Washington, DC 20006

Mr. Lew Ferguson Board Member
PCAOB
1666 K Street, NW
Washington, DC 20006

Mr. Daniel L. Goelzer, , Board Member
PCAOB
1666 K Street, NW
Washington, DC 20006

Mr. Jay Hanson, Board Member
PCAOB
1666 K Street, NW
Washington, DC 20006

Mr. Steven B. Harris, Board Member
PCAOB
1666 K Street, NW
Washington, DC 20006

Re: Proposed Interim Rulemaking for Auditors of Broker-Dealers

Dear Board Members:

We are writing to you as both Members of Congress and as Certified Public Accountants (CPAs). Each of us has extensive experience as CPAs and we are well aware of the important role the Public Company Accounting Over sight Board (PCAOB) plays in ensuring that federal regulation of the accounting and auditing professions is effective and appropriate.

We are writing today regarding Section 982 of the Dodd-Frank Act, which grants broad new authority to the PCAOB regarding the oversight of auditors of broker-dealers. As the Board undertakes its interim rulemaking under this provision, we ask that you carefully weigh the need to extend additional protections to investors while also avoiding the creation of new onerous, excessive regulations on small CPA firms. Since this is an entirely new area of oversight for the PCAOB, we applaud your decision to undertake an interim rule first to gather important information and expertise before proposing a final rule.

In this initial interim rule, we believe that the most appropriate route for the PCAOB to take is to focus your oversight on those audit firms whose broker-dealer clients have access to investor funds. These so called "clearing, carrying, and custodial" broker-dealers are the class of auditors for whom there is a broad consensus for additional regulation, as well as the most perceived benefit to investors. We urge the PCAOB to act quickly to begin an effective and targeted inspection program over these auditors.

It is also important to note that during congressional consideration of Section 982, there was considerable debate about what benefits, if any, would be achieved by extending PCAOB oversight to auditors of introducing broker-dealers – those broker-dealers with no access to client monies. This interim rule period is an appropriate time for the PCAOB to study that question. We believe that along with an interim rule covering auditors of clearing, carrying, and custodial broker-dealers, the PCAOB should undertake a study on the benefits of registering and inspecting auditors of introducing broker-dealers, without actually extending such regulatory oversight to this class of auditors until the study is done.

We would like to caution you that it would be a mistake, at this juncture, to extend regulation over auditors of introducing broker-dealers when there is insufficient evidence about the benefits of such regulation, and there is the very real chance that a final rule may not ultimately include this class of audit firms. The issuance of an overly broad interim rule would create regulatory uncertainty, impede business decisions, and add unwarranted costs to these small businesses. However, once a study has been done, and the PCAOB has publicly articulated the merits of a second rule focused on oversight of auditors of introducing broker-dealers, then it would be practical to proceed. If the case is compelling, then in consultation with Congress, and with input from affected parties, the PCAOB should move to a rulemaking on auditors of introducing broker-dealers. If the case is not strong, you will have averted imposing regulatory chaos, unforeseen costs, and lost time and resources on those small firms whom it was ultimately deemed inappropriate to cover.

If the PCAOB follows our counsel and undertakes this due diligence study, we ask you also to engage the Securities and Exchange Commission and the Financial Industry Regulatory Authority, in their role as principal regulators of broker-dealers. We understand that there may be certain instances where introducing broker-dealers may have brief and limited access to investor funds. In situations such as these, where there is a heightened opportunity for fraud or malfeasance, rather than extending new oversight over the auditors of introducing broker-dealers, a fresh discussion of associated risks to investors may more appropriately solicit ideas for stronger safeguards by the principal regulators themselves.

In closing, we are pleased that Mr. Goelzer, in his capacity as Acting Chairman, has publicly acknowledged on repeated occasions that it would be inappropriate to treat all auditors of broker-dealers identically. We share his perspective and hope that all of you, both the recently appointed members as well as the longer serving members, will allow that philosophy to guide your approach.

We look forward to working with you as this rulemaking proceeds, as well as on other important topics which affect the accounting and auditing professions.

Respectfully,

Rep. Lynn Jenkins

Rep. Collin C. Peterson

Rep. Michael K. Conaway

Rep. Brad Sherman

Rep. John Campbell

Rep. Jim Renacci

Rep. Steven Palazzo

Rep. Bill Flores

KPMG LLP
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Internet www.us.kpmg.com

February 10, 2011

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

**PCAOB Rulemaking Docket Matter No. 32**
***Proposed Temporary Rule for an Interim Program of Inspection Related to Audits of Brokers and Dealers***

Dear Mr. Secretary:

We appreciate the opportunity to comment on the Public Company Accounting Oversight Board's (the PCAOB or the Board) Release No. 2010-008, *Proposed Temporary Rule for an Interim Program of Inspection Related to Audits of Brokers and Dealers* (the Release).

The Dodd-Frank Wall Street Reform and Consumer Protection Act (the Dodd-Frank amendments) amended various provisions of the Sarbanes-Oxley Act of 2002 (the Act). Among other things, the Dodd-Frank amendments provide the Board with oversight authority with respect to audits of brokers and dealers that are registered with the Securities and Exchange Commission (the Commission). Specifically, the Dodd-Frank amendments provide the Board with authority to carry out the same oversight responsibilities it has carried out with respect to issuer audits – standards-setting, inspections, and investigations and disciplinary proceedings – in connection with registered public accounting firms' audits of brokers and dealers.

We support the Board's proposed approach of establishing an interim inspection program related to audits of brokers and dealers (the Program) and believe that it will allow the Board to achieve its objectives set forth in the Release to assess registered public accounting firms' compliance with laws, rules and professional standards in performing audits of brokers and dealers and informing the Board with respect to decisions about significant elements of a permanent inspection program. However, we believe that certain elements of the Release require further clarification and guidance, and have summarized our observations and recommendations for your consideration below.

**The Proposed Interim Inspection Program**

The Release indicates that one of the purposes of the Program is to "enable the Board to begin the work of assessing the degree of compliance of registered public accounting firms and their associated persons with the Act, the Board's rules, the Commission's rules, and professional standards in connection with the performance of audits, issuance of audit reports, *and related matters involving brokers and dealers*." We suggest that the Board clarify what it intends to include in the interim inspection program with regard to "*related matters involving brokers and dealers.*" This clarification should provide registered public accounting firms with the Board's expectations relative to the performance and execution of their audits of brokers and dealers in accordance with the Board's and the Commission's rules as well as professional standards.



We encourage the Board to elaborate on its expectations relative to the voluntary cooperation of "certain" registered public accounting firms prior to the temporary rules taking effect. The Release provides that, "even before any such rule takes effect….the Board expects to be able to conduct relevant procedures with the voluntary cooperation of certain firms." The Board should clarify what it means by "relevant procedures" during the voluntary period, and whether it will include actual inspections of certain audits of brokers and dealers. Also, we believe that the Board should indicate the timing of such procedures and which registered public accounting firms are expected to voluntarily cooperate.

**Scope, Focus and Duration of the Interim Program**

We agree that the Board should include all applicable registered public accounting firms and all types of brokers and dealers in the scope of its Program to gain an understanding of the business and the associated accounting and audit risks. However, we encourage the Board to consider the potential costs and benefits of adopting a permanent inspection program that scopes in all types of brokers and dealers (and accordingly, all registered public accounting firms that audit any broker or dealer). We believe that the interests of the investing public would be best served by focusing the Board's resources and efforts on those brokers and dealers that carry customer accounts and maintain customer cash and securities. These "clearing" brokers and dealers are typically considered to represent greater significance to the markets and investors than "introducing" brokers and dealers, whose customer accounts and transactions are cleared and carried on the books and records of a clearing broker and dealer.

**Reporting and Related Matters**

We support the Board's intention of publishing the results of the Program's progress no less frequently than every twelve months, beginning twelve months after the date the rule takes effect and continuing until rules for a permanent program are established. We believe that these reports will not only serve to further the public interest, but will help improve audit quality. We believe that these reports should not only describe the progress of the Program and any significant observations that may bear on the Board's consideration of a permanent program, but also should include sufficient details on the nature and types of brokers and dealers inspected relative to the observations made to allow registered public accounting firms to improve their audits of brokers and dealers by improving their understanding of the specific issues raised in the reports.

*Inspection Findings*

Relative to firm-specific findings, we suggest that the Board clarify how it intends to communicate the Program's findings, and the process by which registered public accounting firms can respond to identified deficiencies. The Release is unclear as to how the Board intends to communicate firm-specific Program findings or how registered public accounting firms are expected to respond to any deficiencies noted in the Program. Although the Board refers to a "draft inspection report" in footnote 10 of the Release, the Board has not incorporated Rule 4007, *Procedures Concerning Draft Inspection Reports* as applicable to the Program under proposed Rule 4020T, *Interim Inspection Program Related to Audits of Brokers and Dealers*. Furthermore, the proposed rule amendments in the Appendix to the Release do not discuss any provisions for the issuance of a draft inspection report or procedures to allow a registered public accounting firm to respond to inspection findings during the Program period.

*Inspection Reporting*

We have noted some inconsistencies between the Release language and the proposed temporary rule amendments regarding firm-specific inspection reports and seek clarification regarding the process by which the Board will report inspection deficiencies in such reports. Specifically, during the course of the Program it is not sufficiently clear how findings will be communicated to the firm, what opportunities the firm will have in responding to such findings, or the timing and extent to which interim inspection findings will be communicated in firm-specific public reports.

The Release states that the Board will bring identified audit deficiencies "to the firm's attention with the expectation that the firm will address the deficiencies and take steps to avoid future such deficiencies.[1]" We are unclear how the Board intends to communicate those deficiencies throughout the Program period or what the Board's expectations are for the firms to respond to deficiencies noted. The proposed temporary rule amendments in the Appendix to the Release do not discuss any procedures to allow a firm to respond to inspection findings during the Program period. We recommend the Board clarify the process as to how the firm can expect to receive and address comments from the Board (i.e., whether comments from the Board are anticipated to be written or oral and the expectations by the PCAOB for firm responses thereto) during the Program.

The Release provides that while the Program is in place, a Board inspection of a firm that performs audits of issuers and brokers or dealers would include the full, regular inspection – including the firm-specific inspection report – of the firm's issuer practice. Such an inspection could also include inspection procedures under the Program with respect to the firm's broker and dealer practice, but the Board would not expect to incorporate any evaluation of the firm's broker and dealer practice into the public portion of a firm-specific report before the first inspection of the firm that occurs after a permanent program takes effect. Nothing in the temporary rule, however, would necessarily preclude the Board from issuing a firm-specific inspection report on, or including, inspection observations from the Program before a permanent program takes effect[2].

We believe that publicly issuing firm-specific reports during the Program period would be inconsistent with the Board's expectation that inspection procedures performed on a firm as part of the Program are to "constitute a foundational portion of the firm inspection of the firm's broker and dealer audit practice, which eventually would be completed and encompassed within a firm-specific inspection report following the establishment of the permanent program if the firm is included in the permanent program." Given that the Commission's rules with respect to reports to be made by certain brokers and dealers may be revised, and that the Board may revise standards with respect to the audits of brokers and dealers during the Program period, we believe that publicly disclosing firm-specific inspection findings for certain firms during the interim period may not be beneficial to investors or the public as the inspection findings may be based upon rules, regulations and standards that are no longer in effect at the time of issuance of the firm-specific inspection report and would not serve to help improve the quality of future audits by the registered public accounting firm.

[1] Page 9 of the Release.

[2] Footnote 21 of the Release.



It is also unclear what Program observations the Board intends to include in the initial firm-specific report released after a permanent program takes effect. We note that the Board expects to issue firm-specific inspection reports after rules for a permanent program take effect. As stated above, the Board has explained that inspection observations noted throughout the Program period will constitute a "foundational portion" of the first inspection and firm-specific inspection report issued after the permanent program takes effect. The PCAOB expects that this process will result in "consistent and meaningful evaluations of the types of quality control issues that going forward, firms need to address in their practices.[3]" Although we expect that the Board would only publish observations noted during the Program period that would have an impact on a registered public accounting firm going forward, the Release does not address what specifically the Board intends to include in the initial firm-specific public report. For example, it is not clear as to whether potential deficiencies cited in a firm-specific report (or reported orally to a registered public accounting firm) will be cumulative in nature – that is, whether inspection comments will be cumulative over the course of the three years of the Program.

Regardless, we have concerns with respect to including deficiencies identified during the Program in the first report under the permanent program. First, because the Board will be updating its standards, it is likely that inspection deficiencies will relate to standards that have been amended. Second, we are concerned that there would be a significant reporting time lag – including inspection findings based on inspections of 2010 audits in 2014 firm-specific reports. We believe that issuing a firm-specific report that includes inspection deficiencies that are outdated and likely no longer applicable due to either the standards being amended and/or replaced or the firms having amended or changed practice to address deficiencies identified, would be inappropriate, and particularly so if reported to the public. Accordingly, we request the Board to reconsider whether it is helpful to include Program findings in the initial firm-specific report under the permanent program.

We note that the Release indicates that if registered public accounting firms are exempted under the permanent rules, findings from firm-specific inspections will not be made public after rules for a permanent program takes effect; unlike registered public accounting firms that are not exempted. Subject to our comments above, we recommend that the Board limit findings included in the initial firm-specific report issued after the permanent rule takes effect to only those findings related to audits of brokers and/or dealers that are not exempted from the permanent inspection program.

* * * * * * *

We appreciate the Board's careful consideration of our comments. If you have any questions regarding our comments or other information included in this letter, please do not hesitate to contact Sam Ranzilla, (212) 909-5837, sranzilla@kpmg.com, or Scott Frew, (212) 909-5804, sfrew@kpmg.com.

Very truly yours,

KPMG LLP

[3] Page 10 of the Release.



cc: PCAOB Members and SEC Commissioners

**PCAOB**
James R. Doty, Chairman
Lewis H. Ferguson, Member
Daniel L. Goelzer, Member
Jay D. Hanson, Member
Steven B. Harris, Member
George Diacont, Director, Division of Registration and Inspections

**SEC**
Mary L. Schapiro, Chairman
Luis A. Aguilar, Commissioner
Kathleen L. Casey, Commissioner
Troy A. Paredes, Commissioner
Elisse B. Walter, Commissioner
James L. Kroeker, Chief Accountant
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February 9, 2011

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. 032**

Dear Office of the Secretary:

McGladrey & Pullen, LLP appreciates the opportunity to comment on the PCAOB's *Proposed Temporary Rule for an Interim Program of Inspection Related to Audits of Brokers and Dealers.* McGladrey & Pullen is a registered public accounting firm serving middle-market issuers, brokers, and dealers. We support the PCAOB's efforts to assess registered public accounting firms' current compliance with laws, rules, and standards in performing audits with respect to brokers and dealers. We do, however, have the following comments, which we believe would help clarify certain sections of the proposed rule and enhance its application in practice.

*Interim Program of Inspection – Receiving and Addressing PCAOB Comments*

Page 9 of the Release accompanying proposed temporary Rule 4020T, *Interim Inspection Program Related to Audits of Brokers and Dealers,* states that the Board will bring identified audit deficiencies "to the firm's attention with the expectation that the firm will address the deficiencies and take steps to avoid future deficiencies." Although there is a reference to the draft inspection report in Footnote 10 of the Release, the Board has not included Rule 4007, *Procedures Concerning Draft Inspection Reports,* as being applicable to the interim inspection program under proposed temporary Rule 4020T. The wording in Rule 4020T as proposed in the appendix to the Release is silent as to any provisions for issuance of a draft inspection report or procedures to allow a firm to respond to inspection findings during the interim inspection period. We recommend that the Board articulate in Rule 4020T how it intends to communicate identified audit deficiencies throughout the interim inspection period and what the Board's expectations are for the firm in responding to deficiencies noted.

*Reporting – Incorporation of Interim Inspection Findings in Firm-specific Inspection Reports*

Footnote 21 in the Release states that a Board inspection of a firm that performs audit work for issuers and for brokers and dealers would include the "full, regular inspection – including the firm-specific inspection report – of the firm's issuer practice." The footnote also states that although the Board "would not expect" to incorporate inspection findings specific to brokers and dealers in the public portion of a firm-specific report before a permanent rule takes effect, there is nothing in the temporary rule to preclude this. These statements result in a lack of clarity as to whether the Board would incorporate inspection findings specific to brokers and dealers in the public portion of a firm-specific report before a permanent rule takes effect. Also, it is not clear why public disclosure of firm-specific inspection findings during the interim period could be appropriate given that (a) the SEC's standards and the professional standards are anticipated to be amended and/or replaced over the three-year interim inspection period, and (b) such reporting would not serve the two stated principal purposes of the proposed rule – to allow the Board to assess current compliance with laws, rules, and standards in performing audits with respect to brokers

and dealers, and to inform the Board's decision about significant elements of a permanent inspection program. We urge the Board to state in the "Reporting" section of Rule 4020T under which circumstances it would incorporate interim inspection findings in firm-specific inspection reports.

*Reporting – Initial Firm-specific Inspection Reports After Permanent Inspection Program Takes Effect*

It is not clear whether the initial firm-specific reports issued after the rules for a permanent program take effect will include inspection comments on a cumulative basis over the three years of the interim inspection program. If comments are cumulative, inspection deficiencies related to standards that have been amended and are no longer relevant could be included. Also, cumulative reporting would result in significant reporting time lags, including the potential for reporting of inspection findings that have been satisfactorily addressed subsequent to the interim inspection. Public disclosure of inspection deficiencies related to outdated standards or deficiencies that have already been satisfactorily addressed could be misleading to the public. We encourage the Board to clarify its intentions regarding the nature of what will be communicated in the initial firm-specific public report after the permanent program takes effect.

We would be pleased to respond to any questions the Board or its staff may have about these comments. Please direct any questions to Scott Pohlman (952.921.7734) or Bruce Webb (515.281.9240).

Sincerely,

McGladrey & Pullen, LLP

McGladrey & Pullen, LLP

NAIBD

February 9, 2011

J. Gordon Seymour
Office of the Secretary
PCAOB Headquarters
1666 K Street, N.W.,
Washington, D.C. 20006-2803

PROPOSED TEMPORARY RULE FOR AN INTERIM PROGRAM OF INSPECTION RELATED TO AUDITS OF BROKERS AND DEALERS; Docket Matter No. 32

Dear Mr. Seymour;

Thank you for the opportunity for the National Association of Independent Broker Dealers ("NAIBD") to comment on PCAOB's Proposed Temporary Rule for an Interim Program of Inspection Related to Audits of Brokers and Dealers. Please convey our comments to the Board.

The NAIBD was formed in 1979 to positively impact rules, regulations, and legislation by facilitating a consistent, productive relationship between industry professionals and regulatory organizations. The organization is national in scope with a network of approximately 150 Broker-Dealer and Industry Associate Members.

We recognize the extent to which the Board's mandate impacts public confidence and how important investor confidence is to stability of our capital markets and our industry as a whole. Therefore, we understand that the Board cannot make broad exemptions to its inspection authority without careful consideration of the myriad risks posed by various business activities in which brokers and dealers engage. Further, we are aware that brokers and dealers engage in broadly varied types of businesses and that some of these may involve activities that are relatively unfamiliar to the Board.

We generally support the proposed temporary rule on the belief that it provides the Board with the time and data necessary to better understand the varied demographics, and to determine with confidence those classes of brokers and dealers, if any, which will ultimately be exempted from the Board's permanent inspection program.

Nonetheless, we firmly believe that there are a few sub-groups of brokers and dealers whose activity poses no significant risk to the investing public and which should be exempted from the Board's permanent program. We encourage PCAOB to identify the firms that fall into a minimal or no risk category and enact these exemptions without unnecessary delay.

It has been suggested that the PCAOB exempt all introducing brokers and dealers. While we do not patently disagree with this suggestion, we do believe that the Board should undertake a careful analysis that considers additional attributes and characteristics.

For instance, we believe that the following attributes are important in the context of determining investor risk among broker-dealers:

- Custody, Discretion
- Institutional/Retail/Domestic/Foreign Clients
- Industry Tenure and Experience
- Broad, Limited or No Products
- Full, Limited or No Services
- Customer Concentration/Distribution
- Revenue Concentration/Distribution
- Product Concentration/Distribution
- Affiliations/Subsidiaries

In addition to these attributes, we believe that lines can be drawn to separate among classes of firms whose profile is meaningful in regard to risk, such as:

- Firms have or do not have the attributes (such as for custody, discretion, products, services)
- Firms for which any particular attribute varies by length of time (such as for experience), degree of concentration (products or customers), proportionate or aggregate value to firm (revenues or affiliations)
- Firms with all or none of the attributes; firms whose combination of the attributes is simple or complex; firms for which the attribute presents inherently high risk or low risk

We hope the PCAOB will also consider that some firms present minimal or no risk due to the number and nature of disclosed business lines. For instance, approximately 575 firms engage solely in one line of business. Of these firms with only one business line:

- The most predominant categories represented are Private Placements, Mutual Funds, Variable Annuities, and “Other”
- 202 firms engage only in Private Placement activity
- Significantly, 185 firms engage only in “Other” (the second highest over all)

The following table presents data regarding firms with one business line in the context of their attributes:

| Only 1 Business Line | Attributes, Description | Approx. # |
|---|---|---|
| PLA | Private Placement only firms typically conduct business among funds, and business owners, other institutions or accredited investors. Nearly all of the firms in this category, with private placements as their only business, have fewer than 30 employees, and approximately 170 or 85% of them have 10 or fewer employees. | 202 |
| Other | Firms selecting "Other" are required to describe their business line(s) in a text box associated with this item. Nearly all of the firms disclosing "Other" are engaged in Mergers and Acquisitions, Placement Agent Services, or other private securities or investment banking activity. | 185 |
| MFR | Mutual Fund only firms mostly offer mutual funds to retail customers by application (no custody, no clearing agreement). FOCUS data would reveal which if any of these 'self-clears' under the K2(i)(i). All but 3 of the firms in this category have fewer than 50 employees. | 48 |
| VLA | Firms offering Variable Annuities only engage in application way business (non-custodial; non-clearing). The vast majority of these firms are very small (only 6 of the 22 have more than 25 employees. | 22 |

Not much different from these are firms with only two types of business. These firms number just shy of 1000 in all. Of them:

- All but 20 of the 1000 are "small firms" according to FINRA (fewer than 150 RRs)
- 80%, or just over 700 of them have 10 or fewer RRs
- More than half (about 520 firms) disclose Private Placements/Other as their two types of business
- Next in numbers are firms disclosing Mutual Funds/Variable annuities as their two business lines (approximately 90 firms)

The following table presents information about firms with only two business lines in the context of their attributes:

| Only 2 Business Lines | Attributes, Description | Approx. # |
|---|---|---|
| PLA and Other | Firms in this category interact with institutions (businesses, corporations, funds) and sometime accredited investors. They may engage in investment banking, M&A activity, offer Placement Agent Services, act as Third Party Marketers. Approximately 500 of these firms have fewer than 30 employees; about 420 have fewer than 10. Only one has more than 150 RRs. In many cases, firms with these two business lines have no public customers, and limited private transactions. Because of the highly consultative nature of this business, some go for months or even years without closing a transaction. They do not engage in tax shelters or limited partnerships on a primary or secondary basis (these activities are captured by other disclosure categories.) | 520 |
| MFR and VLA | Most firms in this category engage in retail sales to customers by application (no custody, no clearing agreement). FOCUS data would reveal which if any of these 'self-clears' under the K2(i)(i) exemption. Although a handful of firms engaging solely in these two business lines are large firms; nearly 80% have fewer than 10 employees. | 93 |

Using data and information like this, we encourage the Board to continue along its thoughtful path to understanding the nature and variety among brokers and dealers, so that certain classes including firms who do not have public customers, those with no access to customer funds or securities, those with less than $1mm in annual revenues, and/or those whose activities are limited to offering one or more 'packaged' products (such as variable annuities, mutual funds, CDs), among others, are considered for a permanent exemption. We believe exempting firms in any or all of these categories will provide the PCAOB with the best possible opportunity to maximize its efforts where they can be most impactful.

It is also important to note that exemptions to firms in these categories, mostly small firms, will have a significant financial impact. Since the Sarbanes-Oxley Act gave the PCAOB Board inspection authority and responsibility and continuing through passage of the Dodd-Frank Wall Street Reform and Consumer Protection Act, which expanded that inspection authority to include audits of registered securities brokers and dealers, our members have suffered the burden of increased fees for our annual audits. In some cases, most predominantly in more rural areas, costs have sky-rocketed. Considering

that in many cases there is no positive impact on public safety, many small firms should be relieved from this increase in overhead.

On behalf of broker-dealer trade associations, including the National Association of Independent Broker Dealers and the Financial Services Institute, I have attended an open Board Meeting of the PCAOB in December 2010, as well as a regular meeting of the Board in January 2011. On both occasions, I have had the opportunity to observe the diligence and thoughtfulness of the PCAOB Board, whose deliberations demonstrated sensitivity to the financial impact on firms, the relevance of its inspections to varied business models, while remaining ever mindful of the Board's central mission of consumer protection.

Thus it is with great respect for both the composition and the mission of the Board that I request that the Board leverage its interim period wisely, and that ultimately, it exercise its authority to exempt small, low-risk firms from its inspection requirement.

Best regards,

Lisa Roth
Association Past-Chairman
Chair, NAIBD Member Advocacy Committee


February 10, 2011

J. Gordon Seymour
Office of the Secretary, PCAOB, 1666 K
Street, N.W., Washington, D.C. 20006-2803

Re: PROPOSED TEMPORARY RULE FOR AN INTERIM PROGRAM OF INSPECTION RELATED TO AUDITS OF BROKERS AND DEALERS; Docket Matter No. 32

Dear Mr. Seymour:

Thank you for the opportunity to comment on PCAOB's Proposed Temporary Rule for an Interim Program of Inspection Related to Audits of Brokers and Dealers. We trust you will convey our comments to the Board.

3PM is a professional association made up of firms that assist in increasing institutional assets for their diverse following of investment manager clients. The organization's goals are to cultivate relationships and business opportunities among members and to provide information and education about the industry. In addition, 3PM also aims to enhance professional standards and integrity by advancing best practices throughout the financial services industry. More information is available at www.3pm.org.

We recognize the extent to which the PCAOB Board's mandate impacts public confidence and we know that it reaches to the core: the stability of our capital markets. Therefore, we understand that the Board cannot exercise its authority to make broad exemptions without careful consideration of the risks posed by various business activities in which brokers and dealers engage. Further, we are aware that brokers and dealers engage in broadly varied type of businesses, some of which may be relatively unfamiliar to the Board.

Nonetheless, we firmly believe that certain classes of brokers and dealers pose no meaningful risk to consumers and should be exempted from the PCAOB's authority without delay.

For instance, our members are primarily engaged in third party marketing, or placement agent services. Our members' customers include private equity companies, hedge funds, registered investment advisers or other public or private institutions. Some of our members engage related institutional services, such as mergers and acquisitions, and other professional consultative services that do not involve public customers.

We encourage you to consider the estimated number of firms that fall into these categories:

- 202 broker-dealers report that private placement activity is their only business line
- 185 broker-dealers do not fall into any of the customary FINRA business lines and disclose "Other" as their only line of business. Most of these describe their business as mergers and acquisitions and some as third party marketing
- 520 broker-dealers disclose that they are solely private placement agents and "other" activity, again describing the other activity as mergers, acquisitions and placement agent or third party marketing services.

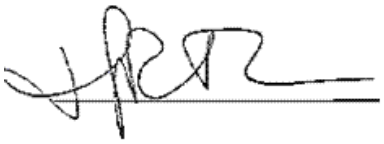
Cumulatively, these 900 firms represent a class of broker-dealer that does not open accounts for customers, does not have custody of assets or securities of others and which pose low, if not no risk, to investors. While these firms are required to carry SIPC insurance, the absence of customers within their business model means that SIPC insurance would not cover their losses.

It is important to note that the majority of these firms are also very small firms. Of the 387 firms reporting only one line of business (private placements or "other) all but 2 are small firms. Of those reporting two business lines (Private placements and "other"), 95% have fewer than 21 employees.

Since the Sarbanes-Oxley Act gave the PCAOB Board inspection authority and responsibility and continuing through passage of the Dodd-Frank Wall Street Reform and Consumer Protection Act, which expanded that inspection authority to include audits of registered securities brokers and dealers, our members have suffered the burden of increased fees for our annual audits. In some cases, most predominantly in more rural areas where auditors of broker-dealers are not readily or regionally available, costs have sky-rocketed.

Considering all the facts presented herein, it is with great respect for the challenges faced by your Board that we request that you exempt from the PCAOB audit requirement for firms in our FINRA demographic.

Best regards,



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| TEMPORARY RULE FOR AN INTERIM PROGRAM OF INSPECTION RELATED TO AUDITS OF BROKERS AND DEALERS | PCAOB Release No. 2011-001<br>June 14, 2011<br><br>PCAOB Rulemaking<br>Docket Matter No. 32 |

Summary: After public comment, the Public Company Accounting Oversight Board, pursuant to its authority under recent amendments to the Sarbanes-Oxley Act of 2002, is adopting a temporary rule to establish an interim inspection program related to audits of brokers and dealers. The temporary rule will serve two principal purposes. It will allow the Board to assess registered public accounting firms' current compliance with laws, rules, and standards in performing audits with respect to brokers and dealers. It will also inform the Board's decisions about significant elements of a permanent inspection program, including whether to differentiate among classes of brokers and dealers, whether to exempt any categories of public accounting firms, and what minimum inspection frequency schedules to establish. The amendments will take effect upon approval by the Securities and Exchange Commission pursuant to Section 107 of the Sarbanes-Oxley Act of 2002.

Board Contacts: Michael Stevenson, Deputy General Counsel (202/207-9054, stevensonm@pcaobus.org); Jennifer G. Williams, Assistant General Counsel (202/591-4173, williamsjg@pcaobus.org).

## I. Introduction

The Sarbanes-Oxley Act of 2002 ("the Act"), as originally enacted, made it unlawful for public accounting firms that were not registered with the Public Company Accounting Oversight Board ("PCAOB" or "the Board") to prepare or issue, or to participate in the preparation or issuance of, any audit report with respect to any issuer (generally defined to encompass most public companies the securities of which trade in

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U.S. capital markets[1/]). The Act also authorized and charged the Board to carry out a range of oversight responsibilities related to issuer audits. Those responsibilities include conducting a program of inspections of registered public accounting firms in connection with their performance of audits, issuance of audit reports, and related matters involving issuers.[2/] The Board has been conducting such a program for several years.[3/]

On July 21, 2010, the Dodd-Frank Wall Street Reform and Consumer Protection Act[4/] amended various provisions of the Act ("the Dodd-Frank amendments"). Among other things, the Dodd-Frank amendments gave the Board oversight authority with respect to audits of brokers and dealers that are registered with the Securities and Exchange Commission ("Commission"). Specifically, the Dodd-Frank amendments provide the Board with authority to carry out the same oversight responsibilities it has carried out with respect to issuer audits – standards-setting, inspections, and investigations and disciplinary proceedings – in connection with registered public accounting firms' audits of brokers and dealers.[5/] The legislative history notes that this new authority "enables the PCAOB to use its inspection and disciplinary processes to

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[1/] As defined in Section 2(a)(7) of the Act, "issuer" means an issuer (as defined in Section 3 of the Securities Exchange Act of 1934 ("Exchange Act")) the securities of which are registered under Section 12 of the Exchange Act, or that is required to file reports under Section 15(d) of the Exchange Act, or that files or has filed a registration statement that has not yet become effective under the Securities Act of 1933 and that it has not withdrawn.

[2/] See Section 104(a)(1) of the Act (originally Section 104(a) of the Act).

[3/] Information about the Board's inspection program related to audits of issuers, including rules, general reports, and the public portions of reports on inspections of individual firms, is available at http://pcaobus.org/Inspections/Pages/default.aspx.

[4/] Pub. L. No. 111-203, 124 Stat. 1376 (July 21, 2010).

[5/] For purposes of the Board's authority, "audit" includes an examination of financial statements, reports, documents, procedures, controls, or notices of any issuer, broker, or dealer, and an "audit report" is a document, report, notice, or other record, prepared following an audit, in which an auditor sets forth an opinion regarding the financial statement, report, notice, or other document, procedures or controls, or asserts that no opinion can be expressed. For the precise definitions of "audit" and "audit report," see Sections 110(1)-(2) of the Act, as amended.

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identify auditors that lack expertise or fail to exercise care in broker and dealer audits, identify and address deficiencies in their practices, and, where appropriate, suspend or bar them from conducting such audits."[6/]

The Dodd-Frank amendments do not prescribe a specific program of inspection of registered public accounting firms that provide audit reports for a broker or dealer. Rather, the Dodd-Frank amendments authorize the Board to establish such a program by rule,[7/] and leave to the Board important questions concerning the elements of the program. Among other things, Section 104(a)(2) of the Act (1) provides that, in establishing the program, the Board may allow for differentiation among classes of brokers and dealers; (2) requires that the Board consider whether differing inspection schedules would be appropriate with respect to auditors that issue audit reports only for brokers or dealers that do not receive, handle, or hold customer securities or cash or are not members of the Securities Investor Protection Corporation ("SIPC"); and (3) provides that if the Board exempts any public accounting firm from such an inspection program, the firm would not be required to register with the Board.

In a release issued on December 14, 2010, the Board explained that it intended to take a careful and informed approach to those questions in establishing a permanent program that appropriately protects the public interest and the interests of investors, including consideration of potential costs and regulatory burdens that would be imposed on different categories of registered public accounting firms and classes of brokers and dealers. The Board also explained that it did not intend to make the necessary judgments without first gathering and assessing relevant information, but that it did not intend to postpone all use of its new inspection authority until after those judgments were made. Accordingly, the Board proposed for public comment a temporary rule for an interim program of inspection that would allow the Board to begin inspections of

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6/ S. Rep. No. 176, 111th Cong., 2d Sess. (April 30, 2010) at 154. The Dodd-Frank amendments to Section 102(a) of the Act also expanded the Act's registration requirement by making it unlawful for any person that is not a registered public accounting firm to prepare or issue, or to participate in the preparation or issuance of, any audit report with respect to any broker or dealer. Even before the Dodd-Frank amendments, however, Section 17(e)(1)(A) of the Exchange Act, as amended in 2002, required that the balance sheets and income statements filed with the Commission by registered brokers or dealers be certified by a public accounting firm registered with the PCAOB.

7/ Section 104(a)(2)(A) of the Act, as amended.

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relevant audits and auditors and provide a source of information to help guide decisions about the scope and elements of a permanent program.[8/]

The Board received twelve written comment letters on the proposed rule,[9/] including two from members of Congress,[10/] three from registered public accounting firms,[11/] three from professional associations of public accountants (or affiliates of such associations),[12/] and three from other professional associations or advocacy organizations for the financial services industry.[13/] After considering all comments submitted, the Board is today adopting temporary rule 4020T (and adding related notes to certain definitions in Rule 1001) largely as proposed.[14/]

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[8/] PCAOB Release No. 2010-008, Proposed Temporary Rule for an Interim Program of Inspection Related to Audits of Brokers and Dealers (December 14, 2010) (the "proposing release") (available on the PCAOB web site at http://pcaobus.org/Rules/Rulemaking/Pages/Docket032.aspx).

[9/] The comment letters are available on the PCAOB web site at http://pcaobus.org/Rules/Rulemaking/Pages/Docket032.aspx.

[10/] Letter from the Hon. Spencer Bachus, Chairman, Committee on Financial Services, and the Hon. Scott Garrett, Chairman, Subcommittee on Capital Markets and Government Sponsored Enterprises (May 27, 2011) ("the Bachus-Garrett letter"); letter from the Hon. John Campbell, the Hon. Michael K. Conaway, the Hon. Bill Flores, the Hon. Lynn Jenkins, the Hon. Steven Palazzo, the Hon. Collin C. Peterson, the Hon. Jim Renacci, and the Hon. Brad Sherman, Members of the United States House of Representatives (February 14, 2011) ("the letter from Certain Members of Congress").

[11/] Letters from McGladrey & Pullen, LLP (February 9, 2011), KPMG LLP (February 10, 2011), and Grant Thornton LLP (February 14, 2011).

[12/] Letters from the Accounting Principles and Auditing Standards Committee of the California Society of Certified Public Accountants (February 8, 2011), the American Institute of Certified Public Accountants (February 15, 2011), and the Center for Audit Quality (February 15, 2011).

[13/] Letters from the National Association of Independent Broker Dealers (February 9, 2011), the Third Party Marketers Association (February 10, 2011), and the Financial Services Institute (February 15, 2011).

[14/] The version of Rule 4020T adopted today differs from the proposed version in three respects. First, the proposed version included definitions of "broker" and "dealer" that are omitted from the final version of Rule 4020T because they are

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### II. The Interim Inspection Program

The interim program will have two purposes. First, it will enable the Board to begin the work of assessing the degree of compliance of registered public accounting firms and their associated persons with the Act, the Board's rules, the Commission's rules, and professional standards in connection with the performance of audits, issuance of audit reports, and related matters involving brokers and dealers.[15/] Second, it will inform the Board's eventual determinations about the elements of a permanent program, including whether and how to differentiate among classes of brokers and dealers, whether to exempt any category of public accounting firm, and the establishment of minimum inspection frequency schedules.[16/]

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being added to the generally applicable definitions in PCAOB Rule 1001 as part of rule amendments separately adopted today in connection with allocating the Board's accounting support fee among issuers, brokers, and dealers. Second, for reasons described below, the version of Rule 4020T adopted today includes a provision incorporating PCAOB Rule 4007, on procedures concerning draft inspection reports, PCAOB Rule 4008, on procedures concerning final inspection reports, and PCAOB Rule 4009, on firms' responses to quality control criticisms, which were not included in the proposed version of the rule. Third, to conform paragraph (c) of the rule to the Act and to paragraph (a)(1) of the rule, the phrase "and related matters involving brokers and dealers" has been added to paragraph (c).

[15/] This description of the scope of matters assessed in an inspection was included in the proposed rule and is included in Rule 4020T(a)(1) adopted today. The language tracks Section 104(a)(1) of the Act describing the scope of matters to be assessed in the Board's inspections of issuer auditors. The inclusion of that same scope language in Rule 4020T follows from Section 104(a)(2)'s provision that a Board program of inspections of auditors of brokers and dealers be "in accordance with" Section 104(a)(1). Two commenters suggested that the Board clarify the meaning of "related matters involving brokers and dealers" so that registered firms can fully understand the Board's expectations relative to the performance of audits. See letters of KPMG LLP and Center for Audit Quality. The effect of the phrase, however, is not to authorize inspecting against arbitrary, unstated expectations but, rather, is to authorize inspecting for compliance with the Act, rules, and standards to the extent any such provisions apply in contexts related to audits of brokers and dealers.

[16/] The temporary rule for an interim inspection program will take effect once the Commission approves the final temporary rule. Before later adopting any final rules for a permanent program of inspection, the Board would seek public comment on proposed rules for such a program. Final rules for a permanent program would take

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A. Scope of the Interim Program

The temporary rule that the Board proposed did not reflect any exercise of the Board's authority to differentiate among classes of brokers and dealers or to exempt any category of public accounting firm. The proposing release explained that judgments about what, if any, differentiation and exemptions were appropriate for a permanent program would be informed by, among other things, observations in the course of the interim program.

The Board received a number of comments addressing the inclusive scope of the proposed interim program.[17/] Some commenters supported the proposed scope, while nevertheless suggesting that the Board focus its interim inspection efforts on audits of certain categories of brokers and dealers, such as those that have possession and control of customer cash and securities or act as clearing, carrying, or custodial brokers.[18/] One of those commenters also suggested that the Board consider, in connection with a permanent program, whether the public interest would be best served by focusing on those that carry accounts and maintain customer cash and securities.[19/]

Other commenters disagreed with the proposed approach. They argued, and some submitted data intended to support the argument, that certain categories of brokers and dealers pose little or no risk to the investing public. They suggested that the Board could identify those categories by focusing on factors such as whether the broker or dealer has custody of, or meaningful access to, client assets, or whether it is exclusively an introducing broker or dealer. These commenters suggested that the Board either should exempt the auditors of low-risk categories of firms from the Board's

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effect only if separately approved by the Commission, a process that typically includes a separate round of public notice and comment.

[17/] See Bachus-Garrett letter, letters from Certain Members of Congress, the American Institute of Certified Public Accountants, California Society of Certified Public Accountants, Center for Audit Quality, Chris Barnard (January 27, 2011), Grant Thornton LLP, KPMG LLP, National Association of Independent Broker Dealers, Third Party Marketers Association, and Financial Services Institute.

[18/] See letters from the Center for Audit Quality, Chris Barnard, Grant Thornton LLP, and KPMG LLP.

[19/] See letter from KPMG LLP.

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authority without delay[20/] or should collect and study currently available data on the question before subjecting auditors of all brokers and dealers to an inspection program.[21/] One commenter expressed concern that PCAOB regulation would significantly increase the cost of an audit to these entities, potentially forcing some of them out of business, with no corresponding contribution to meaningful protection of investors.[22/] Other commenters similarly expressed concern that the costs of compliance with PCAOB regulation may negatively impact auditors of introducing brokers and dealers, which are typically small businesses.[23/]

After considering these comments, the Board has decided to adopt a temporary rule for an interim program of the same scope as proposed. The inclusive scope of the interim program should not be construed as either foreshadowing the likely scope of a permanent program or suggesting that every broker or dealer auditor will be inspected as part of the interim program. The Board expects to be able to gather the information necessary to inform its consideration of a permanent program without having to inspect most firms during the interim program. The Board anticipates carefully considering whether there should be exemptions from the permanent program based on some of the characteristics highlighted by commenters and mentioned above and possibly other factors. For example, the Board expects to give consideration to whether a broker's or dealer's meaningful access to client assets is a relevant factor in determining the investor protection and public interest benefits of PCAOB oversight of the auditor of that broker or dealer. The Board continues to believe, however, that information gathered during the course of the interim program will be relevant to making appropriate judgments about that question and other significant elements of a permanent inspection program. While data of the type submitted by commenters who favor immediate exemptions will also be relevant to those judgments, the Board is not at the present time prepared to conclude that such data is the only type of information that will be relevant or that an analysis of all such data necessarily compels the exemptions urged by these commenters.

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[20/] See letters from the American Institute of Certified Public Accountants, National Association of Independent Brokers and Dealers, and Third Party Marketers Association.

[21/] See letters from Certain Members of Congress and the Financial Services Institute.

[22/] See letter from the Financial Services Institute.

[23/] See Bachus-Garrett letter; letter from Certain Members of Congress.

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B. Nature and Focus of Procedures in the Interim Program

The substantive focus of inspection procedures under the temporary rule will be on compliance with applicable Board and Commission rules and professional standards. At this time, the standards that apply to audits of brokers and dealers have not changed from what they were before the Dodd-Frank amendments. The Commission has provided transitional guidance on this point, stating that "references in Commission rules and staff guidance and in the federal securities laws to GAAS [Generally Accepted Auditing Standards] or to specific standards under GAAS, as they relate to non-issuer brokers or dealers, should continue to be understood to mean auditing standards generally accepted in the United States of America, plus any applicable rules of the Commission."[24/]

The Board recognizes that the applicable standards refer to the role of interpretive publications, including auditing guidance in Audit and Accounting Guides published by the American Institute of Certified Public Accountants ("AICPA"), and that the AICPA publishes an Audit and Accounting Guide on Brokers and Dealers in Securities. The standards state that such publications "are not auditing standards" but are "recommendations on the application of the [auditing standards] in specific circumstances, including engagements for entities in specialized industries."[25/] The standards also provide, however, that the auditor "should be aware of and consider" applicable interpretive publications and that an auditor who does not apply the applicable interpretive guidance "should be prepared to explain how he or she complied with the [auditing standards] addressed by" the guidance.[26/]

In assessing compliance during an interim inspection program, the Board will take appropriate account of the interpretive guidance and the fact that the current standards encourage reliance on the guidance. The Board anticipates that an important

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[24/] Exchange Act Rel. No. 62991 (September 24, 2010). The release includes a footnote, immediately following the phrase "auditing standards generally accepted in the United States of America" quoted above, that reads "Audit and attestation standards established by the AICPA." The release also notes that "[m]any parts of Commission rules and staff guidance related to obligations of brokers and dealers refer to GAAS and contain requirements for audits to be conducted in accordance with GAAS." Id. at 2 n.5 (citing, e.g., Rule 17a-5(g)(1) under the Exchange Act).

[25/] Statement on Auditing Standards No. 98, AU § 150.05.

[26/] Statement on Auditing Standards No. 95, AU § 150.06.

benefit of an interim inspection program will be to afford the Board a broad view of what actual practice has been in light of the guidance.

In addition, the Board expects that the rules and standards governing broker-dealer audits will evolve during the interim inspection program. The requirement today for brokers and dealers to include audited financial statements in the annual reports they make with the Commission derives from Commission Rule 17a-5 under the Exchange Act, *Reports to be Made by Certain Brokers and Dealers* ("Rule17a-5"). That rule requires, among other things, that the audit include a review of the accounting system, a review of the internal accounting control and procedures for safeguarding securities, and all procedures necessary to enable the auditor to express an opinion on the following:

- the statements of financial condition, results of operations, and cash flows;
- the computation of net capital pursuant to Rule 15c3-1 under the Exchange Act;
- the computation for determination of reserve requirements pursuant to Exhibit A to Rule 15c3-3 under the Exchange Act; and
- information relating to the possession or control requirements under Rule 15c3-3.[27/]

The Commission has announced its intention to propose amendments to update Rule 17a-5.[28/]

The Board also has authority to establish, subject to approval by the Commission, professional standards and rules applicable to audits of brokers and dealers. The Board intends to adopt such standards, and related rules,[29/] informed at

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[27/] See generally Letter of November 18, 2010, from Robert W. Cook, Director, Commission's Division of Trading and Markets, and James L. Kroeker, Chief Accountant, Commission's Office of the Chief Accountant, to AICPA Stockbrokerage and Investment Banking Expert Panel (available on the Commission's web site at http://sec.gov/news/whatsnew/wn111810.shtml).

[28/] See Exchange Act Rel. No. 62991 (September 24, 2010).

[29/] Current Board rules applicable to the conduct of audits are typically framed in terms of audits of issuers, either specifically or by incorporating other terms that are defined by reference to issuers. This should not be understood generally to

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least in part by information gathered early in the interim inspection program. In particular, the Board is evaluating whether to issue or amend auditing or attestation standards to provide specific procedures regarding the regulatory reports required under SEC Rule 17a-5, such as, among other things, the reports on internal accounting controls and on the procedures for safeguarding customer funds and securities, and the computation of net capital.[30/] The Board anticipates that relevant PCAOB standards and rule amendments, if approved by the Commission to supplant the currently applicable standards, will eventually take effect for audits that will be subject to review as part of, though near the end of, the interim inspection program.

C. Processes Relating to Inspectors' Firm-Specific Observations

As with any Board inspection, the inspection procedures will involve PCAOB inspectors identifying audit deficiencies and bringing them to the firm's attention with the expectation that the firm will address the deficiencies and take steps to avoid future such deficiencies. The Board may report to the Commission and to certain other authorities (including the Financial Industry Regulatory Authority ("FINRA")) information suggesting violations of law or rules, including by brokers and dealers.[31/] In addition, if appropriate, information obtained through the interim program may lead the Board to commence an investigation or disciplinary proceeding concerning the conduct of a registered public accounting firm or associated persons of such firms.[32/]

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mean, however, that none of the Board's current rules apply to registered public accounting firms that audit brokers or dealers. For example, firms that are registered with the Board solely because they audit brokers or dealers have the same obligations as issuer auditors to comply with Board rules on annual and special reporting (Rules 2200-2207).

[30/] See Broker-Dealer Audit Considerations (PCAOB Staff Briefing Paper for the Board's Standing Advisory Group) (July 15, 2010) at 4 (available on the Board's web site at http://pcaobus.org/News/Events/Pages/07152010_SAGMeeting.aspx).

[31/] See Section 104(c) of the Act and PCAOB Rule 4004; see also Sections 104(b)(4)(B)(ii) and 105(b)(5)(B)(ii)(V) of the Act.

[32/] In connection with this point, Rule 4020T(b) provides that the terms "audit," "audit report," and "professional standards," when used in the Board's rules on investigation and adjudications or in Rule 3502 on contributing to violations, have the meaning provided in the amended definitions in Section 110 of the Act, rather than the meaning provided in the original definitions in the Act and PCAOB Rule 1001. This makes clear that the Board's enforcement rules – which encompass, among other things, "the provisions of the securities laws relating to the preparation and issuance of

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A few commenters requested clarification on how the Board will bring deficiencies to the firm's attention and what the Board's expectations would be for the firm to address the issues.[33/] Two of those commenters suggested that the Board address that point in the text of the rule.[34/]

The details of the process are subject to variation in light of circumstances in any inspection, but, in general, the Board anticipates that communications with firms will follow a course similar to that in inspections of auditors of issuers. That process is not the subject of a rule in the context of issuer audits, nor is it covered by Rule 4020T adopted today.

PCAOB inspectors may at any time discuss issues with the audit engagement team or other representatives of the firm. When PCAOB inspectors identify what appears to them to be a potentially significant issue, they typically describe their observations in a written comment provided to the firm. The firm then has an opportunity to respond in writing and describe its perspective on any aspect of the inspection observation. Firm responses to written comments are carefully considered and, depending upon the circumstances, may result in further dialogue to clarify issues.

In the issuer audit inspection context, this process culminates in a draft inspection report provided to the firm, followed by a final inspection report. In the absence of unusual circumstances, however, the interim program process will not include firm-specific inspection reports. Instead, in cases where a firm has provided written responses, inspection staff will provide the firm with feedback describing the inspection staff's views after having considered the response. The formality of that feedback may vary with the circumstances; but in any case in which the firm has provided a written response to a comment the firm will have an opportunity to discuss

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audit reports and the obligations and liabilities of accountants with respect thereto" – encompass the obligations of auditors with respect to audit reports for brokers and dealers, such as those obligations are set out in Rule 17a-5. The Board intends separately to propose comprehensive conforming amendments to align all of its existing rules, including the definitions of terms, with the Dodd-Frank amendments.

[33/] See letters from the Center for Audit Quality, McGladrey & Pullen, LLP, and KPMG LLP.

[34/] See letters from the Center for Audit Quality and McGladrey & Pullen, LLP.

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with the inspection team the inspection team's view of the issues in light of the firm's response.[35/]

The proposing release included references to the possibility of firm-specific inspection reports during the interim program.[36/] Commenters sought clarification on what they saw as a tension between references to that possibility and the statement in the proposing release that the Board would expect results of inspection procedures performed under the interim program to be included in firm-specific reports, if at all, only after rules for a permanent program take effect.

The Board intends for inspection procedures performed on a firm as part of the interim program to constitute a foundational portion of the first inspection of the firm's audit practice related to brokers and dealers, which would be completed after a permanent program is established. This means that, for firms that audit brokers or dealers but not issuers, the Board does not expect to issue a firm-specific inspection report unless and until a permanent program replaces the interim program, the firm is included in the scope of the permanent program, and the firm has been inspected under the permanent program.[37/] Unusual circumstances, however, could give rise to

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[35/] As in the case of inspection observations that appear in inspection reports, the Board would expect a firm to respond to such notice of an apparent audit deficiency by assessing the firm's present ability to support its previously expressed opinion (including performing additional procedures if necessary) and taking appropriate action in accordance with standards and rules if the firm determines that it cannot support its previously expressed opinion. To the extent that inspection observations suggest potential defects in a firm's system of quality control, the Board expects that a firm would take the initiative to improve its quality control policies and procedures, even in the absence of a firm-specific inspection report (and the corresponding inapplicability of PCAOB Rule 4009).

[36/] The proposing release stated that nothing in the temporary rule "would necessarily preclude the Board from issuing a firm-specific inspection report on, or including, inspection observations from the interim program before a permanent program takes effect." Proposing release at 11, n.21. The proposing release also noted that inspection procedures performed in the interim program would be carried out in accordance with, and subject to, the provisions of Section 104 of the Act, including provisions concerning a firm's opportunities to respond to a draft inspection report and to seek Commission review of certain matters in a final inspection. See proposing release at 6, n.10.

[37/] While the interim program is in place, a Board inspection of a firm that performs audit work for issuers and for brokers or dealers would include the full, regular

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exceptions. As a precaution in light of that possibility, the Board has incorporated in the final version of Rule 4020T the provisions of PCAOB Rule 4007, Procedures Concerning Draft Inspection Reports, PCAOB Rule 4008, Procedures Concerning Final Inspection Reports, and PCAOB Rule 4009, Firm Response to Quality Control Defects.[38/]

Commenters expressed concern about including observations from the interim inspection program in a firm-specific inspection report that may be issued years later, after the permanent program is established and after the relevant standards and rules, as well as the firm's practices, may have changed. The commenters urged the Board to reconsider including observations from interim program procedures in the first firm-specific report.[39/] These commenters also requested clarification on whether the eventual report would present cumulative findings or deficiencies observed.

During the interim program, the Board will be obtaining a broad view of practice related to audits of brokers and dealers under current standards and interpretive guidance, and at the same time the standards and rules applicable to the audits will be evolving. Having both that broad view and the new standards as a foundation will be helpful to making consistent and meaningful evaluations of the types of quality control issues that, going forward, firms need to address in their practices related to audits of brokers and dealers. It is possible that observations from interim program procedures will be relevant to the Board's inspection-related dialogue with a particular firm – though not necessarily with every firm – even after standards and rules have changed, and it

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inspection – including the firm-specific inspection report – of the firm's issuer practice. Such an inspection could also include inspection procedures under the interim program with respect to the firm's broker and dealer practice. As with firms that audit brokers or dealers but not issuers, the Board, absent unusual circumstances, would not incorporate any evaluation of the firm's broker and dealer practice into the public portion of a firm-specific report before the report on the first inspection of the firm that occurs after a permanent program takes effect and would not include observations from the interim program procedures in the nonpublic portion of any such report.

[38/] Rule 4007 was not incorporated in the version of Rule 4020T that the Board proposed, and commenters noted the discrepancy between the omission of a provision incorporating Rule 4007 and the proposing release's references to the possibility of firm-specific inspection reports. To fully address that discrepancy, the Board has also incorporated Rules 4008 and 4009 in the final version of Rule 4020T.

[39/] See letters from the Center for Audit Quality, McGladrey & Pullen, LLP, and KPMG LLP.

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**RELEASE**

may be appropriate for aspects of those observations to be included in the first inspection report that addresses the firm's audit practice related to audits of brokers and dealers. The Board does not contemplate that firms' first reports will routinely serve as historical records of all observations from interim program procedures. Depending on the circumstances, however, aspects of some observations may retain their relevance to an assessment of audit quality issues at a particular firm even at the time of the first report, and those aspects may be discussed in a report. If that occurs, the Board intends that the report will make clear the timing of the original inspection observation at issue.

D. General Reports During the Inspection Period

The temporary rule provides that the Board will publish a report on the interim program no less frequently than every twelve months, beginning twelve months after the date the rule takes effect and continuing until rules for a permanent program take effect. Each report will describe the progress of the interim program and any significant observations that either may bear on the Board's consideration of a permanent program or the publication of which may otherwise be appropriate to protect the interests of investors or to further the public interest. As is typical of Board inspection reports, consistent with restrictions imposed by the Act,[40/] the reports will not identify brokers or dealers the audits of which are the subject of observations described in the report. As is also typical of general Board reports collecting observations from numerous inspections, the reports will not identify the registered public accounting firm or firms to which the observations relate.

Commenters supported the Board's proposal to publish a report at least annually on the progress of the interim inspection program.[41/] Some commenters suggested that the Board include in the report sufficient details on the nature and types of brokers and dealers inspected and group the inspection observations based on these classifications to help public accounting firms understand the specific issues identified in the report.[42/] The Board will take those suggestions into consideration when preparing the progress reports.

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[40/] See Section 105(b)(5)(A) of the Act; See Statement Concerning the Issuance of Inspection Reports, PCAOB Release No. 104-2004-001 (August 26, 2004) ("Statement Concerning Inspection Reports") at 4-6.

[41/] See letters from Center for Audit Quality, Grant Thornton LLP, and KPMG LLP.

[42/] See letters from the Center for Audit Quality and KPMG LLP.

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E. Voluntary Cooperation

When Rule 4020T takes effect, cooperation with Board inspection procedures under the interim program will be mandatory for registered firms and their associated persons. The proposing release also noted, however, that even before the rule takes effect, the Board might conduct relevant procedures with the voluntary cooperation of certain firms. Two commenters inquired about the Board's expectations for voluntary cooperation.[43/] Specifically, commenters sought clarification on whether the procedures with which the Board may request voluntary cooperation would include actual inspections of audits of brokers and dealers or be limited in scope. These commenters also requested information on the timing of the voluntary cooperation and the identity of registered public accounting firms expected to cooperate voluntarily.

The proposing release was not alluding to any expectation for particular firms to cooperate voluntarily, or to a view that there is a particular scope of procedures to which firms should voluntarily consent. The Board's ongoing inspections of auditors of issuers include inspections of some firms that audit brokers and dealers in addition to issuers. During regular inspections of any such firm's issuer audit practice before Rule 4020T takes effect, inspection staff may discuss with the firm the possibility of the firm submitting voluntarily to inspection procedures concerning its audit practice related to brokers and dealers. The Board does not contemplate discussing the possibility of voluntary cooperation with any firm that the Board is not otherwise inspecting because of the firm's issuer audit practice.

F. Duration of the Interim Program

If the Commission approves Rule 4020T, the Board anticipates carrying out procedures under the interim program until rules for a permanent program take effect. The Board anticipates being in a position to propose rules for a permanent program by 2013.

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43/ See the letters from the Center for Audit Quality and KPMG LLP.

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## RELEASE

On the 14th day of June, in the year 2011, the foregoing was, in accordance with the bylaws of the Public Company Accounting Oversight Board,

ADOPTED BY THE BOARD.

/s/ J. Gordon Seymour

J. Gordon Seymour
Secretary

June 14, 2011

Appendix –

Amendments to Board Rules

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Appendix – Amendments to Board Rules

The Board amends Section 1 of its rules by adding notes following Rules 1001(a)(v), 1001(a)(vi), and 1001(p)(vi), and Section 4 of its rules by adding Rule 4020T. The text of the notes and Rule is set out below.

## RULES OF THE BOARD

## SECTION 1. GENERAL PROVISIONS

* * *

### Rule 1001. Definitions of Terms Employed in Rules

* * *

**(a)(v) Audit**

* * *

Note: Effective [insert effective date of Rule 4020T], pursuant to Rule 4020T, when used in Rule 3502, Section 5 of the Rules of the Board, or the definition of "disciplinary proceeding" in Rule 1001(d)(i), the term "audit" has the meaning provided in Section 110 of the Act.

**(a)(vi) Audit Report**

* * *

Note: Effective [insert effective date of Rule 4020T], pursuant to Rule 4020T, when used in Rule 3502, Section 5 of the Rules of the Board, or the definition of "disciplinary proceeding" in Rule 1001(d)(i), the term "audit report" has the meaning provided in Section 110 of the Act.

* * *

**(p)(vi) Professional Standards**

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Note: Effective [insert effective date of Rule 4020T], pursuant to Rule 4020T, when used in Rule 3502, Section 5 of the Rules of the Board, or the definition of "disciplinary proceeding" in Rule 1001(d)(i), the term "professional standards" has the meaning provided in Section 110 of the Act.

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## SECTION 4. INSPECTIONS

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### Rule 4020T. Interim Inspection Program Related to Audits of Brokers and Dealers

**(a) Purposes of Interim Inspection Program**

This rule provides for an interim program of inspection in connection with audits of brokers and dealers in order, among other things –

(1) to assess the degree of compliance of registered public accounting firms and their associated persons with the Act, the Board's rules, the Commission's rules, and professional standards in connection with the performance of audits, issuance of audit reports, and related matters involving brokers and dealers;

(2) to inform the Board's consideration, in connection with establishing a permanent program of inspection to assess the matters described in paragraph (1), of –

(i) whether to differentiate among classes of brokers and dealers;

(ii) whether to exempt any category of public accounting firms; and

(iii) the establishment of minimum inspection frequency schedules.

**(b) Definitions**

When used in this rule, the term "interim program," means the interim program of inspection described in paragraph (c). When used in this rule, Rule 3502, Section 5 of the Rules of the Board, or the definition of "disciplinary proceeding" in Rule 1001(d)(i), the terms "audit," "audit report," and "professional standards" have the meaning provided in Section 110 of the Act.

**(c) Interim Program of Inspection**

On an interim basis, the Board shall conduct a program of inspection, for the purposes described in paragraph (a), that may include inspection procedures to assess the policies, practices, and procedures of any registered public accounting firm related to the performance of audits or the issuance of audit reports for any broker or dealer after July 21, 2010 and related matters involving brokers and dealers. The provisions of

Rules 4000(b), 4000(c), 4004, 4006, 4007, 4008, 4009 and 4010 shall apply to the interim program.

**(d) Reporting**

No less frequently than every twelve months, beginning twelve months after the date this rule takes effect and continuing until rules for a permanent program of inspection in connection with audits of brokers and dealers take effect, the Board will publish a report that describes the progress of the interim program, including data about the number of registered public accounting firms and the number of broker or dealer audits that have been subjected to inspection procedures and any significant observations from those procedures.