



**CITRIN COOPERMAN**

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December 10, 2013

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

Reference: PCAOB Rulemaking Docket Matter No. 034

Ladies and Gentlemen:

Citrin Cooperman & Company, LLP (“Citrin Cooperman”) is pleased to provide comments on the Public Company Accounting Oversight Board’s (the “PCAOB” or the “Board”) Proposed Auditing Standards (collectively the “Proposed Standards”): *The Auditor’s Report on an Audit of Financial Statements when the Auditor Expresses an Unqualified Opinion* (the “proposed auditor reporting standard”) and *The Auditor’s Responsibilities Regarding Other Information in Certain Documents Containing Audited Financial Statements and the Related Auditor’s Report* (the “proposed other information standard”).

Citrin Cooperman respects and supports the Board’s mandate to protect the interests of investors and further public interest in the preparation of informative, accurate and independent reports.

Thank you for the opportunity to provide you with our viewpoints on the Proposed Standards. We would be pleased to discuss our comments with members of the Board or its staff.

Very truly yours,

Citrin Cooperman & Company, LLP

## OVERVIEW

We have summarized our views on three areas of the Proposed Standards. Our thoughts supporting these views are further discussed in the section entitled “Our answers to specific questions.”

### 1. Critical audit matters

We find the Board’s proposed auditor reporting standard to be thought-provoking. However, we are concerned that the outcome is likely to be additional paragraphs in an auditor’s opinion that are lengthy and may become “boiler plate” over time. For the reasons discussed in the section of this response entitled “Our answers to specific questions,” we believe that the proposed auditor reporting standard will unnecessarily focus investors’ attention on specific areas of the audit without enabling investors to gauge the efficacy of the auditor’s response to those “problematic” audit areas. Further, we believe that the added disclosures of critical audit matters may have the unintended consequence of diluting the value of the “pass/fail” opinion model. Finally, we are concerned that focusing investors on selected critical audit matters could expose the auditor to unintended litigation issues.

While we agree that enhanced communication of matters deemed significant to the financial reporting process is warranted, we would like to see the regulatory community, including the Securities and Exchange Commission (“SEC”) and the PCAOB, develop a platform that would enable investors to communicate directly with issuer management in a forum that provides a reasonable framework for issuer management to respond to such direct inquiries in a questions and answers (“Q&A”) format, and that this be made available on an issuer’s website or a website sponsored by the issuer.

### 2. The evaluation of other information by the auditor

We do not support the Board’s proposed other information standard. The proposed other information standard would, in our judgment, expand the auditor’s role with respect to the evaluation of other information in the documents that accompany financial statements, and we don’t believe that the Board’s overall desire to help achieve a reduction in the information asymmetry between issuer management and the public or increasing the informational value of the auditor’s report would be achieved by the proposed other information standard.

### 3. Applying the Proposed Standards to other registered businesses

The Board has asked for comments on three types of businesses that we feel well-suited to comment upon: registered brokers and dealers, registered investment advisors, and Emerging Growth Companies.

Registered brokers and dealers are unique because of the high level of interaction with regulators and the high level of disclosure to the public. We believe that it is appropriate to assume that investors can identify important facts and trends about brokers and dealers, including their track record of compliance and complaints. This information is useful in evaluating the management environment and serves to mitigate the need for additional disclosures in the auditor’s report. We

also believe that due to the unique nature of brokers and dealers, it is again appropriate to believe that financial statement users have been made aware of critical audit matters that are addressed through existing financial statement disclosure and presentation requirements.

Investment companies are unique because the nature of their business is focused on investments. As a result, many of the financial statement disclosures about investment companies emphasize the risks inherent in the investment portfolio of the investment company.

We feel that the PCAOB need not apply the Proposed Standards to brokers and dealers and/or investment companies for the reasons stated in our responses to questions 35 and 38, which are in addition to our comments described above concerning critical audit matters and other information.

Without altering our views expressed herein with respect to the Proposed Standards, we support the application of the Proposed Standards, in their final form, to Emerging Growth Companies. Investors in these companies deserve and need the same disclosures as are provided by other issuers.

## OUR ANSWERS TO SPECIFIC QUESTIONS

The following comments reflect our views in response to certain questions raised by the PCAOB.

### Questions and Responses Related to Section III

**Question 6:** Is it appropriate to require the auditor to evaluate the other information for both a material inconsistency and for a material misstatement of fact? If not, why not?

**Response:** We believe that the PCAOB should not require the auditor to evaluate the other information for material inconsistency or material misstatement of fact.

We acknowledge the PCAOB's comment on page 20 of PCAOB Release No. 2013-005 (the "Release"):

"Under existing PCAOB standards, the auditor has a responsibility to 'read and consider' other information in certain documents that also contain the audited financial statements and the related auditor's report; however, there is no related reporting requirement to describe the auditor's responsibility with respect to other information."

However, we believe that it would become necessary for the auditing profession to develop standards or best practices to perform procedures that would be appropriate to document the evaluation of additional information, including, but not limited to, its accuracy and completeness. This would, in our judgment, entail a very significant amount of additional work to be performed, and we do not see this additional work reducing the information asymmetry between issuer management and the public or increasing the informational value of the auditor's report.

In addition, it is not clear what the term "evaluate" is intended to convey to the reader of the auditor's report. We have read the illustrative language for the auditor's comments on other information on page A1-16 of the Release. We believe that the illustrative paragraph, as drafted by the Board, could be misunderstood by investors and other financial statement users by implying that the auditor did more work with respect to the other information than is intended to convey. The paragraph offers the reader a form of negative assurance, which is based on evidence and conclusions.

### Question and Responses related to Section V

**Question 10:** Would the auditor's communication of critical audit matters be relevant and useful to investors and other financial statement users? If not, what other alternatives should the Board consider?

**Response:** We believe that the Proposed Standards, which have been written by the PCAOB after thoughtful discussion and consideration, include innovative ideas. The goal, which is to promote more efficient capital allocation and lower the average cost of capital, is a positive one. The method of achieving that goal, to reduce the level of information asymmetry between management and

investors with the intent of increasing the relevance and usefulness of the auditor's report, is also positive.

However, we have the following concerns about the proposed requirement to disclose critical audit matters in the auditor's report:

1. We do not believe that the auditor should be disclosing information to financial statement readers about the registrant that hasn't previously been reported by management.
2. Readers of the auditor's comments about critical audit matters may begin to view the opinion as a "piecemeal opinion." This is because the auditor's report will begin to emphasize specific audit areas rather than the financial statements taken as a whole.
3. The public is likely to misunderstand critical audit matters. Critical audit matters may be interpreted as problems when in fact the auditor believes that the audit procedures have sufficiently addressed these risk areas. The public is likely to lose sight of the fact that if the auditor cannot perform sufficient procedures in order to obtain proper audit evidence, a modification to the auditor's report would be required.
4. The intention of communicating critical audit matters is to provide the reader with a focus on aspects of the registrant's financial statements that the auditor found to involve the most difficult, subjective, or complex auditor judgments or posed the most difficulty to the auditor in obtaining sufficient appropriate audit evidence or forming an opinion on the financial statements. We refer the Board to the response by Mr. Beresford. We agree with Mr. Beresford's comments on this topic.

We believe that there are significant similarities between the requirements that management must disclose in their required management discussion and analysis ("MD&A") section and critical audit matters. Management is already required to disclose in the MD&A a separate section relating to accounting estimates and assumptions that may be material to accounting measurements. As a result, we believe critical audit matters would encompass all significant disclosures in the MD&A concerning accounting matters. This is likely to result in the disclosure of more critical audit matters than are needed out of concern that an auditor's judgment will be second guessed by regulators.

As a result of these concerns, we cannot support the disclosure of critical audit matters in the auditor's opinion.

**Question 11:** What benefits or unintended consequences would be associated with the auditor's communication of critical audit matters?

**Response:** Benefits: We agree that a reader of financial statements may learn facts about the issuer and its management that they might not otherwise have known.

Unintended consequences are difficult to know in advance. However, we believe that there is a likelihood that:

- Investors may be misdirected by comments in the “critical audit matters” narrative. It is likely that some investors may inappropriately perform less due diligence to understand an investment. An investor may focus on an audit risk detailed in the critical audit matters and fail to perform sufficient research to identify other business risks that are no less important.
- We believe that management, audit committees and auditors will face new challenges in terms of how much proprietary information should be disclosed. While management, audit committees and auditors are likely to agree upon reasonable disclosures for the investing public, there is another group, the investors, who may demand more information than issuers and their auditors believe is appropriate to disclose. The boundaries for these disclosures are not known and could easily result in costly litigation to resolve.

**Question 15:** Would including the audit procedures performed, including resolution of the critical audit matter, in the communication of critical audit matters in the auditor's report be informative and useful? Why or why not?

**Response:** Without altering our views expressed in question 10, we feel it would be helpful for us to respond to this question in the event that the disclosure of critical audit matters is required by the Board. The actual audit procedures that are performed are a matter of auditor judgment. We do not believe that a reader's understanding of a critical audit matter will be enhanced by the disclosure of the auditor's procedures. Also, we believe that it is unlikely that the goal of reducing the level of information asymmetry between issuer management and investors will be furthered by such a disclosure.

**Question 28:** What effect, if any, would the auditor's communication of critical audit matters under the proposed auditor reporting standard have on an auditor's potential liability in private litigation? Would this communication lead to an unwarranted increase in private liability? Are there other aspects of the proposed auditor reporting standard that could affect an auditor's potential liability in private litigation?

**Response:** Although liability in private litigation cannot be predicted, we feel that the potential for exposure to liability would increase significantly. We believe this is why commenters have already written that auditors will be inclined to write lengthy disclosures in a boiler plate fashion with the goal of reducing the risk of litigation.

### Questions and Responses Related to Section VIII

**Question 35:** Are the proposed auditor reporting standard and amendments appropriate for audits of brokers and dealers? If yes, are there any considerations that the Board should take into account with respect to audits of brokers and dealers?

**Response:** We do not feel it is appropriate for audits of brokers and dealers to be subject to the Proposed Standards. To the credit of the SEC and self-regulatory organizations such as Financial

Industry Regulatory Authority (“FINRA”), there are a number of regulatory activities that take place that are designed to protect the investing public.

1. Brokers and dealers are not issuers.

As a practical matter, brokers and dealers are not issuers. As stated on pages A5-58 and A5-59 of the Release, the PCAOB’s Office of Research and Analysis (“ORA”) stated that their research indicated:

“There are no issuers among the approximately 4,230 brokers and dealers that filed annual audited financial statements with the SEC for fiscal periods ended during 2012.”

“That ownership of brokers and dealers is primarily private, with individual owners generally being part of the management team.”

These facts indicate that the users of financial statements are generally not making decisions to invest in brokers and dealers as issuers, but are often using the annual audited financial statements to be assured that it is safe to use the broker or dealer to conduct its investment transactions and in some cases that it is safe to permit the broker-dealer to have custody of their funds and securities. We respectfully believe that the Board should consider the broker dealers’ interaction with and oversight from regulators, described below, as a safeguard that provides enhanced protection to the users of financial statements of brokers and dealers.

2. Interaction with and oversight from regulators.

There is significant interaction with and oversight from regulators, such as the SEC and FINRA, surrounding brokers and dealers. In addition, there is a high level of public disclosure about businesses and individuals that deal with the public.

Brokers and dealers file Financial and Operation Combined Uniform Single Report (FOCUS reports) at least quarterly; many file monthly if their minimum net capital is at a high level. The level of minimum net capital is a reflection of perceived operational risk. FOCUS reports include balance sheets, income statements and other operational measurements of financial condition. In addition, all brokers and dealers file quarterly Statements of Supplemental Income that include more details about results of operations. It is not unusual for responsible personnel at brokers and dealers to receive inquiries from regulators about the reasons for fluctuations and unusual amounts that are disclosed in these reports.

We are not stating that the involvement of regulators is a substitute for audit procedures. But we do ask that the PCAOB consider these two items: 1) the requirement that financial statements of brokers and dealers be audited; plus 2) the benefits to the public arising from the regulatory interaction with brokers and dealers, which results in important disclosures to investors. We ask that the PCAOB consider that these two items be viewed as a combination of factors that mitigates the need for the Proposed Standards as they may relate to brokers and dealers.

For the above reasons, we do not agree that the Proposed Standards should apply to brokers and dealers. We would encourage the Board to consider these processes of interaction and disclosure. They are in place to protect the public.

While we do not agree that the Proposed Standards should apply to brokers and dealers, we do believe that if the PCAOB decides that the Proposed Standards should apply, they should only be applied to those brokers and dealers that have custody of customer funds or securities.

**Question 38:** Are the proposed auditor reporting standard and amendments appropriate for audits of investment companies? If yes, are there any considerations that the Board should take into account with respect to auditors' reports on affiliated investment companies, as well as companies that are part of master-feeder or fund of funds structures?

**Response:** Investment companies are currently required to include as part of their financial statements a Condensed Schedule of Investments, as well as Financial Highlights particular to the funds. In addition, there are significant disclosures about the valuation of the assets pursuant to ASC 820 which are clearly important to the reader. We believe that it is reasonable for investors and the public to believe that these significant areas have been addressed by the auditors, and that restating these items as critical audit matters in the auditor's report is unlikely to provide additional benefits to the users of the financial statements.

Accordingly, we are not certain that the Proposed Standards' additional disclosures in the auditor's report would add value to the investor.

For purposes of the Proposed Standards, affiliated investment companies are defined on page A5-60 of the Release as other investment companies registered by a sponsor that generally would have the same or related investment advisers. The document containing annual shareholder reports of investment companies will have the same fiscal year-end and will generally contain a single auditor's report that refers to the financial statements of each audited investment company. We believe that the conclusions that we reached in the preceding paragraphs would be the same for affiliated investment companies, for the same reasons.

With respect to master-feeder funds or fund of funds capital structures, page A5-60 of the Release also notes that SEC Staff guidance requires that the annual report of each feeder fund generally contain financial statements of both the master and the feeder fund. Once again, our conclusion is that it is reasonable for investors and the public to believe that the significant areas related to the risks inherent in the investment portfolio of investment companies have been addressed by the auditors.

## Questions and Responses Related to Section XI

**Question 29:** Is the Board's effective date appropriate for the proposed other information standard? Why or why not?

**Response:** The Proposed Standards and amendments would be effective, subject to approval by the SEC, for audits of financial statements for fiscal years beginning on or after December 15, 2015. We



believe that such timing should be sufficient for issuer managements and auditors to consider the implementation of the Proposed Standards once they are finalized, assuming a timely release of the final standard. We encourage the Board to consider establishing an effective date that allows at least eighteen months to implement. For example, if the final standard is published on June 15, 2015, we believe it would be appropriate for fiscal years beginning on or after December 15, 2015.

### **Appendix 7 – Emerging Growth Companies (“EGCs”)**

**Question 1:** Should the Proposed Standards and amendments be applicable for audits of EGCs? Why or why not?

**Response:** We feel that investors in EGCs, as defined in the JOBS Act, are entitled to the same protections as afforded to investors in other registrants. The JOBS Act takes important steps to enable qualified new businesses to reach out to investors. These newly qualified investors will be taking investment risks. Therefore, we see no reason to provide less information to investors in EGCs than is available to investors in other issuers should the PCAOB implement all or parts of its Proposed Standards.