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February 2, 2009

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. 027

Dear Sir/Madam:

Ernst & Young LLP ("EY"), the U.S. member firm of Ernst & Young Global ("EYG"), appreciates the opportunity to comment on the PCAOB's proposed rule amendments, *Rule Amendments Concerning the Timing of Certain Inspections of Non-U.S. Firms, and Other Issues Relating to Inspections of Non-U.S. Firms* ("the Rule Amendments"). The comments below reflect the views of EY and of the other member firms of EYG.

The Board's proposing release ("the Release") states that the Board is proposing the Rule Amendments to address "interconnected issues that relate to the Board's responsibility to conduct inspections of registered firms, including non-U.S. firms, and the corresponding obligation of firms to cooperate with Board inspections." Part I of the Release deals with amendments to the Board's rule governing the minimum frequency with which the Board must conduct inspections under Sections 102(a) and 106 of the Sarbanes Oxley Act ("the Act"). Part II of the Release describes potential consequences for non-U.S. firms unable to cooperate fully with Board inspections because of conflicts arising from local laws.

We do, of course, recognize that the Act's requirements for inspections of non-U.S. firms pose special issues for the Board and for the foreign firms. We commend the Board for working through many of these issues and encourage it to explore sensible solutions with its regulatory counterparts throughout the world on those issues that remain. We agree it is appropriate under the circumstances to adjust the inspection schedule to the one proposed by the Board for the reasons set forth in the Release.

In the long-run, we urge mutual recognition of regulatory regimes, whereby the PCAOB could rely fully on inspections conducted by non-U.S. regulators in fulfilling the PCAOB's own statutory mandate. As an intermediate measure, we support the Board's efforts to conduct inspections of non-U.S. firms jointly with local authorities both to take advantage of potential efficiencies and to avoid imposing unnecessary regulatory burdens on the firms. In our comment letter on the Board's proposed policy statement, *Guidance Regarding Implementation of PCAOB Rule 4012*, we stated that, in a world of cross-border markets and investors, regulatory cooperation is essential to improve audit quality globally. Therefore, we encourage the Board to continue to work with relevant local authorities to try to resolve potential conflicts of law for non-U.S. firms. In this regard, we have some concerns with the proposed actions set forth in Part I. E. and Part II of the Release. We believe the proposed actions described could impede rather than promote increased regulatory cooperation and could have significant negative consequences for the non-U.S. firms and their clients.

I. Part I: Rule Amendments Concerning the Timing of Certain Inspections

E. Transparency Concerning Delayed Inspections

We believe that investors have an interest in knowing that the PCAOB is inspecting firms reasonably within the timeframe set forth in the Act and that, to the extent adjustments are needed to its inspection schedule, the Board is making adjustments that are consistent with the purposes of the Act, the public interest, and the protection of investors. We believe the plan set forth in the proposed Rule Amendments to adjust the inspection schedule accomplishes that objective.

However, despite the disclaimers proposed in the Release, publishing a list solely of delayed inspections likely would have unintended adverse consequences to the firms. Simply being included on the list may well carry a negative connotation and could be misinterpreted to imply that the firms have potential quality defects even though, as described in the Release, it is necessary for the Board to delay the inspections for matters that are not controllable by the firms. In addition, the PCAOB currently publishes lists of the registered firms and of the inspection reports issued. As a result, there could be confusion about the status of inspections that have been performed but for which inspection reports have not yet been issued.

II. Part II: Registered Firms' Obligations

We encourage the Board to continue its efforts to develop cooperative relationships with its foreign counterparts. However, until such time as the Board and its foreign counterparts resolve sovereignty concerns or legal objections of local authorities, we do not believe that placing the firms in the middle of competing sovereign interests will facilitate regulatory objectives. Registered accounting firms should not be required to violate their local laws. Furthermore, we do not believe that a firm's legitimate concerns should be a basis for concluding the firm has violated Rule 4006 and that the Board should consider imposing disciplinary sanctions. Making demands on firms that cannot be met by them without violating local law does not address the fundamental issues impeding the Board's efforts to conduct inspections.

In this regard, we are particularly surprised at footnote 35 of the Release, which states: "The Board does not view non-U.S. legal restrictions of the sovereignty concerns of local authorities as a sufficient defense in a Board disciplinary proceeding instituted under Section 105(c) of the Act for failing or refusing to provide information requested in an inspection." Longstanding principles of international comity require that one country's regulator not act in a way that demeans the laws and regulations of another jurisdiction. Other countries may have legitimate interests in enforcing their laws relating to confidentiality, bank secrecy, and so on, and regulators have learned to work together precisely to deal with the challenges of cross-border supervision and enforcement in the face of such national laws and interests. We urge the PCAOB to continue to respect those laws and develop mechanisms for cooperating with its counterparts through mutual recognition or reliance.

Indeed, in some jurisdictions the proposed approach could inhibit issuers' willingness to provide certain information to their auditors. We are aware that in Canada, for instance, concerns have been raised about whether issuers would continue to provide certain legally privileged information to their auditors if such information might later be provided to the PCAOB and thereby result in a loss of privilege. Audit quality would be negatively affected if issuers were to restrict the scope and nature of information provided to their auditors.

Likewise, we do not believe that requiring principal auditors to make public disclosures of the type described in the Release would be appropriate. We believe such disclosures would have many significant adverse consequences, including confusing the users of audit reports and inappropriately tainting the reports.

In our view, many users of the reports would misinterpret the disclosures described in the Release and would misinterpret what the lack of disclosures would mean. For example, under the proposal, a principal auditor would not be required to make any disclosures where the principal auditor and all of the other firms performing audit work in a "substantial role" were inspected by the PCAOB sometime over the prior three years. The lack of disclosure could be interpreted by the users of the report as meaning that an additional or higher level of confidence in the financial statements is appropriate. But there are limitations in the inspection process. Almost all registered firms around the world are not inspected by the PCAOB every year and, even when they are inspected, the inspections do not include all of the work performed by the firms for all issuers they serve as principal auditor or in a substantial role.

In addition, making the disclosures described in the Release solely because a portion of the audit work was performed by a firm that has not been timely inspected by the PCAOB would almost certainly carry a negative connotation and be misinterpreted to imply the firm has potential quality defects. Indeed, such negative implications could even give rise to claims in litigation that the principal auditor and the audit client should have known better than to have had an uninspected firm perform a portion of the audit. To avoid such negative implications, the client and the auditor might decide to have the work performed by an audit firm from another jurisdiction where an inspection has occurred, even though it would be better both from the standpoint of quality and cost to have the work performed locally. Such a result would not be in the best interests of investors.

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We would welcome the opportunity to respond to any questions the PCAOB or its staff might have with respect to the foregoing comments. Please feel free to contact Randy Fletchall at 212-773-4043, Rick Miller at 216-583-2071, or Tom Riesenberg at 202-327-7605.

Sincerely,

Ernst & Young LLP