
Frequently Asked Questions
The Broker-Dealer Accounting Support Fee and the Funding Process

December 15, 2011

These frequently asked questions set forth the staff's views on issues related to the implementation of the Public Company Accounting Oversight Board's ("PCAOB" or "Board") funding rules as they relate to brokers and dealers.^{1/} The statements contained in these frequently asked questions are not rules of the Board, nor have they been approved by the Board.

If you have a question related to the Broker-Dealer Accounting Support Fee and the funding process that is not addressed in these FAQs, please contact the staff by phone at 1-866-606-3982 (9:00 a.m. to 5:00 p.m. ET) or by email at BillingFAQ@pcaobus.org. In addition, the Board's funding rules are located at http://pcaobus.org/About/Ops/Pages/Section_7.aspx.

- ***General FAQs***
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^{1/} The Board approved amendments to its funding rules on June 14, 2011, to (i) provide for the equitable allocation and assessment among brokers and dealers of an appropriate portion of the accounting support fee, and (ii) make certain revisions to the Board's existing rules for the allocation among issuers of the accounting support fee. See PCAOB Release No. 2011-002 (June 14, 2011). The Securities and Exchange Commission ("SEC" or "Commission") approved the amendments on August 18, 2011. The amended funding rules are applicable to the 2011 funding cycle for brokers and dealers and the 2012 funding cycle for issuers.

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General FAQs

1. How can I obtain a copy of the PCAOB's funding rules?

The full text of the PCAOB's rules is available under "Rules of the Board" at <http://pcaobus.org/Rules/PCAOBRules/Pages/default.aspx>. The funding rules are in Section 7 of the Rules.

2. What brokers and dealers are subject to the broker-dealer accounting support fee?

All brokers and dealers, as such terms are defined in Section 110 of the Sarbanes-Oxley Act of 2002,^{2/} that are registered with the Commission as of the date on which the allocation of the annual accounting support fee is set are subject to the accounting support fee.

Generally, brokers and dealers whose average, quarterly tentative net capital is greater than \$5 million during the prior calendar year and are required to file audited financial statements with the Commission will be allocated a share of the broker-dealer accounting support fee greater than \$0. Brokers and dealers (i) that have a basis under the federal securities laws, a Commission rule, or pursuant to other action of the Commission or its staff, not to file audited financial statements with the Commission or (ii) whose average, quarterly tentative net capital is \$5 million or less during the prior

^{2/} The term "broker" is defined in Section 110 of the Act as a broker (as defined in Section 3(a)(4) of the Securities Exchange Act of 1934 ("Exchange Act")), that is required to file a balance sheet, income statement, or other financial statement under Section 17(e)(1)(A) of the Exchange Act, where such balance sheet, income statement, or financial statement is required to be certified by a registered public accounting firm. See also PCAOB Rule 1001(b)(iii). The term "dealer" is defined also in Section 110 of the Act as a dealer (as defined in Section 3(a)(5) of the Exchange Act), that is required to file a balance sheet, income statement, or other financial statement under Section 17(e)(1)(A) of the Exchange Act, where such balance sheet, income statement, or financial statement is required to be certified by a registered public accounting firm. See also PCAOB Rule 1001(d)(iii).

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calendar year are allocated a share of the broker-dealer accounting support fee equal to zero.

3. Why is the allocation of the broker-dealer accounting support fee determined using tentative net capital and not another amount, such as revenue?

The Board's funding rules require that the allocation of the broker-dealer accounting support fee be based on tentative net capital, as that term is defined in Rule 15c3-1(c)(15) under the Exchange Act. The Board's funding rules are based on Section 109(h)(3) of the Sarbanes-Oxley Act of 2002, as amended, which states that "[t]he amount due from a broker or dealer shall be in proportion to the net capital of the broker or dealer (before or after any adjustments), compared to the total net capital of all brokers and dealers (before or after any adjustments), in accordance with rules issued by the Board."

The Board uses tentative net capital reported by brokers and dealers on their quarterly FOCUS reports to determine the allocation of the broker-dealer accounting support fee.

4. How is a broker's or dealer's allocation of a share of the broker-dealer accounting support fee calculated?

Per PCAOB Rule 7102(b), brokers and dealers subject to the fee whose average, quarterly tentative net capital is greater than \$5 million during the prior calendar year are allocated a share of the broker-dealer accounting support fee based on their relative average, quarterly tentative net capital. A broker's or dealer's share is its average, quarterly tentative net capital during the calendar year preceding the date the broker-dealer accounting support fee is calculated, divided by the sum of the average, quarterly tentative net capital of all brokers and dealers subject to the fee with average, quarterly tentative net capital greater than \$5 million during the preceding calendar year.

5. On what date did the PCAOB calculate the allocation of the broker-dealer accounting support fee for 2011?

For 2011, the PCAOB calculated the broker-dealer accounting support fee allocation as of October 31, 2011 ("the 2011 Calculation Date"). Under the Board's funding rules, brokers and dealers that are registered with the Commission as of the 2011 Calculation

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Date are subject to the 2011 broker-dealer accounting support fee. The calculation date may vary in future years.

6. How can my company dispute its share of the broker-dealer accounting support fee?

PCAOB Rule 7103(c) allows a broker or dealer that disagrees with the class in which it was placed for billing purposes or with the calculation by which its share of the fee was determined to petition the Board for a correction. Petitions must: (1) include an explanation of why the company believes the classification or calculation was in error, (2) be in writing, and (3) be received on or before the 60th day after the invoice is sent, or within such longer period as the Board allows for good cause shown. The Board will notify the broker or dealer of its decision on the petition in writing.

Payment FAQs

7. When is my payment due?

PCAOB Rule 7104(a) states that “payment shall be due on the 30th day after the invoice is sent” unless the Board directs otherwise. Generally, the invoice date is the date the invoice was sent. For 2011, the invoice date is December 15, 2011, which means that payment is due January 14, 2012. Because January 14, 2012, is a Saturday, however, and Monday, January 16, 2012, is a federal legal holiday, by virtue of PCAOB Rule 1002, payment is due Tuesday, January 17, 2012.

8. If I pay my invoices online, is the payment processing system secure?

The payment processing system utilizes a third-party payment provider to process payment transactions. The payment provider's system was created to be secure and addresses issues of confidentiality, data integrity, non-repudiation, and auditability utilizing industry standard 128-bit encryption, data integrity checking, and logging.

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9. If I pay my invoices online, will a receipt or confirmation of payment be provided?

Yes. The payment Web site provides a Receipt of Payment page that provides the amount paid, a transaction number, and date. Please note that these transactions may take 3-4 business days to clear your bank account. This receipt, assuming it is for the full amount invoiced, along with proof of debit from your bank account, constitutes confirmation of your payment. Please see Questions 14 through 21 for issues relating to determination of status of outstanding balances.

Broker-Dealer-Specific FAQs

10. I believe the PCAOB's calculation of the average, quarterly tentative net capital amount for my company should be based on tentative net capital amounts not reported on my company's quarterly FOCUS reports. If I provide that data to the PCAOB, may I have my company's share of the accounting support fee recalculated using that data?

No. As stated above, the Board uses tentative net capital reported by brokers and dealers on their quarterly FOCUS reports. This data provides a common basis among the broker and dealer population for determining the combined average, quarterly tentative net capital amount.

11. I believe the PCAOB's calculation of the average, quarterly tentative net capital amount for my company should be based on the tentative net capital amounts reflected on the monthly FOCUS reports instead of the quarterly FOCUS reports. If I provide that data to the PCAOB, may I have my company's share of the broker-dealer accounting support fee recalculated using that data?

No. Under the PCAOB's funding rules, the average, quarterly tentative net capital for all brokers and dealers is based on the tentative net capital reported by the broker or dealer in the calendar quarterly reports, and not monthly reports, filed pursuant to Commission rules during the calendar year preceding the date the broker-dealer accounting support fee is calculated. This provides a common basis among the broker and dealer population for determining the combined average, quarterly tentative net capital of all brokers and dealers.

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12. My company ceased being a “broker” or “dealer” *after* the 2011 Calculation Date, which was October 31, 2011. Does the company still have to pay?

Yes. Under the PCAOB's funding rules, all companies that were "brokers" or "dealers," as the terms are defined in PCAOB Rule 1001(b)(iii) and (d)(iii), respectively, and the Sarbanes-Oxley Act, as of the 2011 Calculation Date were subject to the broker-dealer accounting support fee. The fact that an entity ceases to be a "broker" or "dealer" after that date does not relieve the entity of its responsibility for a share of the broker-dealer accounting support fee.

13. My company ceased being a “broker” or “dealer” *before* the 2011 Calculation Date, which was October 31, 2011. Does the company still have to pay?

No. Under the PCAOB's funding rules, all companies that were "brokers" or "dealers," as the terms are defined in PCAOB Rule 1001(b)(iii) and (d)(iii), respectively, and the Sarbanes-Oxley Act, as of the 2011 Calculation Date were subject to the accounting support fee. If you believe your company was not a "broker" or "dealer" on that date and received an invoice in error, please contact the PCAOB at BillingFAQ@pcaobus.org.

Outstanding Balance Status FAQs

14. What do the PCAOB's rules require an auditor to do with respect to a broker's or dealer's share of the accounting support fee?

PCAOB Rule 7104(b)(1) provides that a registered public accounting firm generally may not (i) sign an unqualified audit opinion with respect to an issuer's, broker's, or dealer's financial statements, (ii) issue a consent to include an audit opinion issued previously, or (iii) sign a document, report, notice, or other record concerning procedures or controls of any issuer, broker, or dealer required under the securities laws, unless the registered public accounting firm has ascertained that the issuer (including any broker or dealer subsidiary of the issuer), broker, or dealer has no outstanding past-due share of the issuer accounting support fee or broker-dealer accounting support fee, whichever is applicable, or has a petition pursuant to PCAOB Rule 7103(c) pending.

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15. Are there any exceptions to the auditor's requirement under PCAOB Rule 7104(b)?

There are three exceptions.

First, PCAOB Rule 7103(c) allows a broker or dealer, under certain circumstances, to petition for correction of its share of the broker-dealer accounting support fee. Further, if that broker or dealer has a petition for correction pending as to that outstanding share, PCAOB Rule 7104(b)(1) does not prohibit a registered public accounting firm from (i) signing an unqualified audit opinion with respect to an issuer's, broker's, or dealer's financial statements, (ii) issuing a consent to include an audit opinion issued previously, or (iii) signing a document, report, notice, or other record concerning procedures or controls of any issuer, broker, or dealer required under the securities laws.

Second, PCAOB Rule 7104(b)(2) creates a one-time exception to take account of a situation in which a broker or dealer may have a past-due share of the accounting support fee – including possibly through mistake, inadvertence, or confusion – at a time when the broker or dealer needs the audit report to submit a report to, or make a filing with, the Commission. To avoid unnecessarily preventing brokers and dealers in these situations from submitting a report to or making a filing with, the Commission PCAOB Rule 7104(b)(2) creates a one-time, time-limited exception to the prohibition in PCAOB Rule 7104(b)(1).^{3/} This exception may be invoked only once per assessment.

^{3/} If this exception is invoked, the registered public accounting firm shall submit to the Board a notice of the signing of the opinion or issuance of the consent no later than the next business day after the filing is made with the Commission. The notice must be submitted electronically by email to rule7104stay@pcaobus.org. This exception shall continue no longer than 15 business days after the earlier of the date of the notice's submission or the filing of the report with the Commission. See PCAOB Rule 7104(b)(2) and Note 2 to PCAOB Rule 7104(b) for more information. The exception provided by PCAOB Rule 7104(b)(2) does not in any way modify the broker's or dealer's legal obligation to pay its assessed share of the broker-dealer accounting support fee.

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Third, until further notice, the Board will not enforce PCAOB Rule 7104(b) against a registered public accounting firm that (i) signs an unqualified audit opinion with respect to an issuer's, broker's, or dealer's financial statements, (ii) issues a consent to include an audit opinion issued previously, or (iii) signs a document, report, notice, or other record concerning procedures or controls of any issuer, broker, or dealer required under the securities laws with respect to the financial statements of a broker or dealer whose outstanding past-due share of the broker-dealer accounting support fee totals less than \$50.

16. If a broker or dealer has paid its original share of the broker-dealer accounting support fee but not interest due under the PCAOB's rules, may the auditor sign an unqualified opinion?

Interest, which accrues from the date payment is past due, represents the time-value of the share of the accounting support fee that should have been paid and is therefore treated, for purposes of PCAOB Rule 7104, as part of the assessed share of the accounting support fee. Accordingly, unless one of the exceptions described in the answer to Question No. 15 above applies, the auditor may not (i) sign an unqualified audit opinion with respect to an issuer's, broker's, or dealer's financial statements, (ii) issue a consent to include an audit opinion issued previously, or (iii) sign a document, report, notice, or other record concerning procedures or controls of any issuer, broker, or dealer required under the securities laws, even if the only outstanding amount due relates to interest charged on the original amount due. For brokers and dealers that owe only interest, auditors should consider whether the third exception noted in the answer to Question No. 15 above applies.

17. How may an auditor ascertain that a broker or dealer has no outstanding past-due share of the broker-dealer accounting support fee?

Note 1 to PCAOB Rule 7104(b)(2) provides that a registered public accounting firm may ascertain that a broker or dealer has no outstanding past-due share of the broker-dealer accounting support fee by obtaining a representation from the broker or dealer.

In addition, the PCAOB posts a list of brokers and dealers that have no outstanding past-due share of the broker-dealer accounting support fee, which is available at http://pcaobus.org/About/Ops/Documents/Support%20Fee/BDs_Paid.pdf.

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18. Is a management representation sufficient to not preclude the auditor from signing an unqualified report?

Yes. For a registered public accounting firm to comply with PCAOB Rule 7104(b)(1), obtaining a representation from the broker or dealer that the broker or dealer has no outstanding past-due share of the broker-dealer accounting support fee is sufficient. In such situations, the registered public accounting firm need not also obtain a confirmation from the Board that no past-due share of the broker-dealer accounting support fee is outstanding. The fact that a broker or dealer is not on the Board's Web site confirmation list is not, in and of itself, a reason for a registered public accounting firm to believe that a broker's or dealer's representation is inaccurate.

19. Is being listed on the list of brokers and dealers with no outstanding past-due share of the broker-dealer accounting support fee on the PCAOB's Web site sufficient to not preclude an auditor from signing an unqualified report under the PCAOB's rules?

Yes. A registered public accounting firm may take the inclusion of a broker or dealer on this list as an indication that the broker or dealer has no outstanding past-due share of the broker-dealer accounting support fee for purposes of PCAOB Rule 7104(b).

20. If a broker or dealer is not on the list on the Web site, does that mean it has a past-due share of the broker-dealer accounting support fee?

Not necessarily. Many brokers and dealers are not allocated a share of the broker-dealer accounting support fee under the Board's funding rules and, therefore, would not be on this list even though they have no outstanding past-due share of the broker-dealer accounting support fee. In addition, a brief period of time may pass between when a payment is received by the PCAOB and when the list is updated to reflect that payment.

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21. If a broker or dealer has received an invoice for a share of the broker-dealer accounting support fee but payment is not yet due (payment is due on the 30th day after the invoice is sent), may its auditor sign an unqualified audit report for that broker or dealer?

Yes. PCAOB Rule 7104(b)(1) provides that a registered public accounting firm generally may not (i) sign an unqualified audit opinion with respect to an issuer's, broker's, or dealer's financial statements, (ii) issue a consent to include an audit opinion issued previously, or (iii) sign a document, report, notice, or other record concerning procedures or controls of any issuer, broker, or dealer required under the securities laws unless the registered public accounting firm has ascertained that the issuer (including any broker or dealer subsidiary of the issuer), broker, or dealer has no outstanding past-due share of the issuer accounting support fee or broker-dealer accounting support fee, whichever is applicable, or has a petition pursuant to Rule 7103(c) pending. If a broker's or dealer's invoice for a share of the accounting support fee is not yet due, then the broker or dealer has no outstanding past-due share of that year's accounting support fee.