

March 13, 2009

The Honorable Mary L. Schapiro
The Honorable Kathleen L. Casey
The Honorable Elisse B. Walter
The Honorable Luis A. Aguilar
The Honorable Troy A. Paredes
Securities and Exchange Commission
100 F Street, N.E.
Washington, DC 20549

Dear Chairman Schapiro and Commissioners Casey, Walter, Aguilar, and Paredes:

In light of certain recent developments, the Public Company Accounting Oversight Board ("Board" or "PCAOB") has acted to raise its 2009 accounting support fee from \$151.8 million to \$157.4 million¹ and is now seeking the Commission's approval of the revised fee.² Consistent with the Commission's Budget Rule, the PCAOB would not use the additional funds until such time as both the Board and the Commission have approved a supplemental budget. In addition, the Board will consider the extent to which additional resource needs can be funded by reallocating within the current budget before seeking access to the additional funds made available by the increase in the accounting support fee.

¹ On November 25, 2008, the PCAOB adopted a budget and accounting support fee of \$157.6 million and \$151.8 million, respectively, to fund the PCAOB's program activities and operations during 2009. The Commission approved the PCAOB's budget and accounting support fee on December 17, 2008. Specifically, the Board has increased its 2009 accounting support fee to \$157,364,000. Consistent with Section 109 of the Sarbanes-Oxley Act, this amount represents the Board's approved 2009 budget of \$157,608,000, less the \$27,000 of registration fees the Board collected in 2008 and the \$217,000 in net interest receipts projected to be earned in 2009.

² The PCAOB requests any waiver or other legal action by the Commission that is necessary to increase the 2009 accounting support fee as described in this letter. See 17 C.F.R. sec. 202.11(i); 71 Fed. Reg. 41998, 41999 (July 24, 2006) ("The Commission also may waive any of requirements set forth in [the Budget] rule if circumstances warrant.").

I. Background on Accounting Support Fee

In general, the PCAOB's accounting support fee is set to equal its budget, which includes a working capital reserve to cover expenses anticipated in the first five months of the following calendar year, less any remaining funds from the prior year. Thus, whereas the PCAOB's 2009 budget is \$157.6 million, its 2009 accounting support fee is \$151.8 million.

The Board is seeking the Commission's approval for an increase in the accounting support fee at this time because the PCAOB is scheduled to issue invoices for the fee on or about April 15, 2009. The PCAOB cannot delay such invoices pending resolution of the issues surrounding the need for and content of a supplemental budget because its working capital reserve only covers its projected cash needs for the first five months of 2009. Moreover, billing issuers a second time during 2009 to cover the supplemental budget would, at a minimum, present considerable operational challenges and additional costs for the PCAOB. Therefore, increasing the accounting support fee appears to be the most effective way to provide a source of additional funds, if such funds prove necessary.

Separately, increasing the 2009 accounting support fee also will help the PCAOB and the Commission prepare for the risk of a decrease in the support fee collection rate for 2009. The PCAOB has historically enjoyed a high collection rate. For example, in 2008, the PCAOB collected 99.3 percent of its accounting support fee within 90 days after invoices were issued. Given deteriorating economic conditions, however, the PCAOB may experience a significantly different collection rate in 2009. Among other things, since the allocation of the accounting support fee is weighted toward companies with greater average monthly market capitalizations, failure of even a few large companies to pay their assessments could have a significant impact on the PCAOB's collection rate.

II. Developing Appropriate Broker-Dealer Auditor-Related Programs

The Sarbanes-Oxley Act does not authorize, and the PCAOB's 2009 budget does not provide for, oversight activities related to audits of the financial statements and other Commission filings of non-public broker-dealers.³ Nevertheless, recent

³ The Sarbanes-Oxley Act included certain amendments to Section 17 of the Securities Exchange Act of 1934 that require non-public broker-dealers' financial statements to be certified by a firm registered with the PCAOB. Until recently, however, by a series of Commission orders, registration of such auditors has not been necessary.

revelations of high-profile frauds, such as the Madoff matter, have focused public attention on the use and quality of audited financial statements and other SEC filings of non-public broker-dealers. On February 26, 2009, Congressman Paul E. Kanjorski, Chairman of the Subcommittee on Capital Markets, Insurance and Government-sponsored Enterprises of the House Committee on Financial Services, introduced H.R. 1212, a bill to amend the Sarbanes-Oxley Act to expand the PCAOB's oversight responsibilities with respect to auditors of non-public broker-dealers.

It is unclear at this time whether, and if so in what form and when, this legislation will be enacted. If it were enacted, the Board would need additional resources to develop new programs and to tailor existing programs and operations as may be required. This also would include development of an inspection methodology, including appropriate risk analyses, hiring and training of additional staff, and the establishment of a new funding methodology and system to collect a portion of the PCAOB's annual support fee related to broker dealers.

III. Possible Supplemental Budget

Should the PCAOB gain new authorities under the Act, it intends to consider whether to submit to the Commission a supplemental budget request to utilize the funds associated with increasing the accounting support fee. In developing the supplemental budget, the Board intends to consider whether any such resources would be required in 2009 or the first five months of 2010, including, for example, resources to develop the infrastructure and a methodology to perform inspections.

Separately, the PCAOB intends to consider whether to submit a supplemental budget request to (1) strengthen the PCAOB's non-U.S. inspections program (2) enhance documentation of planning and fieldwork of inspections; and (3) enhance the PCAOB's enforcement resources to accommodate an increase in workload. Consistent with the Budget Rule, the PCAOB would provide additional details in each of these areas as part of any such request. In addition, the PCAOB's upcoming Initial Budget

The period covered by the last of those orders has now expired. As a result, financial statements of non-public broker-dealers for fiscal years ending after December 31, 2008 must be certified by a registered public accounting firm. The Board believes that as many as 1,200 additional auditors could seek PCAOB registration in order to audit the financial statements of non-public broker-dealers. While the PCAOB requires additional temporary resources to facilitate the registration of these auditors, the Board intends to consider whether such resources can be accommodated within the existing 2009 budget. However, the full 2009 costs of registering these firms are still uncertain.

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Outlook for 2010, which the Commission should receive shortly, will discuss each of these matters. The Board will, of course, seek to first meet new resource needs by reallocating any available funds from the existing budget, including potential offsets due to any under spending relative to the 2009 budget.

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Thank you for considering this request to increase the accounting support fee for 2009. Angela Desmond, my Chief of Staff (202-207-9210) and Bill Wiggins (202-207-9058), the PCAOB's Budget Officer, are available to provide any additional information you or your staff requires in order to act on this request. I am also available to discuss this request with you at your earliest convenience.

Sincerely,



Mark W. Olson
Chairman