

September 12, 2011

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

Re: Request for Public Comment on Proposed Standards for Attestation Engagements Related to Broker and Dealer Compliance or Exemption Reports Required by the U.S. Securities and Exchange Commission and Related Amendments to PCAOB Standards (PCAOB Release No. 2011-004, July 12, 2011, Rulemaking Docket Matter No. 035)

Deloitte & Touche LLP appreciates the opportunity to respond to the request for comments from the Public Company Accounting Oversight Board (the “PCAOB” or the “Board”) on its *Proposed Standards for Attestation Engagements Related to Broker and Dealer Compliance or Exemption Reports Required by the U.S. Securities and Exchange Commission and Related Amendments to PCAOB Standards* (PCAOB Release No. 2011-004 (the “Release”), July 12, 2011, Rulemaking Docket Matter No. 035). The Release includes two proposed attestation standards: *Examination Engagements Regarding Compliance Reports of Brokers and Dealers* (the “Proposed Examination Standard”) and *Review Engagements Regarding Exemption Reports of Brokers and Dealers* (the “Proposed Review Standard”), collectively the “Proposed Standards.”

The Proposed Standards have been issued as a result of the issuance by the U.S. Securities and Exchange Commission (the “SEC” or the “Commission”) of proposed amendments to Rule 17a-5, *Reports to be made by certain brokers and dealers*, under the Securities Exchange Act of 1934 (the “SEC’s Proposed Rule” or the “Proposed Rule”). We have previously submitted our comments to the SEC in response to its proposals. Because the Proposed Standards are based in part on the SEC’s Proposed Rule, certain of our responses to the Proposed Standards are similar to our comments to the SEC. However, we also encourage the PCAOB to read our comment letter to the SEC on the Proposed Rule.

Our comments and observations on the Proposed Standards address the following principal areas:

- I. Relationship between Proposed Standards and Interim Attestation Standards
- II. Relationship between Proposed Standards and Auditing Standards
- III. Effective Date and Transition Period
- IV. Overall Comments Related to the Proposed Standards

We have also included specific comments by paragraph in Appendix 1.

Within our comments, we have offered potential solutions to address the issues and concerns raised. These potential solutions are offered in an effort to assist the PCAOB in understanding and resolving the issues we have identified. Resolving the issues identified herein will be extremely helpful to auditors as they implement and apply a final standard.

I. Relationship between Proposed Standards and Interim Attestation Standards

Appendix 3, *Proposed Amendments to PCAOB Standards* (“Appendix 3”), and Appendix 4, *Additional Discussion of the Proposed Attestation Standards and Questions for Public Comment* (“Appendix 4”), of the Release indicate that neither the interim attestation standard AT section 101 (“AT 101”), *Attest Engagements*, nor AT section 601 (“AT 601”), *Compliance Attestation*, apply when an auditor performs an engagement pursuant to the Proposed Standards. AT 101 and AT 601 contain a significant amount of background and detailed guidance that the auditor needs to be familiar with when performing an attestation engagement. The Proposed Standards are very brief and do not address certain fundamental concepts under which an attestation engagement is performed. For example, they do not include:

- Key definitions, such as “assertion” or “responsible party”
- Concepts such as “suitability of criteria”
- General engagement guidance, such as establishing with the client the terms of the engagement

However, the Proposed Standards appear to be drafted with the expectation that the auditor has an understanding of these fundamental concepts and applies them in the performance of engagements in accordance with the Proposed Standards, even though the concepts have not been embedded within the Proposed Standards. It is also unclear whether the 11 attestation standards (i.e., general standards, standards of fieldwork, and standards of reporting) apply for engagements conducted in accordance with the Proposed Standards. We recommend that the Board use the existing interim attestation standards as a base and then develop supplemental standards for engagements performed related to brokers and dealers. Alternatively, we believe that it is necessary for the Proposed Standards to incorporate some of the fundamental guidance contained in AT 101 and AT 601.

For example, there is no requirement in the Proposed Examination Standard for the auditor to establish an understanding with management regarding the services to be performed on the engagement. While the Proposed Examination Standard appears to advocate that the auditor of the financial statements and supplemental information also perform the examination engagement, the Proposed Examination Standard does not require it. If the auditor of the financial statements does perform the examination engagement, it is possible that the auditor may establish the terms of engagement for the examination engagement at the same time, and in the same document, that the terms for the financial statement audit are established. However, the terms of engagement for the financial statement audit may be established separately or, as mentioned above, an auditor other than the auditor of the financial statements may be engaged to perform the examination engagement, in which case there would be no requirements or guidance related to establishing the terms of engagement for the examination engagement. Accordingly, we believe the Proposed Examination Standard should include a requirement that the auditor establish an understanding with management, regarding the services to be performed. We believe that such an understanding should be in writing and should include obtaining the agreement of management that:

- a. Management is responsible for the assertion
- b. Management acknowledges its responsibility for establishing and maintaining a system of internal control to provide the broker or dealer with reasonable assurance that any instances of material non-compliance with the specified Financial Responsibility Rules (“FRRs”)¹ will be prevented or detected on a timely basis
- c. Management will make available to the auditor all records and other information relevant to the broker’s or dealer’s assertions, including all known matters contradicting the assertions, and all

¹ Paragraph 2a of the Proposed Examination Standard states, “Rule 15c3-1, Rule 15c3-3, Rule 17a-13, and the account statement rule are referred to collectively as “the specified Financial Responsibility Rules.”

communications from regulatory agencies, internal auditors, others who perform an equivalent function, compliance functions, and other auditors that are relevant to the broker's or dealer's assertions

In addition, we believe a similar requirement should be added to the Proposed Review Standard for the reasons stated above.

II. *Relationship between Proposed Standards and Auditing Standards*

Appendix 4 to the Release states, “[t]he Proposed Examination Standard focuses specifically on performing an examination of the assertions made by a broker or dealer in a compliance report and allows auditors to perform such engagements without looking to multiple attestation standards.” We agree that it is beneficial to have all relevant requirements and guidance related to examination and review engagements performed in accordance with the Proposed Standards in two individual attestation standards. For that reason, we are concerned that Appendix 3 of the Release contains amendments to the PCAOB’s auditing standards, which make Auditing Standard No. 3, *Audit Documentation*, and Auditing Standard No. 7 (AS No. 7), *Engagement Quality Review*, applicable for engagements conducted in accordance with the Proposed Standards. Instead of looking to multiple attestation standards, the auditor performing the engagements in accordance with the Proposed Standards is now required to look to an entirely separate body of standards that have been designed with a different purpose (i.e., integrated and non-integrated audits of financial statements). AS No. 7 includes specific guidance regarding the engagement quality review process for audit engagements² as well as reviews of interim financial information³.

We believe that it would be more appropriate for the Proposed Standards to include all applicable requirements and guidance for the attestation engagements, including requirements and guidance relating to documentation and engagement quality reviews. We note that the proposed conforming amendments to AS No. 7 include a limited number of proposed paragraphs related to certain attestation engagements, but we believe further guidance related to performing an engagement quality review for attestation engagements is warranted.

III. *Effective Date and Transition Period*

We support the Board’s proposed effective date for fiscal years ending on or after September 15, 2012. We believe the proposed effective date allows sufficient time for auditors to adequately prepare for implementation of the Proposed Standards.

We note that the SEC’s Proposed Rule would be effective for annual reports filed with the SEC for fiscal years ending on or after December 15, 2011. We have commented to the Commission in response to its Proposed Rule that we believe that the effective date for the SEC’s Proposed Rule should be aligned with the proposed effective date of the Proposed Standards to give adequate time to both broker-dealer and auditor to adequately prepare for effective initial implementation.

If the effective dates remain different, the Board will need to provide implementation guidance for the transition period (i.e., for attestation engagements for years ending between December 15, 2011, and September 15, 2012).

² AS 7, paragraphs 9-13

³ AS 7, paragraphs 14 - 18

IV. Overall Comments Related to the Proposed Standards

Our overall comments related to the Proposed Examination Standard and the Proposed Review Standard follow. In terms of both Proposed Standards, the Release indicates that the standards are intended to be “scalable based on the broker’s or dealer’s size and complexity.” However, the Proposed Standards themselves do not provide any guidance or examples of how “scalability” may be implemented when performing engagements in accordance with the Proposed Standards. We recommend that the Board embed such guidance into the Proposed Standards to allow for effective implementation.

Comments related to the Proposed Examination Standard

a. Objective and scope of internal control over compliance with the Financial Responsibility Rules

In our letter to the SEC on its Proposed Rule, we encouraged the Commission to provide additional guidance about the specific control objectives that should be met to achieve effective internal control over compliance with the FRRs. We note that because the auditor is examining management’s assertion about the broker’s or dealer’s compliance with the FRR, the two activities (i.e., management’s assertion and the auditor’s examination) intersect in key ways. The auditor’s engagement to examine the assertions made by management in its Compliance Report will likely utilize the work performed, and the documentation generated, by the broker or dealer in conducting management’s assessment of internal control over compliance. As a result, we believe it is critical that the SEC’s Proposed Rule and the Proposed Examination Standard include consistent, detailed control objectives related to internal control over compliance so that management, in assessing the effectiveness of the broker’s or dealer’s internal control over compliance, is using the same “definition” of internal control over compliance as the auditor when performing an examination of management’s assertion related to the effectiveness of internal control over compliance.

Paragraph 15 of the Proposed Examination Standard indicates that the auditor “must test those controls that are important to the auditor’s conclusion about whether the broker or dealer maintains effective internal control over compliance for each specified Financial Responsibility Rule.” For the reasons stated above, we believe that guidance for the auditor relating to identifying those “controls that are important to the auditor’s conclusion” should be provided, either as an Appendix to the Proposed Examination Standard, or following the requirement in paragraph 15.

b. Relationship between internal control over compliance and (1) internal control over financial reporting and (2) the financial statement audit

- (1) As indicated in our comment letter to the SEC, we believe that additional guidance in the Proposed Rule relating to the relationship between internal control over financial reporting (“ICFR”) and internal control over compliance would be beneficial to both the broker-dealer and the auditor. While the Proposed Rule is clear that the Compliance and Examination reports do not extend to ICFR, we note there may be certain ICFR controls that could overlap with internal control over compliance with the FRRs. Further to our comment above about providing more detailed guidance in both the Proposed Rule and the Proposed Examination Standard related to the control objectives for internal control over compliance, we believe it would be helpful for that detailed guidance to include a discussion of how those control objectives relate to the control objectives for ICFR.
- (2) Paragraph 8 of the Proposed Examination Standard indicates that the auditor should “take into account relevant evidence from the audit in planning and performing procedures for the examination engagement and in evaluating the results of the procedures performed in the examination.” Paragraph 30 of the Proposed Examination Standard indicates that the auditor needs to evaluate the effect on the audit of the financial statements of any material non-compliance or material weaknesses identified in performing the

examination procedures. However, the Proposed Examination Standard does not provide guidance about how control deficiencies or material misstatements identified in the financial statement audit should be evaluated in relation to the effectiveness of internal control over compliance with the FRRs. For example, if a broker-dealer applied the correct “haircut” percentage required by Rule 15c3-1, *Net Capital Requirements for Brokers or Dealers*, to a security whose value is incorrectly stated in the broker’s or dealer’s balance sheet, it is unclear what impact that error should have on the auditor’s conclusion about effectiveness of internal controls over compliance with the FRRs. In other words, in such a situation would the control over the compliance with Rule 15c3-1 still be considered effective, despite the error in the broker’s or dealer’s balance sheet? We believe that auditors would benefit from additional guidance and specific examples in the Proposed Examination Standard demonstrating how the results of the financial statement audit and the results of the examination engagement interact.

c. *Definition of the term “material non-compliance” and the evaluating material non-compliance in relation to other findings*

The Proposed Rule defines “material non-compliance” as a failure by the broker or dealer to comply with the FRRs in all material respects. In our comment letter to the SEC, we recommended that the Commission include examples of “material non-compliance” for each FRR (currently the Proposed Rule contains examples for Rule 15c3-1 and Rule 15c3-3 only). Similarly, we recommend that the Proposed Examination Standard contain examples of material non-compliance for all FRRs. Paragraph 4 of the Proposed Examination Standard states that “[b]ecause the broker’s or dealer’s assertions apply to each specified Financial Responsibility Rule, the auditor’s examination should evaluate compliance with each specified Financial Responsibility Rule...” As a result, we believe it would be helpful if the Proposed Examination Standard contained examples of material non-compliance to assist auditors in evaluating findings.

Further, we believe that additional guidance specifying the quantitative and qualitative factors to consider when evaluating the materiality of instances of non-compliance would be beneficial to include in the Proposed Examination Standard. For example, in the case where a broker or dealer fails to provide account statements to certain clients during a particular period, would materiality depend on quantitative factors alone, such as the number of statements not provided relative to total statements or the dollar value of accounts for which statements were not provided relative to the total value of all accounts? If not, it would be beneficial to include the qualitative factors that the auditor may consider in such circumstances.

Another example where additional guidance and examples in the Proposed Examination Standard would be helpful is in circumstances where an error is identified, but does not result in a failure to comply with an FRR (e.g., where an error is identified in the calculation of net capital but the broker or dealer still maintains net capital higher than the required level). In such circumstances, it is unclear whether that error would be considered an instance of material non-compliance.

Comments related to the Proposed Review Standard

a. *Period covered by exemption report*

The SEC’s Proposed Rule would (1) require a broker or dealer claiming an exemption from Rule 15c3-3 to make an assertion that it is exempt from the provisions of Rule 15c3-3 because it meets conditions set forth in paragraph (k) of Rule 15c3-3, (2) require a broker-dealer to identify the specific conditions, and (3) require the accountant to prepare a report based on a review of this assertion. However, we note that both the Proposed Rule and the Proposed Review Standard are silent about whether the broker’s or dealer’s assertion, and therefore the auditor’s review report, is to be made as of a point in time, or for a period of time. In our comment letter to the SEC, we indicated that we believe that management’s assertion, and therefore the auditor’s review of management’s assertion, should be as of the broker’s or

dealer's fiscal year end. We therefore believe that the Proposed Review Standard, including the report example in paragraph 18, should be clarified accordingly.

b. *Evaluation of "non-compliance"*

The Proposed Review Standard is unclear in terms of the materiality to be used by the auditor in evaluating its findings. For example, paragraph 3 indicates that the objective is to conclude as to whether the "auditor is aware of any material modifications that should be made" to the broker's or dealer's assertion in order for the assertion to be fairly stated in all material respects. Paragraph 4 then indicates that in order to state the conclusion in paragraph 3, the auditor needs to obtain moderate assurance about whether one or more instances of non-compliance individually or in the aggregate cause the broker's or dealer's assertion not to be fairly stated in all material respects. However, no further guidance is given in the Proposed Review Standard related to evaluating the materiality of non-compliance. Taken together, paragraphs 3 and 4 infer that non-compliance with the FRRs may occur and the broker or dealer still may be in a position to reasonably assert their exemption status. It would be beneficial for the Proposed Review Standard to provide examples of non-compliance that would negate management's assertion of exemption from Rule 15c3-3 as well as examples of non-compliance where exemption from Rule 15c3-3 would still be appropriate.

We would welcome an opportunity to further discuss these matters with the Board and the staff. If you have any questions or would like to discuss these matters further, please contact John Fogarty at (203) 761-3227 or Bill Platt at (203) 761- 3755. We thank you for your consideration of these matters.

Very truly yours,

/s/ Deloitte & Touche LLP

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

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

Appendix 1 - Specific Comments by Paragraph

Our comments related to individual paragraphs within the Proposed Standards are included below. Where we have made editorial suggestions, additions are shown as bold underline and deletions as double strike-through.

Proposed Attestation Standard, *Examination Engagements Regarding Compliance Reports of Brokers and Dealers*

Paragraphs 5 and 28

Paragraphs 5 and 28 require that the auditor plan and perform procedures to determine whether the information used to assert compliance with the specified FRRs was derived from the broker's or dealer's books and records. However, the Proposed Examination Standard provides no further guidance on the nature or extent of those procedures. We believe that guidance as to the procedures that the auditor might perform in this regard would be helpful.

Paragraph 6

Footnote 14 equates the "due professional care" referred to in paragraph 6 with the same term in paragraph .40 of AT 101. While we do not disagree with the meaning of "due professional care" we believe that referencing AT 101 from the Proposed Examination Standard may be confusing. The Release indicates AT 101 does not apply to engagements conducted in accordance with the Proposed Examination Standard. The footnote, however, seems to infer that the auditor would be looking to AT 101 as part of the examination engagement. As noted in our comments in Section I above, we believe it is appropriate to use the interim attestation standards as a base (in which case, footnote 14 would be unnecessary). If the interim attestation standards are not used as a base, we believe that all of the fundamental concepts from AT 101 related to attestation engagements, such as due professional care, should be embedded in the Proposed Examination Standard itself, rather than through intermittent cross-referencing in footnotes and in the Release.

Paragraph 8

Paragraph 8 imposes on the auditor an obligation that the auditor plan and perform the work to meet the objectives of both the examination engagement and the audit of financial statements. However, the Proposed Examination Standard does not require that the auditor performing the audit of the financial statements and supplemental information also perform the examination engagement. Further, because this is not an integrated audit, within the Proposed Examination Standard, we believe that the auditor's obligation is to plan and perform the work to meet the objectives of the *examination* engagement. We do not believe it is appropriate to have a requirement within the Proposed Examination Standard that the auditor must plan and perform the work to meet the objectives of the financial statement audit. We believe that requirement is sufficiently covered in the Board's existing Auditing Standards.

Accordingly, we believe that the second and third sentences of paragraph 8 should be redrafted as follows:

The auditor should take into account relevant evidence from the audit in planning and performing procedures for the examination engagement and in evaluating the results of the procedures performed in the examination, **bearing in mind that** ~~However,~~ the objectives of the audit and the examination engagement are not the same. **Accordingly, so** the auditor must plan and perform the work to meet the objectives ~~of both engagements~~ **of the examination engagement.**

Paragraph 11

As noted in our Overall Comments Section IV above, we believe additional examples and guidance related to internal control over compliance would be helpful. We suggest that one area for such guidance

and examples would be the addition in paragraph 11 of qualitative factors considered when evaluating the effectiveness of internal control over compliance.

Paragraph 12

In order to be consistent with Auditing Standard No. 9, paragraph 12 as well as AT 601, we recommend adding two additional factors for the auditor to take into account when determining the extent of the examination procedures to be performed at divisions or branches:

- Judgments about materiality of the division or branch
- The similarity of operations over compliance for different divisions or branches

We also recommend the Proposed Examination Standard include guidance with respect to the auditor's use of the internal audit function, similar to the guidance included in AT 601.44 and AU section 322, *The Auditor's Consideration of the Internal Audit Function in an Audit of Financial Statements*:

Another factor the practitioner should consider when planning the engagement is whether the entity has an internal audit function and the extent to which internal auditors are involved in monitoring compliance with the specified requirements. A practitioner should consider the guidance in AU section 322, *The Auditor's Consideration of the Internal Audit Function in an Audit of Financial Statements*, when addressing the competence and objectivity of internal auditors, the nature, timing, and extent of work to be performed, and other related matters.

Paragraph 16

We acknowledge that paragraph 16 is the same as paragraph 46 in Auditing Standard No. 5, *An Audit of Internal Control Over Financial Reporting that is Integrated with an Audit of Financial Statements*. However, we believe that paragraph 18, Auditing Standard No. 13, *The Auditor's Responses to the Risks of Material Misstatement*, contains language that may convey the intention of the paragraph more clearly, and therefore suggest the following language in place of paragraph 16:

In designing and performing tests of controls for the examination engagement, the evidence necessary to support the auditor's control risk assessment depends on the degree of reliance the auditor plans to place on the effectiveness of a control. The auditor should obtain more persuasive audit evidence from tests of controls the greater the reliance the auditor places on the effectiveness of a control.

Paragraph 17

The factors that affect the risk associated with a control include (in the third-to-last bullet) "the extent of use of part-time personnel to perform controls over compliance." We do not agree that use of part-time personnel in and of itself affects the risk associated with a control (as opposed to the extent of use of temporary personnel, which may be a relevant factor). We believe that the bullet relating to the competence of the personnel who perform the control (i.e., the fourth-to-last bullet) sufficiently covers the concept that the understanding and ability of the individuals performing the control influences the risk associated with the control and as a result, the third-to-last bullet is not necessary and should be removed.

Paragraphs 25 and 27

Paragraphs 25 and 27 both discuss the sufficiency of evidence obtained, as they refer to obtaining "more evidence" in certain situations. This aligns with the first bullet in paragraph 5 of Auditing Standard No. 15, *Audit Evidence*, which discusses sufficiency in the context of risk of misstatement or risk associated with a control. However, paragraphs 25 and 27 do not cover the concept of sufficiency in the context of quality of the evidence obtained, which is covered in the second bullet of paragraph 5 in AS No. 15:

As the quality of the evidence increases, the need for additional corroborating evidence decreases. Obtaining more of the same type of audit evidence, however, cannot compensate for the poor quality of that evidence.

We believe that paragraphs 25 and 27 should also include language embedding the concept of sufficiency with regard to the quality of audit evidence obtained. Otherwise, we are concerned that the auditor will focus on getting more evidence rather than focusing on the persuasiveness of the evidence.

In addition, the first sentence of paragraph 25 discusses the risk of material non-compliance, including fraud risks. We believe it would be helpful to provide guidance and examples of fraud risks related to compliance with the FRRs.

Paragraph 29

Paragraph 29 requires that the auditor evaluate “all evidence obtained...” The Release explains that this evaluation includes evidence obtained from compliance tests, tests of internal control over compliance, and the audit of the broker’s or dealer’s financial statements and supplemental information. We believe the Proposed Examination Standard should include this list from the Release to provide a clearer meaning of “all evidence.”

The Release includes further guidance that we believe would be beneficial to auditors if it were included in the Proposed Examination Standard itself.

- Page A4-26, 4th paragraph states, “This evaluation [of the effect any non-compliance or identified control deficiency on the auditor’s assessed risks of material non-compliance] is important to inform the auditor’s conclusions about whether the auditor’s risk assessments remain appropriate and whether he or she has obtained sufficient appropriate evidence to support the opinion to be expressed in the auditor’s examination report.” We believe it would be helpful to add this language to the second Note of paragraph 30c.
- Page A4-26, 5th paragraph states, “This [evaluation of findings from examination engagement on financial statement audit] includes determining whether sufficient appropriate audit evidence has been obtained to support the relevant financial statement assertions, including assertion related to the completeness and accuracy of disclosures, taking into account materiality considerations for the audit of the financial statements.” We believe it would be beneficial to include this guidance in the third Note to paragraph 30c relating to the coordination between the audit of the financial statements and supplemental information and the examination engagement.
- Page A4-27 includes a list of factors that are relevant to the auditor’s evaluation of whether the auditor has obtained sufficient appropriate audit evidence to support the conclusions to be presented in the examination report. These factors would be helpful to include either in paragraph 30 or in paragraph 31.

Paragraph 35

We believe the list of required written representations in paragraph 35 should also include a representation that management acknowledges its responsibility for the assertions.

Paragraph 39

1. We recommend drafting paragraph 39b. in terms of management’s assertions as they are described in the illustrative report and in paragraph 2 of the Proposed Examination Standard:
 - b. An identification of the compliance report and the broker’s or dealer’s assertions regarding **whether, as of the fiscal year end, the broker or dealer was in** compliance with the specified FRRs, whether the information used to assert compliance with the specified FRRs was derived

from the broker's or dealer's books and records, and **whether internal control over compliance the effectiveness of internal control over compliance with the specified FRRs was effective during the most recent fiscal year such that there were no instances of material weakness.**

2. We believe that the following additional statements should be included in the auditor's examination report to be consistent with current compliance attestation standards and practice.
 - A statement that the assertion is the responsibility of the responsible party (i.e., the broker or dealer).
 - A statement that the examination does not provide a legal determination on the entity's compliance.
3. Currently, audit firms may restrict the use of internal control reports required by the Commission's Rule 17a-5 to specified parties. Paragraph .79 of AT 101 provides reasons for which an auditor may determine the need for a restriction on use of a report including "...the extent to which the procedures performed are known or understood, and the potential for the report to be misunderstood when taken out of the context in which it was intended to be used." Further, paragraph .81 of AT 101 indicates that "nothing in this section precludes a practitioner from restricting the use of any report." We note that Appendix 4 of the Release indicates that the Proposed Standards do not include provisions that allow audit firms to restrict the use of reports issued in accordance with the Proposed Standards. We believe, for the reasons established in paragraph .79 of AT 101, and given the nature of the engagements covered by the Proposed Standards, that guidance should be added to the Proposed Standards clarifying that the auditor may restrict the use of a report if the auditor deems it appropriate to do so.

Appendix A – Examination Report Modifications

Paragraph A2 – Given the difference in reporting when the auditor is issuing an adverse opinion (i.e., when the auditor expresses an unqualified opinion, the auditor expresses an opinion on management's assertions; when the auditor expresses an adverse opinion, the auditor expresses the opinion directly on the subject matter), we believe it would be beneficial for the PCAOB to include an illustrative example of a report where the auditor is expressing an adverse opinion.

Paragraphs A4 and A9 – Similar to our comment on paragraph A2, we believe report examples when the auditor disclaims an opinion on management's assertion or on other information included in the compliance report as described in paragraphs A4 and A9, respectively, would be helpful.

Proposed Attestation Standard, Review Engagements Regarding Exemption Reports of Brokers and Dealers

Paragraphs 5 and 6

Further to our overall comment in Section I above, certain fundamental concepts currently embodied in AT 101 and AT 601 are not included in the Proposed Standards. As a result, the Proposed Review Standard does not encompass certain critical elements related to the performance of the review engagement. For that reason we believe that paragraphs 5 and 6 should include other matters that are "general requirements" when performing a review engagement, such as:

- Responsibility for the assertion
- Establishing the terms of the engagement with management

Paragraphs 10 and 17

Paragraph .55 of AT 101 indicates that the objective of a review engagement "is to accumulate sufficient evidence to restrict attestation risk to a moderate level. To accomplish this, the types of procedures

performed generally are limited to inquiries and analytical procedures (rather than also including search and verification procedures).” Paragraph 10(a)-(g) of the Proposed Review Standard requires the auditor to inquire, read and evaluate evidence already obtained. We believe that these activities are consistent with AT 101’s description of a review engagement. However, we are concerned that the language in paragraph 10(h), “perform other procedures as necessary in the circumstances to obtain moderate assurance,” is too broad.

This is of particular concern when read in the context of the required elements of the review report. Paragraph 17(d) requires, “a statement that the review was conducted in accordance with the standards of the Public Company Accounting Oversight Board (United States) and accordingly, included inquiries *and certain other procedures to obtain evidence* about the broker’s or dealer’s compliance with the exemption conditions” [emphasis added]. We are concerned that users of the report may misinterpret the procedures performed and assume that such procedures are more robust than those procedures required for a moderate level of assurance. We therefore recommend that the words, “and accordingly, included inquiries and certain other procedures to obtain evidence about the broker’s or dealer’s compliance with the exemption conditions” be deleted from the end of paragraph 17(d).

Paragraph 11

Paragraph 11 of the Proposed Standard states, “The auditor should evaluate the identified instances of non-compliance with the exemption conditions to determine whether the instances of non-compliance, *individually or in combination*, cause the broker’s or dealer’s assertion not to be fairly stated, *in all material respects*” [emphasis added]. The SEC’s Proposed Rule provides as an example of a discovery that would necessitate a material modification that the broker or dealer failed to promptly forward any customer securities it received. The introduction of the language “individually or in combination” and “in all material respects” without further guidance as to the application of materiality to non-compliance is confusing. For example, in the example provided in the SEC’s Proposed Rule referred to above, it is unclear what the impact would be on the auditor’s conclusions if the broker or dealer failed to promptly forward *some or a few* of the customer securities it received rather than *all* customer securities. As noted in our overall comments, we believe that guidance related to materiality and evaluation of non-compliance be provided in the Proposed Review Standard to assist in consistent application of the standard.