PCAOB
Public Company Accounting Oversight Board

PROPOSED POLICY STATEMENT

GUIDANCE REGARDING IMPLEMENTATION OF PCAOB RULE 4012

COMMENT #	COMMENTER	DATE RECEIVED
1	National Association of State Boards of Accountancy	January 15, 2008
2	Georg Merkl	February 16, 2008
3	North Carolina State Board of Certified Public Accountant Examiners	February 22, 2008
4	Texas Society of Certified Public Accountants	February 25, 2008
5	Auditor Oversight Commission of Germany	February 27, 2008
6	European Federation of Accountants	February 29, 2008
7	Institut der Wirtschaftsprüfer	February 29, 2008
8	U.S. Government Accountability Office	February 29, 2008
9	BDO International	March 2, 2008
10	The Japanese Institute of Certified Public Accountants	March 4, 2008
11	Independent Regulatory Board for Auditors of South Africa	March 4, 2008
12	Federation of German Industries	March 4, 2008
13	Center for Audit Quality	March 4, 2008

As of March 27, 2008

COMMENT #	COMMENTER	DATE RECEIVED
14	The Financial Supervisory Authority of Norway	March 4, 2008
15	China Securities Regulatory Commission	March 4, 2008
16	Consumer Federation of America	March 4, 2008
17	French Compagnie Nationale des Commissaires aux Comptes	March 4, 2008
18	Netherlands Authority for the Financial Markets	March 4, 2008
19	Ernst & Young LLP	March 4, 2008
20	KPMG International	March 4, 2008
21	Grant Thornton International	March 4, 2008
22	Swiss Federal Audit Oversight Authority	March 4, 2008
23	American Federation of Labor and Congress of Industrial Organizations	March 4, 2008
24	Deloitte Touche Tohmatsu	March 4, 2008
25	Council of Institutional Investors	March 4, 2008
26	PricewaterhouseCoopers LLP	March 4, 2008
27	Mazars	March 5, 2008
28	Professional Oversight Board	March 5, 2008
29	CalPERS	March 5, 2008

COMMENT #	COMMENTER	DATE RECEIVED
30	Hon. Carl Levin, U.S. Senator	March 5, 2008
31	The Institute of Chartered Accountants in England and Wales	March 6, 2008
32	Financial Services Agency of Japan; Certified Public Accountants and Auditing Oversight Board of Japan	March 7, 2008
33	Haut Conseil du Commissariat aux Comptes	March 7, 2008
34	Institute of International Bankers	March 7, 2008
35	European Commission	March 14, 2008
36	Auditing Board of the Central Chamber of Commerce of Finland	March 27, 2008
37	Commissione Nazionale per le Societa e la Borsa	March 27, 2008

National Association of State Boards of Accountancy

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January 15, 2008

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

Via e-mail to: **comments@pcaobus.org**

Re: PCAOB Release No. 2007-011

Dear Board Members:

We appreciate the opportunity to offer comment to the Public Company Accounting Oversight Board ("Board") on the Proposed Policy Statement: Guidance Regarding Implementation of PCAOB Rule 4012 [Inspections of Foreign Registered Public Accounting Firms] ("Proposal"). The National Association of State Boards of Accountancy's (NASBA's) primary goal is to increase the effectiveness of U.S. state boards of accountancy. In furtherance of that goal, our Professional and Regulatory Response Committee ("Committee") offers the following comments on the proposed rules:

The Board has invited comments on the proposal to increase its level of reliance on non-U.S. accounting firms' oversight programs, where possible, and on the proposed criteria to be used by the PCAOB to evaluate whether or not full reliance could be placed on a particular program. The Proposal would permit the PCAOB to place full reliance on a non-U.S. oversight entity to perform the inspections, or investigations, of foreign registered public accounting firms once that entity's program meets the Board's criteria for inspections.

The Committee believes that the Proposal sets forth a sound approach to the question of how to efficiently perform inspections, or investigations, of foreign public accounting firms that audit U.S. issuers and protect the public interest. The Committee also believes that the criteria outlined for determining the ability to rely on a particular non-U.S. oversight entity are appropriate.

In Section III, PCAOB Cross-Border Cooperation Policy Guidance, C - Essential Criteria for Full Reliance (footnote 12), the PCAOB notes that bilateral agreements with non-U.S. oversight entities will include provisions for joint inspections before full reliance can take place as well as continuing observations [through joint inspections]. The Committee believes that continuous review is essential to the proposed program and that this point should be given even greater emphasis in the final release. The Committee also believes that the PCAOB should consider some comment in the final release regarding the possibility of disengagement in the event of a failure on the part of a non-U.S. oversight entity including the actions that the Board would take to protect investors.

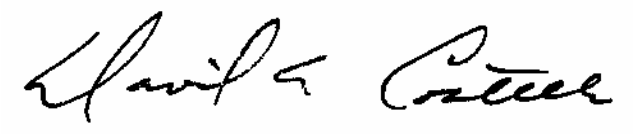
The Committee believes that the Essential Criteria in the final release should include a comment on the need for technical training and proficiency of inspectors in understanding: (a) the PCAOB's standards, (b) the Securities and Exchange Commission's independence standards, and (c) U.S. Generally Accepted Accounting Principles when applicable.

In addition, the Committee recommends that Essential Criteria 7 (on page A1-12 of the Proposal) include in the final release a statement on whether or not full reliance on a particular non-U.S. oversight entity will be dependent, in part, on the ability to access the same information that the PCAOB's inspectors can access when conducting inspections or investigations in the United States.

We hope these comments will assist the Board in its work.

Very truly yours,

Samuel K. Cotterell, CPA
NASBA Chair



David A. Costello, CPA
NASBA President & CEO

Georg Merkl
Rütistrasse 55
8032 Zürich
Switzerland

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

Subject: Comments on PCAOB Release No. 2007-011

Dear Mr. Seymor,

Thank you for the opportunity to provide comments on the PCAOB's proposed policy statement regarding the implementation of PCAOB Rule 4012.

In my opinion, the first step in determining whether to place full reliance on a non-U.S. auditor oversight entity has to be a thorough analysis of foreign laws, rules and agreements with the PCAOB to determine whether foreign auditor firms who are required to be registered with the PCAOB are not only registered with, but also actually *inspected* with sufficient frequency by the non-U.S. auditor oversight entity. There may be significant differences between local laws and U.S. laws and PCAOB rules that result in gaps that have be filled by through direct inspections by the PCAOB's staff or agreements between the PCAOB and non-U.S. auditor oversight entities and/or the issuers or their subsidiaries. Local laws and rules may only cover audits of certain legal forms of companies that only issue certain types of securities or that only access the U.S. public capital markets in certain ways. In some jurisdictions, the non-U.S. auditor oversight entity may oversee the auditors of a large number of companies, but only a relatively small number of those companies may actually access the U.S. public capital markets directly or through their parent. As a consequence, an inspection sample selection method that allocates an equal probability to each audit of a company's financial statements and internal control over financial reporting or a probability based on general risk factors may not result in audits of companies that directly or indirectly access the U.S. capital markets to be selected for inspection with sufficient frequency.

Overview of differences between the scope of audit oversight in the U.S. and in Switzerland

There are significant differences between the Sarbanes-Oxley Act of 2002 and the PCAOB's rules and the Swiss Audit Oversight Act (AOA) (= Bundesgesetz über die Zulassung und Beaufsichtigung der Revisorinnen und Revisoren). The Sarbanes-Oxley Act's requires auditors of issuers that use the U.S. public capital markets to *register* with and be *inspected* by the PCAOB irrespective of the legal form of those issuers. The Swiss Audit Oversight Act requires the auditors of certain types (i.e. legal forms) of companies to *register* with the Swiss Audit Oversight Agency, irrespective of a use of the (Swiss or a foreign public capital market). However, only auditors of Swiss companies that access the Swiss or foreign public capital markets in certain ways and auditors of certain foreign companies that access the Swiss public capital market in certain ways are *inspected* by the Swiss Audit Oversight Agency.

Companies subject to inspections by an audit oversight entity	**U.S.A**	**Switzerland**
Legal form of parent companies and subsidiaries	• All types of organizations, i.e.: - corporations - limited liability companies - limited partnerships - general partnerships - limited liability partnerships - etc.	• corporations • limited liability companies • cooperative societies • (trusts and associations typically do not issue securities on the public capital markets and are typically not owned by issuers)
Audits of companies that are subject to inspections by the audit oversight entity (ways of using the public capital market)	• All types of organizations who issue securities that access the U.S. public capital market and their subsidiaries, i.e. issuers: - with securities listed on a national stock exchange in the U.S. - with equity securities traded over-the-counter in the U.S. - who have publicly offered their securities in the U.S.	• Swiss corporations or cooperative societies with equity securities listed on a Swiss or foreign stock exchange (Sec. 7 (1) AOA in connection with Sec. 727 (1) (1) (a) CO or 906 (1) CO) • Swiss corporations, limited liability companies or cooperative societies who have bonds outstanding (Sec. 7 (1) AOA in connection with Sec. 727 (1) (1) (b) CO, Sec. 818 (1) CO or Sec. 906 (1) CO) • Swiss companies who represent 20% of the assets or sales of companies specified in the previous two points (Sec. 727 (1) (1) (c) CO)

		• Foreign companies with equity securities listed on a Swiss stock exchange (Sec. 8 (1) (a) AOA) • Foreign companies who have bonds outstanding in Switzerland (Sec. 8 (1) (b) AOA) • Swiss or foreign companies who represent 20% of the assets or sales of companies specified in Sec. 8 (1) (a) or (b) AOA (Sec. 8 (1) (c) AOA) • Foreign companies who represent 20% of the assets or sales of Swiss corporations or cooperative societies with equity securities listed on a Swiss or foreign stock exchange or of Swiss corporations, limited liability companies or cooperative societies who have bonds outstanding companies (Sec. 8 (1) (d) AOA) • Auditors of the foreign companies mentioned above can be exempted from registration with the Swiss Audit Oversight Agency if they are registered with a foreign audit oversight agency that is recognized by the Swiss Federal Council (Sec. 8 (2) AOA)

Gaps in the legal form of companies subject to Swiss audit oversight

Certain legal forms of parent companies and subsidiaries are not required to have an auditor that is *registered* with the Swiss Audit Oversight Agency (e.g. limited partnerships, general partnerships, limited partnerships divided into shares).

Gaps in the ways of accessing the U.S. public capital market that are subject to Swiss audit oversight

The Swiss Audit Oversight Act distinguishes between audit firms that are subject to state oversight (= staatlich beaufsichtige Revisionsunternehmen), specially qualified expert auditors (= Revisionsexpertinnen und Revisionsexperten) and regular auditors (= Revisorinnen und Revisoren). Audit firms that audit Swiss companies that access the Swiss or foreign public capital markets in certain ways and auditors of certain foreign companies that access the Swiss public capital market in certain ways are defined as audit firms that are subject to state oversight.

Audits of Swiss issuers or substantial Swiss subsidiaries of U.S. issuers or foreign private issuers whose *equity securities* are traded over-the-counter in the U.S. (section 12(g) Securities Exchange Act of 1934) or whose *equity securities* have been publicly offered in the U.S. (section 15(d) Securities Exchange Act of 1933) are not required to have an audit firm that is subject to state oversight by the Swiss Audit Oversight Agency. As a consequence, there is no assurance that audits of those issuers or substantial subsidiaries are inspected by the Swiss Audit Oversight Agency.

Section 16 AOA specifies that audit firms that are subject to state oversight are *inspected* by the Agency at least once every three years. The other sections of the Act do not contain provisions that explicitly state that specially qualified auditors or regular auditors *have* to be or *can* be inspected by the Agency. Furthermore, only audit firms that are subject to state oversight and their clients are required to supply verbal information and documents to the Agency (Section 13 AOA) and are subject to more stringent explicit rules on independence (Section 11 AOA) that fulfill certain requirements of the Sarbanes-Oxley Act (e.g. cooling off period for ex-auditors of public companies).

The Swiss Federal Department of Justice's commentary that was issued together with the draft revisions of the Code of Obligations (CO) and the draft Audit Oversight Act (AOA) specified that one of the objectives of the acts was to minimize conflicts between Swiss laws on the professional secrecy, business secrecy, data protection, stock exchange secrecy and bank secrecy (page 4006 of the commentary) and the PCAOB's powers to conduct inspections. The commentary only mentions that auditors of Swiss companies that have listed equity securities or bonds/notes (on stock exchanges) in the U.S. and auditors of material Swiss subsidiaries whose parent companies are listed on stock exchanges in the U.S. are subject to the oversight of the PCAOB (page 4005 of the commentary). This is an indicator that the Swiss Federal Department of Justice may not have been aware that the Sarbanes-Oxley Act also requires the auditors of issuers whose *equity securities* are traded over-the-counter in the U.S. or whose securities have been publicly offered in the U.S. to register with the PCAOB. The commentary refers to a publication by the Swiss Chamber of Certified Public Accountants and by Hans Caspar von der Crone and Katja Roth, a Professor of

Law at the University of Zurich and his assistant, for an overview of the Sarbanes-Oxley Act on page 4004. Both publications do not explicitly mention over-the-counter trading in the U.S. and public offerings of securities in the U.S. as triggers that typically require the auditor of the issuer to be registered with the PCAOB. The fact that von der Crone/Roth mention ensuring adequate information on listed companies to their investors and the prevention of deceptive, false statements and falsifications during trading of listed stocks as the two main purposes of the Securities Act of 1933 (footnote 8 on page 132) although they are rather purposes of the Securities Exchange Act of 1934 is a further indicator of a certain lack of understanding of U.S. securities law in Switzerland.

Likelihood of an audit being selected for an inspection by the Swiss Audit Oversight Agency

It is likely that the vast majority of companies that are audited by audit firms that are subject to state oversight (= staatlich beaufsichtige Revisionsunternehmen) by the Swiss Audit Oversight Agency) do not use the U.S. public capital markets or are not substantial subsidiaries of companies that use the U.S. public capital markets. The majority will be companies that primarily access the Swiss capital markets or other European capital markets. As a consequence, there is a risk that audits of Swiss private issuers who use the U.S. public capital markets and audits of Swiss subsidiaries of U.S. issuers or of foreign private issuers that use the U.S. public capital markets will not be selected for inspection by the Swiss Audit Oversight Agency with a reasonably high likelihood.

Recommendations

I recommend that the PCAOB performs an annual check to identify all Swiss issuers and material Swiss subsidiaries of issuers whose auditors are required to register with the PCAOB, but are not required to register with the Swiss Audit Oversight Agency by Swiss law. As a next step, the PCAOB should ask the Swiss Audit Oversight Agency whether all auditors of those issuers and subsidiaries are subject to inspections by the Swiss Audit Oversight Agency and that the Swiss Audit Oversight Agency's selection method for selecting audits for inspections assures that the audits of such issuers and subsidiaries are inspected a probability and frequency that is satisfactory to the PCAOB. Furthermore, the PCAOB should perform an in-depth verification whether the staff of the Swiss Audit Oversight Agency has sufficient knowledge in U.S. GAAP, PCAOB Auditing Standards and U.S. securities law. This reliance should be based on an initial period of joint inspections by the staff of the PCOAB and the Swiss Audit Oversight Agency of audits of Swiss issuers and audits of Swiss subsidiaries of issuers that use the U.S. public capital markets (i.e. select U.S. public company audit engagements).

Articles 7 (2) and 27 (2), (3) and (4) AOA may offer opportunities to close certain gaps through voluntary registrations of audit firms as audit firms that are subject to state oversight or through asking the Swiss Audit Oversight Agency to perform inspections of audits of certain issuers or to accompany the Swiss Audit Oversight Agency on certain inspections.

Please do not hesitate to contact me if you have any further questions.

Yours sincerely,

Georg Merkl

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February 18, 2008

Office of the Secretary
PCAOB
1666 K Street, N.W.
Washington, D.C. 20006-2803

RE: PCAOB Release No. 2007-010

To Whom It May Concern:

The North Carolina State Board of CPA Examiners has reviewed the proposed Policy Statement, *Guidance Regarding Implementation of PCAOB Rule 4012* and offers the following comments:

If a non-U.S. auditor oversight entity meets the essential criteria set forth in the proposed Policy Statement, we see no reasons why the PCAOB should not increase its level of reliance on inspections conducted by such an independent non-U.S. oversight entity.

We believe that the criteria for each of the five principles set forth in section III.C. of the Policy Statement are appropriate and need no modification in order to make a determination about whether, and to what extent, the PCAOB would rely on a non-U.S. oversight system in conducting inspections of PCAOB-registered non-U.S. audit firms.

We believe that meeting the essential criteria set forth in section III.C.--along with a satisfactory on-site assessment by the PCAOB of the entity's inspection practices through a period of joint inspections--provide sufficient assurance that the oversight entity's inspection program merits full reliance.

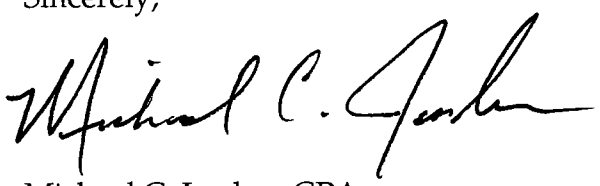
We are unaware of additional differences between U.S. and non-U.S. auditor oversight regimes that should be considered.

We believe that the Policy Statement adequately explains the concept of full reliance and in addition establishes the appropriate nature and level of reliance in section III.B.

We believe that the Policy Statement as written provides an approach that will protect the interest of investors in U.S. issuers audited by non-U.S. audit firms and explains the steps that the PCAOB must take to comply with applicable requirements of the Sarbanes- Oxley Act when exercising various levels of reliance on non-U.S. oversight systems.

The Board wishes to commend the PCAOB for its work to make audits more efficient, effective, and useful. The PCAOB's regulations, standards and inspection process are improving the areas of corporate governance, the quality and efficiency of important corporate processes and controls, and public company financial reporting.

Sincerely,



Michael C. Jordan, CPA
Vice President

Texas Society of
Certified Public Accountants

February 25, 2008

Office of the Secretary
PCAOB
1666 K Street N.W.
Washington, D.C. 20006-2803

RE: Proposed Policy Statement: Guidance Regarding Implementation of PCAOB Rule 4012

To Whom It May Concern:

One of the expressed goals of the Texas Society of Certified Public Accountants (TSCPA) is to speak on behalf of its members when such action is in the best interest of its members and serves the cause of Certified Public Accountants in Texas, as well as the public interest. The TSCPA has established a Professional Standards Committee (PSC) to represent those interests on accounting and auditing matters. The PSC has been authorized by the TSCPA Board of Directors to submit comments on matters of interest to the committee membership. The views expressed in this letter have not been approved by the TSCPA Board of Directors or Executive Board and, therefore, should not be construed as representing the views or policy of the TSCPA. We appreciate the opportunity to provide input into your deliberations regarding the request for public comments on the above referenced proposed Policy Statement.

Our committee supports the guidance in the proposed Policy Statement dealing with the implementation of PCAOB Rule 4012. We believe the guidance in the proposed Policy Statement adequately explains the concept of full reliance as it relates to a non-U.S. oversight system. Further, we believe the essential criteria set forth in the proposed Policy Statement provides an adequate basis for the PCAOB to place reliance on the efforts of an independent non-U.S. oversight entity.

We appreciate the opportunity to provide our input into the standard setting process.

Sincerely,

Sandra K. Johnigan

Sandra K. Johnigan, CPA, CFE
Chair, Professional Standards Committee
Texas Society of Certified Public Accountants

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ABSCHLUSSPRÜFERAUFSICHTSKOMMISSION
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APAK/PCAOB/793
Berlin, 27 February 2008

Re: PCAOB Release No. 2007-011 – Request for Public Comment on Proposed Policy Statement: Guidance Regarding Implementation of PCAOB Rule 4012 (PCAOB Release No. 2007-011), 5 December 2007

Dear Sir or Madam,

The Auditor Oversight Commission (AOC), the independent public oversight authority for auditors in Germany, welcomes the opportunity to comment on the proposed Policy Statement of the PCAOB referred to above. Our comments below focus on general conceptual aspects, as well as selected issues pertaining to the proposed essential criteria for the evaluation of foreign oversight systems.

I. The concept of full reliance

The AOC very much appreciates the PCAOB's initiative in providing further guidance regarding the implementation of Rule 4012. Overall, subject to our detailed comments, in our opinion, the measures put forward in the proposed Policy Statement would help establish an appropriate nature and level of reliance. **The concept of "full reliance"** underlines the Board's interest – shared by independent audit regulators globally – in finding an appropriate and reliable way to resolve the issue of multiple registration and inspection of auditors of foreign issuers. We encourage the Board to pursue this objective.

The AOC fully respects the right of each jurisdiction to protect its local capital markets and investors and to establish rules to promote financial information of highest quality including reliable audit opinions. However, in practical terms, exercising this right without appropriate cooperation will inevitably lead to multiple authorities being responsible for the oversight of those audit firms auditing globally listed companies.

The AOC believes that all independent audit regulators should cooperate on the basis of mutual respect and reliance. This is the overall objective of the so-called “principle of home-country regulation”, a principle recognised and established in the European Union following Directive 2006/43/EC on Statutory Audits (“Audit Directive”). Such an approach not only reduces the financial and administrative burdens on both audit firms and regulators that otherwise result from multiple oversight, but will also help to improve the quality and effectiveness of all oversight activities. Cooperation based on the principle of home-country regulation enables cross-border oversight to be organized in the most efficient manner, and obviates the need for potentially inconsistent regulatory measures.

The principle of home-country regulation and the PCAOB’s concept of “full reliance” are not incompatible but certain difficulties will, nevertheless, need to be addressed. However, these problems can be resolved. In particular, the essential criteria described in the proposed Policy Statement need to be interpreted in a pragmatic and balanced way, rather then being viewed as requirements supplementary to Rule 4012. We trust that the Board recognizes the value of different concepts and diversity in the structure of oversight systems, as long as these other systems are equivalent in terms of their underlying principles and in their effectiveness.

II. Joint inspections before full reliance

We understand that the Board intends to perform **joint inspections before full reliance** can take effect. In general, the AOC considers joint inspections inconsistent with the principle of home-country regulation. This principle is founded on mutual reliance on the home-country oversight authority’s work without the participation or intervention of foreign authorities in on-site inspections.

Naturally we recognize that cooperation and reliance necessitate a prior evaluation of the independence and rigor of a foreign counterpart. This is also foreseen in Articles 45 and 46 of the EU Audit Directive, which deal with the registration and exemption from registration and/or direct oversight of auditors from third countries outside the European Union. This regulation has been implemented and effective in Germany since September 2007. Any evaluation might also include a test of performance.

Therefore, the AOC could accept joint inspections prior to a full reliance decision, but only on the condition that this would constitute a confidence-building measure, i.e. it would be a one-off measure confined to a limited period of time preceding such a decision. Given the fact that there are certain legal impediments, resulting from confidentiality requirements in particular, any such joint inspections could only be conducted with the consent of all relevant parties, including the audit firms concerned and those of their clients whose files would be subject to inspection. As a matter of course, such joint inspection would have to be conducted under the sovereign lead and responsibility of the AOC.

However, prior to agreeing to any joint inspections, the AOC would need to have received assurance that the PCAOB would raise no objections of a conceptual nature in respect of the German oversight system, and that full reliance would depend only on the completion of joint inspections as a confidence-building measure.

Furthermore, the AOC would – in conjunction with the German Federal Ministry of Economics and Technology – not allow any further joint inspections once a decision as to full reliance had been taken. In accordance with a strict interpretation of the phrase "*full* reliance", the PCAOB would have to *fully* rely on the oversight conducted by the AOC and rely on its findings. The AOC is certainly willing to enter into a cooperative arrangement with the PCAOB that – under the conditions prescribed by German law and underlying European legislation – could also include the exchange of inspection reports or similar documents detailing the main findings.

III. The principles for full reliance

Overall, we believe that the **principles** described in the proposed Policy Statement are fair and appropriate in order to evaluate a foreign oversight system. They form the fundamental principles for any independent public oversight system and are equivalent to those described in Article 32 of the Audit Directive for oversight bodies in the European Union.

IV. The essential criteria

The AOC further believes that the **essential criteria** described in the proposed Policy Statement are helpful to an understanding of the Board's expectations. However, the application of these criteria will be critical, especially since they might be viewed and interpreted (due to the use of "must" and "should") as requirements rather than constituting a benchmark.

We understand that the proposed Policy Statement is not intended to amend Rule 4012 adopted in 2003, and, in particular, is not intended to create any additional requirements to those

described in the Rule and its supporting releases. Hence, the proposed guidance and especially the essential criteria have to be taken in the context of the Rule and its underlying considerations.

The AOC therefore welcomes the Board's statement that full reliance does not require compliance with each and every essential criterion described, i.e. that the criteria are meant to be illustrative rather than exhaustive, and that the Board will avoid a check-the-box approach in assessing foreign oversight systems. This is in line with the understanding in the European Union that third country oversight systems must be effective and equivalent; which does, however, not mean identical. Each oversight system must be viewed in the context of its national legal framework, and an assessment of equivalence therefore requires a holistic approach.

In the following paragraphs, the AOC would like to refer to certain of the proposed essential criteria that need to be considered and, in particular, applied very carefully. In addition, the AOC has observed a few differences in tone and wording between Rule 4012 and its supporting releases (e.g. PCAOB Releases No. 2004-005 and 2003-024) that might lead to confusion and create some concerns. Especially, some of the proposed essential criteria are phrased in a stricter manner compared to earlier releases.

1. Composition and majority of the governing body – principle 2, criterion 1

Principle 2, criterion 1 – *"the majority of the governing body of the non-US oversight entity must be comprised of persons who are not current or former accountants or auditors or affiliated with an audit firm or the audit profession"* – seems to differ not only in wording but also in meaning from earlier releases.

In general, the AOC agrees with the Board that the independence of any oversight entity requires always a majority of non-practitioners in the governing body, i.e. the decision-making body. In fact, the German legislator even decided that *all* members of the AOC must be non-practitioners. In other jurisdictions practitioners might be allowed, if only in an absolute minority. This is optional for Member States of the European Union under the Audit Directive. The Audit Directive always requires a majority of non-practitioners, and defines a non-practitioner as a person who, basically, has not been involved in audits or related to an audit firm over the past three years prior to his/her appointment. Consequently, the participation of former auditors after a certain cooling-off period would be allowed. It is necessary to appreciate that this approach is especially important for smaller countries, as otherwise they may not be able to find suitable persons with sufficient expertise.

However, PCAOB Release 2007-011 seems to deviate from PCAOB Release 2003-024 (page 11), both referring to the majority, but the latter referring in addition to a cooling-off period of at least five years for individuals forming part of the majority if they were holding *"licenses or certifications authorizing (…) to engage in the business of auditing or accounting"* before assuming a position in the system's *"decision-making authority".* Notwithstanding the differences in the wording, the conceptual difference remains unclear. The Board therefore might wish to clarify this aspect in accordance with the earlier adopted Release. In general, the AOC views a cooling-off period as fair and appropriate and believes it should not create major concerns about a system's independence.

2. Publication of inspection reports – principle 4, criterion 3

According to principle 4, criterion 3 on transparency, the Board would expect either issuance of public inspection reports on individual firms in the home country or an agreement not to object to the PCAOB issuing such reports based on the information received from the non-US oversight entity's inspections. Related aspects are found as principle 1, criterion 11.b. and principle 4, criterion 4 with respect to the disclosure of criticism of or the potential defects in an audit firm's quality control system.

The AOC understands that under the concept underlying the Sarbanes-Oxley Act of 2002 publication of individual inspection reports constitutes an essential aspect of the oversight concept, and especially the PCAOB's remediation process.

However, other jurisdictions follow different concepts and remediation processes that do not include publication of individual inspection reports, neither as a whole nor in part. Consequently, publication in the home country or an agreement for publication by the PCAOB in the USA – the latter might be considered as by-passing national law – would be critical, not least owing to confidentiality requirements. This should not be considered as a lack of transparency, nor does it reflect upon a system's overall effectiveness.

In this context, it is necessary to appreciate that the German oversight system – in common with many other systems around the world – is based primarily on notifications and sanctions. The objectives and the effects are the same compared to any system that uses publication in order to require and enforce remediative actions taken by an audit firm.

Currently, the German law does not permit the AOC to publish individual inspection reports. An agreement to publish information received by the AOC in the USA might require consent of the German audit firms concerned and – depending on its content – any other person or legal entity that could be identified. This is likely to cause legal and practical problems.

In Germany, the overall performance and findings of the oversight are published anonymously on an annual basis. In terms of transparency, interested third parties therefore gain a balanced insight into the work and findings of all oversight activities related to the audit industry.

The AOC would therefore appreciate the Board's adopting an open stance whereby it would accept other concepts of transparency and remediation.

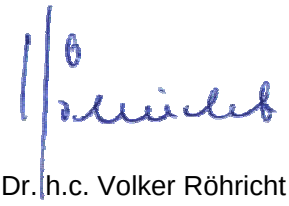
However, the aforementioned conceptual differences might be diminshed on the basis of the "Recommendation on external quality assurance for statutory auditors and audit firms auditing public interest entities" planned by the European Commission. This Recommendation might contain transparency requirements stricter than those currently effective in Germany.

IV. Concluding remarks

Overall, the AOC supports the PCAOB's approach to full reliance based on the principles discussed in the Release. The AOC further encourages the Board to avoid a check-the-box approach in assessing other systems based on the proposed essential criteria. These essential criteria might be misinterpreted by the public as requirements and therefore create erroneous expectations as to the Board's intentions. However, we strongly support the Board in its conception that full reliance does not require compliance with all essential criteria described, and any evaluation should rather follow a holistic approach, considering the overall independence and rigor of a foreign oversight system. Ultimately, this would also help to overcome the concerns expressed in relation to some essential criteria.

We hope that the Board finds these comments helpful and we look forward to future cooperation.

Sincerely yours,



Dr. h.c. Volker Röhricht
(Chairman)

Date

29 February 2008

Le Président

Fédération
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J. Gordon Seymour
Office of the Secretary
Public Company Accounting Oversight Board
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USA - Washington D.C. 20006-2803
Email: comments@pcaobus.org

Dear Mr. Seymour,

Public Company Accounting Oversight Board Proposed Policy Statement: Guidance Regarding Implementation of PCAOB Rule 4012

FEE (Fédération des Experts Comptables Européens – European Federation of Accountants) is the representative organisation for the accountancy profession in Europe. FEE's membership consists of 44 professional institutes of accountants from 32 countries. FEE Member Bodies are present in all 27 Member States of the European Union and they represent more than 500,000 accountants in Europe.

FEE's objectives are:

- To promote and advance the interests of the European accountancy profession in the broadest sense recognising the public interest in the work of the profession;
- To work towards the enhancement, harmonisation and liberalisation of the practice and regulation of accountancy, statutory audit and financial reporting in Europe in both the public and private sector, taking account of developments at a worldwide level and, where necessary, promoting and defending specific European interests;
- To promote co-operation among the professional accountancy bodies in Europe in relation to issues of common interest in both the public and private sector;
- To identify developments that may have an impact on the practice of accountancy, statutory audit and financial reporting at an early stage, to advise Member Bodies of such developments and, in conjunction with Member Bodies, to seek to influence the outcome;
- To be the sole representative and consultative organisation of the European accountancy profession in relation to the EU institutions;
- To represent the European accountancy profession at the international level.

FEE is pleased to comment on the Public Company Accounting Oversight Board (PCAOB) Release No. 2007-011 of 5 December 2007 – Request for Public Comment on Proposed Policy Statement: Guidance Regarding Implementation of PCOAB Rule 4012 (the Proposed Policy Statement).

FEE notes with interest the PCAOB Proposed Policy Statement in view of FEE's own substantial contribution to recent discussions in Europe over the future direction of requirements and guidance relating to quality assurance systems. In particular FEE:

- Published in December 2006 its Position Paper "Quality Assurance Arrangements Across Europe"[1];
- Organised a first high level conference on 12 October 2006[2] (at which the Chairman and a Board Member from the PCAOB spoke) including a session on the issues raised by the Position Paper;
- Held a second high level conference on 27 November 2007[3] (at which the Chairman a and senior staff member from the PCAOB spoke) including a panel discussion on quality assurance systems in Europe; and
- Issued from June to October 2007 four comment letters to the European Commission on the Possible contents of the future Commission Recommendation on quality assurance for statutory auditors and audit firms auditing public interest entities[4].

We are supportive of the proposed objectives of the PCAOB which we believe include:

- Increasing the level of reliance on independent audit oversight entities located in the home countries of registered non-U.S. audit firms;
- Moving toward full reliance on a non-U.S. oversight entity;
- Providing additional guidance to non-U.S. oversight entities regarding the implementation of Rule 4012;
- Avoiding a "check-the-box" approach and retaining discretion to evaluate each oversight entity based on overarching principles.

Overall, whilst FEE considers the initiative of the PCOAB to be a step in the right direction, particularly the aim of increasing the level of reliance on non-U.S. oversight entities to move toward full reliance, we have a number of concerns about the Proposed Policy Statement and question whether the proposed objectives will actually be achieved in practice.

Overriding principles based on existing FEE policy

In preparing this response, we have applied four overriding principles which are based on FEE policy previously established in our Position Paper *Quality Assurance Arrangements Across Europe* and which FEE continues to fully support:

1. The Directive on Statutory Audit of Annual Accounts and Consolidated Accounts of 17 May 2006[5], as approved by the European Parliament and European Council, (the Statutory Audit Directive) including in Article 29 requirements related to quality assurance systems, in Article 32 the principles of public oversight, in Article 34 the mutual recognition of regulatory arrangements between Member States and in Articles 45 to 47 the equivalence stipulations with third countries. All European Union Member States have to implement the requirements of the Statutory Audit Directive in their local laws and regulations by mid 2008.

2. In the light of the extraterritoriality of oversight and quality assurance regulations, FEE encourages coordination, cooperation and mutual recognition between European Union

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1 http://www.fee.be/publications/default.asp?library_ref=4&content_ref=629
2 http://www.fee.be/news/default.asp?library_ref=2&content_ref=574
3 http://www.fee.be/news/default.asp?library_ref=2&content_ref=677
4 http://www.fee.be/publications/default.asp?library_ref=4&content_ref=754
http://www.fee.be/publications/default.asp?library_ref=4&content_ref=746
http://www.fee.be/publications/default.asp?library_ref=4&content_ref=719
http://www.fee.be/publications/default.asp?library_ref=4&content_ref=733
5 http://eur-lex.europa.eu/LexUriServ/site/en/oj/2006/l_157/l_15720060609en00870107.pdf.

and third countries to minimize duplication of inspections and to avoid legal conflicts by effective full reliance on home country oversight systems.

3. Seen the Statutory Audit Directive is applicable on all statutory audits in the European Union of both listed and unlisted entity accounts, FEE favours one quality assurance system for audit firms auditing both listed and unlisted entities, as the application of different parallel quality assurance systems is a very significant burden on audit firms and will result in a considerable amount of duplication in the assessment of the internal quality control system of audit firms.

4. For high quality audits in the European Union, there is a need to involve experts or specialists, including practitioners, in the public oversight systems and in inspections. In a considerable number of European countries, involvement of professionals and practitioners appears inevitable due to the possible limited ability to recruit experienced and knowledgeable non-practitioners and possible limited financial resources for organising and *maintaining* a separate system of quality assurance for listed entities.

Responses to Questions asked by the PCAOB

1. If a non-U.S. auditor oversight entity meets the essential criteria set forth in the proposed Policy Statement, are there reasons why the Board should not increase its level of reliance on inspections conducted by such an independent non-U.S. oversight entity? What are the benefits and costs of full reliance?

Where a non-U.S. oversight body satisfies the PCAOB essential criteria, there should be a strong presumption that the PCAOB can place full reliance on such a body.

However, we believe that it should not be a pre-requisite for full reliance that every essential criteria be satisfied, which appears to be in line with the PCAOB's objective to avoid applying a "check-the-box" approach and retain discretion to evaluate each oversight entity based on overarching principles.

The significant benefits from a true "full reliance" approach are:
- Cost savings for oversight bodies and audit firms through the elimination of duplication of inspections;
- Increased opportunities to expand the focus of inspections on audit quality thereby better protecting investors;
- Avoid efforts to resolve legal conflicts for oversight bodies, companies and audit firms by recognising the sovereignty of third countries and their right to oversee audit firms in their domestic markets.

We are not aware of any substantial costs associated with full reliance.

As avoiding duplication of inspections and thus their convergence ought to be the ultimate goal, mutual recognition of public oversight systems should be envisioned. However, we regret to have to note that the PCAOB definition of "full reliance" is different from mutual recognition or the principle of recognition of home country public oversight systems or reciprocity in legal terms. The PCAOB "full reliance" is in fact limited or partial reliance as continued PCAOB involvement is envisioned in planning inspections, reporting on inspections, observing inspections including accompanying inspection teams, interviewing key firm personnel, reviewing audit working papers, etc. In our opinion, it should be clarified that 'observing inspections' means observing the inspection process without direct participation in the performance of inspections.

The establishment of the International Forum of Independent Audit Regulators (IFIAR) on 15 September 2006 is relevant in this respect. Regulators from within the European Union and outside the European Union should be encouraged to co-ordinate and co-operate with each other to ensure that oversight regimes are of equivalent quality, to promote future confidence

and minimise, or at least accommodate to a reasonable degree, the serious concerns and issues related to duplication of oversight, quality assurance reviews, inspections and penalties for statutory auditors and audit firms. At a European Union level, the Statutory Audit Directive forms the basis for such co-ordination and co-operation with third countries, the application of which is monitored by the European Commission.

2. Are the essential criteria set forth in section III.C. of the Policy Statement appropriate? Are there additional factors that should be considered? Should the criteria be modified in any way?

Although it is the PCAOB's objective to avoid applying a "check-the-box" approach, the use of the 'essential criteria' under each of the five key principles could result in a "check-the box" mentality when assessing a third country's oversight system.

FEE is of the opinion that the PCAOB should apply a risk-based approach whereby low risk countries or countries with a small number of insignificant foreign private issuers (FPIs) could be scoped out of any US inspection system; this is in line with the approach taken towards companies which report under the Sarbanes Oxley Act regarding effectiveness of internal controls. The PCAOB should then assess each of the five 'key principles' in the Proposed Policy Statement using the existing essential criteria as general (but not absolute) indicators of acceptability. The PCAOB needs to retain a degree of flexibility when assessing a third country oversight system. To not place reliance on a third country oversight system that failed to satisfy just one of the essential criteria might not best serve the interests of US investors.

We have the following detailed comments on the Essential Criteria:

Principle 1: Adequacy and Integrity of the Non-U.S. System:

- Essential Criteria 2: in line with the requirements of the Statutory Audit Directive, the management and governance body should include a majority of people who are knowledgeable about, inter alia, auditing, not be "comprised" (i.e., exclusively) of such people;

- Essential Criteria 5 and 6:
    - Seen the convergence trends between the U.S., the European Union, and other third countries International Financial Reporting Standards (IFRSs), International Standards on Auditing (ISAs) as issued by the International Auditing and Assurance Standards Board (IAASB) and the IFAC Code of Ethics are a more widely used and relevant benchmark than U.S. Generally Accepted Accounting Principles (U.S. GAAP) and U.S. Generally Accepted Auditing Standards (U.S. GAAS);
    - Given the rule amendments of the U.S. Securities and Exchange Commission (SEC) to accept financial statements, covering years ended after 15 November 2007, of FPIs in the U.S. without reconciliation to U.S. GAAP if they are prepared using IFRSs as issued by the International Accounting Standards Board (IASB)[6], the knowledge of IFRSs rather than U.S. GAAP is vital for the inspection of FPIs;
    - The vast majority of audits of FPIs and multi-national SEC registrants are performed by members of the Forum of Firms[7], which consists of 17 full members and 4 provisional members (including the 6 largest audit firms), and which undertake their audits using the ISAs, and supplement them with elements of PCAOB auditing standards if relevant;
    - Therefore, we question whether the criteria would reach the desired aim and are best suited to contribute to the achievement of audit quality.

- Essential Criteria 8: it should be noted that disclosure of information obtained during an audit to any third party, including foreign oversight authorities, is restricted by local legal

[6] http://www.sec.gov/rules/final/2007/33-8879.pdf
[7] http://www.ifac.org/Forum_of_Firms/

impediments related to confidentiality, data protection, professional secrecy, etc. in a number of European Union jurisdictions;

- Essential Criteria 11(b): reference is made to our more detailed comments under Principle 4 and Essential Criteria 3, related to either countries with very few FPIs or countries with few FPIs in certain industry segments, as publication of the audit firm inspection report may have adverse consequences for the FPI itself.

Principle 2: Independence of the Non-U.S. System:

- Essential Criteria 1: in line with the requirements of the Statutory Audit Directive, the governing body should include a majority of non-practitioners with practitioners being defined as current accountants, current auditors or persons currently affiliated with an audit firms or the audit profession. However, the life-long exclusion of former accountants or auditors without any form of cooling-off period appears unnecessary and is contradictory to Essential Criteria 2 in Principle 1;

- Essential Criteria 2: in line with the requirements of the Statutory Audit Directive, the management of an oversight body should include a majority of people who are neither practicing auditors nor affiliated with an audit firm, not be "comprised" (i.e., exclusively) of such people;

- Essential Criteria 4: as already explained in further detail in the 'overriding principles based on existing FEE policy' above, for high quality audits in the European Union, there is a need to involve experts or specialists, including practitioners, in the performance of inspections. Therefore, the inspection staff should be under the direct control and supervision of people who are neither practicing auditors nor affiliated with an audit firm, not be "comprised" of such people. Such direct control and supervision would include control over the inspection process, certification of inspectors, training of inspectors and reporting on inspections.

Principle 4: Transparency of the Non-U.S System:

- Essential Criteria 3(b) and 4:
    - FEE is not in favour of the publication of the results of an individual inspection of an audit firm auditing FPIs by the PCAOB because such reports might unintentionally reveal confidential and market sensitive company information and have adverse consequences for the FPIs due to the limited population of FPIs for many audit firms and in many countries either in total or in a specific industry segment;
    - As already noted above in relation to Principle 1, Essential Criteria 8, there are local legal impediments in certain jurisdictions related to confidentiality, data protection, professional secrecy, etc. in respect of the publication of individual inspections reports;
    - In this respect, it is also important to note that the Sarbanes Oxley Act does not dictate the PCAOB reporting model and allows for some flexibility, especially in the case of the involvement of non-U.S. oversight systems. Section 104 (g) of the Sarbanes-Oxley Act of 2002 calls for a written report of the findings of the PCAOB for each inspection made available in appropriate detail to the public including deficiencies in the audit firm's quality control systems not addressed within 12 months after the date of the inspection report;
    - FEE therefore recommends that the PCAOB and the non-U.S. oversight body combine their public reporting on inspections of non-U.S. audit firms in order to avoid differences in form, content and timing of the inspection reports.

Principle 5: Historical Performance:

- Essential Criteria 1: the words "more mature" would merit some further clarification. We would wish to avoid a situation where full reliance cannot be placed on any non-U.S.

oversight system because “more mature” is defined as a period in excess of five years (i.e., the PCAOB’s own degree of maturity);

- Essential Criteria 2: any assessment of what sanction is “appropriate” must be for the relevant non-U.S. oversight body to decide. If not, local audit firms will be exposed to significant uncertainty and the risk of double jeopardy.

We invite the PCAOB to consider modifying its Essential Criteria in line with our comments above. We do not believe that any additional factors should be included.

3. Would meeting the essential criteria set forth in section III.C. – along with a satisfactory on-site assessment by the Board of the entity's inspection practices through a period of joint inspections – provide sufficient assurance that the oversight entity's inspection program merits full reliance?

As already explained in our response to Questions 1 and 2 above, FEE is of the opinion that the PCAOB should apply a risk-based approach coupled with the use of a certain degree of flexibility when assessing a third country oversight system. Full reliance should not be predicated on compliance with each and every essential criteria. The PCAOB should accept that non-U.S. oversight systems need not be identical to the US oversight model.

In this respect, we repeat that the PCAOB definition of “full reliance” is in fact limited or partial reliance as no mutual recognition or recognition of home country public oversight systems is nvisioned for non-U.S. oversight systems.

It should also be noted that joint inspections should not be a pre-requisite for placing full reliance. There are some jurisdictions where local legal and other impediments prevent joint inspections.

4. The Board has carefully balanced the requirements of the Act and those of non-U.S. jurisdictions (including laws related to data protection, confidentiality and other important legal requirements). Are there additional differences between U.S. and non-U.S. auditor oversight regimes that should be considered? Would those differences suggest greater or less reliance?

As already explained in the ‘overriding principles based on existing FEE policy’ above, the PCAOB should accept that many foreign jurisdictions will need to draw upon active practitioners to perform inspections. The PCAOB should not see this as a breach of an essential criteria provided that those practitioners that are performing inspections are under the control and supervision of independent oversight staff.

5. As described in section III.B. of the Policy Statement, does the Policy Statement establish the appropriate nature and level of reliance?

As already explained in our response to Questions 1 and 3 above, FEE repeats that the PCAOB definition of “full reliance” is in fact limited or partial reliance as no mutual recognition or recognition of home country public oversight systems is envisioned for non-U.S. oversight systems due to the continued active involvement of the PCAOB in the foreign oversight process.

6. Will the proposed approach adequately protect the interests of investors in U.S. issuers audited by non-U.S. audit firms?

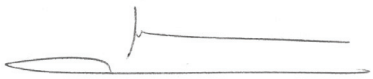
FEE fully agrees that an effective and efficient quality assurance system under independent public oversight is one of the key drivers of audit quality, contributes to the enhancement of trust and confidence in the capital markets and leads to better protection of investor’s interests.

In a global economy, investor protection appears best served by relying on home country public oversight systems which are independent and which operate effective and efficient inspection systems, so avoiding duplication of inspections. Indeed, a considerable number of U.S. listed companies audited by non-U.S. audit firms tend to be multi-national companies with multiple listings on stock exchanges around the world, including U.S., European and others. In our electronic age, U.S. and other investors frequently use the possibility to directly invest in U.S. issuers on capital markets outside of the U.S. where the PCAOB Rule 4012 and the Proposed Policy Statement are not applicable on top of the home country system.

It should be noted that investor protection is high on the agenda within the European Union, as for instance evidenced by the issuance of a Directive on the exercise of certain rights of shareholders in listed companies on 11 July 2007[8]. By not accepting complete "full reliance" on the independent oversight and inspection systems implemented in the European Union under the Statutory Audit Directive this could imply that investors in listed entities in the European Union (both FPI's and non FPI's) have less investor protection than those investing in companies located in the U.S. The action proposed by the PCAOB could call into question the integrity of the oversight and inspection systems in the European Union as prescribed in the Statutory Audit Directive which, in our view, would be detrimental to the workings of the capital markets around the world.

We would be pleased to discuss with you any aspect of this letter you may wish to raise with us and to send you copies of the paper or letters produced by FEE if these would be of interest to the PCAOB.

Yours sincerely,



Jacques Potdevin
President

Ref.: AUD/HB-SH/PJ

[8] http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2007:184:0017:0024:EN:PDF

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Public Company Accounting Oversight Board
(PCAOB)
Office of the Secretary
1666 K Street, N.W.,
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USA

Düsseldorf, February 29, 2008

Dear Sir(s):

Re: PCAOB Release No. 2007-011
IDW Comments on Proposed Policy Statement: Guidance Regarding Implementation of PCAOB Rule 4012

We would like to thank you for the opportunity to comment on the PCAOB's Proposed Policy Statement: Guidance Regarding Implementation of PCAOB Rule 4012 ('Proposals'). The Institut der Wirtschaftsprüfer represents over 85 % of the German Wirtschaftsprüfer (German Public Auditor) profession. The German profession seeks to comment on the Proposals because those would directly affect the oversight of a significant number of German Wirtschaftsprüfer who are registered with the PCAOB.

General comments

Benefits of "Full Reliance"

We welcome the PCAOB's principle intention to increase the level of reliance it can place on independent audit oversight systems located in the home countries of registered non-U.S. audit firms and to move toward full reliance on the inspection systems of qualifying non-U.S. oversight authorities. The alternative that not only the PCAOB but also inspectors from other oversight authorities from around the world might carry out inspections worldwide is neither in the interest of any capital market participants nor the oversight authorities themselves. Furthermore, it is in the common interest that multiple costs and unnec-

essary bureaucratic burdens are avoided, or at least minimized to the extent possible. The recognition of home country control will enhance the effectiveness and efficiency of the oversight process in each country and may facilitate public oversight bodies' understanding of conflicting legal provisions and thus enable them to prevent the legal conflicts that would occur in relation to the direct inspection of foreign audit firms. However, based on our reading of the Proposals, we are concerned that the proposed approach may not actually achieve these objectives to the extent necessary.

Understanding of the Term "Full reliance"

Whilst we recognize that the Board's activities in relation to non-U.S. firms are governed by the Sarbanes-Oxley Act of 2002, we would like to draw the Board's attention to certain practical impediments affecting the proposed approach. In particular, the Board's potential involvement even in circumstances when full reliance, as foreseen in the Policy Statement, is considered appropriate, whilst limited, is likely to infringe national laws relating to safeguarding confidentiality, data protection and secrecy obligations.

Nevertheless, we recognize, that the PCAOB considers it necessary to take appropriate steps to satisfy itself as to the effectiveness of individual non-U.S. oversight systems before it can be in a position to grant full reliance to a non-U.S. oversight authority. However, there are various measures which might enable the PCAOB to gain confidence in the non-U.S. oversight system in addition to those in its Proposals. For example, continued work with non-U.S. regulators such as the European Commission and other regulatory bodies, such as within the *International Forum of Independent Audit Regulators (IFIAR)* may provide an opportunity for the PCAOB to gain sufficient understanding of the foreign oversight system and its effectiveness. In any case, direct involvement of PCAOB inspectors in the oversight of foreign audit firms, for example, by means of joint inspections should normally be considered solely as a trust-building measure limited to a certain transition period. Furthermore the PCAOB should clarify that any such involvement will relate only to specific audits of U.S. issuers. In addition, the PCAOB's involvement should not otherwise go beyond the remit of the non-U.S. oversight system. Once the PCAOB has gained sufficient confidence as to the effectiveness of the foreign oversight system within an initial period, there will be no continuing long-term need for the Board's direct involvement in individual inspections.

In this context, we are concerned that the Policy Statement does not unequivocally state that once the PCAOB is satisfied with the effective operation of a foreign oversight system, it will rely on that system. In our opinion, having determined full reliance to be appropriate, the PCAOB should restrict its involvement to monitoring activities, directed at establishing the continuing appropriateness of this determination. Such activities may include consultation with the non-U.S. oversight authority about amendments to the non-U.S. oversight system, if any, the authority's inspection plans, and discussions of any complicated or material inspection findings relevant to U.S. issuers. However, we do not view active involvement, as explained on Page A1-8 under the subheading "The Meaning of Full Reliance", such as "interviewing key firm personnel" or "reviewing portions of the firm's audit working papers" appropriate as part of these observation measures.

Conflicts with Non-U.S. Law

Reliance on the effectiveness and efficiency of an oversight system meeting the requirements of the EU Statutory Audit Directive would not only allow the PCAOB to respect the sovereignty of third countries and their right to oversee audit firms in their domestic markets, but would also preclude potential legal conflicts that would otherwise arise. In Germany, for example, the disclosure of information obtained during an audit to any third party, including foreign oversight authorities, is severely restricted so that disclosure to the PCAOB will conflict with German law. Legal conflicts relating to confidentiality, data protection, secrecy and the national security obligations of accounting firms and their clients would occur if PCAOB inspectors were to be involved in inspections including, for instance, the review of some of the firm's audit working papers. These legal requirements may also limit the possibility of publishing a firm-specific inspection report. German data security legislation prohibits the disclosure of certain information outright; other limitations may be able to be overcome with the consent of the affected parties. In such cases, consent can be expected to be more likely to be forthcoming when directly relevant to audits of U.S. issuers, such that, as we have commented above, the PCAOB should clarify that its involvement will be directed at inspections of such audit engagements. This means that the extent of information that can be made available to PCAOB inspectors is limited. Even when consent has been obtained, it's future validity cannot be guaranteed, because consent is revocable without reason at any

time. In view of this, it is questionable, whether PCAOB inspections or joint inspections will be able to fulfil their respective objectives.

Considering these problems, full reliance on the home country's regulation and use of the overall results of inspections carried out by a non-US public oversight body would be more effective in to providing the Board with the information necessary to evaluate the quality of audit work of the respective foreign registered audit firms.

Essential Criteria for Full Reliance

As we have previously noted in our letter dated January 26, 2004, commenting on PCAOB Rulemaking Docket Matter No. 013: PCAOB Proposed Rule relating to the Oversight of Non-U.S. Public Accounting Firms, oversight systems outside the U.S. are bound to vary in many respects from the PCAOB's own oversight system because they are subject to different legal, economic and cultural influences. It follows that any consideration of a non-U.S. oversight system ought to include due consideration of the specific characteristics of the auditing profession in a particular jurisdiction and the environment in which its operates (e.g. professional education requirements as established in the European Union). Ultimately, it is the *effectiveness* of an oversight system that is of paramount importance in protecting investors, improving audit quality and helping to restore public trust in the auditing profession. It is important to recognize that non-U.S. systems, while different in form and detail from the U.S.-System, can be equally effective and efficient as the US-System. In our opinion, the Policy Statement does not sufficiently acknowledge this, since it can be read as implying that reliance must depend on a system's similarity to the PCAOB's own oversight system.

Although the EU Statutory Audit Directive has aims in common with the PCAOB, it adopts a more principles based approach, setting principles-based requirements without stipulating exactly how they are to be complied with. Accordingly, EU Member States need to comply with the specified principles of the EU Statutory Audit Directive in designing their individual oversight systems, but the exact form of their systems may differ. Consequently , we suggest the PCAOB clarify the Proposed Policy-Statement in this respect to allow a constructive evaluation of any given oversight system in its entirety as opposed to merely considering whether it mirrors the U.S. system in detail. Otherwise, the Board may disregard important further aspects of foreign oversight systems which go beyond the essential criteria specified in the Policy Statement.

We are not challenging the intention behind the establishment of broad principles to guide the Board in determining the degree of reliance on a non-U.S. oversight system. However, fulfillment of each and every essential criterion regarding these principles should not be a pre-requisite for full reliance, because there may be different but equally effective ways of fulfilling common overall objectives. The essential criteria should instead serve as guidance as to how the principles might be applied rather than setting circumstances that have to be fulfilled in every case. Therefore, in an European context, it would be appropriate for the PCAOB to base its evaluation of the effectiveness of oversight systems on principles-based requirements, given that these have also been established in the EU Statutory Audit Directive.

Lack of details regarding the PCAOB's endeavours to cooperate with non-U.S. oversight authorities

Whilst the Proposed Policy Statement contains a substantial number of requirements relating to non-U.S. oversight systems, there are only a few indications as to the measures the PCAOB itself intends to take to contribute to an effective cooperation between oversight authorities. For example, there are no details as to the nature and scope of information that PCAOB inspectors may hope to have access to in order to discharge its oversight responsibilities in relation to foreign registered audit firms (e.g. waiver of inspection in relation to personal data) or limitations on the use to which such information may be applied (i.e., restrictions on passing information to other U.S. authorities). In this respect, in an European context, the PCAOB has not yet given sufficient regard to the significant factors the EU Statutory Audit Directive specifies as prerequisites for cooperation between auditor oversight authorities of EU Member States with the competent authorities from other countries[1], such as, inter alia, existing working arrangements on the basis of reciprocity agreed between the oversight authorities concerned and the safeguarding of Data Protection Law and other legal confidentiality rules.

[1] See Article 47 of the EU Directive.

Comments on the specific principles

Principle 1 – Adequacy and Integrity of the Non-U.S. System

- Essential Criteria 5: In our view, it seems neither realistic nor practical to require that non-U.S. *inspections staff* have sufficient expertise in applicable U.S. laws, regulations and professional standards. Such a precondition would mean, that most non-U.S. oversight systems would face problems in order to merit full reliance by the PCAOB. It is self-evident that to assess the compliance by the registered audit firm with the requirements of the Sarbanes-Oxley Act, the rules of the Board and of the SEC, professional standards in connection with the performance of audits, and related matters involving U.S. public companies, as required by Section 104 (d) of the Act, the non-U.S. inspection team has to involve, where necessary, experts with specific knowledge in U.S. laws, regulations and professional standards. Such experts would not however necessarily have to be members of staff. Indeed, if other countries oversight authorities were to likewise require staff to possess individual expertise of their national laws, regulations, and professional standards as a prerequisite of granting reliance on the foreign oversight systems, there would be an insurmountable barrier preventing cooperation between oversight authorities on an international basis. Given the recent developments on convergence, the IFRS, the ISA and the IFAC Code of Ethics may represent a realistic and relevant benchmark for the qualifications and expertise of inspection staff, provided that inspection teams have adequate recourse to experts with specific knowledge in U.S. laws, regulations and professional standards.
- Essential Criteria 8: The requirement to give the PCAOB access rights to information and documents relevant to the inspection and oversight of the PCAOB registered firm does not recognize the fact that legal conflicts or impediments may exist at national level.
  According to German Law, which is based on Article 47 of the EU Statutory Audit Directive, a foreign oversight authority can request the transfer of working papers and documents provided it specifies valid reasons as to why an inspection performed by the German Auditor's Oversight Commission (AOC) would be insufficient for its purposes. However, pursuant to German Law this approach is only possible once mutual recognition has been established and specific agreement for

cooperation between the AOC and the oversight authority has been reached. Furthermore, information subject to an obligation to secrecy may not be forwarded unless assurance can be obtained that the recipient foreign authority is also obliged to keep that information strictly confidential. Any lower level of confidentiality in respect of such information is impermissible. According to our understanding, this is not the case in the current U.S. regulatory environment.
As we have outlined above, individual consent by affected parties to facilitate direct PCAOB involvement in the inspections performed at audit firms can be expected to be more likely to be forthcoming when directly relevant to audits of U.S. issuers.

Principle 2 – Independence of the Non-U.S. System

- Essential Criteria 1 and 2: In stipulating *"that the majority of the **governing body** must be comprised of persons who are not current or former **accountants** or auditors or affiliated with an audit firm or the audit profession"* the PCAOB may cause practical problems. The German legislator was specific in stipulating criteria as to who may be appointed by the Federal Ministry of Economics and Technology as members of the Auditor Oversight Commission in Germany. Particular emphasis has been placed on the need for individuals to be or have been active in the fields of accounting, financial services, economics, academia or jurisprudence. Whilst we agree in principle with the aim of this measure, restrictions on the composition of an auditor oversight authority should focus on current or former auditors and not on the broader PCAOB definition of accountants, since it is the quality of the work of *auditors* that shall be subject to independent oversight. We are concerned that application of the PCAOB definition may not be appropriate in Germany and may also pose problems in continental Europe. In addition, a cooling off period along the lines of Rule 4012 (b) (2) (iii) should be envisaged for practicing auditors.

Principle 4 – Transparency of the Non-U.S. System

- Essential Criteria 3b:
  - There are good reasons for questioning whether the PCAOB's own reporting model actually contributes to enhancing confidence in financial reporting. In our view, detailed findings from inspections

with regard to individual audit engagements are not suitable for wider distribution, because there is always the risk that stakeholders will draw unjustified conclusions about the overall audit quality provided by the audit firm.

- We agree that public disclosure of the key elements that drive audit quality is of benefit to the capital markets. However, the publication of individual inspection findings would, in our view, be likely to reduce the overall effectiveness of the inspection process and therefore be counterproductive in terms of the overriding objective of promoting improvement in audit quality and increased confidence in financial reporting. Providing detailed descriptions of major deficiencies identified during inspection in relation to individual firms and audit engagements might mislead the public into perceiving that the work of the audit profession as a whole is less than satisfactory because this does not provide a balanced view of that particular firms performance.
- Individual inspection reports might unintentionally reveal confidential and market sensitive company information due to the limited population of listed clients for many audit firms. Hence, there is a real risk, that – particularly in countries with a limited number of foreign public issuers either in total or in a specific industry segment – that the publication of issues arising from inspections in detail by the PCAOB could have adverse consequences on the foreign public issuers themselves.

- The Policy Statement includes a brief discussion as to a firm's ability to provide feedback in respect of a draft inspection report prior to its finalization by the PCAOB. The question may arise as to the treatment of non-U.S. audit firms, for example, in the event the PCAOB does not rely on findings of a non-U.S. oversight authority and accordingly publishes a report with which the firm and the non-U.S. oversight authority do not fully concur.

Principle 5 – Historical Performance

- Essential Criteria 1: We suggest the Board clarify its understanding of the term "more mature", given that many systems around the world have been recently subject to change. In particular, in its consideration

of individual non-U.S. oversight systems, the PCAOB should take account of how systems have developed and their track records for periods even if they had previously not formally fulfilled the PCAOB's criteria .

- Essential Criteria 2: Any assessment as to whether a particular sanction is "appropriate" must be for the relevant foreign oversight body to decide. Otherwise, local audit firms will be exposed to significant uncertainty and the risk of double jeopardy.

We hope that you will appreciate our comments for your further considerations. If you have any questions about our comments, we would be pleased to be of assistance.

Yours very truly,

Klaus-Peter Naumann
Chief Executive Officer

GAO
Accountability * Integrity * Reliability

Comptroller General
of the United States

United States Government Accountability Office
Washington, DC 20548

March 4, 2008

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

Subject: PCAOB Release No. 2007-011, Proposed Policy Statement, *Guidance Regarding Implementation of PCAOB Rule 4012*

This letter provides the U.S. Government Accountability Office's (GAO) comments on the PCAOB's proposed policy statement on implementing Rule 4012.

We support the Board's efforts to coordinate its work with its counterparts in other countries in carrying out its oversight responsibilities and to establish cooperative arrangements for oversight of firms that audit public companies. The PCAOB's proposed policy statement—which articulates criteria for increasing its level of reliance on the inspection systems of non-U.S. oversight entities based on the level of independence and rigor of the system in each country—is intended to help the PCAOB achieve its goal of satisfying the inspection and enforcement requirements of the Sarbanes-Oxley Act of 2002 efficiently and effectively. Although we support the approach used by the Board in the proposed guidance, we have concerns about the criteria that if not appropriately addressed could prevent the guidance from achieving its objectives.

Detailed below are our views on the questions on pages 4 and 5, Part IV of the release that accompanied the proposed policy statement.

1. If a non-U.S. auditor oversight entity meets the essential criteria set forth in the proposed Policy Statement, are there reasons why the Board should not increase its level of reliance on inspections conducted by such an independent non-U.S. oversight entity? What are the benefits and costs of full reliance?

Satisfying the essential criteria of the five broad principles of Rule 4012 is important but, in itself, may not be sufficient reason for the Board to increase its level of reliance. Other factors, such as the risk or sensitivity of a particular circumstance may require increased PCAOB oversight. In addition to the criteria proposed, the Board should use the information obtained from its substantial dialogue with the non-U.S. oversight entity to evaluate the risks and threats related to full reliance on inspections performed by non-U.S. oversight entities as well as any related mitigating factors, as discussed in our responses to questions 2 and 3 below.

2. Are the essential criteria set forth in section III.C. of the Policy Statement appropriate? Are there additional factors that should be considered? Should the criteria be modified in any way?

The essential criteria set forth in section III.C. of the Policy Statement seem appropriate. However, when assessing the independence of the non-U.S. oversight entity and the system within which it operates, as discussed in the essential criteria of Principle 2, an additional factor the Board should consider is whether the non-U.S. oversight entity has sufficient safeguards to protect it from political pressure and allow it to conduct inspections and report findings, opinions, and conclusions objectively. This criterion would include consideration of whether the oversight body is free from interference or undue influence from government bodies and special interest groups.

3. Would meeting the essential criteria set forth in section III.C. – along with a satisfactory on-site assessment by the Board of the entity's inspection practices through a period of joint inspections – provide sufficient assurance that the oversight entity's inspection program merits full reliance?

If an oversight entity's inspection program satisfies the essential criteria, then the Board should evaluate whether to grant the program full reliance, considering additional factors, such as the risk or sensitivity of a particular circumstance, and any other relevant factors known to the Board.

The proposed Policy Statement does not address the need for the PCAOB to monitor whether a non-U.S. oversight entity that has qualified for full-reliance continues to satisfy the essential criteria of the five principles in subsequent years. Footnote 12 on page A1-10 of the proposed Policy Statement refers to a bilateral agreement between PCAOB and the non-U.S. oversight entity that would among other things "set forth the non-U.S. oversight entity's commitment to maintain the essential criteria on an ongoing-basis and the opportunity for the Board to observe as described above." However, it is unclear whether or how the PCAOB would monitor or perform periodic assessments of each non-U.S. oversight entity that had qualified for full-reliance. We believe that PCAOB's periodic monitoring of the oversight entity's continued compliance with the essential criteria is critical for the success of this approach and should be discussed in the document.

4. The Board has carefully balanced the requirements of the Act and those of non-U.S. jurisdictions (including laws related to data protection, confidentiality and other important legal requirements). Are there additional differences between U.S. and non-U.S. auditor oversight regimes that should be considered? Would those differences suggest greater or less reliance?

It is difficult to generalize about all the other oversight regimes and the auditing profession throughout the world. However, some differences and risks may include:

- pressure on the regulator from the government or related business interests,
- the nature and extent of auditor education (not all are trained in U.S. GAAP and PCAOB standards),

- whether auditor certification programs test knowledge of U.S. GAAP and PCAOB standards, and
- the availability of qualified staff that have the skills to perform inspections (especially in smaller countries.)

These differences and risks would all suggest less reliance.

5. As described in section III.B. of the Policy Statement, does the Policy Statement establish the appropriate nature and level of reliance?

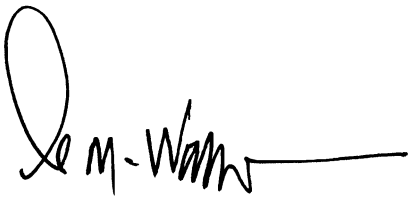
While we are generally in agreement with the nature and level of reliance as discussed in Section III.B. of the Policy Statement, we believe that the term "full reliance" may be misunderstood and should be replaced with "relying to the maximum extent possible." This revised term will help convey the PCAOB's continued involvement in the oversight of non-U.S. entities, as discussed in the last paragraph of page A1-8 of the proposed Policy Statement.

6. Will the proposed approach adequately protect the interests of investors in U.S. issuers audited by non-U.S. audit firms?

Yes, if the recommendations in this letter are adopted, the proposed approach is consistent with protecting the interests of investors in U.S. issuers audited by non-U.S. firms.

We thank you for considering our comments on this important issue.

Sincerely yours,



David M. Walker
Comptroller General
of the United States

cc:

The Honorable Christopher Cox, Chairman
Securities and Exchange Commission

The Honorable Mark W. Olson, Chairman
Public Company Accounting Oversight Board

Mr. Harold Monk, Jr., Chair
Auditing Standards Board

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March 3rd, 2008

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

RE: Request for Public Comment on Proposed Policy Statement: Guidance Regarding Implementation of PCAOB Rule 4012; PCAOB Release No. 2007-011. December 5, 2007.

Dear Sir,

BDO International is the fifth largest international audit network with over 600 offices in BDO Member Firms located across 110 countries. The network has been in existence since 1963 with many of the member firms in existence for many years prior to that. The network is coordinated by the BDO Global Coordination Office located in Brussels, Belgium. The US member firm is BDO Seidman LLP.

We welcome the opportunity to share our views on the Public Company Accounting Oversight Board's (hereafter the PCAOB or the Board) proposed policy statement: *Guidance Regarding Implementation of Rule 4012*.

The proposed guidance articulates an approach and essential criteria that, if met, would allow the PCAOB to place "full reliance" on an inspection of a PCAOB-registered non-U.S. firm conducted by the auditor oversight entity located in that firm's home country.

BDO International believes that investors and the securities markets benefit through coordination and cooperation among national regulators. In an increasingly global economy, where transactions and events impacting businesses transcend national borders, convergence of standards and coordination of regulatory efforts is imperative.

Question 1

In the opinion of BDO International, if a non-US Oversight Body meets the essential criteria as set out in the proposed Policy Statement, there should be a presumption that PCAOB will place reliance on the inspections carried out by such an Oversight Body.

However we would question whether ***all*** of the essential criteria would need to be satisfied in order to attain full reliance. Rather, we subscribe to an approach whereby the PCAOB should assess the criteria on a judgemental basis using a principles or risk based approach. Where there has been substantial compliance with the criteria, we would argue that full reliance status should be conferred. We articulate at a later stage, what we believe should be connoted by "full reliance".

There are clear and significant benefits to a "full reliance" approach not least being;

a) The avoidance of a situation whereby home country inspectors carry out inspections on audit firms in other jurisdictions leading to inefficient usage of Oversight Body resources, both US and non-US.

b) Recognition that non-US Oversight Bodies will be best placed to oversee audit firms in their territories with language, cultural and logistical advantages over external inspectors.

c) The encouragement of non-US Oversight Bodies to upgrade their capabilities to a level that justifies "full reliance" and thus equate their oversight abilities to internationally developing best practice.

We do not foresee any lasting additional costs to a system of full reliance and would envisage significantly greater efficiencies than would be the case with PCAOB or other inspectors carrying out inspections in 3rd countries.

Question 2

As indicated above, we would not endorse the need for satisfaction of all "essential criteria" as set out, in order to achieve a situation where full reliance could be adopted.

In this regard, we note the PCAOB's endeavours to craft the criteria as objective standards but also its recognition that "*some criteria will require the Board to exercise its judgment as to whether they have been satisfied*". We would respectfully suggest that the Board extend the exercise of its judgement to determine whether a criterion has been materially satisfied or is indeed relevant in every case. In general, we welcome the articulation of what "essential criteria" might be. We comment hereunder on criteria where we are not in full agreement with the Board's proposal. Where we make no comment on a particular criterion, we indicate broad agreement with the criterion involved.

a) *Essential Criteria-Adequacy and Integrity of the non-US System*;

EC2; We do not believe that it is necessary for the management and governing body to be ***solely*** (if that is what is intended) comprised of persons as described, in order to be effective. We would see justification for a ***majority of such persons*** to meet the description contained.

EC4 and EC5; We would see ***access*** to such levels of expertise as being the key determinant of adequacy and integrity rather than such inspection staff necessarily being full time employees of the non-US Oversight Body.

EC8/10/11; We question whether these criteria are consistent with the notion of "full reliance". It may also be in breach of local data privacy or data protection laws to provide access to such data to 3rd parties.

b) Essential Criteria-Independence of the non-US system

EC1; We suggest that after an appropriate cooling off period, it would be practical and desirable to permit the involvement of former accountants/auditors with appropriate safeguards. To restrict access by the non-US Oversight Body to such expertise may impede the development of Oversight Bodies in certain jurisdictions in the short-term.

EC4 and 6; We would suggest that safeguards as to who directly controls and supervises inspection staff would be adequate in this area rather than insisting that all such staff be comprised as described in the proposal. In addition, we would argue that consultation and dialogue with the audit profession, would be healthy, beneficial and desirable and to deny such consultation would be to isolate the Oversight Body from a body of knowledge that might aid it in discharging its duties. Of course we wholly endorse that the Oversight Body should not come under any undue influence or control of practicing auditors, affiliates of an audit firm or any other 3rd party.

c) Essential Criteria-Source of the non-US System's Funding

No comments.

d) Essential Criteria-Transparency of the non-US System

EC3 and 4; We question whether these requirements are usefully evidential of transparency of the non-US Oversight System as they appear to be more weighted towards transparency of granular details of individual inspections. In certain jurisdictions, the proposed ***public*** disclosures by the PCAOB may have a detrimental effect on a Foreign Private Issuer where there are few such issuers in that territory.

e) Essential Criteria-Historical Performance

EC1 and 2; We would respectfully suggest that the words "mature" and "appropriate" need clarification in EC1 and 2 respectively as, undefined, they leave a level of subjectivity and uncertainty inherent in both criteria.

Question 3;

BDO International is ***not*** of the opinion that a period of joint inspections is necessary in order for the PCAOB to secure assurance that a non-US Oversight Body merits "full reliance". There will continue to be jurisdictions where joint inspections will not be legally possible but this should not necessarily lead to the Oversight Body in such territories being denied full reliance where objectively and in all other respects, they

achieve the objective sought. As indicated previously, we believe that reasonable application of the essential criteria (i.e. the use of informed professional judgement by the PCAOB rather than strict measurement against every criterion) is highly desirable. The recognition that the non-US Oversight Body and its systems may achieve the objectives of the PCAOB oversight process (or broadly similar objectives), in varying but equally valid ways, should permit the PCAOB to confer a status of full reliance without requiring a period of joint inspections. We would argue that "full reliance" should mean precisely that without the need for any level of PCAOB involvement in the inspection processes of the non-US Oversight Body.

Question 4

The legal environment in which non-US Oversight Bodies will operate, may differ markedly from that of the US, but BDO International is of the view that where mutual trust is engendered, such differences need not be an impediment to mutual reliance for the purposes of audit oversight.

One aspect that may be culturally and legally difficult for the PCAOB to relate to is the need of Oversight Bodies in some jurisdictions to rely on some professionals seconded from audit firms to perform audit inspections. Where appropriate safeguards are in place (e.g. such inspection staff being under the direct control of independent oversight staff), we would recommend that such involvement not be seen as breach of the essential criteria but rather a pragmatic approach by the Oversight Body to the realities in that jurisdiction.

In essence, we continue to urge a judgemental approach to considering whether a difference between US and non-US auditor oversight system would suggest greater or lesser reliance.

Question 5

BDO International is of the view that the PCAOB should extend the meaning of full reliance ***to eliminate*** the need for joint inspections or the observation of portions of the inspection process.

Any variations of this are in effect versions of "partial reliance" and not indicative of mutual trust or unconditional professional recognition of the capabilities of the non-US Oversight Body.

The evolution of the *International Forum of Independent Audit Regulators* (IFIAR) should offer to the Board and the other Audit Oversight Bodies who are members, the opportunity to further develop trust and an understanding of each others' methodologies and effectiveness without perpetuating the need for joint inspections.

Question 6

We believe that greater efficiency in the expending of PCAOB resources (including greater or full reliance on non-US Oversight Bodies) will serve to enable greater protection of investors in US issuers as audited by non-US audit firms.

The establishment of oversight standards that result in a "full reliance" status being conferred by the PCAOB, will encourage non-US Oversight Bodies to meet the exacting standards that the PCAOB applies. It will also facilitate the application of local oversight methodologies, take cognisance of local factors and eliminate duplication of effort amongst Oversight Bodies. Such benefits can only lead to greater protection of investor interests and we encourage further efforts in this regard by the PCAOB.

Conclusion;

As remarked upon in the proposed guidance, many jurisdictions are developing audit oversight entities that share the objectives of the PCAOB, such as enhancing audit quality giving greater protection to investors, assuring public trust in public company audits as well as increasing confidence in the auditing profession itself. The willingness of the PCAOB to coordinate its inspection efforts with those non-US Oversight Bodies is important and desirable and we encourage its further development.

In general, BDO International believes that it is reasonable to determine the level of reliance to be placed on a non-U.S. audit oversight body based on adherence to important *principles* as assessed by reference to compliance with key criteria.

We note, however, that legal, regulatory and other differences in foreign jurisdictions might cause audit oversight entities in those countries to follow somewhat different approaches to satisfy the underlying principles. Accordingly, strict adherence to a series of essential criteria might cause the PCAOB to place less reliance on a non-US oversight entity than is warranted in the circumstances. We encourage the PCAOB to use the essential criteria as a general guide to assess the extent of compliance with the principles, rather than as a "checklist" of criteria that must be satisfied to grant full reliance. In summary, we urge a judgemental approach to the application of the criteria founded on a risk-based approach to assessing the effectiveness of non-US Oversight Bodies.

Should the PCAOB require any clarification of this comment letter or wish to discuss its views with us, we would welcome the opportunity to be of assistance.

Yours sincerely,

Noel Clehane, FCA. Dip. European Law (Applied)

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Global Regulatory Governance and Public Policy Affairs,
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March 4, 2008

Public Company Accounting Oversight Board
1666 K Street, NW
Washington, D.C. 20006
United States

Dear Ms. Rhonda Schnare:

RE: Proposed Policy Statement
Guidance Regarding Implementation of PCAOB Rule 4012

The Japanese Institute of Certified Public Accountants (JICPA) appreciates the opportunity to comment on the proposed policy statement: guidance regarding implementation of PCAOB Rule 4012.

The JICPA shares with the PCAOB, and other auditor oversight entities, many objectives such as protecting investors, improving audit quality, ensuring effective oversight of audit firms, and helping to restore the public trust in the auditing profession. We also recognize the importance of the role of auditor oversight entities.

The Certified Public Accountants and Auditing Oversight Board (CPAAOB) was established in Japan in 2004 as an organization with similar responsibilities to those of the PCAOB; and has continued its auditor oversight activities to this date.
We believe that the CPAAOB maintains the high level of independence and rigor set forth in Rule 4012, which is sufficient to be relied upon by the PCAOB. We also believe that the CPAAOB fully satisfies the five principles. In our view, there are some issues to be discussed in the future between the United States and Japanese Governments, as well as between the PCAOB and the CPAAOB. These relate to legal impediments arising from applicable laws and regulations in different jurisdictions, and differences in

accounting and auditing standards applied to audits subject to inspections. However, benefits accruing from audit regulations should outweigh the related costs. In particular, we note that some Japanese registered audit firms were inspected directly by the PCAOB in the U.S. A tremendous amount of human and monetary efforts were expended in preparation for the inspections. Therefore, we welcome PCAOB proposal that may reduce the burden on audit firms that would otherwise be subjected to duplicate inspections by authorities of multiple jurisdictions.

The JICPA expects that the CPAAOB and the PCAOB will carry out sufficient discussions and inspections, so that the PCAOB can rely on inspections conducted by the CPAAOB.

Following is our response to each of the specific questions:

1. If a non-U.S. auditor oversight entity meets the essential criteria set forth in the proposed Policy Statement, are there reasons why the Board should not increase its level of reliance on inspections conducted by such an independent non-U.S. oversight entity? What are the benefits and costs of full reliance?

There is no reason as to why the Board should not increase its level of reliance on inspections. As stated above, benefits accruing from audit regulations should outweigh the costs associated with them. Considering that Japanese registered audit corporations were inspected directly by the PCAOB in the U.S., with a tremendous amount of efforts expended in preparation for the inspections, a full reliance would significantly reduce the costs.

2. Are the essential criteria set forth in section III.C. of the Policy Statement appropriate? Are there additional factors that should be considered? Should the criteria be modified in any way?

Principle 1, No. 5 states to the effect that non-U.S. oversight system's inspections staff must have sufficient expertise in applicable U.S. laws, regulations and professional standards. Likewise, Principle 1 No. 6 requires an assessment of the firm's compliance with applicable U.S. laws, regulations and professional standards. We believe that, in assessing non-U.S. oversight entities, it is necessary to clarify the meaning of "applicable U.S. laws, regulations and 'professional standards", referred to therein.

Principle 4, No. 3 states to the effect that if the non-U.S. oversight entity does not issue

public inspection reports on individual firms, it must agree not to object to the PCAOB issuing such reports. However, we are concerned if the PCAOB would issue a public inspection report that would disclose certain deficiencies identified by the non-U.S. oversight entity, which deficiencies were determined not to be publicly reportable based on legal restrictions or other reasonable judgment made in the country concerned. Furthermore, we would like to raise a question as to whether a non-U.S. oversight entity has the authority to agree not to object to the PCAOB issuing such a public report.

3. Would meeting the essential criteria set forth in section III.C. – along with a satisfactory on-site assessment by the Board of the entity's inspection practices through a period of joint inspections – provide sufficient assurance that the oversight entity's inspection program merits full reliance?

We believe that these would provide sufficient assurance. In addition, please refer to our response to question No.2 above.

4. The Board has carefully balanced the requirements of the Act and those of non-U.S. jurisdictions (including laws related to data protection, confidentiality and other important legal requirements). Are there additional differences between U.S. and non-U.S. auditor oversight regimes that should be considered? Would those differences suggest greater or less reliance?

As stated above, even though there exist legal impediments arising from applicable laws and regulations in different jurisdictions, and differences in accounting and auditing standards applied to auditing services subject to inspections, we expect that these would be eliminated in the course of bilateral dialogue between the PCAOB and the CPAAOB.

5. As described in section III.B. of the Policy Statement, does the Policy Statement establish the appropriate nature and level of reliance?
6. Will the proposed approach adequately protect the interests of investors in U.S. issuers audited by non-U.S. audit firms?

Our answer is "Yes" with respect to each of the questions. We believe that the Policy Statement establishes the appropriate nature and level of reliance. Also we believe that the proposed approach will adequately protect the interests of investors.

In closing, we appreciate your consideration of our views in finalizing the Policy Statement.

Yours truly,

Koichi Masuda

Koichi Masuda
Chairman and President
The Japanese Institute of Certified Public Accountants

INDEPENDENT REGULATORY BOARD FOR AUDITORS

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29 February 2008

Ms Rhonda Schnare
Director: Office of International Affairs
Public Company Accounting Oversight Board

PER E-MAIL: comments@pcaobus.org

Dear Rhonda

COMMENTS ON PROPOSED POLICY STATEMENT: GUIDANCE REGARDING IMPLEMENTATION OF PCAOB RULE 4012 (RELEASE NO 2007-010)

We are pleased to have the opportunity to comment on the above proposed policy statement. This comment letter has been prepared by a task force on behalf of the Practice Review Department of the Independent Regulatory Board for Auditors of South Africa.

Our comments are set out as follows:
- General;
- Comments to the proposed policy statement;
- Responses to specific questions.

GENERAL

In view of the PCAOB having adopted a principle based approach to Rule 4012 and stating that it is not intent on changing this approach in assessing compliance with essential criteria to determine reliance to be placed on another oversight entity's inspection, we suggest the wording in the standard be reconsidered with respect to the use of the word "must". We suggest you consider replacing "must" with "should". By using the word "must" in these elements the PCAOB may find it difficult to exercise its judgement in determining whether the non-U S. oversight entities have satisfied the essential criteria.

COMMENTS ON THE PROPOSED POLICY STATEMENT

We agree with the five principles the PCAOB has developed to guide its evaluation of the independence and rigor of the non-U S. oversight entity and also support the essential criteria of these principles, except for the following:

2/...

A. Principle 1 – essential criteria 8: *"The PCAOB must be given access, either by the non-U.S. oversight entity or by the PCAOB registered firm under inspection, to information and documents relevant to the inspection and oversight of the PCAOB registered firm"* and
Principle 1 – essential criteria 10: *"The PCAOB must be given access to the non-U.S. oversight entity's report to the firm of the oversight entity's inspection findings covering both its review of selected U.S. public company audit engagements and the firm's internal quality control system "*

Local laws and regulations may restrict this disclosure without consent from the local firms under inspection and we suggest the inclusion in essential criteria 10 of the wording of essential criteria 8 "*either by the non-U.S. oversight entity or by the PCAOB registered firm under inspection*".

B. Principle 1 – essential criteria 11: "*The non-U.S. oversight entity must have a process for assessing whether a firm has addressed any criticisms of or potential defects in the firm's quality control systems identified in the firm's inspection report*";
Principle 4 – essential criteria 3: *"The non-U.S. oversight entity must either issue public inspection reports on individual firms or agree not to object to the PCAOB issuing such reports based on information from non-U.S. oversight's inspections"*; and
Principle 4 – essential criteria 4: *"In the event of non-remediation by the registered non-U.S. firm, the non-U.S. oversight entity must agree not to object to the PCAOB publicly disclosing the criticisms of and /or potential defects in the firm's quality control systems as set forth under Principle 1, Point 11.b. above"*.

The local oversight entity can provide to the PCAOB an assessment of whether the firm has demonstrated substantial progress toward achieving the relevant quality control objectives as stated in sub-paragraph (a) but local confidentiality restrictions prohibit the public disclosure of individual firm inspection reports (sub-paragraph (b)). The local firms perform audits of a small number of Foreign Private Issuers and reference in public reports to specific non-compliance matters can easily be linked to such Foreign Private Issuers. We therefore cannot agree to the PCAOB publicly disclosing the criticisms or potential defects in a firm's quality control systems without us obtaining such local firm's consent to such public disclosure. The local practice has been to issue inspection reports to the firms' Chief Executive Officers for their attention, distribution and action. Annually a general public report is issued detailing common matters raised during the inspections for the year without identifying the firm to which such matters relate.

We believe that the PCAOB principles should allow for local restrictions on distribution of inspection reports and that the elements should carry alternatives to address the consent by the respective firms when such distribution is sought.

We further believe that such disclosure should be limited to criticisms and potential defects in a firm's quality control systems where these relate to US audit engagements only and then only to the extent that these are reportable issues as defined by the PCAOB in its own public reporting processes

3/...

RESPONSES TO SPECIFIC QUESTIONS

Question 1:

If a non-U.S. auditor oversight entity meets the essential criteria set forth in the proposed Policy Statement, are there reasons why the Board should not increase its level of reliance on inspections conducted by such an independent non-U.S. oversight entity? What are the benefits and costs of full reliance?

No, if a non-U.S. auditor oversight entity meets the essential criteria we believe the PCAOB should increase its level of reliance on inspections conducted, but in cases where not all essential criteria are met, we believe that the PCAOB should communicate its expectations and allow the non-U.S. auditor oversight entity to correct or demonstrate alternative procedures it has implemented to address the criteria it is not in compliance with.

The most significant benefit would be the reduction in non-chargeable time the firms have to allocate to the inspection process. The local non-U.S. auditor oversight entity spends significant time with the local firms and this can be utilised to (a) assist the PCAOB in its oversight role; (b) ensure compliance by local firms with international standards (auditing and accounting), US GAAP and other applicable regulations and (c) to enforce compliance through local disciplinary procedures where required.

Question 2:

Are the essential criteria set forth in section 111.C. of the Policy Statement appropriate? Are there additional factors that should be considered? Should the criteria be modified in any way?

Yes, we believe these are appropriate except as indicated above. The conditions placed on local oversight bodies by their local legal systems and the relative size of the number of Foreign Private Issuers under the jurisdiction of non-U.S. oversight entities may create situations where such Foreign Private Issuers may be able to be identified from commentary publicly disclosed.

Question 3:

Would meeting the essential criteria set forth in section 111.C. – along with a satisfactory on-site assessment by the Board of the entity's inspection practices through a period of joint inspections – provide sufficient assurance that the oversight entity's inspection program merits full reliance?

Yes, we believe that this would provide sufficient assurance that the oversight entity's inspection program merits full reliance

Question 4:

The Board has carefully balanced the requirements of the Act and those of non-U.S. jurisdictions (including laws related to data protection, confidentiality and other important legal requirements). Are there additional differences between U.S. and non-U.S auditor oversight regimes that should be considered? Would those differences suggest greater or less reliance?

None that we are aware of.

Question 5:

As described in section 111.B. of the Policy Statement, does the Policy Statement establish the appropriate nature and level of reliance?

Yes, we believe the Policy Statement would establish the appropriate nature and level of reliance.

Question 6:

Will the proposed approach adequately protect the interests of investors in U.S issuers audited by non-U.S. audit firms?

Yes, we believe the proposed approach would adequately protect the interests of investors in U.S issuers audited by non-U S audit firms.

Should you wish to discuss the above, please do not hesitate to contact me.

Yours sincerely

JBailey

JILLIAN BAILEY
DIRECTOR: PRACTICE REVIEW

Comment letter

PCAOB proposed policy statement on the implementation of Rule 4012

PCAOB Release No. 2007-011: Guidance regarding implementation of PCAOB Rule 4012

Recht, Versicherung, Verbraucherpolitik

Date
4. March 2008

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I. General remarks

We welcome the initiative of PCAOB to publish a guidance document regarding the implementation of Rule 4012. Since the PCAOB was created with the Sarbanes-Oxley Act of 2002, many countries have taken steps to strengthen their systems of audit regulation in recognition of the fact that independent auditors play a key role in protecting investors and the public interest in their respective markets. Effective public oversight regimes for statutory auditors and audit firms are in the interest of industry. With the achievement of effective systems in the world the PCAOB is right to redefine the conditions of full reliance as a prerequisite for mutual recognition of oversight results.

The BDI supported the German regulator to reform the public oversight regime in 2004 and to establish a new independent oversight board (APAK). In addition to that, Germany introduced an investigative system effective in 2007, analogue to the inspections by the PCAOB. The German oversight system complies with the revised Eighth Company Law Directive ("8th. Directive").

We believe that the German system corresponds to the principles developed by the PCAOB to guide its evaluation of the independence and rigor of the home country system. Furthermore we believe that the criteria developed by the PCAOB correspond to the principle-based requirements set in the 8th Directive. The main criteria are: 1. Adequacy and integrity of the system (scope and competence of oversight). 2. Independence of the system's operation from audit professions (majority of non-practitioners, proper nomination structures). 3. Independence of the system's source of funding (independent from the audit professions). 4. Transparency of the system (publication of annual work programmes and activity reports).

Regarding the steps taken to strengthen the public oversight regime in the EU and with respect to the implementation of the German system we believe that the term "full reliance" should be redefined in order to achieve mutual recognition of the public oversight systems.

II. Answers to the invitation to comment

1. If a non U.S. auditor oversight entity meets the essential criteria set forth in the proposed Policy Statement, are there reasons, why the Board should increase its level of reliance on inspections conducted by such an independent non-U.S. oversight entity? What are the benefits and costs of full reliance?

From the German industry point of view, there are significant benefits from a true "full reliance" approach as pointed out in the following:

- Avoidance of legal conflicts (e.g., in terms of protection of personal data and business secrets, professional secrecy rules),
- Cost savings through the elimination of duplicate procedures,
- Cost savings through increased efficiency of the oversight process,
- Greater opportunities to expand the focus on audit quality and on the domestic audit market,
- True full reliance avoids the proliferation of worldwide joint inspections.

2. Are the essential criteria set forth in section III.C. of the Policy Statement appropriate? Are there additional factors that should be considered? Should the criteria be modified in any way?

Principle 1 – Adequacy and Integrity of the Non-U.S. System:

In our point of view this criterion is met by the public oversight and regulatory arrangements of the 8th Directive. Therefore the essential criteria 8-11 concerning the access to the work documentation of the national oversight board are not necessary, if full reliance is reached.

Principle 2 – Independence of the Non-U.S. System

In our opinion these criteria are met by the 8th Directive. The Directive allows a minority of practitioners to be involved in the governance of the public oversight system (Art.32 (3)). The oversight board has to be governed by non-practitioners as set forth by the PCAOB under principle 2.

Principle 3 – Source of the Non-U.S. System's Funding

This criterion is met by the public oversight and regulatory arrangements of the 8th Directive: Art.32 (7). The system of public oversight shall be adequately funded. The funding for the public oversight system shall be secure and free from any undue influence by statutory auditors or audit firms.

Principle 4 – Transparency of the Non-U.S. System

This criterion is met by the public oversight and regulatory arrangements of the 8th Directive: Art. 32 (3) Persons involved in the governance of the public oversight system shall be selected in accordance with the independent and transparent nomination procedures and Art.32 (6) The system of public oversight shall be transparent. This shall include the publication of annual work programmes and activity reports.

In our opinion the criterion of transparency should include a transparent selection process corresponding to the 8th Directive. We further note that there is a different approach to the reporting model. Whereas in Germany and Europe the inspection reports are subject to professional secrecy and can be used for professional investigation only, the PCAOB approach foresees a general publication obligation. German Industry is concerned that the publication of investigation reports of foreign public issuers (FPIs) in die U.S. may harm the concerned FPIs.

Principle 5 – Historical Performance

This criterion needs clarity. The BDI can not accept that full reliance depends on a moreover arbitrary criterion. Although we consent to the need that a public oversight system recently put in place, as it is the case of the European regime, still must prove its effectiveness. Considering, that the above criteria for the conception of the system are met, full reliance can not depend on its maturity.

3. **Would meeting the essential criteria set forth in section III.C. – along with a satisfactory on-site assessment by the Board of the entity's inspection practices through a period of joint inspections – provide sufficient assurance that the oversight entity's inspection program merits full reliance?**

We support the statement that the PCAOB should accept that foreign systems need not be identical to the US oversight model. Joint inspections can not be a pre-requisite for assuming full reliance. In Europe legal and other impediments can prevent joint inspections with a foreign regulator. We therefore underline the importance of meeting the criterion of the national public oversight systems. As additional criterion the participation of the foreign oversight board in IFIAR can be used as a sign of willingness to cooperate with oversight bodies of other countries.

4. **The Board has carefully balanced the requirements of the Act and those of non-U.S. jurisdictions (including laws related to data protection, confidentially and other important legal requirements). Are there additional differences between U.S. and non-U.S. audit oversight regimes that should be considered? Would those differences suggest greater or less reliance?**

Art 36 of the 8th. Directive defines professional secrecy and regulatory cooperation between the member states. It prevents the use of confidential information for other than public oversight matters. Joint inspections with the PCAOB can not be accepted because there is no assurance that the information is only used in the context of administrative or juridical proceedings, specially related to the

exercise of the oversight function. Rule 2105 (Conflicting Non-U.S. Laws) is not adequate to European regulation and does not take into account the problem that German companies could be subject to enforcement measures in the U.S. if the requested information could be used to other than the original purpose of assuring an effective oversight system. Furthermore this would conflict with the principles of professional secrecy. Instead of joint inspections there only can be observations by the PCAOB of the German oversight procedures as an instrument for confidence building measures.

5. As described in section III.B. of the Policy Statement, does the Policy Statement establish the appropriate nature of level of reliance?

The PCAOB's notion of full reliance is too narrow:

- Full reliance (as defined) will only follow a period of joint inspections.
- If full reliance is appropriate, there will still be involvement of PCAOB staff
- Full reliance still includes "having the opportunity to observe portions of the inspection"
- PCAOB will rely to the maximum extent possible but SOX legislation still contains specific obligations concerning, for example the publication of firm inspection report or the confidentiality of documents

These elements of the PCAOB paper show that the level of trust the PCAOB puts into the public oversight systems of their major trading partners is rather limited. Real full reliance would imply mutual recognition and trust on the effectiveness of the respective public oversight system. The creation of the IFIAR and the PCAOB's active participation therein provides the appropriate forum for a proper dialogue on audit oversight. It also provides a unique opportunity for the PCAOB to improve its understanding of other systems without the need of joint inspections.

6. Will the proposed approach adequately protect the interests of investors in U.S. issuers audited by non-U.S. audit firms?

With regard of the small share of FPIs on the trading volume in the US a disproportionate amount of PCAOB resources would be devoted to the inspection of foreign audit firms that audit FPIs. With the true full reliance approach, the PCAOB would be able to devote more resources on the domestic market. This would have a greater benefit for US investors as a whole.

CENTER FOR AUDIT QUALITY
Serving Investors, Public Company Auditors & the Markets

March 4, 2008

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

RE: Request for Public Comment on Proposed Policy Statement: Guidance Regarding Implementation of PCAOB Rule 4012; PCAOB Release No. 2007-011

Dear Office of the Secretary:

The Center for Audit Quality (CAQ or the Center) is an autonomous public policy organization serving investors, public company auditors and the capital markets and is affiliated with the American Institute of Certified Public Accountants. The CAQ's mission is to foster confidence in the audit process and aid investors and the markets by advancing constructive suggestions for change rooted in the profession's core values of integrity, objectivity, honesty and trust. Based in Washington, D.C., the CAQ consists of approximately 800 member firms that audit or are interested in auditing public companies. We welcome the opportunity to share our views on the Public Company Accounting Oversight Board's (PCAOB or the Board) proposed policy statement: *Guidance Regarding Implementation of Rule 4012* (proposed guidance).

The proposed guidance articulates an approach and certain criteria that, if met, would allow the PCAOB to place "full reliance" on an inspection of a PCAOB-registered non-U.S. firm conducted by the audit oversight entity located in the firm's home country.

The CAQ believes that U.S. investors and the securities markets benefit through coordination and cooperation among national regulators. In an increasingly global economy, where transactions and events impacting businesses constantly cross national borders, convergence of standards and coordination of regulatory efforts are imperative.

As reflected in the proposed guidance, many nations are enacting audit oversight entities that share the goals of the PCAOB, such as protecting investors, enhancing audit quality, and assuring public trust in public company audits and in the auditing profession. The willingness of the

PCAOB to coordinate its inspection efforts with those oversight entities signals an appropriate level of respect for other nations' regulatory advancements. In that vein, we applaud your efforts to work with other audit regulators around the world.

Under the CAQ's governing documents, our membership consists of auditing firms located in the United States that are registered with the PCAOB. U.S. firms that are not registered with the PCAOB may become "associate" members of the CAQ. Non-U.S. firms are neither members nor associate members of the CAQ.

Because the greatest and immediate impact of your proposed guidance would be on non-U.S. firms that are not members of the CAQ, we direct your attention to the comment letters that are being provided by the auditing firms' global organizations. Those letters provide substantive suggestions related to the proposed guidance.

In general, the CAQ believes that determining the level of reliance on a non-U.S. audit oversight body based on adherence to important principles, assessed by reference to compliance with key criteria, is a reasonable approach. We note, however, that legal, regulatory, cultural and other differences among nations might cause audit oversight entities in different countries to follow somewhat different approaches to satisfy the underlying principles. Accordingly, strict adherence to a series of essential criteria might cause the PCAOB to place more or less reliance on a home country oversight entity than is warranted in the circumstances. We encourage the PCAOB to use the essential criteria as a general guide to assess the extent of compliance with the principles, rather than as a "checklist" of criteria that must be satisfied to grant full reliance.

If the CAQ may be of any assistance in discussions of the comment letters received in response to the proposed guidance, we would welcome the opportunity to meet with you.

Sincerely,

Cynthia M. Fornelli
Executive Director
Center for Audit Quality

Cc:

PCAOB
Mark W. Olson, Chairman
Daniel L. Goelzer, Member
Willis D. Gradison, Member
Charles D. Niemeier, Member
Thomas Ray, Chief Auditor and Director of Professional Standards

SEC
Chairman Christopher Cox
Commissioner Paul S. Atkins
Commissioner Kathleen L. Casey
Conrad Hewitt, Chief Accountant
Dr. Zoe-Vonna Palmrose, Deputy Chief Accountant for Professional Practice
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KREDITTILSYNET
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Date: 04.03.2008

OUR COMMENT - PCAOB RELEASE NO 2007-010

Dear Sirs,

In our capacity as the public oversight body for auditors and auditing firms in Norway, we strongly support the prospects of a regime of full reliance in the field of audit firm inspections between the United States and other jurisdictions. We therefore welcome your initiative in this respect.

We would, however, take this opportunity to make a few comments on the proposed policy statement. Firstly, we would like to express full support of the comments made by the European Commission that have been presented to us. It is of the highest importance that there is a mutual trust between the EU and US regulatory systems.

In addition to the comments forwarded by the European Commission, we would like to emphasize the following:

- The Policy Statement defines in section B) what is meant by full reliance. However, what the term full reliance entails is not clear, and it seems that this is primarily due to the observation activities which "*..depending on facts and circumstances, may vary by jurisdiction or inspection.*" It is not clear to us what the PCAOB envisage regarding the observers and the role they will have.

- In a situation with full reliance we have difficulties envisaging the need for a transfer of audit working papers. An active and constructive dialogue and full access to the inspection reports should normally be sufficient for investor protection purposes. In our view, only in very rare and extreme circumstances would there be a need for transferring working papers and those circumstances should be dealt with on a case to case basis.

- In Principle 1 criteria 5 it is stated that "*..inspections staff....must have sufficient expertise in applicable US laws, regulations and professional standards*". The term "sufficient expertise" should be clarified. Effectively, it is very difficult, if not impossible, for non-US oversight systems to recruit inspectors who may be considered to

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have such expertise. This requirement should not be above the level of "working knowledge", given the fact that inspectors in non-US jurisdictions do have expertise in ISA's and IFRS's. On a case to case basis if necessary, inspectors may take measures to acquire additional knowledge and insight regarding specific US regulation.

We believe the PCAOB's policy statement represents an important contribution to international supervisory cooperation and we are looking forward to working with you in the interest of investor protection and efficient use of resources.

Kind regards,

Anne Merethe Bellamy
Deputy Director General

Kjersti Elvestad
Head of Section

COMMENTS ON

REQUEST FOR PUBLIC COMMENT ON PROPOSED POLICY STATEMENT: GUIDANCE REGARDING IMPLEMENTATION OF PCAOB RULE 4012

China Securities Regulatory Commission (CSRC) appreciates that Public Company Accounting Oversight Board (PCAOB) provides non-U.S. oversight entities with the opportunity to comment on the "REQUEST FOR PUBLIC COMMENT ON PROPOSED POLICY STATEMENT: GUIDANCE REGARDING IMPLEMENTATION OF PCAOB RULE 4012" (PCAOB Release No. 2007-011, hereinafter referred to as the Proposal). After consulting with Ministry of Finance, the CSRC hereby responds with both general and specific comments on the Proposal.

1.General Comments

The CSRC shares with regulators worldwide the same objectives of securities regulation, among which are keeping enhancing disclosure quality and protection of investors.

The CSRC and Ministry of Finance (hereinafter referred to as *Chinese oversight entities*) believe that cross-border oversight activities on audit firms should be effectively conducted through mutual understanding and bilateral cooperation. The Chinese oversight entities appreciate the PCAOB's progression toward full reliance on non-U.S. oversight entities in inspection of registered non-U.S. audit firms (foreign registrants). However, the Chinese oversight entities are not in favor of such detailed criteria as those in the Proposal in assessing the eligibility of non-U.S. oversight entities for full reliance. The Chinese oversight entities are concerned that it could create, unnecessarily, some critical obstacles and might impair future cooperation generally. It has been proved that successful cross-border cooperation can only be achieved when certain general principles are practiced. Such principles may include, but not limited to, (1) equality and reciprocity; (2) observing laws in both jurisdictions and being to the common interests; (3) facilitating

cross-border financial activities rather than creating obstacles; (4) respecting the consensus already reached between regulators instead of resorting to a unilateral departure from existing cooperative framework. The Chinese oversight entities are willing to conduct extensive cooperation with foreign oversight entities, including the PCAOB, on the basis of the above principles.

It is believed that inspections the PCAOB intends to carry out on PCAOB-registered Chinese audit firms should be justified as cross-border enforcement activities. Considering the Principle of Sovereignty and relevant Chinese laws and regulations, certain difficulties might be existed in obtaining Chinese government's approval in respect of such inspection. Therefore, the Chinese oversight entities propose that the PCAOB places full reliance on the Chinese oversight entities to undertake inspections and other oversight measures on PCAOB-registered Chinese audit firms.

2. Specific Comments on Certain Questions

Question 2. Are the essential criteria set forth in section III.C. of the Policy Statement appropriate? Are there additional factors that should be considered? Should the criteria be modified in any way?

With regard to the essential criteria set forth in principle 1, the Chinese oversight entities have the following comments:

Criteria 5 requests that "the non-U.S. oversight system's inspections staff must have sufficient expertise, skills and experience in the audit field relative to the size and complexity of the audit firms within its mandate and must have sufficient expertise in applicable U.S. laws, regulations and professional standards". Please specify the applicable U.S. laws and regulations that the staff of the non-U.S. oversight entities should be equipped with.

Criteria 8 requests that "the PCAOB must be given access, either by the

non-U.S. oversight entity or by PCAOB registered firm under inspection, to information and documents relevant to the inspection and oversight of PCAOB registered firm." Such criteria could hardly be met. The Chinese oversight entities hereby reiterate that this is a matter of delicacy. The PCAOB's inspections would be regarded as cross-border enforcement activities which infringe upon the Chinese sovereignty. Without special authorization, no government authority in China is entitled to permit the PCAOB to conduct such inspections on Chinese territories. Similarly, no PCAOB-registered Chinese audit firm could issue a consent letter to any foreign oversight entity, like the PCAOB, permitting and submitting its working papers and other documents out of border for inspections.

Question 5. As described in section III.B. of the Policy Statement, does the Policy Statement establish the appropriate nature and level of reliance?

In terms of the definition of "Full Reliance", the Chinese oversight entities have the impression that it is materially pre-conditional and self-protection. Arrangements such as joint inspection and field observation could hardly be accepted by many non-U.S. oversight entities, including the Chinese oversight entities. In addition, "Full Reliance" in the Proposal seems to have already deviated from its simple and primitive meaning. The Chinese oversight entities strongly suggest that the PCAOB make further explanation on the definition of "Observation" in relation to "Full Reliance" in the Proposal.

In conclusion, the Chinese oversight entities would appreciate it that the PCAOB gives due consideration to the above comments in finalizing the Proposal and its implementation. It is also highly appreciated that the PCAOB gives more weight to sovereignty issue and legal systems of other jurisdictions. The Chinese oversight entities look forward to further communication and closer cooperation with the PCAOB in the near future.

Consumer Federation of America

March 4, 2008

Office of the Secretary
PCAOB
1666 K Street, N.W.
Washington, D.C. 20006-2803

Re: PCAOB Release No. 2007-011

Dear Sir or Madam:

I am writing on behalf of the Consumer Federation of America (CFA)[1] to express our strong opposition to the proposed Guidance Regarding Implementation of PCAOB Rule 4012. Disingenuously characterizing this radical change in policy as merely "further guidance about the Board's implementation of an existing rule," the Board fails to provide any meaningful evidence of either the need or justification for this proposed change in its approach to inspecting foreign public accounting firms. Nor does it provide any evidence that non-U.S. auditor oversight entities have come so far in recent years that the PCAOB is justified in overturning the clear intent of Congress, when it enacted the Sarbanes-Oxley Act, that the PCAOB provide direct oversight of all audit firms – including foreign firms – that provide audit services to U.S. public companies. As such, this proposal clearly violates the spirit, if not the letter, of the Sarbanes-Oxley Act. If adopted, it would seriously undermine the protections afforded to investors in U.S. listed companies that receive audit services from foreign auditors. We urge the Board to reject this proposed change in policy and to continue instead to rely on joint inspections of foreign audit firms.

I. Background

When Congress adopted the Sarbanes-Oxley Act, it created the Public Company Accounting Oversight Board and charged it with "the oversight of public accounting firms that provide audit services to U.S. public companies, regardless of where the firms are domiciled."[2] Section 106 of the Act specifies that foreign public accounting firms that furnish audit reports with respect to U.S. public companies "shall be subject to this Act and

[1] Consumer Federation of America is a nonprofit association of approximately 300 national, state, and local pro-consumer organizations. It was founded in 1968 to represent the consumer interest through research, education, and advocacy.

[2] PCAOB Release No. 2007-011, Request for Public Comment on Proposed Policy Statement: Guidance Regarding Implementation of PCAOB Rule 4012, December 5, 2007, p. 1.

the rules of the Board and the Commission issued under this Act, in the same manner and to the same extent" as U.S. firms. Congress did not take this position lightly. On the contrary, it insisted on PCAOB oversight of foreign firms in the face of strong opposition and heavy lobbying from foreign governments and regulatory entities. For example, both Sen. Phil Gramm and Rep. Michael Oxley reportedly presented amendments to be considered by the House-Senate conference committee designed to scale back the Act's coverage of foreign accounting firms.[3] The conference committee rejected these changes, insisting instead on the approach taken in the Senate bill.

The reasoning behind this approach can be found in the Senate Banking Committee's legislative report:

> "… the Committee believes that there should be no difference in treatment of a public company's auditors under the bill simply because of a particular auditor's place of operation. Otherwise, a significant loophole in the protection offered U.S. investors would be built into the statutory system. Thus, accounting firms organized under the laws of countries other than the United States that issue audit reports for public companies subject to the U.S. securities laws are covered by the bill in the same manner as domestic accounting firms …"[4]

Elsewhere in the report, the Committee discussed the central importance of independent inspections to the Act's effectiveness. "A robust program of inspections is essential to identify problems in firm procedures, training, and 'culture' before those problems can produce audit failures that trigger large investor losses and threaten confidence in capital markets," the report states.[5]

With more than 800 foreign firms from 86 countries having registered with the PCAOB,[6] however, the PCAOB determined early in its history that it would need to work with foreign regulators, where possible, if it was to fulfill its obligation to provide

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[3] A memo titled "Key Recommended Changes to the Accounting Regulation Bill in Order to Prepare it for Final Enactment," identified as coming from Sen. Phil Gramm, was supplied to the author of this letter by Senate staffers in July of 2002. Among its recommendations was adjusting the bill so as not to "subject foreign accounting firms operating abroad to regulation by the new Board." A memo titled "Additional Protections to be Added," identified as coming from Rep. Michael Oxley, was also supplied to the author of this letter by Senate staffers in July of 2002. That memo included a recommendation to strike Section 106 of the legislation and to require instead that a study be conducted by the SEC, in consultation with the Department of State, international regulatory and accounting bodies, and foreign governments, among others to evaluate whether and to what extent foreign public accounting firms "should be required to register with the Board or otherwise be subject to Board oversight."

[4] Report of the Committee on Banking, Housing and Urban Affairs on the Public Company Accounting Reform and Investor Protection Act of 2002.

[5] Ibid.

[6] PCAOB Release No. 2007-011, pg A1-3-Policy Statement.

meaningful oversight and robust inspections of foreign audit firms under its jurisdiction. In recognition of that fact, the PCAOB adopted Rule 4012 in 2004 laying out the conditions that would allow the Board to use the work of non-U.S. oversight entities in conducting inspections of foreign firms. Under that policy, the Board has developed a program of joint inspections that appears to be working well. This approach, which we support, gives the PCAOB the benefit of home-country expertise and resources while maintaining its ability to fill in any regulatory gaps and focus on compliance with U.S. standards and rules that may differ significantly from those in the home country.

Joint inspections would seem to offer an added benefit that would be lost under a system of full reliance. That is the benefit of greater uniformity in auditing practices and, indirectly, in accounting practices that can result from a consistent approach to inspections. This uniformity will only take on added value if and when more companies begin filing financial statements using International Financial Reporting Standards. Inevitably, that consistency of approach to inspections will be lost under a system of full reliance – particularly if the Board provides as little oversight going forward as this proposal seems to anticipate – and with it the opportunity to drive greater uniformity in the audits and accounting for U.S. public companies.

II. The Board has failed to justify its proposed policy change.

The Board has sought to downplay the significance of its proposal to move to full reliance on non-U.S. oversight entities for the conduct of inspections by characterizing it as simply a further evolution of its approach under Rule 4012. Nothing could be further from the truth. In fact, in adopting Rule 4012 the Board intentionally rejected the approach now being proposed. Although some who commented on its rule proposal urged the Board to "accord complete deference to the home-country regulator" and "rely on the [inspection] report of the non-U.S. regulator," the Board rejected such an approach on the grounds that it would not be in the interest of U.S. investors or the public.[7] As the Board noted in its final rule release:

> "… the Board is required by the Act to conduct inspections in order to assess the registered public accounting firm's compliance with U.S. laws, regulations and professional standards. Because non-U.S. regulatory authorities do not have this same mission, deferring to those authorities regardless of the circumstances would not be in the interests of U.S. investors or the public."[8]

In proposing now to defer to non-U.S. oversight entities that meet certain criteria, the Board offers no justification for this change in policy. It does not, for example, explain why non-U.S. oversight entities can now be relied on to protect ***U.S. investors*** and assess compliance with ***U.S. laws, regulations, and professional standards.*** Instead, the Board has argued that its move is warranted because "the Board has found that it shares a number of objectives with many of its new counterparts such as protecting investors, improving audit

[7] PCAOB Release No. 2004-005, June 9, 2004, Appendix 2, Section-by-Section Analysis of Rules Relating to Oversight of Non-U.S. Firms, p. A2-6.
[8] Ibid, p. A2-6-7.

quality, ensuring effective oversight of audit firms and helping to restore the public trust in the auditing profession."[9] But this is essentially identical to the justification offered by the Board for adopting Rule 4012 in the first place.[10] The Board cannot rely on the same rationale it used for adopting that approach now that it proposes to abandon it. Moreover, as the Board surely knows,"shared objectives" do not guarantee comparable outcomes, which are at least as likely to depend on adequate resources, comparable authority, and a shared compliance culture. In making its case, the Board has an obligation to go beyond vague generalities about shared objectives and provide hard evidence to support its contention that foreign regulators now enjoy resources, authority, and a commitment to compliance comparable to those in the United States.

The Board also suggests in its proposing release that Rule 5113 "reflects the Board's willingness to rely on a non-U.S. oversight entity in connection with an investigation or sanction."[11] But, in contrast to the full reliance now being proposed with regard to inspections, the Board was careful to note in adopting Rule 5113 that it in no way limited its authority to conduct its own investigations or impose its own sanctions.[12] And, just as it did in adopting Rule 4012, the Board specifically rejected a proposal that it defer to the non-U.S. regulator in matters of investigation and sanction.[13] In doing so, the Board restated its concern that non-U.S. regulators do not share the PCAOB's mission of enforcing compliance with U.S. laws, regulations, and standards and noted that such an approach would not be consistent with its obligations under Section 105 of the Sarbanes-Oxley Act.[14]

We realize, of course, that auditor oversight bodies in other countries have continued to evolve since Rules 4012 and 5113 were adopted. The Board provides a brief overview of some of these developments in the proposing release. While this progress is encouraging, we find nothing in the developments described in the release to convince us that these foreign regulators have evolved to such an extent that they can now be relied on to protect U.S. investors and enforce U.S. regulations and standards – something the Board previously determined was not in the public interest and would not be appropriate "regardless of the circumstances." The discussion in the proposing release fails to address this fundamental concern.

The statement of Board Member Charles D. Niemeier in opposition to the proposal strongly suggests that – even if one could get around the concern that non-U.S. regulators do not share the PCAOB's mission of protecting U.S. investors and enforcing compliance with

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[9] PCAOB Release No. 2007-011, p. 1.

[10] The final rule release for Rule 4012 states, for example, that the Board's dialogue with its foreign counterparts "has demonstrated that the Board and its foreign counterparts share many of the same objectives. These include protecting investors from inaccurate financial reporting, improving audit quality, ensuring effective and efficient oversight of accounting firms, and helping to restore the public trust in the auditing profession." PCAOB Release 2004-005, p. 2.

[11] PCAOB Release No. 2007-011, p. A1-5-Policy Statement.

[12] PCAOB Release 2004-005, p. A2-21, Section-by-Section Analysis.

[13] Ibid.

[14] Ibid.

U.S. standards – this proposal would be ill-advised. In explaining his opposition, Mr. Niemeier noted that "few if any countries spend as much on – or devote as much intensity of effort to – enforcement of financial reporting and auditing as the U.S. does."[15] Furthermore, he added, our experience to date has shown that "even the most robust of those other regulators have faced scope limitations and other challenges that we would not countenance."[16] These are serious charges that ought to be addressed by the Board before it proceeds with any proposal to place full reliance on these regulatory bodies. Yet these concerns are also ignored in the proposing release.

In short, this proposal embodies a radical departure from Congress's clearly stated intent that foreign auditors be regulated "in the same manner and to the same extent" as U.S. firms. Moreover, it adopts an approach that the Board previously rejected as not in the interests of U.S. investors, and does so despite evidence that foreign regulators, while they continue to evolve, face limitations of resources and authority that U.S. regulators do not. Because it cannot meet its promise to ensure investors the same level of protections afforded them by direct U.S. oversight, we strongly urge the Board to reject this proposal.

III. The Board has failed to support its contention that non-U.S. oversight entities have evolved to such a degree in recent years that they now offer protections comparable to those Congress intended to provide in the Sarbanes-Oxley Act.

The Board suggests in its proposing release that it has identified "factors relevant to 'full reliance' by the Board on the inspections systems of its non-U.S. counterparts that are sufficiently rigorous to meet the level of protection for investors that is required by the Sarbanes-Oxley Act."[17] We question whether that is the case, particularly with regard to independence (as we will discuss in greater detail below). In addition, the concerns raised by Mr. Niemeier in his statement about adequacy of resources and limitations on authority raise further serious questions about the validity of that contention. Certainly, the Board has provided no hard evidence to support its case. If the Board insists on moving ahead with its full reliance proposal, we believe it must, at an absolute minimum, go back and build the evidentiary basis for its action.

The following are among the questions we believe the Board has an obligation to answer before proceeding.

- **How does the proposal for full reliance comport with requirements under the Sarbanes-Oxley Act that the Board conduct its own inspections, reach its own findings, and issue its own reports?**

Section 104 of the Sarbanes-Oxley Act specifies that the Board is to conduct inspections of registered firms and prepare a written report of its findings with regard to each inspection. Moreover, Section 106 of the Act makes clear that Congress intended these

[15] Statement of Charles D. Niemeier at December 5, 2007 open meeting of the PCAOB "To Consider Proposing Release of Full Reliance Policy Statement."
[16] Ibid.
[17] PCAOB Release No. 2007-011, p. A1-6-Policy Statement.

requirements to apply equally to foreign audit firms engaged in the preparation of the audit reports of U.S. public companies. Neither section appears to anticipate that these responsibilities would be delegated. Yet, the full reliance proposal under consideration anticipates that the Board would not only rely on non-U.S. oversight entities to conduct inspections but would, except in extraordinary circumstances, rely on the findings of the non-U.S. oversight entity, refer to the inspection reports of that entity rather than developing its own reports, and even rely on the foreign regulator to ensure that any quality control problems identified by the inspection are adequately addressed.

While Section 106 of the Sarbanes-Oxley Act gives the Board authority to exempt foreign accounting firms from the Act or from rules of the Board – authority that the Board claims to have relied upon in developing this proposal – the proposal seems to us to exempt not just foreign audit firms but the Board itself from the requirements of the Act. On what basis has the Board determined that it is appropriate to exempt itself from the requirements of the Sarbanes-Oxley Act, in particular the requirements in Section 104 that it conduct inspections of registered firms, develop findings based on those inspections, and issue those findings in the form of a written report?

- **How do those non-U.S. oversight entities the Board anticipates would be eligible for full-reliance in the near term measure up to the requirements of the Sarbanes-Oxley Act?**

The Sarbanes-Oxley Act was quite specific in identifying the factors Congress considered essential to ensure independent and effective oversight of the auditing profession. These include an independent board, independent funding, standard-setting authority, authority to inspect individual audits, and enforcement authority. Moreover, Congress took steps to ensure the Board was funded at a level that allowed it to attract professionals of the highest quality and maintain a robust regulatory program. For each of those entities the Board anticipates are likely to be eligible for full reliance either now or in the near future, the Board should document how they fulfill each of these standards so that members of the public can better assess whether the proposal is justified. Once it has done so, the Board should release that analysis for public review and comment before proceeding with this proposal.

- **On what basis has the Board determined that non-U.S. oversight entities are equipped to enforce compliance with U.S. laws, rules, and standards?**

Under a system of joint inspections, the Board maintains ultimate responsibility for ensuring compliance with U.S. laws, regulations, and standards. Under full reliance, that responsibility would shift to non-U.S. oversight entities. On what basis does the Board expect to determine whether these regulatory bodies have sufficient expertise to justify such an approach? In particular, what degree of familiarity would they be expected to have in U.S. GAAS, including in areas such as standards for audits over internal controls and strict independence rules that may not be replicated in their home country regulations? In addition, what is the basis for the Board's determination that these entities share its commitment to the protection of U.S. investors and the enforcement of U.S. laws and standards?

- **How does the Board plan to ensure on-going compliance by non-U.S. oversight entities with full-reliance eligibility standards, particularly with regard to the rigor of its inspection process?**

Under a system of joint inspections, the Board is able to constantly reassess the degree to which it is appropriate to use the work of a non-U.S. oversight entity. A system of full reliance, as outlined in this proposal, does not appear to offer any comparable mechanism to ensure going forward that the regulator is offering an appropriate level of protection to U.S. investors. How and to what degree does the Board anticipate that negotiated agreements would allow for that oversight and for voiding the agreement should a regulatory body cease to meet requirements for full reliance? As a practical matter, it would seem that such agreements would be very difficult to break, even were serious concerns to arise. How does the Board anticipate this would work should problems emerge at a non-U.S. oversight entity already granted full-reliance status through a negotiated agreement?

Until it can answer these questions, and subject its analysis to public review, we believe the Board should withdraw its proposal and continue to rely on joint inspections. The Board has offered no evidence of a crisis in the current system that would justify a rush to judgment on the current proposal. Indeed, all the evidence seems to suggest that the Board's current program of joint inspections is functioning well. As a result, slowing down the approval process to allow a more thorough documentation and a more careful review would appear to pose no threat to investors, the industry, or the marketplace.

IV. There are serious short-comings in the proposed approach to full reliance.

If, against our strong opposition, the Board were to proceed with this proposal, it would need significant improvements in several areas. These include strengthening of independence requirements for full reliance eligibility, improvements to the process for negotiating full reliance agreements, improvements to the procedures for monitoring inspections conducted under full reliance agreements and continued compliance with the conditions of the full reliance agreement, and elimination of reliance on non-U.S. oversight entities for reaching findings, issuing reports, and remediating problems.

- **The proposal includes inadequate standards to ensure the independence of non-U.S. oversight entities deemed eligible for full reliance.**

Rule 4012 adopts a "sliding scale" for determining the degree of reliance the Board may place on the work of non-U.S. oversight entities, with greater independence resulting in greater reliance. In proposing to move from a system of joint inspections to full reliance, one would expect the Board to strengthen, not weaken the requirements for independence of the non-U.S. oversight entities whose work it proposes to rely on. Instead, the Board's new proposal would allow full reliance with less than full independence. Specifically, it requires only that a "majority of the governing body of the non-U.S. oversight entity must be

comprised of persons who are not current or former accountants or auditors or affiliated with an audit firm or the audit profession."[18]

This is in stark contrast to the strong emphasis Congress placed on independence in establishing the PCAOB. As the Senate Banking Committee noted in its legislative report, it was the view of Congress that "[t]he successful operation of the Board depends on its independence and professionalism." With that in mind, Congress required that only a minority of Board members would have an accountancy background, limited who could chair the Board to non-accountants or those who had been out of the accounting profession for at least five years, required that all Board members have a demonstrated commitment to the interests of investors, and required that they serve full-time and receive no outside payments.

While it is certainly true that there is not a single acceptable way to arrive at the high level of independence the Sarbanes-Oxley Act demands, the proposal does not simply allow for flexibility in attaining that same end. Instead, it proposes to rely fully on non-U.S. oversight entities that do not begin to meet the high independence standard demanded by the Sarbanes-Oxley Act. In doing so, it makes a lie out of the Board's claim to have identified "the factors relevant to 'full reliance' by the Board on the inspections systems of its non-U.S. counterparts that are sufficiently rigorous to meet the level of protection for investors that is required by the Sarbanes-Oxley Act."[19]

Disturbingly, it has even been suggested that these "essential criteria" would be viewed as "benchmarks" rather than as a firm requirement for attaining full reliance status.[20] This interpretation is encouraged by the Board's statements that it would avoid a check-the-box approach and would not necessarily require that each and every criterion be met. While we would certainly agree that meeting all the essential criteria should not guarantee eligibility for full reliance, failure to meet these requirements, including in particular independence requirements, ought to serve as a disqualifier.

* * *

If, against our strong opposition, the Board insists on moving forward with its full-reliance proposal, it must at a minimum clarify that essential criteria are, in fact, essential. It must also strengthen the criteria related to independence in order to ensure that only those non-U.S. oversight entities that meet independence standards comparable to those in the Sarbanes-Oxley Act are deemed eligible for full reliance.

- **The proposal does not allow for an adequate assessment of the non-U.S. oversight entity before committing the Board to moving forward on a full reliance agreement.**

[18] PCAOB Release No. 2007-011, p. A1-13-Policy Statement.
[19] PCAOB Release No. 2007-011, p. A1-6-Policy Statement.
[20] Comment letter of the Auditor Oversight Commission of Germany found at http://www.pcaobus.org/Inspections/Other/2008/PCAOB_Rule_Comments.pdf, p. 3.

According to the proposing release, the Board expects to make a determination of whether a non-U.S. oversight entity is eligible for full reliance based on a "dialogue" in which it becomes familiar with that entity's "structure, operations and approach to inspections."[21] If the Board determines based on that dialogue that the non-U.S. oversight entity is eligible for full reliance, it will negotiate a bilateral agreement "to set forth the anticipated progression toward full reliance, including a provision for joint inspections before full reliance can take effect."[22] In other words, the Board is proposing to negotiate an agreement to move toward full reliance even before it has experience with joint inspections.

The dialogue referred to in the proposal, however "substantial," can provide only a theoretical understanding of the oversight entity's operations. Joint inspections are necessary to provide practical experience and real-world evidence that those inspections operate as advertised. For this reason, we believe it is completely inappropriate for the Board to begin negotiations on a full reliance agreement before it has had significant experience working with the non-U.S. oversight entity in a joint inspection program. Otherwise, the Board could find itself in the untenable position of having negotiated an agreement to move toward full reliance only to find, once it begins joint inspections, that its earlier determination regarding eligibility for full reliance was unfounded. Moreover, once an agreement is negotiated, the pressure to continue moving forward toward full reliance is likely to be intense. This may incline the Board to set aside concerns that stand in the way of that progress, to the detriment of investor protection.

* * *

If, against our strong opposition, the Board insists on moving forward with its full-reliance proposal, it must at the very least defer any determination about a non-U.S. oversight entity's eligibility for full reliance until after it has significant experience in conducting joint inspections with that entity.

- **The proposal does not provide for adequate on-going monitoring either of inspections conducted by non-U.S. oversight entities under a full reliance agreement or of those entities' on-going compliance with conditions of the agreement.**

The proposal relies on a general commitment by the non-U.S. oversight entity to "maintain the essential criteria on an on-going basis" and on "the opportunity for the Board to observe" the entity's inspections of U.S. companies to "ensure that reliance on the non-U.S. oversight entity meets the requirements of section 104 of the Act."[23] However, "observation," as described in the proposal, includes very little of what we would consider to be actual observation. In describing what it means by observation, the proposal states:

[21] PCAOB Release No. 2007-011, p. A1-10-Policy Statement.
[22] Ibid.
[23] PCAOB Release No. 2007-011, p. A1-10-Policy Statement. (See footnote 12.)

> "… in some instances, PCAOB inspectors may simply consult with the non-U.S. oversight entity about its inspection plans or discuss with the non-U.S. inspectors any complicated or material inspection findings relevant to U.S. public companies. In other cases, PCAOB inspectors may request to accompany the non-U.S. inspection team to the audit firm for interviews with key firm personnel. Finally, there may be occasions when the PCAOB would request that the non-U.S. oversight entity allow PCAOB inspectors to review portions of the firm's audit work papers."[24]

We fail to see how such a hands-off approach can claim to "ensure that reliance on the non-U.S. oversight entity meets the requirements of section 104 of the Act."

The proposal provides no assurance that observation will take place, but only that the Board retains the "opportunity" to observe if it so chooses. Moreover, it includes activities in its definition of "observation" that don't appear to provide any real insight into the operations of the inspections. Helping to plan an inspection, for example, provides no evidence regarding what actually happens in the inspection and can hardly be termed to constitute "observation." According to this description, the only real observation would occur if PCAOB inspectors actually accompanied the non-U.S. inspection team and reviewed the audit work papers. The proposal provides no guidance on how likely these more concrete forms of observation would be to occur, however.

The comment letter submitted by the Auditor Oversight Commission of Germany (AOC) suggests that other regulatory bodies may resist meaningful observation.[25] The AOC states categorically that it would only allow joint inspections as a "confidence-building exercise" and would refuse to participate in joint inspections once a full reliance agreement had been reached. "In accordance with a strict interpretation of the phrase "*full* reliance", the PCAOB would have to *fully* rely on the oversight conducted by the AOC and rely on its findings," the letter further elaborates.[26] If German audit oversight authorities feel this free to dictate the terms of any full reliance agreement before the PCAOB has even formally approved its policy statement, one can only imagine how strenuously they would resist any meaningful oversight by the PCAOB once an agreement had been entered into. It certainly suggests that any Board "requests" to participate in the inspection would be flatly denied.

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If, against our strong opposition, the Board insists on moving forward with its full-reliance proposal, it must develop a more robust system for overseeing the inspections of non-U.S. oversight entities that, among other things, ensures PCAOB inspectors unlimited access to audit work papers and unlimited opportunities to participate in those audits. Any oversight system should be at least as rigorous as the program PCAOB would expect of an

[24] Ibid., p. A1-8-Policy Statement.
[25] Comment letter of the Auditor Oversight Commission of Germany, p. 3.
[26] Ibid.

audit firm proposing to rely on the work of another audit firm. It might, for example, include a system of random checks in which the PCAOB would develop a regular schedule for accompanying non-U.S. inspectors and checking work papers of audits subject to inspection. Non-U.S. oversight entities that object to these conditions would be deemed ineligible for full reliance.

- **The proposal allows the Board to evade its responsibility under Section 104 of the Sarbanes-Oxley Act to arrive at its own findings based on inspections of audit firms and publish those findings in a written report.**

Section 104 of the Sarbanes-Oxley Act requires the Board to make "[a] written report of the findings of the Board for each inspection under this section." It is our understanding that this remains the practice of the Board under its current program of joint inspections. Under the full reliance proposal, however, the Board expects to rely on the non-U.S. oversight entity to "make findings based on its fieldwork."[27] It also apparently expects in most instances to satisfy its reporting requirement by simply referring to the report of the non-U.S. oversight entity.[28] While we recognize that the Sarbanes-Oxley Act gives the PCAOB authority to exempt foreign firms from its rules, it is less clear that the Board is free to exempt itself from the requirements of the law, as it appears to do here. At the very least, the Board is violating the spirit of the Sarbanes-Oxley Act when it adopts a system that does not require it to reach its own findings or publish a report of those findings, as the law clearly intends.

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If, against our strong opposition, the Board insists on moving forward with its full-reliance proposal, it should develop an approach that allows it to comply with its obligations under Section 104 of the Sarbanes-Oxley Act to reach its own findings based on inspections and issue its own reports on those findings.

- **The proposal relies inappropriately on non-U.S. oversight entities to ensure remediation of defects in a firm's quality control systems.**

The Board not only proposes to rely on non-U.S. oversight entities to conduct inspections of foreign audit firms, it proposes to rely on them to remediate any quality control defects identified by those inspections. As the Board notes in footnote 15 of the proposed Policy Statement, "barring exceptional circumstances, the PCAOB expects to rely on the non-U.S. oversight entity's remediation determination."[29] Moreover, the Board would encourage discussions about remediation efforts to occur between the audit firm and the non-U.S. oversight entity without any apparent involvement on its part. As the Board notes in footnote 14 of the Policy Statement, "the PCAOB would request that the firm route its

[27] PCAOB Report No. 2007-011, p. A1-8-Policy Statement.
[28] Ibid., p. A1-15-Policy Statement.
[29] Ibid., p. A1-13-Policy Statement.

comments on the report to the PCAOB through the non-U.S. oversight entity."[30] In other words, even where inspections turn up potentially serious problems that could pose real risks to investors in U.S. public companies, the Board proposes to maintain its hands-off approach, taking no active role in most cases in ensuring that those problems are corrected.

* * *

If, against our strong opposition, the Board insists on moving forward with its full-reliance proposal, it must at least insist in direct involvement in any effort to remediate any quality control defects identified in inspection reports to ensure that they are addressed in a way that provides adequate protection to U.S. investors.

V. Conclusion

When Congress adopted the Sarbanes-Oxley Act, it took a clear stand that foreign audit firms involved in providing audit services to U.S. public companies should be regulated in the same manner and to the same extent as U.S. audit firms. It took that position in the face of strong opposition, because it felt that the failure to do so would open up an unacceptable loophole in the investor protections provided by the Act. Among the central responsibilities it imposed on the new regulatory board it established was the obligation to inspect registered firms and issue written reports on its findings based on those inspections.

Now the PCAOB is proposing to renege on its obligation to inspect foreign audit firms and to rely instead on non-U.S. oversight entities to fulfill that function. It is doing so without providing any evidence that this change, which clearly violates the spirit of the Sarbanes-Oxley Act, is needed. Nor has it provided any evidence that non-U.S. oversight entities are equipped to fulfill that responsibility. On the contrary, in statements at the open meeting at which the Board voted to release the proposed Policy Statement, two members of the Board raised serious questions about whether this was the case. Mr. Niemeier, who opposed proceeding with the proposal, suggested that foreign audit oversight bodies typically lack both the funding and the authority granted the PCAOB. While he supported the proposal, Board Member Bill Gradison raised questions about whether foreign regulators were equipped to enforce compliance with U.S. standards with which they may not be familiar. He further suggested that decisions to grant full reliance are likely to be relatively infrequent. We see nothing in the proposal, however, to back that assumption, nor do we believe that it is a view shared by non-U.S. oversight entities hoping to capitalize on this change of policy.

Without evidence that a change in policy is needed, we believe the Board should reject this proposal on the grounds that it violates the spirit, and perhaps the letter, of the Sarbanes-Oxley Act. At the very least, the Board show slow its rush to approval and provide the documentation needed to show that its proposal is warranted and that its previously expressed concerns that such an approach would not be in investors' interest are no longer valid. Only after it has provided that analysis and submitted it for public comment should the Board resume its consideration of the proposal. Should it decide, against our strong

[30] Ibid., p. A1-12-Policy Statement.

opposition, to proceed with this proposal, the Board should at the very least strengthen key provisions. Only by doing so can it live up to its promise of providing a system that ensures the same level of protection accorded investors by the Sarbanes-Oxley Act. We frankly do not believe that goal is attainable, at least not at this time. We know that this proposal does not achieve it.

Respectfully submitted,

Barbara Roper
Director of Investor Protection

cc: PCAOB Chairman Mark W. Olson
PCAOB Board Member Daniel L. Goelzer
PCAOB Board Member Bill Gradison
PCAOB Board Member Charles D. Niemeier
SEC Chairman Christopher Cox
SEC Commissioner Paul S. Atkins
SEC Commissioner Kathleen L. Casey
Senate Banking Committee Chairman Christopher J. Dodd
Senate Banking Committee Ranking Member Richard C. Shelby
Senate Securities Subcommittee Chairman Jack Reed
Senate Securities Subcommittee Ranking Member Wayne Allard
House Financial Services Committee Chairman Barney Frank
House Financial Services Committee Ranking Member Spencer Bachus
House Capital Markets Subcommittee Chairman Paul E. Kanjorski
House Capital Markets Subcommittee Ranking Member Deborah Pryce

LE PRÉSIDENT
By mail and electronic means
(comments@pcaobus.org)

Mr J.Gordon SEYMOUR
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February 29, 2008

RE: PCAOB Release N°.2007-010
CNCC Comments on proposed policy statement, Guidance regarding implementation of PCAOB rule 4012.

Dear Mr Seymour,

The Compagnie Nationale des Commissaires aux Comptes (CNCC) is pleased to have an opportunity to comment on the PCAOB proposed policy statement regarding the implementation of PCAOB rule 4012.

CNCC is a body recognized by law which gathers all French statutory auditors. Therefore we are happy to comment on the proposals which are made in the policy statement because it will affect the oversight of the firms registered with the PCAOB.

In our response, we will provide a number of general comments and we will also respond to the questions asked by the PCAOB.

General comments

We welcome and are supportive of the proposed objectives of the PCAOB such as:

- Increasing the level of reliance on independent audit oversight entities located in the home countries of registered non-U.S. audit firms;

- Moving gradually toward a full reliance on a non-U.S. oversight entity;

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- Providing additional guidance to non-U.S. oversight entities regarding the implementation of rule 4012;

- Avoiding to apply a "check the box approach" and retain discretion to evaluate each oversight entity based on overarching principles.

The alternative to such an approach would be that not only PCAOB but also inspectors from third countries oversight authorities might carry out inspections worldwide and would certainly not be in the interest of any capital market participants, nor the oversight bodies themselves and therefore would not enhance audit quality.

Whilst we believe that the initiative of the PCAOB is a significant step forward in the right direction, we have a number of serious concerns about the draft policy statement and questions whether the proposed objectives will be achieved.

Regarding the concept of full reliance, we would like to draw your attention on certain impediments which will affect the proposed approach. It is the case for the Board's potential involvement even in circumstances where full reliance, as described in the policy statement is considered appropriate. If we fully recognize that the PCAOB, in accordance with the Sarbanes-Oxley act of 2002 and its own rules, has to take steps to insure the effectiveness of non-U.S. oversight systems before it can be in a position to grant full reliance to another oversight body. We also believe that direct involvement of PCAOB inspectors in the oversight of foreign audit firms, particularly by means of joint inspections should be normally considered as an initial step and limited to a transitional period.

Therefore, in our view, once the PCAOB has gained sufficient confidence as to the effectiveness of a said oversight system within an initial period, there should be accordingly no need for the Board's direct continuing long term involvement in individual inspections. More over we are concerned that the policy statement does not clearly state that once the PCAOB will be satisfied with the structure and operating procedures of a foreign oversight system, it will "fully" rely on that system.
When full reliance is achieved, we believe that the PCAOB should restrict its involvement only to monitoring activities. After the transition period and provided full reliance is achieved, this should exclude in our view: "interviewing key firm personnel or reviewing portions of the firm's audit working papers" as described on page A-1-8 as part of the "observations measures".

More broadly, we strongly believe that in addition or instead of the proposed measures of the policy statement, several measures might contribute and enable the PCAOB to gain confidence in the various European oversight systems: for instance, a continued and enhanced dialogue with European regulators such as the E.U commission and other appropriate regulatory bodies such as the recently created International forum of independent audit regulators. Finally, we reiterate that joint inspection in any case should be limited to a certain transition period. Moreover we think that the PCAOB involvement should not go beyond the

remit of the non-U.S. oversight system accordingly once the PCAOB has gained sufficient confidence regarding the effectiveness of non-U.S. oversight systems within an initial period there should not be continuing long term need for the Board's direct involvement in individual inspections.

Concerning the criteria related to full reliance, it should not be ignored that oversight systems outside of the United States may vary substantially from the PCAOB oversight system and rules, essentially because they are subject to different legal system and rules. In our opinion, the policy statement does not sufficiently recognize this, and it gives the impression that reliance would exclusively depend on system's similarity to the PCAOB's own oversight system. We also want to highlight that although the statutory audit directive which is currently implemented in the various member states in Europe has a significant number of common aims with the PCAOB rules, it consists of a set of principle-based requirements, but it also provides in the meantime a certain degree of flexibility regarding the way those principles and requirement should be complied with. This principle based-approach seems to be ignored in this proposed policy statement. Therefore we support and would welcome any step toward means which would permit a constructive evaluation of a said oversight system instead of merely considering to what extent it mirrors the details of the U.S. rules.

We also want to draw your attention on potential conflicts with non U.S. law. First of all, we would like to remind you that the French auditing firms, currently registered in the PCAOB, have officially stated that they were prepared to comply with all PCAOB rules under an explicit reservation (legal opinion) related to professional secrecy, confidentiality and data protection. In France, the disclosure of information obtained during the performance of an audit to any third party is severely restricted, and any breach of the law in this respect may entail criminal sanctions for the auditors.

Secondly, one can not ignore that given the limited number of clients of the French auditing firms which are U.S. registrants, in case of disclosure of information, the name of the client could be easily recognized particularly in the case of the individual specific inspection report.

The potential consequences of such situation may create some reluctance of companies to provide to the auditors certain types of information. Such situation should be avoided mainly because it will be detrimental to audit quality. Accordingly we believe that reliance on the effectiveness and the efficiency of an oversight system meeting all the requirements provided by the statutory audit directive in Europe would allow the PCAOB to respect the sovereignty of third countries and the right to oversee audit firms in their domestic market. It would also preclude potential legal conflicts which may arise.

We also believe that the PCAOB should clarify that the involvement in joint inspections will relate only to the specific audits of U.S. issuers, and that the subsidiaries are not comprised in the scope of the policy statement.

We have noted that whilst the proposed policy statement contains a number of requirements which should apply to non U.S. oversight systems, there are very few indications regarding measures the PCAOB itself intends to take in order to achieve an effective cooperation between the other oversight systems.

For instance there are no details concerning the nature and scope of information that PCAOB inspectors may wish to have access regarding foreign registered audit firms. Therefore we think that it would be very useful to provide information on the use and limitation to which such information may be applied.

Responses to the questions raised by the PCAOB

1. *If a non –U.S. auditor oversight entity meets the essential criteria set forth in the proposed Policy Statement, are there reasons why the Board should not increase its level of reliance on inspections conducted by such an independent non-U.S oversight entity ? What are the benefits and costs of full reliance?*

As we have explained above, avoiding duplication of inspections is in the interest of the regulators and the profession and therefore convergence based on mutual recognition should be the ultimate goal. It seems that the concept of full reliance is or will be effective provided that the proposed policy statement clearly envisages a continued involvement in planning, reporting, observing inspections.

In this respect, we believe that convergence and mutual recognition are the key elements to be considered. For example, the Forum of independent audit regulators should play an essential role in this respect. Regulators within and outside E.U. should cooperate and take appropriate steps to ensure that oversight regimes are equivalent in terms of quality and effectiveness.

In our view, full reliance should include:

- Cost savings for oversight bodies and audit firms through the elimination of duplication of inspections;
- Increased opportunities to expand the focus of inspections on audit quality thereby better protecting investors;
- Avoid efforts to resolve legal conflicts for oversight bodies, companies and audit firms by recognising the sovereignty of third countries and their right to oversee audit firms in their domestic markets.

2. *Are the essential criteria set forth in section III.C. of the Policy Statement appropriate? Are there additional factors that should be considered? Should the criteria be modified in any way?*

We fear that, in spite of the intention to avoid a "check the box" approach, the combination of "essential criteria" with the key principles will end-up with some sort of tick boxing exercise in the assessment of third country's oversight system.

We believe that when assessing a third country oversight system, the PCAOB should use a principle-based approach, namely the five "key principles" using the essential criteria as general but not absolute factors of acceptance. If PCAOB wants effectively to avoid the "check the box" approach, a certain degree of flexibility should be introduced in the assessment process.

Regarding the essential criteria we should like to make the following comments:

Principle 1: Adequacy and integrity of the non –U.S. System:

Essential criteria 5:

We would believe useful to clarify the term "expertise", which foreign oversight bodies should have. For obvious reasons, these criterion should not lead to a situation where a foreign auditor oversight body would need to provide evidence. We strongly believe that expertise should not go beyond a certain knowledge of US legislation and standards.

Essential criteria 8:

As we explained in our general comments above, the requirement to give to the PCAOB access rights to documents and information relevant to inspections does not sufficiently recognize that conflicts of law and impediments may arise.

Principle 2: Independence of the non-U.S System:

Essential criteria 1 and 2:

Whilst we agree in principle with the aim of this provision, we would like to stress that the statutory audit directive emphasizes competence in accounting and auditing of the individuals, and therefore, we would not exclude that practitioners can add serious value to an oversight system as long as the overall independence of the oversight system is guaranteed by a majority of non-practitioners.

Principle 4 : Transparency of Non-U.S Systems:

Essential criteria 3(b):

We believe that conceptually, the publication of the results of individual inspections can be seriously questioned. We do not believe that detailed findings resulting from inspections are always suitable for a wider and public distribution. We agree that public disclosure of the key

elements of inspection is essential to audit quality and confidence of the capital markets. But there is always a serious risk that the various stakeholders will draw unjustified conclusions above the overall quality provided by an audit firm; In addition as we have explained earlier, the risk to disclose confidential information which could be detrimental to the audited entity should not be ignored. We also draw your attention on a specificity of our legislative framework, dealing with audit regulation : in France, all public-listed companies are subject to joint audit. In practical terms, it means that two different auditing firms are appointed as auditors. We would like to ensure that this specificity will be recognised and duly addressed.

Principle 5: Historical performance

Essential criteria 1:

We support that the Board should provide guidance and clarification concerning the word "more mature". It should be recognised that many oversight systems around the world are currently or have been subject to significant change.

Essential criteria 2:

We also believe that any assessment on whether a sanction is "appropriate" should be solely for the relevant Non-U.S. oversight body to decide.

We would be pleased to further discuss any aspect of this letter you may wish to raise with us.

Yours sincerely

Vincent Baillot
President of CNCC

Yves Nicolas
President of Public Issue Department

AFM

Confidential
PCAOB
Office of the Secretary
1666 K Street, N.W.
Washington, D.C. 20006-2803
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Date	March 4, 2008
Our reference	TA-JFPo-08020963
Page	1 of 3
Phone	+31 (0)20 - 79 72 848
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Concerning	Comment on proposed policy statement: guidance regarding implementation of PCAOB rule 4012

Dear Sir, Madam,

Herewith we send you the comments of the Netherlands Authority for the Financial Markets (AFM) on the proposed policy statement: guidance regarding implementation of PCAOB rule 4012.

In general we support the framework set forth in Rule 4012: the more independent and rigorous the home-country oversight system, the greater the PCAOB's reliance on that system. Within the European Union a similar framework is applicable by virtue of Directive 2006/43/EC of the European Parliament and of the Council of 17 May 2006 on statutory audits of annual accounts and consolidated accountants (OJ EU L 157) (hereinafter: "European directive"). Member States of the European Union shall subject registered third-country audit entities to their systems of oversight, their quality assurance systems and their systems of investigation and penalties. A Member State may exempt a registered third country audit entity from being subject to its system if a third country's system has been assessed as *equivalent*.

We support that the PCAOB will rely upon a non-U.S. oversight entity to plan the inspection and carry out the inspection field work. In this respect we consider the principle of mutual recognition and reciprocity ("*reciprocity*") as a prerequisite for cooperation. The PCAOB, however, decided not to adopt an approach of mutual recognition whereby the PCAOB would defer entirely to non-U.S. oversight entities' inspections, investigations and sanctions of registered non-U.S. firms. In our opinion cooperation should also comprise inspections, investigations and enforcement in order to actually achieve "full reliance". As the principle of reciprocity is common in other areas of cooperation in financial oversight, we think that a comprehensive system of home-country oversight, provided that certain criteria have been met, are in the best interest of investors and financial markets.

Principles-based vs rules-based
We support the principles-based approach in PCAOB rule 4012. We consider the five principles on which the rule is based as useful. However, the criteria that underlie some of the principles of the proposed policy statement seem to have a more rule-based character and conflict with principles and provisions as per the European directive. As you will be aware, this directive sets the framework for the AFM for cooperation with competent authorities from third countries, such as the PCAOB. We strongly recommend that the criteria are redrafted in a more principles-based manner in a way the PCAOB is able to rely on the *home country regulation* by the non-U.S. oversight systems. Now these criteria seem to impose rules on the non-U.S. oversight system and therefore are conflicting with a principles-based approach of requirements for full reliance. A principles-based approach towards full reliance should not mean that the non-U.S. oversight system is more or less identical. It should be sufficient that the non-U.S.-system and the U.S.-system have similar objectives e.g. with regard to the transparency of the system (we refer to our comments below).

Inspections
We understand that the PCAOB – prior to concluding that any non-U.S. oversight system is eligible for full reliance – will have had a substantial dialogue with the non-U.S. oversight entities and become familiar with its structure, operations and approach to inspections. From this point of view we see as yet no objections in PCAOB inspectors incidentally accompanying the AFM inspection team in the Netherlands to audit firms that have activities which are related to audits of companies which have issued securities in the U.S. or which form part of a group issuing statutory consolidated accounts in the U.S. However, reciprocity must be taken into account i.e. that AFM-inspectors may also visit the U.S. in order to become familiar with the structure, operations and approach of inspections of the PCAOB.

Transparency of the non-U.S. oversight system
We support the view that inspections of audits and audit firms are necessary in order to increase the quality of audits and audit firms and the public trust in audits. Our views on reporting on these inspections in order to increase audit quality and public confidence in auditing differ from the views expressed in the policy statement. By virtue of European and Dutch law it is not necessary - and possible - to publish individual inspection reports. However, the AFM has legal powers of supervision and enforcement that serve the same goal and will lead to publication whenever deemed necessary. For example, the AFM may issue a public warning, where necessary stating the reasons for that warning, in case an audit entity does not comply with the requirements for registration. Furthermore the AFM shall make public an order to impose a penalty; if protection of the interests of guaranteeing the public function of the audit report and promoting confidence in the financial markets requires immediate action, the AFM may make this public without delay. Thus, although the systems in the U.S. and the Netherlands may differ, we are of the opinion that both systems are transparent and contribute to the *same objective* of increasing the quality of audits and audit firms.

Confidentiality and professional secrecy
The PCAOB will rely on the non-U.S. oversight entity to assess the firm's efforts after receipt of an inspection report to address any criticisms of or potential defects in its quality control system. By virtue of the European directive a transfer to the PCAOB of confidential data or information originating from auditors or audit firms is

AFM

allowed, provided that such information is protected at least by the same obligations of *confidentiality and professional secrecy* as would apply to the AFM. Moreover, the principle of reciprocity requires in all circumstances the mutual transfer of confidential data or information between the AFM and the PCAOB, i.e. that the PCAOB will transfer data to the AFM on the request of the AFM.

Concluding
Under the condition of mutual recognition and the respect of the principles of confidentiality and professional secrecy we look forward to establish a cooperative arrangement with the PCAOB.

Please do not hesitate to contact us if you have any questions on the above. We kindly ask you to consider our concerns as noted above, and we look forward to a constructive cooperation with the PCAOB.

Yours sincerely,
Netherlands Authority for the Financial Markets

Hans Hoogervorst
Chairman of the Executive Board

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March 4, 2008

Office of the Secretary
Public Company Accounting Oversight Board
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Washington, D.C. 20006-2803

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 policy statement, *Guidance Regarding Implementation of PCAOB Rule 4012* ("the Policy Statement"). 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 Policy Statement because it has determined "it is appropriate now to increase its level of reliance on non-U.S. oversight systems where possible." Pub. Co. Acct. Oversight Bd., PCAOB Issues for Comment Proposed Guidance Regarding the Implementation of PCAOB Rule 4012 (Inspections of Foreign Registered Public Accounting Firms) (2007). We support the Board's objective and believe that, in a world of cross-border markets and investors, regulatory cooperation helps reinforce audit quality globally. We also agree with the key principles set forth in Rule 4012 and believe they establish a useful framework for reliance. We do, however, have some concerns with the essential criteria set forth in the proposed Policy Statement, and believe in some cases they may impede rather than facilitate increased reliance on non-U.S. regulators.

1. Overview of the Proposal and Relevant Regulatory Considerations

The proposed Policy Statement is being issued against the backdrop of several years of inspections conducted by the PCAOB outside of the United States, including many inspections of non-U.S. member firms of EYG. In jurisdictions where regulatory regimes are well established, the local responsibilities and capabilities are quite clear and, in our experience, the PCAOB's involvement results in some duplicative effort and added cost. In view of increasing globalization, the creation of independent audit oversight regulators around the world, and the existence of local legal impediments such as privacy and confidentiality laws, the PCAOB's reliance on non-U.S. regulators is the only practical solution to the substantial financial and other obstacles that exist to

broad-scale foreign inspections being conducted by the PCAOB. Moreover, in our view, reliance and regulatory cooperation will promote consistent global oversight, leave fewer regulatory gaps, and enable the PCAOB to allocate its resources to other matters, thereby benefiting U.S. investors. For these reasons, the PCAOB's proposal is timely and necessary.

The proposed Policy Statement is particularly timely in view of the significant regulatory developments in the last couple of years. For example, the movement towards convergence of accounting standards is a significant global development supporting the need for increased regulatory cooperation. The SEC last year voted unanimously to allow foreign issuers to file their financial statements with the SEC using the International Financial Reporting Standards, or IFRS, as issued by the International Accounting Standards Board ("IASB"). Accordingly, SEC foreign private issuers ("FPIs") who prepare their financial statements based on IFRS as issued by the IASB no longer need to perform a U.S. GAAP reconciliation.

The establishment in September 2006 of the International Forum of Independent Audit Regulators ("IFIAR") is also significant. Regulators in 22 countries, including the PCAOB, are members of IFIAR. The organization's goal is to "share knowledge of the audit market environment and practical experience of independent audit regulatory activity," to "promote collaboration in regulatory activity," and to "provide a focus for contacts with other international organizations which have an interest in audit quality." Int'l F. of Indep. Audit Regulators, http://www.ifiar.org. Thus, there is now an international body in which cooperation can be fostered and improved inspection processes can be agreed upon. IFIAR is a forum for the PCAOB and other audit firm regulators to get to know one another, to learn about and understand each other's practices, and to develop common approaches to regulatory cooperation and oversight.

These are all welcome steps that signal the inter-connectedness between the U.S. and global markets. They show that go-it-alone approaches should give way to global cooperation to the fullest extent possible, consistent with investor protection and U.S. statutory requirements.

We support the PCAOB's conclusion to retain a principles-based approach to reliance. The proposed Policy Statement states that the Board "is not changing the principles-based approach of Rule 4012 and will continue to look at the whole of every system when conducting an assessment." Guidance Regarding Implementation of PCAOB Rule 4012, at A1-8 (proposed Dec. 5, 2007). We believe this approach will facilitate cooperation among global regulators who operate within a variety of different oversight systems while protecting investors. The U.S. oversight model is very much a function of the number of issuers and size of market that exists in the United States. Other countries have taken different approaches that they have concluded are appropriate for their particular circumstances. We encourage the PCAOB to maintain flexibility in assessing foreign regulatory regimes and recognize that the principles of Rule 4012 may be effectively satisfied in various ways. We believe that, within the statutory requirements of the Sarbanes-Oxley Act, the essential criteria should be treated not as a checklist of prerequisites for reliance, but, rather, as factors the PCAOB will consider within the "sliding scale" reliance framework established by Rule 4012.

We are concerned, however, that some of the proposed essential criteria would be difficult if not impossible for many non-U.S. audit regulators to meet, even though the underlying principle could still be satisfied. One example is the requirement for joint inspections to take place before full reliance can take effect, even where the PCAOB otherwise concludes that the foreign regulator is "eligible" for full reliance. We recognize that the PCAOB needs to understand and be satisfied with the non-U.S. regulator's oversight approach and processes before it grants full reliance. However, laws in certain jurisdictions prohibit joint inspections, and joint inspections are only one way to determine whether the non-U.S. regulator's processes are effective. Furthermore, the requirement for joint inspections and the long list of essential criteria suggest it could take many years before the PCAOB would be in a position to rely fully on the inspections conducted by foreign regulators.

2. Questions in the Release

1. *If a non-U.S. auditor oversight entity meets the essential criteria set forth in the proposed Policy Statement, are there reasons why the Board should not increase its level of reliance on inspections conducted by such an independent non-U.S. oversight entity? What are the benefits and costs of full reliance?*

If a non-U.S. oversight entity is broadly compliant with the essential criteria, the Board should indeed fully rely on inspections conducted by that non-U.S. regulator. The benefits of full reliance to the PCAOB and the non-U.S. regulator would be significant: cost savings, greater efficiency and less duplication of efforts, avoidance of conflict of law problems, and increased international cooperation. Increased reliance also would benefit U.S. and foreign investors. It would encourage investors to look more to home country regulators for protection and promote harmonized regulatory approaches that are more efficient and less confusing. The registered firms also would benefit from the increased efficiency of having one regulator conducting the inspection.

2. *Are the essential criteria set forth in section III.C of the Policy Statement appropriate? Are there additional factors that should be considered? Should the criteria be modified in any way?*

3. *Would meeting the essential criteria set forth in section III.C. – along with a satisfactory on-site assessment by the Board of the entity's inspection practices through a period of joint inspections – provide sufficient assurance that the oversight entity's inspection program merits full reliance?*

First, as noted above, we do not believe full reliance should be predicated on compliance with each of the proposed essential criteria. The PCAOB should adopt a principles- and risk-based approach coupled with the use of judgment in making determinations as to whether full reliance is

appropriate. Essential criteria should be treated as relevant factors in making this determination, along with other considerations such as the number and size of FPIs in a particular jurisdiction. For example, the PCAOB should more readily place full reliance on regulators in countries where the firm or firms to be inspected audit a small number of relatively small FPIs having few U.S. investors, in contrast to jurisdictions with many FPIs with significant numbers of U.S. investors.

Second, we do not believe joint inspections should be required for full reliance initially or to maintain such reliance over time, as the PCAOB could satisfy itself as to the quality of the non-U.S. regulator's oversight approach and inspection processes in alternative ways. In this regard, it is also unclear whether the PCAOB would seek to reassess a "full reliance" decision on a periodic basis – e.g., every three years or some other interval. It would seem appropriate that this analysis be a dynamic process, with periodic reassessments.

4. *The Board has carefully balanced the requirements of the Act and those of non-U.S. jurisdictions (including laws related to data protection, confidentiality and other important legal requirements). Are there additional differences between U.S. and non-U.S. auditor oversight regimes that should be considered? Would those differences suggest greater or less reliance?*

We address these issues in our discussion below on the essential criteria.

5. *As described in section III.B. of the Policy Statement, does the Policy Statement establish the appropriate nature and level of reliance?*

The Policy Statement explains its objective as being "full reliance." It states that even with full reliance the Board may be involved in "a range of activities" by the foreign regulator. These may include a "request to accompany the non-U.S. inspection team to the audit firm for interviews with key firm personnel," or a "request that the non-U.S. oversight entity allow PCAOB inspectors to review portions of the firm's audit work papers." Guidance Regarding Implementation of PCAOB Rule 4012, at A1-8 (proposed Dec. 5, 2007). While we agree that in some cases this level of involvement may be appropriate, it does not strike us as reflecting "full reliance." We urge the PCAOB to limit the scale of its activities where possible, thus truly relying on the foreign regulator. We do believe, however, that the foreign regulator generally should consult with the PCAOB regarding particular issuers whose audits might be selected for review by the non-U.S. inspection team and key issues that emerge during the course of the inspection, thus giving the PCAOB the opportunity to observe and, to the extent it believes necessary, increase its level of involvement.

Will the proposed approach adequately protect the interests of investors in U.S. issuers audited by non-U.S. audit firms?

Again, greater reliance by the PCAOB on non-U.S. regulators will enhance investor protection within the U.S. because reliance and regulatory cooperation will lead to improved global oversight. In addition, it will enable the PCAOB to utilize its resources more efficiently. For example, European Commission statistics show that the trading volume in the U.S. of the securities of FPIs located within the European Union is on average only about 2.5 percent of the trading volume within the issuer's European home market. This suggests that the investor protection interest with respect to FPIs located in the EU lies more directly with the non-U.S. regulators.

3. Comments on the Essential Criteria

Principle 1 - Adequacy and Integrity of the Non-U.S. System:

EC 4 – *The non-U.S. oversight system, including its inspections unit, must have adequate funding and sufficient staff given the size of the relevant capital market and the oversight entity's mandate.*

We agree that the non-U.S. regulator must have adequate funding and sufficient staff, given the size of the market and the entity's mandate. Funding should be adequate for the regulator to be an active and engaged regulator within the context of local market conditions. Many markets are small and very few warrant or could afford the size of staff that the PCAOB employs. Indeed, for this very reason, as noted further in our discussion under Principle 2, we urge the PCAOB to make clear that the foreign regulator may rely on outside persons, who are not full-time employees of the regulator, to assist in the conduct of the inspections, provided they perform such inspections under the full supervision of the foreign regulator and do not participate in inspections of their own firm.

EC8 – *The PCAOB must be given access, either by non-U.S. oversight entity or by the PCAOB registered firm under inspection, to information and documents relevant to the inspection and oversight of the PCAOB registered firm.*

We agree that the PCAOB should be given access by the non-U.S. regulator to relevant information and documents. Global regulatory cooperation clearly depends on the ability of the regulator to exchange, and keep confidential, important and sensitive information. Therefore, the PCAOB will need to be able to ensure that it can keep confidential any information that it receives from a foreign regulator. Also, because reciprocity is usually a prerequisite to a foreign regulator's willingness to share information, the PCAOB will need to have the authority, currently prohibited by Section 105(b)(5) of the Sarbanes-Oxley Act, to share information with its non-U.S.

counterparts, provided there are adequate confidentiality protections in place. Finally, while we support the concept of the exchange of information between regulators, requests for underlying confidential information or documents should be made only when absolutely necessary to better understand the issues raised by the non-U.S. regulator. This is particularly important in view of legal impediments to the sharing of such information that exist in many countries. In the EU, for example, regulators who disclose information to third parties may face criminal penalties.

EC10 – *The PCAOB must be given access to the non-U.S. oversight entity's written report to the firm of the oversight entity's inspection findings covering both its review of selected U.S. public company audit engagements and the firm's internal quality control system. The report to the firm should describe issues identified through the course of reviewing the firm's performance on selected U.S. public company audit engagements, such as apparent departures from applicable auditing standards, related attestation standards, ethical standards, independence standards, and the firm's own quality control policies and procedures. The report also should describe any criticisms of or potential defects in the firm's quality control systems.*

The PCAOB may be able to work out arrangements with its foreign counterparts to obtain access to their written reports, but confidentiality laws may pose impediments. Also, foreign regulators likely will insist upon reciprocity in this regard, yet Section 105(b)(5) of the Sarbanes-Oxley Act poses a barrier to information-sharing. Accordingly, it is not clear whether EC 10 can be satisfied by physically sharing reports in many instances. Because we agree the PCAOB should have access to the detailed inspection results pertaining to U.S. issuer audits, the essential criteria can be achieved in alternative ways. For example, the PCAOB might obtain an oral or written summary of the report's findings and conclusions to supplement the PCAOB's understanding of the details of the inspection.

EC11b – *The non-U.S. oversight entity must have a process for assessing whether a firm has addressed any criticisms of or potential defects in the firm's quality control systems identified in the firm's inspection report.*

* * *

b. In the event that it is determined that the firm has not sufficiently addressed such criticisms or potential defects, the non-U.S. oversight entity must agree not to object to the PCAOB publicly disclosing the criticisms of or potential defects in the firm's quality control systems in order for the PCAOB to meet its statutory obligations.

We agree that the non-U.S. regulator must have a process for assessing whether a firm has addressed any criticisms of or potential defects in its quality control systems. In our view, the PCAOB should consider the totality of the non-U.S. regulator's oversight model to determine the effectiveness of its ability to have inspected firms address such criticisms or potential defects in a timely manner in order to achieve full reliance, regardless of the reporting model employed. In

the event it is determined that a firm has not sufficiently and in a timely manner addressed such criticisms or potential defects, the non-U.S. regulator should agree not to object to the PCAOB publicly disclosing the criticisms of or potential defects in the firm's quality control systems to the extent they pertain to audits under the PCAOB's jurisdiction.

Principle 2 – Independence of the Non-U.S. System:

EC 4 – *The non-U.S. system's inspections staff must be comprised of persons who are not practicing auditors or affiliated with an audit firm and must, in performance of its inspections and reporting duties, be directly accountable to the management and/or governing body of the non-U.S. oversight entity.*

While we fully support the principle of independence, we do not believe EC 4 should be a prerequisite for full reliance nor do we believe it is realistic. In many jurisdictions outside the United States, the markets are small and it simply would be unrealistic to expect the local regulator to hire sufficient numbers of full-time staff to perform the inspections in a fashion similar to what the PCAOB itself has done. Experienced and adequately trained persons are often not available to be hired by the foreign regulator, and the resources might not be available to house them and pay them full-time salaries. In addition, inspectors need to be highly knowledgeable, qualified, experienced, and up to date in the standards and requirements. The use of expert practitioners who are fully supervised by an independent authority would in many jurisdictions be the best way to accomplish inspections that are both high quality and independently performed.[1] We urge that, instead of EC 4, the PCAOB require that persons who oversee the work of the inspections staff not be affiliated with an audit firm, but that the requirement not extend to those whom they supervise.

EC 6 –*The day-to-day operations of the non-U.S. oversight entity must be conducted without the approval of or consultation with anyone who is a practicing auditor or affiliated with an audit firm.*

We agree the top officials of the non-U.S. regulatory body should not be, in the majority, practicing auditors or affiliated with an auditing firm, and the day-to-day activities should not be supervised by practicing auditors. However, in its day-to day activities, the non-U.S. regulator should be entitled to consult with practitioners who are affiliated with an audit firm to benefit from their insights and experience, and to remain current and informed on emerging issues and

[1] We note that, under Principle 8 of the IOSCO Objectives and Principles of Securities Regulation, a securities regulator is permitted to "outsource" inspections of regulated entities, provided that it supervises the outsourced functions, has full access to information obtained by the inspectors, can modify or make improvements in the inspectors' processes, and the inspectors are subject to disclosure and confidentiality requirements comparable to those of the regulator.

practices. We do not believe that consultation in and of itself poses a conflict of interest or impairs independence.

Principle 3 – Source of the Non-U.S. System's Funding:

EC 2 – *While funding may be provided by members of the audit profession, the obligation to provide funding must be mandatory and required to be paid on a timely basis.*

We do not have comments specific to Principle 3, other than to reiterate our belief that the essential criteria should be treated as factors rather than requirements. For example, we understand the objectives of EC 2, but believe there are alternative approaches to ensuring that funding is secure and free from undue or inappropriate influences.

Principle 4 – Transparency of the Non-U.S. System:

EC 3 – *The non-U.S. oversight entity must either issue public inspection reports on individual firms or agree not to object to the PCAOB issuing such reports based on information from the non-U.S. oversight entity's inspections.*

* * *

(b) Non-U.S. oversight entity does not issue public inspection reports on individual firms: If the non-U.S. oversight entity does not issue public inspection reports for individual firms, it must agree not to object to the PCAOB issuing a public inspection report that identifies the firm inspected and provides a summary of any major deficiencies identified related to the review of selected U.S. public company audit engagements where it appears that the firm did not obtain sufficient competent evidential matter to support its opinion(s). The PCAOB will consult with the non-U.S. oversight entity about the content of such report.

EC 4 – *In the event of non-remediation by the registered non-U.S. firm, the non-U.S. oversight entity must agree not to object to the PCAOB publicly disclosing the criticisms of and/or potential defects in the firm's quality control systems as set forth under Principle 1, Point 11.b above.*

We do not believe the PCAOB should expect non-U.S. regulators to adopt a PCAOB-type reporting model to achieve full reliance. Non-U.S. regulators have adopted reporting models that they believe are appropriate in their circumstances and in their public's interest. There are many different reporting models that can be employed to fulfill the objectives of effective audit firm oversight and serve the public interest. For example, a foreign regulator's report could focus on a firm's quality control system as opposed to technical deficiencies relating to specific audits. However, as indicated above, we agree that the non-U.S. regulator must have a process for

assessing whether a firm has addressed any criticisms of or potential defects in its quality control systems. We also agree that, in the event it is determined that a firm has not sufficiently and in a timely manner addressed such criticisms or potential defects, the non-U.S. regulator should agree not to object to the PCAOB publicly disclosing them to the extent they pertain to audits under the PCAOB's jurisdiction.

Principle 5 – Historical Performance

EC 1 – *More mature non-U.S. systems must have a record of investigating allegations of misconduct and, where appropriate, pursuing enforcement or disciplinary proceedings.*

We believe the purpose of this Principle should be to determine whether the non-U.S. regulator is an active and engaged regulator. There may in fact be no or very few allegations of misconduct in a particular jurisdiction to develop such a record and, therefore, the PCAOB should not insist that a non-U.S. regulator have a record of investigating allegations of misconduct and pursuing enforcement or disciplinary proceedings. There are other ways for the non-U.S. regulator to demonstrate its seriousness, including through discussions and experiences in IFIAR.

In addition, we suggest that the PCAOB provide some clarity as to the meaning of "more mature." It would be better, and perhaps less offensive to foreign regulators, to use a word or phrase that refers to broader characteristics such as the length of time in existence, sufficiency of resource issues and history of achievement.

EC 2 – *Where enforcement or disciplinary proceedings have been successful, the non-U.S. system must have imposed sanctions that were appropriate under the circumstances and the system's governing laws.*

We urge the PCAOB not to engage in significant re-thinking of a non-U.S. regulator's decisions as to what sanctions might be appropriate under particular circumstances, but rather focus on the overall effectiveness of the regulator's enforcement and disciplinary processes.

* * *

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, Richard Miller at 216-583-2071, or Tom Riesenberg at 202-327-7605.

Sincerely,

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Our ref hpa/dlg/181

4 March 2008

Dear Sir or Madam

PCAOB Proposed Policy Statement: Guidance regarding Implementation of PCAOB Rule 4012 (PCAOB Release No. 2007-011 of 5 December 2007)

We very much welcome the opportunity to comment on the Board's proposed policy statement on behalf of KPMG International, the network of KPMG member firms. KPMG acknowledges the Board's mission to protect U.S. investors and the U.S. capital markets and the strong support of the Board for closer international cooperation among oversight bodies. There are 49 KPMG member firms from outside the United States that are registered with the PCAOB, of which 38 registrants have requested home country reliance under Rule 4011.

KPMG has always supported robust oversight based on international cooperation and home country control principle where an audit firm is subject to a single regulatory framework, led by the independent home country regulator, that works with and shares relevant information on methodologies and outcomes with other regulators that have a relevant interest, but who place full reliance on that home country regulator. Therefore, we believe the broad thrust of the policy statement is very much a step in the right direction toward regulators around the globe operating within a home country-led framework supported by shared protocols, thus avoiding multiple and overlapping inspections.

While we broadly support the proposed policy statement, there are some points of detail on which we respectfully request the PCAOB to reflect.

KPMG strongly supports the Board's goal of closer international cooperation among oversight bodies. We believe that the International Forum of Independent Audit Regulators (IFIAR) is the right platform for discussion of further convergence of oversight systems and on promoting best practice in inspections. As in the United States, the EU, Canada, Japan and Switzerland all have third country (foreign) oversight provisions in their legislative frameworks. As such, it is critical that there is a sensible multilateral approach that both minimises the regulatory burden while providing effective and clear public oversight that reinforces and promotes confidence in audit quality and financial reporting globally.

Specific comments on Key Aspects

a) The Meaning of Full Reliance

While we fully support full reliance, we are concerned that as interpreted by the PCAOB draft guidance in this case, it would not represent the home country control principle because of the various reservations the PCAOB lays out. While a sliding scale approach has its positive attributes, there is a concern that this may never end up with recognition of full equivalence, which is our clear preference when the home country regulator meets the necessary high standards.

The PCAOB has chosen one model of inspection and of public reporting, but this model is not necessarily the only model that can be effective and efficient. We would urge the PCAOB to consider accepting other equivalent inspection models depending on country and circumstances.

It is to be noted that the European Commission has indicated that it will classify third country oversight regimes in a number of brackets and for those with well developed equivalent, independent oversight bodies (e.g., the U.S, Canada, Japan and Australia) it is likely to propose full reliance on home country registration, inspections, reporting and sanctions. Other countries have made similar indications and we hope that the PCAOB will be able to make a similar commitment.

We would also observe that some of the proposed criteria for full reliance are based on U.S. circumstances that do not necessarily apply in all non-U.S. jurisdictions. We believe that some of those criteria, if left unchanged, might cause the PCAOB to place less reliance on the work of the non-U.S. oversight entity than is warranted. We agree with the description of the five principles as set forth in the proposed policy statement. However, we are concerned that the wording of some of the essential criteria might cause something less than full reliance when in fact the principle has been satisfied.

The most significant area in which U.S. circumstances seem to have governed the criteria relates to the involvement in the oversight and inspection process by active practitioners and others who are not full-time employees of the inspection entity. In some countries, active practitioners are permitted or even required to be involved. In other countries, it may be difficult for the inspections entity to hire the requisite number of full-time employees that are capable of conducting inspections. We would encourage the PCAOB, when it encounters these circumstances, to consider the broader question of whether the relevant principle has been satisfied and to put an emphasis on there being safeguards in place to ensure independence and objectivity.

b) The Bilateral Cooperative Arrangements

Notwithstanding our preference for a multilateral approach in arranging full reliance agreements with other independent audit regulators, we recognise that in practice, those

jurisdictions with third country oversight provisions may take a bilateral approach. In that respect, it would be much better if there were, at the very least, strong collaboration and co-ordination between regulators, preferably with the basic elements of the process to be agreed within IFIAR. Bilateral agreements should be transparent to audit firms and the wider public.

The inspection process itself presents particular challenges as joint inspections are not legally possible for oversight bodies in certain jurisdictions. Moreover, it would be much easier, more practicable and effective for Full Reliance to mean that inspections of an audit firm are conducted entirely by the oversight body for that home country with the results of those inspections shared with the oversight bodies of other countries where the inspected firm audits public interest entities with securities listed in their markets. This sharing of inspection results can be governed by suitable protocols that should provide the PCAOB with a level of reassurance about the rigour of the inspection process.

Full Reliance should not necessarily involve a first joint inspection due to legal conflicts in certain jurisdictions. An alternative will be observation and/or close involvements in scope and methodology discussions prior to an inspection as well as sharing outcomes.

Conclusion

The efficiency of global audit, financial reporting and regulation will be significantly enhanced by global harmonisation of registration and inspection regimes around the home country principle. Moreover, such a system underpinned by globally agreed protocols will provide for greater transparency, clarity and confidence in the audit quality of the global audit networks and their member firms. It will avoid duplication in efforts which do not enhance audit quality. Clearly, such protocols must be effectively implemented.

All oversight activities (including inspections and registrations) should be measured against the overall objective of continued improvement of audit quality in the public interest. This guidance goes some way to meet this aim in a more efficient way, but we believe that further improvements are possible that will better meet the needs of users/investors, the capital markets, other regulators and indeed the PCAOB. We would also ask the PCAOB to reconsider the volume and scope of its Proposed Rules on Periodic and Special Reporting of May 2006 in the light of the Full Reliance concept.

In case you wish to discuss any of our comments you may contact David L Gardner at
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Yours faithfully

KPMG International

B Annex to Letter:

I Responses to the Questions

Q1 *If a non-U.S. auditor oversight entity meets the essential criteria set forth in the proposed Policy Statement, are there reasons why the Board should not increase its level of reliance on inspections conducted by such an independent non-U.S. oversight entity? What are the benefits and costs of full reliance?*

- If the essential criteria (EC) are met, we don't see any reason for not increasing the level of reliance to Full Reliance. Compliance with the EC in combination with the reservation to be involved in each inspection ensures that foreign inspection regimes meet PCAOB standards.

- It should not be a pre-requisite for full reliance that every EC be satisfied. The Board should acknowledge that inspection models that differ from the Board's model can nonetheless protect the public interest.

- The benefits of Full Reliance are significant: (i) quality and quantity of inspections may be increased, e.g. no language barriers, avoidance of legal conflicts, better knowledge of local laws by local regulator; (ii) the PCAOB can focus efforts on the domestic U.S. market where it can provide proportionately the greatest protection for U.S. investors; (iii) the elimination of duplicate procedures and increased efficiency of the oversight process would yield important cost savings in terms of resources for both regulators and audit firms, and reduced environmental damage.

Q2 *Are the essential criteria (EC) set forth in section III.C of the Policy Statement appropriate? Are there additional factors that should be considered? Should the criteria be modified in any way?*

- See detailed comments in Section II of this Annex.

- We believe that the EC should be seen as indicators, and not as prerequisites for Full Reliance. The aim should be to achieve broad and acceptable equivalence, not precise compliance in meeting the essential criteria.

- The quantity and quality of the EC lead to a rules-based approach of the Full Reliance concept instead of having a more flexible principles-based approach, which much better accommodates cultural and legal differences in different jurisdictions.

Q3 *Would meeting the essential criteria (EC) set forth in section III.C – along with a satisfactory on-site assessment by the Board of the entity's inspection practices through a period of joint inspections – provide sufficient assurance that the oversight entity's inspection programme merits full reliance?*

- Full reliance should not be predicated on strict compliance with each and every one of the EC. Instead, the level of adherence to the EC should be used as an indicator of the extent to which the associated principle is adhered to. The Board should exercise professional judgment and accept that foreign systems may satisfy those principles without being identical to the U.S. oversight model.

- We do not believe that full reliance should necessitate a first joint inspection. While joint inspections are an effective means of providing assurance that the oversight entity's inspection program merits full reliance, they may not be legally permissible in some jurisdictions. From a firm perspective, our registrants report good experiences of PCAOB joint inspections with the CPAB and the AIU. We would encourage the Board to consider whether the Board and the independent audit regulators of other jurisdictions might participate as "third country observers" in the home country inspections of audit firms who have audit clients with securities listed in those other jurisdictions.

- We believe that joint inspections should not be a mandatory transitional step before achieving Full Reliance. The level of training organised through IFIAR with the PCAOB and the transparency of the process together with protocols on the sharing of inspection papers and methodology should be sufficient guarantee of the robustness of the home country inspection system.

- The focus should be on how to achieve full international convergence of inspection and registration regimes, like in the area of accounting standards and auditing standards.

Q4 *The Board has carefully balanced the requirements of the Act and those of non-U.S. jurisdictions (including laws related to data protection, confidentiality and other important legal requirements). Are there additional differences between U.S. and non-U.S. auditor oversight regimes that should be considered? Would those differences suggest greater or less reliance?*

- There continue to be differences with some jurisdictions which retain strict rules on data protection. This may mean less reliance where it can be shown that there are legitimate legal impediments.

- Avoidance of legal conflicts (e.g. with regard to the cross border transfer of work papers) can best be achieved by mutual recognition or acceptance of equivalence. We believe this would be a better interpretation of a Full Reliance concept.

- Jurisdictions may insist on their sovereignty rights or may claim full reciprocity (e.g., EU).

- It is to be anticipated that many foreign countries will not be satisfied by the Full Reliance concept as proposed within this guidance and that mutual recognition of home country control (as the PCAOB want to move towards) will more effectively achieve the overall aim of international cooperation and trust in order to protect investors and ensure high audit quality.

- To ensure effective oversight, many foreign jurisdictions will need to use active practitioners to conduct inspections. In many cases only active practitioners have the necessary level of expertise regarding regulations and professional standards to adequately conduct inspections. The PCAOB should consider modifying the relevant Essential Criteria so that practitioners that are under the control and supervision of independent oversight staff are able to perform inspections and satisfy the criteria for Full Reliance, the key should be the safeguards in place to ensure full independence and objectivity of those undertaking inspections.

Q5 *As described in section III.B of the Policy Statement, does the Policy Statement establish the appropriate nature and level of reliance?*

- Our preference would be a model of mutual recognition when the EC are substantially met.

- IFIAR is the right platform to set the framework for the convergence of inspection and registration systems which would be far more effectively achieved on a multilateral basis. KPMG fully understands that IFIAR is a relatively young organisation and will take time to fully develop this capacity and authority and thus there must be some bilateral assessments of equivalence and arrangements as short-term or transitional measures.

- While setting forth the right objective, Full Reliance as per the draft Guidance will not achieve it, if the PCAOB reserves the right to determine the level of its own involvement.

- If the PCAOB is satisfied with the effectiveness of the foreign oversight system, there may be better alternatives than to accompany the ex-U.S. inspection team or to review portions of the audit firm's work papers. An alternative approach is to establish multilateral or bilateral arrangements for observers on inspections conducted by the home country oversight body; obviously this would need to be on a reciprocal basis where relevant (ie when that country had listed entities audited by a U.S. audit firm). We do recognise that many joint inspections have been positive, but going forward, believe the home country principle should mean full reliance but that other measures can achieve the level of reassurance and rigour the PCAOB and U.S. investors rightly expect.

- We believe that it would not be appropriate to require specific actions to be taken by the Board with respect to each inspection, e.g., publication of a firm-specific inspection report. We would suggest application of the Sarbanes Oxley Act s106 (c) exemption authority, at least partially. This allows the Board, with Commission authority, to exempt overseas registrants from any of the provisions.

- Double reporting raises various legal and practical challenges, e.g. the PCAOB and the local oversight body both have to expose the reports for comment periods; the PCAOB has to send a separate notification letter to the audit firm even though the inspection is mostly performed by the local oversight body and not the PCAOB; the PCAOB would have to refer to an inspection program and comment on it though it was only involved to a limited extent in the actual performance of the inspection; audit firms would have to send comments on the report to the PCAOB; raises the risk of inconsistent reporting by PCAOB and the local oversight body, including the possibility of conflicting decisions and confusion over bringing enforcement actions.

Q6 *Will proposed approach adequately protect interests of investors in US issuers audited by non-US audit firms?*

- Yes. However, it should be kept in mind that the number and economic relevance of foreign private issuers (FPIs) is very small compared to domestic issuers, representing just 2.5% of total U.S. trading volumes. Obviously, some of the FPIs are large global entities and the sharing of methodologies and outcomes with overseas' regulators will allow a much greater insight into the overseas' audit firms of these FPIs.

- The Full Reliance concept would allow the PCAOB to concentrate its resources on the much bigger domestic market, which is nearly 40 times the size of the FPI market. This is consistent with final rules the Board recently forwarded to the SEC which, if approved, would give the Board the discretion to waive inspections of registered firms that have not recently issued audit reports on U.S. issuers. The rationale for this rule change was to better reflect a risk-based approach to the allocation of SEC resources. We are concerned that if the Essential Criteria and level of reliance remain as proposed, the Board will be obliged to devote a disproportionate amount of its resources to inspecting foreign audit firms that audit foreign private issuers.

- Full Reliance as proposed does not mean that the PCAOB abandons its oversight rights; the PCAOB will continue to be involved in the inspection process.

- If the PCOAB is not satisfied with the arrangements, the PCAOB can always increase the level of involvement in inspections.

- The PCAOB reserves the right and is fully entitled to launch an investigation at any time.

- Based on the Full Reliance concept, periodic reporting obligations for foreign registered public accounting firms should be reduced to require only basic information; if more information is needed such information can easily and at any time be obtained from the relevant local oversight body. This approach would lead to considerable reduction of cost for audit firms without undermining the PCAOB's mission. We respectfully request that the PCAOB consider so amending its proposed periodic reporting rules that were the subject of consultation in May 2006 in light of the PCAOB's proposed policy statement regarding Full Reliance.

- It is in the interest of shareholders and the capital markets to have high-quality inspections and a single, reliable report on an individual audit firm. The local regulator can, in general, achieve higher quality inspections of foreign registered public accounting firms because of its familiarity with language, culture and the legal environment in which such firms operate. Particular additional requirements in respect of the conduct of audits of U.S issuers can be met through the excellent training programmes and resources already being started by PCAOB for overseas regulators as well as joint pre-inspection discussions and the use of observers on an equivalent This may also help inform the PCAOB's own processes.

- We would urge the PCAOB to be mindful that foreign regulators may require reciprocity which would trigger registration and inspections by foreign regulators of U.S. public accounting firms that participate in audits outside the U.S. This state of affairs could be avoided through actual mutual recognition agreements. While the EU, Japan, Canada and Switzerland have already introduced such provisions (but are all looking to equivalence based on the home country principle), many other countries, including China and India, are clearly reserving their positions on reciprocity until progress is made on agreements between the EU and the U.S.

II Comments on the Essential Criteria for Full Reliance

Principle 1 – <u>Adequacy and Integrity of the Non-U.S. System</u>

1. The non-U.S. oversight entity must have a mandate to work in the public interest and protect investors by seeking to improve audit quality.

2. The non-U.S. oversight entity's management and governing body should comprise persons who are knowledgeable in the areas of financial markets, financial reporting or auditing.

   Comment:

   - *Not all of those individuals must be knowledgeable in the areas mentioned; a majority should be sufficient. Other skills that would be useful in the governance include corporate law, corporate governance and public policy.*

   - *Very small countries will not always be able to have oversight bodies which are similar to those in larger countries, but this, by no means, can be seen as an indication that the oversight regime is not working. In such countries, it may be that while having their own governance arrangements, management and inspection resources can be shared with neighbouring countries which may also better reflect economic patterns.*

   - *A detailed examination of oversight regimes that differ from the PCAOB model should be made individually to assess the adequacy of that respective regime. In many instances, for example, an oversight entity's mandate may not explicitly refer to the protection of investors. In other instances, "protecting investors" may not carry precisely the same meaning as it does in the U.S. We do not believe that such differences from the U.S. system should by themselves result in less than full reliance by the PCAOB. We believe that the words "protect investors" can be eliminated from this criterion.*

   -

3. The non-U.S. oversight system must have a quality assurance inspections programme and the legal authority to ensure that audit firms within its regulatory jurisdiction are held accountable for conduct in contravention of applicable laws, regulations and professional standards.

4. The non-U.S. oversight system, including its inspections unit, must have adequate funding and sufficient staff given the size of the relevant capital market and the oversight entity's mandate.

   Comment:

   - *In smaller countries, it may be impossible to have full-time employees only. The key wording here, is the size of the relevant capital market. The PCAOB should allow flexibility in allowing for those oversight boards that choose to pool their inspection teams with neighbouring countries or to have a degree of inter-operability. In some countries with very constrained capacity in terms of suitably qualified and experienced audit professionals to staff the inspection unit, there may be schemes to allow audit firms employees to transfer their employment for some years to the regulator. In these*

circumstances, it is right that both the local regulator and the PCAOB are fully satisfied that proper safeguards are in place to ensure full independence and objectivity.

5. The non-U.S. oversight system's inspections staff must have sufficient expertise, skills and experience in the audit field relative to the size and complexity of the audit firms within its mandate and must have sufficient expertise in applicable U.S. laws, regulations and professional standards.

Comment:

- *The above argument applies likewise. We do not believe that drawing on temporary staff from audit firms would undermine the quality of the inspections as long as the oversight body establishes certain safeguards In fact we believe that the oversight body's inspection and investigation activities should include some meaningful participation from the practicing profession who are best placed to be knowledgeable about relevant rules and professional standards. Safeguards for ensuring independence include ensuring that practitioners are not inspecting or investigating their own firms, which can be achieved by selecting such persons through an independence and transparent nominating process, ensuring that the supervision and responsibility for inspections and investigations remain with the independent oversight body. We agree with the informal suggestion from the European Commission that a compromise in meeting the capacity gap in smaller countries while not compromising independence may be to promote schemes affording greater mobility of qualified professionals between the firms and regulator but without secondment.*

- *In times of global convergence of accounting standards, IFRS expertise should be added here or even supersede U.S. GAAP.*

- *All regulators with (or introducing) third country regimes for foreign audit firms will have similar issues with knowledge of local laws and standards. This is both an argument for global training – where IFIAR has made a good start as has the PCAOB – and for the adoption of international principles-based standards in ethics and auditing standards. Obviously, there will continue to be differing legal environments and applicable laws.*

6. The non-U.S. oversight system's inspection procedures must cover both a review of selected U.S. public company audit engagements and the firm's internal quality control system. The review in both areas must include an assessment of the firm's compliance with applicable U.S. laws, regulations and professional standards. The non-U.S. oversight entity must be willing to consult with the PCAOB with regard to the selection of U.S. public company audit engagements.

Comment:

- *We appreciate that the PCAOB wants to consult foreign oversight bodies which audit engagements are to be selected for review, this should be covered again by multilateral protocols.*

- *Local oversight bodies may have superior knowledge of local audit firms and their clients and, therefore, may have valid reasons why they want to select specific audit engagements.*

7. Non-US oversight entity must have ability to access documents and information from firm during an inspection.

8. The PCAOB must be given access, either by the non-U.S. oversight entity or by the PCAOB registered firm under inspection, to information and documents relevant to the inspection and oversight of the PCAOB registered firm.[1]

Comment:

- *The Essential Criteria do not make clear whether responsibilities and tasks of both the local regulator and the PCAOB must be clearly separated.*
- *Confusion should be avoided as to which regulator does perform which inspection activity.*
- *The PCAOB should send a separate notification letter to the audit firm if it intends to inspect alongside on the local regulator's inspection; this is particularly important, since the PCAOB wants to publish its own inspection report (even under the Full Reliance concept).*
- *It is not clear from the Policy Statement what impact local inspections would have on the principles of PCAOB inspection cycles; e.g., would the PCAOB instruct the local regulator when it has to start its inspections in order to comply with its own rules on inspection cycles (in general, three years' cycles for foreign audit firms which regularly issue audit reports)? Would the PCAOB piggyback on each inspection performed by the local regulator (in some jurisdictions the local Big 4 firms will be subject to triennial inspections)? Would the PCAOB expect the local regulator to report on each and every inspection it performs at PCAOB-registered audit firms in its country? KPMG believe that this would not be necessary but would ask for some clarity.*
- *Would the PCAOB expect the local regulator to provide full access to its inspection findings? Also, would the PCAOB also expect access to inspection findings that have no relevance for the PCAOB, such as audits of purely domestic clients?*
- *Situations may arise where local law prevents the regulator from sharing personal data with third country regulators like the PCAOB when such third country does not provide for an appropriate level of data protection.*
- *The proposed Essential Criteria should be amended to demonstrate an understanding that local law may prevent foreign audit firms and even oversight bodies from cooperating with the PCAOB in the sense expressed in this EC. For example, situations such as those that are described in Article 47 (para. II lit. d) of the 8th EU Directive could conflict with the PCAOB's reservation of the right to request access to audit papers.*
- *Again, the PCAOB should seek a global protocol through IFIAR on the exchange of papers for both audit firm inspections and reviews of audit files.*

[1] Relevant information includes the non-U.S. oversight entity's documentation of its inspection findings. In addition, although the PCAOB does not expect to request them routinely, the PCAOB must be given access to underlying audit work papers if requested. Appropriate measures relating to personal data protection will be taken through bilateral arrangements.

9. The non-U.S. oversight entity must ensure that PCAOB-registered firms located in its country are inspected in accordance with the frequency requirements of the Sarbanes-Oxley Act.

   Comment: See above # 8.

10. The PCAOB must be given access to the non-U.S. oversight entity's written report to the firm of the oversight entity's inspection findings covering both its review of selected U.S. public company audit engagements and the firm's internal quality control system. The report to the firm should describe issues identified through the course of reviewing the firm's performance on selected U.S. public company audit engagements, such as apparent departures from applicable auditing standards, related attestation standards, ethical standards, independence standards, and the firm's own quality control policies and procedures. The report also should describe any criticisms of or potential defects in the firm's quality control systems.[2]

    Comment:

    - *See above # 8.*
    - *In smaller countries, where there are only one or two U.S.-listed FPIs, the PCAOB cannot assure the anonymity of the client under review which may trigger severe competitive disadvantages for the audit firm under inspection; in the PCAOB's report it may become apparent which issuer's engagement has been under inspection. While we appreciate that the same issue arises for small U.S domestic registrants, in the case of foreign registrants, this danger could be neutralised by just having a single inspection report produced by the home country regulator which would also include reviews of SEC registrant audit files.*
    - *As an alternative, we would suggest that the PCAOB use its exemption authority under Sec. 106 of the Sarbanes-Oxley Act to waive the requirement that it issue its own inspection reports on each PCAOB-registered firm.*
    - *It is not appropriate that the PCAOB impose the structure of the inspection report to foreign regulators. The structure and content of inspection reports is a matter that can be best pursued through protocols on reporting through IFIAR.*
    - *Full Reliance should not mean export of the PCAOB system, but equivalence.*
    - *The PCAOB should consider accepting other reporting formats that may also be adequate and serve a similar purpose.*
    - *A single report on an audit firm by the home country regulator would very much be in the public interest, and more particularly, in the interests of investors and markets.*

[2] As noted above, in accordance with Section 104(f) of the Act, the PCAOB itself must issue an inspection report to the firm and provide the firm with an opportunity to comment on the report before it is issued as a final inspection report. As noted above, in a situation where full reliance is appropriate, the PCAOB would request that the firm route its comments on the report to the PCAOB through the non-U.S. oversight entity. Barring exceptional circumstances, the PCAOB expects to rely on the findings contained in the inspection report of the non-U.S. oversight entity.

11. The non-U.S. oversight entity must have a process for assessing whether a firm has addressed any criticisms of or potential defects in the firm's quality control systems identified in the firm's inspection report.

    a. The non-U.S. oversight entity must be willing to provide to the PCAOB an assessment of whether the firm, within twelve months from the issuance of the final inspection report, has demonstrated substantial, good faith progress toward achieving the relevant quality control objectives, sufficient to merit the result that the criticisms or potential defects remain non-public.

    b. In the event that it is determined that the firm has not sufficiently addressed such criticisms or potential defects, the non-U.S. oversight entity must agree not to object to the PCAOB publicly disclosing the criticisms of or potential defects in the firm's quality control systems in order for the PCAOB to meet its statutory obligations.[3]

    Comment: See above ## 8, 10.

    – *b) In such situations we believe it more appropriate that the PCAOB deal directly with the audit firm (of course, the local regulator can be involved); otherwise, the areas of responsibility would not be clearly defined between the PCAOB and the local regulator.*

    – *As it becomes obvious from the Full Reliance concept as proposed by the PCAOB (e.g., own PCAOB inspection reports), the audit firms will also in the future have to deal with the PCAOB in inspection matters; therefore, a direct contact seems preferable rather than routing comments through the local regulator; this may raise legal and practical questions.*

Principle 2 – <u>Independence of the Non-U.S. System</u>

1. The majority of the governing body of the non-U.S. oversight entity must comprise persons who are not current or former accountants or auditors or affiliated with an audit firm or the audit profession.

    Comment:

    – *KPMG broadly supports this principle that the majority of members of the governing body be independent of the profession. We suggest that the PCAOB reconsider the breadth of this principle since precluding individuals who were ever accountants or auditors or affiliated with an audit firm could make it difficult or impossible in some jurisdictions to find qualified individuals who are interested in serving on such boards*

    – *Given many jurisdictions are still established, or have only recently set up, independent oversight arrangements, the PCAOB should at least consider a cooling-off period (particularly important for small countries). This has been the approach in the EU where the Commission is proposing a three-year transitional period.*

[3] In a situation where full reliance is appropriate, barring exceptional circumstances, the PCAOB expects to rely on the non-U.S. oversight entity's remediation determination.

2. The management of the non-U.S. oversight entity must comprise persons who are not practicing auditors or affiliated with an audit firm.

3. The appointment and removal of the management of the non-U.S. oversight entity and the majority of the non-U.S. oversight entity's governing body must not be controlled, directed or unduly influenced by persons who are practicing auditors or affiliated with an audit firm or the audit profession.

4. The non-U.S. system's inspections staff must comprise persons who are not practicing auditors or affiliated with an audit firm and must, in performance of its inspections and reporting duties, be directly accountable to the management and/or governing body of the non-U.S. oversight entity.

   Comment:

   – *KPMG broadly supports this principle that the inspections staff should be under the direct control and supervision of people who are neither practicing auditors nor affiliated with an audit firm. However, we do believe that independence can be preserved if current practitioners are allowed to participate in the oversight body's inspections and investigations so long as safeguards are in place to ensure independence.*

   – *Without such an allowance, this EC cannot be complied with by smaller countries where there are only a very limited number of experts in U.S./international accounting.*

   – *We would support a compromise position that will bridge the gap between capacity and independence of inspection teams, which may involve greater mobility of professionals but not actual secondments. This is a global issue outside a few larger economies with well developed professions and regulatory systems and there needs to be a global approach (see above EC 1.5).*

5. The non-U.S. oversight entity must have in place prohibitions against conflicts of interest by its governing body, management and staff.

6. The day-to-day operations of the non-U.S. oversight entity must be conducted without the approval of or consultation with anyone who is a practicing auditor or affiliated with an audit firm.

   - KPMG broadly supports these principles; however, we believe that it is the values, principle and practice that are important not narrow compliance with prohibitions and approval mechanisms. . Although approval and consultation with practitioners should not be required, an open and transparent dialogue between the oversight entity and active practitioners should be encouraged. Such a dialogue would benefit the oversight body and its staff by keeping them abreast of emerging issues in the practice of accounting and auditing. Prohibition of any form of consultation with active practitioners will undoubtedly reduce such benefits. We believe that this EC should state that active practitioners should never be able to unduly influence or dictate how an oversight body operates on a day-to-day basis.

Principle 3 – <u>Source of the Non-U.S. System's Funding</u>

1. The level and source of funding and budget allocations for the non-U.S. oversight entity and its inspections staff must be determined without undue influence by persons who are currently practicing auditors or affiliated with an audit firm or the audit profession.

2. While funding may be provided by members of the audit profession, the obligation to provide funding must be mandatory and required to be paid on a timely basis.

   Comment:

   – *KPMG supports the principle that independent oversight regimes must be free from the financial control of those they regulate, however, in the implementation of this clear and unequivocal principle the precise arrangements are a matter for local determination. The PCAOB should not impose unnecessary requirements on sovereign states and independent regulators.*

   – *The PCAOB should accept that funding and timely payment can be organised differently from the PCAOB system without undermining the value of the foreign inspection system.*

Principle 4 – Transparency of the Non-U.S. System

1. The non-U.S. oversight entity must operate pursuant to a mandate that is publicly disclosed. Its objectives and authority must be defined in law, regulations or other publicly available materials.

2. The non-U.S. oversight entity must provide insight into its decisions and activities through a mechanism for public disclosure, such as periodic public reports.

3. The non-U.S. oversight entity must either issue public inspection reports on individual firms or agree not to object to the PCAOB issuing such reports based on information from the non-U.S. oversight entity's inspections.

   a. The non-U.S. oversight entity issues public inspection reports on individual firms: If the non-U.S. oversight entity issues public inspection reports as described below, the Board intends to publish a reference to the non-U.S. entity's public report for each firm's inspection. The non-U.S. entity's report must, at a minimum, identify the firm(s) inspected and provide a summary of any major deficiencies identified for each firm related to the review of selected U.S. public company audit engagements where it appears that the firm did not obtain sufficient competent evidential matter to support its opinion(s).[4]

   b. Non-U.S. oversight entity does not issue public inspection reports on individual firms: If the non-U.S. oversight entity does not issue public inspection reports for individual firms, it must agree not to object to the PCAOB issuing a public inspection report that identifies the firm inspected and provides a summary of any major deficiencies identified related to the review of selected U.S. public company

[4] The public report need not follow the format of the public inspection reports issued by the PCAOB. In addition, the public report need not separately identify audit deficiencies related to U.S. public companies from those related to other companies reviewed during the non-U.S. oversight entity's inspection.

audit engagements where it appears that the firm did not obtain sufficient competent evidential matter to support its opinion(s). The PCAOB will consult with the non-U.S. oversight entity about the content of such report.

Comment:

- *Publication of audit firm inspection reports does not by itself determine the effectiveness of the national oversight system in a respective jurisdiction. There are other means of enforcement action available in accordance with national laws and regulation (including penalties and withdrawals) that have the same effect: setting incentives for audit firms to establish an appropriate system for quality control and to ensure its effectivness. Therefors, publication of individual inspection reports should not be regarded as an EC for Full Reliance.*

- *Though the PCAOB emphasizes in footnote 16 that the public report need not follow the format of the public inspection reports issued by the PCAOB, we are concerned that this could be viewed as an export of the PCAOB reporting format.*

- *This EC seems somewhat contradictory to EC 1.10.*

4. In the event of non-remediation by the registered non-U.S. firm, the non-U.S. oversight entity must agree not to object to the PCAOB publicly disclosing the criticisms of and/or potential defects in the firm's quality control systems as set forth under Principle 1, Point 11.b. above.[5]

Comment: See above # 3.

- *In those countries where there are a limited number of FPIs there is a real risk that the publication of a firm inspection report by the PCAOB could have adverse consequences for the FPI itself. Accordingly, the language in EC 3(b) regarding consultation with the non-US oversight entity should be repeated in EC 4.*

Principle 5 – <u>Historical Performance</u>

1. More mature non-U.S. systems must have a record of investigating allegations of misconduct and, where appropriate, pursuing enforcement or disciplinary proceedings.

Comment:

- *What does "more mature" mean?*

- *The PCAOB should accept that various jurisdictions have had various approaches in the past (e.g., Germany: Though there was no PCAOB-style inspection system in place, public authorities always had legal meanings to sanction wrongdoing by auditors).*

[5] As noted above, in a situation where full reliance is appropriate, barring exceptional circumstances, the PCAOB expects to rely on the non-U.S. oversight entity's remediation determination.

- *Different legal jurisdictions have very different enforcement systems that generally reflect those countries' legal environments. While KPMG supports the principle of independent enforcement and disciplinary systems, this is not the case in all countries that have perfectly adequate and robust independent inspection systems.*

2. Where enforcement or disciplinary proceedings have been successful, the non-U.S. system must have imposed sanctions that were appropriate under the circumstances and the system's governing laws.

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Your Ref PCAOB RELEASE NO. 2007-011

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For the attention of Rhonda Schnare

4 March 2008

Dear Sirs

Proposed policy statement: guidance regarding implementation of PCAOB rule 4012

Grant Thornton International is one of the world's leading international organisations of independently owned and managed accounting and consulting organisations. Member firms operate in over 100 countries. Our comments reflect the experience of over 30 Grant Thornton International member firms who are registered with the Public Company Accounting Oversight Board (PCAOB, Board).

Grant Thornton International welcomes the PCAOB's approach in seeking views from interested parties regarding the proposed policy statement on the implementation of PCAOB Rule 4012, and we welcome the opportunity to provide comments. In summary, we agree that the PCAOB should recognise, and place appropriate reliance on, the work of local regulators.

Our comments on the above-referenced policy statement are divided into two parts. First, we offer four general comments on the policy statement, and then in Appendix 1, we answer the specific questions posed by the PCAOB.

Mutual Recognition and Regulatory Convergence

We view the continued willingness of the PCAOB to work with and respect non-US accounting regulators to be of paramount importance, especially in this age of globalization. As the world moves toward single sets of high-quality globally accepted auditing and financial reporting standards, regulatory convergence and mutual recognition by oversight bodies will become even more important to the public interest and the efficient functioning of the global capital markets.

Indeed, the recent Global Public Policy Symposium IV held this past January in New York City provided evidence of a widely-held view that the impact of a global set of auditing standards will be severely diluted if those standards are not also enforced, and the auditors are not also monitored, in a consistent and comparable manner. Mutual recognition among auditor oversight bodies of reliance criteria is an extremely important factor for regulatory convergence.

It is in the interests of all parties for as many oversight regimes as possible to achieve full recognition status, where merited. We therefore urge the PCAOB to continue to engage with other members of the International Forum of Independent Audit Regulators (IFIAR) to maintain the confidence of global markets in financial and audit reporting by developing

common recognition, reliance and oversight procedures. We further ask that the PCAOB continues to work with IFIAR and other regulators to ensure that there is a clear framework and timetable for those regulators to address any barriers to full reliance.

There are few countries around the world that possess an oversight system that exhibits all of the oversight features set out in the PCAOB's proposed policy statement. Nonetheless, many jurisdictions have rapidly-developing oversight environments, thereby making it vital that the assessment of these other jurisdictions be a continuous process, not a one-off assessment of compliance.

Oversight must be transparent if it is to fulfil its primary function to support confidence in capital markets, and oversight bodies should communicate publicly with their colleagues in other jurisdictions. We therefore urge the Board to be transparent in publicising the results of the reliance determination, the extent of partial reliance, and the status of transitional provisions agreed with each jurisdiction. We acknowledge that transparent assessments will require delicate handling to ensure that confidence in local markets and/ or local oversight systems is not unfairly undermined by ill-timed or inappropriately framed communication.

Definition of Full Reliance

Although we appreciate and support the PCAOB's stated goal to place full reliance on the oversight efforts of a non-US oversight entity when certain criteria are satisfied, we believe that the policy statement's definition of full reliance more properly describes a sliding scale system of partial reliance.

We acknowledge that the decision to grant full reliance does not mean that the PCAOB will be completely uninvolved in oversight efforts of a non-US oversight entity. As the policy statement notes, there are statutory requirements contained in the Sarbanes-Oxley Act of 2002 that constrain the PCAOB's ability to rely exclusively on a non-US oversight entity. Further, we understand that the PCAOB's decision to place full reliance on a particular non-US oversight entity would not extend indefinitely, and would be subject to review in a particular number of years (eg five) or in certain pre-defined circumstances.

Even with those caveats, however, we believe that the description of "full reliance" in Section III.B of the proposed policy statement envisages significant involvement by the PCAOB in the oversight of non-US firms in cases when such involvement is neither required by the terms of the Sarbanes-Oxley Act nor required by a decision to renew full reliance.

For example, the proposed policy statement suggests that even after full reliance is granted, the PCAOB "may request to accompany the non-US inspection team to the audit firm for interviews" and "may request that the non-US oversight entity allow PCAOB inspectors to review portions of the firm's audit work papers". This level of involvement does not appear to be required by the Sarbanes-Oxley Act for full reliance. Nor does it appear necessary from the standpoint of allowing the PCAOB to periodically re-assess its decision to grant full reliance.

We do not mean to suggest that the PCAOB should never request to accompany a non-US inspection team or to review portions of audit work papers. However, if the PCAOB chooses to do so, then this would more properly be characterized as partial reliance, and indeed, it would be consistent with the current sliding scale framework of Rule 4012. We believe, however, that the concept of full reliance should truly allow the PCAOB to rely on a non-US oversight entity to the maximum extent allowed by US law. We therefore request that the PCAOB modifies the definition of full reliance accordingly.

Essential Criteria

While we appreciate that the PCAOB has stated that it does not wish to create a "check-the-box" approach to its determination of whether a non-US oversight entity can be afforded full reliance status, we are concerned that, as written, the essential criteria will actually give that result. The policy statement has listed 25 "essential criteria", and further it states that 24 of 25 essential criteria "must" be met if the PCAOB is to place full reliance on the non-US oversight regime. If virtually all essential criteria "must" be satisfied, this will result in checking the box for each criterion.

We therefore request that the PCAOB explicitly states that a non-US oversight entity need not satisfy all essential criteria in order to be granted full reliance. We further suggest that the term "essential criteria" be renamed "important criteria" to make their intended status clear to the public. We also suggest that the PCAOB replaces the word "must" with the word "should" in most instances in which the word appears.

We believe that a risk-based, top-down approach will provide the best balance of protection to US investors and efficient oversight. To this end, we ask that the PCAOB emphasises and states explicitly that it will take a risk-based, top-down approach to the determination of whether full reliance is justified. We agree with the importance of the five broad principles that the PCAOB has drafted, but we believe that these principles can be satisfied even if not all of the "essential criteria" are met.

Such an approach will also show respect to, and mutual recognition of, non-US systems of auditor oversight. Indeed, as written, the "essential criteria" appear to attempt to benchmark non-US oversight systems against the US system. While we appreciate and respect the advantages of the PCAOB's structure in the US market, we ask that the PCAOB recognizes that conditions in other legal jurisdictions may require auditor oversight systems to operate differently from those of the PCAOB, and that such differences need not result in the conclusion that the non-US system is ineffective.

For example, one of the essential criteria states that the non-US system's inspection staff "must be comprised of persons who are not practicing auditors," with no reference to a cooling off period. Our perception – and the perception of others, for example, in Europe – is that the PCAOB's stance on "independent inspections" reflects the US experience with peer review. In our view, peer review was discredited in the US largely because of the lack of independent oversight of the inspection process, and not because of the involvement of practicing auditors. Many jurisdictions, including many Member States of the European Union, make use of appropriately qualified auditors in the inspection process. This should not be regarded as a fatal flaw – or indeed, a flaw at all -- with regard to the independence of the inspection regime, provided the practicing auditors work clearly under the direction and oversight of independent inspectors.

Another "essential" criterion requires the publication of results of inspections. However, publication of results is not without its critics, not least because of the detailed form of reporting and the transparency of findings that risk being interpreted out of context. A system which provides a more balanced approach might be at least as effective as the current US system.

The reliance determination should be made by reference to international standards of quality control, making use of principles enshrined in such standards as ISQC 1 *Quality control for firms that perform audits and reviews of historical financial information, and other assurance and related services engagements*. Rather than requiring strict adherence to a list of essential criteria, International Standards on Auditing (such as ISA 600 *Using the work of another auditor*; ISA 610

Considering the work of internal audit; and ISA 620 *Using the work of an expert*) make use of indicators of desirable characteristics where the overriding requirement is to make an assessment based on the fact pattern taken as a whole.

Risk-based Assessment, Voluntary Registrants and Partial Reliance

The proposed guidance is built on five broad considerations that would guide the Board in making a reliance determination. However, the paper is silent on how the Board will prioritise the jurisdictions that are to be assessed. We therefore urge the Board to undertake a risk-based assessment of the jurisdictions. We assume that any such assessment will take into consideration those issuers that the PCAOB wants to ensure have quality audits. Indeed, we understand that the Board already implements a risk-based approach in its oversight work with US audit firms who do not directly audit SEC registrants, but who have registered with the PCAOB, either because they play a substantial role in the audit of an SEC registrant or because they want to be registered in case the opportunity arises, or for local competitive reasons.

Similarly, we understand that the proposed policy statement is aimed at auditors of SEC registrants, but it would be helpful to understand how the Board intends to oversee those registered firms that do not directly audit registrants. The Policy Statement presents a new set of considerations for many voluntary registrants and could change the balance of their risk and reward decision whether to remain registered with the PCAOB. For example, under section C of the Policy Statement, a non-US oversight body must consult with the PCAOB, which will presumably result in inspection of SEC engagements and possible follow-up action by the PCAOB, even if an audit firm registered with the PCAOB on a voluntary basis. If voluntary registrants are treated equally with compulsory registrants, there could be an unintended consequence that non-US firms that do not directly audit SEC registrants de-register, which in the long term could add to audit market concentration issues.

Finally, we also urge the PCAOB to be clear about the inspection approach it will use where it only places partial reliance on a non-US oversight entity, because the paper gives the impression that the PCAOB is thinking only of either full or no reliance. It may be possible for the PCAOB to conduct limited procedures that would address perceived weaknesses, and thereby allow three broad categories of reliance: full, partial or none. In the event that the Board feels unable to place full reliance on a local system, but is able to endorse partial reliance, then IFIAR and the Board should implement a framework within which established national programmes could operate, or work towards. As with assessment of full reliance, this framework should be transparent.

If you have any questions on this letter, please contact April Mackenzie (phone: +1 212 542 9789; email: April.Mackenzie@gt.com); or Paul Herring (phone: +1 312 602 8309; email: Paul.Herring@gt.com).

Yours faithfully

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Appendix I - specific questions posed on aspects of the draft policy statement

Question 1: If a non-US auditor oversight entity meets the essential criteria set forth in the proposed Policy Statement, are there reasons why the Board should not increase its level of reliance on inspections conducted by such an independent non-US oversight entity? What are the benefits and costs of full reliance?

Grant Thornton International response: The Board should increase its level of reliance to full reliance if a non-US auditor oversight entity meets the essential criteria set forth in the proposed Policy Statement, and we know of no reasons why it should not do so. However, as noted above, it should not be a pre-requisite for full reliance that each and every one of the "essential criteria" be satisfied. The overriding goal should be that the inspection model is able to support the confidence of capital markets in the audit reporting process, and we believe that the five general principles should be satisfied according to a risk-based, top-down analysis.

By granting full reliance, significant benefits to the capital markets in the US and elsewhere will accrue from efficient cooperation between oversight bodies in different jurisdictions. Benefits include increased efficiency of the oversight process by enabling a greater proportion of PCAOB resources to be directed on the basis of risk assessment, which in most instances will be at the domestic audit market. In addition, cooperation between oversight bodies will enable consistent enforcement and oversight which will maximise the cost of capital reduction arising from using a single set of globally recognised accounting and auditing standards.

Working with IFIAR should ensure efficient and balanced assessments of the quality of non-US oversight systems. Leaving aside the cost to the international accounting networks, the benefits to the capital markets of global auditing standards will be diluted if those standards are not also enforced and overseen in accordance with globally coordinated regulatory standards.

Question 2: Are the essential criteria set forth in section III.C of the Policy Statement appropriate? Are there additional factors that should be considered? Should the criteria be modified in any way?

Grant Thornton International response: In general, we believe that the essential criteria are appropriate indicators of a robust oversight system. As noted above, however, we do not believe that each and every essential criterion need be met for full reliance to be appropriate, and therefore, we ask that the PCAOB makes this clear in the policy statement. Indeed, the policy statement states that "the criteria [in Rule 4012] were meant to be illustrative, not exhaustive." However, by setting forth 25 "essential criteria," 24 of which "must" be satisfied, the policy statement contradicts the intention to apply illustrative (rather than exhaustive) indicators, and still implies a check-the-box approach. Taken together, the "essential criteria" could prove too restrictive, and requiring the satisfaction of 24 out of 25 essential criteria may not be the only way to achieve the same goal of supporting the confidence of capital markets in the financial and audit reporting process.

We make some comments on specific criteria as follows:

Adequacy and Integrity of the Non-US System

- EC2 - Management and governing bodies need only have a majority of members who are knowledgeable about auditing, as opposed to comprised (entirely) of such people.

- EC4 – We believe that access to a resource of sufficiently qualified inspectors is the important factor, as opposed to requiring (full time) staff.
- EC5 - Knowledge of US GAAS and US GAAP is unnecessary if the foreign registrant is publishing accounts under IFRS that are audited using International Standards on Auditing. We suggest that a benchmark referring to IFRS, ISAs, IFAC Code of Ethics would be more appropriate.
- EC 8, 10 - Reserving rights of access by the PCAOB to inspection documents and written reports (which is not permitted by certain jurisdictions) appears to contradict the concept of full reliance, and therefore we suggest removal.

Independence of the Non-US System

- EC2 - Management of the governing body should include a majority (as opposed to entirely) of people who are neither practicing auditors nor affiliated with an audit firm.
- EC4 - Staff should be under the direct control and supervision of non-practicing auditors, as opposed to being "comprised" of such people.

Transparency of the Non-US System

- EC 1 - The PCAOB might refer here to desirable but not mandatory indicators such as publication by the oversight body of annual work programs and activity reports.
- EC3 - For countries or industry sectors with only a few foreign private issuers, publication of audit firm's inspection reports carries a significant risk of adverse consequences for those issuers. Our understanding is that the PCAOB is not allowed to share certain aspects of inspection reports of US firms with oversight bodies outside the US. Therefore, it appears unbalanced for the PCAOB to insist that third country oversight bodies share reports with the PCAOB. An alternative procedure might be for the respective oversight bodies to satisfy their regulatory requirements by sharing information through enquiring about content and process, as opposed to having a copy of the private report on the firm.

Historical performance

- EC1 - We believe that having the ability to investigate allegations is the important point for this criterion. To require a "record of investigating" - which many jurisdictions might not yet be able to demonstrate – seems unnecessary and could in itself be taken to indicate a strong system (for example where no enforcement or disciplinary proceedings were considered necessary).
- EC2 - We believe that a requirement regarding "appropriate" sanctions would inappropriately reserve a right for the PCAOB to second-guess the level of sanctions imposed by a non-US jurisdiction. Non-US jurisdictions often have different philosophies about sanctions - particularly more principles-based countries - and may take a more prudential approach. Therefore to compare sanctions in those countries with those of the US may not necessarily lead to a reliable or desirable conclusion.
- In general, we believe that stronger indicators of the historical performance of a non-US system are items such as: scope of the oversight body's work; quality of support materials; resource available to conduct reviews; membership and interaction with IFIAR; business failure rate in the country; and robustness of the system and business environment.

Question 3: Would meeting the essential criteria set forth in section III.C - along with a satisfactory on-site assessment by the Board of the entity's inspection practices through a period of joint inspections - provide sufficient assurance that the oversight entity's inspection program merits full reliance?

Grant Thornton International response: Yes, it would be sufficient, although in our view, setting the combination as a minimum requirement would make it unnecessarily onerous for non-US oversight entities to achieve full reliance. In particular, joint inspections should not necessarily be a pre-requisite for full reliance.

As noted above, we believe that the bar has been set so high that very few (if any) non-US regulators will meet the criteria for full reliance. We anticipate that this will be an unsatisfactory result for the Board's objectives.

Question 4: The Board has carefully balanced the requirements of the Act and those of non-US jurisdictions (including laws related to data protection, confidentiality and other important legal requirements). Are there additional differences between US and non-US auditor oversight regimes that should be considered? Would those differences suggest greater or less reliance?

Grant Thornton International response: The PCAOB's summary of jurisdictional differences is substantially complete, although in our view, the assessment of those differences has not struck an appropriate balance between the requirements of the Act and those of non-US jurisdictions. For example, many foreign jurisdictions will need to use practitioners in performing audit inspections, which in itself should not breach the relevant criterion. In addition the Board's statement should allow for cultural differences which do not necessarily amount to a breach of a reliance principle by a foreign oversight body.

Question 5: As described in section III.B of the Policy Statement, does the Policy Statement establish the appropriate nature and level of reliance?

Grant Thornton International response: We are encouraged that the PCAOB is seeking ways to implement full reliance. As noted above, however, we believe that section III.B describes a process that falls short of full reliance. While we see merit in, for example, joint inspections, especially where the local oversight body is still in the relatively early stages of its development, we believe that full reliance should not require joint inspection. Of course, we acknowledge that the PCAOB may wish to undertake a joint inspection at least once, but we urge the Board to move towards **full** mutual recognition of non-US regulators.

Question 6: Will the proposed approach adequately protect the interests of investors in US issuers audited by non-US audit firms?

Grant Thornton International response: We believe that assessments based on suitable application of determination criteria (in a non-essential manner, but by reference to the overall oversight environment), combined with suitable interaction with IFIAR, will represent proportionate and effective oversight of non-US auditors by the Board, thereby protecting the interests of both US and non-US investors in US issuers.

Confidence in US capital markets is important, but US companies do business and have their shares traded globally. Different markets have different characteristics and different maturities, and so will have different ways of achieving effective oversight of the audit process locally. In our view, while most of the individual criteria are reasonable, as set out in our response to question 2 we believe that any requirement to satisfy 24 out of 25 "essential criteria" would be unnecessarily onerous.

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Berne, March 4, 2008

PCAOB Release No. 2007-011

Dear Sirs

We refer to your request for public comment on the proposed policy statement: guidance regarding implementation of PCAOB Rule 4012 dated December 5, 2007 and would like to thank you for the opportunity to comment on the draft criteria for full reliance.

A. General remarks

Switzerland shares the U.S. view that a strong and independent audit oversight authority is necessary. On September 1, 2007 the Swiss Audit Oversight Act (hereafter referred to as '*AOA*') came into force. The AOA aims at assuring the proper performance and quality of audit services and constitutes the formal basis for the activities of the Swiss Federal Audit Oversight Authority (hereafter referred to as 'FAOA'). It governs in particular the authorization and registration of individuals and companies providing statutory audit services, the oversight of auditors and audit firms of public companies, and international cooperation in the field of audit regulation.

The increasing globalization of the capital markets clearly calls for cooperative relationships between audit oversight authorities. The auditing of the financial statements of an international public company is a cross-border activity in which audit teams from a number of countries are usually involved. Effective public oversight is therefore only possible in close cooperation with the national public oversight bodies involved. In our opinion, one of the main challenges in the field of audit oversight is ensuring that comparable levels of public oversight are in place in the various countries, acting along the same principles.

We therefore welcome the guidelines of the Policy Statement and support the objective of the PCAOB to substantiate and establish a system of "full reliance". For legal and factual (language, mentality) reasons, we are convinced that the quality of audit services will be most efficiently enhanced if the inspections are conducted by the competent national over-

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sight body. Consequently, we believe in principle that inspectors should not be sent abroad. We do however understand that this final goal can only be achieved if there is enough confidence in the quality and independence of the partner oversight entity and that from this perspective, joint inspections are useful, but must be limited to a transitional period.

The FAOA welcomes the current convergence process between US GAAP and IFRS standards. This convergence will in the near future also have an impact on the auditing standards. Accordingly, the differences between the auditing of financial statements pursuant to U.S. law and pursuant to Swiss law will be minimal. The FAOA therefore believes that the cooperation between audit oversight authorities should move step by step from a full reliance system to a final system of mutual recognition.

B. Answers to the questions asked in the Policy Statement

***Question 1**: If a non-U.S. auditor oversight entity meets the essential criteria set forth in the proposed Policy Statement, are there reasons why the Board should not increase its level of reliance on inspections conducted by such an independent non-U.S. oversight entity? What are the benefits and costs of full reliance?*

As stated as a general remark, effective audit oversight is only possible in close cooperation between the national public oversight bodies involved. Cooperation between national oversight authorities prevents duplication of effort, relieves the workload on audit firms and allows an effective use of the resources of the oversight entity.

The FAOA therefore welcomes the initiative of the PCAOB to identify the criteria relevant to full reliance on the inspection systems of its non-U.S. counterparts. However, the proposed procedure is a very costly and time-consuming one and will tie up quite a substantial level of human resources. We regret in this regard that even if full reliance is granted, the PCAOB reserves the right to conduct joint inspections and to observe the inspections by the non-U.S. oversight entities. We believe that if an oversight entity fulfills the criteria set forth in section III.C of the Policy Statement, the Board should rely completely on the oversight entity's inspections and that the PCAOB should only intervene if it has reasonable grounds to believe that the non-U.S. regulator is not fully capable of carrying out his duties.

***Question 2**: Are the essential criteria set forth in section III.C of the Policy Statement appropriate? Are there additional factors that should be considered? Should the criteria be modified in any way?*

The framework set forth in Rule 4012 is based on a sliding scale. The criteria proposed in section III.C of the Policy Statement are therefore meant to be illustrative and not exhaustive. We support this approach. As there is a great variety of oversight systems all over the world, it is a wise decision not to demand identical systems when making a determination on whether and to what extent the Board can rely on a non-U.S. oversight system

However, the Policy Statement stresses the fact that some criteria will be more decisive than others. Unfortunately, it does not identify these "mandatory" criteria. In order to facilitate the evaluation of the eligibility for full reliance of non-U.S. oversight entities, we suggest clarifying which criteria are meant to be mandatory. Further, we would like to point out that many of the criteria enumerated leave a large margin of discretion as regards their interpretation. We understand that the PCAOB will use its discretionary power in order to adapt the criteria to the different oversight systems.

As for the principles as such, we generally support the criteria set forth under the different principles. We particularly agree with the importance of the independence of the oversight system and with criterion **2.1**. We believe that if the majority of the governing body is not comprised of persons who are current or former accountants or auditors or affiliated to an audit firm or the audit profession, the independence of that governing

body is sufficiently secured. If all former accountants or auditors were completely excluded from eligibility, the governing body would lack the expertise and practical experience we think is essential for an efficient oversight of the audit profession.

We do have concerns as to criterion **1.5**, according to which the non-U.S. oversight system's inspection staff must have sufficient expertise in the applicable U.S. laws, regulations and professional standards. The practical implementation of this criterion might be difficult. Depending on the level of expertise required, it could turn out difficult and costly for non-U.S. authorities to find and hire such experts, who moreover need to be independent of the audit firms inspected. Looking at the reverse reliance of non-U.S. authorities on work performed by the PCAOB, it is rather doubtful whether the PCAOB will have the expertise in about 80 different national laws, regulations and standards. We therefore expect the PCAOB to take a realistic approach when defining the requirements with regard to this criterion. This practical problem shows the importance of accelerating the convergence process towards a single auditing standard such as the International Standards on Auditing (ISA).

As regards criteria **1.8** and **1.10** in relation to the access to confidential information and documents, we refer to our comments under Question 4 below. In short, Swiss provisions on confidentiality do not allow documents to be taken out of Swiss territory and to be forwarded to other authorities without the prior consent of the FAOA. On criterion **1.8**, we would like to stress the fact that the PCAOB can be given access to confidential information and documents only with the consent of the FAOA and that the Board cannot therefore directly request confidential information from the PCAOB registered audit firms under inspection.

A similar problem arises regarding the criteria on transparency and in particular the publication of decisions and inspection reports (criteria **4.2** and **4.3**). The FAOA will publish annual reports on its activities and practices. However, pursuant to Art. 19, para. 2 AOA, the FAOA provides information on ongoing and closed proceedings only if necessary because there is an overriding public or private interest. The FAOA is therefore not allowed to publish information outside a formal proceeding. As the inspections are in principle not formal proceedings but routine work, the FAOA does not have the legal grounds to publish inspection reports. Since these are considered confidential information, they may only be transmitted to the PCAOB under the terms of Art. 26 AOA.

We understand that the PCAOB would only want access to those parts of the inspection report that actually cover audit engagements of SEC registered public companies. We also understand that the joint inspections will not cover the audit engagements of companies that play a substantial role in the consolidated accounts of a SEC registered public company.

Furthermore we suggest that when assessing the historical performance criteria (criteria **5.1** and **5.2**), the PCAOB should not only take into account the experience of the non-U.S. oversight entity with regard to PCAOB registered audit firms, but also evaluate its entire oversight activity. Besides, as long as this information is not publicly available, it may only be transmitted under the terms of Art. 19 and 26 AOA.

Finally, we propose that the approach taken by the PCAOB should also take into consideration that many non-U.S. audit oversight boards are very young authorities with limited experience in conducting inspections of audit firms. These authorities should be given enough time to acquire the necessary experience before joint inspections actually take place. We believe that the PCAOB also needed some time to come to its present level of expertise, and would think that it is reasonable to give an adequate period of time to its non-U.S. counterparts.

***Question 3**: Would meeting the essential criteria set forth in section III.C. – along with a satisfactory on-site assessment by the Board of the entity's inspection practices through a period of joint inspections – provide sufficient assurance that the oversight entity's inspection program merits full reliance?*

We believe that the criteria set forth in section III.C cover all relevant points and that compliance with these criteria along with a satisfactory on-site assessment guarantee the adequacy and the independence of the non-U.S. oversight entity.

We would like to point out however, that the conduct of joint inspections is subject to a number of conditions set out in the Swiss legal framework: pursuant to Art. 27, para. 3 AOA, foreign oversight authorities may themselves, based on authorization in a treaty or with prior consent of the oversight authority, undertake oversight activities in Switzerland, if the requesting state grants reciprocity. Art. 26, para. 2 and 3 are applicable by analogy (see question 4 hereafter). The oversight authority will accompany the foreign oversight authorities during their oversight work in Switzerland. As regards the form for such cooperation agreements, Art. 27, para 5 stipulates that the Federal Council is authorized, within the scope of para. 2 and 3, to regulate cooperation with foreign oversight authorities in international treaties. Finally, the conditions of other applicable Swiss or international regulations such as the Swiss Data Protection Act or banking legislation will have to be respected as well. Experience in other fields of international cooperation shows that these conditions can limit administrative assistance.

In conclusion, the Swiss legal framework in principle permits joint inspections. However, according to the legal conditions that have to be fulfilled, it is important to conclude a bilateral agreement before such inspections can actually take place.

***Question 4**: The Board has carefully balanced the requirements of the Act and those on non-U.S. jurisdictions (including laws related to data protection, confidentiality and other important legal requirements). Are there additional differences between U.S. and non-U.S. auditor oversight regimes that should be considered? Would those differences suggest greater or less reliance?*

As stated under Question 3, the legal requirements for the transmission of confidential information and documents are particularly strict as regards the use of these documents by the foreign authority. With regard to the very few SEC registered companies concerned that are domiciled in Switzerland, the possibility of making the documents anonymous is very doubtful, as it would always be possible to identify the companies concerned from the information available. Consequently the PCAOB will in principle have the right to have access to the documents and information relevant to the inspection of SEC registered companies. However, it will not be allowed to take documents abroad and will only be allowed to pass on information to authorities and bodies that carry out oversight duties that are in the public interest and provided these authorities and bodies are bound by official and professional secrecy on the basis of authorization in a state treaty or have the prior consent of the FAOA. In this regard the relationship between the PCAOB and the SEC will need to be clarified.

***Question 5**: As described in section III.B of the Policy Statement, does the Policy Statement establish the appropriate nature and level of reliance?*

As already pointed out under Question 1, we believe that the conduct of joint inspections should basically be limited to a transitional period. If a non-U.S. oversight entity fulfills the criteria set forth in section III.C of the Policy Statement, the Board should completely rely on the oversight entity's inspections and should intervene only if it has reasonable grounds to believe that the non-U.S. regulator is not fully capable of carrying out its duties.

***Question 6**: Will the proposed approach adequately protect the interests of investors in U.S. issuers audited by non-U.S. audit firms?*

> As the principles enumerated in the Policy Statement, adapted and interpreted according to our comments, would also apply reciprocally between the PCAOB and the FAOA, we believe that such an approach adequately protects the interests not only of U.S. investors in non-U.S. issuers, but also of non-U.S. investors in U.S. issuers.

In short, we believe that the proposed criteria are in principle appropriate for putting the concept of full reliance into concrete terms. In our view, however, many delicate issues remain unsolved and need to be addressed in a bilateral agreement. As long as this is not the case, the legal uncertainties are too substantial to allow joint inspections to take place.

If you have any questions, please feel free to contact us.

Kind regards

Federal Audit Oversight Authority FAOA

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American Federation of Labor and Congress of Industrial Organizations

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Via Electronic Mail and Hand-Delivery

March 4, 2008

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

Re: PCAOB Release No. 2007-011

Dear Mr. Seymour,

On behalf of the American Federation of Labor and Congress of Industrial Organizations ("AFL-CIO"), I appreciate the opportunity to comment on the Public Company Accounting Oversight Board ("PCAOB") proposed policy statement: Guidance Regarding Implementation of PCAOB Rule 4012—inspections of foreign registered public accounting firms.

Union-sponsored pension funds have more than $450 billion in assets, and union members participate in benefit funds with more than $5 trillion in assets. Collectively, union members and their pension funds have lost billions of dollars through accounting-related scandals in the last six years—including those involving Enron Corp., WorldCom, Global Crossing, American International Group Inc., the manipulation of stock options and, most recently, the collapse of the sub-prime mortgage industry. The AFL-CIO is therefore very concerned about ensuring the investor safeguards put into place by the Sarbanes-Oxley Act of 2002 ("Sarbanes-Oxley") are not weakened in any way.

Under Section 106(a) of Sarbanes-Oxley, foreign accounting firms are subject to the same registration and inspection requirements by the PCAOB as U.S. accounting firms if they audit the financial statements of companies whose securities are traded in the U.S. The AFL-CIO understands that this necessitates the need for the PCAOB to work with regulators of non-U.S. accounting firms in their home countries, especially since as many as 840 foreign auditing firms

are registered with the PCAOB. Of these 840 firms, 230 are currently subject to inspection by the PCAOB every three years.[1]

The AFL-CIO fully supports the PCAOB Rule 4012, adopted in June 2004, which established the framework for cooperation between the PCAOB and its foreign counterparts regarding the inspection of foreign accounting firms. The framework gave the PCAOB the flexibility to rely on the inspections of foreign regulators based on a sliding scale: The more independent and rigorous the policing of accounting standards by the foreign regulator, the higher the PCAOB's reliance on the non-U.S. regulatory body. The sliding scale has worked well thus far, and joint inspections with foreign regulators assured investors in U.S. securities of a consistent level of protection, as mandated by Sarbanes-Oxley.

We are concerned that that the PCAOB is now rushing to dispense with many of the key elements of Rule 4012, in favor of all-out reliance on inspections of foreign auditors by home country regulators. Foreign regulators owe a responsibility to protect investors in their home markets, not in the U.S. Regardless of whom the PCAOB delegates responsibility to for conducting inspections, it cannot walk away from its responsibilities under Sarbanes-Oxley to safeguard investors in U.S.-listed securities.

Among the biggest areas of our concern with the proposal are that it would accord full reliance on foreign regulators even if only "a ***majority*** of the governing body of the non-U.S. oversight entity" is independent of auditing firms or the accounting profession, instead of the current standard under Rule 4012, which requires ***all*** members to be independent of auditing firms and the profession. In particular, this provision appears to go some direction toward nullifying a key provision in the Sarbanes-Oxley Act establishing the PCAOB, which provides that all of the PCAOB's members are required to be independent of auditing firms and the profession. It is not clear to us that the Board has the authority to take such a step.

Moreover, while the criteria for full reliance in the proposed policy require that foreign regulators be free of undue influence by accountants or accounting firms in the manner in which they are funded, there is no stipulation for them to be independent of influence by clients of the auditing firms.[2] For instance, the policy does not require that funding for the foreign regulators on which full reliance is being placed should be mandatory by companies. Funding for the International Accounting Standards Board, for example, is voluntary on the part of companies.

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[1] Statement of PCAOB Chairman Mark W. Olson, December 5, 2007 open meeting.

[2] Principle 3 of the Proposed Policy Statement. "In assessing the nature of the non-U.S. oversight entity's source of funding, the Board weighs whether the non-U.S. system has the ability to obtain and deploy the financial resources necessary to carry out its mandate without interference or undue influence by the audit practitioners and/or audit firms under its supervision."

The AFL-CIO is also deeply concerned that full reliance on non-U.S. auditing bodies will include observations of inspections by PCAOB staff not on a regular basis, but only in "some instances."[3] This observation may not even require PCAOB staff to accompany the inspection team of the foreign regulators, but could take the form of telephone conversations or e-mail exchanges.[4] Moreover, such observations may only "on occasion" include a review of the firm's audit papers.[5]

The proposed policy toward full reliance would also shortchange investors in U.S. financial markets by failing to fulfill the mandate of the PCAOB laid out in Section 104(g) of Sarbanes-Oxley. Under this section of the law, which addresses inspections of audit firms, the PCAOB is required to send reports of its findings to the Securities and Exchange Commission and appropriate state regulatory authorities. But, the proposed policy statement makes it clear that the findings would not be that of the PCAOB, but rather of the non-U.S. entity on which it places full reliance.

As we said earlier, the PCAOB should be able to work closely with foreign regulators. But in doing so, it should adhere to the following principles:

- Any formal agreements with foreign regulators must ensure that the PCAOB retains the ultimate jurisdiction, meaning it must have the ability to conduct its own inspections and seek remediation, should it lose confidence in a foreign regulator. We are deeply troubled by the comment from the Auditor Oversight Commission, the body that regulates auditors in Germany, that it is willing to accept joint inspections with the PCAOB prior to full reliance, "but only on the condition that this would constitute a confidence-building measure, i.e. it would a be a one-off measure confined to a limited period of time preceding such a decision."[6]

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[3] Section III of the Proposed Policy Statement: "under full reliance, the Board will continue to coordinate closely with non-U.S. oversight entities, including ***in some instances***, observing the inspections by the non-U.S. oversight entities."

[4] Page A1-8, Proposed Policy Statement. "In some instances, PCAOB inspectors may simply consult with the non-U.S. oversight entity about its inspection plans or discuss with the non-U.S. inspectors any complicated or material inspection findings..."

[5] Page A1-8, Proposed Policy Statement. "There may be occasions when the PCAOB would request that the non-U.S. oversight entity allow PCAOB inspectors to review portions of the firm's audit work papers."

[6] Comment letter of the Auditor Oversight Commission dated February 27, 2008.

- The PCAOB must have a process in place for a regular review of samples of work papers to ensure the quality of auditor inspection by foreign counterparts.

- Any foreign regulator which the PCAOB enters into such an agreement with must meet PCAOB-level independence standards.

We believe the legitimate needs of the PCAOB to work with foreign regulators could be accomplished within this framework. What could not be accomplished within this framework is a stealth attack on the key independence provisions of Sarbanes-Oxley.

Since the inception of the PCAOB, the AFL-CIO has strongly supported the Board and its work. We believe the Board would be best served by rethinking this proposal so as to make it more protective of the Board itself and its mission.

We appreciate the opportunity to present our views on this important matter. If the AFL-CIO can be of further assistance, please do not hesitate to contact me at (202) 637-3953.

Sincerely,

Damon A. Silvers
Associate General Counsel

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

Re: Request for Public Comment on Proposed Policy Statement: Guidance Regarding Implementation of PCAOB Rule 4012 (PCAOB Release No. 2007-011)

This letter is submitted by Deloitte Touche Tohmatsu (a Swiss Verein) on behalf of certain member firms of Deloitte Touche Tohmatsu. We are pleased to respond to the request for comments from the Public Company Accounting Oversight Board (the "PCAOB" or the "Board") on its Proposed Policy Statement: Guidance Regarding Implementation Of PCAOB Rule 4012 (PCAOB Release No. 2007-011) (the "proposed guidance").

We support the Board's efforts to forge cooperation between non-U.S. entities overseeing the public company accounting profession and the Board. In that vein, we reiterate our support for PCAOB Rule 4012, which establishes a framework for the Board to evaluate the level of reliance that the Board can place on a non-U.S. oversight entity's inspection of registered non-U.S. audit firms. The principles expressed in Rule 4012 relate to a non-U.S. oversight system's independence and rigor, including the adequacy and integrity of the system, the independence of the system's operation from the auditing profession, the nature of the system's source of funding, the transparency of the system, and the system's historical performance.

We also support the objective stated by the Board in its proposed guidance of increasing its level of reliance on non-U.S. oversight entities to "full reliance" for such entities that operate

consistently with the principles outlined in Rule 4012. Full reliance by the Board on designated non-U.S. oversight entities will help to promote an efficient regulatory model that minimizes duplicative inspections and decreases the costs and burdens shouldered both by the Board and registered non-U.S. audit firms.[1] In addition, the process of evaluating a non-U.S. oversight entity for full reliance may assist the Board in establishing or strengthening its cooperative ties with the non-U.S. oversight entity while simultaneously allowing the Board to assist the non-U.S. oversight entity in meeting appropriate standards in the implementation of its oversight system. Such collaboration will further the Board's goals of protecting investors, improving audit quality, ensuring effective oversight of audit firms, and helping to preserve the public trust in the auditing profession.[2]

Although we support the objectives of the Board, we have identified those aspects of the Board's proposed guidance in this comment letter that should be clarified or modified to enable the Board to extend full reliance to non-U.S. oversight entities when it is appropriate to do so. We first set forth general comments addressing significant matters that relate to certain aspects of the Board's proposed guidance. We then offer our comments with respect to the specific factors that the Board describes in its proposed guidance as "Essential Criteria." Finally, we provide comments in response to the specific questions that were posed by the Board in its release.

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[1] As the Board itself has recognized, "allowing oversight regimes to allocate their resources in the most cost effective manner" is an important objective. PCAOB Release No. 2003-020 at 1 (October 28, 2003) (Briefing Paper on Oversight of Non-U.S. Public Accounting Firms).

[2] *See* PCAOB Release No. 2007-011 at 2, A1-1 (December 5, 2007).

I. General Comments

A. The Board Should Avoid Establishing Criteria For Reliance In A Manner That Creates A De Facto Checklist.

As the Board has recognized, the adoption of the principles-based approach of Rule 4012 was not intended to create an exhaustive list of criteria that a non-U.S. oversight entity "must" meet in order for the Board to extend reliance to that entity's inspections of registered non-U.S. audit firms.[3] Indeed, the Board has stated that it seeks to avoid a "check-the-box" approach to evaluating the appropriateness of full reliance on non-U.S. oversight systems.[4] The extensive list of "Essential Criteria" contained in the proposed guidance, however, seems certain to create such a "check-the-box" approach, as it suggests that a non-U.S. oversight entity will only be granted full reliance when it can meet all of the "criteria." Moreover, the vast majority of the "Essential Criteria" are described as conditions that a non-U.S. oversight entity "must" meet in order for the Board to grant full reliance to it.[5] This approach is contrary to the Board's stated intention "to look at the whole of every system when conducting an assessment."[6] The language used thus runs the risk of limiting the Board's flexibility to extend full reliance to a non-U.S. oversight system in a situation where it is appropriate to do so. This, in turn, could impede the Board's ability to promote an environment of mutual cooperation and respect between oversight entities.

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[3] *See id.* at A1-7.

[4] *See id.* at A1-6.

[5] In its rules, the Board describes "must" as a term that connotes an "unconditional responsibility." *See* PCAOB Rule 3101(a)(1).

[6] PCAOB Release No. 2007-011 at A1-8.

The general concern about avoiding a "check-the-box" approach is magnified because the criteria advanced by the Board in its proposed guidance would appear to ensure that only non-U.S. oversight entities that are highly similar to the Board will qualify for full reliance. As the Board itself has stated, its rule is "intended to accommodate the variety of inspection systems" found around the world.[7] The Board's final guidance should recognize that there may be other legitimate methods for ensuring robust oversight of public company accounting firms and consequently, that full reliance may be extended to systems that, notwithstanding their differences from the U.S. system, provide rigorous and independent oversight.

The Board should revise the proposed guidance, consistent with its stated intention, to allow for sufficient flexibility so that a non-U.S. oversight entity need not fulfill each criterion listed in the proposed guidance before full reliance is extended. To achieve this clarification, the Board should describe this list as "Considerations"—rather than "Essential Criteria"—and phrase each consideration in the form of a question. For example, rather than stating that "[t]he non-U.S. oversight entity, including its inspections unit, must have adequate funding and sufficient staff given the size of the relevant capital market and the oversight entity's mandate,"[8] the consideration should read, "does the non-U.S. oversight entity, including its inspections unit, have adequate funding and sufficient staff given the size of the relevant capital market and the oversight entity's mandate?" This phrasing will reinforce that the system is being evaluated as a whole—focusing on the substance, rather than the precise form, of the non-U.S. oversight

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[7] *Id.* at A1-7; *see also* PCAOB Release No. 2004-005 at A2-7 (June 9, 2004).

[8] PCAOB Release No. 2007-011 at A1-11.

system's independence and rigor—and will emphasize the flexibility that the Board has in making a final determination as to whether full reliance is appropriate.

The Board should also be mindful that this proposed guidance could shape how non-U.S. oversight entities evaluate the PCAOB when considering a reciprocal full-reliance arrangement. To that end, the Board's guidance should invite mutual respect between entities by acknowledging that differing judgments regarding the form of oversight systems are acceptable so long as rigorous oversight results.

B. Conflicts Of Law Issues Alone Should Not Limit The Board's Discretion To Extend Full Reliance.

The Board has recognized that potential conflicts of law can arise in connection with an inspection of a registered non-U.S. audit firm.[9] Several of the considerations identified in the proposed guidance may implicate such conflicts of law. For example, confidentiality and data privacy laws in certain non-U.S. jurisdictions may restrict the ability of non-U.S. oversight entities or non-U.S. firms to provide the Board direct access to materials during inspections. We support the Board's efforts in seeking to resolve asserted conflicts of law during inspections conducted by the Board.[10] We believe the Board should continue to advance its efforts in this regard and affirm its intent to address conflicts of law issues during negotiations with non-U.S. oversight entities related to bilateral agreements for full-reliance inspections and cooperative arrangements for joint inspections. At a minimum, the Board should clarify in the final guidance

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[9] *Id.* at A1-4 n.8.

[10] *Id.* ("[T]he Board believes that it is appropriate that its approach to inspections of non-U.S. registered firms respect the laws of other jurisdictions to the extent possible. . . . Thus, the Board believes that a cooperative approach in which it works in the first instance with the home country oversight system to attempt to resolve potential conflicts of laws reflects the appropriate balance between the interests of different systems and their laws.").

that an inability to provide certain inspection information to the Board due to conflicts of law issues will not automatically disqualify a non-U.S. oversight entity from full reliance. Rather, the Board should retain the discretion to reach full-reliance determinations, even where conflicts of law issues may exist, as long as extending such full reliance is appropriate.

C. The Board Should Clarify Certain Processes Related To Full Reliance.

Evaluating a non-U.S. oversight system will undoubtedly require communication between the Board and the non-U.S. oversight entity under consideration. Once the regulator-to-regulator discussions in this regard have occurred, we encourage the Board (in conjunction with the non-U.S. oversight entity) to communicate with the affected registered non-U.S. audit firms regarding the level of reliance that will be accorded to the non-U.S. oversight entity. The Board should also consider that publication of bilateral agreements reached between the PCAOB and non-U.S. oversight entities, or portions thereof, would be useful for affected registered non-U.S. audit firms and their clients. In addition, we encourage the Board to continue to use the International Forum of Independent Audit Regulators as a vehicle to exchange information about the scope of responsibilities of non-U.S. oversight entities and to facilitate a discussion of experiences among auditor oversight entities.

The Board should also clarify the circumstances under which a full reliance determination, once made as to a particular non-U.S. oversight entity, may be changed by the Board. Such a clarification will help to establish the expectations of registered non-U.S. audit firms with regard to inspections.

In addition, the Board should clarify that once a non-U.S. oversight entity has been granted full reliance, the Board's objective will be to permit the non-U.S. oversight entity to conduct all aspects of the inspection process and to have full control over each inspection

component, barring exceptional circumstances. Although the Board states that "[i]f full reliance is appropriate, aside from having the opportunity to observe portions of the inspection, the involvement in the inspections field work by the Board and the Board's staff will be limited,"[11] the Board should clarify that it intends such observation to be limited to reviewing the work performed by the non-U.S. oversight entity during its inspection. Such a clarification will help registered non-U.S. audit firms to understand the role that the Board will play in full reliance-situation inspections, as well as make clear that activities undertaken during an observation do not become the functional equivalent of a joint inspection between the Board and the non-U.S. oversight entity.

Finally, the Board should clarify how it will handle aspects of the reporting process in a full-reliance situation. Although the proposed guidance states that the PCAOB plans to issue inspection reports for registered non-U.S. audit firms in full-reliance situations, the Board should consider providing additional information on the reporting process under a full-reliance regime. For example:

- Will an inspected registered non-U.S. audit firm have the right to seek review by the U.S. Securities and Exchange Commission ("SEC") of a PCAOB inspection report issued under full-reliance on a non-U.S. oversight entity's inspection if it disagrees with aspects of the report?[12]
- Will the Board or the non-U.S. oversight entity notify the inspected registered non-U.S. audit firm that the non-U.S. oversight entity's report has been transmitted to the PCAOB?

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11 *Id.* at A1-8.

12 *See* Sarbanes-Oxley Act § 104(h) (providing registered firms an opportunity to petition the SEC for review of reports issued by the Board if the firm disagrees with aspects of the report).

- If a non-U.S. oversight entity is required by non-U.S. law to inspect a registered non-U.S. audit firm more often than required under the Sarbanes-Oxley Act, will the Board issue its inspection reports only in accordance with the periodic inspection requirement under Sarbanes-Oxley or more frequently?

The Board should consider these issues related to the mechanics of issuing inspection reports under a full-reliance situation and provide guidance and an opportunity to comment on the guidance that will govern this important process.

II. Comments on Proposed "Essential Criteria"

We appreciate the Board's recognition that certain principles advanced in Rule 4012 do not "easily lend themselves to a static, objective measure."[13] Indeed, the evaluation of those principles requires the Board to maintain flexibility in evaluating non-U.S. oversight systems for full reliance. Our comments are designed to clarify or modify certain considerations in order to provide the Board the discretion to extend full reliance where it is appropriate to do so. If a particular consideration does not appear in these comments, we generally support the principles underlying the application of that consideration.

A. Principle 1 – Adequacy and Integrity of the Non-U.S. System

We support the evaluation of the adequacy and integrity of a non-U.S. oversight system as an important principle in determining whether such a system is entitled to full reliance, but several of the considerations presented under this principle should be clarified:

5. *The non-U.S. oversight system's inspection staff must have sufficient expertise, skills and experience in the audit field relative to the size and complexity of the audit firms within its mandate and must have sufficient expertise in applicable U.S. laws, regulations and professional standards.*

We suggest that the Board's defined terms "securities laws" and "professional standards" should be inserted to replace the phrase "applicable U.S. laws, regulations and professional

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[13] PCAOB Release No. 2007-011 at A1-10.

standards."[14] The PCAOB's defined terms provide a more precise frame of reference for evaluating whether the non-U.S. oversight entity has sufficient expertise. The Board should also limit this assessment to the non-U.S. oversight entity's inspection staff that reviews audit engagements relating to SEC-issuer clients.

> 6. *The non-U.S. oversight system's inspection procedures must cover both a review of selected U.S. public company audit engagements and the firm's internal quality control system. The review in both areas must include an assessment of the firm's compliance with applicable U.S. laws, regulations and professional standards. The non-U.S. oversight entity must be willing to consult with the PCAOB with regard to the selection of U.S. public company audit engagements.*

We are concerned that this consideration could be in tension with the concept of full reliance because it might be read to suggest the non-U.S. oversight entity must be willing to select audits for inspection that are identified by the Board. The non-U.S. oversight entity should be willing to confirm for the Board that it has selected audit engagements that allow the PCAOB to assess the manner in which the registered non-U.S. audit firm conducts audits of SEC-issuer clients. Indeed, a non-U.S. oversight entity should be receptive to considering information from the Board on particular matters of concern, in the spirit of cooperation and assistance. In a full-reliance situation, however, the non-U.S. oversight entity should have the ability to choose the audits it deems appropriate for inspection without consultation with the Board. This modification will reinforce the notion that the non-U.S. oversight entity has the confidence of the Board and will promote an exchange of information between the Board and the non-U.S. oversight entity.[15]

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[14] PCAOB Rule 1001(s)(ii), (p)(vi).

[15] In addition, our comment to the fifth consideration of Principle 1 regarding the definition of "applicable U.S. laws, regulations and professional standards" also applies to this consideration. *See supra* at 8-9.

In addition, a non-U.S. oversight entity's knowledge of a registered non-U.S. audit firm's system that is accumulated over the course of several inspections can inform the reviews of such a firm. The Board should clarify that a non-U.S. oversight entity need not undertake a complete review of the registered non-U.S. audit firm's internal quality control system during each inspection in order to be granted full reliance.

7. *The non-U.S. oversight entity must have the ability to access documents and information from the firm during an inspection.*

We agree that a non-U.S. oversight entity generally should be expected to have certain access to documents and information of a registered non-U.S. audit firm that is being inspected. Under certain circumstances, however, non-U.S. law may limit the non-U.S. oversight entity's ability to access information during an inspection. The Board should acknowledge that a level of "access" to documents and information by the non-U.S. oversight entity that is different from the level of access the Board may receive from a registered audit firm located in the U.S. will not necessarily preclude a full-reliance determination where the Board determines that it is appropriate to do so.

8. *The PCAOB must be given access, either by the non-U.S. oversight entity or by the PCAOB registered firm under inspection, to information and documents relevant to the inspection and oversight of the PCAOB registered firm.*

This consideration should acknowledge that depending on the scope of the access sought and the non-U.S. jurisdiction involved, concerns about conflicts of law—in particular, with respect to confidentiality and data privacy laws—may limit the Board's ability to access information and documents held by the non-U.S. oversight entity or the registered non-U.S. audit firm. While we encourage the Board to continue its efforts to cooperate with non-U.S. oversight entities in resolving such conflicts of law, this consideration should be qualified to recognize such concerns. The Board thus should clarify that these limitations will not necessarily preclude

a full-reliance determination, where the Board determines that it is appropriate to extend full reliance.

> *10. The PCAOB must be given access to the non-U.S. oversight entity's written report to the firm of the oversight entity's inspection findings covering both its review of selected U.S. public company audit engagements and the firm's internal quality control system. The report to the firm should describe issues identified through the course of reviewing the firm's performance on selected U.S. public company audit engagements, such as apparent departures from applicable auditing standards, related attestation standards, ethical standards, independence standards, and the firm's own quality control policies and procedures. The report also should describe any criticisms of or potential defects in the firm's quality control systems.*

Similar to the process employed by the Board, it is possible that inspection reports of non-U.S. oversight entities, or at least portions of such reports, may be confidential. The confidential portions of such reports also may differ from the portions of inspection reports that are considered confidential under the Board's own rules. It is possible that the non-U.S. oversight entity may be prohibited by law from providing the confidential aspects of the report to the Board. Indeed, the Board itself is subject to certain limitations in how it can disseminate non-public inspection reports if requested by non-U.S. oversight entities.[16] Consequently, this consideration should be modified to acknowledge that certain non-U.S. oversight entities that prepare reports that contain confidential information may be limited in their ability to provide such confidential portions to the Board, and the Board should seek to cooperate with non-U.S. oversight entities to resolve such conflicts of law. Such limitations, however, by themselves, should not preclude the Board from reaching a full-reliance determination where it is appropriate to do so.

In addition, in those situations where the non-U.S. oversight entity is able to provide the Board with the confidential report, the Board should clarify that it intends to treat confidential

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16 *See* Sarbanes-Oxley Act § 105(b)(5)(A).

portions of the report in a manner consistent with its rules governing treatment of such portions of its inspection reports.

Finally, the Board should clarify that it will not require a non-U.S. oversight entity to provide access to the confidential portions of the non-U.S. oversight entity's report or information and documents that are unrelated to the Board's scope of authority, such as matters addressing audits of non-SEC issuer clients.

> *11. The non-U.S. oversight entity must have a process for assessing whether a firm has addressed any criticisms of or potential defects in the firm's quality control systems identified in the firm's inspection report.*
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> *a. The non-U.S. oversight entity must be willing to provide to the PCAOB an assessment of whether the firm, within twelve months from the issuance of the final inspection report, has demonstrated substantial, good faith progress toward achieving the relevant quality control objectives, sufficient to merit the result that the criticisms or potential defects remain non-public.*
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> *b. In the event that it is determined that the firm has not sufficiently addressed such criticisms or potential defects, the non-U.S. oversight entity must agree not to object to the PCAOB publicly disclosing the criticisms of or potential defects in the firm's quality control systems in order for the PCAOB to meet its statutory obligations.*

This consideration raises concerns about conflicts of law, especially with respect to confidentiality and data privacy laws that arise in some non-U.S. jurisdictions. The Board should qualify this consideration to reflect that a non-U.S. oversight entity may be limited in its ability to report on quality control improvements due to these conflict of law issues. Also, the Board should acknowledge that some non-U.S. oversight entities may lack the authority to "agree not to object" to the Board's disclosure. These limits on the authority of non-U.S.

oversight entities should not, by themselves, preclude the Board from granting full reliance to a non-U.S. oversight system where it is appropriate to do so.[17]

B. Principle 2 – Independence of the Non-U.S. System

Although we generally support the considerations outlined under the second principle of Rule 4012, the Board should be mindful to maintain flexibility in evaluating the non-U.S. oversight entity and to not require that the non-U.S. oversight system be identical to the Board to achieve full reliance. For example, for entities operating without the funding sources established by Congress for the U.S. oversight system, it may be difficult to establish an inspection staff comprised exclusively of individuals who are not practicing auditors or affiliated with an audit firm. The Board's final guidance should note that there may be acceptable alternatives—such as allowing these individuals to serve as inspectors but not lead inspection teams—in order to allow the Board needed flexibility in making full-reliance determinations.

Similarly, the Board should take care not to place undue weight on whether a majority of the non-U.S. oversight entity's governing body is "current or former accountants or auditors or affiliated with an audit firm or the audit profession."[18] In establishing oversight systems, certain non-U.S. governments may have focused on ensuring that their oversight bodies have extensive expertise through permitting greater proportions of licensed accountants to sit on those oversight bodies, while still addressing independence through strong conflict of interest rules.

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[17] In addition, our comment to the tenth consideration of Principle 1 regarding clarification of the Board's intentions regarding the treatment of confidential portions of non-U.S. oversight entity inspection reports also applies to this consideration. *See supra* at 11-12.

[18] PCAOB Release No. 2007-011 at A1-13.

C. Principle 3 – Source of the Non-U.S. System's Funding

We generally support the considerations presented in the third principle and again encourage the Board to acknowledge that a non-U.S. oversight entity need not track the PCAOB's structure in order to be granted full reliance.

D. Principle 4 – Transparency of the Non-U.S. System

We generally support the Board's conclusion that it is appropriate to evaluate the transparency of the non-U.S. oversight system, but we request clarification of certain aspects of the third proposed consideration:

> *3. The non-U.S. oversight entity must either issue public inspection reports on individual firms or agree not to object to the PCAOB issuing such reports based on information from the non-U.S. oversight entity's inspections.*
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> *a. The non-U.S. oversight entity issues public inspection reports on individual firms: If the non-U.S. oversight entity issues public inspection reports as described below, the Board intends to publish a reference to the non-U.S. entity's public report for each firm's inspection. The non-U.S. entity's report must, at a minimum, identify the firm(s) inspected and provide a summary of any major deficiencies identified for each firm related to the review of selected U.S. public company audit engagements where it appears that the firm did not obtain sufficient competent evidential matter to support its opinion(s).*
>
> *b. Non-U.S. oversight entity does not issue public inspection reports on individual firms: If the non-U.S. oversight entity does not issue public inspection reports for individual firms, it must agree not to object to the PCAOB issuing a public inspection report that identifies the firm inspected and provides a summary of any major deficiencies identified related to the review of selected U.S. public company audit engagements where it appears that the firm did not obtain sufficient competent evidential matter to support its opinion(s). The PCAOB will consult with the non-U.S. oversight entity about the content of such report.*

The Board should clarify what is meant by "reference" to the non-U.S. oversight entity's report in this consideration. It is unclear if this consideration assumes that the Board will

incorporate a non-U.S. oversight entity's inspection report by reference, including the non-U.S. oversight entity's report as an attachment, or that the Board will identify that such a report exists.

The Board also should clarify that a non-U.S. oversight entity will not be required to meet a higher standard of public disclosure than the Board has followed, including under its own rules. As currently written, requiring a "summary" of the "major deficiencies identified for each firm related to the review of selected U.S. public company audit engagements" may require more public disclosure than is currently provided in most of the Board's own inspection reports.[19] In addition, the Board should clarify that this "summary" by the non-U.S. oversight entity is not intended to require discussion about potential defects in the registered non-U.S. audit firm's quality control systems. Requiring such discussion would go beyond what the Board currently requires to appear in its inspection reports, as certain portions of the Board's inspection reports are treated confidentially to allow firms a period of time to remediate potential defects in their quality control systems.[20]

E. Principle 5 – Historical Performance

We generally support the Board's examination of a non-U.S. oversight entity's historical performance in evaluating whether full reliance is appropriate, but both considerations require some clarification.

1. *More mature non-U.S. systems must have a record of investigating allegations of misconduct and, where appropriate, pursuing enforcement or disciplinary proceedings.*

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[19] Because of the limited number of SEC-issuer audit clients in certain non-U.S. jurisdictions, there is an additional risk that the issuer's identity could be determined from the public disclosure of a finding in a report.

[20] In addition, our comment to the eleventh consideration to Principle 1 regarding confidentiality and data privacy laws of non-U.S. jurisdictions also applies to this consideration. *See supra* at 12-13.

We generally support this consideration, but the Board should make clear that its evaluation of non-U.S. oversight entities will remain flexible enough to allow new institutions adequate time to develop an enforcement record. In particular, the failure to have an extensive record due to the relative newness of a non-U.S. oversight entity should not be a barrier to full reliance by the Board. Where appropriate, the Board should also consider the investigation and enforcement records of predecessor entities when evaluating the historical performance of a non-U.S. oversight system.

2. *Where enforcement or disciplinary proceedings have been successful, the non-U.S. system must have imposed sanctions that were appropriate under the circumstances and the system's governing laws.*

This consideration raises concerns about conflicts of law, specifically with respect to confidentiality and data privacy laws that arise in some non-U.S. jurisdictions. These concerns are heightened because such laws may prevent the Board from accessing data and information necessary to evaluate whether a particular sanction was "appropriate." The Board should qualify this factor to acknowledge such conflicts, and consider the methods discussed above for developing an approach to conflicts of law concerns.

III. Answers to Proposed Questions

The Board has sought comment on six broad questions presented in its release accompanying the proposed guidance. Although these questions are answered in additional detail through our comments above, we provide short commentary in response to the six questions:

1. *If a non-U.S. auditor oversight entity meets the essential criteria set forth in the proposed Policy Statement, are there reasons why the Board should not increase its level of reliance on inspections conducted by such an independent non-U.S. oversight entity? What are benefits and costs of full reliance?*

We support the Board's objective to increase the level of reliance on the inspections of non-U.S. oversight entities that meet the objectives articulated by the principles of Rule 4012. We also support the Board's ability to evaluate each non-U.S. oversight system as a whole, in order to determine whether the non-U.S. oversight entity satisfies the objectives outlined in Rule 4012. Full reliance on the inspections of non-U.S. oversight entities will increase efficiency and decrease the costs and burdens associated with duplicative inspections, while assisting the Board to meet its objectives of protecting investors, improving audit quality, ensuring effective oversight of audit firms, and helping to preserve the public trust in the auditing profession. At this time, we do not propose any additional considerations for the Board to evaluate when determining the appropriate level of reliance to a non-U.S. oversight entity, but we recognize that the Board should retain flexibility in evaluating a non-U.S. oversight entity in the event that unforeseen circumstances arise. Finally, in those instances where issuers already fund the cost of the non-U.S. oversight entity's inspection program and full reliance has been extended, the Board should consider relieving such issuers from the obligation to pay the portion of the accounting support fee that would otherwise cover the cost of the Board's inspection of registered non-U.S. audit firms operating in that jurisdiction.

2. *Are the essential criteria set forth in section III.C of the Policy Statement appropriate? Are there additional factors that should be considered? Should the criteria be modified in any way?*

As discussed more fully above, the considerations outlined by the Board are generally pertinent to the question of whether a non-U.S. oversight entity has an inspection framework on which the Board may appropriately rely. Although this comment letter expresses concerns with several of the considerations, we believe the considerations, as modified and clarified, are generally appropriate in light of the five principles of Rule 4012. In general, we believe the considerations should be modified where appropriate to limit the inference that the non-U.S.

oversight entity must be highly similar to the Board in order to be extended full reliance and, correspondingly, to allow the Board the opportunity to exercise its discretion to extend full reliance where circumstances warrant.

3. *Would meeting the essential criteria set forth in section III.C – along with a satisfactory on-site assessment by the Board of the entity's inspection practices through a period of joint inspections – provide sufficient assurance that the oversight entity's inspection program merits full reliance?*

As a practical matter, a period of joint inspections between the Board and the non-U.S. oversight entity may occur as new non-U.S. oversight entities evolve, or as a means to accelerate such evolution. Once the Board has determined that a non-U.S. oversight entity has satisfied the principles outlined in Rule 4012, the Board could extend full reliance to that non-U.S. oversight entity, regardless of whether the Board has engaged in a period of joint inspections.

4. *The Board has carefully balanced the requirements of the Act and those of non-U.S. jurisdictions (including laws related to data protection, confidentiality and other important legal requirements). Are there additional differences between U.S. and non-U.S. auditor oversight regimes that should be considered? Would those differences suggest greater or less reliance?*

Several differences between the PCAOB and non-U.S. oversight entities may need to be considered when determining whether full reliance should be extended. Such differences, by themselves, should not necessarily counsel against granting full reliance to a non-U.S. oversight entity that is materially different from the Board, as long as the non-U.S. oversight entity engages in independent and rigorous oversight of registered non-U.S. audit firms. For example, some non-U.S. oversight entities may need to use practitioners in the inspection process. If practitioners participate under appropriate safeguards to assure the independence of the non-U.S. oversight entity's inspection process, the participation of such individuals should not necessarily lead to a conclusion that the non-U.S. oversight entity is entitled to less than full reliance.

Another difference between the PCAOB and non-U.S. oversight entities is that certain non-U.S. oversight systems may have a much wider scope of activities and responsibilities than that of the PCAOB. The Board should be mindful of these potential differences when assessing the non-U.S. oversight entity's independence, funding, and historical performance, and these differences alone should not be determinative of whether full reliance is granted.

5. *As described in section III.B of the Policy Statement, does the Policy Statement establish the appropriate nature and level of reliance?*

We believe that the Board's Policy Statement, after taking into account the suggestions made herein, establishes an appropriate level of reliance for non-U.S. oversight entities that function consistently with the principles set out in Rule 4012. As explained in more detail above, however, some of the considerations may be in tension with the concept of "full reliance" outlined in the Policy Statement. With the suggested modifications, we support the Board's evaluation of non-U.S. oversight entities for the provision of full reliance.

6. *Will the proposed approach adequately protect the interests of investors in U.S. issuers audited by non-U.S. audit firms?*

We believe that the Board's proposed approach to full reliance on the inspections of non-U.S. oversight entities will adequately protect the interest of investors. The considerations outlined by the Board in its proposed guidance, with the modifications and clarifications described above, will enable full reliance to be extended to non-U.S. oversight entities that engage in appropriate oversight of registered non-U.S. audit firms. The Board's cooperation will help to strengthen cross-border auditor oversight and will help to protect the interests of investors in SEC issuers. The Board's proposed approach to full reliance will also allow the Board to more effectively and efficiently allocate its own resources by leveraging the inspection processes of non-U.S. oversight entities.

* * *

This comment letter identifies those aspects of the Board's proposal that should be clarified or modified to enable the Board to carry out its duties and responsibilities and to meet its goals of granting full reliance to the inspections of non-U.S. oversight entities when it is appropriate to do so. We support the Board's efforts to rely on non-U.S. oversight entities in conducting inspections of registered non-U.S. audit firms and to encourage cooperation and assistance between the Board and non-U.S. oversight entities.

We appreciate the opportunity to comment on this proposed guidance. The issues presented here are complex and may warrant further discussion. We would welcome the opportunity to further discuss these issues with the Board. If you have any questions or would like to discuss these issues further, please contact Jens Simonsen at (212) 492-3689.

Very truly yours,

/s/ Deloitte Touche Tohmatsu

cc: Mark W. Olson, Chairman
Daniel L. Goelzer, Member
Bill Gradison, Member
Charles D. Niemeier, Member

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COUNCIL OF INSTITUTIONAL INVESTORS

Suite 500 • 888 17th Street, NW • Washington, DC 20006 • (202) 822-0800 • Fax (202) 822-0801 • www.cii.org

Via Email

March 4, 2008

Office of the Secretary
PCAOB
1666 K Street, NW
Washington, D.C. 20006-2803

Re: PCAOB Rulemaking No. 2007-011

Dear Mr. Seymour:

I am writing on behalf of the Council of Institutional Investors ("Council"), an association of more than 130 public, corporate and union pension funds with combined assets of over $3 trillion. As a leading voice for long-term, patient capital, the Council believes that the Public Company Accounting Oversight Board ("PCAOB") has played, and continues to play, a vital role in restoring and maintaining the confidence of the investing public in financial reporting.[1] We, therefore, welcome the opportunity to comment on the PCAOB's proposed policy statement, *Guidance Regarding Implementation of PCAOB Rule 4012* ("Proposal").[2]

The Council generally supports the PCAOB's ongoing efforts to closely coordinate its inspections of PCAOB registered non-U.S. audit firms with the audit oversight entities located in the home countries of those firms. Such coordination efforts are appropriate and necessary in a global capital market system. We, however, are concerned that the Proposal, as currently drafted, does not achieve the objective of protecting the interests of investors with respect to U.S. issuers audited by non-U.S. audit firms.

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[1] *See, e.g.*, Brief of Amicus Curiae Council of Institutional Investors ("Council") in Support of Defendants-Appellees and Urging Affirmance at 1, Free Enter. Fund v. Pub. Co. Accounting Oversight Bd. ("PCAOB"), No. 07-5127 (D.C. Cir. Feb. 21, 2008), http://www.cii.org/UserFiles/file/resource%20center/key%20governance%20issues/legal%20issues/73810_6.PDF.

[2] PCAOB, PCAOB Release No. 2007-011, Proposed Policy Statement, *Guidance Regarding Implementation of PCAOB Rule 4012* (proposed Dec. 5, 2007), http://www.pcaobus.org/inspections/other/2007/12-05_release_2007-011.pdf.

Our main concern with the Proposal arises from our belief, consistent with the language and intent of the Sarbanes-Oxley Act of 2002,[3] that the PCAOB's independence is key to its overall effectiveness.[4] In our view, the crucial elements of that independence include:

- Its status as a private sector non-governmental body,[5]
- Its full-time board with a majority of board members being non-accountants, and[6]
- Its adequate and independent funding from a source other than from the accounting industry.[7]

Thus, we believe that the "essential criteria" set forth in section III.C. of the Proposal,[8] for full reliance on non-U.S. auditor oversight entities, are inadequate because they do not fully encompass the crucial elements of independence. More specifically, we believe the Proposal's "Principle 2 -Independence of the Non-U.S. System" essential criteria should be revised to include a provision requiring that the governing body of the non-U.S. oversight entity be (1) a private sector non-governmental body, (2) with full-time board members, and (3) comprised of professionals the majority of whom are not former accountants. [9]

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[3] *See* S. Rep. No. 107-205, at 6 (2002), http://www.congress.gov/cgi-bin/cpquery/?sel=TOCLIST&item=&&item=&r_n=sr205&&&r_n=sr205&&dbname=cp107&&sid=cp107RHAit&&refer=&&&&db_id=cp107& ("The successful operation of the Board depends upon its independence and professionalism").

[4] *See, e.g.*, Brief of Council in Support of Defendants-Appellees and Urging Affirmance, *supra* note 1, at 3.

[5] *See* Council Policies on Other Governance Issues 1 (adopted Mar. 20, 2007), http://www.cii.org/UserFiles/file/council%20policies/Redesigned%20CII%20Policies%20on%20Other%20Governance%20Issues%201-29-08.pdf ("The responsibility . . . should reside with independent private sector organizations with an appropriate level of government input and oversight").

[6] *See, e.g.*, Brief of Council in Support of Defendants-Appellees and Urging Affirmance, *supra* note 1, at 9 ("Another crucial element of the PCAOB's industry independence is the requirement that two—and only two—of its members be accountants").

[7] *Id.* ("[P]erhaps most important to long-term independence from the industry it helps to supervise, is a funding mechanism for the PCAOB that does not depend on the largesse of the regulated industry").

[8] PCAOB, *supra* note 2, at A1-9.

[9] *Id.* at A1-13-14.

In addition, the Proposal's "Principle 3 - Source of the Non-U.S. System's Funding" essential criteria should be revised to clarify that the funding mechanism for the non-U.S. oversight body must provide adequate resources for the inspections and not be dependent on the largesse of the accounting industry that it oversees.[10] Finally, we believe the guidance must include some form of ongoing monitoring process by the PCAOB. Such a process is critical to ensuring that any non-U.S. oversight entity that is found to have initially complied with any or all of the more than two dozen essential criteria continues to have their level of compliance (and the PCAOB's related reliance) reevaluated. We believe that even the most rigorous implementation of the approach described in the guidance is unlikely to be successful for any extended period of time without the presence of an active and effective PCAOB monitoring program.

In conclusion, the Council believes that the suggested revisions to the Proposal described above are necessary to ensure that the approach set forth in the guidance can effectively protect the interests of U.S. investors. The Council appreciates the opportunity to comment on the Proposal. We would be happy to respond if you have any questions or need additional information.

Sincerely,

Jeff Mahoney
General Counsel

[10] *Id.* at A1-14.

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March 4, 2008

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

RE: PCAOB Release No. 2007-011 – Request for Public Comment on Proposed Policy Statement: Guidance Regarding Implementation of PCAOB Rule 4012

Dear Sirs:

PricewaterhouseCoopers is pleased to comment on the above referenced Proposed Policy Statement. We are responding on behalf of the network of member firms of PricewaterhouseCoopers International Limited, each of which is a separate and independent legal entity.

Oversight and inspection of auditing firms are key elements in the process of restoring public trust and confidence in financial reporting. We support the PCAOB's efforts and the process of inspection of our member firms. We have found that oversight has been an effective catalyst for enhancing the quality of our audit practices. We believe that the decisions that the PCAOB makes with regard to cooperation with other jurisdictions will go a long way toward determining whether oversight regimes will be as effective as they can be.

Our comments are offered in the spirit of encouraging the PCAOB to work with other oversight entities to develop oversight regimes that are both operationally effective and administratively efficient. We have provided responses to each of the six questions posed in the Proposed Policy Statement. In addition, we wish to highlight three broad areas of comment, which are described immediately below. We have also provided in an Appendix to this letter some detailed comments on the proposed Essential Criteria.

Overall Comments

Criteria for Full Reliance Based on U.S. Circumstances

The model for organization and operation of the PCAOB is appropriate for the size and nature of the U.S. capital markets structure and the circumstances under which it was formed. We observe that some of the proposed criteria for full reliance are based on U.S. circumstances that do not necessarily apply in all non-U.S. jurisdictions. We believe that some of those criteria, if left unchanged, might cause the PCAOB to place less reliance on the work of non-U.S. oversight entities than is warranted.

The most significant area in which U.S. circumstances seem to have governed the criteria relates to involvement in the oversight and inspection process by active practitioners and others who are not full-time employees of the oversight or inspection entity. In some countries, active practitioners are permitted or even required to be involved in a role that helps to ensure that the oversight or inspections entity is knowledgeable about the practical issues that are arising in the current environment. In other countries, it is either impossible or impracticable for the oversight and inspections entity to hire the requisite number of full-time employees that are capable of conducting inspections. We encourage the PCAOB, when it encounters these circumstances, to consider the broader question of whether the spirit of the relevant principle has been satisfied.

We recognize that the Essential Criteria are designed, in part, to ensure that inspections of non-U.S. audit firms are completed in accordance with the PCAOB's legislative mandates. In the Appendix, we have attempted to offer comments on the Essential Criteria that are consistent with these mandates.

Cooperation on Inspections

Our member firms have worked with the oversight and inspection entities in several countries. Our experience has been that they take their role very seriously and conduct inspections in a diligent and professional manner.

As national external oversight bodies become more prevalent, it will be increasingly important for those organizations to perform their respective roles based on a spirit of mutual trust. The creation of IFIAR and participation therein by the PCAOB provide the appropriate forum for dialogue on audit oversight. Where possible, principles for cooperation on inspections could be determined through IFIAR rather than in the context of a bilateral agreement between the PCAOB and individual country inspection bodies.

The PCAOB's determination about the extent of its involvement in a joint inspection should be guided by all parties' mutual interest in protecting the public interest. This may be effectively accomplished by reinforcing the role of the home country inspection body, promoting a spirit of cooperation in all cross-border inspections, and ensuring timely completion of the inspection process, including the reporting of findings.

We also question whether cooperation on inspections should be determined via bilateral agreement in every case. For example, in the European Union, agreement on a framework for cooperation should be with the European Commission and apply to all Member States who have enacted the minimum legal requirements of the 8th Directive. It may then be appropriate to agree on greater cooperation within the agreed framework with those member states that have more advanced systems of oversight.

Other Comments on Level of Reliance

We note that Essential Criterion 4 under Principle 2 effectively permits the non-U.S. auditor oversight entity to use only its own employees in the inspection process. We believe that the public oversight and inspections process derives its strength and independence more from its independent supervision of and control over the inspection process as a whole than from a lack of involvement by practicing auditors in individual firm inspections. We encourage the PCAOB to consider the possibility that a process using inspection team members from other accounting firms, supervised by employees of the independent inspection body, can be an effective as well as acceptable approach.

Those involved in the inspection process should be required to demonstrate that they have the necessary relevant and current experience to carry out audit inspections. This work experience can be kept current and enhanced by, among other things, completion of continuing professional education courses on current accounting and auditing topics.

Responses to Specific Questions for Comment

Question 1: If a non-U.S. auditor oversight entity meets the essential criteria set forth in the proposed Policy Statement, are there reasons why the Board should not increase its level of reliance on inspections conducted by such an independent non-U.S. oversight entity? What are the benefits and costs of full reliance?

We believe that the oversight bodies and processes themselves will be much more effective if their principal focus is audit firms in their home country, where the regulators will be most familiar with the legal and practice environment, culture and customs, and particular audit risks. Thus, if a non-U.S. oversight entity satisfies the PCAOB's Essential Criteria, we believe the PCAOB should place full reliance on such a body. Benefits from a true "full reliance" approach include:

- Cost savings through the elimination of duplicate procedures.
- Cost savings through increased efficiency of the oversight process.
- Ensuring that PCAOB resources can be focused where they can provide proportionately greater protection for U.S. investors, which in most instances will be the domestic audit market[1].
- Recognition of the sovereignty of other countries and their principal duty to oversee audit firms in their domestic markets.

[1] We note that this is consistent with the rationale for the PCAOB's determination not to routinely inspect registered firms that do not issue audit reports on SEC registrants.

- Promoting a culture in which audit inspection bodies avoid the proliferation of cross-border inspections.

However, it should not be a pre-requisite for full reliance that every Essential Criterion be satisfied. The PCAOB should acknowledge that inspection models that differ from its own can nonetheless provide protection of the public interest.

Question 2: Are the essential criteria set forth in section III.C. of the Policy Statement appropriate? Are there additional factors that should be considered? Should the criteria be modified in any way?

We are broadly in agreement with the principles and the Essential Criteria. However, we believe the policy statement should state that full reliance will be based on substantive compliance with the principles rather than on meeting the Essential Criteria. We also have comments on some of the Essential Criteria. We offer those comments in the Appendix to this letter.

Question 3: Would meeting the essential criteria set forth in section III.C. – along with a satisfactory on-site assessment by the Board of the entity's inspection practices through a period of joint inspections – provide sufficient assurance that the oversight entity's inspection program merits full reliance?

Full reliance should not be predicated on strict compliance with each and every one of the Essential Criteria. Instead, the level of adherence to the Essential Criteria should be an indicator of the extent to which the associated principle is met. The PCAOB should exercise professional judgment and accept that foreign systems may satisfy the established principles without being identical to the U.S. oversight model. Oversight bodies that fully satisfy all of the principles, along with a satisfactory on-site assessment by the Board of the entity's practices, should merit full reliance.

Joint inspections are an effective means of providing assurance that the oversight entity's inspection program merits full reliance. However, in some jurisdictions joint inspections may not be legally permissible. We do not believe that full reliance should be precluded solely because of legal or other impediments to the PCAOB staff's participation in a joint inspection.

Question 4: The Board has carefully balanced the requirements of the Act and those of non-U.S. jurisdictions (including laws related to data protection, confidentiality and other important legal requirements). Are there additional differences between U.S. and non-U.S. auditor oversight regimes that should be considered? Would those differences suggest greater or less reliance?

In order to ensure effective oversight, many foreign jurisdictions will need to draw upon active practitioners to perform audit inspections. Active practitioners may also be needed to bring to bear the necessary level of expertise in U.S. laws, regulations and professional standards. The PCAOB should modify the relevant Essential Criterion so that practitioners performing inspections under the control and supervision of competent independent oversight staff are deemed to satisfy the criterion.

Question 5: As described in section III.B. of the Policy Statement, does the Policy Statement establish the appropriate nature and level of reliance?

We believe that auditor oversight can work best when oversight entities operate on the basis of mutual trust, having recognized that there is a basis for placing full reliance on their respective systems. The creation of IFIAR and participation therein by the PCAOB provide the appropriate forum for a dialogue on audit oversight. Where possible, principles for cooperation on inspections could be determined through IFIAR rather than in the context of a bilateral agreement between the PCAOB and individual country inspection bodies.

The PCAOB's determination about the extent of its involvement in a joint inspection should be guided by all parties' mutual interest in protecting the interests of shareholders. This may be effectively accomplished by reinforcing the role of the home country inspection body, promoting a spirit of cooperation in all cross-border inspections, and ensuring timely completion of the inspection process, including the reporting of findings.

We also question whether reliance should be based on bilateral agreement in every case. For example, in the European Union, agreement on a framework for cooperation should be with the European Commission and apply to all Member States who have enacted the minimum legal requirements of the 8th Directive. It may then be appropriate to agree on greater cooperation within the agreed framework with those member states that have more advanced systems of oversight.

Question 6: Will the proposed approach adequately protect the interests of investors in U.S. issuers audited by non-U.S. audit firms?

The PCAOB recently forwarded final rules to the SEC which, if approved, would give the PCAOB the discretion to waive inspection of registered firms that have not recently issued audit reports on U.S. issuers. We understand that the rationale for this rule change is to better protect investors in U.S. issuers by better reflecting a risk-based approach to the allocation of the PCAOB's inspection resources.

In the Appendix, we offer specific comments on the Essential Criteria and their application. These recommendations are intended to reflect a similar risk-based approach by ensuring that the PCAOB maximizes the reliance placed on non-U.S. oversight and inspection processes.

* * * * *

We would be pleased to discuss our comments and answer any questions that the PCAOB staff or Board may have. Please contact Richard R. Kilgust at (646) 471-6110 or Kenneth R. Chatelain at (202) 312-7740 if you have any questions about our letter.

Sincerely,

PricewaterhouseCoopers LLP

PRICEWATERHOUSECOOPERS

Appendix

Request for Public Comment on Proposed Policy Statement:
Guidance Regarding Implementation of PCAOB Rule 4012

Comments on the Essential Criteria

Principle 1 – Adequacy & Integrity

Essential Criterion (EC) 1 – In many countries, the oversight entity has a mandate to ensure the quality of audits of listed as well as unlisted companies. Accordingly, in many instances, that mandate may not explicitly refer to capital markets or the protection of investors. In other instances "protecting investors" may not carry precisely the same meaning as it does in the U.S. We do not believe that such differences from the U.S. system should by themselves result in less than full reliance by the PCAOB. We believe that the words "protect investors" can be eliminated from this criterion.

EC 4 – An oversight system and the inspections function should have access to a sufficient pool of experienced resources. We do not believe that the adequacy and integrity of the oversight system is dependent upon having all such individuals on the full-time payroll of the oversight or inspection body.

EC 5 – We prefer reference to inspection "resources" rather than staff as the latter implies a full-time employment relationship, which we believe is not necessary in every circumstance.

EC 8 – This criterion must reflect the existence of local legal impediments.

EC 11(b) – In countries with very few Foreign Private Issuers (FPIs), publication of this information may have adverse consequences for the FPI itself as identification will be relatively easy. We therefore believe that the PCAOB should coordinate with the non-U.S. oversight entity to minimize such adverse consequences.

Principle 2 – Independence

EC 1 – We agree with the criterion as proposed – that a majority rather than the entirety of the governing body be comprised of individuals other than audit practitioners. We would observe, however, that in some instances an individual may have at some point in their career been associated with an auditing firm but has long since severed that association, or may have an accounting or auditing qualification without ever having practiced. We would hope that the existence of such a person alone would not preclude the PCAOB from placing full reliance on the non-U.S. oversight entity. Our concerns in this regard would be mitigated if the PCAOB adopts our suggestion that full reliance should not be predicated on strict adherence to all of the Essential Criteria.

EC 2 – In principle, we believe that management of the oversight and inspection bodies should be outside of the control or influence of practicing auditors or auditing firms. However, we are concerned that as written, the criterion could exclude from full reliance an oversight body

that has an active practitioner in a role that is deemed by the PCAOB to be a management role. This may be possible in some countries in which the institute of professional accountants or similar body acts as the licensing authority for the profession. Our concerns in this regard would be mitigated if the PCAOB adopts our suggestion that full reliance should not be predicated on strict adherence to all of the Essential Criteria.

EC 4 – The inspections staff should be under the "direct control and supervision" of people who are neither practicing auditors nor affiliated with an audit firm, as opposed to "comprised of" such people as currently proposed.

EC 6 – Day-to-day operations of an oversight body needs to be founded on a healthy, open and transparent dialogue with active practitioners. Among the benefits of such communications are that they may enable the oversight body and staff to remain informed about emerging issues in the practice of accounting and auditing. Prohibition of any form of consultation with active practitioners will undoubtedly reduce such benefits. We do believe, however, that this EC should state that active practitioners should never be able to unduly influence or dictate how an oversight body operates on a day-to-day basis.

Principle 3 – Source of Funding

No comments.

Principle 4 – Transparency

EC 3(b) and EC 4 – In those countries where there are a limited number of FPIs there is a real risk that the publication of a firm inspection report by the PCAOB could have adverse consequences for the FPI itself as identification will be relatively easy. Accordingly, the language in EC 3(b) regarding consultation with the non-U.S. oversight entity should be repeated in EC 4.

EC 3(b) – The Criterion should state explicitly that, in issuing its public inspection report, the PCAOB will follow its normal protocol of seeking the reviewed firm's comments on the report and including the firm's response as an appendix to the report.

One additional Essential Criterion could also be considered:

> Persons involved in the governance of the public oversight system should be selected in accordance with an independent and transparent nomination procedure. An example of such a requirement may be found in Article 32(3) of the European Union 8th Company Law Directive.

Principle 5 – Historical Performance

No comments.

MAZARS

Paris La Défense, March 4, 2008

PCAOB
Mrs. Rhonda Schnare, Director International Affairs
Mrs. Karen Dietrich, Assistant Director International Affairs
1666 K Street, NW
Washington, D.C. 20006

Re: Request for public comment on proposed policy statement guidance regarding implementation of PCAOB Rule 4012

Madame, Sirs,

Mazars is an international, integrated and independent organization of European origin, that employs more than 8,000 people in our worldwide integrated partnership in forty-two countries (and with its correspondent agreements, or through the international alliance Praxity, able to mobilize the supplementary resources of 15,000 professionals), and that provides accounting, auditing, and assurance services.

We are pleased to submit this letter in response to the request for comments from the Public Company Accounting Oversight Board, on its policy statement guidance regarding implementation of PCAOB Rule 4012.

We will proceed with our comments in two ways:

(1) General Comments on Rule 4012 and

(2) Specific Comments with Responses to the PCAOB's 6 Questions

We respectfully submit these comments below and commend the PCAOB on its initiative, aiming to establish a full reliance regime for inspections between the United States and other jurisdiction, including the European Union.

1 General Comments on rule 4012

First of all, Mazars would like to suggest that all of the PCAOB's rules related to non-US oversight system be consolidated into one rule. There currently appear to be several rules dealing with the similar issues (examples: Rules 5113 (Reliance on the Investigations of Non-U.S. Authorities), 6001 (Assisting Non-U.S. Authorities in Inspections), and 6002 (Assisting Non-U.S. Authorities in Investigations). We believe that the guidance on these issues would be more effective and facilitate the user's understanding if it addressed all related issue in one comprehensive rule.

In general, there are convergences between the proposed policy statement Rule 4012 and the provisions of the EU 8th Directive and general agreements on the five main principles: adequacy and integrity, independence, adequate funding, transparency, and historical performance. There are also general agreements on the essential criteria.

However, even when such convergence exists, we believe that the concept of full reliance is also applicable to the US oversight system. As such, if European countries accept the principles and criteria as defined by PCAOB, they should also be able to apply the same principles and criteria on the US oversight system to determine whether it should be considered for full reliance. This means seeking reciprocity, harmonization, and coordination in the oversight systems (US and non-US). We also believe strongly that the non-US host oversight system should take the inspection lead during the joint inspection process. In the case of France, this means that the H3C (*Haut Conseil du Commissariat aux Comptes*) should play the primary role during the inspection phase.

Further, we think that the EU and PCAOB should agree on a comprehensive timetable regarding joint inspection issues regarding the UK, Holland, France, and Germany for assessing an oversight system, conducting the joint inspection process and granting the oversight system a full reliance status. Both entities should also discuss and agree on lagging UE countries in terms of oversight systems (when and how these EU countries can qualify for full reliance).

Although we believe that certain minimum criteria must be achieved for full reliance, we are advocates of a principles-based approach instead of a rules based one, as the current drafting of the guidance might be seen as rules-based, even if PCAOB states that certain criteria would require to exercise its judgment. As the criteria set forth in the policy statement are very precise, we would hope that the PCAOB would evaluate each non-US system much more using a principles-based evaluation, including also some risk-based approach. A principles-based approach is much more coherent with the fact that different oversight systems already exits, and should therefore take into account the resources of the those oversight bodies, in order to achieve a broad and efficient co-operation.

2 Specific Comments on rule 4012

2 1 Question 1: If a non-U.S. auditor oversight entity meets the essential criteria set forth in the proposed Policy Statement, are there reasons why the Board should not increase its level of reliance on inspections conducted by such an independent non-U.S. oversight entity? What are the benefits and costs of full reliance?

If a non-US system meets the essential criteria set forth in the proposed policy statement there is no basis not to increase the level of reliance on its inspections provided that the inspection process for both oversight systems are viewed as reciprocal and fair. As currently written, it appears that the proposed policy statement of Rule 4012 agrees on many aspects with the EU 8th Directive. There are convergences between the general principles and criteria as applicable on both oversight systems.

There are several benefits to full reliance including (1) globally reaching shared objectives of protecting investors, improving audit quality, harmonizing oversight process over audit firms and bringing more transparency and more accountability to the audit profession which means more confidence in the audit profession, (2) globally sharing audit knowledge (3) developing global audit cross training tools and techniques, (4) opportunities for developing best audit practices and benchmarking, (5) potentials for long term cost savings by preventing duplication of audit efforts, and (6) developing opportunities for joint efforts in fighting cross-border corporate frauds and money laundering.

There are some potential costs associated with full reliance such as: (1) short term implementation costs (learning curve) when bringing other non-US oversight entities on par as required by the Board (examples: costs of staff training, costs of joint inspections, funding issues, etc), (2) the cost of specific training needed for non-US system personnel to be considered "sufficient expertise" in the US environment, and (3) the actual cost of obtaining full reliance through a joint inspection process.

2 2 Question 2: Are the essential criteria set forth in section III.C of the Policy Statement appropriate? Are there additional factors that should be considered? Should the criteria be modified in any way?

As previously noted, there are convergences between the PCAOB's Rule 4012 and the EU 8th Directive with regards to the essential criteria.

However, we foresee challenges for non-US systems to fully meet the required aspects with regards to "sufficient expertise in applicable US Laws, regulations and professional standards." We believe that the convergence between US GAAS and ISA will help to bridge this gap from an auditing prospective, only if the PCAOB is willing to adopt converged standards with limited modifications. Otherwise, the burden of managing two systems of auditing standards may diminish any economies of scale which could be gained by performing inspections which satisfy both the EU 8th Directive and this proposed policy statement. It may also be difficult for the non-US systems to meet PCAOB requirements for expertise related to US GAAP. Obviously, this may be less of an issue for non-US systems inspecting foreign companies reporting under IFRS.

The guidance should therefore clarify that significant experience or qualification in US law and standards is not required, only basic knowledge of the application of US legislation and standards.

Also, we would like to raise several issues: (1) when and how to harmonize and coordinate full reliance principles among European member states, (2) the means or objectives by which to achieve full reliance are not described in this proposed policy statement (such as sharing audit referential, audit tools, training, creating universal inspectors, etc), (3) coordination of the timing of issuance of inspection report between PCAOB and non-US oversight system, (4) agreement on content of inspection report before publication, and (5) with regard to footnote 13, the affect on full reliance if the PCAOB is prohibited access to audit files by local law.

In the case of the EU, who is going to fund the oversight system in countries that do not have adequate resources? Can the EU create a common funding mechanism? We are aware that these are questions the European Union must answer; however we think these issues are important enough to merit mention. We believe that reciprocity between the EU 8th Directive and Rule 4012 is an important element to consider. Another important aspect is whether the PCAOB will enter in bilateral relationships with all of the EU or on a country by country basis.

2 3 Question 3: Would meeting the essential criteria set forth in section III.C. – Along with a satisfactory on-site assessment by the Board of the entity's inspection practices through a period of joint inspections – provide sufficient assurance that the oversight entity's inspection program merits full reliance?

After meeting the essential criteria, we agree that a period of joint inspection would provide sufficient assurance to allow full reliance.

However, several practical issues may arise such as language (will all inspection team members of the non-US system be required to be fluent in English and must all inspection work be done in English); possible prohibition by local laws which restrict access to audit work papers; funding related to the PCAOB staff participating in the joint inspections. We also believe that it is important that public oversight systems have quality control systems of their own.

Finally, as already mentioned, we propose that the PCAOB clarify the meanings of sufficient "expertise, skills and experience" required of the non-US oversight system's inspection staff as well as the compliance of a registered firm with applicable US laws, regulations and professional standards.

2 4 Question 4: The Board has carefully balanced the requirements of the Act and those of non- U.S. jurisdictions (including laws related to data protection, confidentiality and other important legal requirements). Are there additional differences between U.S. and non-U.S. auditor oversight regimes that should be considered? Would those differences suggest greater or less reliance?

Mazars believes that Rule 4012 should clearly identify safeguards regarding data protection and confidentiality. It should clearly define boundaries regarding joint inspections, interviews with

audit firm personnel, and review of audit workpapers. We also believe that it is the responsibility of the EU and member states to take the lead on the issue of confidentiality.

2 5 Question 5: As described in section III.B. Of the Policy Statement, does the Policy Statement establish the appropriate nature and level of reliance?

We believe that the PCAOB's principles of full reliance are in accordance with those of the EU 8th Directive and that both establish the appropriate nature and level of full reliance on each other's oversight system.

2 6 Question 6: Will the proposed approach adequately protect the interests of investors in U.S. issuers audited by non-U.S. audit firms?

This proposed policy statement combined with the developing convergence between US GAAP and IFRS and the developing harmonization of auditing standards worldwide have the potential to adequately protect the interests of investors in US issuers audited by non-US audit firms. Reciprocity, harmonization and coordination of oversight rules can bring about positive changes that can improve audit quality which means better financial reporting.

The key issue for the PCAOB and its counterparts is to dialogue and to find a balance between its needs and those of the non-US oversight systems, namely fairness and reciprocity.

We hope the above comments will be helpful.
If you would like to discuss our submission further please do not hesitate to contact us.

Yours sincerely,

Jean-Luc Barlet
Risk Management & Audit Quality

Professional Oversight Board

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Mark Olson
Chairman
PCAOB,
1666 K Street,
N.W.,
Washington,
D. C. 20006-2803.

4 March 2008

Dear Mark

PCAOB Release No 2007-011

I am pleased to respond on behalf of the UK's Professional Oversight Board to your request for comments on the proposed Policy Statement "Guidance regarding implementation of PCAOB Rule 4012".

Our principal observations are set out below, with more detailed points set out in the Appendix to this letter.

Importance of moving towards a full reliance approach

The Board believes that effective co-operation with audit regulators in other jurisdictions in discharging our respective regulatory responsibilities is in the interests of all parties involved and, in that context, welcomes the opportunity to comment on the proposed Policy Statement.

We believe it to be essential that the PCAOB moves towards placing full reliance on the work of audit regulators in other jurisdictions where such reliance is appropriate. A full reliance approach will avoid the significant potential for unnecessary duplication of regulatory effort that currently exists and would promote a cost-effective system of regulation which best serves the interests of our respective stakeholders.

Meaning of full reliance

Where the PCAOB determines that a full reliance approach is appropriate, the arrangements agreed with the non-US audit regulator should reflect this. We have

some concern that existing drafting within the policy statement anticipates more significant involvement by PCAOB staff than implied by the term full reliance. In particular, it would not be appropriate for PCAOB staff to either visit the firm to interview key personnel or request access to audit working papers since this clearly falls short of a full reliance approach. We would expect the PCAOB's "observation" role, referred to in the draft Policy Statement, to instead consist of consultation with the non-US regulator about the inspection plan and inspection findings relevant to US issuers.

We accept that PCAOB may conclude arrangements with non-US audit regulators falling short of full reliance where a more active involvement of PCAOB staff is necessary. We do not believe it is appropriate to capture these circumstances through a wide interpretation of the phrase full reliance.

Principles-based approach

We welcome the PCAOB's stated commitment to maintaining a principles-based approach in applying Rule 4012. In particular, we welcome the fact that the PCAOB is not looking to other regulators to precisely replicate its regulatory model in order to be eligible for a full reliance approach. However, we believe that the extent and prescriptive nature of the "essential criteria for full reliance" set out under the five principles are likely to have the effect of undermining a principles-based approach in practice and therefore need to be reconsidered.

We support the underlying principles set out within the guidance and appreciate that it is often necessary to provide further guidance as to how the principles might be achieved in practice. However, the criteria identified should in our view be seen as indicators of what is necessary rather than as a series of detailed requirements, each of which has to be met. It should suffice to show that each underlying principle is met, even if this is by other effective means.

Independence - Composition of governing body

We fully support the objective of ensuring that there is a lay majority on the governing body of the oversight system but have some concern over how the criterion is currently phrased. It may be possible to alleviate our concerns through a clearer definition of the term "auditor". For example, does the term include someone who trained as an auditor in their early career but has never been an audit partner? Similarly, the term "accountant" can have a wide meaning. Many individuals holding an accountancy qualification in the UK have not worked in practice for an audit firm or an affiliate of an audit firm, or have not done so for very many years, and could appropriately be regarded as independent. Perhaps a more appropriate description would be:

"The majority of the governing body of the non-US oversight entity must be comprised of persons who are not current or former partners or senior employees of an audit firm or its affiliates, or involved in the governance of a professional body related to audit."

Statutory restrictions and reciprocity

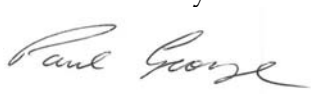
The guidance does not appear to us to take account of the practical issues associated with new statutory restrictions in the EU on the transfer of audit working papers or the need for reciprocity in relation to information that the PCAOB is itself able to share with other regulators and information that other regulators/jurisdictions will be expected to make available to it. These issues need to be considered further in our view before the Policy Statement is finalised.

Reporting

We welcome the fact that it is not envisaged that public inspection reports on individual firms issued by a non-US regulator, under a full reliance approach, will need to follow the format of public reports issued by the PCAOB or separately identify issues arising from the inspection relating to US issuers. We would appreciate clarification, however, that the PCAOB does not propose to issue any reports itself in such cases, based on the work of the local regulator, provided the minimum reporting requirements set out in the guidance are met.

Please feel free to contact me should you wish to discuss with us any of the comments we have made.

Yours sincerely



Paul George
Director - Professional Oversight Board
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APPENDIX

Detailed points

Principle 1 – Adequacy and integrity of the non-US system

Knowledge of US requirements

The use of the word "expertise" in relation to knowledge of US laws, regulations and professional standards might be taken to imply that members of the non-US regulator's inspection staff need to be experts in this area. We suggest that reference is made instead to staff having "sufficient knowledge and understanding". (Criterion 5)

Access to audit working papers

Our ability to provide the PCAOB with access to a firm's audit working papers will, in future, be dependent on the US arrangements for maintaining confidentiality being assessed as adequate by the European Commission and bilateral arrangements being agreed for the exchange of information on a reciprocal basis. (Criterion 8)

Principle 3 – Transparency

Uncorrected deficiencies in a firm's quality control systems

We assume that disclosure in a public report issued by the non-US regulator of any uncorrected deficiencies in a firm's quality control systems will remove the need for the PCAOB to itself publicly disclose such deficiencies. We would, however, welcome clarification to this effect. (Criterion 4)

Significant subsidiaries of US issuers

We note that the guidance focuses on the audit of US issuers rather than significant subsidiaries of US issuers whose auditors are also required to register with the PCAOB. We assume, however, that the intention is that full reliance should also be placed on the work of the local regulator, where appropriate, in relation to non-US auditors of significant subsidiaries of US issuers.

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March 5, 2008

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

RE: PCAOB Release No. 2007-010 – *Inspections of Foreign Registered Public Accounting Firms*

Dear Mr. Seymour:

I am writing you on behalf of the California Public Employees' Retirement System (CalPERS). CalPERS is the 4th largest retirement system[1] in the world and the largest public pension system in the U.S., managing approximately $238 billion in assets. CalPERS manages pension and health benefits for approximately 1.5 million California public employees, retirees and their families.

The PCAOB (Board) requested comments on a proposed statement to increase its level of reliance on non-U.S. Accounting firms' oversight programs. The proposed policy statement provides guidance on the Board's Rule 4012, *Inspections of Foreign Registered Public Accounting Firms* which permits the Board to adjust its reliance on the inspections of auditor oversight entities located in the home countries of registered non-U.S. audit firms, based upon the level of independence and rigor of those entities.

As a long-term shareowner, CalPERS has a significant financial interest in seeking improvement in the integrity of financial reporting. Auditors play a vital role in helping to ensure the integrity of financial reporting and it is the important role of auditors that brings standardization and discipline to corporate accounting, which in turn enhances investor confidence. The Sarbanes-Oxley Act of 2002, sec. 101, (SOX) establishes the

[1] Pensions & Investments, "P&I/ Watson Wyatt world's 300 largest retirement plans", 2007 Databook, Page 28, December 24, 2007.

Board to oversee the audit of public companies in order to protect the interests of investors.

CalPERS is supportive of the Board and its efforts to strengthen audit quality and consistency globally. We are also supportive of the Board's efforts to deepen its relations with other independent auditor oversight entities. We agree that these actions are necessary as the markets move towards a single set of globally accepted accounting standards. Auditors, by the nature of their responsibilities, should be able to facilitate global consistency. Critical to this process is the inspection of these public accounting firms by an independent auditor oversight entity. Although the Board's approach appears to be sound and we support the Board's professional judgment, we believe laws, regulations and enforcement by these non-U.S. auditor oversight entities should be fully considered prior to providing "full reliance" on the inspections programs of these oversight entities. We caution the Board to establish an appropriate time period for evaluation prior to relinquishing its oversight powers to these non-U.S. auditor oversight entities.

Criteria to increase reliance on inspections by non-U.S. oversight entity

The five broad principles designed to guide the Board in making a reliance determination appear to provide a sound basis for making a professional judgment to rely on non-U.S. auditor oversight entities. However, these broad principles may be impacted by the laws, rules and agreements of the home countries where the specific oversight entities are resident. CalPERS recommends that the Board ensure that similar guidelines on internal control over financial reporting are considered by these non-U.S. inspection systems. CalPERS supports the concept and benefits of full reliance but is unsure of the costs to the protection of investors' interest.

We believe the Board's work through the International Forum of Independent Audit Regulators (IFIAR) may facilitate the Board's due diligence and further the discussion of whether additional factors should be considered.

Cooperation and joint inspections before full reliance

We support the Board's desire to refine its policy of cross-border cooperation and agree that inspection systems of its non-U.S. counterparts must be sufficiently rigorous to meet the level of protection of investors that is required by SOX. Full reliance should in part be based on the ability of the oversight entity to obtain similar access and information that the PCAOB's inspectors can access when conducting inspections or investigations in the U.S. The Board should retain its overall authority under SOX regarding inspections, investigations and enforcement until an appropriate time period of full reliance is established and evaluated. The Board may decide not to rely on the non-U.S. auditor oversight entity and be stringent on the ability to do so.

Also, CalPERS believes that without full cooperation of these non-U.S. auditor oversight entities the Board will not attain its desired full reliance. CalPERS believes that home-

country regulation may affect this cooperation and the ability to perform joint inspections. We also believe there may be confidentiality requirements established in the home-country regulation that may make joint inspections challenging.

CalPERS is prepared to provide assistance to the Board at its request. Please contact Dennis Johnson, Senior Portfolio Manager at (916) 795-2731 if you have any questions or if we can be of further assistance.

Sincerely,

cc: Fred Buenrostro, Chief Executive Officer, CalPERS
Dennis Johnson, Senor Portfolio Manager, CalPERS

United States Senate

COMMITTEE ON
HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS

WASHINGTON, DC 20510–6250

March 5, 2008

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

RE: Proposed Guidance Regarding Implementation of PCAOB Rule 4012
Relating to Oversight of Foreign Accounting Firms that Audit U.S. Public Companies

Dear Members of the Board:

I am writing in opposition to the Public Company Accounting Oversight Board (PCAOB) proposal that seeks to, in effect, allow the Board, in some cases, to relinquish its statutory obligation to inspect foreign accounting firms that audit U.S. public companies in favor of full reliance on inspections conducted by foreign audit oversight entities.

In my roles as Chairman and Ranking Democrat of the U.S. Senate Permanent Subcommittee on Investigations, I have closely followed the establishment of the Board and its efforts to oversee foreign public accounting firms. In 2003, I submitted the enclosed letter to the Board supporting its plans to require foreign public accounting firms to meet the same registration requirements as U.S. firms, comply with the same U.S. auditing standards, and provide the same level of cooperation with Board requests for information. My 2003 letter described multiple instances in which foreign auditors had engaged in disturbing practices requiring vigorous oversight and warned that exempting foreign firms from full PCAOB oversight could undermine the law. Since then, the Board has developed a track record of overseeing foreign public accounting firms, often working in cooperation with home country regulators and sometimes conducting joint inspections. Board Member Charles Niemeier has said that those procedures are working well and are in no need of revision. The Board, however, wishes to increase its reliance on certain foreign audit oversight entities to the point where it can essentially relieve itself of any obligation to conduct its own inspections and make its own findings with respect to some foreign firms.

The proposal under consideration, as described in the PCAOB release, would authorize the Board to determine whether an audit oversight entity in a foreign country meets certain criteria and, if so, to enter into a bilateral agreement with that entity to move toward the Board's "full reliance" on its inspections. The proposal explains that if the Board were to place "full reliance" on a foreign audit oversight entity, it would rely on that entity to plan and execute all inspections of the country's accounting firms that audit U.S. public companies, make findings about those firms' compliance with U.S. laws, regulations, and standards, and evaluate the firms'

implementation of any recommended reforms. The PCAOB's role would be reduced to, at most, observing some of the inspections, consulting with the foreign audit oversight entity about U.S. requirements, and on occasion requesting access to a limited number of audit work papers. The PCAOB has indicated that it would rely on the foreign audit oversight entity's findings and recommendations, but retain its obligation to issue firm-specific inspection reports in the United States and, if a firm were to fail to correct specified deficiencies within a year, to disclose both those deficiencies and why the firm's response was inadequate.

The Board's proposal to move towards full reliance on some foreign inspections is ill-advised, because it would weaken the Sarbanes-Oxley Act's oversight requirements, potentially place U.S. firms at a competitive disadvantage, consume significant Board resources without improving audit oversight, and open the door to unintended negative consequences.

The proposal would weaken the Sarbanes-Oxley Act in several ways. First, it would undermine the law's requirement that foreign firms auditing U.S. public companies receive the same oversight as U.S. accounting firms. During the legislative debate over the Sarbanes-Oxley Act, some Members of Congress argued that foreign accounting firms should be exempt from PCAOB oversight and allowed to operate under the supervision of their home regulators. Others countered that such an exemption would create a loophole in the law, allow divergent oversight standards for firms that audit U.S. companies, and potentially place U.S. firms at a competitive disadvantage due to weaker oversight regimes in other countries. This dispute was resolved in Section 106 of the Act which states that foreign public accounting firms "shall be subject to this Act and the rules of the Board and the Commission issued under this Act, in the same manner and to the same extent" as U.S. accounting firms. In other words, U.S. and foreign public accounting firms are to receive equal treatment from the PCAOB, subject to the same inspections, findings, and reports.1 Section 106's plain language does not authorize the Board to delegate its inspection responsibilities to a foreign body, no matter how trustworthy.

The proposal would also weaken the Act by allowing foreign audit oversight entities to determine how to apply U.S. requirements to foreign firms, reducing the role of the PCAOB to that of an observer and consultant. It would reduce as well the oversight role of the Securities and Exchange Commission (SEC) which has no authority over the decisions of a foreign regulator. The probable result would be divergent legal interpretations and oversight practices in multiple countries, with no mechanism to ensure consistency. To the extent that another country were perceived as exercising less vigorous oversight than the PCAOB, it could also place U.S. firms at a competitive disadvantage compared to firms operating in that country, exactly the problem that Section 106 was designed to prevent.

Moreover, the comment letter submitted by the German Auditor Oversight Commission (AOC) demonstrates the Pandora's box of problems that would be opened if the Board were to adopt the proposed approach. Among other comments, the AOC states that, while Germany would permit joint PCAOB-AOC inspections of German firms for a "limited period of time" as a "confidence-building measure," it would "not allow any further joint inspections once a decision

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1 Section 106 does allow the PCOAB to determine to exempt classes of foreign accounting firms from the Act's provisions, but as the proposal indicates, the Board has explicitly decided against exempting any classes of firms from the law's oversight requirements.

as to full reliance had been taken." Instead, the "PCAOB would have to fully rely on the oversight conducted by the AOC and rely on its findings." In short, if it were given full reliance status, Germany seems to indicate that it would object to any independent inspection of a German audit firm by the PCAOB, even if the firm were to consent and even if U.S. investors, the PCAOB, the SEC, or others raised concerns about the firm's operations or the quality of AOC oversight.

The AOC letter states further that "German law does not permit the AOC to publish individual inspection reports" as required by the Sarbanes-Oxley Act, unless the firm being inspected consents to the publication. The AOC letter states: "Consequently, publication in the home country or an agreement for publication by the PCAOB in the USA – the latter might be considered as by-passing the national law – would be critical, not least owing to confidentiality requirements." These and similar comments indicate that if the PCAOB were to adopt the proposal, it would have to expend substantial resources negotiating bilateral agreements with foreign audit oversight entities over how that country's inspections would work and what constraints could be placed on the PCAOB's reporting obligations. The Board would be required to expend these resources without any prospect of strengthening auditor oversight and with the potential of having to contest efforts to weaken its oversight role. While Germany seems to think that the PCAOB has the authority to deviate from the principles and criteria set forth in its existing rules and proposal, in my view, the PCAOB does not have the authority to bargain away its statutory obligations to inspect foreign accounting firms and subject them to the same oversight requirements as U.S. firms that audit U.S. public companies.

A final point is one that was made in the enclosed letter from 2003, about the unintended consequences that could arise if foreign accounting firms in some countries were exempted from direct PCAOB inspections. Suppose that the Board announced a full reliance agreement with a particular foreign country. That announcement could be followed by a sudden increase in the number of accounting firms opening offices in that country and claiming foreign status there. Each of the "Big Four" firms, for example, could open an affiliate organized under the laws of the specified country. U.S. public companies might then decide to switch to those foreign auditors. The PCAOB might find itself suddenly involved in complex, time-consuming determinations over whether a particular auditor qualifies as a foreign company exempt from direct PCAOB inspections. Again, it could be faced with the need to expend significant resources without improving auditor oversight.

The PCAOB has successfully enlisted the cooperation of foreign audit oversight entities in conducting inspections of foreign accounting firms and ensuring that those firms are properly auditing U.S. public companies. That process is apparently working well. While working with foreign regulators to conduct joint inspections is useful, actually delegating the PCAOB's inspection obligations to a foreign regulator would go too far. The Sarbanes-Oxley Act requires the Board to exercise direct oversight authority over all accounting firms that audit U.S. public companies, whether foreign or domestic, and to treat both types of firms equally. As a longtime supporter of the PCAOB's work, I respectfully urge the Board not to adopt the proposed guidance and to continue its current course of action in which it partially, but not fully, relies on foreign audit oversight entities to inspect foreign accounting firms that audit U.S. public companies.

Thank you for this opportunity to comment on this matter.

Sincerely,

Carl Levin
Chairman
Permanent Subcommittee on Investigations

CL:ejb
Enclosure

cc: PCAOB Chairman Mark W. Olson
PCAOB Board Member Daniel L. Goelzer
PCAOB Board Member Willis D. Gradison, Jr.
PCAOB Board Member Charles D. Niemeier
SEC Chairman Christopher Cox
SEC Commissioner Paul S. Atkins
SEC Commissioner Kathleen L. Casey

#4

United States Senate

COMMITTEE ON
GOVERNMENTAL AFFAIRS
WASHINGTON, DC 20510-6250

March 21, 2003

Charles M. Niemeier
Acting Chairman
Public Company Accounting Oversight Board
1666 K Street, NW
Washington, D.C. 20006-2803

Dear Mr. Chairman:

I am writing in strong support of the proposal of the Public Company Accounting Oversight Board to require foreign accounting firms seeking to audit corporations trading on U.S. securities exchanges to register with the Board, comply with U.S. auditing standards, and cooperate with Board requests for auditor and client information.

Over the past five years, in my role as Chairman or Ranking Democrat on the U.S. Senate Permanent Subcommittee on Investigations, I have witnessed evidence in several of our investigations of ineffective, uncooperative, and disturbing practices by foreign auditors. In addition, recent events involving Royal Ahold have raised serious concerns about the adequacy of non-U.S. auditing standards and auditor oversight. These factors alone warrant inclusion of foreign firms auditing U.S. publicly traded corporations under the purview of the Board to protect U.S. shareholders and markets. Additional compelling reasons are that granting an exception for foreign auditors would be time-consuming and burdensome, and might encourage U.S. publicly traded corporations to purchase more audit services from abroad, driving audit services beyond the reach of U.S. oversight. The purpose of the Sarbanes-Oxley Act is to increase auditing oversight to restore investor confidence in U.S. securities markets, not push auditing services offshore to jurisdictions where Board oversight would be more difficult to accomplish.

An example of disturbing practices by foreign auditors can be found in the year-long investigation conducted by my Subcommittee staff into the role of correspondent banking in international money laundering. During the course of this investigation, the Subcommittee held hearings and released a five-volume report prepared by my staff. This report raised questions about the quality of auditing in foreign jurisdictions with strong corporate and bank secrecy laws and weak anti-money laundering controls. The report had this to say, for example, about several foreign accounting firms that had been asked questions about financial statements they reviewed or prepared for local banks:

"The investigation encountered a number of instances in which accountants in foreign countries refused to provide information about a bank's financial statements they had prepared in the role of a bank receiver or liquidator. Many foreign accountants contracted during the investigation were uncooperative or even hostile when asked for information.

"– The Dominican auditing firm of Moreau Winston & Company, for example, refused to provide any information about the 1998 financial statement of British Trade and Commerce Bank, even though the financial statement was a publicly available document published in the country's official gazette, the firm had certified the statement as accurate, and the statement contained unusual entries that could not be understood without further explanation.

"– A PriceWaterhouseCoopers auditor in Antigua serving as a government-appointed liquidator for Caribbean American Bank (CAB) refused to provide copies of its reports on CAB's liquidation proceedings, even though the reports were filed in court, they were supposed to be publicly available, and the Antiguan government had asked the auditor to provide the information to the investigation.

"– Another Antiguan accounting firm, Pannell Kerr Foster, issued an audited financial statement for Overseas Development Bank and Trust in which the auditor said certain items could not be confirmed because the appropriate information was not available from another bank, American International Bank. Yet Pannell Kerr Foster was also the auditor of American International Bank, with complete access to that bank's financial records.

"The investigation also came across disturbing evidence of possible conflicts of interest involving accountants and the banks they audited, and of incompetent or dishonest accounting practices. In one instance, an accounting firm verified a $300 million item in a balance sheet for British Trade and Commerce Bank that, when challenged by Dominican government officials, has yet to be substantiated. In another instance, an accounting firm approved an offshore bank's financial statements which appear to have concealed indications of insolvency, insider dealing and questionable transactions. In still another instance raising conflict of interest concerns, an accountant responsible for auditing three offshore banks involving the same official provided that bank official with a letter

of reference, which the official then used to help one of the banks open a U.S. correspondent account."[1]

While these matters involved foreign accounting firms reviewing the records of local banks and not U.S. publicly traded corporations, this record of poor performance and poor cooperation with U.S. inquiries does not inspire confidence. Moreover, as increasing numbers of companies such as Tyco International and Ingersoll Rand establish headquarters in the Caribbean or other offshore locations, it is possible that foreign auditors could begin providing substantial auditing services to companies with large numbers of American shareholders. These foreign auditors should be required to meet the same auditing standards and operate under the same oversight as auditors based in the United States.

While accounting firms in the Caribbean and other countries around the world have had a tradition of self-regulation, ongoing corporate accounting scandals indicate self-regulation will no longer suffice to ensure investor confidence in corporations trading on U.S. markets. Enactment of the Sarbanes-Oxley Act has begun a new chapter of independent auditor oversight in the United States, but equivalent reforms have not taken place in many other countries. For example, when the Dutch conglomerate Royal Ahold NV announced a $500 million earnings restatement in February 2003, it brought to light the lack of strict auditing standards and oversight in many European countries, even for companies audited by U.S.-based accounting firms such as Deloitte & Touche which audited Royal Ahold. The Netherlands, home of Royal Ahold, has no agency equivalent to the U.S. Securities Exchange Commission (SEC) or any auditor oversight body. According to the European Federation of Accountants, six nations in the European Union do not enforce accounting standards at all. The United Kingdom is apparently closest to the United States in exercising auditor oversight, but one media report noted that "whereas America's Securities and Exchange Commission . . . has made 1,200 companies correct their audited accounts in the past five years, Britain's equivalent, the Financial Reporting Review Panel, has demanded only 15 restatements in the past dozen. It has just one full-time accountant and investigates only if there is a complaint about a company's figures."[2]

Including foreign auditors under the purview of the new Public Company Accounting Oversight Board would, thus, add a much-needed element of auditor oversight for firms reviewing corporations trading in U.S. markets. At the same time, preliminary estimates indicate overseeing these firms would not overextend the Board. Right now, according to the SEC, of the approximately 1,000 accounting firms that sign financial reports submitted to the SEC, only about fifty to one hundred appear to be

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[1] "Role of U.S. Correspondent Banking in International Money Laundering," S.Hrg. 107-84 (March 2001), Volume I, at 313-314.
[2] "Holier than thou," The Economist (2/8/03).

foreign firms. Because foreign auditors currently appear to make up less than 10 percent of the total number of auditing firms reviewing corporations traded in the United States, supervising them should not be beyond the resources of the Board. Making arrangements with foreign oversight bodies where feasible, and setting registration fees sufficient to support needed oversight efforts, would also help ensure this task is manageable.

In contrast, if foreign auditors were to be exempted from Board oversight, an immediate, time-consuming, and difficult task would arise requiring the Board to determine on a case-by-case basis which auditing firms would qualify as "foreign." KPMG, for example, states on its Internet website that KPMG International is a Swiss non-operating association, while other Internet sites locate KPMG headquarters in the Netherlands. Several major U.S. accounting firms operate an international network of affiliated but independent firms, raising a host of questions about which, if any, of these affiliates would qualify for a foreign exemption. Even in the case of foreign firms that share the name of one of the "Big 4" accounting firms in the United States, facts are likely to differ on the extent to which the U.S. firm is legally responsible for the foreign firm's conduct or requires it to adhere to U.S. auditing standards. For example, on the PricewaterhouseCoopers (PWC) website, below the address of each "worldwide location" listed as a PWC office is this disclaimer: "PricewaterhouseCoopers refers to the network of member firms of PricewaterhouseCoopers International Limited, each of which is a separate and independent legal entity." Each of these PWC offices could undertake to certify the financial statements of one or more corporations trading in the United States and ask the Board to evaluate whether it was sufficiently divorced from its U.S. affiliate to qualify for a foreign exemption. This complex determination would likely consume significant Board resources, without advancing the goals of strengthening auditor oversight or restoring investor confidence in U.S. securities markets.

Finally, exempting foreign auditors might have the unintended consequence of pushing key auditing services abroad beyond the Board's oversight. More than 1,300 foreign companies are now registered to trade shares in U.S. securities markets, and many use foreign accounting firms. Granting foreign auditors an exemption might encourage most or all of these foreign companies to use a local auditor beyond U.S. auditing oversight. This exemption might also encourage U.S. corporations to use foreign-based auditors in order to avoid Board scrutiny. In addition, exempting foreign auditors might encourage some U.S. auditing firms to relocate their operations or headquarters offshore in order to market themselves to companies as free from Board scrutiny. The decision of the consulting firm Accenture, formerly part of Andersen and now domiciled in Bermuda, provides precedent for a professional services firm moving offshore while continuing to market its services to U.S. publicly traded corporations. This exemption might even provide U.S. corporations with another reason to move offshore, since a company relocating its headquarters abroad could claim that this relocation justified its switching to a local, foreign auditor beyond U.S. auditing oversight. Tyco International, a longtime U.S. company that relocated its headquarters to

Bermuda a few years ago, has continued to trade in the United States and market its shares to U.S. shareholders, while undergoing increased scrutiny over possible accounting irregularities. Surely, if we are to achieve the goals of the Sarbanes-Oxley Act, a company like Tyco ought to be required to use an auditor that is fully subject to the auditing standards and oversight of the Public Company Accounting Oversight Board.

The Board's unanimous support for the proposal to require all foreign auditors seeking to audit corporations traded on U.S. securities exchanges to register with the Board and accept its oversight is a crucial step towards returning stability, reliability, and investor confidence to our capital markets. I support this proposal and urge the Board to continue to oppose any efforts to create an exemption for foreign auditors.

Sincerely,

Carl Levin

Carl Levin, Ranking Democrat
Permanent Subcommittee on Investigations

CL:ejb
cc: PCAOB Board Member Kayla J. Gillan
PCAOB Board Member Daniel L. Goelzer
PCAOB Board Member Willis D. Gradison, Jr.
SEC Chairman William H. Donaldson
SEC Commissioner Paul S. Atkins
SEC Commissioner Roel C. Campos
SEC Commissioner Cynthia A. Glassman
SEC Commissioner Harvey J. Goldschmid

THE INSTITUTE OF CHARTERED ACCOUNTANTS
IN ENGLAND AND WALES

4 March 2008

Our ref: ICAEW Rep 24/08

Office of the Secretary
PCAOB
1666 K Street,
N.W.
Washington
D. C. 20006-2803.

By email

Dear Sir

PCAOB Release No 2007- 011 Proposed Policy Statement: Guidance Regarding Implementation of PCAOB Rule 4012

The Institute of Chartered Accountants in England and Wales (the 'Institute') welcomes the opportunity to comment on the proposed Policy Statement: Guidance Regarding Implementation of PCAOB Rule 4012 published by the PCAOB in December 2007.

The Institute operates under a Royal Charter, working in the public interest. Its regulation of its members, in particular its responsibilities in respect of auditors, is overseen by the Financial Reporting Council. As a world leading professional accountancy body, the Institute provides leadership and practical support to over 130,000 members in more than 140 countries, working with governments, regulators and industry in order to ensure the highest standards are maintained. The Institute is a founding member of the Global Accounting Alliance with over 700,000 members worldwide.

We are wholly supportive of the PCAOB's desire to move towards full reliance on foreign audit oversight entities. Cost-effective co-operation with such entities is in the interests of US and non-US investors, the companies listed on the US market and their auditors, the PCAOB itself and the foreign audit oversight entities on which it seeks to place reliance. We therefore welcome the opportunity to comment on the proposals with a view to ensuring that the proposals stand the best possible chance of achieving the shared objectives of the PCAOB and foreign audit oversight entities.

Our comments have been prepared with the help of our many members working around the world who have detailed knoweldge and practical experience of US, EC and other regulatory regimes. We set out our main comments, comments on the principles and criteria and answers to the PCAOB's specific questions below.

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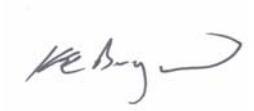
Please contact me should you wish to discuss any of the points raised in this response.

Yours sincerely



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Main Comments

1. Full reliance

We acknowledge the PCAOB's definition of full reliance and are cognisant of the need for the PCAOB, in the interests of protecting US investors, to retain the right to observe portions of the field work of the oversight entity. However, we believe that the PCAOB risks over-caution in this area. Observation is described as involving accompanying the non-US inspection team to the audit firm for interviews with key firm personnel and permitting PCAOB inspectors to review audit firms' working papers, after the joint inspection process has been completed. This implies more significant involvement by PCAOB staff than full reliance warrants. ***The PCAOB should consider clarifying the fact that only in exceptional circumstances would it seek to accompany the non-US inspection team to the audit firm or inspect audit working papers.***

2. Principles and essential criteria

The PCAOB has made it clear that it is not seeking replication of the US regulatory model as a condition for full reliance. Nevertheless, the detailed nature of the 'essential criteria for full reliance' set out under the five principles betray a seeming lack of confidence in any systems that do not very closely resemble the US system. In particular, the apparent equal ranking of all of the stated criteria as 'essential;' seems unnecessarily prescriptive and burdensome: there are 11 essential criteria under principle 1. The PCAOB will need to consider very carefully whether the *principles*, rather than the essential criteria, have been met by foreign audit oversight entities. The certainty provided by compliance with so many essential criteria might be spurious and recognition of the fact that there is a need to balance weaknesses and compensating strengths in foreign audit oversight entities is likely to better serve the interests of US investors. ***We urge the PCAOB to view its criteria as indicative of what is required to achieve the principles, rather than essential as this would serve the interests of US investors by taking into account that the principles can be met in different ways. Alternatively, the PCAOB should consider categorising or weighting its criteria or order to enable foreign audit oversight entities to see more clearly those aspects of their regimes that are of particular importance to the PCAOB. The PCAOB should also make it clearer that its decisions regarding full reliance* may *take account of matters other than those set out in the criteria if they are relevant to the principles.***

3. Significant subsidiaries of US issuers

We read the proposed Policy Statement as applying to auditors of US issuers rather than their significant subsidiaries, despite the fact that their auditors are also required to register with the PCAOB. It would be helpful if the PCAOB made it clearer that full reliance should also be placed on the work of foreign audit oversight entities in relation to the auditors of significant subsidiaries of US issuers, where appropriate.

4. Public inspection reports

We welcome the fact that public inspection reports on individual firms issued by foreign audit oversight entities:

- will not be published under a full reliance approach;

- need not follow the format of reports issued by the PCAOB or separately identify issues relating to US issuers; and

- dealing with uncorrected deficiencies in a firm's quality control systems will obviate the need for the PCAOB to publish such deficiencies.

5. Reciprocity and data protection issues

Reciprocity issues in the form of information that the PCAOB may share with other regulators are relevant to full reliance. Data protection issues concerning reviews of audit firms' working papers have implications for EU requirements relating to the transfer of audit working papers. The statement in footnote 13 to the effect that data protection issues will be taken on a bi-lateral basis understates the potential extent of this issue. These matters need to be considered carefully before the finalisation of this Policy Statement and it is important that the clear distinction is maintained between the inspection of an audit firm by a foreign audit oversight entity and reliance on the work of the foreign oversight entity.

Comments on Principles and Criteria

Principle 1: Adequacy and integrity of non-US system

Essential Criteria Nos. 5 and 6: Expertise in US law, regulations and standards

The requirement for inspections staff to have 'sufficient expertise in US law, regulations and standards' implies a different standard to that likely to be required. We therefore suggest that the requirement be for staff to have 'adequate knowledge and experience of US law, regulations and standards in order to perform inspections of audits of relevant US issuers.'

Principle 2: Independence of non-US system

Essential Criteria No. 1: Composition of governing body

Whilst a non-practitioner majority on the governing body of the oversight system is a key element of many oversight systems, the prohibition on *former* accountants or auditors seems an unnecessary restriction (and might deprive smaller foreign audit oversight bodies of valuable expertise), especially if a 'cooling off' period, of, say, three years, were mandated. Many of those with highly relevant expertise from business may have trained as accountants or auditors decades before in their careers but, never, post-qualification, engaged in public practice. We believe that it would be appropriate for former accountants or auditors to bring their experience to governing bodies; furthermore, there is little consistency between this criteria and essential criteria 2 under principle 1 which requires the body to be populated with persons knowledgeable in accounting and auditing.

Essential Criteria No. 5: Prohibitions against conflicts of interest

This criterion is vague. Conflicts of interest are context -specific. The effective management of conflicts of interest is usually based on overarching principles underpinned by threats and safeguards, some of which may be absolute prohibitions. This is an example of an area in which, as noted above, the PCAOB could take decisions regarding full reliance based on matters other than those set out in the essential criteria if they are relevant to the principles.

Answers to Specific Questions

1. If a non-U.S. auditor oversight entity meets the essential criteria set forth in the proposed Policy Statement, are there reasons why the Board should not increase its level of reliance on inspections conducted by such an independent non-U.S. oversight entity?

   No. However, the benefits of full reliance will be only achieved if there is reciprocal reliance by oversight bodies in different jurisdictions, including the EU.

   What are the benefits and costs of full reliance?

   The principal benefits are regulatory efficiencies and cost savings. All regulatory costs are ultimately borne by US investors. The costs of full reliance are the costs of working with foreign audit oversight entities but the benefits outweigh those costs.

2. Are the essential criteria set forth in section III.C. of the Policy Statement appropriate? Are there additional factors that should be considered? Should the criteria be modified in any way?

   See our comments on principles and criteria above. There are no additional factors that should be considered.

3. Would meeting the essential criteria set forth in section III.C along with a satisfactory on-site assessment by the Board of the entity's inspection practices through a period of joint inspections – provide sufficient assurance that the oversight entity's inspection program merits full reliance?

   Yes.

4. The Board has carefully balanced the requirements of the Act and those of non-U.S. jurisdictions (including laws related to data protection, confidentiality and other important legal requirements). Are there additional differences between U.S. and non-U.S. auditor oversight regimes that should be considered? Would those differences suggest greater or less reliance?

   The PCAOB should not under-estimate the extent to which the details of its Statement will be read differently in different jurisdictions. Those differences suggest neither greater nor less reliance but rather the need for very careful consideration of whether the principles, rather than the essential criteria, have been met by a foreign audit oversight entity.

5. As described in section III.B. of the Policy Statement, does the Policy Statement establish the appropriate nature and level of reliance?

   We encourage the PCAOB to have confidence in its own ability to decide whether or not a foreign audit oversight entity is worthy of full reliance, and to place fuller reliance on such entities than that envisaged by the

proposed Policy Statement. For example, our main comment on full reliance above suggests that the PCAOB should only envisage seeking to accompany the non-US inspection team to the audit firm or inspect audit working papers in exceptional circumstances.

6. 6. Will the proposed approach adequately protect the interests of investors in U.S. issuers audited by non-U.S. audit firms?

   Yes.

Attachment-1

4th March 2008

Ms. Rhonda Schnare
Director, International Affairs
The Public Company Accounting Oversight Board
1666 K Street, N.W., Washington, D.C.
20006-2803

Re: Comments on proposed policy statement *"Guidance Regarding Implementation of PCAOB Rule 4012"*

Dear Ms Schnare:

The Financial Services Agency of Japan (JFSA), together with the Certified Public Accountants and Auditing Oversight Board of Japan (CPAAOB), welcomes the opportunity to comment on the proposed policy statement *"Guidance Regarding Implementation of PCAOB Rule 4012"*, and highly commends the PCAOB (Board) for its efforts to implement the rule in a transparent manner. We believe that it is critical both for the Board and the JFSA/CPAAOB to develop a practical cooperative framework in pursing common responsibilities, and thus we would highly appreciate the Board for giving due consideration to our comments in finalizing the guidance.

Please find our general comments in the main body of this letter; and the specific comments and/or observations to each question and principle therein, in the Appendix.

Japanese audit oversight regime

The Japanese authorities believe that high quality audits are an indispensable element of capital market integrity, and have therefore endeavored to improve the Japanese audit system through seamless efforts. We remain committed to ensuring that the Japanese audit oversight regime is effective and comprehensive in maintaining public trust in the capital markets.

For your information, the revised CPA Act will become effective as of April 2008. The Act requires all foreign audit firms that produce audit attestations for foreign issuers whose securities are publicly traded on the Japanese market (i.e. entities that are required to submit their reports to the JFSA) to notify the JFSA, and to become subject to oversight by the Japanese authorities. The Act also empowers the JFSA and the CPAAOB to order audit firms to submit any relevant reporting documents or to conduct on-site inspections of firms, when it is deemed necessary and appropriate in light of pubic interest and investor protection in Japan.

Approach towards reliance on other audit oversight authorities

We believe that the JFSA and the CPAAOB share with the Board the goal of investor protection and contributing to the public interest, while ensuring the fairness and efficiency of markets, and enhancing capital formation.

As noted above, the Japanese regulatory framework requires the JFSA/CPAAOB to carry out inspection of foreign audit firms or request them to submit reporting documents when it is deemed necessary and appropriate in light of public interest and investor protection. Within this framework, it is also possible that we utilize the work of foreign audit oversight authorities in light of efficiency of our work.

We understand that the Board is proposing an approach similar to ours, as the *sliding-scale approach* in the proposed guidance enables the Board to increase reliance in foreign audit oversight authorities, while ensuring the investor protection. We consider it a sensible approach to the end of achieving the public interest while minimizing administrative duplication.

For a non-Japanese audit oversight regime which is independent and robust as that of Japan, it may be beneficial if we can make the best use of the work by such a regime. It should also be beneficial for the Board to utilize the work by non-U.S regimes which meet your suggested criteria. To this end, we suggest that the guidance provide a specific reference to the reciprocal aspect, as it is an indispensable element in establishing a bilateral arrangement, from which both sides may benefit.

Possible cooperative framework and access to information

Regardless of the details in the guidance, we believe it essential to develop an effective cooperative arrangement between the JFSA/CPAAOB and the Board in conducting public oversight activities. The arrangements should be flexible so as to reflect the necessity and benefit for both sides; otherwise, it may hinder the objective that we should have. We also think that the arrangement should be clarified in writing, for example, through exchanges of letters. Rather, the document should also be flexible that should respond to the needs of both authorities.

We would like to stress that the exchange of information among regulators is one of essential piece for a cooperative framework. This will ensure the opportunity to obtain creditworthy information on a timely basis based on the mutual trust. From our side, we may be allowed to share relevant documents with the Board subject to certain conditions including the secrecy obligation and reciprocal treatments. Although we are aware that the Board currently has difficulties in sharing information, we are strongly in favor of exchanging inspection reports among regulators rather than obtaining them from audit firms, when it is necessary. We look forward to further discussion of this issue in the future.

Home-country based approach

We would like to note that the CPAAOB conducts inspection based on a mandate given by the CPA Act, and inspection reports are written in light of fulfilling the mandate. Therefore, the report covers results of inspection conducted in accordance with the Japanese requirements, but do not cover those conducted in accordance with the U.S. requirements. Nonetheless, we consider that the recent trend of global convergence towards high quality standards/regulations will increase the overlapping area, and may necessitate all the work re-conducted in accordance with U.S. requirements, and many may be benefited from the sliding-scale approach.

However, considering the global outlook where many jurisdictions are adopting the home-country based approach, we suggest that the Board consider taking the same approach to the extent that the home-country's regulatory framework can be considered robust.

Another aspect of the merit of the home-country based approach is that each independent audit oversight body will more easily construct effective cooperative frameworks with foreign counterparts. If each oversight body were to ask foreign counterparts to conduct inspection based exclusively on its own laws, regulations, and standards, rather than those of the counterparts, the possible level of mutual reliance could be substantially constrained. Therefore, the Board may wish to consider honoring the home-country oversight activities to the extent that they are found to be independent and robust.

We sincerely thank you again for this opportunity to comment on your proposal, and look forward to continuing further dialogue in the future. Should you have any questions, please do not hesitate to contact us.

With our best regards,

Yours sincerely,

Junichi MARUYAMA
Deputy Commissioner for International Affairs
Financial Services Agency,
Government of Japan

Hideyuki FURIKADO
Secretary General
Certified Public Accountants and Auditing
Oversight Board
Government of Japan

Appendix

1. If a non-U.S. auditor oversight entity meets the essential criteria set forth in the proposed Policy Statement, are there reasons why the Board should not increase its level of reliance on inspections conducted by such an independent non-U.S. oversight entity? What are the benefits and costs of full reliance?

We agree with the Board's assessment that the proposed approach contributes to increasing the efficiency, while ensuring the public interest and investor protection.

2. Are the essential criteria set forth in section III.C. of the Policy Statement appropriate? Are these additional factors that should be considered? Should the criteria be modified in any way?

As noted in the main body of the comment letter, we suggest that the Board take reciprocal aspect into consideration in the essential criteria. Also, please see the followings for more details corresponding to each principle.

Principle 1 – Adequacy and Integrity of the Non-U.S. System
In regards to a disclosure of the remedial measures taken by the audit firm, we would like to note that, once the instructions or orders for improvement of operation is issued by the JFSA, the JFSA is to responsible for monitoring the remedial measures taken by the subject firms in subsequent years. The JFSA semi-annually receives reports from relevant audit firms outlining their remedial measures in response to the significant deficiencies of their operations identified by the CPAAOB, and determines whether sufficient improvements have been made after twelve months from the issuance of instructions.

We do not rule out the possibility to provide our assessments with the Board on a premise that they will be published; however, we believe that sufficient coordination between audit regulators should be needed in terms of timing, content, etc., so as not to cause confusion, when the Board disclose that sufficient improvement have not been noted at the firm.

Principle 2 – Independence of the Non-U.S. System
In regard to the composition of board members at a public oversight body, we would like to note the among ten board members, one is a practitioner and another is retired practitioner, while other eight members are non-practitioners who have no involvements in audit industry. We do not believe this composition has weakened the independence and robustness of our oversight activities, as shown in our supervisory experiences including history of disciplinary actions.

Principle 3 – Source of the Non-U.S. System's Funding
In regards to the funding, we would like to note that both the JFSA and the CPAAOB are the governmental organizations and all activities are funded by national taxes.

Principle 4 – Transparency of the Non-U.S. System
While we do not object to the idea of disclosing inspection reports by each audit firm, it may prove to be sensitive issue in terms of, *inter-alia*, confidential obligation under the Japanese Act, since the JFSA and the CPAAOB officers, as national public servants, are subject to a strict legal confidentiality obligations, and shall not disclose any confidential information obtained in the course of the performance of their duties, both during office and after resignation.

For example, if the report contains information relating to identity of individuals, those which may result in undermining competitiveness or other justifiable interests of firms, or those which may result in undermining the trust and confidence of a foreign state or an international organization, this constitute a serious problem. Therefore, we prefer to conduct extensive consultation beforehand.

Principle 5 – Historical Performance
In regards to the historical performance of the public oversight activities, we disclose all measures in our web-site. Please see the link below for your reference http://www.fsa.go.jp/news/19/syouken/news_menu_sy.html.

3. Would meeting the essential criteria set forth in 1.C – along with a satisfactory on-site assessment by the Board of the entity's inspection practices through a period of joint inspections – provide sufficient assurance that the oversight entity's inspection program merits full reliance?

We consider that the proposed approach by the Board is one of manners that provides sufficient assurance in this regard. Please see the outline of Japanese oversight regime for reference.

4. The Board has carefully balanced the requirement of the Act and those of non-U.S. jurisdictions (including laws related to data protection, confidentiality, and other important legal requirements). Are there additional differences between U.S. and non-U.S. auditor oversight regimes that should be considered? Would those differences suggest greater or less reliance?

As noted in the main body of the letter, we suggest the Board to consider taking a home-country based approach. Please see the details in the main body of the letter.

5. As described in section III.B. of the Policy Statement, does the Policy Statement establish the appropriate nature and level of reliance?

We generally agree with the proposed sliding-scale approach.

6. Will the proposed approach adequately protect the interests of investors in U.S. issuers audited by non-U.S. audit firms?

We agree with the Board's assessment that the proposed approach contributes to increasing the efficiency, while ensuring the public interest and investor protection.

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OFFICE OF THE SECRETARY
PUBLIC COMPANY ACCOUNTING
OVERSIGHT BOARD (PCAOB)
1666 K STREET NW
WASHINGTON DC 20006
UNITED STATES OF AMERICA

7 March 2008

Ref.: PCAOB Release N° 2007-010

Re: Request for Comment on Proposed Policy Statement: Guidance Regarding Implementation of PCAOB Rule 4012

Dear Sir, Madam,

The *Haut Conseil du Commissariat aux Comptes* (H3C) welcomes this opportunity to provide its comments on the PCAOB's Proposed Policy Statement: Guidance Regarding the Implementation of PCAOB Rule 4012 ("Proposed Policy Statement").

The H3C was created by virtue of the French Financial Security Law *(Loi de sécurité financière)* on August 1, 2003, in the aim to reinforce the independence of statutory auditors and oversee the audit profession in France. Its establishment by the French government anticipated the EU 8th Company Law Directive, which confirmed the direction followed by France in the oversight of the audit profession.

Since 2004, the H3C has been actively working to put into place best practices for the audit profession in the aim to improve best audit quality. The H3C also paid attention to the endorsements of new auditing standards, the establishment of a new Professional Code of Ethics and amendments to the quality assurance system.

Resources were equally devoted to the area of cooperation with its non-French counterparts via bilateral discussions and work done within the scope of the European Group of Auditors' Oversight Bodies (EGAOB) and the International Forum of Independent Audit Regulators (IFIAR). In this context, the H3C expressed willingness to establish a relationship with the PCAOB, and to pave the way towards mutual recognition of each other's oversight systems.

As the French auditor oversight authority, we express our strong support to the PCAOB initiative to establish a regime of full reliance between oversight bodies in the best interest of investors, the audit profession and the general interest. We share the view that an oversight system should fulfil criteria such as adequacy, integrity, independence, secure funding, transparency and historical performance.

That said, please find below our responses to the six questions in the public consultation document:

QUESTION 1:

If a non-US auditor oversight entity meets the essential criteria set forth in the proposed Policy Statement, are there reasons why the Board should not increase its level of reliance on inspections conducted by such an independent non-US oversight entity? What are the benefits and costs of full reliance?

The implementation of full reliance leads to mutual trust which presents benefits for investor protection and audit regulation. It also brings efficiency to cooperation and reduces costs for companies and audit firms.

We strongly support the concept of full reliance as it facilitates cooperation between oversight bodies and contributes to improvements of audit quality throughout jurisdictions worldwide. For that matter, it corresponds to the expectations of the H3C in its willingness to obtain mutual recognition with its US counterparts. Full reliance **is linked** with the concept of mutual recognition which goes towards avoiding unnecessary regulatory duplication. Whereby in this case, there is mutual respect, consideration of equivalence and recognition of various oversight systems.

Full reliance leads to the highest level of reliance on inspections and applied to its full extent, should avoid regulatory duplication. This would denote the existence of full recognition and acceptance of the oversight systems, which in turn, would set forth mutual respect, trust and confidence in the efficiency and effectiveness of the oversight system as a whole, thus dispelling the need for recurring assessments.

We favour the proposed approach for a mutual assessment period to be carried out to determine eligibility for full reliance status. Substantial bilateral dialogue would facilitate understanding of national approaches to inspections and in-depth exchanges on the respective systems. At the same time, this approach presents the opportunity to promote common views on best practices of supervisory inspection systems.

QUESTION 2:

Are the essential criteria set forth in section III.C of the Policy Statement appropriate? Are there additional factors that should be considered? Should the criteria be modified in any way?

We consider that the Policy Statement should apply a principles-based approach to the methodology for achieving full reliance. Indeed, we believe that it would be possible to satisfy the principles of Rule 4012 without having to fulfil every single essential criteria outlined in the Proposed Policy Statement.

Outlined below are the criteria which we feel require some attention:

Principle 1, Criteria 1 + 2

In our opinion, we consider that the requirements in these criteria are too restrictive as we believe that a non-US oversight system could still be efficient in the protection of investors without having a mandate that specifies as such.

On this point, we would like to highlight that in France, the Financial Security Law established the H3C to provide strong auditor regulation with the objectives to reinforce the independence of auditors and ensure the surveillance of the profession. The mandate given to the H3C is for the general interest. As such, we would ask that the PCAOB adopt an open view in its assessment of mandates held by different oversight bodies which share PCAOB's common interest, as not every mandate given to non-US oversight bodies correspond in word with that of the PCAOB.

Principle 1, Criteria 5 + 6

These criteria raise some concerns in that reviews must include assessments of firm's compliance with applicable US laws, regulations and professional standards - which implicitly deny the efficiency of the existing laws and standards within non-US inspection systems.

On this, we would like to note that in France, the oversight body promoted 29 new auditing standards and a strong Professional Code of Ethics (both applicable by law) which impose strengthened regulation to an extent whereby it is now considered at the highest level.

It is our consideration that mutual recognition should take into account the overall activities of the oversight body with regards to regulatory supervision as well as the national legal frameworks that contribute to high levels of investor protection.

Principle 1, Criterion 8

We consider that this criterion raises issues of conflicts of laws. It is provided under the French Financial Security Law that any transfer of information must be conducted **between oversight bodies** and not by audit firms. Article 47 of the EU 8th Company Law Directive describes the means for EU cooperation with non-EU countries and does not provide for direct access to protected information within audit working papers. In addition, it would be difficult to see how the practice of transfer of information by audit firms may be applied in the context of cooperation between oversight bodies if the non-US legal framework does not allow such possibility.

Principle 2, Criterion 1

We share the view that an audit regulatory system should be independent and free from interference and undue influence by the audit profession in its operations. Which is why, we express a favourable view that the majority of members within the governing body of the oversight entity should be comprised of non-practitioners.

This is equally reflected within the European 8th Company Law Directive on which important majorities of Member States within the European Union have based their oversight systems.

It would be important to note that the PCAOB assessments of non-US oversight systems should carefully consider the overall responsibilities bestowed upon the oversight entity seeking full reliance. For example, under the French oversight system, the H3C has responsibility with regard auditing standards, ethical standards and best practices. In addition to these responsibilities, the H3C also intervenes as an appellate authority in disciplinary proceedings. These are technical matters in which feedback from the profession could be useful by virtue of their experience and knowledge. We consider the presence of practitioners as complementary to the input brought by other members of the governing body. The independence of an oversight entity should not be seen as affected by minority presence from practitioners – but seen as a positive contribution to achieve high quality audits which serve in benefit of investor protection. Decisions taken by the governing body based on high levels of consensus should not be seen as "influenced" nor "interfered" by the profession through views expressed in minority by representatives from the profession. In the assessment of independence, the PCAOB Board should consider the composition balance of the governing body. In France, if the governing body has three representatives from the profession, the rest of the nine governing members are outside the profession. On the contrary, compositions of governing bodies made up of non-practitioners but were formerly practitioners could be assessed as less independent than the French governing board.

Principle 4, Criterion 3

The requirement for publication of inspection reports on individual firms raises the issue of confidentiality where audit firms and/or companies are identified. It raises potential conflicts of law within non-US jurisdictions that do not allow for this possibility. We would bring to attention that careful consideration should be provided to the context of such publication, where the risks of providing capital markets with misleading information could result in wrong assumptions being made, which could nurture distrust between the affected company and its shareholders. Our view is that the findings of inspections should only be dealt with between regulators in the context of reciprocal arrangements for supervisory purposes and not be subject to public exposure. Moreover, this sort of requirement implies the need to define a model of inspection report that would be acceptable notably for exchange purposes and for publication purposes.

QUESTION 3:

Would meeting the essential criteria set forth in section III.C – along with a satisfactory on-site assessment by the Board of the entity's inspection practices through a period of joint inspections – provide sufficient assurance that the oversight entity's inspection program merits full reliance?

As mentioned above, we consider that principles set out under Rule 4012 are sufficient for a non-US oversight system to achieve full reliance. However, the Proposed Policy Statement should specify the PCAOB expectations from the conduct of joint inspections and the role of the PCAOB observers in the context of joint inspections within the non-US inspection system.

If the aim of joint inspections is to assess the non-US inspection system, we are of the view that the presence of the PCAOB should be as an observer of the inspection system. However, if the conduct of joint inspections requires direct participation in the conduct of inspections, it would not be an appropriate requirement, as the objective to the purpose of joint inspections should not be to allow for an evaluation of auditors and audit firms but to assess the efficiency of the supervisory inspection system in the context to reach full reliance.

QUESTION 4:

The Board has carefully balanced the requirements of the Act and those of non-US jurisdictions (including laws related to data protection, confidentiality and other important legal requirements). Are there additional differences between US and non-US auditor oversight regimes that should be considered? Would those differences suggest greater or less reliance?

We feel that the issue of confidentiality in non-US jurisdictions has not been sufficiently considered in the aim to avoid conflicts of law.

It is important that the PCAOB acknowledges and accepts the existence of strict confidentiality requirements within non-US jurisdictions which serve in the general interest to protect investors and capital markets.

There is a perceived risk of a PCAOB-unilateral approach to inspections within non-US jurisdictions if the PCAOB requirements impose having to lift the veil of professional secrecy without any guarantee of confidentiality. Confidentiality rules serve to protect economic and company data that are contained within the audit working papers of the inspected auditors.

We share the expectations of the PCAOB for an independent and rigorous oversight system, and the H3C continues to work towards this direction as this is equally its objective. For this reason, in the context of cooperation, full reliance should carry more stress on equivalence, equal treatment and reciprocity. We would highlight that the fulfilment of the condition of reciprocity is a requirement under French law and the EU 8th Company Law Directive in the context of cooperation between oversight bodies.

QUESTION 5:

As described in Section III.B of the Policy Statement, does the Policy Statement establish the appropriate nature and level of reliance?

The meaning of full reliance

We consider that the concept of full reliance should replace the concept of sliding scale once the oversight body has reached the highest level. The sliding scale would be relevant if it were to be applied during the assessment period of a non-US oversight system – full reliance should imply that the highest level has been reached and sets aside the need for a sliding scale. Likewise, under full reliance, the requirement for joint inspections should be set aside for the reasons as mentioned above.

QUESTION 6:

Will the proposed approach adequately protect the interests of investors in US issuers audited by non-US audit firms?

In the context of cooperation of mutual reliance between oversight bodies, the interests of investors are adequately protected as there would independent oversight systems with efficient quality assurance with the shared common interests of improving audit quality and investor protection.

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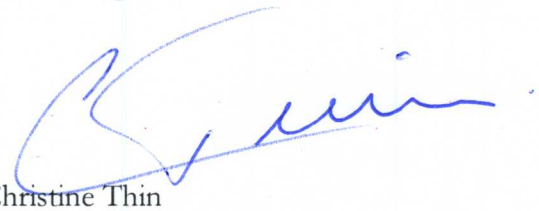
We hope our comments are useful and will be considered for the PCAOB final Policy Statement on the implementation of Rule 4012.

With best regards,



Christine Thin
(Chairperson)

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March 7, 2008

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

Re: PCAOB Release No. 2007-011 – Proposed Policy Statement:
Guidance Regarding Implementation of PCAOB Rule 4012

Dear Mr. Seymour:

The Institute of International Bankers appreciates this opportunity to comment on the Public Company Accounting Oversight Board's proposed "Guidance Regarding Implementation of PCAOB Rule 4012." The Institute represents internationally headquartered financial institutions from 35 countries with more than $5.7 trillion of banking and non-banking assets in the United States, including banks, securities firms, insurance companies and other financial intermediaries and their affiliates.

The Institute strongly supports the Board's principal goal of increasing its level of reliance on non-U.S. oversight systems, and we commend the Board's continued commitment to this goal. We believe expanded cross-border regulatory cooperation can enhance the efficiency and effectiveness of the oversight process, minimizing potentially duplicative or inconsistent measures. The Board's proposal is an important step in the right direction, and we would encourage the Board to continue to develop and expand its concept of "full reliance," with the potential of ultimately adopting, where appropriate, a mutual recognition approach to non-U.S. oversight systems.

More broadly, the Institute applauds initiatives like the proposed guidance as welcome advances in the development of innovative solutions to complex problems of cross-border supervision and regulation. In a number of areas, these initiatives have fostered useful discussions among supervisors and industry participants regarding the most effective approaches to cross-border supervision. We believe the Board's concept of "full reliance" can serve as a useful model for other supervisory authorities, including bank supervisors, as they consider comparable issues within their purview. In the financial services area, we believe that international coordination of cross-border supervision, and efforts to strike an appropriate balance between host country interests and deference to home country supervisors, remains key to achieving an effective international supervisory framework and to preserving and enhancing the international competitiveness of U.S. financial markets.

Again, we greatly appreciate the Board's work and commend its ongoing efforts to determine the appropriate degree of reliance on non-U.S. oversight systems. Please contact the Institute if we can provide any further information or assistance.

Very truly yours,

Lawrence R. Uhlick

Lawrence R. Uhlick
Chief Executive Officer

EUROPEAN COMMISSION
Internal Market and Services DG

Director General

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OFFICE OF THE SECRETARY
PCAOB
1666 K STREET, N.W.,
WASHINGTON, DC
20006-2803

Subject: PCAOB release No. 2007-010

Ref.: PCAOB release No. 2007-010

Madam, Sir,

The European Commission strongly supports the PCAOB's initiative aiming at establishing a full reliance regime for inspections between the United States and other jurisdictions, including the European Union. We welcome this new policy which will strengthen the transatlantic relationship between the EU and the US and build, in particular, mutual trust in each other's regulatory oversight systems. Such a move would help to fulfil markets' and investors' high expectations regarding transatlantic regulatory cooperation in this regard. It will also facilitate the work of oversight bodies.

The timing of this Policy Statement is also appropriate in the light of recent successes in this cooperation, in particular the SEC decision on deregistration and on recognition of IFRS for foreign SEC registrants. The PCAOB initiative confirms that investor protection is of mutual interest and can be beneficial not only to capital markets in the United States but to capital markets worldwide. Mutual trust in each other's regulatory oversight systems is an objective that would benefit all of us, in particular investors who can be reassured that oversight bodies have full confidence in each other.

We are pleased to provide our responses to the six questions in the public consultation document.

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Question 1: If a non-U.S. auditor oversight entity meets the essential criteria set forth in the proposed Policy Statement, are there reasons why the Board should not increase its level of reliance on inspections conducted by such an independent non-U.S. oversight entity? What are the benefits and costs of full reliance?

We consider that the successful implementation of a policy of mutual trust in each other's regulatory oversight systems should lead to the following benefits:

(1) Investor protection

In today's global capital markets, investors can buy securities everywhere in the world. Mutual respect for and confidence in the public oversight system of foreign countries would thus increase investor protection not only for investors in the US, but globally.

(2) Reducing costs for companies and audit firms

Avoiding unnecessary duplication of inspections would reduce the administrative burdens for companies and audit firms. This would have a positive effect on the efficiency of markets and cost of capital and as a result be beneficial for all players.

Moving towards mutual respect should accordingly provide workable regulatory solutions for companies and their auditors operating globally. If this is not achieved by regulators, companies will hesitate to list in foreign capital markets. This is an issue not only in the relationship between the US and the EU. Joint inspections between regulators should not be replicated across the various jurisdictions in the world.

(3) Mutual reliance

Full reliance cannot work without mutual reliance. Today's markets do not only expect the PCAOB to trust in other oversight bodies, but that all oversight bodies trust one another. Full reliance needs to equal full trust into each others oversight systems, and thus requires mutual reliance. The establishment of the International Forum of Independent Audit Regulators (IFIAR) is also instrumental in this context. Mutual reliance by jurisdictions on each others auditor oversight systems through global cooperation between independent public auditor oversight entities would increase the quality and efficiency of auditor oversight through avoiding duplication of efforts and the application potentially inconsistent regulatory measures. The costs for not reaching mutual reliance between jurisdictions are at least twofold:

- We risk companies deregistering from each others' securities markets, as they would otherwise be forced to either change auditors or engage an additional auditor for each country of listing. More than 70 EU companies left the US market under the new SEC deregistration rule, including large companies such as BASF, Bayer, Air France-KLM, Danone, EON, Fiat, Volvo and British Airways. Compliance costs are one of the major reasons quoted for deregistration.

- European companies will only trust situations where commercially sensitive data are being treated on a confidential basis and only for well defined supervisory purposes. We therefore welcome the idea of proposed bilateral agreements which should also clarify the transfer of audit working papers and the necessary

appropriate safeguards in this respect. Under a full reliance scheme, such transfers should at most be relevant in exceptional circumstances whilst inspection reports of the home country jurisdictions should be the basis for mutual reliance.

(4) Mutual reliance with regard to an audit firm

Mutual reliance is an effective tool to look at audit firms, not just individual audit engagements, as investors place their trust in an audit firm and not in an individual audit engagement. In this regard, the cost of failing to reach mutual reliance would be twofold:

- Joint inspections not only increase the compliance costs for audit networks. As for the audit market in general, regulators should set incentives for dual listed companies to choose their auditor not only amongst one of the four major networks. There is a need to have more audit firms outside the Big Four offering international audit services. The higher the compliance costs, the less likely it will be that further audit networks will engage in this process.

- It risks resulting in divergent views of regulators on individual audit engagements concerning dual listings, which would be difficult to comprehend for investors. To be confronted with different views from different auditor oversight bodies risks nurturing distrust in audit opinions instead of restoring confidence in them. This is all the more important as IFRS becomes the globally accepted accounting framework.

(5) The proposed principle-based approach of full reliance

We would welcome confirmation from the PCAOB in any revised draft that the essential criteria are indicators and not fixed rules especially in the light of the PCAOB's statement that certain criteria would require them to exercise its judgement. If all the essential criteria need to be respected, the PCAOB approach might be seen as "rules based". A principles based approach accepts that different systems may co-exist and would take better account of the varying needs and resources of that jurisdiction. The principles based approach should be sufficient to offer a broad basis for co-operation.

One of the main principles is that those governing a public oversight system should have an active independent say on inspections and not only give their blessing to what the profession has put in place in terms of inspections. We therefore support the PCAOB's sliding scale approach. However, this approach should remain principles' based. Otherwise, we risk ending up in situations where the PCAOB might be perceived as organising unilaterally PCAOB inspections in foreign jurisdictions without co-operating with foreign auditor oversight bodies. We do not see how this could work in practice.

At worst, the combination of a rules' based approach with the limited resources for oversight bodies might cause arbitrary solutions: a very limited number of foreign audit firms would come under a full reliance scheme, a larger group of foreign audit firms would remain under full US inspections, but finally there might remain a significant third group where no oversight is able to actually inspect them. By moving towards full reliance on a broad basis, audit regulators would be more

effective and efficient in employing their own resources and more audit firms would be covered by inspectors at a global level.

Question 2: Are the essential criteria set forth in section III.C. of the Policy Statement appropriate? Are there additional factors that should be considered? Should the criteria be modified in any way?

We would welcome the PCAOB commitment to modify the following four criteria.

Principle 1, criteria 5 + 6: US legislation and standards

We would ask the PCAOB to clarify the term "expertise" which foreign oversight bodies should have. We suggest a clarification that this does not require year-long experience or qualifications in US law and standards. This criterion should also not imply that a foreign auditor oversight body would need to provide evidence in these domains instead of just applying it. We consider that expertise should not go beyond knowledge of US legislation and standards and that this should be sufficient.

Principle 1, criteria 8: Access to documents

As data protection for natural persons is a fundamental principle in Europe, we would welcome that the content of footnote 13 would be elevated to the text of criterion 8 to demonstrate the importance attached to this principle. We would ask the PCAOB to add to the text of this (former) footnote that the confidentiality requirements regarding the data of companies in the working papers (professional secrecy, business secrecy, private data) will be respected by the PCAOB and that access to the working papers will also be part of the bilateral agreement. This is a requirement under the European Directive on Statutory Audits which regulates this issue in detail under Article 47. In particular, it should be taken into account that under the European Directive on Statutory Audits the transfer of audit working papers can only be organised within the boundaries of a close cooperation between the oversight bodies concerned. The access to audit working papers in bilateral agreements is of key importance to EU Member States.

Principle 2, criterion 1: Majority of non-practitioners in the governance of an independent oversight body

We have the following comments:

Firstly, as a general comment to principle 2, we would welcome the PCAOB clarifying the term "affiliated to an audit firm or the audit profession" as this term can be understood widely and include non-practitioners. In addition, some criteria include "affiliated to the audit profession" while others do not.

Secondly, we value that the PCAOB allows for a minority of practitioners in the governance of its oversight body. The EU also allows for a minority of practitioners in the governance of the oversight bodies of its Member States. We do not exclude that practitioners can add value to an oversight system as long as the overall independence of the oversight system is guaranteed by a majority of non-

practitioners. We believe that in particular this criterion is a key as to whether the PCAOB moves towards a principles-based and not to a rules-based approach. There are a growing number of EU Member States and of jurisdictions at a global level, who will adopt this approach. We therefore think this approach by the PCAOB is reasonable as it has also been accepted in related areas. The IASB, the standards of which are now accepted by the SEC, allow for a minority of practitioners from audit firms. Along the same line, the US Federal Reserve Bank also has practitioners in its Board without that being conceived as detrimental to its independence.

However, we would welcome the PCAOB to refer more clearly in its Policy Statement to the cooling off period mentioned in Rule 4012 under point (b), (2), (iii) as the current definition of a non-practitioner is unclear. In Europe, practitioners might qualify as non-practitioners after a cooling off period of three years. Without any reference to a cooling off period, the current wording in the Policy Statement would mean that anyone who ever held a license or certificate as a practicing auditor or accountant in his professional career would be excluded. Without any reference to any minimum period, it would also result in anyone ever having worked for an audit firm being forever considered as a practitioner for the rest of his life. Full time inspectors of an auditor oversight body being non-practitioners according to the PCAOB definition, would for instance be considered practitioners for the rest of their career once they would want to join the governance of the oversight body. Staff of regulators who have been practicing auditors once in their professional career would always be considered as practitioners. As a consequence, jurisdictions will hardly find a majority of knowledgeable non-practitioners in the area of accounting and auditing.

We would therefore welcome the PCAOB to allow for a reasonable cooling off period. In some jurisdictions former auditors keep their certification as auditor whilst no longer being practitioners in an audit firm. Therefore, we would advise the PCAOB to take account thereof.

Principle 2, criterion 4: Non-US system's inspection staff

We would welcome a definition of inspection staff and clarification that this criterion is only applicable to US audit engagements.

Principle 4, criterion 3: Transparency (publication of reports)

Our comment is limited to a public reporting requirement which is not provided for in the Sarbanes Oxley Act but which the PCAOB introduced itself. We favour more transparency when it comes to the audit firms involved. But transparency should be limited in cases where the audited company risks becoming identifiable in the inspection report. The fact that an audit firm did not gather sufficient audit evidence to support its opinion does not automatically imply that the annual accounts of the audited company contain material misstatements. However, the capital markets might make the wrong assumptions should the company concerned become identifiable in the inspection report. This risk is very real considering that most European audit firms subject to PCAOB inspections have only one or two EU

companies listed in the US as audit clients. In general, all audit firms from small Member States and small audit firms from all EU Member States will be concerned.

We strongly believe that it is not the responsibility of the public oversight systems to challenge annual accounts in this way. If alternatives are to be sought, public disclosure at the end of disciplinary proceedings against auditors and audit firms should also be taken into account.

Furthermore, the publication of insufficient audit evidence as such is not required under the Sarbanes Oxley Act. In the Sarbanes Oxley Act, it is stated under section 104 (g) (2) that the confidential and proprietary information in the inspection report needs to be protected to an appropriate level as determined by the Board or *as required by law*. In publishing these reports, the possible restrictions in foreign legislation should be respected. In some Member States publication of inspection reports would be an infringement of domestic law. If the PCAOB would publish these reports, this might be considered as an attempt to bypass their national law. We would therefore welcome the PCAOB to consider a wider range of alternatives which recognises that confidentiality is mandatory for information acquired by the authorities in the performance of their supervisory functions in many jurisdictions in Europe and that other ways exist to inform the public about infringements committed by audit firms and that such systems can be equally effective. In this regard, work is also undertaken by the Commission under a new recommendation to Member States on inspections of audit firms.

Considering the limited resources for oversight bodies in general, we would advise the PCAOB to carry out a risk assessment in selecting the foreign audit firms and audit engagements it wants to be part of an inspection. In this context, we would for instance strongly welcome a clarification that the audits of foreign companies deregistering in the US or subsidiaries of US firms in Europe should not be part of such inspections.

Principle 4, criterion 4: non-remediation by the non-U.S. firm

We would welcome clarification by the PCAOB that in case the non-U.S. oversight entity would disclose appropriately any uncorrected deficiencies in a firm's quality control system, the PCAOB would no longer disclose these deficiencies itself.

Question 3: Would meeting the essential criteria set forth in section III.C. – along with a satisfactory on-site assessment by the Board of the entity's inspection practices through a period of joint inspections – provide sufficient assurance that the oversight entity's inspection program merits full reliance?

We consider meeting the principles set out in the Policy Statement provides sufficient assurance that the oversight entity's inspection program merits full reliance. In relation to the criteria, for the avoidance of doubt, we refer to our reply to Question 1 where we ask for clarification that the criteria should be considered to be indicators.

We refer to the European Directive on Statutory Audits and the upcoming Recommendation on Quality Assurance which follow similar principles.

Question 4: The Board has carefully balanced the requirements of the Act and those of non-U.S. jurisdictions (including laws related to data protection, confidentiality and other important legal requirements). Are there additional differences between U.S. and non-U.S. auditor oversight regimes that should be considered? Would those differences suggest greater or less reliance?

We suggest considering four key issues:

(1) Equal treatment

Whatever right the PCAOB is requesting under a full reliance scheme, it should also be available for EU oversight bodies with regard to US audit firms. If the PCAOB wishes to accompany European inspectors, it should be ready to offer the same in return. If the PCAOB intends to obtain an inspection report from EU oversight bodies, it should be prepared to ensure that EU oversight bodies also receive PCAOB inspection reports either by delivering these itself or by ensuring delivery by US audit firms.

To this end, we consider it important that the PCAOB clarifies in accordance with its Rule 6001 "Assisting non-US authorities" on how it will assist foreign oversight bodies. Such clarification is necessary to build mutual reliance between US and EU audit regulators. The Commission strongly welcomes the support expressed by Chairman Olson in his opening statement on 5th December 2007 towards reciprocal arrangements regarding inspections. We would welcome confirmation on how this fits into Rule 6001. Full reciprocity on the issue of inspections is of the utmost importance under a mutual reliance scheme as the European Directive on Statutory Audits requires reciprocity as a condition for cooperation between oversight bodies. Clarification of the application of Rule 6001 should also provide that PCAOB inspection reports (both the public and non-public parts) do not fall under professional secrecy rules in favour of the US audit profession and that US audit firms could in principle make this available. We do realise that legal impediments might make it difficult for the Board to share information but we prefer an exchange of inspection reports between audit regulators. This point has already been raised in a meeting between the PCAOB and the European Group of Auditor Oversight Bodies (EGAOB) end November 2007. We would therefore strongly welcome further clarification on this issue in the near future.

(2) The need for timelines.

The purpose of full reliance through mutual reliance should be to increase global audit quality and by doing so permit audit regulators to use their limited resources efficiently.

There is a need for a reasonable and acceptable timeline towards full reliance, as otherwise joint-inspections risk becoming a goal in themselves. This timeline needs

to be an integral part of a bilateral agreement between the PCAOB and a foreign oversight body.

(3) Recognising differences

We would like to point out that there will always be differences between requirements of jurisdictions worldwide, just like there are inside the European Union. We consider the bilateral agreements towards full reliance mentioned in the PCOAB's policy statement as a useful tool to take full account of possible legal differences. We expect a principles based approach towards mutual reliance on public oversight bodies to recognise the European Directive on Statutory Audits as equivalent to the Sarbanes Oxley Act. We are therefore of the opinion that the PCAOB should move towards mutual reliance with Member States that have implemented the European Directive on Statutory Audits.

(4) International Standards

The EU is considering the introduction of ISA in Europe. Against this background, it also examines differences of PCAOB standards through a study to be completed early 2009.

We would therefore welcome an open view towards international developments and ask the PCAOB to add an opening clause allowing for International Standards on Auditing. Following the acceptance of IFRS by the SEC, we would like clarification from the PCAOB that reliance on IFRS is accepted and that the PCAOB accepts the principles-based approach of IFRS.

Question 5: As described in section III.B. of the Policy Statement, does the Policy Statement establish the appropriate nature and level of reliance?

In the Policy Statement, the PCAOB expresses its wish to send observers under a full reliance scheme. However, the PCAOB does not clarify the respective roles of inspectors and observers and where the differences lie.

It is our understanding that PCAOB inspectors would join home-country inspectors in joint inspections reviewing the work of the audit entities. US inspectors should not carry out inspections on their own initiative in a foreign country. The Policy Statement does not clarify a quite fundamental prerequisite: Will PCAOB inspectors operate under the instructions of an EU oversight body and its staff? We consider this to be the case but would welcome a clarification.

In contrast, it is our understanding that PCAOB observers should not review the work of auditors. This is in particular relevant with regard to access to audit working papers. We consider it difficult to imagine that US observers should be entitled to have access to audit working papers or even to take such papers back to the United States.

Accordingly, periodic assessment of the continuing quality of the foreign oversight body by observers might be envisaged in limited and well defined circumstances but not of the individual inspections.

Because of the above mentioned link to access to audit working papers, we consider the possibility to send observers and/or inspectors (participating in joint-inspections) being part of bilateral agreements with other jurisdictions leading to mutual reliance.

Question 6: Will the proposed approach adequately protect the interests of investors in U.S.issuers audited by non-U.S. audit firms?

If the PCAOB enters into a mutual reliance scheme with a foreign country, investors would be adequately protected as there would be a functioning, independent oversight system carrying out an effective quality assurance program.

We would also like to point out that many more European investors compared to US investors are concerned. We would recall that about 60% of European companies fall under the new SEC deregistration rule, i.e. most of these European companies have a very low trading volume (less than 5%) in the US. We believe that the PCAOB should respect the principle of proportionality.

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We would welcome the PCAOB taking the above mentioned points into consideration for its Policy Statement.

Yours sincerely,

Jörgen Holmquist

Finland
CENTRAL CHAMBER OF COMMERCE

March 26, 2008

Office of the Secretary
PCAOB
1666 K Street, N.W.
Washington, DC

PCAOB RELEASE NO. 2007-010 – COMMENTS BY THE AUDITING BOARD OF THE CENTRAL CHAMBER OF COMMERCE OF FINLAND

The Auditing Board of the Central Chamber of Commerce of Finland (AB3C) welcomes the opportunity to comment on PCAOB Release No. 2007-010. AB3C is the public oversight body responsible for the supervision of audit profession in Finland. AB3C is represented in the IFIAR and in the EGAOB.

We share the views presented by the EU Commission and also support the comments made by it. In addition to Commission's remarks, we would like to highlight few aspects that mainly relate to the conduct of inspections and protection of confidential matters.

We would appreciate that our views will be given a careful consideration in finalising the policy statement. We apologise for being late from the deadline due to the unfortunate delay in the EU process.

Full mutual reliance on inspections

We fully agree with the PCAOB's objectives concerning protecting investors, improving audit quality, ensuring effective oversight and enhancing the public trust in the auditing profession. We believe that one solution to meet the objectives is a close cooperation among auditors' oversight bodies. In such cooperation mutual reliance is a key element. It is essential that there is full mutual trust into each others oversight systems.

A deep understanding of the system necessarily is a precondition for the determination of reliance on a foreign oversight system. However, we find that such understanding on the independence and rigor of the system can be reached via substantial dialogue between the oversight bodies rather than by having inspectors or observers participating in inspections. This applies particularly in the EU where all Member States are obliged to follow the requirements of the directive on statutory audit given in 2006 and the forthcoming recommendation on quality assurance. In Finland, the new Auditing Act implementing the directive came into force on 1 July 2007 and the new recommendation will be implemented accordingly.

Reliance on home country oversight and inspections is a costeffective way to cover the supervision of the audit profession. Duplication of inspections is unnecessary and would unreasonably increase the administrative burden of the audit profession – and thereafter the companies without proper grounds and without explicit benefits to the companies or to the market. Thus in our view, it is very difficult to argue that sending an inspector or observer in is neither necessary nor even justified. Such arrangement is an extremely sensitive issue from the constitutional point of view. We believe that independence and rigor of a foreign oversight system can be guaranteed by other effective means (e.g. by discussions, presentations and bilateral agreements) without violating the sovereignty of the state concerned.

Finland
CENTRAL CHAMBER OF COMMERCE

Principles-based approach

We strongly support the principle-based approach and the intention to avoid the check-the-box approach. We fully agree that in conducting the assessment of full reliance the focus shall be at the whole of the system. However, the essential criteria of the PCAOB seem to be formulated in a rather rules based manner. In the draft policy statement the criteria are not only justified by the Sarbanes-Oxley Act but also by the underlying principles and the mission of the PCAOB. We would welcome the PCAOB to confirm the nature of the criteria as indicators and not fixed rules. Otherwise, we are afraid of, the concept of principles and the approach of looking at the system as an entirety will be seriously jeopardized.

We also want to emphasise that an oversight system of a foreign country may consist of different bodies and functions. All of them may not be relevant regarding the US audit engagements. An oversight system may consist of more than one body and the operations of a system may be organised in a different way regarding e.g. US audit engagements or audit engagements of other public interest entities and other audit engagements. Consequently, the principles and criteria should only be applicable to US audit engagements instead of setting requirements to inspections of all audit engagements.

Confidentiality

Finally, we would like to express our concern regarding the confidentiality of audit working papers. Confidentiality issues not only relating to protection of personal data but also to other confidential information, such as professional secrecy and business secrecy, have been of constant concern among the EU Member States. In our view, this concern should be more precisely addressed in the policy statement and special attention should be drawn to the confidentiality issues through the entire document.

Building full and mutual reliance on foreign oversight matters include many complex matters, such as those referred above. Conflicts of laws are often unavoidable when creating cooperation between jurisdictions. Despite the legal concerns, we have a strong will to find pragmatic solutions. International cooperation between oversight bodies is essential in supervision of global audit networks and internationally operating audit firms. AB3C is willing to overcome the difficulties relating to building such cooperation and mutual reliance, and collaborate with the PCAOB and other oversight bodies in other countries to find appropriate solutions to global challenges facing the audit market.

Risto Nuolimaa

Vice Chairman
Auditing Board of the Central Chamber of Commerce

International Relations Office

CONSOB
COMMISSIONE NAZIONALE
PER LE SOCIETA' E LA BORSA

Rome, 27 MAR 2008

Office of the Secretary
PCAOB
1666 K Street, NW
Washington, DC 20006-2803
UNITED STATES OF AMERICA

Prot. 8026798

RE: PCAOB Release No. 2007-011

Dear Sirs,

Consob (Commissione Nazionale per le Società e la Borsa) welcomes the opportunity to comment on the proposed Policy Statement on Rule 4012.

We would like to express our support to the proposed initiative. A full reliance regime for inspections based on mutual trust in each other's regulatory oversight systems will contribute avoiding duplications and unnecessary supervisory costs. We would also like to submit you few comments on the Policy Statement.

Principles-based approach against rules-based approach and full reliance

Consob welcomes the statement of PCAOB concerning the avoidance of a "check-the-box" approach while retaining discretion in evaluating non-US oversight systems based on overarching principles. However, the precise list of "essential criteria" in the Policy Statement could lead to a different conclusion and introduce strict criteria to be followed one by one. In this respect, we would encourage any step forward to clarify that the essential criteria are indicators and not fixed rules and that the achievement of full reliance does not require that all the essential criteria have to be met by the assessed oversight body. In our view the assessment of foreign oversight systems should be based on the evaluation of the equivalence of the objectives pursued by the systems and not on the identity of the regulation and enforcement tools.

Reciprocity

Consob understands that Rule 4012 would be implemented bilaterally, on a country-to-country basis. However, we would like to draw the attention of PCAOB to the issue of reciprocity which is referred to in Directive 2006/43/EC (Statutory Audit Directive) as a condition for bilateral cooperation. We believe that this issue should be duly taken into account by PCAOB.

Joint inspections

The performance of joint inspections, to be regulated in bilateral arrangements, should be understood as a tool to be used mainly before the "full reliance assessment". Following the assessment, joint inspections should be limited to exceptional circumstances.

The performance of inspection activities should remain regulated by the law applicable in the legal system of the requested oversight body and under its jurisdiction. This implies that PCAOB staff can accompany the staff of the relevant oversight body. The personnel of the latter should remain responsible for the performance of the inspection activity.

Access to information and documents

Consob understands that bilateral agreements should also address the issue of access to information and document.

In this regard, we would like to draw PCAOB attention to the confidentiality issue. In our jurisdiction, access to audit working papers and other confidential information can occur via cooperation between competent oversight bodies, within the framework of a cooperation agreement.

The cooperation agreement should provide for the permissible use of the information and the confidentiality obligations to be complied with by the requesting oversight body. In line with the provisions of the Statutory Audit Directive, information covered by confidentiality in the jurisdiction of the requested oversight body should be subject to a similar treatment in the country of the requesting oversight body.

It seems important, therefore, that the Policy Statement duly recognises these practices which are in line with the relevant international standards in the field of exchange of information between supervisory authorities.

Transparency of the Non-US System

Consob would welcome additional clarifications with respect to the publication of inspection reports on individual audit firms. In our jurisdiction, in line with relevant EU legislation, information obtained by the oversight body within the framework of its supervisory activity is covered by official secrecy. Therefore, it is impossible to publish the text of a report on an individual firm. It is also excluded that inspection reports exchanged within the framework of international cooperation can be published by PCAOB, since as outlined in the previous paragraph, information exchanged by oversight bodies should be covered by adequate confidentiality.

However, in our legal system other means exist to ensure disclosure about infringements to relevant rules by the audit firm. Administrative measures and sanctions issued by Consob are published. The text of the decision published includes the explanation of the reasons for the adoption of the relevant measure or sanction. We believe that this system is equally effective to the publication of inspection reports. Information on the outcome of oversight activity on audit firm can be disclosed only in aggregate form. Consob publishes yearly such information in its annual report.

We would invite the PCAOB to recognize that confidentiality requirements arising from domestic legislation may prevent the home country oversight body from publishing the inspection reports on individual audit firms and consider alternative means to ensure disclosure of compliance failures.

We hope that PCAOB finds these comments helpful and we remain at your disposal for any clarification or additional information you may deem useful.

We look forward to cooperating with you in the future.

Yours sincerely,

Lamberto Cardia
(Chairman)