



August 20, 2024

Erica Y. Williams, Chair
Public Company Accounting Oversight Board
1666 K Street, N.W.
Washington, D.C. 20006-2803

Dear Chair Williams:

The U.S. Chamber of Commerce (“Chamber”) has long-supported updating and modernizing Public Company Accounting Oversight Board (“PCAOB” or “Board”) auditing standards and rules. However, the Board’s unprecedented agenda, coupled with an aggressive approach to breadth, pace, and process is inappropriate for a regulatory body absent an emergency. The Board’s approach of arbitrarily expediting policy changes – and cutting corners to do so – will undermine audit quality, investor protection and market confidence.

Ironclad due process and robust economic analysis are essential touchstones in promulgating new regulatory requirements.¹ The Board, however, risks compromising these principles in a rush to revise PCAOB standards and rules. Over the past 20 months, the Board has both proposed and adopted four auditing standards and one rule.² Further, the Board has advanced four standard-setting projects and one rulemaking project to the proposal stage,³ a brisk pace. In doing so, the Board has prioritized speed and volume over quality and due process, while failing to justify its actions.

Specifically, the Board has:

¹ For example, see the remarks on Securities and Exchange Commission (“SEC” or “Commission”) rulemaking by former SEC Chair Mary Shapiro during the SEC Historical Society 90th Anniversary of the SEC Celebration Program. The Sarbanes-Oxley Act of 2002 (“SOX”) requires SEC approval of PCAOB adopted standards and rules before they can become effective.

² This count excludes a rule, adopted in 2023 to conform PCAOB Rule 6100 to the Consolidated Appropriations Act, without request for public comment.

³ Since November 2022, the Board proposed and adopted auditing standards on confirmations, quality control, general responsibilities of the auditor, and audit procedures involving technology-assisted analysis and a rule on contributory liability (Rule 3502). The Board proposed new standards on noncompliance with laws and regulations (NOCLAR), firm and engagement metrics, firm reporting, and substantive analytical procedures and a rule on false or misleading statements concerning PCAOB registration and oversight and constructive withdrawal.

- Failed to provide meaningful opportunity for stakeholder comment – on generally lengthy and complex proposals – and signaled a lack of interest in feedback by:
 - Using condensed and overlapping comment periods,⁴ including comment periods that overlap with SEC comment periods during the Commission’s consideration of standards and rules adopted by the PCAOB;
 - Ignoring requests to extend comment periods and delaying Form 19b-4 filings with the SEC;⁵ and,
 - Declining to consent to extensions in the time-period for Commission action, as provided by Section 19(b)(2) of the Securities Exchange Act of 1934, in filing Form 19b-4 with the Commission;⁶
- Dismissed the need to re-propose standards (or selected portions of standards) before adopting them – contravening the approach of all prior Boards⁷ and thus risking instances of violating the logical outgrowth requirements of the Administrative Procedure Act (“APA”);^{8,9}

⁴ Seven standard-related proposals had 60-day comment periods and an eighth had a 75-day comment period (although that comment period included four national holidays and the audit “busy-season”). The two rule proposals had 45-day comment periods.

⁵ For example, see the letter to the PCAOB from the Center for Audit Quality dated May 22, 2024. Available at: https://assets.pcaobus.org/pcaob-dev/docs/default-source/rulemaking/docket-055/2_caq.pdf?sfvrsn=287dcd03_2

⁶ With the exception of an SEC extension for the comment periods for the general responsibilities and quality control standards, moving the comment period end date from July 2nd to July 16th, which was purportedly done for administrative purposes.

⁷ Prior to 2022, the PCAOB re-proposed, re-opened comment periods, and/or made supplemental requests for comment on eight standard-setting projects. The only re-proposal since 2022 was on the confirmation standard that had been originally proposed in 2010. Prior to 2022, the PCAOB also issued eight concept releases. Since 2022, the PCAOB has issued no concept releases.

⁸ For example, see the letter to the SEC from Tom Quaadman, Executive Vice President, U.S. Chamber of Commerce Center for Capital Markets Competitiveness on *A Firm’s System of Quality Control* dated July 15, 2024. Available at: <https://www.sec.gov/comments/pcaob-2024-02/pcaob202402-490483-1408586.pdf>.

⁹ Given the SOX requirement for Commission approval of PCAOB adopted standards and rules, any arguments that the PCAOB is not subject to the APA can be set aside. See: Letter from Tom Quaadman, Executive Vice President, U.S. Chamber of Commerce Center for Capital Markets Competitiveness on *Proposing Release: Amendments to PCAOB Auditing Standards related to a Company’s Noncompliance with Laws and Regulations* dated March 15, 2024. Available at: https://assets.pcaobus.org/pcaob-dev/docs/default-source/rulemaking/docket-051/169_chamber.pdf?sfvrsn=a272dee1_2

- Failed to take a holistic approach to implementing adopted standards by imposing unreasonable effective dates that do not reflect the logical sequencing and interaction of standards and that do not allow audit firms, regardless of size, adequate time to implement new requirements;
- Relied on inadequate economic analyses that fail to:
 - Provide comprehensive cost-benefit analysis and quantify outcomes in accordance with PCAOB guidelines for conducting economic analysis;¹⁰
 - Represent a neutral consideration of comments and evidence that avoids dismissing concerns inconsistent with preconceived beliefs and policy positions of the Board and staff; and,
 - Include any plans for post-implementation reviews or details on how such reviews will be conducted.

These actions by the Board have significantly compromised the quality of PCAOB standards and rules. Certain provisions adopted by the Board are fundamentally flawed, ignore practical implications, impose unnecessary costs, and create unintended consequences. Further, many of the adopted standards and rules are characterized by lack of clarity, and discussions in narrative (release) text only add to the public's confusion. These circumstances increase the likelihood of standard-setting and rulemaking by inspection and enforcement given the PCAOB is creating unnecessary challenges for firms to comply with its standards and rules.

To address these issues, the Chamber strongly urges the Board to:

- Restore a more reasonable and predictable cadence to the PCAOB's standard-setting and rulemaking activities;
- Support due process and encourage and proactively seek out stakeholder feedback with reasonable comment periods, which historically have been a minimum of at least 90 days in most cases, to avoid the perception that the comment process is a "check the box" exercise;

¹⁰ *Id.*

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- Reconsider and extend effective dates as necessary for smooth and effective implementation of new requirements;
- Engage with audit firms of all sizes and provide timely clarification and implementation guidance to address questions and issues as they arise;
- Establish an audit consultation process consistent with the consultation process used by the SEC Office of the Chief Accountant and Division of Corporation Finance for companies and audit firms on accounting and auditor independence matters;¹¹ and,
- Re-propose the NOCLAR standard.¹²

Thank you for your consideration. The Chamber is ready to discuss these matters with you further.

Sincerely,



Tom Quaadman
Executive Vice President
Center for Capital Markets Competitiveness
U.S. Chamber of Commerce

¹¹ See: Letter from Tom Quaadman, Executive Vice President, U.S. Chamber of Commerce Center for Capital Markets Competitiveness re: Draft 2022-2026 PCAOB Strategic Plan on September 16, 2022. P. 5. The Chamber has encouraged the PCAOB to establish a process for improved understanding of practice issues. calls for *Available at:* https://assets.pcaobus.org/pcaob-dev/docs/default-source/about/administration/strategic-plan-comments-2022/22_chamber.pdf?sfvrsn=d648dfea_4

¹² See: Letter from Tom Quaadman, Executive Vice President, U.S. Chamber of Commerce Center for Capital Markets Competitiveness on Proposing Release: Amendments to PCAOB Auditing Standards related to a Company's Noncompliance with Laws and Regulations dated March 15, 2024. The letter calls on the PCAOB to repropose the NOCLAR standard under its consideration and offers a detailed evaluation of the PCAOB's cost-benefit analysis, concluding that PCAOB's cost-benefit for the proposal was inadequate. *Available at:* https://assets.pcaobus.org/pcaob-dev/docs/default-source/rulemaking/docket-051/169_chamber.pdf?sfvrsn=a272dee1_2.
See also: Letter from Tom Quaadman to the PCAOB re: NOCLAR dated August 2, 2023. *Available at:* https://assets.pcaobus.org/pcaob-dev/docs/default-source/rulemaking/docket-051/22_chamber.pdf?sfvrsn=a67832d5_4

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cc:

PCAOB Board Members (Ho, Stein, Thompson, and Botic)

SEC Chair Gensler and Commissioners (Peirce, Crenshaw, Uyeda, and Lizárraga)

SEC Chief Accountant (Munter)