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Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions

*In the Matter of KPMG Auditores
Independentes Ltda.,*

Respondent.

PCAOB Release No. 105-2023-034

November 14, 2023

By this Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions (“Order”), the Public Company Accounting Oversight Board (“Board” or “PCAOB”) is:

- (1) censuring KPMG Auditores Independentes Ltda. (“KPMG Brazil,” the “Firm,” or “Respondent”);
- (2) imposing a civil money penalty in the amount of \$40,000 upon the Firm; and
- (3) requiring the Firm to undertake certain remedial actions as described in Section IV of this Order.

The Board is imposing these sanctions on the basis of its findings that the Firm failed to make certain required communications to the audit committee of its issuer audit client, *Petróleo Brasileiro S.A. (“Petrobras”)*, in violation of AS 1301, *Communications with Audit Committees*.

I.

The Board deems it necessary and appropriate, for the protection of investors and to further the public interest in the preparation of informative, accurate, and independent audit reports, that disciplinary proceedings be, and hereby are, instituted against Respondent pursuant to Section 105(c) of the Sarbanes-Oxley Act of 2002, as amended (the “Act”), and PCAOB Rule 5200(a)(1).

II.

In anticipation of the institution of these proceedings, and pursuant to PCAOB Rule 5205, KPMG Brazil has submitted an Offer of Settlement (“Offer”) that the Board has

determined to accept. Solely for purposes of these proceedings and any other proceedings brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except as to the Board’s jurisdiction over Respondent and the subject matter of these proceedings, which is admitted, Respondent consents to the entry of this Order as set forth below.¹

III.

On the basis of Respondent’s Offer, the Board finds that:

A. Respondent

1. **KPMG Auditores Independentes Ltda.** is a limited liability partnership headquartered in São Paulo, Brazil and is a member of the KPMG global network of firms (“KPMG International”). It is licensed to practice public accounting by the Conselho de Contabilidade do Estado de São Paulo (license no. 2SP014428/06). At all relevant times, KPMG Brazil was registered with the Board pursuant to Section 102 of the Act and PCAOB rules. During the period covered by this Order, the Firm annually served as the principal auditor for eleven issuer clients.

B. Issuers

2. **Petróleo Brasileiro S.A.** is a corporation headquartered in Rio de Janeiro, Brazil. Its public filings disclose that it focuses on the offshore and onshore exploration, appraisal, development, production and incorporation of oil and natural gas reserves. At all relevant times, Petrobras was an issuer as that term is defined in Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii). On March 30, 2022, KPMG Brazil issued an audit report on Petrobras’s financial statements that Petrobras included in its Form 20-F filed with the U.S. Securities and Exchange Commission for the fiscal year ended December 31, 2021 (the “Audit”).

C. Other Relevant Entity

3. **KPMG Assurance Services Ltda.** (“KPMG Assurance”) is a limited liability partnership headquartered in São Paulo, Brazil, and a member of KPMG International. KPMG Assurance is not, and has never been, registered with the Board. KPMG Assurance performed audit procedures in connection with the Audit.

¹ The findings herein are made pursuant to KPMG Brazil’s Offer and are not binding on any other person or entity in this or any other proceeding.

D. KPMG Brazil Failed to Make Required Audit Committee Communications in Violation of AS 1301

4. Pursuant to PCAOB auditing standards, an auditor should communicate with a company's audit committee regarding certain matters related to the conduct of an audit and obtain certain information from the audit committee relevant to the audit.² The auditor should communicate to the audit committee an overview of the overall audit strategy, including the timing of the audit, and discuss with the audit committee the significant risks identified during the auditor's risk assessment.³

5. PCAOB standards specify that each auditor, as part of communicating the overall audit strategy, should communicate with the audit committee the names, locations, and planned responsibilities of other independent public accounting firms⁴ or other persons, who were not employed by the auditor, that performed audit procedures in the current period audit.⁵

6. In connection with the Audit, KPMG Brazil failed to inform Petrobras's audit committee of the name, location, and planned responsibilities of KPMG Assurance, an other independent public accounting firm that performed audit procedures in the Audit.

7. Accordingly, KPMG Brazil violated AS 1301.10d in connection with the Audit.

² AS 1301.01, *Communications with Audit Committees*.

³ *Id.* at .09. In the adopting release for Auditing Standard No. 16 (now known as AS 1301) ("AS 1301 Adopting Release"), the Board indicated that "[c]ommunications between the auditor and the audit committee allow the audit committee to be well-informed about accounting and disclosure matters, including the auditor's evaluation of matters that are significant to the financial statements, and to be better able to carry out its oversight role." See Auditing Standard No. 16—*Communications With Audit Committees; Related Amendments to PCAOB Standards; and Transitional Amendments to AU Sec. 380*, PCAOB Rel. No. 2012-004, at 2 (Aug. 15, 2012).

⁴ The term "other independent public accounting firms" includes "firms that perform audit procedures in the current period audit regardless of whether they otherwise have any relationship with the auditor." AS 1301.10d, Note.

⁵ *Id.* In the AS 1301 Adopting Release, the Board explained the rationale for identifying other independent public accounting firms for the audit committee as follows: "The audit committee should be aware of all the participants in the audit. This communication regarding other participants in the audit would enable the audit committee to inquire or otherwise determine, for example, whether the other participants are registered with the Board and are subject to PCAOB inspections and whether they have disciplinary history with the Board or other regulators." AS 1301 Adopting Release at Appendix 4, p. A4-15.

IV.

In view of the foregoing, and to protect the interests of investors and further the public interest in the preparation of informative, accurate, and independent audit reports, the Board determines it appropriate to impose the sanctions agreed to in Respondent's Offer.

Accordingly, it is hereby ORDERED that:

- A. Pursuant to Section 105(c)(4)(E) of the Act and PCAOB Rule 5300(a)(5), the Firm is hereby censured;
- B. Pursuant to Section 105(c)(4)(D) of the Act and PCAOB Rule 5300(a)(4), a civil money penalty in the amount of \$40,000 is imposed upon the Firm.
 1. All funds collected by the Board as a result of the assessment of this civil money penalty will be used in accordance with Section 109(c)(2) of the Act.
 2. The Firm shall pay this civil money penalty within ten (10) days of the issuance of this Order by: (1) wire transfer pursuant to instructions provided by Board staff; or (2) United States Postal Service money order, bank money order, certified check, or bank cashier's check (a) made payable to the Public Company Accounting Oversight Board, (b) delivered to the Office of Finance, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006, and (c) submitted under a cover letter, which identifies the Firm as a respondent in these proceedings, sets forth the title and PCAOB release number of these proceedings, and states that payment is made pursuant to this Order, a copy of which cover letter and money order or check shall be sent to Office of the Secretary, Attention: Phoebe W. Brown, Secretary, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006.
 3. If timely payment is not made, additional interest shall accrue at the federal debt collection rate set for the current quarter pursuant to 31 U.S.C. § 3717. Payments shall be applied first to post-Order interest.
 4. With respect to any civil money penalty amounts that Respondent shall pay pursuant to this Order, Respondent shall not, directly or indirectly, (a) seek or accept reimbursement or indemnification from any source including, but not limited to, any current or former affiliated firm or professional or any payment made pursuant to any insurance policy; (b) claim, assert, or apply for a tax deduction or tax credit in connection with any federal, state, local, or foreign tax; nor (c) seek or benefit by any offset or reduction of any award

of compensatory damages, by the amount of any part of Respondent's payment of the civil money penalty pursuant to this Order, in any private action brought against Respondent based on substantially the same facts as set out in the findings in this Order.

5. Respondent understands that failure to pay the civil money penalty described above may result in summary suspension of Respondent's registration, pursuant to PCAOB Rule 5304(a), following written notice to Respondent at the address on file with the PCAOB at the time of the issuance of this Order.

C. Pursuant to Section 105(c)(4)(G) of the Act and PCAOB Rule 5300(a)(9), the Firm is required:

1. Within 90 days of the entry of this Order, to establish, revise, or supplement, as necessary, policies and procedures, including monitoring procedures, to provide the Firm with reasonable assurance that Firm personnel will communicate to audit committees all matters required by AS 1301; and
2. Within 120 days of the entry of this Order, to provide a certification, signed by its CEO, to the Director of the PCAOB's Division of Enforcement and Investigations, stating that the Firm has complied with paragraph IV.C.1 above. The certification shall identify the actions undertaken to satisfy the conditions specified above (including any remedial actions taken prior to the date of this Order), provide written evidence of compliance in the form of a narrative, and be supported by exhibits sufficient to demonstrate compliance. The Firm shall also submit such additional evidence of, and information concerning, compliance as the staff of the Division of Enforcement and Investigations may reasonably request. The Firm understands that the failure to satisfy these conditions may constitute a violation of PCAOB Rule 5000 that could provide a basis for the imposition of additional sanctions in a subsequent disciplinary proceeding.

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

Phoebe W. Brown
Secretary

November 14, 2023