

November 3, 2023

By Email: [comments@pcaobus.org](mailto:comments@pcaobus.org)

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

**Re: PCAOB Release No. 2023-007 – PROPOSED AMENDMENTS TO PCAOB RULE 3502 GOVERNING CONTRIBUTORY LIABILITY**

Dear Office of the Secretary:

Mazars USA LLP (“Mazars USA”) welcomes the opportunity to comment on the Public Company Accounting Oversight Board’s (“PCAOB” or the “Board”) proposed amendments in Release 2023-007 (the “Release”) to PCAOB Rule 3502 Governing Contributory Liability; PCAOB Rulemaking Docket Matter No. 053.

Mazars USA has over 100 partners and 900 professionals across the United States and is an independent member firm of the Mazars Group, an organization with over 1,200 partners and 30,000 professionals in over 95 countries around the world, and a member of Praxity, a global alliance of independent firms.

Our view on the proposed amendments is driven by our position in the U.S. marketplace as a medium-sized public accounting firm servicing mostly small to mid-size public and private businesses in a variety of industries and as a member firm in a global network. We are fully committed to the highest levels of audit quality in the execution of our audits and appreciate the efforts the PCAOB invested in the detailed proposal.

**General Comments**

1. Mazars USA acknowledges and appreciates the Board’s assertion that proposed Rule 3502 is broadly intended to better protect investors and promote quality audits. Mazars USA also notes the Board’s assertion that academic literature suggests that litigation risk and legal liability are important factors affecting audit quality.<sup>1</sup> We note however, that:
  - a. Several of the arguments raised in 2004 and 2005, that led the Board to reject the position it is now proposing, remain unresolved and are not fully answered within this proposal.
  - b. The Board is seeking stakeholder response to this rulemaking at a time of significant practice changes posed by the Board’s pending rulemaking (particularly, related to QC 1000 and AS 1000).

---

<sup>1</sup> See PCAOB Release No. 2023-007, Proposed Amendments to PCAOB Rule 3502 Governing Contributory Liability Footnote 71 in Release: *Excessive litigation risk might bring declining returns or even harm audit quality.*

- c. Increased regulation in the accountancy profession is continually cited as a barrier to entry for eligible college graduates and as contributing to departures of experienced auditors from the profession. This Release's proposed rulemaking will likely further contribute to these challenges.

The presence of these conditions makes it difficult for firms, particularly medium-sized and smaller firms, to adequately assess the potential impact this Release's proposed rulemaking could have on their operation and ability to successfully compete in this market and maintain quality. It is against this backdrop that Mazars USA wishes to emphasize and caution against the following specific unintended consequences of this Release's proposed rulemaking when viewed through the lens of a medium-sized or smaller accounting firm.

## **Specific Comments**

### *Costs of Liability Insurance*

2. The Board posits in the Release,<sup>2</sup> its expectations that the economic impact of the proposal will be modest and, specifically, that under the proposed rule, the increase in litigation and liability risk would be modest, but meaningful. We anticipate that this potential "modest but meaningful" benefit would be countered by a disproportionately higher cost to medium-sized and smaller firms, including their ability to absorb the economic impact of insuring against such increased litigation and liability risk relative to larger firms.

### *Self-Protective Behavior and the Impact on Audit Quality*

3. Mazars USA recognizes and supports a robust and substantial investment in audit quality, including the appointment of subject matter experts (including legal experts) and continuing efforts to improve its systems of quality management and audit performance. Yet, as noted by the Board, while the threat of litigation can motivate individuals to act in a manner consistent with their professional and legal obligations, it can also result in excessive monitoring and self-protective behavior, leading to an inefficient allocation of time and resources and would not enhance audit quality.

Notwithstanding our firm's significant investment in compliance and risk mitigation as of today, Mazars USA is concerned about whether the costs of additional monitoring and self-protective practices that is likely to result from the proposed change would indeed result in a commensurate increase in audit quality. As noted in the Release, time spent on unproductive, self-protective activities may detract from other important obligations, including, but not limited to risk assessment, and directly impact audit quality.

### *Reduced Competition in the Audit Market*

4. We are particularly concerned about this Release's proposed rulemaking (including the points noted in #3 above) relative to the conduct of multilocation issuer audit engagements involving non-US firms with smaller issuer audit practices, and the potential disproportional impact the proposed rule change may have on the audit quality of issuers' operations in these non-US jurisdictions and

---

<sup>2</sup> See PCAOB Release No. 2023-007, Proposed Amendments to PCAOB Rule 3502 Governing Contributory Liability, at p. 20 and 22, Economic Impact

the ability for medium-sized and smaller firms in those jurisdictions to absorb the increased cost of compliance within their operations.

Mazars USA has observed that these smaller firms, including those registered with the PCAOB, already have concerns about the significant litigation and liability risk and costs posed by the US regulatory regime. A new regulation that provides only modest benefit, but which poses significant and disproportionate costs to these firms could significantly reduce the availability of such non-US PCAOB registered firms to participate in the audits of US issuers with significant operations in these jurisdictions.

We request that the Board further and more thoroughly examine the potential economic impact of this rulemaking on medium-sized and smaller firms, including firms that, although they may not be annually inspected firms, significantly contribute to the overall audit market for US issuers that are multi-national corporations. This should include analysis of the economic impact of any SEC enforcement involving the precise legal area that the PCAOB now believes requires regulatory alignment within its own rules.

*Proposed Effective Date*

5. We note that the Board proposes that the revision to Rule 3502, if adopted, should be effective sixty days after Commission approval. Because of the potential disproportionate impact to medium-sized and smaller firms and their clients and the significant practice changes posed by other pending PCAOB rulemaking (particularly related to QC 1000 and AS 1000), we recommend that any revision to Rule 3502 be implemented subsequent to the effective dates of the earlier mentioned pending rulemaking (or the Board's determination not to adopt), and with additional time for medium-sized and smaller firms, including those in non-US jurisdictions, to appropriately understand the ramifications and respond to any incremental quality or risk mitigation strategy or investments and practice cost that might be necessitated by this rule change.

We would be pleased to discuss our comments with you at your convenience.

Please direct any questions to:

- Joseph Lanza, Director, Quality & Risk Management  
([Joseph.Lanza@Mazarsusa.com](mailto:Joseph.Lanza@Mazarsusa.com))
- Wendy Stevens, Practice Leader, Quality & Risk Management  
([Wendy.Stevens@Mazarsusa.com](mailto:Wendy.Stevens@Mazarsusa.com))

Very truly yours,

*Mazars USALLP*

Mazars USA LLP