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

Re: PCAOB Rulemaking Docket Matter No. 051

March 18, 2024

Dear Office of the Secretary:

The National Association of Corporate Directors (NACD) appreciates the opportunity to supplement its comments on the rulemaking release from the Public Company Accounting Oversight Board (PCAOB or Board), *Amendments to PCAOB Auditing Standards related to a Company's Noncompliance with Laws and Regulations*, PCAOB Rel. No. 2023-003 (Proposal).

We continue to be concerned that the Proposal, if adopted as currently proposed, would drastically change the current audit model and result in a significant expansion of auditor obligations in ways that could lead to substantial new burdens for directors and management of public companies. While we appreciate the PCAOB's continued engagement with commenters and other stakeholders through its March 6 roundtable, the significant concerns we identified in our initial comment letter remain. Specifically, we are concerned that the Proposal (1) transforms the financial statement audit into a compliance audit; (2) creates new burdens for Audit Committees; (3) erodes attorney-client privilege; (4) requires the auditor to conduct inquiry and other audit steps with respect to substantive subject matters that are clearly outside of its education, training, experience, and expertise; (5) necessitates an expanded internal control framework and additional controls and procedures; and (6) lacks sufficient cost-benefit analysis, as discussed in more detail below.

The roundtable did not result in a dialogue that meaningfully addressed our and other commenters' concerns, in large part, from our perspective, due to a lack of diversity among the panelists. While we appreciate the stated intent for holding the roundtable, we are troubled that more Audit Committee members were not present to help provide insight into the far-reaching effects the Proposal will likely have on the oversight of the current structure and scope of audits and company compliance programs. Based on our review of the panelists' bios that were made available on the PCAOB's website, only two of twenty-two participants appear to have had experience on public company boards and Audit Committees.

As reflected in our initial comment, the costs associated with the Proposal will be significant and have not been adequately considered. Public companies likely will need to incur costs and expand their compliance programs, and directors serving on Audit Committees will need to dedicate substantial additional time and effort to oversight of expanded and new compliance programs and the expanded audit—all without any meaningful support for the notion that the proposed standard would benefit investors. We are reminded of the now-superseded Auditing Standard No. 2: another standard that, when proposed, commenters warned "would lead to unnecessary and excessive costs" in large part because it significantly expanded the scope of the audit, "needlessly increas[ing] costs without adding significant value." *An Audit of Internal*

Control over Financial Reporting Performed in Conjunction with an Audit of Financial Statements, PCAOB Rel. No. 2004-001, at ¶ E11 (Mar. 9, 2004). Those concerns proved prescient, and within a few years it became clear that AS 2 needed to be replaced with Auditing Standard No. 5, which significantly narrowed the scope of an audit of internal control over financial reporting to eliminate unnecessary procedures. The PCAOB explained in the accompanying release that the costs associated with AS 2 had been "significant" and "greater than expected and, at times, the related effort has appeared greater than necessary to conduct an effective audit." *An Audit of Internal Control over Financial Reporting that Is Integrated with an Audit of Financial Statements*, PCAOB Rel. No. 2007-005A, at 2 (June 12, 2007). So too here. We believe the costs would be even greater to comply with the Proposal since the Proposal would dramatically expand the scope of the audit and the role of the auditor.

For these reasons, we continue to believe the Board should not move forward with the Proposal. We believe it is in the best interest of investors and the public at large that the current standards remain effective and in place, as they properly balance requiring the auditor to evaluate effects of potential loss contingencies on the financial statements without layering on undue and unjustified procedures that could unnecessarily increase audit costs and burdens, including on Audit Committees in their oversight of the audit engagement. At a minimum, the PCAOB should seek to re-propose the standard to adequately address the concerns raised not only at the roundtable but in the 140 comment letters submitted during the initial comment period.

Sincerely,

Sue Cole, Chair, NACD
Mary Winston, Audit Chair, NACD
Peter R. Gleason, President and CEO

National Association of Corporate Directors