

March 18, 2024

PCAOB
Erica Y. Williams
Office of the Secretary
1666 K Street, NW
Washington, DC 20006-2803

Sent via email to comments@pcaobus.org

Proposing Release No. 2023-03
PCAOB Rulemaking Document Matter No. 051
Amendments to PCAOB Auditing Standards related to a Company's Noncompliance with Laws and Regulations and Other Related Matters

Dear Ms. Williams:

The Virginia Society of CPAs (VSCPA) Accounting & Auditing Advisory Committee has redeliberated the PCAOB Rulemaking Document Matter No. 051: Amendments to PCAOB Auditing Standards related to a Company's Noncompliance with Laws and Regulations and Other Related Matters (Amendments), issued by the PCAOB (Board), during the re-opened comment period. The VSCPA is the leading professional association in Virginia dedicated to enhancing the success of all CPAs and their profession by communicating information and vision, promoting professionalism, and advocating members' interests. The VSCPA membership consists of nearly 13,000 individual members who actively work in public accounting, private industry, government, and education.

The Committee supports the PCAOB's efforts to improve auditing standards to protect investors from the resulting harm of noncompliance with laws and regulations (NOCLAR) that have a material effect on the financial statements and to improve quality through the auditor's identification of NONCLAR that could reasonably result in a material effect on the financial statements. However, the Committee continues to oppose the proposed Amendments for the reasons outlined in our previous [comment letter](#).

The Committee offers the following additional clarifications on specific topics PCAOB is deliberating during the re-opened comment period.

1. Threshold for Identification of Laws and Regulations

- a. The PCAOB should consider updating its proposed threshold of "could reasonably have a material effect" to "reasonably likely to have a material effect." Given the broad scope of potential NOCLAR, the auditor should focus on those that are reasonably likely, rather than those that are reasonably possible, to have a material effect.
- b. Management is ultimately responsible for complying with NOCLAR. In addition to typical audit procedures such as gaining an understanding of the entity and its environment, reviewing board minutes, reviewing legal expenses, and obtaining legal representations, the auditor should gain an understanding of management's

processes for identifying and monitoring significant compliance requirements. To the extent that management's processes are implemented, effectively designed, and operating effectively, the auditor should be able to use the work of management as a significant component of its identification of relevant NOCLAR.

2. Direct Illegal Acts vs. Indirect Illegal Acts

- a. The distinction between direct and indirect is instructive and should not be eliminated from the proposed standard. In general, the consequence of direct noncompliance is known, making risk assessment of material noncompliance universally practicable. In contrast, the consequence of indirect noncompliance is often unknown and applicable to a much broader scope of laws and regulations. As a result, the expectation of the auditor's identification and risk assessment should be higher regarding direct laws and regulations.

3. Economic Impact

- a. While not possible to quantify, it is likely that the aggregate audit fees over the universe of applicable audits will increase under the current proposed guidance. Given the broad spectrum of indirect laws and regulations, it would be difficult to speculate on whether the increased audit costs would result in commiserate value through identification of noncompliance that is material to investors and other stakeholders.

The VSCPA appreciates the opportunity to respond to this proposed Amendments. Please direct any questions or concerns to VSCPA Vice President, Advocacy Emily Walker, CAE, at ewalker@vscpa.com or (804) 612- 9428.

Sincerely,

Zach Borgerding, CPA
Chair 2023-2024 VSCPA Accounting & Auditing Advisory Committee

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