

From the Office of PCAOB Board Member Christina Ho

PCAOB Docket 051: Amendments to PCAOB Auditing Standards related to a Company's Noncompliance with Laws and Regulations - March 12, 2024, Virtual Meeting with Nasdaq

Attendees

PCAOB:

- Board Member Christina Ho
- Board Advisor Julie Edwards
- Board Counsel Steven D. Laughton

Nasdaq:

- John Zecc, EVP, Chief Legal, Risk and Regulatory Officer
- Alex Kogan, SVP, General Counsel
- Eun Ah Choi, SVP, General Counsel, Listing Operations
- Arnold Golub, VP, Deputy General Counsel
- Amma Anaman, Senior Associate General Counsel

Summary of Discussion

Board Member Ho advised that her questions are her own and are not necessarily those of the PCAOB Board, other Board Members, or PCAOB staff. She also advised that a summary of the conversation regarding the proposal will be posted in the public comment file. She stated that she had some questions about Nasdaq's August 11, 2023, comment letter but that she wanted to first cede the floor.

Nasdaq representatives stated that two groups would be most impacted by the proposal: first, community banks who are small cap issuers with limited resources to implement much less pay for increased audit fees if PCAOB adopts the current proposal – such that their hiring and lending to businesses would be negatively affected; and second, Nasdaq itself as an issuer because of its complexity.

Nasdaq representatives expressed concern about a “regulator trap” where regulators may believe that experts can solve a problem and obtaining a certification will reduce risk for investors.

Board Member Ho stated that there were two topics she wanted to discuss.

First, Nasdaq's assertions on page 4 of its comment letter that the proposal is in tension with sections 201 and 307 of the Sarbanes-Oxley Act of 2002 (SOX). The discussion revolved around whether there was in fact tension based on SOX's text and legislative history.

Second, Board Member Ho asked Nasdaq representatives what is their expectation on the extent of increased audit fees? Nasdaq representatives were unequivocal in their view that the proposal will increase audit fees but noted that it's difficult to quantify. They referenced a conversation with Nasdaq's finance team in the context of Nasdaq being an issuer.

Board Member Ho then asked what costs would institutional and retail investors be willing to take on for additional assurance under the proposal? Nasdaq replied that it could make inquiry

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but that it's focus on costs has been on issuers. Nasdaq representatives also noted that a balance is necessary between increased investor protection and increased auditor implementation costs that are passed on to issuers, and that the proposal lacks such a balance.