

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 15, 2024, Virtual Meeting with the NYSE Group, Inc. ("NYSE") and NYSE Listed Company Representatives ("Listed Company or Companies")**

**Attendees**

PCAOB:

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

NYSE:

- Hope Jarkowski, General Counsel
- Patrick Troy, Associate General Counsel

Listed Companies:

- Marty Connor, Chief Financial Officer, Toll Brothers
- David Kurzawa, Vice President and Chief Securities Counsel, Genworth
- Michael Shepherd, SVP Legal and Head of Government Relations, Genworth

**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.

Board Member Ho stated that she has some questions about NYSE's August 7, 2023, comment letter. She referred to page 2 of the comment letter where NYSE wrote that "[t]o have the greatest impact, corporate disclosure must strike a critical balance between value to investors and the cost . . . ." Board Member Ho then said she would like to hear how that balance can be struck for the NOCLAR proposal and the extent to which the proposal helps or hinders investor protection.

The NYSE stated that there's a difference between "good" disclosures as opposed to voluminous disclosures. It explained that it has first-hand experience balancing disclosures with concision. It elaborated that "more" is not better where "more" leads to less transparency because it's harder for investors to pore through "more." A Listed Company stated that they want disclosures to be useful for investors to read.

Another Listed Company stated that it reaches out to its top 25 investors before proxy season for a dialogue, and that only 2-3 take the offer, because investors see the annual audit as a "check the box exercise." Against that backdrop, the Listed Company stated that it's not clear whether a need exists for the NOCLAR proposal as they have never received any requests or comments from investors on that. The Listed Company noted that the proposal seems to alter the fundamental role of auditors – from providing assurance to being lawyers without any apparent

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demand from investors. The Listed Company mentioned that for the past three years it has published sustainability reports and solicited input from investors, where about 10 responses were received – none were from investors or environmental groups, one was from a customer, and about 9 were from consultants offering their services.

A different Listed Company stated that it reaches out to 60% of its investor base annually about disclosures (noting that large institutions hold about 30% of its outstanding stock). This Listed Company noted that its investors will meet to discuss disclosures but only because the investors perceive it as a necessary compliance exercise.

The NYSE stated that new disclosure regimes seem designed to allow for a proliferation of cottage industries to service the disclosure regimes to the detriment of: (1) companies who have to make the disclosures; and (2) their investors. NYSE commented that the standing up of these cottage industries goes unnoticed.

Board Member Ho asked whether NYSE has any research on what actual investors want in terms of disclosures. NYSE replied that NYSE Research could do some work, and that there is research on disclosure effectiveness. But NYSE said it has not seen objective research on what disclosures investors want.

Board Member Ho asked the NYSE and the Listed Companies whether they have quantified the costs of complying with the proposal. One Listed Company stated that it would not know where to start because the “canvas is blank,” but that because the scope of the proposal is so expansive it would likely double audit fees, which are currently in the multi-millions. This Listed Company, a residential housing builder, explained that it is subject to multiple building codes in each State and that the proposal is highly subjective because the word “could” in “could reasonably have a material effect . . .” means potentially, and because reasonable minds could differ over “reasonably.”

A different Listed Company estimated that the proposal would increase its current multi-million audit costs between 35%-50%, because the proposal is so broad such that auditors will not want to miss anything that a regulator could determine to be a violation that could potentially have a material effect on the financial statements. The Listed Company stated that will not foster good disclosures for investors.