



March 9, 2024

Via email to comments@pcaobus.org

Office of the Secretary, PCAOB
1666 K Street, NW
Washington D.C. 20006-2803

Re: PCAOB Rulemaking Docket Matter No. 54 Proposals Regarding False or Misleading Statements Concerning PCAOB Registration and Oversight and Constructive Requests to Withdraw from Registration

Dear Secretary Brown and Members of the PCAOB:

I appreciate the opportunity to provide feedback to the Board regarding the proposals regarding false or misleading statements concerning PCAOB registration and oversight and constructive requests to withdraw from registration. I am an accounting professor at Case Western Reserve University. I teach auditing and conduct research in the areas of auditor judgment and decision making and audit regulation.

Overall, I support the Board's proposals. Accounting firms should not use PCAOB registration as a means to market unrelated services such as audits of privately-held companies or tax and consulting services. It is appropriate for the PCAOB to establish rules that might help to deter these behaviors. Also, it is reasonable for the PCAOB to establish a non-enforcement mechanism to expedite withdrawal of firms that fail to comply with the basic requirements for registration (e.g., filing annual reports and paying annual fees). Thank you for the opportunity to comment on the proposed standard. If you have any questions, please contact me at 216-368-8895.

Sincerely,

A handwritten signature in cursive script that reads "John Keyser".

John D. Keyser, PhD, CPA

Assistant Professor

Enclosure

Responses to Specific Questions

- 1. Is the proposed general prohibition on false or misleading statements concerning a firm's PCAOB registration status, including the extent of the PCAOB's oversight of a firm's services, clear and appropriately tailored? Why or why not?**

The proposed general prohibition is clear. It appropriately includes a materiality threshold and prohibits firms from making untrue statements about a material fact or omitting necessary facts. Importantly, it explicitly includes misleading statements regarding the extent to which the PCAOB oversees the firm's services.

- 2. Does the phrase "marketing or otherwise holding out a registered public accounting firm to a client, potential client, or the public," which is used in multiple provisions of proposed Rule 2400, accurately capture all of a firm's marketing and otherwise holding out statements? Should it be broader or narrower? Is its scope clear?**

I believe that the phrase "marketing or otherwise holding out a registered public accounting firm to a client, potential client, or the public" accurately captures all of a firm's marketing and otherwise holding out statements, if the PCAOB intends that "public" includes all of the potential users of financial statements (e.g., investors, lenders and other creditors, regulators, taxing authorities). The Board might consider whether this phrase might be improved by adding reference to "users of financial statements" as well as "the public."

- 3. Is the proposed prohibition on statements suggesting that the PCAOB has sponsored, recommended, or otherwise endorsed a firm or any of its services clearly expressed and appropriately structured? Why or why not?**

I agree completely that firms should never "state or imply" that the PCAOB has sponsored, recommended, or otherwise endorsed a firm or any of its services. I believe that proposed paragraph 2400(b)(1) is appropriately structured to convey this prohibition.

- 4. Should the scope of the prohibition be adjusted? If so, in what ways should it be narrowed or broadened?**

No. The scope of the prohibition is appropriate.

- 5. Is the proposed prohibition on firms not currently providing services subject to PCAOB oversight and their associated persons clear and appropriately tailored? Why or why not?**

I am concerned that this prohibition could be harmful to smaller firms that are entering the issuer or broker dealer audit market. For example, say a registered firm hires qualified personnel to conduct an audit in accordance with PCAOB standards for an issuer or broker dealer. If the recently hired personnel were previously associated with a PCAOB registered accounting firm and actively participated in issuer or broker dealer audits, then the firm should be able to clarify that the personnel to be assigned to the audit engagement have provided services subject to potential PCAOB inspection.

- 6. Is a lookback period of three years clear? Is it appropriate for assessing whether a firm is currently providing services that subject the firm's work to PCAOB oversight? If not, should this lookback period be longer or shorter, and why?**

I do not think the lookback period should exceed three years. However, I think a better alternative would be to require (a) disclosure of the date of the firm's most recent PCAOB inspection (or the date of the most recent PCAOB inspection report), or (b) a statement that the firm has never been inspected by the PCAOB.

- 7. Is the phrase "prominently indicating in that statement," which is used throughout proposed Rule 2400(b), sufficiently clear? If not, why not?**

I do not think the phrase "prominently indicating in that statement" is sufficiently clear because the PCAOB means that "the qualification must be present in the **same sentence** or declaration where the firm's PCAOB registration or PCAOB oversight is mentioned." If the PCAOB requires that the qualification must be in the same sentence, then I think the rule should explicitly state this expectation.

- 8. Is the phrase "PCAOB Registered – Not Currently Providing Services Subject to PCAOB Oversight" appropriate and understandable? Should we consider alternative suggested qualification language? If so, what language would be preferable, and why?**

I think this phrase is appropriate and understandable. However, see my response to question 5. The PCAOB should consider whether to provide alternative language for circumstances where a firm has recently hired qualified personnel who have been subject to PCAOB oversight.

- 9. Should firms that are newly registered with the PCAOB have some period of time before they (and their associated persons) are required to disclose in firm marketing or other public statements that such firms are "PCAOB Registered – Not Currently Providing Services Subject to PCAOB Oversight," if such firms or their associated persons mention PCAOB registration in those statements? If so, how long should that transition period last? What would be the purpose of such a transition period? What qualification language, if any, should be required during that transition period?**

I do not think there should be a transition period for newly registered firms. The fact is that those firms have not been subject to PCAOB inspection. It is appropriate to disclose this fact to clients, prospective clients, and users of financial statements. I think a better approach would be to require all firms who refer to their PCAOB registration status to (a) disclose the date of the firm's most recent PCAOB inspection, or (b) state that the firm has never (or has not yet) been inspected by the PCAOB.

- 10. Is the proposed rule governing use of a firm's PCAOB registration or PCAOB oversight in statements concerning services that are not subject to PCAOB oversight clear and appropriately tailored? Why or why not?**

I think the proposed rule is appropriately clear and tailored. Firms should never use PCAOB registration as a marketing tool for non-audit services that are outside the scope of PCAOB oversight.

11. Is the phrase “PCAOB Registered – Services Not Subject to PCAOB Oversight” appropriate and understandable? Should we consider alternative disclaimer language? If so, what language would be preferable, and why?

I think this phrase is appropriate and understandable.

12. Is the proposed rule governing reference to a firm’s PCAOB registration or PCAOB oversight in auditors’ reports for clients that are not issuers or broker-dealers clear and appropriately tailored? Why or why not?

I do not agree with the PCAOB’s assertion that “a firm’s statement that an audit was performed pursuant to PCAOB standards would not, by itself, indicate or imply that a firm is PCAOB-registered.” Some financial statement users may infer from this statement that the PCAOB has some level of oversight. I agree that firms can audit non-issuer, non-broker-dealers in accordance with the PCAOB’s auditing standards. However, such audit reports should clearly state that the audit will not be subject to PCAOB inspection.

13. Is the phrase “PCAOB Registered – Services Not Subject to PCAOB Oversight” appropriate and understandable in this context? Should we consider alternative suggested disclaimer language? If so, what language would be preferable, and why?

Yes. As indicated in my response to question 12, I think this phrase should be included in audit reports when the auditor performs the audit of a non-issuer, non-broker-dealer, in accordance with PCAOB auditing standards.

14. Should a conforming change be made to AS 3101 or AS 3105 to cross-reference the disclosure obligation of proposed Rule 2400(b)(4) applicable to audits performed in accordance with PCAOB standards for entities that are not issuers or broker-dealers? Should we consider alternative conforming changes to PCAOB standards? If so, what changes would be preferable, and why?

Yes. AS 3101 should be amended to state that the title of the audit report should not include “registered” when the audit client is a non-issuer, non-broker-dealer. Also, as indicated in my response to questions 12 and 13, I think the fact that the audit will not be subject to PCAOB inspection should be disclosed in audit reports when the auditor performs the audit of a non-issuer, non-broker-dealer, in accordance with PCAOB auditing standards. AS 3101 should be amended to include this requirement.

15. Is the proposed rule regarding firms with pending withdrawal requests clear and appropriately tailored? Why or why not?

Yes. It is clear that firms that are in the process of withdraw should disclose that the withdraw request is pending.

16. Is the proposed rule regarding consideration of a registration applicant’s or its personnel’s false or misleading statements regarding the firm’s PCAOB registration status, including the extent of PCAOB oversight of the firm’s services clear and tailored appropriately? Why or why not?

Yes. The Board is already considering these factors, so it is appropriate to codify this existing practice.

17. Is the proposed amendment to Form 3 clear and appropriately tailored? Why or why not?

Yes. It is very appropriate for a firm to communicate to the PCAOB that it has become subject to PCAOB inspection as a result of auditing an issuer or broker dealer. However, I think it would be preferable for the firm to file the Form 3 within 30 days of being engaged to perform such an audit, rather than waiting until an audit report has been issued. This would more closely align with the SEC requirement for the issuer to file an 8-K to indicate that the firm has been engaged.

18. Would proposed Rule 2107(h) strike the right balance between expediting our ability to clear from PCAOB registration firms that no longer wish to remain registered and giving potentially affected firms appropriate procedural safeguards? What are the advantages and disadvantages of the proposed approach? Are there alternative procedural mechanisms we should consider to withdraw the registrations of firms that fail to meet their annual reporting and fee payment obligations?

I am supportive of constructive withdrawal of firms that fail to comply with annual reporting fee payment requirements. I agree that this alternative will place less strain on the PCAOB's Enforcement Division. The only disadvantage of this approach is that it removes firms from the PCAOB's authority. Once a firm is withdrawn from registration, the PCAOB no longer has the ability to investigate the firm, issue subpoenas, compel testimony, or take disciplinary action against that firm.

19. Is it appropriate to infer, for purposes of proposed Rule 2107(h), that a registered firm that has not filed an annual report and has not paid an annual fee for at least two consecutive reporting periods has made a constructive request for leave to withdraw from PCAOB registration? If not, why not? Would omitted annual reports and annual fees across a different period of time be more appropriate? If so, how long?

I think it is appropriate that a firm that fails to file annual reports or pay annual fees have made a constructive request to withdraw from PCAOB registration. However, I would consider failure to file a single annual report or pay a single annual fee a constructive request for leave to withdraw. I think 180 days following a annual report or fee submission deadline should be sufficient to initiate constructive withdrawal.

20. Is written notice to the last reported address of the firm's primary contact with the Board (i.e., the address our rules mandate must be kept current) an appropriate means of informing a firm that its registration could be withdrawn? If not, what additional or alternative notice procedures should we consider?

Yes. I don't believe additional or alternative procedures are necessary.

21. Is notice on our website an appropriate supplemental means of providing the firm with notice that its registration could be withdrawn? Are there any other forms of notice that we should consider?

Yes, I don't believe additional forms of notice are necessary.

22. The website posting also would provide the firm's current and former clients—and the broader public—with notice that the firm's registration could be withdrawn. Are there any other forms of notice to current and former clients or other stakeholders that we should

provide? If so, how might we ascertain the identity of, and contact information for, such stakeholders?

No.

23. Is 30 days a reasonable amount of time for a registered firm to act and to prevent the withdrawal of its registration? If not, how long should the opportunity to contact the Registration staff be?

Yes.

24. Is email a reasonable way to require a firm to contact the Registration staff? If not, what alternative method(s) of contacting staff would be preferable?

Yes. The PCAOB might also consider sending a letter via registered mail.