

Via Email

March 28, 2024

Ms. Phoebe W. Brown  
Office of Secretary  
Public Company Accounting Oversight Board  
1616 K Street, NW  
Washington, DC 20006-2803

***PCAOB Rulemaking Docket Matter No. 054, Proposals Regarding False or Misleading Statements Concerning PCAOB Registration and Oversight and Constructive Requests to Withdraw from Registration.***

Dear Secretary Brown:

The Council of Institutional Investors (CII) appreciates the opportunity to share our views and provide input on the Public Company Accounting Oversight Board’s (PCAOB or Board) *Proposals Regarding False or Misleading Statements Concerning PCAOB Registration and Oversight and Constructive Requests to Withdraw from Registration* (Proposal).<sup>1</sup>

CII is a nonprofit, nonpartisan association of U.S. public, corporate and union employee benefit funds, other employee benefit plans, state and local entities charged with investing public assets, and foundations and endowments with combined assets under management of approximately \$5 trillion. Our member funds include major long-term shareowners with a duty to protect the retirement savings of millions of workers and their families, including public pension funds with more than fifteen million participants – true “Main Street” investors through their pension funds. Our associate members include non-U.S. asset owners with about \$4.8 trillion in assets, and a range of asset managers with more than \$55 trillion in assets under management.<sup>2</sup>

## **CII Policies**

As the leading U.S. voice for effective corporate governance and strong shareholder rights, CII believes that accurate and reliable audited financial statements are critical to investors in making informed decisions, and vital to the overall well-being of our capital markets.<sup>3</sup> That belief is

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<sup>1</sup> Proposals Regarding False or Misleading Statements Concerning PCAOB Registration and Oversight and Constructive Requests to Withdraw from Registration, PCAOB Release No. 2024-001 (Feb. 27, 2024), [https://assets.pcaobus.org/pcaob-dev/docs/default-source/rulemaking/docket-054/2024-001-registration.pdf?sfvrsn=51869da\\_2](https://assets.pcaobus.org/pcaob-dev/docs/default-source/rulemaking/docket-054/2024-001-registration.pdf?sfvrsn=51869da_2).

<sup>2</sup> For more information about the Council of Institutional Investors (“CII”), including its board and members, please visit CII’s website at <http://www.cii.org>.

<sup>3</sup> CII, Policies on Other Issues, Independence of Accounting and Auditing Standard Setters (updated Mar. 1, 2017), [http://www.cii.org/policies\\_other\\_issues#indep\\_acct\\_audit\\_standards](http://www.cii.org/policies_other_issues#indep_acct_audit_standards).

reflected in the following CII membership-approved policy on the **Independence of Accounting and Auditing Standard Setters**:

Audited financial statements including related disclosures are a critical source of information to institutional investors making investment decisions. The efficiency of global markets—and the well-being of the investors who entrust their financial present and future to those markets—depends, in significant part, on the quality, comparability and reliability of the information provided by audited financial statements and disclosures. The quality, comparability and reliability of that information, in turn, depends directly on the quality of the . . . standards that . . . auditors use in providing assurance that the preparers’ recognition, measurement and disclosures are free of material misstatements or omissions.<sup>4</sup>

The policy on **Independence of Accounting and Auditing Standard Setters** also importantly establishes that the key attributes that underpin an effective auditing standard setter include: “A clear, rigorous and consistent mechanism for enforcement by regulators of the accounting and auditing standards.”<sup>5</sup>

In addition, CII’s membership-approved policy on **Audit Committee Responsibilities Regarding Independent Auditors** states, in part, that:

The audit committee should fully exercise its authority to hire, compensate, oversee and, if necessary, terminate the company’s independent auditor. In doing so, the committee should take proactive steps to promote auditor independence and audit quality. . . . [And the audit committee should evaluate a number of factors when overseeing the independent auditor, including:]

. . . .

- the level of transparency and robustness of the audit firm with the audit committee and investors, including with respect to audit quality indicators, governance practices and underlying principles, and the financial stability of the audit firm
- enforcement actions (in process or completed), inspection results and fines levied by the Public Company Accounting Oversight Board or other regulators

. . . .<sup>6</sup>

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<sup>4</sup> *Id.*

<sup>5</sup> *Id.*

<sup>6</sup> CII, Policies on Corporate Governance, § 2.13a Audit Committee Responsibilities Regarding Independent Auditors (last updated on March 6, 2023), [https://www.cii.org/corp\\_gov\\_policies](https://www.cii.org/corp_gov_policies).

Finally, CII also has a long-standing, membership-approved policy on **Financial Gatekeepers**.<sup>7</sup> That policy explicitly identifies auditors as “financial ‘gatekeepers.’”<sup>8</sup> The policy indicates that it is imperative that auditors be subject to “[r]obust oversight and [have] genuine accountability to investors. . . .”<sup>9</sup> The policy also states that the “Sarbanes-Oxley Act of 2002 . . . bolstered the . . . oversight and accountability of accounting firms . . . [and that] [c]ontinued reforms are needed to ensure that the pillars of transparency, independence, oversight and accountability are solidly in place.”<sup>10</sup>

## The Proposal

As indicated in the Proposal, “[r]egistration with the PCAOB provides access to a key privilege: the ability to issue audit reports for issuers . . . or to play a substantial role in those audits.”<sup>11</sup> Generally consistent with our policies on **Independence of Accounting and Auditing Standard Setters** and **Financial Gatekeepers**, we agree with the Board that PCAOB registered public accounting firms “bolster the reliability of financial information disclosed by issuers . . . to investors and other stakeholders.”<sup>12</sup>

As a result, we generally support the Proposal’s basic idea that as financial gatekeepers, public accounting firms should not be able to use PCAOB registration as a marketing tool or an implied endorsement with respect to activities – like crypto proof-of reserve reports<sup>13</sup> – that are outside the PCAOB’s authority. We also generally agree that requiring a statement like “Services Not Subject to PCAOB Oversight” is a reasonable approach to deal with the issue.

In addition, we support the Proposal’s provisions deeming firms that both do not file annual reports and do not pay the annual PCAOB registration fee for at least two consecutive years as having made a constructive request to withdraw from registration. We agree that it makes sense to get these firms off the registration rolls without having to use the PCAOB’s enforcement authority.

Finally, we note that the Proposal speaks to a wider issue as why many investors and other market participants may be misled by the improper use of PCAOB registration as a marketing tool or an implied endorsement of audit quality. To be effective, we believe rigorous enforcement of the provisions of the Proposal must be married with more and better public

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<sup>7</sup> CII, Policies on Other Issues, Financial Gatekeepers (adopted Apr. 13, 2010), [https://www.cii.org/policies\\_other\\_issues#fin\\_gatekeepers](https://www.cii.org/policies_other_issues#fin_gatekeepers).

<sup>8</sup> *Id.*

<sup>9</sup> *Id.*

<sup>10</sup> *Id.*

<sup>11</sup> PCAOB Release No. 2024-001 at 2.

<sup>12</sup> *Id.*

<sup>13</sup> *See id.* at 48 (CII generally agrees with the Public Company Accounting Oversight Board that: “To the extent that PCAOB-registered firms provide proof-of-reserve engagement services to their cryptocurrency clients, there is a risk that investors and other market participants might mistakenly believe such services fall under PCAOB oversight, when they do not.”).

education about the PCAOB and its registration and enforcement processes. Such education should be a responsibility shared by the Board and the public accounting profession.

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We appreciate the opportunity to provide CII's investor-focused perspective on the Proposal. Please let me know if you have any questions about the content of this letter.

Sincerely,

A handwritten signature in blue ink that reads "Jeff Mahoney". The signature is written in a cursive, flowing style.

Jeffrey P. Mahoney  
General Counsel