



August 18, 2003

Office of the Secretary
Public Company Accounting Oversight Board
1666 K Street, N.W.
Washington, DC 20006-2803

Re: PCAOB Rulemaking Docket Matter No. 007

Members and Staff of the Public Company Accounting Oversight Board:

The SEC Practice Section (“SECPS” or the “Section”) of the American Institute of Certified Public Accountants (“AICPA”) respectfully submits the following written comments on the Public Company Accounting Oversight Board’s (“PCAOB” or the “Board”) proposed rules regarding the withdrawal from registration by public accounting firms. The AICPA is the largest professional association of certified public accountants in the United States, with more than 350,000 members in business, industry, public practice, government and education. The AICPA bylaws require, among other things, that all members that engage in the practice of public accounting with a firm auditing one or more SEC clients as defined by AICPA Council are required to be members of the SECPS. There are approximately 1,100 firms that are members of the SECPS, which consists of approximately 750 firms that audit registrants that file financial statements with the U.S. Securities and Exchange Commission (the “Commission”) and approximately 350 firms that have joined voluntarily. All of the Section’s member firms are U.S. domiciled accounting firms. Neither the AICPA nor the SECPS has the jurisdictional authority to require firms domiciled outside the U.S. to join as members.

With the enactment of the Sarbanes-Oxley Act of 2002 (the “Act”), SECPS member firms that audit issuers will be required to register with and follow the rules of the Board. The SECPS seeks to assist its member firms in fulfilling its responsibilities required under the Act. To that extent, the SECPS appreciates the opportunity to comment on the proposed rules regarding the withdrawal from registration by public accounting firms.

Overall, the SECPS is supportive of proposed Rule 2107, *Withdrawal from Registration*. However, we believe that the proposed rule could be clarified and improved in several respects and offer the following comments:

- Paragraph (a), *Request for Leave to Withdrawal* – The proposal states that absent the Board granting a leave to withdrawal or ordering that withdrawal be delayed, a firm shall be deemed withdrawn after 60 days. The Section questions why the PCAOB review period for deregistration (60 days) is longer than the review period for registration (45 days). We respectfully request that the review period for both registration and deregistration be the same – 45 days.

It is also not clear whether 60 days refers to calendar or business days, but we presume it is on a calendar day basis. We suggest that the rule be clarified to indicate that it is on a calendar day basis.

- Paragraph (c), *Effect of Filing* – The proposal, in subparagraph (2), outlines certain conditions that will take effect beginning on the fifth day following the Board’s receipt of a completed Form 1-WD. The Section questions why these conditions don’t take effect on the next business day following the filing of a completed Form 1-WD. For instance, according to the proposed rule, beginning on the fifth day following the Board’s receipt of a completed Form 1-WD, any annual fee assessed shall be zero. Accordingly, a firm may be required to submit an annual fee to the PCAOB because the fee is due within 3 days of filing the Form 1-WD. Otherwise, the conditions indicate that the annual fee would be zero if the Form 1-WD had been completed two days earlier.

Another condition states that the firm’s registration status is not designated as “registered-withdrawal request pending” until five days following the Board’s receipt of a completed Form 1-WD. The Section believes that it is in the public interest that the firm’s registration status be modified to “registered – withdrawal request pending” on the next business day following the filing of a Form 1-WD.

Accordingly, the Section recommends that the conditions outlined in subparagraph (2) take effect on the next business day following the filing of a completed Form 1-WD. The Section-by-Section Analysis states that the five-day requirement was put in place for “administrative and processing purposes”; however, given advances in technology together with the sophisticated web-based registration system the Board has put in place, the SECPS believes there is no reason why the conditions could not take effect on the next business day.

If the PCAOB believes the five-day requirement is still necessary, we suggest that the rule be clarified to indicate that it is on a business day basis.

- Paragraph (d), *Board Action* – The proposal states that withdrawal of registration may be delayed for a period of up to two years if the Board determines that withdrawal would be inconsistent with the Board’s responsibilities, such as its responsibility to conduct

inspections. The proposal is unclear as to the specific factors the Board would consider, and the Section recommends that those factors be clearly outlined to ensure consistency in application by the Board and to ensure that firms know what is expected in this regard. For instance, is it to be presumed that the Board would deny a request for withdrawal of registration until it had performed inspections (regular or special) covering all years in which the firm audited issuers? As an example, if a firm underwent an inspection in 2004, received a PCAOB inspection report in 2005, and withdrew from performing audits of issuers in 2005 and simultaneously requested withdrawal from PCAOB registration, would the Board deny the withdrawal application so that the Board could perform a special inspection of the 2005 issuer audit(s)? Alternatively, if a firm underwent an inspection in 2004, received a PCAOB inspection report in 2005, withdrew from performing audits of issuers in 2005, and requested withdrawal from PCAOB registration in 2006, would the Board deny the withdrawal application so that the Board could perform a special inspection of the 2005 issuer audit(s) even though those issuer(s) were subsequently audited by a PCAOB-registered firm without requiring prior year restatement? As previously stated, the Section recommends that the factors causing a two-year delay of withdrawal of registration be clearly outlined.

- Paragraph (f), *Withdrawal voided for material inaccuracies or omissions* – The proposed rule states that the Board can retroactively void a firm’s withdrawal if it learns that the firm had filed materially incomplete or materially inaccurate information on the date of filing a Form 1-WD. While the Section agrees that the Board should be permitted to void a withdrawal from registration in this regard, the Section believes that a time period should be provided under which the Board would be permitted to retroactively void such withdrawal from registration. For instance, the Section recommends that a concept similar to a statute of limitations be established. The Section recommends that the Board be permitted to void a withdrawal from registration for a period not to exceed three years. The Section believes a three-year period is reasonable since such firms may have opined on a SEC registrant’s financial statements, and those financial statements may be included for a period up to three years in the SEC registrant’s SEC filings.

The Section has three other comments that are not addressed in Rule 2107 but are pertinent to the request for withdrawal from registration, as follows:

- Once a firm has withdrawn from registration, the proposed rule does not indicate the time period under which the firm’s publicly available information that is maintained on the PCAOB’s website and in the PCAOB files will remain public. The SECPS currently maintains public files of its member firms, which includes firms’ annual reports to the Section, firms’ most recent peer review reports, among other information. The SECPS has a policy stating “Public files of a firm whose membership has been terminated, either by resignation or by action of the SECPS Executive Committee, will be available for public inspection for a period not to exceed three years from the date of such termination.”

The Section recommends that the PCAOB adopt a similar policy. The Section believes it is reasonable to maintain such information for a period not to exceed three years because SECPS member firms may have opined on a SEC registrant's financial statements, and those financial statements may be included for a period up to three years in the SEC registrant's filings with the Commission. The Section does not consider it necessary or relevant to maintain the public file information for a period exceeding three years. Accordingly, the Section recommends that the PCAOB adopt a policy whereby public information of firms that have withdrawn from registration be publicly available for a period not to exceed three years.

- The proposed rule does not address the process that a firm would go through if it withdraws from registration, but later wishes to re-register. The Section assumes that the firm would have to go through the same initial registration process, but this fact pattern is not explicitly addressed in the proposed rule. On the other hand, the Section questions whether going through the same initial registration process is prudent and necessary, particularly if not much time had elapsed since the firm's withdrawal and there had been no significant changes in the firm that might impact its registration application. Accordingly, the Section recommends that the PCAOB's proposed rule contain guidance for firms that withdraw from registration but later wish to re-register.
- The PCAOB, in its July 18, 2003 document titled "Frequently Asked Questions Regarding Registration with the Board" ("FAQ"), stated that some firms that have no public company clients may wish to register so that they will be in a position to obtain clients. The document also stated that the "Board does not encourage the registration of firms that have no public company clients and are not actively seeking to develop a public company clientele" and that "the Board may consider requiring de-registration of firms that, for an extended period, do not audit, or play a substantial role in the audit of, any public company and do not engage in any other activity that requires registration." The Section noted that the proposed rule does not contain a provision outlining the conditions under which the Board would initiate de-registration of such firms. The Section believes that firms should be permitted to register and remain registered with the Board even though they have no public company clients. While such firms may not be involved in public company audits, they may be seeking to obtain work in this area. If such firms were not already registered with the Board, it could be perceived as a barrier-to-entry in the public company market. The Board, in its FAQ, indicated that while registration is permitted, it is not encouraged, and such firms could be de-registered on the Board's own initiative. If this remains the intent of the Board, the Section recommends that the proposed rule contain guidance as to when firms could expect such de-registration, and whether registered firms will be permitted to challenge such de-registration.

CONCLUSION

We acknowledge the enormous effort put forth by the members and staff of the PCAOB to implement the provisions of the Act. The effective registration and de-registration of public accounting firms is critical to the Board's mission to oversee the audits of public companies. We appreciate the opportunity to provide comments concerning the withdrawal from registration by public accounting firms. We are firmly committed to working with the PCAOB in accomplishing the timely and effective implementation of the Act, and would welcome the opportunity to meet with you to clarify any of our recommendations.

Sincerely,

A handwritten signature in black ink, appearing to read "Robert J. Kueppers", with a long, sweeping horizontal flourish extending to the right.

Robert J. Kueppers
Chair
SECPS Executive Committee