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## **BRIEFING PAPER**

### **APPROVAL OF 2005 BUDGET, PROPOSED HEARING SUBPOENA RULE, AND PROPOSED AMENDMENTS TO THE BOARD'S BYLAWS**

#### **OCTOBER 26, 2004 PUBLIC MEETING OF THE BOARD**

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At its public meeting on October 26, 2004, the Public Company Accounting Oversight Board (the "Board" or "PCAOB") will consider three proposals. It will consider whether to approve its budget for calendar year 2005, whether to propose a procedural rule relating to hearing subpoenas, and whether to adopt certain amendments to the Board's Bylaws. This briefing paper highlights key elements of each proposal.

#### **Approval of 2005 Budget**

The Board will consider a budget of approximately \$152.8 million for calendar year 2005. The budget would allow the Board to continue to fulfill its statutory mandate under the Sarbanes-Oxley Act of 2002 (the "Act") to oversee the auditors of public companies in order to protect the interests of investors and further the public interest in the preparation of informative, fair, and independent audit reports.

The proposed budget would support the continuation of an aggressive hiring effort in order to satisfy the PCAOB's mandates under Title I of the Act. Specifically, the budget proposal before the Board would provide for a 50 percent increase in staffing, from an anticipated headcount of approximately 300 by the end of 2004 to an anticipated headcount of approximately 450 by the end of 2005. The increase will primarily add experienced auditors to conduct inspections of the 1,369 public accounting firms that have registered with the Board in order to be able to audit the financial statements of U.S. public companies. Given the technical nature of the Board's statutory mandates, the Board believes an experienced and highly skilled staff is essential to protect the interests of investors in informative, fair and independent audit reports on the financial statements of public companies. Salaries and related expenses under the proposed budget would be approximately \$76 million, in addition to

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approximately \$7.8 million in estimated expenses to cover recruiting and relocation for new hires and approximately \$8.8 million for employee benefits.

The budget proposal also reflects continuation of IT expenses and capital expenditures in order to build critical IT applications to support the Board's statutory programs relating to registration, annual and special reporting, inspections, and investigations and enforcement, in addition to financial analysis and risk assessment. Specifically, the Board's planned 2005 IT projects include: a new risk assessment system to identify financial and other risks relating to financial reporting by public companies; enhancement and deployment of a system to record, analyze and report on data accumulated in the Board's inspections; development and deployment of a case management system to support the Board's investigations and enforcement activities; and enhancement of Web-based tools to make the Board's auditing and related professional practice standards, and other rules, available to the public.

Proposed 2005 IT expenditures would also cover maintenance and expansion of the Board's IT infrastructure, to support the Board's existing and new staff in its headquarters in Washington, D.C., and its technology center in Dulles, Virginia, as well as inspections staff based in New York, New York; Atlanta, Georgia; Dallas, Texas; San Francisco and Costa Mesa, California; Denver, Colorado; and Chicago, Illinois. Total IT expenses under the proposed budget, including expenses related to maintaining and recruiting experienced IT staff, are expected to be approximately \$35.8 million.

In addition, the proposed budget would cover expansion of the Board's facilities to accommodate the planned staffing increase, including leasing and configuring office space for inspections staff in three new offices in Chicago, Denver and Costa Mesa. The Board is opening these offices, both to expand its recruiting base to attract the most experienced and qualified candidates nationwide and to promote efficient use of staff resources by reducing staff travel and associated costs. In addition, the proposed budget reflects expansion of its leased headquarters space in Washington, D.C., to accommodate the additional staff needed to accomplish the Board's mission.

Pursuant to the Sarbanes-Oxley Act, the Board's budget, less registration fees collected in 2004, will form the basis for the Board's annual accounting support fee, which is assessed on public companies on the basis of relative market capitalization.

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### **Proposal of a Rule on Subpoenas to Compel Appearance of Witnesses and Production of Documentary Evidence at Board Disciplinary Hearings**

The Board will also consider issuing for public comment a proposed rule to govern the process by which a party to a Board disciplinary proceeding may request the issuance of a subpoena to obtain documents or testimony for the proceeding. PCAOB Rule 5424(b) already generally provides that the Board may, at the request of a party, seek to have the Securities and Exchange Commission (the "Commission") issue a subpoena in connection with a Board disciplinary proceeding. The Commission approved this rule on May 14, 2004. Proposed rule 5424(c) would prescribe specific procedural steps relating to such requests. Neither existing Rule 5424(b) nor proposed Rule 5424(c) create any entitlement to issuance of a subpoena. Rather, the rules allow a party to submit a request. Under both the existing rule and the proposed new procedural requirements, such a request may be denied by a hearing officer or the Board, and also may ultimately be denied by the Commission.

Board requests for subpoenas in connection with Board investigations before the Board has instituted a disciplinary proceeding are governed by a separate process and would not be affected by the proposed rule. The proposed rule would govern only subpoena requests by parties in the context of a pending disciplinary proceeding.

### **Amendments to the Board's Bylaws**

The Board will also review a recommendation to adopt certain modifications to its Bylaws, as amended on March 9, 2004. The proposed modifications relate to Board voting methods, titles of certain Board officers, indemnification, and delegations of Board functions.

### **SEC Approval**

If approved by the Board, the budget and the amendments to the Board's bylaws will be submitted to the Commission for approval, as required by the Sarbanes-Oxley Act. If the Board approves the recommendation to propose the hearing subpoena rule, it will be released for public comment.

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The PCAOB is a private-sector, non-profit corporation, created by the Sarbanes-Oxley Act of 2002, to oversee the auditors of public companies in order to protect the interests of investors and further the public interest in the preparation of informative, fair, and independent audit reports.