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Pursuant to Section 102 of the Sarbanes-Oxley Act of 2002 (the "Act"), the Board has previously adopted rules governing the process by which public accounting firms register with the Board.<sup>1/</sup> The Board is now proposing a rule to govern the process by which registered firms may withdraw from registration. Under the proposed rule, a registered firm may seek to withdraw at any time by filing Form 1-WD. Withdrawal, however, is not automatic. The Board may order that withdrawal be delayed while the Board carries out a relevant inspection, investigation, or disciplinary proceeding. The Board may delay a requested withdrawal for up to two years, and that period shall automatically be extended to cover any period necessary to complete a disciplinary proceeding commenced before the end of the two-year period.

The mere filing of a completed Form 1-WD would, however, have the almost immediate effect of minimizing most burdens and costs associated with registration. In addition, while the request for leave to withdraw is pending, the firm may not engage in the preparation or issuance of, or play a substantial role in preparing or furnishing, an audit report for a U.S. public company,<sup>2/</sup> other than to issue a consent to the use of an audit report for a prior period. The proposed rule also provides that a firm that has filed a Form 1-WD may not publicly hold itself out as registered with the Board without specifying that its registration status is "registered – withdrawal request pending."

The Board seeks the views of interested persons on the proposed registration withdrawal rule. Section A of this release describes the substance of the proposed rule. Section B of this release describes how comments and views may be submitted to the

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<sup>1/</sup> See Registration System for Public Accounting Firms, PCAOB Release No. 2003-007 (May 6, 2003).

<sup>2/</sup> This release uses the term "U.S. public companies" as shorthand for the companies that are "issuers" under the Act and the Board's rules. This includes domestic public companies, whether listed on an exchange or not, and foreign private issuers that have either registered, or are in the process of registering, a class of securities with the Commission or are otherwise subject to Commission reporting requirements.

Board. The Board's proposal consists of one rule (PCAOB Rule 2107) and a form (PCAOB Form 1-WD). The text of the rule, the instructions to the form, and a detailed discussion of the rule and the requirements of the form are appendices 1, 2, and 3 hereto.

A. Overview of the Proposed Rule Relating to Withdrawal from Registration

1. Firms May Withdraw from Registration, But the Board May Delay the Effective Date of Withdrawal.

Under proposed Rule 2107, a registered public accounting firm may at any time submit to the Board a request for leave to withdraw its registration. A request to withdraw must be submitted on Form 1-WD. The filing of the Form 1-WD will have the effect of acting as a notice of withdrawal, with withdrawal becoming effective on the 61st day after the request is filed, unless the Board orders that withdrawal be delayed, or unless a Board disciplinary proceeding is pending against the firm or any of its associated persons.

There are legitimate reasons, in the public interest and for the protection of investors, that the Board may choose to delay a firm's withdrawal in certain circumstances. For example, if a firm views itself as being at risk of an imminent Board sanction, such as revocation of its registration, the firm might seek to avoid the taint of that sanction by seeking to withdraw before revocation occurs. A firm might seek to withdraw to avoid an imminent inspection covering a period with respect to which the firm has some concerns about its conduct. A firm might seek to withdraw rather than cooperate, or require its associated persons to cooperate, with a Board investigation. These examples – which are only examples and not a limitation on the Board's discretion – illustrate the need for the Board to exercise judgment in determining whether to allow prompt withdrawal or whether to delay withdrawal to allow the Board to carry out its inspection, investigative, or disciplinary responsibilities under the Act.

The rule imposes a two-year limitation on the length of time that the Board may delay a firm's withdrawal unless a disciplinary proceeding has been commenced and is pending at the end of the specified period. If such a proceeding is pending, whether before a hearing officer, the Board, or the Commission or a court reviewing a Board sanction, then the period of delay of the withdrawal would automatically extend until completion of all such proceedings and reviews, including on and after any remand to the Board.

2. The Content of a Filed Form 1-WD Will Be Nonpublic, But the Fact That a Firm Seeks to Withdraw Will Be Public.

Proposed Form 1-WD is relatively short and simple. It requires basic identifying information, a description of any known ongoing regulatory or law enforcement investigations or proceedings involving the firm or any of its associated persons, and a certification that the firm is not participating in any audit (as defined in Board Rule 1001(a)(v)) and will not participate in any audit while the Form 1-WD is pending. Apart from identifying information, the Board does not believe there is any reason to require firms to make such information public in order to seek withdrawal from registration. Moreover, some of the information, if made public, could adversely affect ongoing law enforcement efforts. Accordingly, the content of a filed Form 1-WD will be nonpublic.

The Board will, however, publicly disclose the fact that a firm has filed a Form 1-WD. That information, along with the date the Form 1-WD was filed, will be publicly disclosed on the Board's Web site during the period that the request for leave to withdraw is pending.

3. Even If the Board Delays Withdrawal, the Filing of a Form 1-WD Will Have the Effect of Minimizing the Burdens and Costs Associated with Registration.

While the Board may delay a firm's withdrawal for reasons like those described in Section 1 above, there are certain burdens and costs associated with being registered that will be minimized while the firm's request for leave to withdraw is pending. Specifically, beginning on the fifth day following the filing of a Form 1-WD, three burdens will be significantly reduced. First, any annual fee assessed after that date with respect to the firm shall be zero. Second, the firm may satisfy the annual reporting requirement by submitting a report stating that a completed Form 1-WD has been filed

and is pending.<sup>3/</sup> Third, the Board may, in its discretion, forego any regular inspection of the firm that would otherwise commence pursuant to Rule 4003(a) or Rule 4003(b).<sup>4/</sup>

Because of these reduced burdens, a firm that has filed a Form 1-WD will be differently situated than other registered firms with respect to the Board's regulatory processes. Accordingly, the proposed rule would provide a special registration designation for such firms: "registered – withdrawal request pending." In order to minimize the risk that such a firm might, intentionally or unintentionally, create the public impression that it is subject to the same regulatory processes as other registered firms, the proposed rule prohibits a firm that has filed a Form 1-WD from publicly representing its registration status without specifying that that status is "registered – withdrawal request pending."

4. A Firm May Not Participate in Audits While Its Form 1-WD is Pending.

The proposed rule provides that, beginning on the date of Board receipt of the Form 1-WD, the firm may not engage in the preparation or issuance of, or play a substantial role in the preparation or furnishing of, an audit report for a U.S. public company, other than to issue a consent to the use of an audit report for a prior period, unless the firm first withdraws the Form 1-WD. This restriction is necessary to avoid the risk that the Board would grant a pending request for leave to withdraw at a time when the firm is in fact engaged in conduct for which registration is required.

5. A Firm May Withdraw Its Form 1-WD.

A firm that has filed a Form 1-WD may withdraw the form at any time up until the time that its registration is deemed withdrawn. To do so, however, the firm must pay any annual fee and submit in full any report that would have been due during the period that the Form 1-WD was pending, if not for the provision of the rule that operates to minimize those obligations during that period.

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<sup>3/</sup> Section 102(d) of the Act imposes certain reporting requirements on registered public accounting firms. The Board anticipates adopting rules relating to such reporting.

<sup>4/</sup> Any regular inspection that was commenced sooner than the fifth day after the filing of Form 1-WD could continue to completion. The Board would also retain the option of ordering a special inspection.

6. The Board May Void a Withdrawal and Reinstate a Firm's Registration on the Ground that the Firm Filed a Materially Inaccurate or Materially Incomplete Form 1-WD.

If a firm files a Form 1-WD that, through misstatement or omission, misleads the Board as to a material point, and the Board later discovers the misstatement or omission, the Board could, under the proposed rule, void the withdrawal of the firm's registration. For example, if a firm failed to identify in its Form 1-WD certain law enforcement investigations that are required to be disclosed on the form, the Board could void the withdrawal, reinstate the firm's registration, and conduct any appropriate investigation just as it could have done if the firm had never withdrawn. The ability to void a withdrawal for filing a materially misleading Form 1-WD is a necessary component of the withdrawal process, since the Board's decision about whether to delay withdrawal depends in part upon whether the circumstances call for the Board to conduct investigative or other steps in the public interest or for the protection of investors.

B. Opportunity for Public Comment

Interested persons are encouraged to submit their views to the Board. Written comments should be sent to the Office of the Secretary, PCAOB, 1666 K Street, N.W., Washington, D.C. 20006-2803. Comments may also be submitted by e-mail to [comments@pcaobus.org](mailto:comments@pcaobus.org) or through the Board's Web site at [www.pcaobus.org](http://www.pcaobus.org). All comments should refer to PCAOB Rulemaking Docket Matter No. 007 in the subject or reference line and should be received by the Board no later than 5:00 PM (EDT) on August 18, 2003.

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On the 28th day of July, in the year 2003, the foregoing was, in accordance with the bylaws of the Public Company Accounting Oversight Board,

ADOPTED BY THE BOARD.

/s/ J. Gordon Seymour  
Acting Secretary

July 28, 2003

APPENDICES –

1. Proposed Rule Relating to Withdrawal from Registration
2. Proposed Form 1-WD
3. Section-by-Section Analysis of Proposed Registration Rules and Form

**Appendix 1 – Proposed Rule Relating to Withdrawal from Registration**

**RULES OF THE BOARD**

**SECTION 2. REGISTRATION AND REPORTING**

**Part 1 – Registration of Public Accounting Firms**

**Rule 2107. Withdrawal from Registration**

**(a) Request for Leave to Withdraw**

Subject to the limitation described in paragraph (e), a registered public accounting firm's registration with the Board shall be deemed withdrawn if the firm requests leave to withdraw by filing a completed Form 1-WD and

- (1) the Board grants leave to withdraw, or
- (2) the Board does not, within 60 days of receipt of the request, order that withdrawal of the firm's registration be delayed.

**(b) Form 1-WD**

(1) A request for leave to withdraw shall be filed on Form 1-WD in accordance with the instructions contained therein. A completed Form 1-WD shall include, among other things, a statement signed by an authorized partner or officer of the firm certifying that the firm is not currently, and will not during the pendency of its request for leave to withdraw be, engaged in the preparation or issuance of, or playing a substantial role in the preparation or furnishing of, an audit report, other than to issue a consent to the use of an audit report for a prior period.

(2) The contents of a completed Form 1-WD shall be non-public. The Board shall publicly disclose the identity of any firm as to which a request for leave to withdraw is pending and the date that the Board received a completed Form 1-WD.

**(c) Effect of Filing**

(1) Beginning on the date of Board receipt of a completed Form 1-WD, the firm that filed the Form 1-WD shall not engage in the preparation or issuance of, or play a substantial role in the preparation or furnishing of, an audit report, other than to



issue a consent to the use of an audit report for a prior period, unless it first withdraws its Form 1-WD.

(2) Beginning on the fifth day following the Board's receipt of a completed Form 1-WD, and continuing for as long as the Form 1-WD is pending –

(i) the firm may satisfy the annual reporting requirement by submitting a report stating that a completed Form 1-WD has been filed and is pending;

(ii) any annual fee assessed shall be zero;

(iii) the Board shall have the discretion to forego any regular inspection that would otherwise commence pursuant to Rule 4003(a) or Rule 4003(b); and

(iv) the firm's registration status shall be designated as "registered – withdrawal request pending," and the firm shall not publicly represent its registration status without specifying it as "registered – withdrawal request pending."

**(d) Board Action**

Within 60 days of Board receipt of a completed Form 1-WD, the Board may order that withdrawal of registration be delayed for a period of up to two years from the date of such receipt if the Board determines that such withdrawal would be inconsistent with the Board's responsibilities under the Act, including its responsibilities to conduct –

(1) inspections to assess the degree of compliance of each registered public accounting firm and associated persons of that firm with the Act, the rules of the Board, the rules of the Commission, or professional standards, in connection with its performance of audits, issuance of audit reports, and related matters involving issuers; or

(2) investigations or disciplinary proceedings with respect to any act or practice, or omission to act, by a registered public accounting firm, any associated person of such firm, or both, that may violate any provision of the Act, the rules of the Board, the provisions of the securities laws relating to the preparation and issuance of

audit reports and the obligations and liabilities of accountants with respect thereto, including the rules of the Commission issued under the Act, or professional standards.

**(e) Automatic Delay of Withdrawal for Pending Disciplinary Proceedings**

If, on the 60th day after the Board's receipt of a Form 1-WD or at the conclusion of any period for which the Board has ordered that withdrawal be delayed, there is pending any Board disciplinary proceeding against the firm that filed the Form 1-WD or against any associated person of that firm, or there is pending any Commission or court review of a Board sanction against such firm or person, the requested withdrawal from registration shall not take effect before the completion of all such disciplinary proceedings and reviews, unless the Board orders otherwise.

**(f) Withdrawal of Form 1-WD**

A registered public accounting firm that has submitted a Form 1-WD may withdraw the form at any time by filing with the Board a written notice of intent to withdraw the Form 1-WD along with any annual fee and annual report that the firm would have been required to submit during the period that the Form 1-WD was pending if not for the provisions of paragraph (c)(2).

**(g) Withdrawal voided for material inaccuracies or omissions**

If the Board determines, at any time, that there are reasonable grounds to believe that a firm that has withdrawn from registration filed with the Board a Form 1-WD that was materially incomplete or materially inaccurate on the date of filing, such firm's registration shall be reinstated, effective retroactively to the date the registration was deemed withdrawn.

## **Appendix 2 – Proposed Form 1-WD**

### **FORM 1-WD – REQUEST FOR LEAVE TO WITHDRAW FROM REGISTRATION**

#### **GENERAL INSTRUCTIONS**

1. The definitions in the *Board's* rules apply to this form. Italicized terms in the instructions to this form are defined in the *Board's* rules. See Rule 1001.
2. Any *registered public accounting firm* seeking to withdraw from registration with the *Board* must file this form with the *Board*.
3. In addition to these instructions, the *Board's* Rule 2107 governs applications for leave to withdraw from registration. Please read Rule 2107 and the instructions carefully before completing this form.
4. Unless otherwise directed by the *Board*, a registered public accounting firm seeking to withdraw from registration must submit this form to the *Board* electronically by completing the Web-based version of Form 1-WD. [Web site details to be inserted before registration system is operational.] The date of such submission shall be deemed the date of Board receipt of the Form. The registered public accounting firm must also submit an original hard copy of the form with manual signatures in Item 3.1 and Item 4.1, with such signatures dated not later than the date of electronic submission.
5. Pursuant to Rule 2107, any Form 1-WD filed with the *Board* shall be non-public. A registered public accounting firm may submit with Form 1-WD a request for *Board* notification in the event that the *Board* is requested by subpoena or other legal process to disclose the Form 1-WD. The *Board* will make reasonable attempts to honor any such request, although the *Board* will make public the fact that the firm has requested to withdraw from registration.
6. Information submitted as part of this form must be in the English language.

#### **PART I – IDENTITY OF THE REGISTERED PUBLIC ACCOUNTING FIRM**

##### Item 1.1 Name of the Firm Requesting Leave to Withdraw

State the legal name of the firm requesting leave to withdraw; if different, also state the name or names under which the firm (or any predecessor) issues *audit reports*, or has issued any *audit report* during the period of the firm's registration with the *Board*.

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#### Item 1.2 Firm Contact Information

State the physical address (and, if different, mailing address) of the firm's headquarters office. State the telephone number and facsimile number of the firm's headquarters office.

#### Item 1.3 Primary Contact and Signatories

State the name, title, physical business address (and, if different, business mailing address), telephone number, facsimile number, and e-mail address of a partner or authorized officer of the firm who will serve as the firm's primary contact with the *Board* regarding this application. Provide the same information for every person whose signature appears in Part III or Part IV of the form, if any of those persons are different from the primary contact.

### **PART II – DESCRIPTION OF ONGOING REGULATORY OR LAW ENFORCEMENT PROCEEDINGS**

#### Item 2.1 Description of Ongoing Regulatory or Law Enforcement Proceedings

Identify all ongoing federal, state, or local investigative, disciplinary, regulatory, criminal, or other law enforcement proceedings that are known to the firm, including to any of the firm's partners or officers, and that address in whole or in part (1) conduct of the firm or (2) *audit*-related conduct of any of the firm's associated persons. For each such proceeding, state –

- a. The identity of the federal, state, or local authority conducting the proceeding;
- b. The caption or other identifying information of the proceeding;
- c. The date that the firm or a partner or officer of the firm first became aware of the proceeding;
- d. The firm's understanding of the current status of the proceeding;  
and
- e. The conduct of the firm and the firm's associated persons that the proceeding addresses.

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### **PART III – CERTIFICATION OF NONPARTICIPATION IN AUDITS**

#### Item 3.1 Statement of Nonparticipation in *Audits*

Furnish a statement, dated and signed on behalf of the firm by an authorized partner or officer of the firm, in the following form –

On behalf of [name of firm], I certify that [name of firm] is not currently, and will not during the pendency of its request for leave to withdraw be, engaged in the preparation or issuance of, or playing a substantial role in the preparation or furnishing of, an audit report, other than to issue a consent to the use of an audit report for a prior period.

Note: Other than the insertion of the name of the firm the statement must be in the exact words contained in this instruction.

### **PART IV – SIGNATURE OF FIRM SEEKING LEAVE TO WITHDRAW**

#### Item 4.1 Signature of Authorized Partner or Officer

The request for leave to withdraw from registration must be signed on behalf of the firm by an authorized partner or officer of the firm. The signer must certify that he or she has reviewed the application; that the application is, based on the signer's knowledge, complete and does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statement made, in light of the circumstances under which such statements were made, not misleading, and that the signer is authorized to execute the application on behalf of the firm. The signature must be accompanied by the title of the signer and the date of the signature.

**Appendix 3 – Section-by-Section Analysis of  
Proposed Rules Relating to Withdrawal from Registration and Form 1-WD**

The Board is proposing a rule (PCAOB Rule 2107) and a form (PCAOB Form 1-WD) relating to the process of withdrawal from registration. The rule and the form are discussed below.

**Proposed Rule Relating to Withdrawal from Registration**

**Rule 2107 – Withdrawal from Registration**

Rule 2107 consists of six paragraphs. Paragraph (a), "Request for Leave to Withdraw," describes in the most fundamental terms what must happen for a firm to withdraw from registration. To seek to withdraw, a firm must file with the Board a completed Form 1-WD requesting leave to withdraw. The requested withdrawal may take effect either through Board action (if the Board expressly grants leave to withdraw) or through Board inaction (if the Board does not, within 60 days of receipt of the Form 1-WD, order that withdrawal be delayed).

Because paragraph (a) is subject to the limitation in paragraph (e), however, withdrawal will not take effect through Board inaction if the firm that filed the Form 1-WD, or any associated person of that firm, is a party to a disciplinary proceeding pending before the Board, or to any Commission or court review of a Board disciplinary sanction. In that circumstance, paragraph (e) operates automatically to delay withdrawal of the the firm's registration until full and final completion of all such proceedings.

Paragraph (b) concerns Form 1-WD. Paragraph (b)(1) provides that Form 1-WD must be filed in accordance with the instructions. Paragraph (b)(1) also

provides that a completed Form 1-WD must include a specific statement, signed by an authorized partner or officer of the firm, certifying that the firm is not performing, and will not perform, certain functions with respect to audits. Specifically, the certifying person must state that the firm "is not currently, and will not during the pendency of its request for leave to withdraw be, engaged in the preparation or issuance of, or playing a substantial role in the preparation or furnishing of, an audit report, other than to issue a consent to the use of an audit report for a prior period." Under the proposed rule, a Form 1-WD that lacked this certification would not be complete and would not be sufficient to start the withdrawal process.

Paragraph (b)(2) addresses what aspects of a firm's request for leave to withdraw will be public. Under the proposed rule, the Board would publicly disclose the identity of any firm that filed a completed Form 1-WD and would disclose the date of the Board's receipt of that form. The completed Form 1-WD, however, would be non-public and would be kept confidential by the Board. Aside from basic identifying information and the certification of nonparticipation in audits, a completed Form 1-WD will contain only a description of any known ongoing regulatory or law enforcement investigations or proceedings involving the firm or any of its associated persons. The Board does not believe there is any reason to require firms to make such information public in order to seek

withdrawal from registration. Moreover, making such information public could hinder ongoing law enforcement efforts.

Paragraph (c) describes the effect of filing a Form 1-WD beyond just triggering Board consideration of whether to delay withdrawal. Paragraph (c)(1) provides that, beginning on the date of Board receipt of the Form 1-WD, the firm may not engage in the preparation or issuance of, or play a substantial role in the preparation or furnishing of, an audit report with respect to an issuer, other than to issue a consent to the use of an audit report for a prior period, unless the firm first withdraws the Form 1-WD. The Board believes this provision is necessary in order to avoid the risk that the Board would grant a pending request for leave to withdraw at a time when the firm is in fact engaged in conduct for which registration is required. A firm may, however, withdraw a pending Form 1-WD pursuant to paragraph (f) and thereby free itself to engage again in audit work for which registration is required.

The Board recognizes that a firm that files a Form 1-WD, and is therefore prohibited from engaging in work for which registration is required, is in a fundamentally different position from other registered firms as long as the Form 1-WD is pending. In light of that fact, proposed paragraph (c)(2) would minimize various burdens and costs of registration beginning after a brief five-day delay for administrative and processing purposes. Beginning on the fifth day after Board



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receipt of a completed Form 1-WD, the firm's registration-related burdens would be minimized in three ways throughout the period in which the request for leave to withdraw is pending. First, the proposed rule would allow the firm to satisfy the annual reporting requirement by submitting a report merely stating that a completed Form 1-WD has been filed and is pending. Second, any annual fee assessed after that date against the firm shall be zero. Third, the Board could, in its discretion, forego any regular inspection of the firm that would otherwise commence pursuant to Rule 4003(a) or Rule 4003(b).<sup>5/</sup>

The Board also believes, however, that a firm that has filed a Form 1-WD and is therefore not subject to regular inspection, should not publicly characterize its registration status with the Board in a way that might, intentionally or unintentionally, create the impression that it is subject to the same regulatory processes as other registered firms. For that reason, proposed paragraph (c)(2) provides a special registration designation for such a firm – "registered – withdrawal request pending" – and prohibits such a firm from publicly representing its registration status without specifying that status as "registered – withdrawal request pending."

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<sup>5/</sup> Any regular inspection that was commenced sooner than the fifth day after the Board receipt of Form 1-WD could continue to completion. The Board would also retain the option of ordering a special inspection.

Five distinct events could terminate the period in which the provisions of paragraph (c)(2) would apply. First, the Board could affirmatively grant leave to withdraw at any time. Second, 60 days could elapse from Board receipt of the Form 1-WD without the Board taking any action, in which case, unless paragraph (e) applies, the firm's registration would be withdrawn. Third, the firm could withdraw the Form 1-WD pursuant to paragraph (f), in which case the firm would resume normal registration status, not subject to the special conditions of paragraph (c)(2). Fourth, the firm could be subject to a disciplinary proceeding during the period covered by paragraph (c)(2), and a Board order in that proceeding could revoke the firm's registration. Fifth, a period for which the Board ordered withdrawal delayed pursuant to paragraph (d) (whether or not extended by a disciplinary proceeding) could end, in which case, if the firm's registration had not been revoked in a disciplinary proceeding, the registration would be withdrawn.

Paragraph (d) provides that the Board may order that withdrawal of a firm's registration be delayed for a period of up to two years from the date of the Board's receipt of a completed Form 1-WD. Under proposed paragraph (d), the Board could order such a delay only if it acted within 60 days of receipt of the completed Form 1-WD and only if it determined that allowing withdrawal before

the Board completed certain processes would be inconsistent with the Board's inspection, investigative, or disciplinary responsibilities under the Act.

There are legitimate reasons, in the public interest and for the protection of investors, that the Board may choose to delay a firm's withdrawal in certain circumstances. For example, if a firm views itself as being at risk of an imminent Board sanction, such as revocation of its registration, the firm might seek to avoid the taint of that sanction by seeking to withdraw before revocation occurs. A firm might seek to withdraw to avoid an imminent inspection covering a period with respect to which the firm has some concerns about its conduct. A firm might seek to withdraw rather than cooperate, or require its associated persons to cooperate, with a Board investigation. These examples – which are only examples and not a limitation on the Board's discretion – illustrate the need for the Board to exercise judgment in determining whether to allow prompt withdrawal or whether to delay withdrawal to allow the Board to carry out its inspection, investigative, or disciplinary responsibilities under the Act.

Proposed paragraph (d) imposes a two-year limitation on the length of time that the Board may delay a firm's withdrawal. That provision, however, is subject to an exception in paragraph (e) if the Board has commenced a disciplinary action against the firm or one of its associated persons before the end of the period for which the Board ordered that withdrawal be delayed.

Proposed paragraph (e) would operate to delay withdrawal of registration automatically in certain circumstances without the Board having to issue an order. The only condition that gives rise to an automatic delay under paragraph (e) is a pending disciplinary proceeding (including pending Commission or court review of a Board disciplinary sanction) against the firm or an associated person of the firm. There are, however, two distinct points in time when that condition, if it exists, would trigger the automatic delay in paragraph (e). First, if a disciplinary proceeding is pending on the 60th day after Board receipt of the Form 1-WD, withdrawal is automatically delayed. Second, if the Board has ordered withdrawal delayed pursuant to paragraph (d) at a time when no disciplinary proceeding was pending, but such a proceeding is pending at the end of the period prescribed in the Board's order delaying withdrawal, withdrawal is automatically delayed beyond the end of that prescribed period.

If an automatic delay were triggered under paragraph (e), it would continue in effect until all relevant disciplinary proceedings (including any proceedings against the firm and any and all proceedings against associated persons of the firm) were finally concluded, unless the Board orders otherwise. The automatic delay would continue not only through the period of any final Board action, but also through any review of the Board's action by the

Commission or the courts, and through any Board action on remand and any review of that Board action.

Proposed paragraph (f) provides that a registered public accounting firm may withdraw a Form 1-WD at any time. To effect withdrawal of the form, the firm must submit a written notice of withdrawal accompanied by (1) any annual fee that would have been due while the form was pending, if not for the operation of paragraph (c)(2), and (2) a complete version of any annual report that would have been due while the form was pending, if not for the operation of paragraph (c)(2).

Proposed paragraph (g) provides that if a firm files a Form 1-WD that, through misstatement or omission, misleads the Board as to a material point, and the Board later discovers the misstatement or omission, the Board can void the withdrawal of the firm's registration. For example, if a firm failed to identify in its Form 1-WD certain law enforcement investigations that are required to be disclosed on the form, the Board could void the withdrawal, reinstate the firm's registration, and conduct any appropriate investigation just as it could have done if the firm had never withdrawn. The ability to void a withdrawal for filing a materially misleading Form 1-WD is a necessary component of the withdrawal process, since the Board's decision about withdrawal depends in part upon whether the circumstances call for the Board to conduct investigative or other

steps in the public interest or for the protection of investors. Under the proposed rule, if the Board voids a withdrawal, the firm's registration shall be reinstated retroactive to the date the registration was deemed withdrawn.

### **Form 1-WD**

The proposed rule also consists of instructions to PCAOB Form 1-WD, which is the form to be used by registered public accounting firms to request leave to withdraw from registration. Form 1-WD consists of general instructions and four parts. Each of the parts of the form is explained in more detail below.

#### **Part I – Identity of the Registered Public Accounting Firm**

Part I of the Form requires basic identifying information. For item 1.1, the firm must state its legal name and any other names under which the firm or any predecessor of the firm issues audit reports or has issued audit reports during the period of the firm's registration. Item 1.2 requires the firm to provide the physical address (and, if different, the mailing address), telephone number, and facsimile number of the firm's headquarters office. Item 1.3 requires the firm to identify a partner or other authorized officer of the firm who will serve as the firm's primary contact with the Board concerning the request to withdraw registration. For that person, and for any other person whose signature appears in Part III or Part IV of the form, item 1.3 requires the firm to provide a name, title, physical business

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address (and, if different, a business mailing address), telephone number, facsimile number, and e-mail address.

## **Part II – Description of Ongoing Regulatory or Law Enforcement Proceedings**

Item 2.1 of the form requires the firm to identify all ongoing federal, state, or local investigative, disciplinary, regulatory, criminal, or other law enforcement proceedings that are known to the firm, including to any of the firm's partners or officers, and that address in whole or in part any conduct of the firm or any audit-related conduct of the firm's associated persons. The firm must identify the authority conducting the proceeding, supply a caption or other identifying information for the proceeding, state the date that the firm or a partner or officer of the firm first became aware of the proceeding, describe the firm's understanding of the current status of the proceeding, and describe the conduct of the firm and the firm's associated persons that the proceeding addresses.

## **Part III – Certification of Nonparticipation in Audits**

Item 3.1 requires a representation by an authorized partner or officer of the firm, on behalf of the firm, in the following form (substituting only the name of the firm where indicated in brackets) –

On behalf of [name of firm], I certify that [name of firm] is not currently, and will not during the pendency of its request for leave to withdraw be, engaged in the preparation or issuance of, or playing a substantial role in the preparation or furnishing of, an audit report, other than to issue a consent to the use of an audit report for a prior period.

As required by General Instruction number 4, a paper original of the form bearing a manual signature as to Item 3.1 must be submitted as well as the electronic submission of the form. The manual signature must be dated not later than the date of the electronic submission.

**Part IV – Signature of Firm Seeking Leave to Withdraw**

Item 4.1 requires that the form be manually signed on behalf of the firm by an authorized partner or officer of the firm who certifies that he or she has reviewed the application and that, based on his or her knowledge, the application is complete and does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statement made, in light of the circumstances under which such statements were made, not misleading, and that the signer is authorized to execute the application on behalf of the firm. Item 4.1 also requires that the signature be dated and accompanied by the title of the signer. As required by General Instruction number 4, a paper original of the form bearing a manual signature as to Item 4.1 must be submitted as well as the electronic submission of the form. The manual signature must be dated not later than the date of the electronic submission.