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certain other information.<sup>1/</sup> After considering all comments submitted on the proposal, the Board is today adopting rules and forms for annual and special reporting, to take effect 60 days following Commission approval, with the earliest potential reporting deadline for any firm (including special reporting of certain events that may have occurred since the firm registered) being 90 days after Commission approval.

Section I of this Release discusses how the Board's adoption of these rules relates to the ongoing public discussion about the nature of information that firms should publicly disclose. Section II of this Release discusses the information that the rules require firms to report, as well as issues relating to timing, amendments, and PCAOB follow-up. Section III discusses public availability of reported information. Section IV explains how the rules implement the Board's policy of reasonably accommodating foreign registered firms faced with non-U.S. legal restrictions. Section V describes when the rules will take effect and the related timing of initial reporting. Section VI addresses various issues raised by commenters and that are not otherwise addressed in Sections II through V. A detailed table of contents is set out below.

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<sup>1/</sup> See Proposed Rules on Periodic Reporting by Public Accounting Firms, PCAOB Release No. 2006-004 (May 23, 2006) ("Proposing Release") at 2.

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I. The Relationship Between These Rules and Ongoing Public Discussion of Additional Disclosure Requirements

In taking final action with respect to this set of rules, the Board does not mean to suggest that the information encompassed by these rules is the only information that the Board will require firms to report under Section 102(d) of the Act. Over time, the Board may identify other useful requirements by, for example, monitoring public discussion of relevant issues or considering disclosure requirements in other auditor regulatory regimes. To the extent that the Board identifies additional reporting requirements that are necessary or appropriate in the public interest or for the protection of investors, the Board may propose and adopt them at any time.

In particular, the Board is aware of the work of the Department of the Treasury's Advisory Committee on the Auditing Profession ("Advisory Committee").<sup>2/</sup> Among other things, the Advisory Committee has considered whether the public interest would be served by increased transparency concerning public accounting firms, including through requirements that such firms periodically disclose certain information that goes beyond that required by the rules the Board adopts today.

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<sup>2/</sup> Information about the Advisory Committee's work is available at [www.treas.gov/offices/domestic-finance/acap](http://www.treas.gov/offices/domestic-finance/acap). Certain individual Board members have participated as observers in meetings of the Advisory Committee and its three subcommittees.

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The Advisory Committee has published for public comment a draft report dated May 5, 2008<sup>3/</sup> and an addendum to that draft report issued June 3, 2008.<sup>4/</sup> The Advisory Committee's draft recommendations include recommendations relating to transparency of public accounting firms and include specific recommendations for action by the Board to require certain disclosures by registered firms. The Board's action today should not be understood to suggest any Board view on the substance of the Advisory Committee's draft recommendations. The Board has for some time been working steadily toward final action on its earlier rule proposal and is now ready to implement those elements of a disclosure framework.

Rather than delay that implementation pending any final Advisory Committee recommendations, the Board is proceeding now for a variety of practical reasons, including that firms' registration applications are increasingly stale. Through today's rulemaking, the Board puts into place a mechanism through which firms can, among other things, comply with the Act's requirement that they annually update basic elements of the registration information. Waiting to formulate specific rule proposals based on the eventual Advisory Committee recommendations, and obtain and evaluate public input on those proposals, would delay the Board's adoption of any reporting rules until well into 2009. In addition, the Board's reporting framework will be new to public accounting firms. The Board sees value in implementing the basic framework now, so that firms can begin to adjust to this reporting obligation and begin to get familiar with the Board's web-based reporting system, rather than waiting for the development of additional reporting requirements. The Board's action today will put in place the basic elements without further delay, and without diminishing the Board's ability or willingness to consider imposing additional disclosure requirements.

The Board will continue to monitor the Advisory Committee's process, including the public comments on the draft report and addendum, and will give careful consideration to the Advisory Committee's final recommendations. To the extent that implementation of any of those recommendations would involve the development of new Board rules, the Board will formulate a proposed approach to those recommendations and provide opportunities for further public input.

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<sup>3/</sup> See *Federal Register*, Vol. 73, No. 95 (May 15, 2008) at 28190.

<sup>4/</sup> See [www.treas.gov/offices/domestic-finance/acap/draft-report-addendum\\_06-03-2008.pdf](http://www.treas.gov/offices/domestic-finance/acap/draft-report-addendum_06-03-2008.pdf).

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### II. The Substance of the Reporting Requirements

The reporting requirements serve three fundamental purposes. First, firms will report information to keep the Board's records current about such basic matters as the firm's name, location, contact information, and licenses. Second, firms will report information reflecting the extent and nature of the firm's audit practice related to issuers in order to facilitate analysis and planning related to the Board's inspection responsibilities and to inform other Board functions, as well as for the value the information may have to the public. Third, firms will report circumstances or events that could merit follow-up through the Board's inspection process or its enforcement process, and that also may otherwise warrant being brought to the public's attention (such as a firm's withdrawal of an audit report in circumstances where the information is not otherwise publicly available).

The reporting framework includes two types of reporting obligations. First, it requires each registered firm to provide basic information once a year about the firm and the firm's issuer-related practice over the most recent 12-month period. The firm must do so by filing an annual report on Form 2. Second, upon the occurrence of specified events, a firm must report certain information by filing a special report on Form 3.

There is no significant overlap between the information required to be reported annually on Form 2 and the special reporting required on Form 3. The purpose of Form 2 reporting is principally to provide a profile of the firm at a point in time, based on its activity related to issuers over the most recent 12-month period. The purpose of Form 3 reporting is principally to alert the Board to the occurrence of events that may, depending upon the situation, have more immediate bearing on how the Board carries out its regulatory responsibilities regarding the firm. With just two exceptions, special reporting on Form 3 does not serve to update information reported on Form 2.<sup>5/</sup>

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<sup>5/</sup> Among the things required in an annual report on Form 2 are the firm's name and certain contact information for the firm's Board contact person. Any changes to those two items must be reported on Form 3. No other information required on Form 2 is subject to updating via Form 3.

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- A. Annual Reporting on Form 2
  - 1. Required Information

Beyond basic threshold information about the identity of the firm and the location of its offices, Form 2 requires information in three categories: the firm's issuer-related practice, internal and external resources on which the firm draws in performing audits, and certain new relationships and acquisitions. Form 2 also requires an affirmation related to the firm's statutory obligations to cooperate with the Board.

### a. The Firm's Issuer-Related Practice

Required Form 2 reporting includes information about whether the firm issued any audit reports for issuers (and, if not, whether the firm played a substantial role in any audits of issuers), identifying information concerning all such issuers, the number of firm personnel who exercised authority to sign the firm's name to an audit report, and a breakdown showing the percentage of the firm's total billings that was attributable to certain categories of services provided to issuer audit clients. The final rules generally mirror the proposal on these points, but consideration of comments has prompted the changes and clarifications described below.

#### *(i) Fees Billed to Issuer Audit Clients*

Commenters voiced concern about burdens associated with the proposed requirement to report the percentage of total fees billed to all clients that is attributable to fees billed in each of four categories of services provided to issuer audit clients. Commenters indicated that firms, particularly large firms, may not be able to comply with the proposed requirement without making costly changes to their internal systems. The Board has weighed these concerns carefully, bearing in mind that the purposes for which the information is sought do not depend upon a high level of precision in the data. The Board is adopting a modified version of the proposed requirement, incorporating some elements of alternatives suggested by commenters.

Form 2 will allow a firm to select from two methods of calculating the percentages to report. Firms that are reasonably able to report the requested percentages based on data precisely coinciding with the annual reporting period (i.e., the data specified by the proposed requirement) may do so. As an alternative, a firm may, for each category of services, report the percentage derived by (1) using as a denominator the total fees billed to all clients in the firm's fiscal year that ended during the annual reporting period

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and (2) using as a numerator the total issuer audit client fees as determined by reference to the fee amounts disclosed to the Commission by those clients for each client's fiscal year that ended during the reporting period (or, for clients who have not made the required Commission filings, the fee amounts required to be disclosed). Under either approach, a firm may use any reasonable method to estimate the components and may round the reported percentages to the nearest five percent. Firms that use estimated data in their calculations should briefly describe their methodology in an exhibit to Form 2.

Some commenters also expressed concern about what they saw as a disconnect between the four categories of services used in the proposed form and the four categories of fees that the Commission requires issuers to report in proxy filings. The Board reiterates that its definitions of these four categories of services correspond to the Commission's descriptions of services for which an issuer must disclose the fees paid to its auditor.<sup>6/</sup> The Board is not adopting commenters' suggestions to make the Board's labels conform to the Commission's labels (*i.e.*, to say "audit-related services" instead of "other accounting services" and to say "all other services" instead of "non-audit services") because the labels that the Board uses come from Section 102(b)(2)(B) of the Act and have been used in all applications for registration on Form 1.<sup>7/</sup> Commenters also noticed a disconnect between Item 3.2's focus on fees billed and the reference to "revenues" in Item 3.2's caption. The Board has changed the caption to refer to fees billed instead of revenues.

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<sup>6/</sup> See Proposing Release at 4, n.3. Compare the descriptions of services in Item 9(e) of Commission Schedule 14A (17 C.F.R. § 240.14a-101) under the headings "Audit Fees," "Audit-Related Fees," "Tax Fees," and "All Other Fees" with, respectively, the Board's definitions of "Audit Services" (Rule 1001(a)(vii)), "Other Accounting Services" (Rule 1001(o)(i)), "Tax Services" (Rule 1001(t)(i)), and "Non-Audit Services" (Rule 1001(n)(ii)). The note to Item 3.2 on Form 2 has been expanded to highlight this point.

<sup>7/</sup> The Board is, however, taking this opportunity to delete from the relevant definitions certain provisions that ceased to apply after December 15, 2003. Specifically, the Board is amending Rules 1001(a)(vii), 1001(o)(i), and 1001(n)(ii) by deleting the paragraph denominated "(1)" from each rule.

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### *(ii) Audit Reports*

Item 4.1 of Form 2 requires information relating to a firm's issuance of audit reports during the reporting period. As it was proposed, Item 4.1 would have required, among other things, the total number of firm personnel who exercised authority to sign the firm's name to an audit report during the reporting period. Commenters suggested various alternatives to requiring that precise number. Bearing in mind that, here too, the purposes for which the information is sought – principally inspection scoping and planning – do not depend upon precise information, the Board has adopted a slightly modified version of an approach suggested by a commenter. As adopted, Item 4.1.b requires a firm to indicate from among the following ranges how many individuals exercised the authority to sign the firm's name to an audit report in the reporting period: 1-9, 10-25, 26-50, 51-100, 101-200, or more than 200. If the firm indicates that the range is 1-9, the firm must also provide the exact number.

One commenter sought clarification on whether the audit report date being requested referred to the date of the auditor's report, the report release date pursuant to PCAOB Auditing Standard No. 3, *Audit Documentation*, or the date that the issuer filed the report with the Commission. A note to Item 4.1 now clarifies that the date called for by Item 4.1.a.3 is the date of the audit report, as described in AU 530, *Dating of the Independent Auditor's Report*. A note has also been added to clarify that it is not necessary to provide the date of any consent to an issuer's use of an audit report previously issued for that issuer, except that, if such consents constitute the only instances of the firm issuing audit reports for a particular issuer during the reporting period, the firm should include that issuer in Item 4.1 and include the dates of such consents in Item 4.1.a.3.

### *(iii) Substantial Role*

If, during the reporting period, a firm plays a substantial role in the preparation or furnishing of an audit report that was issued in the reporting period, but the firm did not issue audit reports required to be reported under Item 4.1, the firm must report certain information under Item 4.2. As proposed, Item 4.2.a.4 would have required the firm to report the date of each such audit report. One commenter expressed concern that a firm might not have access to the date of an audit report issued by another firm. The Board has revised Item 4.2.a.4 to require, instead, the end date of the fiscal period covered by the financial statements that were the subject of the audit report.

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### b. Internal and External Resources

Form 2 requires information about internal and external resources on which the firm draws in performing audits for issuers. As to external resources, Part V of Form 2 requires the firm to identify and describe any memberships or affiliations in or with any network, alliance, or similar arrangement that affords the firm access to resources for use in issuer audits, including procedures, manuals, or personnel. As to internal resources, Part VI of Form 2 requires information about the total number of the firm's personnel, accountants, and certified public accountants.

Regarding Part V, commenters sought clarification on various points. Item 5.2.a.3, as proposed, would have required the firm to state whether it has any "affiliation, whether by contract or otherwise, with another entity through or from which the firm commonly employs or leases personnel to perform audit services, or with which the firm otherwise engages in an alternative practice structure." Commenters asked for clarification of "commonly" and also suggested that the term "affiliation" could cause confusion since the item does not appear intended to be limited to relationships commonly viewed as "affiliate" relationships. The final version of Item 5.2.a.3 avoids the use of "affiliation" and "commonly" and requires the firm to state whether it has any "arrangement, whether by contract or otherwise, with another entity through or from which the firm employs or leases personnel to perform audit services." One commenter also asked the Board to clarify that Item 5.2.a.3 does not encompass a firm's hiring of, or contracting for, support personnel. Item 5.2.a.3, by its terms, encompasses only arrangements through which the firm employs or leases "personnel to perform audit services."

Regarding Part VI, commenters expressed concern about Item 6.1.d's requirement to provide information about the number of firm personnel, segregated by functional level, who provided audit services during the reporting period. Commenters stated that some firms cannot readily track with precision the number of such individuals. Commenters constructively suggested various alternative ways to collect a rough surrogate for that number. The Board has concluded, however, not to adopt any version of Item 6.1.d at this time.

Item 6.1.b requires the firm to report the total number, as of the end of the reporting period, of the firm's certified public accountants, and requires the firm to include in that number any firm accountants with "comparable licenses" from non-U.S. jurisdictions. One commenter asked for clarification of the "comparable license" concept. The "comparable license" concept is not new, but is employed in the Form 1

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application for registration. Even so, the commenter suggested clarifying that the requirement refers to accountants that are (1) licensed by the jurisdiction in which they render services and (2) by virtue of such license, are certified to perform the functions of a public accountant. The Board confirms this as the appropriate understanding of the requirement.

### c. Certain Relationships and Acquisitions

Form 2 requires that the firm report information about certain potentially significant relationships. Part VII of Form 2 requires the firm to report information about certain types of relationships with individuals and entities who have specified disciplinary and other histories. Part VIII requires the firm to report certain information if it acquired another public accounting firm, or took on at least 75 percent of the individuals who were partners, shareholders, principals, members, or owners of another public accounting firm. After consideration of comments, the Board has made significant changes to both Part VII and Part VIII.

#### *(i) Relationships with Persons or Entities Having Specified Histories*

In Part VII of Form 2, the firm must report information if it stands in certain relationships to individuals who, or entities that, were the subject of a Board order imposing a disciplinary sanction or a Commission Rule 102(e) order entered within the five years preceding the end of the reporting period.<sup>8/</sup> The Board has made a variety of changes to Part VII, including requiring the firm to specify the date of the relevant order and whether it was a Board or Commission order.

The Board has also made an important scope change. As proposed, the Part VII items would have required a firm to report new relationships commenced during the reporting period, and the proposal would have required every firm's first Form 2 filing to

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<sup>8/</sup> The Form 2 reporting requirement expressly excludes from its scope certain relationships that must be reported by a special report on Form 3. Those relationships – with individuals or entities that are currently subject to sanctions or orders that have the effect of prohibiting them from issuing audit reports, being associated persons of registered firms, or appearing or practicing before the Commission – must be reported on Form 3 within 30 days of the beginning of the relationship. They need not be reported again on Form 2.

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report this information not only for the reporting period but for the entire period back to the cut-off date that the firm used for information it supplied in its Form 1 application. For hundreds of firms' first Form 2 filings, that period would be more than five years.

Rather than impose that burden, the Board has restructured the Part VII items relating to firm personnel or owners to capture only relationships that (1) exist as of the end of the reporting period, (2) are with individuals or entities whose relevant disciplinary sanction or Rule 102(e) order was entered within the five years preceding the end of the reporting period, and (3) have not previously been reported by the firm on Forms 1, 2, or 3. The Board has also restructured the Part VII item relating to receipt of consulting or professional services to capture only relationships that involve services received, or contracted for, in the reporting period. With these changes, a firm's first Form 2 will still effectively serve to fill any gap, but the burden will only extend to currently relevant information. Subsequent Form 2 filings need not report the same information again just because the relationship continues to exist at the end of the reporting period.

In response to commenters' concerns and suggestions, the Board has also limited the scope of relevant firm personnel to those who provided at least ten hours of audit services for any issuer during the reporting period. It is important to note, however, how this change intersects with the structural change described above. Just because an individual does not meet the ten-hour threshold during the reporting period in which the relationship begins does not mean that the firm need never report the relationship. If there is a later reporting period in which that person meets the ten-hour threshold, and that reporting period end is still within five years of the entry of the disciplinary sanction or Commission order, the firm must report that relationship in its annual report for that period. The relationship need only be reported one time, however, and need not be reported again for future reporting periods in which the criteria are met.

Also in response to comments, the Board has added a scope limitation to Part VII's approach concerning the firm's receipt of consulting or other professional services. The Board has narrowed the reporting trigger to encompass only arrangements for services related to the firm's audit practice or related to services the firm provides to issuer audit clients. The reporting obligation is triggered for any reporting period that ends less than five years after entry of the disciplinary sanction or Commission order and in which the firm has received or arranged to receive such services.

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Finally, the Board is eliminating one category of reportable relationships that was included in the proposal. The Board proposed that firms report information if they entered into a relationship with any individual who, while not having been sanctioned personally, was a principal of a firm at the time of conduct for which the firm was later subjected to specified sanctions. After carefully considering comments, however, the Board is persuaded that any occasional value this information might have is outweighed by the fact that treating this information as a risk indicator about either the firm or the individual has the potential to diminish the professional opportunities of (1) individuals who had no connection to the misconduct at all, and (2) individuals who had a connection to alleged misconduct, but who never had an opportunity to defend against charges because a regulator was satisfied to conclude the matter through a settlement with the firm. In addition, the Board is sensitive to the unusual burden that would be placed on firms not only to ascertain this information at the time they commence the relationship, but also to continually monitor for it, since the relevant sanction might not be entered until years after the conduct.

### *(ii) Acquisitions*

In Part VIII of Form 2, the firm must report information if it has acquired another public accounting firm or taken on 75 percent or more of another accounting firm's principals. Commenters suggested the need for some clarification, and the Board has made changes to clarify two points. First, where the proposal referred only to acquisition of an "accounting firm" – which commenters correctly noted is not a term defined in the Act or the Board's rules – the final form now refers to a "public accounting firm," which is defined in both the Act and the rules. Second, with respect to taking on 75 percent or more of another firm's principals, the final form includes language clarifying that the reference is to 75 percent of the persons who were principals of the other firm "as of the beginning of the reporting period."

As proposed, Part VIII also would have required that a firm's first Form 2 filing report such acquisitions not only for the reporting period but for the entire period back to the cut-off date that the firm used for information it supplied in its Form 1 application. Here too, in recognition that the burden imposed by that requirement would likely be disproportionate to its value with respect to firms that have long been registered and been subject to the Board's inspection process, the Board has eliminated that requirement with respect to all firms that are registered before the effective date of Rule 2201 (the rule that requires the filing of annual reports). For firms that become registered after that date, however, the Board has left in place the requirement that their

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first Form 2 provide the Part VIII information going back to the Form 1 information cut-off date.<sup>9/</sup>

### d. Affirmation Related to Consent to Cooperate

In addition to requiring the information described above, Form 2 requires an annual affirmation related to the Act's requirements that the firm consent to cooperate with the Board and enforce cooperation by the firm's associated persons. Tracking the consent language included in Form 1, Form 2 requires the firm (1) to affirm its consent to cooperate with Board requests for testimony or documents, (2) to affirm that it has secured from each of its associated persons the required consents to cooperate with the Board, and (3) to affirm the firm's understanding and agreement that its cooperation and compliance, and the securing and enforcing of consents from its associated persons, is a condition of its continued registration with the Board.

The inclusion of the affirmation in Form 2 should not be understood to suggest that a firm's original consent, as required by the Act and executed in the firm's Form 1, expires at any point. Rather, the purpose of the Form 2 affirmation is to serve as an annual reminder to the firm of both the firm's obligation to cooperate and its obligation to secure signed consents from new associated persons. A firm's affirmation of these points is strictly required, subject only to an accommodation for registered firms that face non-U.S. legal obstacles, discussed below. Aside from that accommodation, the Board's system will not accept for filing a Form 2 that does not include the affirmation.

One commenter seemed to misunderstand the proposal and suggested that the Board make clear that this requirement is an update of the Form 1 consent and is required only for new employees since a firm's initial registration. The Form 2 affirmation does not impose a new substantive requirement but merely requires the firm to affirm that it remains aware of its continuing obligation to cooperate and that it has in fact been keeping up with its ongoing obligation to secure the requisite consents from all of its associated persons.

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<sup>9/</sup> The Form 1 information cut-off date for such a firm could be either before or after the beginning of the reporting period for the firm's first Form 2. If it is before the beginning of the reporting period, the firm's reporting on this point must reach back to that date. If it is after the beginning of the reporting period, the firm's reporting on this point need only go as far back as that date and need not go all the way back to the beginning of the reporting period.

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As discussed generally in Section III below, the reporting framework includes accommodations for firms faced with potential non-U.S. legal obstacles to their ability to comply with Form 2 requirements. One such accommodation is reflected in a note to the Form 2 affirmation section. The note explains that the affirmation shall not be understood to include an affirmation that the firm has secured consents from associated persons that are unregistered foreign firms that assert that non-U.S. law prohibits them from providing the consent, as long as certain requirements concerning that assertion are satisfied.<sup>10/</sup> Two commenters expressed concern about the note's provision that the registered firm (filing the Form 2) must have in its possession documents relating to the unregistered firm's asserted conflict that would be sufficient to satisfy the requirements of Rule 2207(c)(2)-(4). The commenters expressed concern about whether that language effectively requires the registered firm (filing the Form 2) to assess the substance of the unregistered non-U.S. firm's conflict assertion. The note requires no such assessment by the registered firm, but only requires the firm to ascertain that the documents appear, on their face, to be the documents described in Rule 2207(c)(2)-(4).

### e. Signed Certification

To be accepted for filing, a Form 2 must also include a signed certification by an authorized partner or officer of the firm. In addition to certifying to the completeness and accuracy of the information in the form, the signer must certify that the firm filed a special report on Form 3 with respect to each Form 3 event that occurred during the reporting period. If a firm ignored or overlooked the special reporting requirements for some period of time, the firm would eventually discover that it needed to become current on its Form 3 obligations, even if that meant late filing of a Form 3, so that it could truthfully provide the certification required in order to satisfy the annual reporting requirement.<sup>11/</sup>

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<sup>10/</sup> The point of the note is solely to define the reporting requirement. This facilitates reporting on all other associated person consents, without miring the affirmation point in the issues raised by unregistered foreign firms' assertions about non-U.S. restrictions. The narrowed scope of this reporting requirement, however, does not modify a firm's obligation, under Section 102(b)(3)(A) of the Act, to secure the required consents, and it is not in any way an exercise of the Board's exemption authority under Section 106(c) of the Act.

<sup>11/</sup> Form 2 does not require a firm to certify that it has filed all required Form 3's on a timely basis, but only that it has filed them. The result is to force a firm to file

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The person signing the form is, among other things, representing on behalf of the firm that the form does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading. The Board's discovery, through inspections or otherwise, that a firm has provided untrue, misleading, or incomplete information could result in disciplinary action against the firm for violating the reporting requirements and, potentially, against an associated person who causes the firm's violation. It is therefore in a firm's interest to approach its reporting obligation with care and, where appropriate, to amend a previously filed form, as discussed in Section II.C below.

### 2. Timing of Annual Report

Rule 2201 sets June 30 as the deadline for the annual filing of Form 2. The reporting period covered by the report would be April 1 to March 31, leaving each firm with three months to prepare and file a Form 2 reflecting information from that 12-month period. Any firm that was registered as of March 31 of a particular year would be required to file Form 2 by June 30 of that year, but any firm that became registered in the period between and including April 1 and June 30 would not be required to file a Form 2 until June 30 of the following year.

Commenters suggested alternatives, such as tying a firm's reporting deadline to that firm's fiscal year, to avoid what those commenters saw as unnecessary burdens on firms. In the Board's view, a single filing deadline for all firms is more appropriate than varying deadlines tied to individual firms' fiscal years. The Board has considered the comments about burden and has made changes that will address those concerns – such as allowing a firm to use its and its clients' fiscal year data in reporting the fee billing information – without introducing varying reporting periods and deadlines for different firms.<sup>12/</sup> With the changes described above, the required Form 2 reporting

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any overdue Form 3 before the firm can truthfully provide the certification necessary to file Form 2.

<sup>12/</sup> In addition, the use of a reporting period ending March 31 coincides with the end point of the period for which the Board's inspection staff will typically request substantial information from larger firms in connection with their annual inspections in that year. Using that same end point for purposes of Form 2 may spare a firm from having to prepare, on a single topic (e.g., a list of issuers for which the firm prepared

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does not involve any complexity or burden that makes it unreasonable to require all firms to supply the information according to the same schedule.

### B. Special Reporting on Form 3

#### 1. Required Information

Under the rules, the occurrence of specified events triggers an obligation to file a special report on Form 3. The reportable events described on Form 3 are not events that routinely occur, and the Board anticipates that most firms will go through most years without having any of the reportable events occur. Many firms may never experience a reportable event. Nevertheless, reportable events will sometimes occur, and the public interest, as well as the ability to consider whether prompt action is warranted by the Board's inspection staff or enforcement staff, will be served by contemporaneous reporting of the event. The events that trigger a reporting requirement under Form 3, as adopted today, are summarized below.

#### Form 3 Reporting Triggers

- The firm has withdrawn an audit report on financial statements, and the issuer failed to comply with Commission reporting requirements (Item 4.02 of Commission Form 8-K) concerning the matter.
- With respect to the 100 issuer audit client threshold that determines the frequency of Board inspections under Rule 4003, the firm has crossed to a different side of the threshold than the firm was on in the preceding calendar year.
- The firm, or a partner, shareholder, principal, owner, member, or audit manager of the firm (in some cases limited to those who provided at least ten hours of audit services for any issuer during the firm's current or most recently completed fiscal year), has become a defendant in certain types of criminal proceedings, or any such proceeding has been concluded as to the firm or the individual.

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audit reports and the dates of the reports), a lengthy response for purposes of the inspection and a different lengthy response for purposes of Form 2.

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- The firm, or a partner, shareholder, principal, owner, member, or audit manager of the firm (in some cases limited to those who provided at least ten hours of audit services for any issuer during the firm's current or most recently completed fiscal year), has become a defendant or respondent in a government-initiated civil proceeding, or an administrative or disciplinary proceeding (other than a Board proceeding), arising out of conduct in the course of providing professional services, or any such proceeding has been concluded as to the firm or the individual.
- The firm, or a parent or subsidiary, has become the subject of a petition filed in bankruptcy court or certain similar proceedings.
- The firm has taken on individuals or entities meeting certain criteria regarding disciplinary history, or entered into an arrangement to receive from such individuals or entities services related to the firm's audit practice or related to services the firm provides to issuer audit clients.
- The firm has obtained or lost authorization to engage in the business of accounting or auditing in a particular jurisdiction, or that authorization has become subject to conditions or contingencies.
- Contact information for the firm's Board contact person has changed.
- The firm has changed its legal name, while otherwise remaining the same legal entity that it was before the name change.<sup>13/</sup>

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<sup>13/</sup> Under the reporting framework, a registered firm's name change should be reported on Form 3 only if the firm remains the same legal entity that it was before the name change. If the name change is in connection with a more significant change in which the firm, as previously constituted, ceases to exist – such as a change in the legal form of the firm or a merger resulting in a new legal entity – the new entity does not automatically succeed to the registration status of the former entity and may not report the event on Form 3 as a mere name change. The Board has separately proposed, and continues to consider, rules and a form (Form 4) that would govern whether and how a new firm may succeed to the registration status of a predecessor.

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The list of reporting triggers summarized above reflects the Board's decision, after consideration of comments, to drop some items from the list that was proposed and to refine the focus of other items. The changes and clarifications relate to a client's unauthorized use of the firm's name, reportable criminal and other proceedings, reportable new relationships, and changes in authorization to engage in the business of auditing.

a. Excluding a Requirement to Report Clients' Unauthorized Use of the Firm's Name

The Board has excluded from the final requirements one special reporting trigger that was proposed: an issuer's unauthorized use of the firm's name, such as by making a filing with the Commission that includes an audit report that the issuer falsely represents as having been issued by the firm.<sup>14/</sup> In proposing that item, the Board noted that it might protect investors and serve the public interest by drawing attention to a potential problem relatively quickly. At the same time, the Board noted that this reporting obligation might be viewed as unnecessary in light of a registered firm's existing obligation, under Section 10A(b) of the Securities Exchange Act of 1934, to follow the steps prescribed there when the firm becomes aware of an illegal act. The Board particularly encouraged commenters to address, in light of Section 10A(b), the value of including this trigger.<sup>15/</sup>

The commenters who addressed the point expressed a view that this reporting requirement would be fundamentally about issuer conduct and, therefore, is more appropriately left to the Commission in the context of its disclosure framework and its framework for addressing Section 10A(b) reports from auditors. After consideration of those comments, the Board has decided not to adopt such a requirement at this time.

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<sup>14/</sup> As proposed, a firm would have been required to file a report on Form 3 if "the Firm has become aware that an issuer has made use of the Firm's name, without the consent of the Firm, in a report, document, or written communication containing the issuer's financial statements."

<sup>15/</sup> See Proposing Release at 10-11.

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### **b. Withdrawal of an Audit Report**

The proposed rules included a requirement that a firm file a special report when it withdraws an audit report, but also provided an exception to that requirement if the issuer audit client had already disclosed the relevant information in a Form 8-K filing with the Commission. The views expressed by commenters on this point were similar to the views described above with respect to an issuer's unauthorized use of a firm's name.

The Board is adopting this item as proposed. The point of this item is not to have the firm draw the Board's attention to potential problems with an issuer's financial statements. A withdrawn audit report is a risk indicator concerning the auditor's conduct preceding the withdrawal, not merely a risk indicator concerning the issuer's financial statements. The Board has a regulatory interest in being aware of that information and possibly following up on that information for reasons directly related to its oversight of auditors.

Nor is the point of the item to have the firm draw the Board's attention to a failure by the issuer to file a required Form 8-K. The Board's interest is in the fact of the withdrawn audit report. In the usual case, the Board can obtain that information from issuer Form 8-K filings without requiring duplicative filing by the firm, but the Board cannot do so if the issuer does not file the Form 8-K. For that reason, the Form 3 requirement is limited to circumstances in which the information is not otherwise available to the Board through a Form 8-K filing.

One commenter noted that if an issuer is no longer a client, the firm may not be in a position to monitor whether that former client has made the Form 8-K filing. Item 4.02(c) of Form 8-K, however, requires the issuer to provide the firm with a copy of the disclosures it is making in response to Item 4.02 no later than the day the issuer files the Form 8-K, and also requires the issuer to request that the firm furnish to the issuer a letter addressed to the Commission stating whether the firm agrees with the statements made by the issuer in response to Item 4.02. The firm should, therefore, generally be in a position to know whether the issuer has made the filing.

### **c. Criminal and Other Proceedings**

As proposed, Form 3 would have required a firm to file a special report if a partner, shareholder, principal, owner, member, or audit manager of the firm became a defendant in criminal proceedings involving certain categories of offenses. After

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consideration of comments, the Board has narrowed this requirement in two respects. First, the Board has reformulated these Form 3 reporting triggers to distinguish between proceedings that arise out of conduct in providing audit services or other accounting services for issuers and proceedings that do not arise out of such conduct. As to the latter category, the reporting obligation will be triggered only if the relevant individual provided at least ten hours of audit services for any issuer during the firm's current or most recently completed fiscal year. Second, the Board has eliminated from the categories of relevant offenses two relatively broadly described categories: crimes arising out of alleged conduct relating to "dishonesty," and crimes arising out of alleged conduct that, if proven, "would bear materially on the individual's fitness to provide audit services to issuers."

Other points raised by commenters may merit some clarification. One commenter expressed uncertainty about whether a firm would need to report the event if the firm suspended or terminated the individual or prohibited the individual from providing audit services for issuers. The reporting obligation includes no such qualification. The firm's reporting obligation is triggered when it becomes aware of the proceeding,<sup>16/</sup> and that obligation is not cut off if the firm terminates its relationship with the individual.

Some commenters sought clarification about the inclusion of "managers" and "members" within the scope of relevant individuals. One commenter asked whether "members" was meant to include employees generally. "Members" is not meant to include all employees but, rather, is intended as it is often used in firms' structures and parlance to distinguish those with certain ownership or governance rights from others. Some commenters noted that "managers" typically are not owners or partners and so questioned whether the Board intended to include them within the scope of this requirement. The Board is aware of the distinction and does intend the requirement to encompass manager-level personnel. The Board has, however, referred in the final rules to "audit manager" rather than merely "manager," to avoid any possible confusion about other sorts of managers, as the term is more generally used.

Some commenters expressed concern about the information that Form 3 would require the firm to provide about the proceedings that triggered the reporting requirement. Commenters suggested that providing descriptions of the proceedings could be burdensome, that the descriptions would be inherently subjective, and that the descriptions should not be in the public arena while the proceeding is ongoing. The

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<sup>16/</sup> The "awareness" trigger is discussed separately below.

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Board has not made any changes related to this point. Form 3 requires the firm to list the statutes, rules, or legal duties that are alleged to have been violated, which involves no subjective or qualitative analysis, and requires a brief description of the alleged conduct, which can be drawn from the relevant complaint or charging document without creating any implication that the firm concedes anything about the allegations. If grounds exist, under Rule 2300, for keeping the reported information confidential, the firm may request confidential treatment.

### d. New Relationships with Persons or Entities Currently Subject to Specified Disciplinary Sanctions or Rule 102(e) Orders

Form 3 requires a firm to file a special report if it enters into certain specified relationships with individuals or entities that are currently subject to any of the following: (1) a Board disciplinary sanction suspending or barring an individual from being an associated person of a registered public accounting firm, (2) a Board order disapproving an entity's application for registration,<sup>17/</sup> or (3) a Commission order under Rule 102(e) of the Commission's Rules of Practice suspending or denying the privilege of appearing or practicing before the Commission. Commenters suggested that the scope of relevant individuals should be limited to those who provide audit services. Although the Board has made such a change to the similar Form 2 requirement, such a change is not appropriate for this Form 3 requirement, which is generally intended to gather information about new relationships with persons or entities that are effectively restricted from providing audit services. In this context, the qualification suggested by commenters would have the effect of either negating the requirement entirely or transforming it into a requirement for a firm to report that a person or entity is violating such a restriction in connection with audits performed by the firm. For similar reasons, the Board has rejected suggestions to narrow the scope of consulting and professional services received by the firm that trigger this reporting requirement.

Commenters also expressed concern about the burden associated with identifying the existence of the sanction or 102(e) order. Firms should understand,

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<sup>17/</sup> An entity is considered to be "currently the subject" of a Board order disapproving registration if either of the following is true: (1) the Board order disapproving registration identified a date after which the Board would not treat the violations described in the order as a sole basis for possible disapproval of a new registration application, and that date has not passed, or (2) the Board order identifies no such date, and the entity has not subsequently become registered with the Board.

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however, that to a significant extent that burden effectively exists regardless of whether the firm has a reporting obligation. Not only does the firm have an obvious need to know, for its own purposes, of any such limitations on the person's ability to provide services, but Board Rule 5301(b) provides that "no registered public accounting firm that knows, or in the exercise of reasonable care should have known, of the suspension or bar of a person may permit such person to become or remain associated with it, without the consent of the Board, pursuant to Rule 5302, or the Commission."<sup>18/</sup>

### e. Changes in Authorization to Engage in the Business of Auditing or Accounting

Form 3 requires a firm to file a special report regarding certain changes in its authorization to engage in the business of auditing or accounting in a particular jurisdiction. After considering comments, the Board has made wording changes to clarify three points: (1) the requirement is intended only to cover circumstances that involve a loss of the firm's authorization to engage in the business of auditing or accounting; (2) the proposed phrase, "made subject to condition or contingencies," was not intended to encompass conditions or contingencies that are broadly applicable to all firms licensed in the jurisdiction; and (3) the requirement to report new licenses or certifications, or changes in existing licenses or certifications, is limited to licenses and certifications that authorize the firm to engage in the business of auditing or accounting.

## 2. Organization of Form 3

One aspect of Form 3's organization warrants discussion. Part II of the form requires the firm to indicate, by checking a box, which triggering event listed in Part II has occurred and is the reason for the report. For each box checked, Part II directs the firm to the particular Parts of the report that the firm must complete to provide the relevant details.

This approach serves two principal purposes. First, it allows a reader of the form to ascertain quickly, from a glance at Part II, the nature of the event or events being

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<sup>18/</sup> Rule 5301(b)'s prohibition on allowing such a person to "become or remain associated with" the firm is not a prohibition against any and all employment or other relationships, but only a prohibition against allowing the person to be an "associated" person as that term is defined in Section 2(a)(9) of the Act and Board Rule 1001(p)(i).

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reported, without having to page through the entire form to see where the firm has included information. Second, it takes into account that some foreign registered firms may assert that non-U.S. law prohibits them from providing the details that the form requires about a particular event,<sup>19/</sup> and it provides a mechanism for at least alerting the Board at a very general level that a certain type of event has occurred.

To make the firm's responses to Part II as specifically informative as possible, Part II breaks some of the categories of reportable events into more specific components. That is, some of the reportable events summarized in a single bullet point above are broken down in Part II into two or three more specific triggers in order to provide more focused information, from a simple checkbox in Part II, about the event being reported.

### 3. Timing of Special Reports

The proposed rules would have required that special reports on Form 3 be filed no later than 14 days after the triggering event. Several commenters expressed concern that 14 days was not sufficient time in which to review and assess an event and report the required information, and that this was particularly true for non-U.S. firms that may need to assess possible legal obstacles to reporting and prepare the materials necessary to comply with Rule 2207. Commenters' alternative suggestions included 30 days, 45 days, 60 days, and 90 days. The Board is persuaded that a longer period than 14 days is appropriate and is adopting a requirement to file special reports within 30 days of the triggering event.

Commenters also raised questions about when, for certain reportable events, the "trigger" actually occurs. In particular, several triggering events are described in Form 3 in terms of when the firm has "become aware" that something has occurred. Commenters asked for clarification of what it means, in this context, to say that the firm has become aware of a matter. The Board has added a note to the beginning of Part II of Form 3 to specify that the firm is deemed to have become aware of the relevant facts on the date that any partner, shareholder, principal, owner, or member of the firm first becomes aware of the facts. The Board believes it is reasonable to expect a firm to have controls designed to ensure that any such person who becomes aware of relevant

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<sup>19/</sup> The Board's approach to making accommodations for conflicts with non-U.S. law is described in Section IV below.

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facts understands the firm's reporting obligation and brings the matter to the attention of persons responsible for compliance with the obligation.

### 4. Initial Form 3 Reporting to Fill Gaps

In addition to requiring firms to file special reports going forward, Rule 2203 includes requirements designed to eliminate gaps that otherwise would occur in the information the Board has about a firm. One possible cause of such a gap is that certain information on a firm's Form 1 application for registration need not be any more current than as of a date 90 days before the application is submitted. For firms that become registered after the date that Rule 2203 takes effect, Rule 2203(a)(2) addresses that gap by requiring that, within 30 days of becoming registered, the firm must file a Form 3 concerning any reportable events that occurred between the firm's Form 1 information cut-off date and the date of registration.

Another possible cause of such a gap is the much more substantial passage of time that has occurred since the Form 1 information cut-off date used by firms that are already registered, the vast majority of which registered in 2003 or 2004. The proposed rules included a "catch-up" provision that would have required those already-registered firms to report all Form 3 events that have occurred since the firm's Form 1 information cut-off date. For hundreds of firms, that requirement would have covered all Form 3 events that occurred over a five-year period.

In view, however, of the passage of time, the obvious burden, and the fact that registered firms have been subject to the Board's inspection program, the Board has substantially restructured and narrowed this aspect of the proposal. Rule 2203(a)(3) requires already-registered firms to file a "bring current" special report on Form 3 only to the extent that certain events have occurred since the Form 1 information cut-off date and only to the extent that information about those events has current relevance. General Instruction number 4 to Form 3 specifies the circumstances that trigger a firm's obligation to file such a special report. For firms that are registered as of the date Rule 2203 takes effect, and to which any of the circumstances specified in General Instruction number 4 apply, Rule 2203(a)(3) requires the filing of a special report within 30 days of the effective date of Rule 2203.

### C. Amendments

Rule 2205 provides for the filing of amendments to previously filed annual or special reports if the originally filed report included information that was incorrect at the

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time of the filing, or if the originally filed form omitted any information or affirmation that was, at the time of such filing, required to be included in that report.<sup>20/</sup> Rule 2205, as adopted, reflects reassessment of the amendment concept since the proposal.

As proposed, Rule 2205 would have required a firm to amend its filing within a fixed time after becoming aware of the error or omission. Commenters raised concerns about the practical difficulties posed in this context by reliance on the concept of a firm becoming "aware" of an error or omission. The Board recognizes those difficulties. Rather than prescribe requirements for firms to have systems and procedures to surface such errors or omissions and then report them within a prescribed time, the Board's revised approach relies on the firm understanding its self-interest. The Board expects annual and special reports to be complete and accurate, and inaccuracies or omissions could form the basis for disciplinary sanctions for failing to comply with the reporting requirements reflected in Rules 2200 and 2203 and the instructions to Forms 2 and 3. Firms should be sufficiently motivated to have procedures to detect any need for amendments, and to amend filings as soon as possible, in order to mitigate the possibility of disciplinary sanctions for the inaccurate original filing.

As revised, Rule 2205 also makes clear that amendments are appropriate only to correct information that was incorrect at the time of the filing, or to supply omitted information or affirmations that should have been supplied at the time of the filing. The amendment process should not be used to update information reported on a form in the event the information changes. In the event of changes, the firm should consider whether a new Form 3 reporting obligation has been triggered or whether the information needs to be reflected in the firm's next Form 2 filing.

### D. Follow-Up Pursuant to the Board's Inspection Authority

As information comes to the Board's attention through the reporting process, it may be appropriate for the Board to follow up with focused inquiries concerning a matter, without in the first instance launching a full inspection or investigation, in order to

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<sup>20/</sup> When filing an amended form, the firm will be required to file the entire completed form, as corrected. A section of the form will require the firm to identify the particular item or items with respect to which the firm has revised its report. The Board's reporting system will facilitate such filing by giving the firm access to an electronic copy of the previously filed form that the firm wishes to amend, so that the firm can make the necessary changes without needing to reconstruct the entire form.

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determine whether any more formal action or inquiry is immediately warranted. Accordingly, the Board is adopting an amendment to its inspection rules that makes clear that the Board may require a firm to provide additional information.

Specifically, the Board is amending Rule 4000, which provides that registered firms shall be subject to such regular and special inspections as the Board chooses to conduct. The amendment adds a paragraph providing that the Board, in the exercise of its inspection authority, may at any time request that a registered firm provide additional information or documents relating to information provided on Form 2 or Form 3, or relating to information that has otherwise come to the Board's attention. The amendment provides that the request and response are considered to be in connection with the firm's next regular or special inspection. Accordingly, the cooperation requirements of Rule 4006 apply, and the request and response are subject to the confidentiality restrictions of Section 105(b)(5) of the Act.

In response to concerns raised by some commenters, the Board confirms that the information-gathering activity described in the amendment is an exercise of the Board's inspection authority. It does not provide a basis for the Board to compel a firm to provide information beyond the scope of information encompassed by the inspection authority, or for purposes other than assessing compliance by the firm or its associated persons 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."<sup>21/</sup>

### E. The Effect of Pending Requests to Withdraw from Registration

Existing Rule 2107 governs the process by which a firm may seek to withdraw from registration with the Board. Under Rule 2107, a firm cannot withdraw at will, but must request the Board's permission to withdraw, and the Board may withhold that permission under certain conditions.<sup>22/</sup>

The Board is amending Rule 2107 to change the way it addresses the reporting obligations of a firm that has filed Form 1-WD seeking leave to withdraw. Existing Rule 2107(c)(2)(i) provides that, beginning on the fifth day after the Board receives a

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<sup>21/</sup> Section 104(a) of the Act.

<sup>22/</sup> See PCAOB Rule 2107(d)-(e).

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completed form 1-WD, the firm can satisfy any annual reporting requirement by submitting a report stating that a completed Form 1-WD has been filed and is pending. Under the amended rule, the firm's reporting obligation, including both annual and special reporting, would simply be suspended while Form 1-WD was pending. Because a firm cannot prepare or issue audit reports, or play a substantial role in the preparation or furnishing of audit reports, while Form 1-WD is pending, and because the withdrawal process normally ends with the firm ceasing to be registered, there is no reason to subject the firm to a reporting burden. If a firm withdraws its Form 1-WD and continues as a registered firm, however, Rule 2107 would require the filing of any annual or special reports, and the payment of any annual fee, that otherwise would have been required while the Form 1-WD was pending.

The Board is also eliminating from Rule 2107 the five-day delay between receipt of a completed Form 1-WD and the effect of that filing on a firm's reporting obligation. Suspension of that obligation would occur immediately upon the Board's receipt of the completed Form 1-WD.<sup>23/</sup>

### III. Balancing Legitimate Confidentiality Interests and the Public Interest in Prompt Availability of Information

Annual and special reports will be made public on the Board's Web site promptly upon being filed by a firm, subject to exceptions for information for which a firm requests confidential treatment. The Board intends that as much reported information as possible be publicly available as soon as possible after filing. To accomplish that goal, the reporting framework relies on two elements.

First, the Board's Web-based reporting system will automatically publish a Form 2 or a Form 3 to the Board's Web site as soon as the form is filed.<sup>24/</sup> In doing so, the

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<sup>23/</sup> In connection with that change to Rule 2107, the amendment also eliminates the five-day delay before certain other consequences take effect. Among other things, the Board is amending Rule 2107(c)(2)(iii) so that the Board would, immediately upon receipt of the completed Form 1-WD, have the discretion to forego any regular inspection of the firm that otherwise would commence. This change necessitates a conforming change to Rule 4003(c), and the Board is making that conforming change as well.

<sup>24/</sup> A form is treated as "filed" when it is completed in accordance with the form's instructions and submitted. Satisfaction of the criteria for "filing" will be

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system will redact from the published version any information for which the firm requested confidential treatment.<sup>25/</sup> Unless and until the request for confidential treatment is denied, the information will remain redacted, but processing the request for confidential treatment will not delay publication of the rest of the form. As a safeguard, the system will, at a final pre-submission stage, show the firm two separate versions of the completed form – one showing all of the information the firm has entered and the other showing what the publicly available version of the form will look like, with redactions where confidential treatment is requested.

Second, consistent with the approach described in the proposal, the forms identify certain categories of information for which a firm simply may not request confidential treatment. This reflects a determination that for certain categories of information there is no genuine possibility that the information could include information that is proprietary or otherwise protected from disclosure by any applicable law. Precluding the possibility of confidential treatment requests for those categories will avoid having to delay publication of that information while the Board processes a baseless request.

The Board does not take lightly the preclusion of confidential treatment requests. Section 102(e) of the Act requires the Board to honor "applicable laws relating to the confidentiality of proprietary, personal, or other information," and also requires that "in all events, the Board shall protect from public disclosure information reasonably identified by the subject accounting firm as proprietary information." Taking into account confidential treatment issues with which the Board and its staff have become familiar in connection with the registration process, including issues of non-U.S. law, the Board has aimed to err on the side of allowing confidential treatment requests with respect to categories for which there is any genuine possibility that the required information could include information that is proprietary or is otherwise protected from disclosure by any applicable law.

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recognized in the automated system, which will then direct the form to the Web site for publication. Users of the Web site will be able to go to a page for a particular firm and find there a chronological list of all filings by the firm, with each item on the list linking to a complete copy of the filed form.

<sup>25/</sup> PCAOB Rule 2300(b)-(h) provides a process for confidential treatment requests for information provided on Form 1. The Board is amending Rule 2300 so that it also encompasses confidential treatment requests on Forms 2 and 3.

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Set out below is a summary of the types of reportable information for which a firm may not request confidential treatment.

- Information identifying the firm (including any changes in the firm's name), contact persons, and office locations.
- The period covered by an annual report.
- Very general information about the nature of a firm's practice (e.g., whether, during the reporting period, the firm issued any audit reports for issuers).
- For U.S. firms, the percentage of a firm's annual billings attributable to certain broad categories of services provided to issuer audit clients (non-U.S. firms may request confidential treatment for this item).
- The identity of a firm's issuer audit clients.
- Basic information about whether the firm is a member of any network or affiliation related to its audit practice for issuers.
- The identity of any other firm acquired by the firm.
- Affirmation of the firm's statutorily required consent to cooperate with the Board.
- The identity of an issuer concerning which the firm has withdrawn an audit report, and the date of that audit report.<sup>26/</sup>
- Changes in legal authorization to engage in the business of auditing or accounting.

The Board encouraged commenters to review the specific corresponding items in the forms and to comment on whether the proposal overlooked any confidentiality protection provided by law. Although some commenters expressed general concern

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<sup>26/</sup> As discussed above, the proposal requires a firm to report this information only if the issuer has failed to make a filing on Commission Form 8-K concerning the matter.

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about any limitation on the ability to request confidential treatment, only one of the items in the list set out above generated any specific comment arguing that confidential treatment should be an option for that item. Commenters noted that, under the local law relevant to some non-U.S. firms, the fee percentage breakdowns might be considered proprietary. The Board has not attempted to determine whether or where that might be the case, but consistent with a conservative approach toward limitations on the availability of confidential treatment, the instructions to the Form, as adopted, allow non-U.S. firms – but not U.S. firms – to request confidential treatment for the fee percentage data in Item 3.2.

In addition to limiting the categories of information for which a firm may request confidential treatment, the Board is adopting new requirements concerning the support that a firm must supply for a confidential treatment request.<sup>27/</sup> The amendments require that a firm support a request with both a representation that the information has not otherwise been publicly disclosed and either (1) a detailed explanation of the grounds on which the information is considered proprietary, or (2) a detailed explanation of the basis for asserting that the information is protected by law from public disclosure and a copy of the specific provision of law.

The amendments also provide that the firm's failure to supply the required support constitutes sufficient grounds for denial of the request. In some cases, of course, the appropriateness of the request may be evident on its face, or the Board may otherwise be aware of a provision of law that protects the information, and the Board will not deny confidential treatment in those circumstances just because the firm failed to supply support. At the same time, the Board does not view Section 102(e) of the Act as requiring that the Board independently research whether certain information is protected from disclosure if the firm itself does not point to any basis for that protection. Accordingly, a firm's failure to supply the required support may well, on that basis alone, result in denial of the request.

In response to questions raised by commenters, however, the Board emphasizes that this approach to confidential treatment requests does nothing to change a firm's right to seek review of an initial denial of confidential treatment. Initial decisions will continue to be made by the Director of Registration and Inspections, pursuant to

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<sup>27/</sup> The amendments to Rule 2300(b)-(c), concerning the required support, also apply prospectively to confidential treatment requests on Form 1.

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delegated authority, under Rule 2300(h). A firm may, under Rule 5468, seek Board review of any denial.

One commenter noted that confidentiality protection might arise from sources other than statutes and regulation, including common law, judicial orders, and contractual terms, and that the Board should more broadly define the scope of documentation that may be presented in support of a confidential treatment request. Rule 2300(b), however, does not limit the scope of documentation that a firm may present to support its argument that the rule's criteria for confidentiality are satisfied. The Board also agrees that "applicable law related to the confidentiality of proprietary, personal, or other information" that may protect information from public disclosure is not limited to statutes and regulations. At the same time, however, a contractual agreement between two parties does not constitute "applicable law" and is unlikely to satisfy the rule's criteria.

#### IV. Accommodating Non-U.S. Legal Restrictions

In developing its rules, policies, and programs, the Board consistently seeks to accommodate the legitimate concerns of non-U.S. firms faced with legal restrictions that might limit their ability to provide information to the Board. Early on, the Board adopted a rule that allowed firms to omit required information from registration applications if non-U.S. law prohibited the firm from submitting the information to the Board.<sup>28/</sup> The Board has also articulated a framework for cooperation with non-U.S. regulators, the objectives of which include working with those regulators to resolve potential conflict of law problems as they arise.<sup>29/</sup> The Board's commitment to that framework is embodied in Board rules related to inspections and a Board rule related to disciplinary investigations.<sup>30/</sup>

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<sup>28/</sup> See PCAOB Rule 2105; see also Registration System for Public Accounting Firms, PCAOB Release No. 2003-007 (May 6, 2003), at 13-21 ([www.pcaobus.org/Rules/Docket\\_001/2003-06-06\\_Release\\_2003-007.pdf](http://www.pcaobus.org/Rules/Docket_001/2003-06-06_Release_2003-007.pdf)).

<sup>29/</sup> See Oversight of Non-U.S. Public Accounting Firms, PCAOB Release No. 2003-020 (Oct. 28, 2003) (hereafter "Oversight of Non-U.S. Firms"), at 5 ([www.pcaobus.org/News\\_and\\_Events/News/2003/10-28.aspx](http://www.pcaobus.org/News_and_Events/News/2003/10-28.aspx)).

<sup>30/</sup> See PCAOB Rules 4011, 4012, and 5013; see also Final Rules Relating to the Oversight of Non-U.S. Public Accounting Firms, PCAOB Release No. 2004-005

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In adopting Rule 2207 today, the Board continues its commitment to reasonable accommodations for non-U.S. firms and reliance on a framework for cooperation. The core principle underlying Rule 2207's treatment of legal conflicts is the same as the core principle underlying Rule 2105 in the registration context. Specifically, so long as a firm has certain materials that support its assertion of a legal conflict and has made appropriate efforts to obtain waivers or consents that would overcome the conflict, a report on Form 2 or Form 3 will satisfy the basic filing requirement even if it omits the information that is the subject of the conflict.

Although the core principle is the same, the Rule 2207 process differs in some respects from the Rule 2105 process. As described below, the process differences are designed to accomplish two goals: (1) minimizing certain burdens relating to the supporting materials; and (2) making clear to readers of the form whether the firm is actually withholding information, thereby eliminating the possibility of an ambiguous general assertion that non-U.S. law limits the firm's ability to provide information of a particular type.

### A. Materials Supporting the Asserted Conflict

Under Rule 2207, when a firm withholds required information from Form 2 or Form 3, it must have certain supporting materials, including (1) a copy of the relevant provisions of non-U.S. law, (2) a legal opinion concluding that the firm would violate non-U.S. law by submitting the information to the Board, and (3) a written explanation of the firm's efforts to seek consents or waivers that would be sufficient to overcome the conflict with respect to the information. These are the same materials that are required to support the withholding of information from a registration application under Rule 2105.

Unlike in the Rule 2105 process, however, Rule 2207 would not require a firm routinely to include those supporting materials with the form that the firm files. Rather, the firm must certify on the form that it has the supporting materials in its possession. The rule reserves to the Board, and to the Director of the Division of Registration and Inspections, the discretion to require that a firm submit any of those supporting materials in a particular case, but the rule does not include those materials in the basic filing requirement.

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In addition, Rule 2207 makes clear that a firm is not required to secure a new legal opinion specific to each Form 2 or Form 3 that the firm files. Rather, the supporting materials maintained by the firm need only contain a legal opinion that the firm has reason to believe is current with respect to the relevant point of law. The rule does not attempt to specify the ways in which a firm may satisfy this requirement, and various approaches might be satisfactory. Compliance does, however, depend upon a firm implementing in good faith some mechanism for generally being aware of relevant changes in the law, rather than relying on a particular legal opinion in perpetuity without genuine regard for whether the law changes.

To address a concern raised by commenters, the Board has revised Rule 2207(c)(4), and added a related note at the end of the rule, to make clear that the rule does not require a firm to repeat previously futile efforts to obtain consents and waivers. Specifically, Rule 2207(c)(4) requires the firm to prepare and maintain a written representation that it has made "reasonable efforts" to obtain relevant consents and waivers. The note at the end of the rule makes clear that the "reasonable efforts" element of the rule does not require either (1) that the firm renew efforts with parties that have previously declined to provide consents or waivers with respect to similar types of information, or (2) that the firm seek consents or waivers from parties other than firm personnel and firm clients.<sup>31/</sup>

The Board has also made a slight wording change to a formulation that appears throughout Rule 2207 and the certification parts of Form 2 and Form 3. Instead of phrasing the point in terms of a firm's assertion that it would violate non-U.S. law by providing certain information, the rule and forms now speak in terms of the firm asserting that it "cannot provide such information . . . without violating non-U.S. law." The subtle difference is meant to encompass more clearly the situation where the asserted obstacle is not an obstacle to the firm providing information that it has but, rather, is an obstacle to the firm requiring that an individual give the firm the information that the form requires.

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<sup>31/</sup> The Board has also added to Rule 2207(c)(4) a provision specifying the time range within which the written representations required by that paragraph must be signed.

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### B. Transparency Concerning the Meaning of an Asserted Conflict

The Board's experience with legal conflict assertions in the registration context has informed the design of the Rule 2207 process in two significant respects. In combination, these elements are intended to allow a reader of a Form 2 or a Form 3 to discern at a basic level whether a certain condition exists or a certain event has occurred, while preserving a firm's opportunity to withhold details that it asserts it cannot lawfully provide.

First, from the Board's experience with Form 1, it appears that in the vast majority of cases in which a firm would assert a conflict, the firm would not assert that non-U.S. law prohibits it from providing a general indication of whether a type of condition exists or a type of event has occurred. Accordingly, both Form 2 and Form 3 routinely employ formulations that facilitate reporting of the basic foundational point. For example, if a partner in a non-U.S. firm becomes a defendant in a criminal proceeding involving certain types of crimes, Item 2.4 of Form 3 provides a place for (and requires) the firm to report that basic fact, even if the firm asserts that it cannot lawfully provide identifying information or other details required in Part III of the Form. Once notified of the basic fact, the Board can determine whether the matter warrants additional follow-up, potentially including with the cooperation of non-U.S. regulators.

Second, unlike with Form 1, a legal conflict can be asserted on Form 2 or Form 3 only if the firm is actually withholding information that the form requires. A firm may not indicate a legal conflict on Form 2 or Form 3 as a way of making a general point that non-U.S. law would prohibit the firm from providing certain information if the firm had any such information. For clarity on this point, Form 2 and Form 3 will differ from Form 1 with respect to how a legal conflict is indicated. On Form 2 and Form 3, "LC" checkboxes will not appear throughout the form.<sup>32/</sup> Instead, a separate section at the end of each relevant part of the form instructs the firm that if any portion of its response in that part is incomplete because of an asserted legal conflict, the firm must, in that

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<sup>32/</sup> On Form 1, the opportunity to indicate a legal conflict appears throughout the form with an "LC" checkbox next to each item in the form, giving rise to the potential for ambiguity about whether the firm is actually withholding information or just preserving a legal position.

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separate section, identify the specific items in that part with respect to which the firm actually has withheld, or been precluded from obtaining, responsive information.<sup>33/</sup>

### C. Limits on Asserting a Conflict

The Board believes it is feasible to identify a small number of items on Forms 2 and 3 as to which either (1) it is not realistically foreseeable that any law would prohibit supplying the information or (2) the Board could not, consistent with its most basic responsibilities, allow a firm to withhold the information and remain registered. Accordingly, for the following few items, the forms do not afford a firm the option of withholding the information on the basis of non-U.S. law.

- Basic identifying information about the firm (including any changes in the firm's name) and a firm contact person.
- The period covered by an annual report.
- Very general information about the nature of a firm's practice (e.g., whether, during the reporting period, the firm issued any audit reports for issuers).
- The identity of a firm's issuer audit clients and the dates of audit reports.

As with the issue of confidential treatment, the Board does not take lightly limiting the items for which a legal conflict may be asserted, and the Board encouraged comment on whether the proposal overlooked any actual or realistically foreseeable non-U.S. legal restriction. One commenter expressed a general view that there should be no limitations on what information can be withheld based on a legal conflict, but that same commenter also noted that "most of the areas the Board identifies [for which a conflict could not be asserted] are not likely to present problems."<sup>34/</sup> That commenter

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<sup>33/</sup> Rule 2207 and the instructions to Forms 2 and 3 make clear that only a foreign registered public accounting firm may withhold required information on the basis of an asserted legal conflict. The Board cannot envision a circumstance in which the Board would honor any assertion by a U.S. firm that non-U.S. law prohibits the firm from providing, on Form 2 or Form 3, information in the firm's possession.

<sup>34/</sup> Letter from Swiss Institute of Certified Accountants and Tax Consultants (July 24, 2006) at 5.

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did specifically request that the Board allow for the assertion of a legal conflict for Item 4.1 of Form 2, which requires the identify of issuer audit clients and dates of audit reports, but the commenter did not indicate any reason that non-U.S. law might block a firm from supplying that information, which is necessarily a matter of public record when the issuer makes the required Commission filing.

### D. Asserted Legal Conflicts and the Board's Statutory Authority

While committed to cooperation and reasonable accommodation in its oversight of registered non-U.S. firms, the Board has not surrendered any of its statutory authority ultimately to compel firms to provide information necessary for the Board to fulfill its investor protection and public interest mandates. For example, while Rule 2105 lets applicants withhold required information without having the application treated as incomplete, the Board reserves its ultimate authority to deny registration if questions concerning the withheld information prevent the Board from finding that approval is consistent with the public interest and the protection of investors.<sup>35/</sup> Similarly, the Board's commitment to working cooperatively with non-U.S. regulators – and carrying out the Board's mission without creating unnecessary confrontations between legal systems – does not entail any relinquishing of the Board's ultimate authority to require information from registered firms if those efforts at cooperation are unavailing in a particular case.<sup>36/</sup>

Rule 2207 continues in that vein. The rule is an accommodation to concerns of non-U.S. firms. Paragraph (e), however, provides that the Board may ultimately require a firm to file an amended Form 2 or Form 3 providing the withheld information. Although the Board does not foresee invoking paragraph (e) with any regularity, its inclusion is necessary to preserve the authority that Congress intended for the Board to have over all registered firms.<sup>37/</sup>

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<sup>35/</sup> See Frequently Asked Questions Regarding Issues Relating to Non-U.S. Accounting Firms (March 11, 2004), at 2 ([www.pcaobus.org/Registration/2004-03-11\\_FAQ.pdf](http://www.pcaobus.org/Registration/2004-03-11_FAQ.pdf)).

<sup>36/</sup> See Oversight of Non-U.S. Firms, at 5.

<sup>37/</sup> Because of the different context to which Rule 2105 applies, no comparable rule provision is necessary to preserve the Board's authority there. Rule 2105 accommodates non-U.S. firms by providing, essentially, that the Board will act on an incomplete application. But that accommodation provides no guarantee about how

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To date, the Board's accommodations and cooperation initiatives have worked well. The Board is optimistic that this approach will continue to work well and that reservations of authority such as that in Rule 2207(e) will serve a purpose that is principally theoretical, and will rarely need to be invoked as practical tools.

### V. Effective Date of Rules and Timing of First Reports

In the Proposing Release, the Board stated that it intended for the reporting requirements to take effect 21 days after Commission approval, with the "catch-up" Form 3 filings due 14 days later. The Board has considered comments expressing concern that this is too ambitious a schedule, and the Board is now taking a different approach. The Board intends that the rules, rule amendments, and Forms 2 and 3 that it is adopting today will take effect on the date that is 60 days after Commission approval. This will build in more than ample lead time for firms to become aware of Commission approval of the rules and to prepare any reports that will be due after the rules take effect.

The first report due after the rules take effect will be the "bring current" special report on Form 3, which must be filed by any firm to which any of the circumstances described in General Instruction number 4 of Form 3 apply. That report must be filed no later than 30 days after the rules take effect. This gives firms 90 days between Commission approval and the deadline for any "bring current" special reports that must be filed.

The normal special reporting framework will also go into effect on the date that the rules take effect. Any reportable events occurring on or after that date must be reported on Form 3 within 30 days thereafter.

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the Board will Act. The Board retains the authority to impose the relevant sanction in that context – i.e., to disapprove the application – if questions concerning the withheld information prevent the Board from finding that approval would satisfy the Rule 2106(a) standard. Once a firm is registered, though, the situation is different. The Board can sanction a registered firm only if the firm violates some provision of certain laws, rules, or standards. Rule 2207(e) preserves the Board's authority to obtain information by preserving the possibility that, in an appropriate case involving sufficiently important information that is not otherwise forthcoming (e.g., through cooperation with non-U.S. regulators), the Board can ultimately put the firm to the choice of providing the information or being subject to a sanction for violating the Board's rules.

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The first reporting period for which an annual report on Form 2 will be required is the period from April 1, 2008 to March 31, 2009. Under Rule 2201, the annual report for that period must be filed by June 30, 2009.

### VI. Discussion of Other Comments

#### A. Audit Reports

Some commenters questioned the need for the Board to require firms to report information identifying the issuers for which a firm issues audit reports. Commenters noted that this information is already publicly available. One commenter also indicated that the requirement would excessively burden registered firms with large numbers of issuer clients. Another commenter expressed concern about requiring firms to provide the date of their audit reports because firms do not "track" these dates, and questioned the Board's need for such information.

Although information about the identity of any single issuer's auditor is readily available, the Board is not aware of any way in which information about a particular firm's list of clients is similarly available to the public without going to significant trouble or expense. The commenters provided no persuasive reasoning or information to support the proposition that there is any unreasonable burden in expecting a firm to be able to generate a list of its audit clients and the dates of audit reports issued by the firm.

#### B. Affiliations and Networks

A commenter suggested that Item 5.2.a.2's reference to "joint audits" is unclear because, in some foreign jurisdictions, joint audits are not done through a network or alliance. That point, however, does not render the item's reference unclear, it merely means that there may be circumstances in which joint audits are conducted other than through arrangements described in Item 5.2.a.2, and which therefore fall outside the scope of the reporting requirement.

#### C. New Relationships

Some commenters suggested that the requirement to publicly report a new employment or partnership relationship with a previously sanctioned individual could have the unintended consequence of making a firm reluctant to take on the individual. Commenters suggested that the Board should therefore consider not requiring such

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disclosure regarding individuals who are not applying for senior-level positions, are not being hired to work on issuer audits, or who were subject to relatively minor sanctions. They also suggested that the proposed disclosure would be duplicative of prior public notice of the sanction, which one commenter said would be "unfair." That commenter also noted that broad application of the requirement might dissuade individuals who become involved in PCAOB or Commission investigations or proceedings from settling with regulators in light of the potential collateral consequences.

The Board takes seriously the concern about imposing requirements that might unfairly affect employment and contractual opportunities. As described in Section II above, the Board has eliminated one entire category of reportable relationships that was included in the proposal (relationships with individuals who were not personally sanctioned but were with another firm at the time of conduct for which the firm was sanctioned), and has also narrowed the remaining requirements so that the obligation to report is only triggered if the individual provides at least ten hours of audit services for any issuer in the reporting period. The Board is not persuaded, however, that any further narrowing is appropriate. As for the concerns expressed by commenters about publication, the publication of a Form 2 or Form 3 will not involve making public anything about the individual, his or her past conduct, or the sanction, that is not already public. The report would simply alert the Board that that person has joined the particular firm. The Board also does not share the view that this reporting requirement would create any greater disincentive to settlements than the public notice disincentives that already exist.

### D. Administrative and Disciplinary Proceedings

A commenter suggested that the Board clarify that the references in Form 3 to "administrative or disciplinary proceedings" are to proceedings brought by governmental agencies, and not by, for example, nonpublic membership organizations. The commenter, however, is mistaken. As is true in Form 1, and as is described in a note to Item 3.1 on Form 3, "Administrative or disciplinary proceeding" does include proceedings brought by professional associations or bodies.

### E. Bankruptcy

One commenter expressed concern that the bankruptcy reporting threshold was too low, in that it would require the reporting of both voluntary and involuntary bankruptcy petitions. The commenter suggested changing the phrase "has become the subject of a petition filed in a bankruptcy court" to read "has become the subject of an

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order for relief from creditors entered by a bankruptcy court," in order to focus the disclosure requirement on situations in which the firm is actually dealing with an insolvency issue rather than simple creditor disputes. In this context, however, the Board believes it is preferable to err on the side of a threshold that may be low rather than a threshold that risks being too high. The Board also notes that, in the broker-dealer context, Form BD requires prompt updating if the broker-dealer is the "subject of a bankruptcy petition," which is comparable wording to that in the Form 3 requirement.

### F. Confidential Treatment

One commenter suggested that the Board consider offering affirmative guidance as to categories for which confidential treatment will ordinarily be granted (e.g., information relating to pending litigation and disclosures of a firm's relationship with persons or entities that have been subject to Board or Commission sanction). The Act requires the Board to disclose information that is reported unless it is protected from disclosure by applicable law or is proprietary. Applicable law is subject to change and the issue of whether particular information is proprietary is fact-specific. Without ruling out the possibility of some limited degree of guidance on this point in the future, the Board is not attempting to provide any such guidance at this time.

### G. Non-U.S. Firms and Rule 2207

Commenters suggested, in various ways, that the Board modify the provisions concerning the affirmation of consent to cooperate with the Board by adding language such as "to the extent permitted by any applicable law," or otherwise indicating a willingness to accept "qualified consents" from non-U.S. firms that believe they face non-U.S. legal obstacles to providing the required unqualified consents. The Board believes, however, that it is sufficient to allow non-U.S. firms to withhold the affirmation if they assert that a legal conflict prevents them from providing it (and they comply with proposed Rule 2207). The Board has consistently maintained that, although it will seek to work cooperatively with and through non-U.S. regulators, and although it is willing to accommodate a non-U.S. firm's reluctance (rooted in an asserted conflict of law) to provide the required written consent to cooperate, each firm ultimately has an obligation to cooperate with the Board to the extent that the Board requires cooperation. The Board does not view this statutory obligation as limited or qualified by non-U.S. legal restrictions. The Board's acceptance of a qualified consent could lead a firm to believe, mistakenly, that the Board accepts that the firm's statutory obligation is qualified.

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Separately, some commenters, while acknowledging the Board's indication that Rule 2207(e) would be a rarely invoked last resort, expressed concern that the rule allows the Board to put a firm in the position of having to choose between breaching local law or breaching the Board's rules. These comments amount to suggestions that the Board should, by rule, forfeit a degree of its statutory authority under U.S. law to require registered firms to provide information. The Board declines to do so, but emphasizes its continued commitment to a cooperative approach and reiterates its hope and expectation that Rule 2207(e) will be invoked rarely, if ever.

One commenter expressed a view that Rule 2207's requirements, related to withholding information because of a legal conflict, are substantially more onerous than the Rule 2105 requirements that apply in the registration context. Although not entirely clear, part of that comment seems focused on Rule 2207(c)(1), which requires a firm to have in its possession a version of the form that includes the information that the firm would be required to report in the absence of a legal conflict.

This requirement imposes no greater burden on a non-U.S. firm than on a U.S. firm that actually reports the information. The opportunity to assert a legal conflict is an accommodation in light of the possibility that a firm may believe that it is stuck between competing legal requirements. But a firm should not assume that its mere assertion of a conflict is the end of the matter, and there is no reason to provide that a firm need not even have assembled the information, in the form in which any other firm would have to assemble it, before asserting that non-U.S. law precludes it from disclosing the particular information it is withholding.

### **H. Reliance on Non-U.S. Reporting Requirements**

Commenters suggested that the Board establish a rule allowing the Board to place reliance on information collected and provided by non-U.S. oversight bodies, in order to reduce administrative work for firms, reduce duplication of information, and facilitate oversight bodies' understanding of conflicting legal provisions. Without prejudging anything about possible future carve-outs to avoid duplication of particular non-U.S. reporting requirements, there does not appear to the Board to be any reason, at this time, to subject non-U.S. firms to any different PCAOB reporting requirements than those imposed on U.S. firms.

**RELEASE**

On the 10th day of June, in the year 2008, the foregoing was, in accordance with the bylaws of the Public Company Accounting Oversight Board,

ADOPTED BY THE BOARD.

/s/ J. Gordon Seymour

J. Gordon Seymour  
Secretary

June 10, 2008

APPENDICES –

Rules on Periodic Reporting by Registered Public Accounting Firms  
Amendments to PCAOB Rules 1001, 2107, 2300, 4000, and 4003  
Form 2 Instructions  
Form 3 Instructions

**RELEASE**

**Appendix – Rules and Forms Related to Reporting**

**SECTION 2. REGISTRATION AND REPORTING**

**Part 2 – Reporting**

**2200. Annual Report**

Each registered public accounting firm must file with the Board an annual report on Form 2 by following the instructions to that form. Unless directed otherwise by the Board, the registered public accounting firm must file such annual report and exhibits thereto electronically with the Board through the Board's Web-based system.

**2201. Time for Filing of Annual Report**

Each registered public accounting firm must file the annual report on Form 2 no later than June 30 of each year, provided, however, that a registered public accounting firm that has its application for registration approved by the Board in the period between and including April 1 and June 30 of any year shall not be required to file an annual report in that year.

Note: Pursuant to Rule 1002, in any year in which the filing deadline falls on a Saturday, Sunday, or federal legal holiday, the deadline for filing the annual report shall be the next day that is not a Saturday, Sunday, or federal legal holiday.

**2202. Annual Fee**

Each registered public accounting firm must pay an annual fee to the Board on or before July 31 of any year in which the firm is required to file an annual report on Form 2. The Board will, from time to time, announce the current annual fee. No portion of the annual fee is refundable.

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### 2203. Special Reports

(a) A registered public accounting firm must file a special report on Form 3 to report information to the Board as follows –

(1) Upon the occurrence, on or after **[insert effective date of this rule]**, of any event specified in Form 3, a registered public accounting firm must report the event in a special report filed no later than thirty days after the occurrence of the event;

(2) No later than thirty days after receiving notice of Board approval of its application for registration, a registered public accounting firm that becomes registered after **[insert effective date of this rule]** must file a special report to report any event specified in Form 3 that occurred after the date used by the firm for purposes of General Instruction 9 to Form 1 and before the date that the Board approved the firm's registration; and

(3) No later than **[insert date thirty days after the effective date of this rule]**, a registered public accounting firm that is registered as of **[insert effective date of this rule]**, must file a special report to report, to the extent applicable to the firm, certain information described in General Instruction 4 to Form 3 and current as of **[insert effective date of this rule]**.

(b) A registered public accounting firm required to file a special report shall do so by filing with the Board a special report on Form 3 in accordance with the instructions to that form. Unless directed otherwise by the Board, a registered public accounting firm must file such special report and exhibits thereto electronically with the Board through the Board's Web-based system.

### 2204. Signatures

Each signatory to a report on Form 2 or Form 3 shall manually sign a signature page or other document authenticating, acknowledging or otherwise adopting his or her signature that appears in typed form within the electronic submission. Such document shall be executed before or at the time the electronic submission is made and shall be

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retained by the filer for a period of seven years. Upon request, an electronic filer shall provide to the Board or its staff a copy of all documents retained pursuant to this Rule.

### **2205. Amendments**

Amendments to a filed report on Form 2 or Form 3 shall be made by filing an amended report on Form 2 or Form 3 in accordance with the instructions to those forms concerning amendments. Amendments shall not be filed to update information in a report that was correct at the time the report was filed, but only to correct information that was incorrect at the time the report was filed or to provide information that was omitted from the report and was required to be provided at the time the report was filed.

### **2206. Date of Filing**

(a) An annual report shall be deemed to be filed on the date on which the registered public accounting firm submits a Form 2 in accordance with Rule 2200 that includes the signed certification required in Part X of Form 2.

(b) A special report on Form 3 shall be deemed to be filed on the date that the registered public accounting firm submits a Form 3 in accordance with Rule 2203 that includes the signed certification required in Part VIII of Form 3.

### **2207. Assertions of Conflicts with Non-U.S. Laws**

If, in a report on Form 2 or Form 3, a foreign registered public accounting firm omits any information or affirmation required by the instructions to the relevant form on the ground that it cannot provide such information or affirmation on the form filed with the Board without violating non-U.S. law, the foreign registered public accounting firm shall –

(a) In accordance with the instructions to the form –

(1) Indicate that it has omitted required information or affirmations on the ground that it cannot provide such information or affirmations on the form filed with the Board without violating non-U.S. law;

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- (2) Identify all Items on the form with respect to which it has withheld any required information or affirmation on that ground; and
- (3) Represent that, with respect to all such omitted information or affirmations, the foreign registered public accounting firm has satisfied the requirements of paragraph (b) of this Rule and has in its possession the materials required by paragraph (c) of this Rule;
- (b) Before filing the form with the Board, make reasonable, good faith efforts, where not prohibited by law, to seek any consents or waivers that would be sufficient to allow it to provide the required information or affirmation on the form filed with the Board without violating non-U.S. law;
- (c) Have in its possession, before the date on which the foreign registered public accounting firm files the form with the Board and for a period of seven years thereafter –
- (1) An electronic version of the form that includes all information required by the instructions to the form (including certification and signature) and a manually signed signature page or other document that would satisfy the requirement of Rule 2204 if that version of the form were filed with the Board;
- (2) A copy of the provisions of non-U.S. law that the foreign registered public accounting firm asserts prohibit it from providing the required information or affirmations on the form filed with the Board, and an English translation of any such provisions that are not in English;
- (3) A legal opinion, in English, addressed to the foreign registered public accounting firm and that the foreign registered public accounting firm has reason to believe is current with respect to the relevant point of law, that the firm cannot provide the omitted information or affirmation on the form filed with the Board without violating non-U.S. law;
- (4) A written representation, in English, that the Firm has made reasonable efforts, and a written description of those efforts, to obtain consents or waivers that would be sufficient to allow it to provide the

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required information or affirmation on the form filed with the Board, manually signed by the same person whose signature appears in the certification portion of the form, and indicating that the signer has reviewed the description and that the description is, based on the signer's knowledge, accurate and does not contain any untrue statements of material fact or omit to state a material fact necessary to make the statements made not misleading, and dated –

- (i) for Form 2, after the end of the reporting period and no later than the date of the Form 2 filing; and
  - (ii) for Form 3, after the date of the reportable event and no later than the date of the Form 3 filing;
- (d) Not later than the fourteenth day after any request by the Board or by the Director of the Division of Registration and Inspections for any of the documents described in subparagraphs (2) – (4) of paragraph (c) of this Rule, file an amended report on Form 2 or Form 3 including, as an exhibit to the amended report, the requested documents; and
- (e) Not later than the fourteenth day after any request by the Board for any of the information included in the document described in subparagraph (1) of paragraph (c) of this Rule, file an amended report on Form 2 or Form 3 including the requested information.

Note: Rule 2207(c)(1) does not require that the version of the form maintained by the firm include any affirmation required by Part IX of Form 2. If the firm withholds any such affirmation, however, the asserted legal conflict must be addressed in accordance with subparagraphs (2) – (4) of Rule 2207(c).

Note: Rule 2207(c)(1) does not require a firm to include on the form maintained by the firm any information (1) that the firm does not possess, and (2) as to which the firm asserts that the firm would violate non-U.S. law by requiring another person to provide the information to the firm. The asserted legal conflict that prevents the firm from requiring another person to provide the information to the firm, however, must be addressed in accordance with subparagraphs (2) - (4) of Rule 2207(c).

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Note: The "reasonable efforts" element of Rule 2207(c)(4) does not require a firm to renew efforts to seek consents or waivers from parties who have previously declined to provide consents or waivers with respect to disclosure of similar types of information and does not require a firm to seek consents or waivers from parties other than firm personnel and firm clients.

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**AMENDMENTS TO RULES 1001, 2107, 2300, 4000, AND 4003**

**SECTION 1. GENERAL PROVISIONS**

**Rule 1001. Definitions of Terms Employed in Rules.** *[Amended Rule – deletions indicated by strike-throughs]*

All provisions unchanged except for the following:

**(a)(vii) Audit Services**

The term "audit services" means –

- ~~(1) subject to paragraph (a)(vii)(2) of this Rule, professional services rendered for the audit of an issuer's annual financial statements, and (if applicable) for the reviews of an issuer's financial statements included in the issuer's quarterly reports.~~
- ~~(2) effective after December 15, 2003, professional services rendered for the audit of an issuer's annual financial statements, and (if applicable) for the reviews of an issuer's financial statements included in the issuer's quarterly reports or services that are normally provided by the accountant in connection with statutory and regulatory filings or engagements for those fiscal years.~~

**(n)(ii) Non-Audit Services**

The term "non-audit services" means –

- ~~(1) subject to paragraph (n)(ii)(2) of this Rule, services related to financial information systems design and implementation as defined in Rule 2-01(c)(4)(ii) of Regulation S-X, 17 C.F.R. 2-01(c)(4)(ii), and all other services, other than audit services or other accounting services.~~
- ~~(2) effective after December 15, 2003, all other services other than audit services, other accounting services, and tax services.~~

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### **(o)(i) Other Accounting Services**

The term "other accounting services" means –

- ~~(1) subject to paragraph (o)(i)(2) of this Rule, services that are normally provided by the public accounting firm that audits the issuer's financial statements in connection with statutory and regulatory filings or engagements and assurance and related services that are reasonably related to the performance of the audit or review of the issuer's financial statements, other than audit services.~~
- ~~(2) effective after December 15, 2003, assurance and related services that are reasonably related to the performance of the audit or review of the issuer's financial statements, other than audit services.~~

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**SECTION 2. REGISTRATION AND REPORTING**

**Rule 2107. Withdrawal from Registration** [Amended Rule – additions to existing rule indicated by underlining, deletions indicated by strike-throughs]

(a) and (b) unchanged

**(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;~~

(1) the firm 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;

(2i) the firm's obligation to file annual reports on Form 2, and special reports on Form 3 shall be suspended;

~~(ii) any annual fee assessed shall be zero;~~

~~(3iii) 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~~

(4iv) the firm's registration status shall be designated as "registered – withdrawal request pending," and the firm shall not publicly

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represent its registration status without specifying it as "registered – withdrawal request pending."

(d) and (e) unchanged.

**(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, and special 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) unchanged

\* \* \* \*

**Rule 2300. Public Availability of Information Submitted to the Board; Confidential Treatment Requests.** *[Amended Rule – additions to existing rule indicated by underlining, deletions indicated by strike-throughs]*

(a) Except as provided in paragraph (b) below =

(1) an application for registration will be publicly available as soon as practicable after the Board approves or disapproves such application; and

(2) all other forms filed pursuant to Part 1 or Part 2 of this Section of the Rules of the Board, and any amendments thereto, will be publicly available as soon as practicable after filing, except to the extent otherwise specified in the Board's rules or the instructions to the form.

(b) **Confidential Treatment Requests.**

(1) A public accounting firm may request confidential treatment of any information submitted to the Board in connection with its application for registration on Form 1, and may request confidential treatment of information on other forms filed pursuant to Part 1 or Part 2 of this Section

## RELEASE

of the Rules of the Board to the extent specified in the instructions to the form, provided that the information as to which confidential treatment is requested –

(4i) has not otherwise been publicly disclosed, and

(2ii) either (A) contains information reasonably identified by the public accounting firm as proprietary information, or (B) is protected from public disclosure by applicable laws related to the confidentiality of proprietary, personal, or other information.

(2) Failure to provide an exhibit that complies with the requirements of paragraph (c)(2) of this Rule constitutes sufficient grounds for denial of any request for confidential treatment.

### (c) Application Procedures.

To request confidential treatment of information for which such requests are permitted by paragraph (b)(1) of this Rule~~submitted to the Board in connection with an application for registration, the applicant~~requestor must –

(1) identify, in accordance with the instructions ~~on Form 1~~ to the form, the information that it desires to keep confidential; and

(2) include as an exhibit to ~~Form 1 a detailed explanation as to why, based on the facts and circumstances of the particular case, the information meets the requirements of paragraph (b) of this Rule.~~the form a representation that, to the requestor's knowledge, the information for which confidential treatment is requested has not otherwise been publicly disclosed and –

(i) a detailed explanation of the grounds on which the information is considered proprietary; or

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(ii) a detailed explanation of the basis for asserting that the information is protected by law from public disclosure and a copy of the specific provision of law that the requestor claims protects the information from public disclosure.

**(d)** and **(e)** unchanged

**(f)** Unless the ~~applicant~~ requestor requests otherwise, the exhibit containing an explanation supporting a confidential treatment request will be afforded confidential treatment without the need for a request for confidential treatment.

**(g)** Information as to which the Board grants confidential treatment under this ~~r~~Rule will not be made available to the public by the Board. The granting of confidential treatment will not, however, limit the ability of the Board (1) to provide the information as to which confidential treatment was granted to the Commission, or (2) to comply with any subpoena validly issued by a court or other body of competent jurisdiction. In the event the Board receives such a subpoena, the Board will notify the ~~applicant~~ public accounting firm of such subpoena, to the extent permitted by law, to allow the ~~applicant~~ public accounting firm the opportunity to object to such subpoena.

**(h)** unchanged

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**SECTION 4. INSPECTIONS**

**Rule 4000. General** [Amended Rule – additions to existing rule indicated by underlining]

(a) Every registered public accounting firm shall be subject to all such regular and special inspections as the Board may from time-to-time conduct in order to assess the degree of compliance of each registered public accounting firm and associated persons of that firm with the Act, the Board's rules, the rules of the Commission, and professional standards, in connection with its performance of audits, issuance of audit reports, and related matters involving issuers.

(b) In furtherance of the Board's inspection process, the Board may at any time request that a registered public accounting firm provide to the Board additional information or documents relating to information provided by the firm in any report filed pursuant to Section 2 of these Rules, or relating to information that has otherwise come to the Board's attention. Any request for information or documents made pursuant to this Rule, and any information or documents provided in response to such a request, shall be considered to be in connection with the next regular or special inspection of the registered public accounting firm.

(c) Inspection steps and procedures shall be performed by the staff of the Division of Registration and Inspections, and by such other persons as the Board may authorize to participate in particular inspections or categories of inspections.

\* \* \* \*

**Rule 4003. Frequency of Inspections** [Amended Rule – additions to existing rule indicated by underlining, deletions indicated by strike-throughs]

(a) and (b) unchanged.

(c) With respect to a registered public accounting firm that has filed a completed Form 1-WD under Rule 2107, the Board shall have the discretion to forego any regular inspection that would otherwise commence during the period beginning on the ~~fifth day following the filing of the~~ date of Board receipt of a completed Form 1-WD and

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continuing until the firm's registration is deemed withdrawn or the firm withdraws the Form 1-WD.

(d) unchanged

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### FORM 2 – ANNUAL REPORT FORM

#### GENERAL INSTRUCTIONS

1. Submission of this Report. A *registered public accounting firm* must use this Form to file with the *Board* the annual report required by Section 102(d) of the *Act* and Rule 2200 and to file any amendments to an annual report. Unless otherwise directed by the *Board*, the Firm must file this Form, and all exhibits to this Form, electronically with the *Board* through the *Board's* Web-based system.
2. Defined Terms. 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*. In addition, as used in the instructions to this Form, the term "the Firm" means the *registered public accounting firm* that is filing this Form with the *Board*.
3. When Report is Considered Filed. Annual reports on this Form are required to be filed each year on or before June 30, subject to the qualification in Rule 2201 concerning any firm that has its application for registration approved by the *Board* in the period between and including April 1 and June 30. An annual report is considered filed when the Firm has submitted to the *Board* a Form 2 in accordance with Rule 2200 that includes the signed certification required in Part X of Form 2.
4. Period Covered by this Report. Annual reports on this Form shall cover a 12-month period from April 1 to March 31, subject to the qualification in Part VIII of Form 2 relating to the first annual report filed by a firm that becomes registered after **[insert effective date of Rule 2201]**. In the instructions to this Form, this is the period referred to as the "reporting period."
5. Amendments to this Report. Amendments shall not be filed to update information in a filed Form 2 that was correct at the time the Form was filed, but only to correct information that was incorrect at the time the Form was filed or to provide information that was omitted from the Form and was required to be provided at the time the Form was filed. When filing a Form 2 to amend an earlier filed Form 2, the Firm must supply not only the corrected or supplemental information, but must include in the amended Form 2 all information, affirmations, and certifications that were required to be included in the original Form 2. The Firm may access the originally filed Form 2 through the *Board's* Web-based

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system and make the appropriate amendments without needing to re-enter all other information.

Note: The *Board* will designate an amendment to an annual report as a report on "Form 2/A."

6. Rules Governing this Report. In addition to these instructions, the *rules* contained in Part 2 of Section 2 of the *Board's rules* govern this Form. Please read these *rules* and the instructions carefully before completing this Form.
7. Requests for Confidential Treatment. The Firm may, by marking the Form in accordance with the instructions provided, request confidential treatment of any information submitted in Part VI, Part VII, or Exhibit 99.3 of this Form that has not otherwise been publicly disclosed and that either contains information reasonably identified by the Firm as proprietary information or that is protected from public disclosure by applicable laws related to confidentiality of proprietary, personal, or other information. See Rule 2300. *Foreign registered public accounting firms* may also request confidential treatment for Item 3.2 and Exhibit 3.2, though U.S. firms may not do so. If the Firm requests confidential treatment, it must identify the information in Part VI, Part VII, or Exhibit 99.3 (or, for a *foreign registered public accounting firm*, Item 3.2 and Exhibit 3.2) that it desires to keep confidential, and include, as Exhibit 99.1 to this Form, an exhibit that complies with the requirements of Rule 2300(c)(2). The *Board* will determine whether to grant confidential treatment requests on a case-by-case basis. If the Firm fails to include Exhibit 99.1, or includes an Exhibit 99.1 that fails to comply with Rule 2300(c)(2), the request for confidential treatment may be denied solely on the basis of that failure.
8. Assertions of Conflicts with Non-U.S. Law. If the Firm is a *foreign registered public accounting firm*, the Firm may, unless otherwise directed by the *Board* pursuant to Rule 2207(e), decline to provide certain information and affirmations required by this Form if the Firm could not provide such information or affirmations without violating non-U.S. law and the Firm proceeds in accordance with Rule 2207. The Firm may withhold responsive information and affirmations on that basis from any Part of the Form other than Parts I, II, and X and Items 3.1.a, 3.1.b, 3.1.d, and 4.1. If the firm withholds responsive information or affirmations, the Firm must indicate, in accordance with the instructions in the relevant Part of the Form, the particular Items with respect to which the Firm has

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withheld responsive information or a required affirmation. The Firm may not use the Form to make any general assertion that a particular requirement may conflict with non-U.S. law, but only to indicate that, on the basis of an asserted conflict, the Firm has in fact withheld from this Form required information or a required affirmation.

9. Language. Information submitted as part of this Form, including any exhibit to this Form, must be in the English language.

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### PART I – IDENTITY OF THE FIRM AND CONTACT PERSONS

**In Part I, the Firm should provide information that is current as of the date of the certification in Part X.**

#### Item 1.1 Name of the Firm

- a. State the legal name of the Firm.
- b. If different than its legal name, state the name or names under which the Firm issues *audit reports*, or issued any *audit report* during the reporting period.
- c. If the Firm's legal name at the beginning of the reporting period was different than the name provided under Item 1.1.a, state that legal name and any other legal name the Firm had during the reporting period. Include the legal name of any *registered public accounting firm* that merged into, or was acquired by, the Firm during the reporting period.

#### Item 1.2 Contact Information of the Firm

- a. State the physical address (and, if different, mailing address) of the Firm's headquarters office.
- b. State the telephone number and facsimile number of the Firm's headquarters office. If available, state the Website address of the Firm.

#### Item 1.3 Primary Contact with the *Board*

State the name, business title, physical business address (and, if different, business mailing address), business telephone number, business facsimile number, and business e-mail address of a partner or authorized officer of the Firm who will serve as the Firm's primary contact with the *Board*, including for purposes of the annual report filed on this Form and any special reports filed on Form 3.

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### PART II – GENERAL INFORMATION CONCERNING THIS REPORT

#### Item 2.1 Reporting Period

State the reporting period covered by this report.

Note: The reporting period, which the Firm should enter in Item 2.1, is the period beginning on April 1 of the year before the year in which the annual report is required to be filed and ending March 31 of the year in which the annual report is required to be filed. That is the period referred to where this Form refers to the "reporting period." Note, however, the special instruction at the beginning of Part VIII concerning the first annual report filed by certain firms.

#### Item 2.2 Amendments

If this is an amendment to a report previously filed with the *Board* –

- a. Indicate, by checking the box corresponding to this item, that this is an amendment.
- b. Identify the specific Item numbers of this Form (other than this Item 2.2) as to which the Firm's response has changed from that provided in the most recent Form 2 or amended Form 2 filed by the Firm with respect to the reporting period.

### PART III – GENERAL INFORMATION CONCERNING THE FIRM

#### Item 3.1 The Firm's Practice Related to the Registration Requirement

- a. Indicate whether the Firm issued any *audit report* with respect to an *issuer* during the reporting period.
- b. In the event of an affirmative response to Item 3.1.a, indicate whether the *issuers* with respect to which the Firm issued *audit reports* during the reporting period were limited to employee benefit plans that file reports with the *Commission* on Form 11-K.
- c. In the event of a negative response to Item 3.1.a, indicate whether the Firm *played a substantial role in the preparation or furnishing of an audit report* with respect to an *issuer* during the reporting period.

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d. In the event of a negative response to both Items 3.1.a and 3.1.c, indicate whether, during the reporting period, the Firm issued any document with respect to financial statements of a non-*issuer* broker-dealer in which the Firm either set forth an opinion on the financial statements or asserted that no such opinion can be expressed.

### Item 3.2 Fees Billed to *Issuer Audit* Clients

a. Of the total fees billed by the Firm to all clients for services that were rendered in the reporting period, state the percentage (which may be rounded, but no less specifically than to the nearest five percent) attributable to fees billed to *issuer audit* clients for—

1. *Audit services*;
2. *Other accounting services*;
3. *Tax services*; and
4. *Non-audit services*.

b. Indicate, by checking the appropriate box, which of the following two methods the Firm used to calculate the percentages reported in Item 3.2.a —

1. The Firm used as a denominator the total fees billed to all clients for services rendered during the reporting period and used as numerators (for each of the four categories) total fees billed to *issuer audit* clients for the relevant services rendered during the reporting period.
2. The Firm used as a denominator the total fees billed to all clients in the Firm's fiscal year that ended during the reporting period and used as numerators (for each of the four categories) total *issuer audit* client fees as determined by reference to the fee amounts disclosed to the *Commission* by those clients for each client's fiscal year that ended during the reporting period (including, for clients who have not made the required *Commission* filings, the fee amounts required to be disclosed).

c. If the Firm has used a reasonable method to estimate the components of the calculations described in Item 3.2.b, rather than using the specific data, check this box and attach Exhibit 3.2 briefly describing the reasons for doing so and the methodology used in making those estimates.

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Note: In responding to Item 3.2, careful attention should be paid to the definitions of the italicized terms, which are found in *Board Rules* 1001(i)(iii) (*issuer*), 1001(a)(v) (*audit*), 1001(a)(vii) (*audit services*), 1001(o)(i) (*other accounting services*), 1001(t)(i) (*tax services*), and 1001(n)(ii) (*non-audit services*). The definitions of the four categories of services correspond to the *Commission's* descriptions of the services for which an *issuer* must disclose fees paid to its auditor. Compare the descriptions of services in Item 9(e) of *Commission* Schedule 14A (17 C.F.R. § 240.14a-101) under the headings "Audit Fees," "Audit-Related Fees," "Tax Fees," and "All Other Fees" with, respectively, the *Board's* definitions of *Audit Services*, *Other Accounting Services*, *Tax Services*, and *Non-Audit Services*.

### PART IV – AUDIT CLIENTS AND AUDIT REPORTS

#### Item 4.1 *Audit Reports* Issued by the Firm

a. Provide the following information concerning each *issuer* for which the Firm issued any *audit report(s)* during the reporting period –

1. The *issuer's* name;
2. The *issuer's* CIK number, if any; and
3. The date(s) of the *audit report(s)*.

b. If the Firm identified any *issuers* in response to Item 4.1.a., indicate, by checking the box corresponding to the appropriate range set out below, the total number of Firm personnel who exercised the authority to sign the Firm's name to an *audit report* during the reporting period. If the Firm checks the box indicating that the number is in the range of 1-9, provide the exact number.

- 1-9
- 10-25
- 26-50
- 51-100
- 101-200
- More than 200

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Note: In responding to Item 4.1, careful attention should be paid to the definition of *audit report*, which is found in Rule 1001(a)(vi) of the *Board's Rules*, and which does not encompass reports prepared for entities that are not *issuers*, as that term is defined in Rule 1001(i)(iii). Careful attention should also be paid to the definition of *issuer*. The Firm should not, for example, overlook the fact that investment companies may be issuers, or that employee benefit plans that file reports on *Commission Form 11-K* are *issuers*.

Note: In responding to Item 4.1, do not list any *issuer* more than once. For each *issuer*, provide in Item 4.1.a.3 the *audit report* dates (as described in AU 530, *Dating of the Independent Auditor's Report*) of all such *audit reports* for that *issuer*, including each date of any dual-dated *audit report*.

Note: In responding to Item 4.1.a.3, it is not necessary to provide the date of any consent to an *issuer's* use of an *audit report* previously issued for that *issuer*, except that, if such consents constitute the only instances of the Firm issuing *audit reports* for a particular *issuer* during the reporting period, the Firm should include that *issuer* in Item 4.1 and include the dates of such consents in Item 4.1.a.3.

### Item 4.2 *Audit Reports With Respect to Which the Firm Played a Substantial Role during the Reporting Period*

a. If no *issuers* are identified in response to Item 4.1.a, but the Firm *played a substantial role in the preparation or furnishing of an audit report* that was issued during the reporting period, provide the following information concerning each *issuer* with respect to which the Firm did so –

1. The *issuer's* name;
2. The *issuer's* CIK number, if any;
3. The name of the *registered public accounting firm* that issued the *audit report(s)*;
4. The end date(s) of the fiscal period(s) covered by the financial statements that were the subject of the *audit report(s)*; and
5. A description of the substantial role played by the Firm with respect to the *audit report(s)*.

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Note: If the Firm identifies any *issuer* in response to Item 4.1, the Firm need not respond to Item 4.2.

Note: In responding to Item 4.2, do not list any *issuer* more than once.

## PART V – OFFICES AND AFFILIATIONS

**In Part V, the Firm should provide information that is current as of the last day of the reporting period.**

### Item 5.1 Firm's Offices

List the physical address and, if different, the mailing address, of each of the Firm's offices.

### Item 5.2 *Audit*-related Memberships, Affiliations, or Similar Arrangements

a. State whether the Firm has any:

1. Membership or affiliation in or with any network, arrangement, alliance, partnership or association that licenses or authorizes *audit* procedures or manuals or related materials, or the use of a name in connection with the provision of *audit services* or accounting services;
2. Membership or affiliation in or with any network, arrangement, alliance, partnership or association that markets or sells *audit services* or through which joint *audits* are conducted; or
3. Arrangement, whether by contract or otherwise, with another entity through or from which the Firm employs or leases personnel to perform *audit services*.

b. If the Firm provides an affirmative response to Item 5.2.a, identify, by name and address, the entity with which the Firm has each such relationship, and provide a brief description of each such relationship.

Note: Item 5.2.b does not require information concerning every other entity that is

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part of the network, arrangement, alliance, partnership or association, but only information concerning the network, arrangement, alliance, partnership, or association itself, or the principal entity through which it operates.

## PART VI – PERSONNEL

**In Part VI, the Firm should provide information that is current as of the last day of the reporting period.**

### Item 6.1 Number of Firm Personnel

Provide the following numerical totals –

- a. Total number of the Firm's *accountants*;
- b. Total number of the Firm's certified public accountants (include in this number all *accountants* employed by the Firm with comparable licenses from non-U.S. jurisdictions); and
- c. Total number of the Firm's personnel.

## PART VII – CERTAIN RELATIONSHIPS

### Item 7.1 Individuals with Certain Disciplinary or Other Histories

- a. Other than a relationship required to be reported in Item 4.1 of Form 3, and only if the Firm has not previously identified the individual and the sanction or *Commission* order on Form 1, Form 2, or Form 3, state whether, as of the end of the reporting period, the Firm has any employee, partner, shareholder, principal, member, or owner who was the subject of a *Board* disciplinary sanction or a *Commission* order under Rule 102(e) of the *Commission's* Rules of Practice, entered within the five years preceding the end of the reporting period and without that sanction or order having been vacated on review or appeal, and who provided at least ten hours of *audit services* for any *issuer* during the reporting period.

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b. If the Firm provides an affirmative response to Item 7.1.a, provide –

1. The name of each such individual;
2. A description of the nature of the relationship;
3. The date that the Firm entered into the relationship; and
4. The date of the relevant order and an indication whether it was a *Board* order or a *Commission* order.

### Item 7.2 Entities with Certain Disciplinary or Other Histories

a. Other than a relationship required to be reported in Item 4.2 of Form 3, and only if the Firm has not previously reported the information on Form 1, Form 2, or Form 3, state whether, as of the end of the reporting period, the Firm was owned or partly owned by an entity that was the subject of (a) a *Board* disciplinary sanction entered within the five years preceding the end of the reporting period, which has not been vacated on review or appeal, suspending or revoking that entity's registration or disapproving that entity's application for registration, or (b) a *Commission* order under Rule 102(e) of the *Commission's* Rules of Practice entered within the five years preceding the end of the reporting period, which has not been vacated on appeal, suspending or denying the privilege of appearing or practicing before the *Commission*.

b. If the Firm provides an affirmative response to Item 7.2.a, provide –

1. The name of each such entity;
2. A description of the nature of the relationship;
3. The date that the Firm entered into the relationship; and
4. The date of the relevant order and an indication whether it was a *Board* order or a *Commission* order.

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### Item 7.3 Certain Arrangements to Receive Consulting or Other Professional Services

a. Other than a relationship required to be reported in Item 4.3 of Form 3, state whether the Firm received, or entered into a contractual or other arrangement to receive, from any individual or entity meeting the criteria described in Items 7.1.a. or 7.2.a, consulting or other professional services related to the Firm's *audit* practice or related to services the Firm provides to *issuer audit* clients.

b. If the Firm provides an affirmative response to Item 7.3.a, provide –

1. The name of each such individual or entity;
2. A description of the nature of the relationship;
3. The date that the Firm entered into the relationship;
4. A description of the services provided or to be provided to the Firm by the individual or entity; and
5. The date of the relevant order and an indication whether it was a *Board* order or a *Commission* order.

## **PART VIII – ACQUISITION OF ANOTHER *PUBLIC ACCOUNTING FIRM* OR SUBSTANTIAL PORTIONS OF ANOTHER *PUBLIC ACCOUNTING FIRMS* PERSONNEL**

**If the Firm became registered on or after [effective date of Rule 2201], the first annual report that the Firm files must provide this information for the period running from the date used by the Firm for purposes of General Instruction 9 of Form 1 (regardless of whether that date was before or after the beginning of the reporting period) through March 31 of the year in which the annual report is required to be filed.**

### Item 8.1 Acquisition of Another *Public Accounting Firm* or Substantial Portions of Another *Public Accounting Firm's* Personnel

a. State whether the Firm acquired another *public accounting firm*.

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- b. If the Firm provides an affirmative response to Item 8.1.a, provide the name(s) of the *public accounting firm(s)* that the Firm acquired.
- c. State whether the Firm, without acquiring another *public accounting firm*, took on as employees, partners, shareholders, principals, members, or owners 75% or more of the persons who, as of the beginning of the reporting period, were the partners, shareholders, principals, members, or owners of another *public accounting firm*.
- d. If the Firm provides an affirmative response to Item 8.1.c, provide the name of the other *public accounting firm* and the number of the other *public accounting firm's* former partners, shareholders, principals, members, owners, and *accountants* that joined the Firm.

## PART IX – AFFIRMATION OF CONSENT

### Item 9.1 Affirmation of Understanding of, and Compliance with, Consent Requirements

Whether or not the Firm, in applying for registration with the *Board*, provided the signed statement required by Item 8.1 of Form 1, affirm that –

- a. The Firm has consented to cooperate in and comply with any request for testimony or the production of documents made by the *Board* in furtherance of its authority and responsibilities under the Sarbanes-Oxley Act of 2002;
- b. The Firm has secured from each of its *associated persons*, and agrees to enforce as a condition of each such person's continued employment by or other association with the Firm, a consent indicating that the *associated person* consents to cooperate in and comply with any request for testimony or the production of documents made by the *Board* in furtherance of its authority under the Sarbanes-Oxley Act of 2002, and that the *associated person* understands and agrees that such consent is a condition of his or her continued employment by or other association with the Firm; and
- c. The Firm understands and agrees that cooperation and compliance, as described in Item 9.1.a, and the securing and enforcing of consents from its *associated persons* as described in Item 9.1.b, is a condition to the continuing effectiveness of the registration of the Firm with the *Board*.

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Note 1: The affirmation in Item 9.1.b shall not be understood to include an affirmation that the Firm has secured such consents from any *associated person* that is a *registered public accounting firm*.

Note 2: The affirmation in Item 9.1.b shall not be understood to include an affirmation that the Firm has secured such consents from any *associated person* that is a *foreign public accounting firm* in circumstances where that *associated person* asserts that non-U.S. law prohibits it from providing the consent, so long as the Firm possesses in its files documents relating to the *associated person's* assertion about non-U.S. law that would be sufficient to satisfy the requirements of subparagraphs (2) through (4) of Rule 2207(c) if that *associated person* were a *registered public accounting firm* filing a Form 2 and withholding this affirmation. This exception to the affirmation in Item 9.1.b does not relieve the Firm of its obligation to enforce cooperation and compliance with *Board* demands by any such *associated person* as a condition of continued association with the Firm.

Note 3: If the Firm is a *foreign registered public accounting firm*, the affirmations in Item 9.1 that relate to *associated persons* shall be understood to encompass every *accountant* who is a proprietor, partner, principal, shareholder, officer, or *audit* manager of the Firm and who provided at least ten hours of *audit services* for any *issuer* during the reporting period.

## PART X – CERTIFICATION OF THE FIRM

### Item 10.1 Signature of Partner or Authorized Officer

This Form must be signed on behalf of the Firm by an authorized partner or officer of the Firm including, in accordance with Rule 2204, both a signature that appears in typed form within the electronic submission and a corresponding manual signature retained by the Firm. The signer must certify that –

- a. the signer is authorized to sign this Form on behalf of the Firm;
- b. the signer has reviewed this Form;
- c. based on the signer's knowledge, the Firm has filed a special report on Form 3 with respect to each event that occurred before the end of the reporting period and for which

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a special report on Form 3 is required under the *Board's rules*;

d. based on the signer's knowledge, this Form does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading; and

e. either –

1. based on the signer's knowledge, the Firm has not failed to include in this Form any information or affirmation that is required by the instructions to this Form, or

2. based on the signer's knowledge –

(A) the Firm is a *foreign registered public accounting firm* and has not failed to include in this Form any information or affirmation that is required by the instructions to this Form except for information or affirmations that the Firm asserts it cannot provide to the *Board* on this Form 2 without violating non-U.S. law;

(B) with respect to any such withheld information or affirmation, the Firm has satisfied the requirements of PCAOB Rule 2207(b) and has in its possession the materials required by PCAOB Rule 2207(c); and

(C) the Firm has indicated, in accordance with the instructions to this Form, each Item of this Form with respect to which the Firm has withheld any required information or affirmation.

The signature must be accompanied by the signer's title, the capacity in which the signer signed the Form, the date of signature, and the signer's business mailing address, business telephone number, business facsimile number, and business e-mail address.

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**PART XI – EXHIBITS**

To the extent applicable under the foregoing instructions or the *Board's rules*, each annual report must be accompanied by the following exhibits:

- Exhibit 3.2 Description of Methodology Used to Estimate Components of Calculation in Item 3.2 and Reasons for Using Estimates
- Exhibit 99.1 Request for Confidential Treatment
- Exhibit 99.3 Materials Required by Rule 2207(c)(2)–(4) – *Submit Only as an Exhibit to an Amended Form 2 in Response to a Request Made Pursuant to Rule 2207(d)*

## RELEASE

### FORM 3 – SPECIAL REPORT FORM

#### GENERAL INSTRUCTIONS

1. Submission of this Report. Effective **[insert effective date of Rule 2203]**, a *registered public accounting firm* must use this Form to file special reports with the *Board* pursuant to Section 102(d) of the *Act* and Rule 2203 and to file any amendments to a special report. Unless otherwise directed by the *Board*, the Firm must file this Form, and all exhibits to this Form, electronically with the *Board* through the *Board's* Web-based system.
2. Defined Terms. 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*. In addition, as used in the instructions to this Form, the term "the Firm" means the *registered public accounting firm* that is filing this Form with the *Board*.
3. When this Report is Required and When It is Considered Filed. Upon the occurrence of any event specified in Part II of this Form, the Firm must report the event on this Form by following the instructions to this Form. With respect to events that occur on or after **[insert effective date of Rule 2203]** and while the Firm is registered, the Firm must file the Form no later than thirty days after the occurrence of the event reported. Certain additional requirements apply, but they vary depending on whether a firm was registered as of **[insert effective date of Rule 2203]**. A firm that becomes registered after **[insert effective date of Rule 2203]**, must, within thirty days of receiving notice of *Board* approval of its registration application, file this Form to report any reportable events that occurred in a specified period before approval of the firm's application for registration. See Rule 2203(a)(2). A firm that was registered as of **[insert effective date of Rule 2203]**, must, by **[insert date 30 days after effective date of Rule 2203]**, file this Form to report certain additional information that is current as of **[insert effective date of Rule 2203]**. See Rule 2203(a)(3) and General Instruction No. 4 below. A special report shall be deemed to be filed on the date that the Firm submits a Form 3 in accordance with Rule 2203 that includes the signed certification required in Part VIII of Form 3.
4. Required Filing to Bring Current Certain Information for Firms Registered as of **[insert effective date of Rule 2203]**. If the Firm is registered as of **[insert effective date of Rule 2203]**, the Firm must file a special report on this Form no

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later than **[insert date 30 days after effective date of Rule 2203]**, to report the information specified below, to the extent that it has not been reported on the Firm's Form 1 filing. The Firm must make this Form 3 filing to report the following information even if the Firm has previously informally disclosed the information to the *Board* or its staff—

- a. Information responsive to Items 2.4 through 2.9 and Item 4.1 if (1) the proceeding is pending as of **[insert effective date of Rule 2203]**, and (2) the defendants or respondents as of that date include either the Firm or a person who is a partner, shareholder, principal, owner, member, or *audit* manager of the Firm as of that date;
- b. Information responsive to Items 2.10 and 4.2 if (1) the conclusion of a proceeding as to any party specified there occurred after the date used by the firm for purposes of General Instruction 9 to Form 1 and before **[insert effective date of Rule 2203]**, and (2) the proceeding resulted in any conviction of, judgment against, imposition of any liability or sanction on, or *Commission* Rule 102(e) order against the Firm or any person who is a partner, shareholder, principal, owner, member, or *audit* manager of the Firm as of **[insert effective date of Rule 2203]**;
- c. Information responsive to Items 2.11 and 4.3 if the Firm is the subject of a petition or proceeding described there as of **[insert effective date of Rule 2203]**;
- d. Information responsive to Items 2.12 through 2.14 and Part V if (1) the relationship commenced after the date used by the firm for purposes of General Instruction 9 to Form 1, (2) the specified disciplinary sanction or *Commission* Rule 102(e) order continued to be in effect as of **[insert effective date of Rule 2203]**, and (3) the specified relationship continues to exist as of **[insert effective date of Rule 2203]**;
- e. Information responsive to Items 2.15 and 6.1 if (1) the loss of authorization relates to a jurisdiction or authority identified in Item 1.7 of the Firm's Form 1 and, (2) as of **[insert effective date of Rule 2203]**, the Firm continues to lack the specified authorization in that jurisdiction;

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f. Information responsive to Items 2.16 and 6.2 if the license or certification is in effect as of **[insert effective date of Rule 2203]**; and

g. Information responsive to Items 2.17 and 2.18 and Part VII that is current as of **[insert effective date of Rule 2203]** to the extent that it differs from the corresponding information provided on the Firm's Form 1.

5. Completing the Form. A firm filing this Form must always complete Parts I, II, and VIII of this Form. Parts III through VII should be completed to the extent applicable, as described more fully in the instructions to Part II of the Form.

6. Amendments to this Report. Amendments shall not be filed to update information in a filed Form 3 that was correct at the time the Form was filed, but only to correct information that was incorrect at the time the Form was filed or to provide information that was omitted from the Form and was required to be provided at the time the Form was filed. When filing a Form 3 to amend an earlier filed Form 3, the Firm must supply not only the corrected or supplemental information, but must include in the amended Form 3 all information, affirmations, and certifications that were required to be included in the original Form 3. The Firm may access the originally filed Form 3 through the *Board's* Web-based system and make the appropriate amendments without needing to re-enter all other information.

Note: The *Board* will designate an amendment to a special report as a report on "Form 3/A."

7. Rules Governing this Report. In addition to these instructions, the *rules* contained in Part 2 of Section 2 of the *Board's rules* govern this Form. Please read these *rules* and the instructions carefully before completing this Form.

8. Requests for Confidential Treatment. The Firm may, by marking the Form in accordance with the instructions provided, request confidential treatment of any information submitted in Item 3.1.c, Part IV, Part V, Item 6.1.d, Item 7.1.d, or Exhibit 99.3 of this Form that has not otherwise been publicly disclosed and that either contains information reasonably identified by the Firm as proprietary information or that is protected from public disclosure by applicable laws related to confidentiality of proprietary, personal, or other information. See Rule 2300. If the Firm requests confidential treatment, it must identify the information in Item

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- 3.1.c, Part IV, Part V, Item 6.1.d, Item 7.1.d, or Exhibit 99.3 that it desires to keep confidential, and include, as Exhibit 99.1 to this Form, an exhibit that complies with the requirements of Rule 2300(c)(2). The *Board* will determine whether to grant confidential treatment requests on a case-by-case basis. If the Firm fails to include Exhibit 99.1, or includes an Exhibit 99.1 that fails to comply with Rule 2300(c)(2), the request for confidential treatment may be denied solely on the basis of that failure.
9. Assertions of Conflicts with Non-U.S. Law. If the Firm is a *foreign registered public accounting firm*, the Firm may, unless otherwise directed by the *Board* pursuant to Rule 2207(e), decline to provide certain information required by this Form if the Firm could not provide such information without violating non-U.S. law and the Firm proceeds in accordance with Rule 2207. The Firm may withhold responsive information on that basis from any Part of the Form other than Parts I, II, and VIII, and Items 7.1.a, 7.1.b, 7.1.c, and 7.2. If the firm withholds responsive information, the Firm must indicate, in accordance with the instructions in the relevant Part of the Form, the particular Items with respect to which the Firm has withheld responsive information. The Firm may not use the Form to make any general assertion that a particular requirement may conflict with non-U.S. law, but only to indicate that, on the basis of an asserted conflict, the Firm has in fact withheld from this Form required information.
10. Language. Information submitted as part of this Form, including any exhibit to this Form, must be in the English language.

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### PART I – IDENTITY OF THE FIRM

#### Item 1.1 Name of Firm

a. State the legal name of the Firm.

Note: If the Firm is filing this Form 3 to report that the Firm's legal name has changed, the name entered in Item 1.1.a should be the Firm's legal name before the name change that is being reported. The Firm's new name should be included in the response to Item 1.1.c.

b. If different than its legal name, state the name or names under which the Firm issues *audit reports*.

c. If the Firm is filing this Form 3 to report that the Firm's legal name has changed, state the new legal name of the Firm.

### PART II – REASON FOR FILING THIS REPORT

Indicate, by checking the relevant box(es) from among Items 2.1 through 2.18 below, the event(s) being reported on this Form. More than one event may be reported in the same Form 3 filing. For each event indicated below, proceed to the Parts and Items of this Form indicated parenthetically for the specific event being reported and provide the information therein described. Provide responses only to those Parts and Items of the Form specifically indicated for the event or events that the Firm identifies in this Part II as an event being reported on this Form. (For example, if the Form is being filed solely to report that the Firm has changed its name, check the box for Item 2.17 in this Part of the Form, and complete only Item 7.1 and Part VIII of the Form.) If the Firm is filing this Form to amend a previous filing, the Firm also should complete Item 2.19.

Note: In Items 2.4 through 2.11 and Item 2.15, the reportable event is described in terms of whether the Firm "has become aware" of certain facts. For these purposes, the Firm is deemed to have become aware of the relevant facts on the date that any partner, shareholder, principal, owner, or member of the Firm first becomes aware of the facts.

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### **Audit Reports**

- Item 2.1 The Firm has withdrawn an *audit report* on financial statements, or withdrawn its consent to the use of its name in a report, document, or written communication containing an *issuer's* financial statements, and the *issuer* has failed to comply with a *Commission* requirement to make a report concerning the matter pursuant to Item 4.02 of *Commission* Form 8-K. (Complete Item 3.1 and Part VIII.)
- Item 2.2 The Firm has issued *audit reports* with respect to more than 100 *issuers* in a calendar year immediately following a calendar year in which the Firm did not issue *audit reports* with respect to more than 100 *issuers*. (Complete Part VIII.)
- Item 2.3 The Firm has issued *audit reports* with respect to 100 or fewer *issuers* in a completed calendar year immediately following a calendar year in which the Firm issued *audit reports* with respect to more than 100 *issuers*. (Complete Part VIII.)

### **Certain Legal Proceedings**

- Item 2.4 The Firm has become aware that the Firm has become a defendant in a criminal proceeding prosecuted by a governmental criminal law enforcement authority. (Complete Item 4.1 and Part VIII.)
- Item 2.5 The Firm has become aware that, in a matter arising out of his or her conduct in the course of providing *audit services* or *other accounting services* to an *issuer*, a partner, shareholder, principal, owner, member, or *audit* manager of the Firm has become a defendant in a criminal proceeding prosecuted by a governmental criminal law enforcement authority. (Complete Item 4.1 and Part VIII.)
- Item 2.6 The Firm has become aware that a partner, shareholder, principal, owner, member, or *audit* manager of the Firm who provided at least ten hours of *audit services* for any *issuer* during the Firm's current fiscal year or its most recently completed fiscal year has become a defendant in a criminal proceeding prosecuted by a governmental criminal law enforcement

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authority and is charged with fraud, embezzlement, forgery, extortion, bribery, obstruction of justice, perjury, or false statements; or charged with any crime arising out of alleged conduct relating to accounting, auditing, securities, banking, commodities, taxation, consumer protection, or insurance. (Complete Item 4.1 and Part VIII.)

- Item 2.7 The Firm has become aware that, in a matter arising out of the Firm's conduct in the course of providing professional services for a client, the Firm has become a defendant or respondent in a civil or alternative dispute resolution proceeding initiated by a governmental entity or in an administrative or disciplinary proceeding other than a *Board* disciplinary proceeding. (Complete Item 4.1 and Part VIII.)
- Item 2.8 The Firm has become aware that, in a matter arising out of his or her conduct in the course of providing *audit services* or *other accounting services* to an *issuer*, a partner, shareholder, principal, owner, member, or *audit* manager of the Firm has become a defendant or respondent in a civil or alternative dispute resolution proceeding initiated by a governmental entity or in an administrative or disciplinary proceeding other than a *Board* disciplinary proceeding. (Complete Item 4.1 and Part VIII.)
- Item 2.9 The Firm has become aware that, in a matter arising out of his or her conduct in the course of providing professional services for a client, a partner, shareholder, principal, owner, member, or *audit* manager of the Firm who provided at least ten hours of *audit services* for any *issuer* during the Firm's current fiscal year or its most recently completed fiscal year has become a defendant or respondent in a civil or alternative dispute resolution proceeding initiated by a governmental entity or in an administrative or disciplinary proceeding other than a *Board* disciplinary proceeding. (Complete Item 4.1 and Part VIII.)
- Item 2.10 The Firm has become aware that a proceeding meeting the criteria described in Items 2.4, 2.5, 2.6, 2.7, 2.8, or 2.9 above has been concluded as to the Firm or a partner, shareholder, principal, owner, member, or *audit* manager of the Firm (whether by dismissal, acceptance of pleas, through consents or settlement agreements, the entry of a final judgment, or otherwise). (Complete Item 4.2 and Part VIII.)

## **RELEASE**

Item 2.11 The Firm has become aware that the Firm, or the parent or a subsidiary of the Firm, has become the subject of a petition filed in a bankruptcy court, or has otherwise become the subject of a proceeding in which a court or governmental agency (or, in a non-U.S. jurisdiction, a person or entity performing a comparable function) has assumed jurisdiction over substantially all of the assets or business of the Firm or its parent or a subsidiary. (Complete Item 4.3 and Part VIII.)

### **Certain Relationships**

Item 2.12 The Firm has taken on as an employee, partner, shareholder, principal, or member, or has otherwise become owned or partly owned by, a person who is currently the subject of (a) a *Board* disciplinary sanction suspending or barring the person from being an *associated person of a registered public accounting firm* or (b) a *Commission* order under Rule 102(e) of the *Commission's* Rules of Practice suspending or denying the privilege of appearing or practicing before the *Commission*. (Complete Item 5.1 and Part VIII.)

Item 2.13 The Firm has become owned or partly owned by an entity that is currently the subject of (a) a *Board* disciplinary sanction suspending or revoking that entity's registration or disapproving that entity's application for registration, or (b) a *Commission* order under Rule 102(e) of the *Commission's* Rules of Practice suspending or denying the privilege of appearing or practicing before the *Commission*. (Complete Item 5.2 and Part VIII.)

Item 2.14 The Firm has entered into a contractual or other arrangement to receive consulting or other professional services from a person or entity meeting any of the criteria described in Items 2.12 or 2.13 above. (Complete Item 5.3 and Part VIII.)

### **Licenses and Certifications**

Item 2.15 The Firm has become aware that its authorization to engage in the business of auditing or accounting in a particular jurisdiction has ceased to be effective or has become subject to conditions or contingencies other than conditions or contingencies imposed on all firms engaged in the business of auditing or accounting in the jurisdiction. (Complete Item 6.1 and Part VIII.)

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Item 2.16 The Firm has obtained a license or certification authorizing the Firm to engage in the business of auditing or accounting and which has not been identified on any Form 1 or Form 3 previously filed by the Firm, or there has been a change in a license or certification number identified on a Form 1 or Form 3 previously filed by the Firm. (Complete Item 6.2 and Part VIII.)

### **Changes in the Firm or the Firm's Board Contact Person**

Item 2.17 The Firm has changed its legal name while otherwise remaining the same legal entity that it was before the name change. (Complete Item 7.1 and Part VIII.)

Item 2.18 There has been a change in the business mailing address, business telephone number, business facsimile number, or business e-mail of the person most recently designated by the Firm (on Form 2, Form 3, or Form 4) as the Firm's primary contact with the *Board*, or the Firm is designating a new person to serve as the primary contact. (Complete Item 7.2 and Part VIII.)

### **Amendment**

Item 2.19 Amendments

If this is an amendment to a report previously filed with the *Board* –

- a. Indicate, by checking the box corresponding to this item, that this is an amendment.
- b. Identify the specific Item numbers of this Form (other than this Item 2.19) as to which the Firm's response has changed from that provided in the most recent Form 3 or amended Form 3 filed by the Firm with respect to the events reported on this Form.

## **PART III – WITHDRAWN AUDIT REPORTS**

Item 3.1 Withdrawn *audit reports* and consents

If the Firm has withdrawn an *audit report* on financial statements, or withdrawn its consent to the use of its name in a report, document, or written communication

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containing an *issuer's* financial statements, and the *issuer* has failed to comply with a *Commission* requirement to make a report concerning the matter pursuant to Item 4.02 of *Commission* Form 8-K, provide –

- a. The *issuer's* name and CIK number, if any;
- b. The date(s) of the *audit report(s)* that the Firm has withdrawn, or to which the Firm's withdrawal of consent relates; and
- c. A description of the reason(s) the Firm has withdrawn the *audit report(s)* or the consent.

Note: The 30-day period in which the Firm must report the event does not begin to run unless and until the *issuer* fails to report on Form 8-K within the time required by the *Commission's* rules. The Firm must then report the event on Form 3 within 30 days of the expiration of the required Form 8-K filing deadline, unless, within that 30-day period, the *issuer* reports on a late-filed Form 8-K.

## PART IV – CERTAIN PROCEEDINGS

### Item 4.1 Criminal, Governmental, Administrative, or Disciplinary Proceedings

If the Firm has indicated in this Form 3 that any of the events described in Items 2.4, 2.5, 2.6, 2.7, 2.8 or 2.9 has occurred, provide the following information with respect to each such event –

- a. The name, filing date, and case or docket number of the proceeding, and the nature of the proceeding, *i.e.*, whether it is a criminal proceeding, a civil or alternative dispute resolution proceeding, or an administrative or disciplinary proceeding.
- b. The name of the court, tribunal, or body in or before which the proceeding was filed.
- c. An indication whether the Firm itself is a defendant or respondent in the proceeding and, if so, the statutes, rules, or legal duties that the firm is alleged to have violated, and a brief description of the firm's alleged conduct in violation of those statutes, rules, or legal duties.

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d. The names of every defendant or respondent who is a partner, shareholder, principal, owner, member, or *audit* manager of the Firm, or who was such either at the time the Firm received notice of the proceeding or at the time of the alleged conduct on which any claim or charge is based, and who provided at least ten hours of *audit services* for any *issuer* during the Firm's current fiscal year or its most recent fiscal year; and, as to each such defendant or respondent, the statutes, rules, or legal duties that he or she is alleged to have violated, and a brief description of his or her alleged conduct in violation of those statutes, rules, or legal duties.

e. The name of any client that was the recipient of the professional services to which any claim or charge in the proceeding relates.

Note: For the purpose of this Part, administrative or disciplinary proceedings include those of the *Commission*; any other federal, *state*, or non-U.S. agency, board, or administrative or licensing authority; and any professional association or body. Investigations that have not resulted in the commencement of a proceeding need not be included.

### Item 4.2 Concluded Criminal, Governmental, Administrative, or Disciplinary Proceedings

If any proceeding meeting the criteria described in Items 2.4, 2.5, 2.6, 2.7, 2.8 or 2.9, including any proceeding reported in Item 4.1, has been concluded as to the Firm or a partner, shareholder, principal, owner, member, or *audit* manager of the Firm (whether by dismissal, acceptance of pleas, through consents or settlement agreements, the entry of a final judgment, or otherwise), provide –

a. The name, filing date, and case or docket number of the proceeding, and the nature of the proceeding, *i.e.*, whether it is a criminal proceeding, a civil or alternative dispute resolution proceeding, or an administrative or disciplinary proceeding;

b. The name of the court, tribunal, or body in or before which the proceeding was filed; and

c. A brief description of the terms of the conclusion of the proceeding as to the Firm or partner, shareholder, principal, owner, member, or *audit* manager.

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### Item 4.3 Bankruptcy or Receivership

If the Firm, or the parent or a subsidiary thereof, has become the subject of a petition filed in a bankruptcy court, or has otherwise become the subject of a proceeding in which a court or governmental agency (or, in a non-U.S. jurisdiction, a person or entity performing a comparable function) has assumed jurisdiction over substantially all of the assets or business of the Firm or its parent or a subsidiary, provide –

- a. the name of the proceeding;
- b. the name of the court or governmental body;
- c. the date of the filing or of the assumption of jurisdiction; and
- d. the identity of the receiver, fiscal agent or similar officer, if applicable, and the date of his or her appointment.

## PART V – CERTAIN RELATIONSHIPS

### Item 5.1 New Relationship with Person Subject to Bar or Suspension

If the Firm has taken on as an employee, partner, shareholder, principal, or member, or has otherwise become owned or partly owned by, a person who is currently the subject of (a) a *Board* disciplinary sanction suspending or barring the person from being an *associated person of a registered public accounting firm* or (b) a *Commission* order under Rule 102(e) of the *Commission's* Rules of Practice suspending or denying the privilege of appearing or practicing before the *Commission*, provide –

- a. the name of the person;
- b. the nature of the person's relationship with the Firm; and
- c. the date on which the person's relationship with the Firm began.

### Item 5.2 New Ownership Interest by Firm Subject to Bar or Suspension

If the Firm has become owned or partly owned by an entity that is currently the subject

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of (a) a *Board* disciplinary sanction suspending or revoking that entity's registration or disapproving that entity's application for registration, or (b) a *Commission* order under Rule 102(e) of the *Commission's* Rules of Practice suspending or denying the privilege of appearing or practicing before the *Commission*, provide –

- a. the name of the entity that has obtained an ownership interest in the Firm;
- b. the nature and extent of the ownership interest; and
- c. the date on which the ownership interest was obtained.

### Item 5.3 Certain Arrangements to Receive Consulting or Other Professional Services

If the Firm has entered into a contractual or other arrangement to receive consulting or other professional services from a person or entity meeting any of the criteria described in Items 2.12 or 2.13 above, provide –

- a. the name of the person or entity;
- b. the date that the Firm entered into the contract or other arrangement; and
- c. a description of the services to be provided to the Firm by the person or entity.

## PART VI – LICENSES AND CERTIFICATIONS

### Item 6.1 Loss of, or Limitations Imposed on, Authorization to Engage in the Business of Auditing or Accounting

If the Firm's authorization to engage in the business of auditing or accounting in a particular jurisdiction has ceased to be effective or has become subject to conditions or contingencies other than conditions or contingencies imposed on all firms engaged in the business of auditing or accounting in the jurisdiction, provide –

- a. the name of the *state*, agency, board or other authority that had issued the license or certification related to such authorization;
- b. the number of the license or certification;

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- c. the date that the authorization ceased to be effective or became subject to conditions or contingencies, and
- d. a brief description of the reason(s) for such action, including a description of the conditions or contingencies, if any.

### Item 6.2 New License or Certification

If the Firm has obtained any license or certification authorizing the Firm to engage in the business of auditing or accounting, and which has not been identified on any Form 1 or Form 3 previously filed by the Firm, or there has been a change in any license or certification number identified on a Form 1 or Form 3 previously filed by the Firm, provide –

- a. the name of the issuing *state*, agency, board or other authority;
- b. the number of the license or certification;
- c. the date the license or certification took effect; and
- d. if the license or certification replaces another license or certification issued by the same authority, the number of the replaced license or certification.

Note: If the Firm is filing a Form 4 to report a change in its form of organization, change in jurisdiction, or a business combination, the Firm should report on Form 4, rather than Form 3, any related license change that takes effect before the submission of the Form 4.

## PART VII – CHANGES IN THE FIRM OR THE FIRM'S *BOARD* CONTACT PERSON

### Item 7.1 Change in Name of Firm

If the Firm is reporting a change in its legal name –

- a. State the new legal name of the Firm;
- b. State the legal name of the Firm immediately preceding the new legal name;

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- c. State the effective date of the name change;
- d. Provide a brief description of the reason(s) for the change; and
- e. Affirm, by checking the box corresponding to this Item, that, other than the name change, the Firm is the same legal entity that it was before the name change.

Note: If, other than the name change, the Firm is not the same legal entity that it was before the name change, whether because of a change in the Firm's legal form of organization or because of other transactions, the registration status of the predecessor firm does not automatically attach to the Firm, and the Firm cannot report the event as a name change. If the Firm cannot make the affirmation required by Item 7.1.e, the Firm cannot execute the certification in Part VIII as to Item 7.1, and this Form cannot be deemed filed under Rule 2206.

In that event, the Firm should consider whether, pursuant to the provisions of Rule 2108, the Firm can make the representations required in a Form 4 filing to enable the predecessor firm's registration to attach to the Firm. If the Firm cannot or does not file with the *Board* a Form 4 making all necessary representations, the predecessor firm's registration does not attach to the Firm. In those circumstances, the Firm may not lawfully prepare or issue an *audit report* without first filing an application for registration on Form 1 and having that application approved by the *Board*.

Note: If the Firm is filing a Form 4 to report a change in its form of organization, change in jurisdiction, or a business combination, the Firm should report any related name change on Form 4 and not on Form 3.

### Item 7.2 Change in Contact Information

If there has been a change in the business mailing address, business telephone number, business facsimile number, or business e-mail address of the person most recently designated by the Firm (on Form 2, Form 3, or Form 4) as the Firm's primary contact with the *Board*, or if the Firm is designating a new person to serve as the primary contact, provide the name and current business mailing address, business telephone number, business facsimile number, and business e-mail of the partner or authorized officer of the Firm who will serve as the Firm's primary contact with the *Board*.

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### PART VIII – CERTIFICATION OF THE FIRM

#### Item 8.1 Signature of Partner or Authorized Officer

This Form must be signed on behalf of the Firm by an authorized partner or officer of the Firm including, in accordance with Rule 2204, both a signature that appears in typed form within the electronic submission and a corresponding manual signature retained by the Firm. The signer must certify that –

- a. the signer is authorized to sign this Form on behalf of the Firm;
- b. the signer has reviewed this Form;
- c. based on the signer's knowledge, this Form does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading; and
- d. either –
  1. based on the signer's knowledge, the Firm has not failed to include in this Form any information or affirmation that is required by the instructions to this Form, with respect to the event or events being reported on this Form, or
  2. based on the signer's knowledge –
    - (A) the Firm is a *foreign registered public accounting firm* and has not failed to include in this Form any information or affirmation that is required by the instructions to this Form, with respect to the event or events being reported on this Form, except for information or affirmations that the Firm asserts it cannot provide to the *Board* on this Form 3 without violating non-U.S. law;
    - (B) with respect to any such withheld information or affirmation, the Firm has made the efforts required by PCAOB Rule 2207(b) and has in its possession the materials required by PCAOB Rule 2207(c); and

**RELEASE**

- (C) the Firm has indicated, in accordance with the instructions to this Form, each Item of this Form with respect to which the Firm has withheld any required information.

The signature must be accompanied by the signer's title, the capacity in which the signer signed the Form, the date of signature, and the signer's business mailing address, business telephone number, business facsimile number, and business e-mail address.

**PART IX – EXHIBITS**

To the extent applicable under the foregoing instructions, each special report must be accompanied by the following exhibits:

Exhibit 99.1 Request for Confidential Treatment

Exhibit 99.3 Materials Required by Rule 2207(c)(2)-(4) – *Submit Only as an Exhibit to an Amended Form 3 in Response to a Request Made Pursuant to Rule 2207(d)*