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Via e-mail: comments@pcaobus.org

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

Re: PCAOB Request for Public Comment: *Concept Release on Requiring the Engagement Partner to Sign the Audit Report* - PCAOB Rulemaking Docket Matter No. 029

Dear Board Members and Staff:

BDO Seidman, LLP appreciates the opportunity to provide comments on the *Concept Release on Requiring the Engagement Partner to Sign the Audit Report* ("Concept Release") and we hope that our comments and recommendations provide helpful insights as you deliberate the matters set out therein.

We share the PCAOB's objective of enhancing audit quality through continuous consideration of appropriate means of achieving that goal. However, while we understand that some parties believe that requiring the engagement partner signature on an audit report would improve audit quality through enhanced accountability and transparency, we do not agree with that view. We are also concerned that this recommendation may have adverse unintended consequences.

It appears that much of the support for requiring the engagement partner's signature is driven by analogies to the Eighth Company Law Directive of the European Union and the certification requirement of Section 302 of the Sarbanes-Oxley Act. However, we believe that these analogies are not appropriate for the following reasons:

Eighth Company Law Directive

We recognize that the European Union, through the Eighth Company Law Directive, requires member states to adopt a requirement for the engagement partner to sign the audit report. However, the liability regime in Europe (including liability caps in some countries) differs so significantly from that in the U.S. that any consideration of new PCAOB requirements that might trigger liability should not be made without recognition of those differences. In that regard, it should be noted that while the Concept Release refers to a 2005 paper of The Institute of Chartered Accountants in England and Wales entitled

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Shareholder Involvement - Identifying the Audit Partner as supportive of the audit partner signature, that paper recommended a limitation of liability provision in the engagement letter, which would provide that claims could only be brought against the auditing firm, rather than the identified engagement partner. Such limitation is not permitted by the SEC.

Section 302 Certification

We do not believe that this analogy is valid. The purpose of the officer's signature in a filing is to clarify management's long-standing responsibility for the information included therein, although such responsibility was written broadly, without significant guidance. In that regard, Section 302 was adopted because some management was attempting to disavow responsibility for the financial statements. In contrast, the engagement partner's responsibilities for the performance of the audit are set out clearly and extensively in professional standards. The effectiveness with which these professional standards have been implemented is routinely monitored as part of a firm's system of quality control, in addition to periodic inspections by professional and regulatory bodies. There is no similar monitoring by regulators of management's exercise of its responsibilities.

We have organized our comments into the following broad categories that address the concepts included within most of the specific questions posed in the Concept Release:

- Accountability
- Transparency
- Potential Liability of the Engagement Partner in Private Litigation

Accountability

The Concept Release indicates that an engagement partner signature may lead to improved audit quality because it increases the engagement partner's sense of personal accountability for the work performed and the opinion expressed, which could, in turn, result in greater exercise of care in performing the audit. However, there does not appear to be any empirical or anecdotal evidence to support that contention.

In our view, requiring an engagement partner to sign the audit report would not have any meaningful impact on engagement partner accountability (or on any concomitant improvement in audit quality or investor protection). Auditors are already held accountable to multiple parties, including investors, audit committees and partners within their own firms. In that regard, audit committees have primary responsibility for the appointment, compensation and oversight of a public company's audit firm. The engagement partner's

frequent meetings with the audit committee on substantive audit issues certainly highlight this line of authority.

While the engagement partner is a key driver of the audit process and audit quality, audits are not performed by one individual, but rather by a coordinated team of professionals, each of whom is responsible for his or her own actions and is subject to sanctions mentioned below. In many audits of public companies, due to their complexity and size, the engagement partner often relies on numerous specialists, consulting partners, and other partners and managers with unique expertise. The Concept Release recognizes this scenario by describing a public company audit as typically involving "a substantial amount of work by highly skilled practitioners exercising significant professional judgment." While this description of a coordinated team of professionals is accurate, it omits a crucial aspect of the audit -- a firm's system of quality control.

As set out in QC Section 20, *System of Quality Control for a CPA Firm's Accounting and Auditing Practice,* the firm's system of quality control encompasses (1) Independence, Integrity and Objectivity, (2) Personnel Management, (3) Acceptance and Continuance of Engagements, (4) Engagement Performance, and (5) Monitoring, all of which play a part in the performance of high quality audits. Although the engagement partner has a key role in the conduct of the audit within the firm's system of quality control, that system is critical to the effectiveness with which an engagement partner is able to fulfill that responsibility. The significance of the firm's system of quality control to audit quality emphasizes the importance of holding the firm accountable for the audit, and the signature requirement should reflect this context. In contrast, directing the spotlight only on the engagement partner may have the unintended consequence of diminishing the rest of the engagement team's sense of responsibility.

Engagement partners are held accountable through regulatory inspections, in addition to the internal monitoring processes conducted as part of the firm's system of quality control. As a result, engagement partners are keenly aware of their responsibilities and accountability. For example, the PCAOB performs inspections to evaluate the sufficiency of a firm's quality control system and inspects individual engagements to assist in that evaluation. Any adverse inspection findings are usually a significant input into the firm's partner evaluation process. Further, engagement partners are also subject to enforcement actions by the PCAOB and SEC. Determinations of improper professional conduct can lead to various penalties, including barring an individual from practicing before those bodies. Enforcement actions are available to the public and the possibility of being subjected to one acts as a strong motivation for the engagement partner to ensure that the audit is performed with the highest level of professionalism.

The engagement partner is also subject to civil litigation, as further described below.

Finally, by putting the firm at risk by signing the firm's name on the audit report, the partner is also placing at risk his or her capital in the firm and retirement benefits, both of which may be highly significant assets of the partner.

Transparency

The Concept Release suggests that by providing financial statement users, audit committees, and others with the name of the engagement partner, this might help them evaluate the extent of an engagement partner's experience and, to a degree, his or her track record and, as a result, provide some assessment of audit quality. However, transparency is already provided to financial statement users through a variety of mechanisms, specifically:

- Audit committees already have sufficient transparency as to the qualifications of the engagement partner through their many interactions with the partner during the year and knowledge otherwise gained through discussions with company management.

- Regulators also have ready access to the names of engagement partners. Furthermore, they are able to assess the capabilities of partners in connection with various forms of inspection.

- While investors generally would not know the name of an engagement partner, we do not understand how knowledge of the name would provide any useful information without understanding the specific capabilities of the partner. In that regard, it is important to recognize the corporate governance process operating under the various federal and regulatory regimes. Under those regimes, investors are represented by the Board of Directors and, in turn, by the audit committee. As mentioned above, the audit committee is responsible for assessing the performance of the audit firm as well as the engagement partner. Accordingly, we believe it is appropriate for investors to recognize this audit committee duty without feeling the need to duplicate it (albeit even partially). If investors are dissatisfied with the performance of the audit committee members, they can reflect this view by voting to replace them on the Board of Directors. It has also been suggested that investors would be able to contact the engagement partner directly if the report were signed by the partner. However, confidentiality constraints and liability concerns would likely restrict such communications.

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Moreover, the line of reasoning that the engagement partner signature provides increased transparency discounts the significant impact the firm's system of quality control has on an audit. Rather than providing transparency, providing the engagement partner's name may actually decrease transparency because some parties may incorrectly assume that the engagement partner is the sole source of audit quality.

Potential Liability of the Engagement Partner in Private Litigation

The Concept Release recognizes concerns that the signature requirement may have a negative effect with respect to the engagement partner's potential liability under certain aspects of private litigation. While there may well be increased liability in certain types of litigation, we also understand that in other cases, the attendant liability of the partner lacks clarity. Therefore, we suggest that the PCAOB perform a thorough analysis of the potential legal consequences of a signature requirement. In any event, we believe that other litigation-related aspects of the signature requirement need to be addressed, as discussed below.

While engagement partners are sometimes named individually in private lawsuits, requiring an engagement partner to sign his or her name on the audit report will undoubtedly increase the number of times that an engagement partner will be the subject of private litigation. We believe that the plaintiffs' bar will focus unnecessarily on the engagement partner in adding parties to private lawsuits, resulting in firms facing increased costs. If engagement partners begin to be named routinely in private litigation as a result of signing their names on audit reports, firms will likely be required to retain separate counsel for the engagement partner and the firm. Firms also may be required to settle even meritless private lawsuits at an additional cost due to the engagement partner being added as a defendant. Moreover, in the likely event that the signature requirement increases the frequency whereby engagement partners are named in private lawsuits, this also may have a negative impact on the supply of high quality audit partners. Unnecessarily subjecting engagement partners to litigation as an individual defendant will likely cause a chilling effect on the profession, when auditors decide that the stress from being individually named in a lawsuit (even where the claims are unjustified) is not worth the benefits of becoming or acting in the capacity of the engagement partner, particularly on high risk engagements. This could also serve as a disincentive for college graduates to enter the public accounting profession. As a result, investors would lose the benefit of enhanced audit quality that this proposed signature requirement seeks to achieve.

If a signature requirement for the engagement partner is ultimately adopted, we strongly recommend that the PCAOB work with the SEC to ensure that it is accompanied with a safe harbor provision. This would be consistent with the statement in the Concept Release

that the signature requirement is not intended to increase the liability of the engagement partner.

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We appreciate your consideration of our comments, and would be pleased to discuss these with you at your convenience. Please direct any questions to Wayne Kolins, National Director of Assurance at 212-885-8595 (wkolins@bdo.com) or Susan Lister, National Director of Audit Policy at 212-885-8375 (slister@bdo.com).

Very truly yours,

/s/ BDO Seidman, LLP

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