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

RE: PCAOB Rulemaking Docket Matter No. 029, Concept Release on Requiring the Engagement Partner to Sign the Audit Report

Dear Mr. Secretary:

We appreciate the opportunity to comment on the Public Company Accounting Oversight Board's (PCAOB or the Board) Release No. 2009-005 that includes the Concept Release on Requiring the Engagement Partner to Sign the Audit Report (the Concept Release).

We would like to take this opportunity to formally recognize the effort of the PCAOB and its staff in development of the Concept Release. We believe that the use of Concept Releases to solicit input on proposed standards or revisions to existing standards is a worthwhile step in the standard setting process, and we encourage the PCAOB to continue to use this approach in the future.

In the United States, audit reports on public company financial statements are signed in the name of the registered public accounting firm taking responsibility for the audit. The Concept Release seeks input on whether the partner who has final responsibility for the audit (we refer to this individual as the engagement partner) also should sign the auditors' report in his/her name.

A basic premise of the Concept Release is that requiring an engagement partner also to sign the auditors' report in his/her own name could improve audit quality through a) increasing the engagement partner's sense of accountability to financial statement users, which would lead to exercising greater care in performing the audit, and b) increasing transparency, which would provide useful information to users as to who is responsible for performing the audit.



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In the remainder of this letter, we address the issues of accountability and transparency, as well as other potential unintended consequences that may arise, as it relates to the requirement for the engagement partner to sign the auditors' report in his/her own name.

Accountability and the Exercise of Greater Care

Interaction Between a Firm's System of Quality Control and the Role of the Engagement Partner

The PCAOB has set forth minimum quality control standards that must be complied with, in order to provide the firm with reasonable assurance that its audit engagements are performed in accordance with professional standards.¹ As noted in paragraph 7 of QC Section 20, the "quality control policies and procedures applicable to a firm's accounting and auditing practice should encompass the following elements: a) Independence, Integrity and Objectivity; b) Personnel Management; c) Acceptance and Continuance of Clients and Engagements; d) Engagement Performance; and e) Monitoring." These elements influence or impact, either directly or indirectly, almost all aspects of an audit, and the firm has overall responsibility for such elements. Although the engagement partner has primary responsibility for the conduct of the audit, he/she operates within the framework of the firm's system of quality control, in order to ensure that the audit is conducted in accordance with professional standards. Since the firm is responsible for the establishment and oversight of its system of quality control, we believe the firm's signature on the auditors' report best demonstrates the firm's overall responsibility, and accountability, to the users of the financial statements. We are concerned that requiring the engagement partner also to sign the auditors' report in his/her individual name may create confusion in the marketplace, since the PCAOB's quality control standards place accountability for the firm's system of quality control on the firm.

Accountability to Constituents

An engagement partner is accountable to various constituents, including capital markets participants in general, audit committees of the firm's audit clients, various regulators (including the PCAOB, the Securities and Exchange Commission (SEC), state boards of accountancy and others) and the firm and its partners. We believe that engagement partners currently possess a deep understanding of this accountability. As discussed further below, engagement partners have direct contact on a regular basis with PCAOB

¹ See PCAOB Interim Quality Control Standards, QC Sections 20 – 40.



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and internal inspectors, share information with each other about their experiences, and currently sign the auditors' report on behalf of the firm with a complete understanding of the potentially significant consequences of failing to perform audits with integrity and in accordance with professional standards. We therefore do not believe that a requirement for the engagement partner also to sign the auditors' report in his/her own name, as described in the Concept Release, would enhance the engagement partner's sense of personal accountability.

- Accountability to Capital Markets Stakeholders

The engagement partner currently is accountable to capital markets stakeholders, as evidenced by the engagement partner's responsibility to plan and perform his/her work with due professional care. Due professional care imposes a responsibility upon each professional within the firm to observe the professional standards of the PCAOB.²

- Accountability to Audit Committees

The primary responsibility for the appointment, compensation and oversight of an issuer's auditing firm rests with the company's audit committee, pursuant to provisions of the Sarbanes-Oxley Act of 2002 (the Act). This responsibility establishes accountability to the audit committee by the engagement partner. The regular communications that an engagement partner has with an audit committee throughout the year help to ensure that the audit committee has the appropriate context with which to hold the engagement partner accountable for fulfilling his/her responsibilities.

- Accountability to Regulators

Individual engagement partners are accountable, with respect to their performance on audit engagements, to various regulators. The Act requires that the PCAOB perform periodic inspections of registered public accounting firms. As part of the inspection process, the PCAOB selects and inspects individual engagements and evaluates the quality control system of the firm. An adverse finding from a PCAOB inspection of an individual engagement will be an important consideration in the annual performance evaluation process for that engagement partner. Other negative consequences to the engagement partner, such as monetary penalties, censure, or the suspension or revocation of one's CPA license, also could arise from adverse findings by regulators.

² See PCAOB Interim Standards, AU Section 230, "Due Professional Care in the Performance of Work."



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- Accountability to the Firm and Fellow Partners

Lastly, as an owner in the firm, an engagement partner is keenly aware that conducting an audit that subsequently is determined to not be in accordance with professional standards exposes the engagement partner, his/her fellow partners and the firm to potentially significant adverse consequences. These consequences range from those whose impact is felt at a very personal level to those that are detrimental to the reputational and financial well-being of the firm. This sense of accountability is fundamental to an engagement partner's disposition of his/her professional responsibilities, and the engagement partner currently acknowledges that he/she has fulfilled such responsibilities through the signing of various internal documents.

Analogy to Section 302 Certifications

As noted above, the proposal in the Concept Release is premised, in part, on the notion that requiring the engagement partner to sign the auditors' report in his/her own name will result in greater care and diligence on the part of the engagement partner, and an analogy to Section 302 of the Act has been put forth by some to support this view. Section 302 requires the chief executive officer (CEO) and chief financial officer (CFO) to certify in each annual or quarterly report that, based on the officer's knowledge, the report does not contain any untrue statement of a material fact and that the company's financial statements are fairly presented. This provision of the Act was intended to clarify management's responsibility for information included in periodic reports filed with the SEC. We believe that both the underlying premise and the analogy to Section 302 are flawed.

We believe that compliance with Section 302, in certain instances, raised management's level of awareness relative to its financial statement responsibilities. In addition, the Section 302 requirement led some companies to implement more rigorous policies and procedures (e.g., the establishment of a disclosure committee) or to enhance their internal controls. In contrast, the engagement partner's responsibilities in connection with the planning and conduct of the audit are clearly defined in the professional standards, and the implementation of the signature requirement proposed in the Concept Release would not change those responsibilities. Therefore, unlike the requirement for CEO/CFO signatures pursuant to the provisions of Section 302, which resulted in process changes in certain situations to reflect the clarification of management's responsibility, a requirement for an engagement partner also to sign the auditors' report in his/her name will not result in process changes in the conduct of an audit or provide any clarity or



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changes to professional standards. However, such a requirement could inappropriately convey to the marketplace that professional standards have been enhanced or clarified, in the form of a substantive change in the role and responsibility of an engagement partner when, in fact, no such change was intended by the PCAOB.

Transparency

A second argument for the signature requirement described in the Concept Release relates to transparency. Currently, the identity of the engagement partner is fully transparent to company management and audit committee members, by way of the direct and frequent interactions that occur with both groups throughout the audit process. In addition, although there is no requirement to do so, the engagement partner usually attends the annual shareholders' meeting, and typically is available to respond to appropriate questions. Therefore, shareholders have the opportunity, if they choose to attend the annual shareholders' meeting, to pose questions directly to the engagement partner. Lastly, regulators have the ability to easily identify the engagement partner for all issuer audits. If the Board believes that greater transparency in this area is desired, consideration should be given to requiring that the engagement partner attend shareholders' meetings and be made available to respond to appropriate questions.

Other Potential Unintended Consequences

Potential Inappropriate Inferences

Audits are, and should be, a collaborative effort of the entire engagement team, drawing on the professional resources of the entire firm. As a firm, we have increasingly emphasized the importance of collaboration and consultation in the performance of an audit. Engagement teams are encouraged to deliberate thoroughly among themselves and to consult the national office and others whenever the need arises. In addition, there are numerous areas in the performance of an audit where assistance from internal specialists may be sought (e.g., tax specialists, actuaries, valuation specialists, etc.). A requirement that an individual engagement partner affix his/her name to an auditors' report appears to run counter to this carefully cultivated culture of collaboration, does not take into consideration the role of internal specialists and other members of the engagement team, and would send the wrong message to the marketplace that the opinion is the engagement partner's sole responsibility.

In addition, although the engagement partner plays a critical role in performing an audit, as noted above, there are certain areas in the conduct of an audit where he/she is



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dependent on the firm's system of quality control with respect to conducting an engagement in accordance with applicable professional standards. Since the users of the financial statements may not be aware of the significant role that a firm's system of quality control plays in providing reasonable assurance that an audit is conducted in accordance with professional standards, we are concerned that an inappropriate inference may be drawn by the marketplace that the engagement partner is responsible for the effective operation of firm-level quality controls if such individual is required to sign the audit report in his/her own name.

Litigation

The Advisory Committee on the Auditing Profession (ACAP), convened by the U.S. Department of the Treasury, recommended in their final report that "the PCAOB undertake a standard-setting initiative to consider mandating the engagement partner's signature on the auditor's report."³ The ACAP Report goes on to state that the "signature requirement should not impose on any signing partner any duties, obligations or liability that are greater than the duties, obligations and liability imposed on such person as a member of an auditing firm."⁴ In addition, the Concept Release states that the "Board's intent with any signature requirement would not be to increase the liability of engagement partners." It currently is unclear, from a legal perspective, whether ACAP's or the PCAOB's intent that the engagement partner signature requirement not lead to additional liability for the engagement partner would be borne out. If the PCAOB decides to move forward with the engagement partner signature requirement, we recommend that the PCAOB perform a detailed analysis of the potential liability impact that such a requirement might have on engagement partners, prior to implementing such requirement.

Irrespective of the outcome of the detailed analysis that is recommended above, we believe that an individual engagement partner signature requirement would, at a minimum, make it easier to name engagement partners in lawsuits. Such an occurrence likely would result in an increase in costs incurred in connection with defending the engagement partner, even if the case is without merit. In addition, there are collateral consequences to being named in a lawsuit, beyond the increase in costs that are mentioned above. As an example, the fact that an engagement partner has been named in

³ U.S. Department of the Treasury, Final Report of the Advisory Committee on the Auditing Profession to the U.S. Department of the Treasury (October 6, 2008) (ACAP Report), available at <http://www.treas.gov/offices/domestic-finance/acap/>.

⁴ ACAP Report at VII:20.



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a suit that seeks a material amount of monetary damages may make it more difficult for that individual to qualify for a mortgage from a lending institution.

Human Capital

The pressures currently encountered in the auditing profession have never been more intense and, unless effectively remedied, likely will pose a real challenge to recruiting and retaining the highly qualified professionals necessary to sustain our profession. While we do not believe that a personal signature requirement would improve accountability or transparency, it could impose additional stress, as well as personal security concerns, on the engagement partner – for example, media coverage of financial problems at a company might cite the audit firm and the individual engagement partner by name – further exacerbating the retention and recruitment, as well as potentially decreasing the willingness, of the best qualified partners to oversee higher risk audit engagements.

Conclusion

We are committed to continually improving our firm and the profession and working constructively with the PCAOB to improve audit quality. As discussed above, we believe that the proposal in the Concept Release, if adopted, is unlikely to achieve the positive change it contemplates, which is a change in behavior on the part of an engagement partner, and likely would result in negative unintended consequences that run counter to the overarching objective to improve audit quality. In addition, we are concerned that the proposal, if implemented, might convey an inappropriate message to the marketplace that something had changed, either in terms of a change in behavior, the procedures performed, or the level of audit quality, while in fact none of these inferred changes would have actually occurred simply as a result of requiring the engagement partner also to sign the auditors' report. Accordingly, we do not support the proposal set forth in the Concept Release for the engagement partner to sign the auditors' report in his/her own name.



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We would be happy to further discuss the specifics of the issues addressed in this letter in more detail at the request of the Board or its staff.

Very truly yours,

KPMG LLP

cc: Mr. Martin F. Baumann, Chief Auditor and Director of Professional Standards –
PCAOB
Mr. James L. Kroeker, Chief Accountant, Office of the Chief Accountant – SEC