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2 February, 2009

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

RE: Rulemaking Docket Matter No. 027, PCAOB Release No. 2008-007, *Rule Amendments Concerning the Timing of Certain Inspections of Non-US Firms, And Other Issues Relating to Inspections of Non-U.S. Firms*

Dear Sirs:

PricewaterhouseCoopers is pleased to comment on the above-referenced Rule Amendments. We are responding on behalf of the network member firms of PricewaterhouseCoopers International Limited, each of which is a separate and independent legal entity.

The oversight and inspection of auditing firms are important elements in maintaining public trust and confidence in financial reporting. We acknowledge the need for the PCAOB to faithfully carry out the legislative mandate for inspection of audit firms as set forth in the Sarbanes-Oxley Act of 2002.

Deferral of Due Dates for 2008 and 2009 Inspections

We acknowledge the PCAOB's reasons for proposing to defer the due dates for 2008 and 2009 inspections, and the need to modify the inspections schedule. The 3-year schedule described in the proposing release is reasonable, and the proposed transparency requirements surrounding any changes in the review schedule are appropriate.

The Board has indicated that it intends to begin publishing a list of firms for which inspections have not been completed due to local legal impediment. At least some Board members have expressed strong support for the need to do this. We understand the need for the Board to be transparent about matters that have an impact on its ability to meet its legislative mandate. In principle, we have no objection to making the public aware of situations in which legal impediments in a firm's home country have made it impossible to complete the inspection of all or some of the registered firms in that country. However, we think that in practice, it will be extremely difficult to maintain and publish such a list without causing at least some observers to draw inappropriate and negative inferences about the listed firms' capabilities and/or cooperation with the Board. We therefore hope that if the Board adopts such a practice, it will do so only after fully considering all relevant issues and concerns, including but not limited to:

- How can such a list be formatted and arranged so that it emphasizes that the country has imposed the impediment, rather than the individual firm or firms within that country?
- What language will appear, and where, to clearly indicate that a firm's inclusion on the list should not be deemed a reflection on its audit quality or its cooperation with the Board?

- Will firms be on the list when the inspection field work is completed, but the inspection report has not been issued within the requisite time period?
- Will firms be on the list if an impediment delays the start of inspection for part of the three-year period, and subsequent scheduling conflicts force a delay for the remainder of that period?
- In the absence of a legal impediment, will firms be on the list because of inspection delays as a result of accommodating the schedule of the local inspection authority?
- When will firms be taken off of the list – when inspection field work begins, when it ends, when the report is issued, or at some other time?

Recognition of Cross-Border Inspection Issues

The PCAOB has acknowledged on numerous occasions that the laws of other countries can and do introduce impediments to the inspection of non-U.S. firms. In PCAOB Release No. 2004-005, *Final Rules Relating to the Oversight of Non-U.S. Public Accounting Firms* (June 9, 2004), and again in PCAOB Release No. 2007-011, *Request for Public Comment on Proposed Policy Statement: Guidance Regarding Implementation of PCAOB Rule 4012* (5 December, 2007), however, the Board stated its belief that most conflicts of law can be resolved through an approach in which the Board works with the non-U.S. regulator or through the use of special procedures such as voluntary consents and waivers. We do not believe that all such instances can be successfully resolved, and do not think the non-U.S. registered firm should be penalized for home-country law.

We believe that there are two very different environments that impair a registered firm's ability to participate in a PCAOB inspection. One is generally within the control of the registered firm, and one is not. As discussed below, we think the consequences to a registered firm of not providing requested information should be different depending on which environment exists.

- In some jurisdictions, a firm must follow a specified administrative process before it can be inspected or provide requested information. Although these processes may take time and effort to complete, successful navigation of the requirements generally allow inspections to be performed.
- In other jurisdictions, a country's regulatory, judicial and/or legal system does not permit foreign entities to conduct inspections of local audit firms under any circumstances either because of issues of sovereignty or because of stringent rules against disclosing client information and other confidential information. These environments may preclude disclosure of any client information or other confidential information to third parties. These laws cannot be overcome by administrative process. Similarly, there are jurisdictions where the legal framework is not explicit, but government officials with relevant legal authority will not permit inspections to take place. Despite rigorous efforts by a firm in that country, consent for inspection may be denied by those government officials.

In either environment, there may be consequences for firms who violate the law and provide information to the PCAOB inspection teams, including significant penalties, loss of practicing licenses, and criminal sanctions, possibly resulting in imprisonment.

Sanctions for Failure to Provide Information

We support the mandate rooted in Sarbanes-Oxley Act and the obligation for all firms registered with the PCAOB to cooperate with inspections insofar as permitted by their local laws. The PCAOB's original registration process reflected this understanding. We fully support the proposal to consider sanctions against those firms that use local administrative processes as a pretext for failure to

cooperate with a PCAOB inspection. However, for the reasons explained below, we do not believe firms operating in environments that do not permit foreign inspections, in situations beyond their control, should be sanctioned in the same way.

In countries where there are national laws or in which the exercise of governmental authority under the law prevents a firm from providing information to the PCAOB necessary to conduct the inspection, every firm in these countries is subject to the same environment. These firms could not be reasonably expected to act in a way that would subject them to legal consequence; as a result, none of them would likely be able to participate in a PCAOB inspection. As a result, due to circumstances beyond their control, foreign private issuers from such countries would not be able to meet their U.S. statutory obligation to provide audited financial statements, and would therefore be unable to maintain registration of their securities in U.S. We do not believe that this result is in the best interests of the investors who currently hold those securities.

Audit firms should not be required to violate their national law. For this reason, we fundamentally disagree with the Board's view expressed in Footnote 35 that "the Board does not view non-U.S. legal restrictions or the sovereignty concerns of local authorities as a sufficient defence in a Board disciplinary proceeding instituted under Section 105(c) of the Act for failing or refusing to provide information requested in an inspection". We believe that firms in such countries should not be subject to sanction.

For registered firms in countries where legal impediments to the PCAOB's inspection can be overcome by following administrative process, we believe a good faith effort should be made by the firm, in cooperation with the PCAOB, the government and/or the home country inspection body, to allow the PCOAB to complete an inspection[1]. In these countries, it is appropriate to expect that all parties will endeavour to take all reasonably necessary steps to allow the inspection to occur.

We suggest that the PCAOB's approach to sanctions reflect the following principles, which are responsive to the different environments that may exist:

- Where administrative process can overcome legal impediment, we agree that firms who fail to follow appropriate process should be subject to sanction. The difficulties of the administrative process should not be used to avoid inspection. However, any sanction taken against a registered firm for failure to provide information in response to an inspection request should consider the firm's efforts to overcome legal impediments to providing that information. In this regard, the firm should be permitted to evidence its efforts to overcome the legal impediments by providing its communications with government officials to the PCAOB to the extent that it is legal to do so.

- In environments where regulatory, judicial and/or legal systems do not permit foreign entities to conduct inspections of local audit firms, we do not believe firms should be subject to sanction as a result of lack of cooperation. Such firms should provide a valid legal opinion that confirms that participation in the inspection process is precluded by law. Similarly, they should not be sanctioned if they have been informed by a government official with relevant authority that the inspection is not permitted, or that restricts the information that may be transmitted.

In our 4 March, 2008 response to PCAOB Release No. 2007-011, *Request for Public Comment on Proposed Policy Statement: Guidance Regarding Implementation of PCAOB Rule 4012*, we encouraged the PCAOB to work closely with other inspection bodies toward the objective of increasing

[1] For example, national law may require the firm to apply for permission on the part of a governmental authority to permit the inspection to take place, or to submit information to the PCAOB only through the home country's audit oversight body. In other instances, the firm may be required to redact client information from the work papers or to obtain assurances about the confidentiality of the information it provides as a precondition to permitting the PCAOB staff to review those papers.

cooperation on inspections, with the ultimate goal of allowing PCAOB reliance on home country oversight bodies. We continue to believe that inspection by the home country oversight authority is ultimately the best solution to the issue of legal impediments, and we encourage the PCAOB to continue working toward this objective. In the interim, this same spirit of cooperation should apply with regard to overcoming impediments to PCAOB inspection. We have also come to believe that the relevant governmental authorities should become directly involved in efforts to overcome impediments to PCAOB inspection as well as the longer-term objective of establishing reciprocal arrangements for auditor oversight.

Disclosure of Failure to Cooperate in an Inspection

The Board seeks comment on whether to require a principal auditor to disclose if it, or other firms it has relied upon or referenced, has failed to provide information to the Board in response to an inspection demand on the basis of non-U.S. legal restrictions or sovereignty concerns. Such disclosure would be provided either in, or in connection with, the auditor's report.

The auditor's report provides the auditor's opinion on the financial statements, describes the nature of the audit work performed to support that opinion, and provides other information about the financial statements as permitted or required by generally accepted auditing standards. We believe that information about compliance processes followed by the audit firm, even processes as important as an outside inspection, is at best extraneous to the subject of the audit report and has the potential to detract from the important information included therein. At worst, it would place the reader in a position of being asked to evaluate the competence of the auditor, which they do not have sufficient information to be able to do. Thus we would not support a requirement to include such disclosures in the auditor's report.

Any disclosures in connection with (but outside of) the auditor's report would only be presented to investors if they are included along with information provided by the issuer about the audit firm. This information is generally included in the non-financial disclosures of the filing. Issuers are required by SEC rules to provide certain information; for example, the breakdown of fees paid to the auditor. To our knowledge, there is nothing preventing an issuer from providing information it deems relevant to investors about the status of the firm's PCAOB inspection. In order to require such disclosure, the SEC would need to determine that information about PCAOB inspection status is relevant to investors and amend relevant disclosure requirements accordingly.

Connection between Reliance on Other Auditors and PCAOB Inspection

Certain of the possible approaches offered by the Board involve disclosures in the event that the principal auditor places reliance on firms that have been unable to participate in a PCAOB inspection. This approach appears to draw a link between the PCAOB's inspection process and the auditor's responsibilities when relying on the work of another auditor.

PCAOB auditing standard AU Section 543, *Part of Audit Performed by Other Independent Auditors*, requires principal auditors to perform procedures to assess the professional reputation and independence of other auditors. These requirements apply whether or not the auditor decides to make reference to the report of the other auditor in his or her audit report. Such procedures include making inquiries regarding the other auditor's professional reputation and obtaining a representation letter regarding the other auditor's independence. Additionally, the principal auditor is required to ascertain certain matters through communication with the other auditor, including:

- that the other auditor is aware that the financial statements of the component will be included in the financial statements being audited by the principal auditor and the principal auditor's planned reliance on the other auditor's audit report;

- that he or she is familiar with generally accepted auditing standards in the U.S.; and
- that he or she has knowledge of the relevant financial reporting requirements.

If the results of these procedures lead the auditor to conclude that he or she can neither assume responsibility for the work of the other auditor nor make reference to the audit of the other auditor in the audit report, the auditor is required to qualify or disclaim an opinion on the financial statements taken as a whole.

We believe that the requirements in the Board's standards for the principal auditor to determine whether to assume responsibility for the work of another auditor, to make reference to the work of another auditor, or to modify his or her audit report provide an appropriate model that serves investors and other users of audit reports well.

The above process represents procedures designed to assess the extent, materiality, and quality of the work of the other auditor. We do not think it would be appropriate to combine this requirement with inquiry related to PCAOB inspection. As noted above, doing so implies that firms that are not inspected are not of sufficient quality.

Principal Auditor's Inquiries

We support the requirement for the principal auditor to make inquiries of other auditors, but we believe they should be limited to other auditors with "substantial roles". We have fundamental concerns about extending this requirement to all firms on which the principal auditor places reliance.

Existing PCAOB rules only require the principal auditor to make inquiries of firms with "substantial roles" to determine if such firm is registered. Thus the proposed requirement would expand the number of inquiries that need to be made and documented for the purpose of PCAOB compliance, with no benefit to the conduct of the audit.

Disclosure when Relying on Registered Audit Firm that has Declined to Participate

We do not believe that it would be appropriate for a principal auditor to disclose information in the audit report about whether or not the PCAOB has inspected the other auditors. Auditors do not currently disclose to users the procedures they performed or the results of those procedures with respect to evaluating the competence and independence of another auditor, and neither do they disclose the work performed by internal auditors or specialists. The auditor is expected (appropriately) to exercise professional judgment in evaluating such information as a basis for concluding whether, for example, the auditor can take responsibility for the work of another auditor, divide responsibility with another auditor as a basis for the consolidated opinion, or use the work of internal audit or a specialist. It would not be appropriate to require users to form their own conclusions, particularly when they will have insufficient information on which to base their conclusion. Disclosure in the audit report whether or not a PCAOB inspection has been performed would place users of an auditor's report in the untenable position of having to interpret and evaluate the implications of this information on an individual company's audit opinion (e.g., users might inappropriately attempt to evaluate whether the auditor obtained a lower or higher level of assurance depending on the information disclosed). We do not believe that this information provides users of audit reports with appropriate or sufficient information from which to drawn meaningful conclusions about potential implications for audit quality much less the reliability of the individual company's financial statements.

We further believe that providing the suggested disclosures about firms on which the principal auditor places reliance (either in or in connection with the auditor's report) may be misleading to readers of the auditor's report. This is because in many multinational audit engagements it is possible that many of

the firms whose work is used by the principal auditor may not have been subject to PCAOB inspection. This group includes:

i) firms that have declined to participate because of legal impediment;

ii) firms that are not required to and have not registered with the PCAOB; and

iii) PCAOB-registered firms that have not been asked to participate in an inspection.

To disclose the lack of inspection only with respect to those firms that have been prevented from participating solely because of a restriction in their national law would present an incomplete and potentially misleading picture. Thus we do not support requiring the suggested disclosures.

Reliance on Other Auditors

We believe there is no basis for requiring the principal auditor to provide incremental disclosures about other auditors that have violated Rule 4006 in cases where the principal auditor is not relying on the other auditor, and the other auditor's report is included in the issuer's SEC filing.

Reciprocal Arrangements between National Oversight Bodies

Capital markets, the public interest and investors are best served by the establishment of reciprocal arrangements between national oversight bodies based on mutual reliance on equivalent objectives, standards and systems. Reciprocal arrangements based on equivalent oversight is a preferable inspection option, particularly with home country oversight bodies becoming more prevalent, and where home country regulators are more familiar with the legal and practice environment, culture, customs and audit risks. We acknowledge this process will take time before it is effective in a satisfactory way, but every effort should be made by regulators and oversight bodies themselves, as well as legislators, to facilitate and expedite that process.

In the long term auditor oversight can work best when oversight entities operate on the basis of mutual trust, having recognized that there is a basis for placing full reliance on their respective systems. The creation of the International Forum of Independent Audit Regulators (IFIAR) and active participation therein by the PCAOB should continue. Where possible, principles for cooperation on inspections could be determined through IFIAR in addition to the bilateral arrangements between the PCAOB and individual country inspection bodies.

This approach is consistent with the exhortation in the G-20 communiqué of 15 November, 2008 for better coordination among regulators in financial markets.

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We would be pleased to discuss our comments with you. If you have any questions regarding this letter, please contact Peter L. Wyman at +44 20 7213 4777 or Kenneth R. Chatelain at +1 202 312 7740.

Sincerely,

PricewaterhouseCoopers

PricewaterhouseCoopers