

Via Email

December 19, 2024

Vanessa A. Countryman
Secretary
Securities and Exchange Commission
100 F Street NE
Washington, DC 20549–1090

Public Company Accounting Oversight Board; Notice of Filing of Proposed Rules on Firm Reporting

Dear Secretary Countryman:

The Council of Institutional Investors (CII) appreciates the opportunity to share its views and provide input on the Securities and Exchange Commission’s (SEC or Commission) “*Public Company Accounting Oversight Board (PCAOB or Board); Notice of Filing of Proposed Rules on Firm Reporting*”¹ (Proposed Rules). We generally support the Commission approving the Proposed Rules.

CII is a nonprofit, nonpartisan association of U.S. public, corporate and union employee benefit funds, other employee benefit plans, state and local entities charged with investing public assets, and foundations and endowments with combined assets under management of approximately \$5 trillion. Our member funds include major long-term shareowners with a duty to protect the retirement savings of millions of workers and their families, including public pension funds with more than fifteen million participants – true and real “Main Street” investors through their pension funds. Our associate members include non-U.S. asset owners with about \$4.8 trillion in assets, and a range of asset managers with more than \$55 trillion in assets under management.²

Attached to this letter is a CII May 2024 comment letter submitted to the PCAOB³ generally supporting “*PCAOB Rulemaking Docket Matter No. 041, Firm and Engagement Metrics and*

¹ Public Company Accounting Oversight Board (PCAOB); Notice of Filing of Proposed Rules on Firm Reporting, Exchange Act Release No. 101723, 89 Fed. Reg. 96712 (filed Dec. 4, 2024), <https://www.federalregister.gov/documents/2024/12/05/2024-28148/public-company-accounting-oversight-board-notice-of-filing-of-proposed-rules-on-firm-reporting>.

² For more information about the Council of Institutional Investors (“CII”), including its board and members, please visit CII’s website at <http://www.cii.org>.

³ See Letter from Jeffrey P. Mahoney, General Counsel, CII to Ms. Phoebe W. Brown, Office of Secretary, PCAOB 4 (May 30, 2024), https://assets.pcaobus.org/pcaob-dev/docs/default-source/rulemaking/docket-055/6_cii.pdf?sfvrsn=bf5fbf7c_2 (“CII generally supports the . . . Proposal which implements a long overdue 2008 recommendation of the U.S. Department of Treasury Advisory Committee on the Auditing Profession (ACAP Report) to require audit firms to uniformly disclose certain information about their organization and operations . . .”).

PCAOB Rulemaking Docket Matter No. 055 Proposing Release: Firm Reporting” (Proposing Release).⁴ Our general support for the Proposing Release and the resulting final standard⁵ as described in the Proposed Rules, is based, in part, on CII membership-approved policies that we believe are relevant to the information required by the final standard.⁶ Those requirements include the following revisions to the PCAOB annual and special reporting framework that has “not been updated since 2008.”⁷

- Revise the annual reporting form (“Form 2” or the “Annual Report Form”) to require more information regarding a firm’s network arrangements; leadership and governance structure; and fees collected, and implement a new requirement for the largest accounting firms to confidentially submit financial statements to the PCAOB in a specified manner.
- Revise the special reporting form (“Form 3” or the “Special Reporting Form”) to expand the scope of special reporting for a subset of firms to include (on a confidential basis) events that pose a material risk, or represent a material change, to the firm’s organization, operations, liquidity or financial resources, in such a manner that they will affect the provision of audit services (“material event reporting”); and to require material event reporting within 14 days or more promptly as warranted;
- Implement new cybersecurity reporting requirements, including reporting of significant cybersecurity incidents within five business days on a confidential basis and public reporting of a brief description of a firm’s policies and procedures, if any, to identify, assess, and manage cybersecurity risks; and
- Implement a new form (“Update to the Statement of Applicant’s Quality Control Policies and Procedures” or “Form QCPP”) to capture updates to a firm’s quality control policies currently provided in a firm’s application for registration (Form 1).⁸

The following is a brief description of those CII membership approved-policies that we believe are relevant to the requirements and an analysis of why we believe the Commission should approved the Proposed Rules:

⁴ See Proposing Release: Firm Reporting, PCAOB Release No. 2024-003 (Apr. 9, 2024), <https://assets.pcaobus.org/pcaob-dev/docs/default-source/rulemaking/docket-055/2024-003-firmreporting.pdf>.

⁵ See Adopting Release: First Reporting, PCAOB Release No. 2024-013 (Nov. 21, 2024), https://assets.pcaobus.org/pcaob-dev/docs/default-source/rulemaking/docket-055/2024-013-firm-reporting.pdf?sfvrsn=1e072ad1_2.

⁶ See Letter from Jeffrey P. Mahoney, General Counsel, CII to Ms. Phoebe W. Brown, Office of Secretary, PCAOB at 2-4 (Those policies include: “Independence of Accounting and Auditing Standard Setters;” “Audit Committee Responsibilities Regarding Independent Auditors;” “Shareowner Votes on the Board’s Choice of Outside Auditor;” “Board’s Role in Strategy and Risk Oversight;” and “Financial Gatekeepers.”).

⁷ PCAOB Chair Williams Statement on Firm Reporting Adoption (Nov. 21, 2024), <https://pcaobus.org/news-events/speeches/speech-detail/pcaob-chair-williams-statement-on-firm-reporting-adoption>; see George R. Botic, Board Member, Statement in Support of the Adoption of Firm Reporting (Nov. 21, 2014), <https://pcaobus.org/news-events/speeches/speech-detail/statement-in-support-of-the-adoption-of-firm-reporting> (“Prior to the adoption of these amendments, the basic framework of the PCAOB’s annual and special reporting requirements has not been substantially reconsidered since its adoption in 2008.”).

⁸ 89 Fed. Reg. at 96712.

Audit Committee Responsibilities Regarding Independent Auditor⁹

This CII membership-approved policy states, in part, that:

The audit committee should fully exercise its authority to hire, compensate, oversee and, if necessary, terminate the company's independent auditor. In doing so, the committee should take proactive steps to promote auditor independence and audit quality. . . . [And the audit committee should evaluate a number of factors when overseeing the independent auditor, including:]

. . . .

- the level of transparency and robustness of the audit firm with the *audit committee and investors*, including with respect to . . . *governance practices and underlying principles, . . .*¹⁰

Consistent with this policy, the Proposed Rules would “require more information regarding a firm’s . . . governance structure”¹¹ And we agree with the Board’s conclusion that “such information will help investors and audit committees to better understand firm processes and priorities, and to differentiate among firms with respect to, for example, leadership, oversight, and independence practices.”¹²

Shareowner Votes on the Board's Choice of Outside Auditor¹³

This CII membership-approved policy states:

Audit committee charters should provide for annual shareowner votes on the board's choice of independent, external auditor. In practice, if the board's selection fails to achieve the support of a significant majority, such as 80%, of the for-and against votes cast, the audit committee should: (1) solicit the views of major shareowners to determine why a meaningful minority of shareowners dissented from ratification and (2) take the shareowners' views into consideration and reconsider its choice of auditor.¹⁴

We believe the effectiveness of this policy as a tool for investors to demonstrate whether they support the audit committee’s appointment of the firm is currently significantly limited because of the lack of comparable firm information available to investors. As the Board explains, “the

⁹ CII, Policies on Corporate Governance, § 2.13a Audit Committee Responsibilities Regarding Independent Auditors (last updated on Mar. 6, 2023), https://www.cii.org/corp_gov_policies.

¹⁰ *Id.* (emphasis added).

¹¹ 89 Fed. Reg. at 96713.

¹² *Id.* at 96,719; *see also* PCAOB Chair Williams Statement on Firm Reporting Adoption (“Firms’ leadership and governance structures have a direct impact on their incentives and ability to provide high-quality audit services to investors.”).

¹³ § 2.13f Shareowner Votes on the Board's Choice of Outside Auditor.

¹⁴ *Id.*

lack of transparency regarding firm information leaves investors less equipped to assess a firm’s capacity, incentives, and constraints when *voting on a proposal to ratify the appointment made by the audit committee* or in exercising their rights to oversee the audit committee through board of director elections.”¹⁵ And we strongly agree with the Board’s conclusion that:

The final rule enhances transparency of audit firms by mandating public disclosure of firm information—including financial, governance, network, and cybersecurity characteristics—relating to the firm’s capacity, incentives, and constraints to provide quality audit services. The final rule thus reduces frictions in the information market . . . and thereby enhances: (i) audit committees’ abilities to efficiently and effectively compare firms in their appointment and monitoring efforts and (ii) *investors’ abilities to efficiently and effectively compare firms in their decisions to vote on ratification proposals and allocate capital.*¹⁶

Financial Gatekeepers¹⁷

This CII membership-approved policy explicitly describes auditors as “financial ‘gatekeepers.’”¹⁸ The policy indicates that it is imperative that auditors be subject to “[r]obust oversight and [have] genuine accountability.”¹⁹ The policy also states that the “Sarbanes-Oxley Act of 2002 [SOX] . . . bolstered the . . . oversight and accountability of accounting firms . . . [and that] *[c]ontinued reforms are needed to ensure that the pillars of transparency, independence, oversight and accountability are solidly in place.*”²⁰

Consistent with this policy, we believe the additional information required by the Proposed Rules would result in greater transparency, oversight, and accountability for the audit firms. In addition, we agree with the Board’s conclusion that SOX emphasizes “the auditor’s important gatekeeping role within the public company reporting framework.”²¹ SOX also authorizes the requirements of the Proposed Rules by providing “that firms may be required to report more frequently and authorizes the Board to require ‘such other information as the rules of the Board or the Commission shall specify as necessary or appropriate in the public interest or for the protection of investors.’”²²

¹⁵ 89 Fed. Reg. at 96755 (emphasis added).

¹⁶ *Id.* at 96760 (emphasis added).

¹⁷ CII, Policies on Other Issues, Financial Gatekeepers (adopted Apr. 13, 2010), https://www.cii.org/policies_other_issues#fin_gatekeepers; cf. Anthony C. Thompson, Statement in Support of Firm Reporting (Nov. 21, 2014), <https://pcaobus.org/news-events/speeches/speech-detail/statement-in-support-of-firm-reporting-amendments> (“Auditors play a critical gatekeeping role in our capital markets [and] [c]urrently, however, there is limited public information regarding the firm governance and network arrangements that some firms participate in.”).

¹⁸ CII, Policies on Other Issues, Financial Gatekeepers.

¹⁹ *Id.*

²⁰ *Id.* (emphasis added).

²¹ 89 Fed. Reg. at 96712.

²² *Id.* at 96712 (citing Sarbanes-Oxley Act, Pub. L. No. 107-204, § 102(b)-(e) 116 Stat. 745, 753-54 (2002), available at

https://www.dol.gov/agencies/oalj/PUBLIC/WHISTLEBLOWER/REFERENCES/STATUTES/SARBANES_OXLEY_ACT_OF_2002#:~:text=%5B%5BPage%20116%20STAT.,laws%2C%20and%20for%20other%20purposes)

Independence of Accounting and Auditing Standard Setters²³

This CII membership-approved policy states, in part, that:

In order to be high quality, . . . auditing standards must be seen as meeting the needs of the investing public, . . . Attributes that underpin an effective . . . auditing standard setter include:

.....

- **Accountability to Investors** – A clear recognition that investors are the key customer of audited financial reports and, therefore, the primary role . . . should be to satisfy in a timely manner *investors' information needs* . . .²⁴

Consistent with this policy, the *Wall Street Journal* recently reported that:

*Investors have wanted . . . [these] proposed changes for years in a bid for greater transparency from audit firms. The U.S. Treasury Department's advisory committee on the auditing profession issued a report back in 2008 calling for many of these moves by the PCAOB.*²⁵

More specifically, we believe the May 2024 comment letter from the Members of the Investor Advisory Group (MIAG) of the PCAOB provides evidence that the firm reporting requirements described in the Proposed Rules are responsive to investors information needs.²⁶ The MIAG letter explains:

The MIAG strongly supports the . . . [p]roposal which implements a long overdue 2008 recommendation of the U.S. Department of Treasury Advisory Committee on the Auditing Profession (ACAP Report) to require audit firms to uniformly disclose certain information about their organization and operations and for larger audit firms to issue audited financial statements. *We believe the . . . Proposal can produce significant benefits to investors by providing information they currently don't have access to that can assist them in making more informed decisions about whether to vote to approve the ratification of the auditor or the election or reelection of the audit committee chair or members, or in exercising their responsibilities for oversight of the audit committees of public companies.*²⁷

²³ CII Policies on Other issues, Independence of Accounting and Auditing Standard Setters (Mar. 1, 2017), https://www.cii.org/policies_other_issues#indep_acct_audit_standards.

²⁴ *Id.* (emphasis added).

²⁵ Mark Maurer, *Large Accounting Firms Will Have to Submit Financial Statements to U.S. Regulator*, Wall. St. J., Nov. 21, 2024 (emphasis added), available at <https://www.wsj.com/articles/large-accounting-firms-will-have-to-submit-financial-statements-to-u-s-regulator-2ed22953>.

²⁶ Letter from Members of the Investor Advisory Group to Office of the Secretary, PCAOB 1 (May 29, 2024), https://assets.pcaobus.org/pcaob-dev/docs/default-source/rulemaking/docket_041/4_iag.pdf?sfvrsn=2680ecfd_2.

²⁷ *Id.* at 1-2 (emphasis added).

And we agree with the Board’s conclusion that the Proposed Rules “*required disclosures* will reduce search costs and provide audit committees and investors with greater insights into which firm could *best meet investor needs* regarding the audit.”²⁸

Board’s Role in Strategy and Risk Oversight²⁹

This membership approved policy states, in part:

In assessing the company’s risk profile, the board should consider company specific dynamics as well as risks across the industry and any systemic risks. Material risks can stem from many aspects of the business, including, but not limited to, the management of: capital structure, human capital, supply chain relationships, executive compensation, *cybersecurity* and climate change. While boards organize and divide the risk oversight function in a variety of ways, all directors share ultimate responsibility for effective risk oversight. The board must evaluate the company’s strategy, taking account of material risks, and be willing to take corrective action if . . . performance . . . is inadequate.³⁰

Our general support for the new cybersecurity reporting requirements included in the Proposed Rules reflects the importance our members assign to cybersecurity risk as evidenced by our policy and as reflected in our May 2022 comment letter to the SEC in support of their “proposed new rules . . . on cybersecurity risk management, strategy, governance and incident disclosure.”³¹ And we agree with Board’s conclusion that:

The required disclosures regarding integration of cybersecurity policies and procedures into risk management systems, engagement of third parties in relation to cybersecurity risks, and policies and procedures to oversee and identify threats associated with third party service providers *will provide investors and audit committees with information* to understand efforts taken to protect an issuer’s confidential data. The required disclosures will also facilitate differentiation among firms based on information that *could help investors and audit committees assess a firm’s vulnerability to cyberattacks, which could impact a firm’s operations and ability to continue delivering quality audit services*. The Board notes that *institutional investors may be more inclined than retail investors to employ resources assessing cybersecurity policies and procedures because of the expertise required*.³²

²⁸ 89 Fed. Reg. at 96768 (emphasis added).

²⁹ § 2.7 Board’s Role in Strategy and Risk Oversight.

³⁰ *Id.*

³¹ Letter from Tracy Stewart, Director of Research, CII to Vanessa A. Countryman, Secretary, Securities and Exchange Commission (May 9, 2022), https://www.cii.org/files/05_09_22_SEC_cyber_letter.pdf.

³² 89 Fed. Reg. at 96771 (emphasis added and footnotes omitted).

Finally, we acknowledge that the Proposed Rules do not adopt all the recommendations contained in CII's May 2024 comment letter in response to the Proposing Release³³ and we share Board Member Kara M. Stein's "hope the Board will conduct a review of the firm reporting framework at the proper time and reconsider the need to provide [more] transparency to investors, other stakeholders, and the public."³⁴ That said, we believe the Proposed Rules significantly improves upon the existing standards for firm reporting. We also believe the Proposed Rules, if approved by the SEC, would protect the interests of investors, consistent with the mandate set forth in Title I of SOX³⁵ and our membership approved policies.

We appreciate the opportunity to provide CII's investor-focused perspective on the Proposed Rules. Please let me know if you have any questions about the content of this letter.

Sincerely,



Jeffrey P. Mahoney
General Counsel

Attachment

Letter from Jeffrey P. Mahoney, General Counsel, CII to Ms. Phoebe W. Brown, Office of Secretary, PCAOB (May 30, 2024).

³³ One CII recommendation in response to the "*PCAOB Rulemaking Docket Matter No. 041, Firm and Engagement Metrics and PCAOB Rulemaking Docket Matter No. 055 Proposing Release: Firm Reporting*" that was not adopted by the PCAOB was a recommendation that would require that "larger audit firms produce financial statements and that those financial statements (1) be audited and (2) issued publicly." Letter from Jeffrey P. Mahoney, General Counsel, CII to Ms. Phoebe W. Brown, Office of Secretary, PCAOB at 5.

³⁴ Kara M. Stein, Board Member, Investor Protection and Understanding Audit Firms: Enhanced firm Reporting (Nov. 21, 2024), <https://pcaobus.org/news-events/speeches/speech-detail/investor-protection-and-understanding-audit-firms---enhanced-firm-reporting>.

³⁵ See Sarbanes-Oxley Act, Pub. L. No. 107-204, § 101(a), 116 Stat. 754, 750 ("ESTABLISHMENT OF BOARD.— There is established the Public Company Accounting Oversight Board, to oversee the audit of public companies that are subject to the securities laws, and related matters, in order to protect the interests of investors and further the public interest in the preparation of informative, accurate, and independent audit reports for companies the securities of which are sold to, and held by and for, public investors.").