

Via Electronic Submission

February 8, 2018

The Monitoring Group  
C/O International Organization of Securities Commissions  
Calle Oquendo 12  
28006 Madrid  
SPAIN

Submitted via email to: [MG2017consultation@iosco.org](mailto:MG2017consultation@iosco.org)

*Re: Monitoring Group (MG) Consultation (MGC): Strengthening the Governance and Oversight of the International Audit-Related Standard-Setting Boards in the Public Interest<sup>1</sup>*

Dear Mr. Everts:

I am writing on behalf of the Council of Institutional Investors (CII), a nonprofit, nonpartisan association of 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 exceeding \$3.5 trillion. Our member funds include major long-term shareowners with a duty to protect the retirement savings of millions of workers and their families. Our associate members include a range of asset managers with more than \$25 trillion in assets under management.<sup>2</sup>

As the leading voice for long-term patient capital in the United States, CII strongly believes that independent private sector audit-related standard-setting is critical to the development of high quality standards that meet the needs of investors—the main users of audited financial reports. Last spring, after research and deliberations by CII staff, our policies committee, and board of directors, including consultation with leading accounting and auditing experts, CII’s general members voted to approve an update to a long-standing CII policy<sup>3</sup> that addresses one of the key issues raised by the MGC: What should be the guiding principles that underpin an effective independent audit-related standard setter?<sup>4</sup>

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<sup>1</sup> Monitoring Group Consultation, “Strengthening the Governance and Oversight of the International Audit-Related Standard-Setting Boards in the Public Interest” (2017), <https://www.iosco.org/library/pubdocs/pdf/IOSCOPD586.pdf>.

<sup>2</sup> 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>.

<sup>3</sup> The policies of CII are part of living document that is reviewed and updated on an ongoing basis. The policies are intended to set standards or recommended best practices that CII members believe companies and their governing bodies should adopt. The policies are available to the public and can be accessed without charge from CII’s website at <http://www.cii.org/policies>.

<sup>4</sup> Monitoring Group Consultation at 9-10 (“SECTION 2: GUIDING PRINCIPLES”).

Our policy sets forth the following seven attributes we believe must be achieved, as a minimum, to establish an independent audit-related standard setting system that has the potential to produce timely, transparent, and understandable audited financial reports to meet the needs of the investing public:

- **Recognition of the Role of Reporting** – A recognition that financial accounting and reporting and the quality of auditing thereof is a public good, necessary to investor confidence in individual enterprises and the global capital markets as a whole;
- **Sufficient Funding** – Resources sufficient to support the standard setting process, including a secure, stable, source of funding that is not dependent on voluntary contributions of those subject to the standards (for international standard setters, such funding may depend on governmental and stakeholder cooperation from multiple jurisdictions, including the United States);
- **Independence and Technical Expertise** – A full-time standard-setting board and staff that are independent from prior employers or similar conflicts and possess the technical expertise necessary to fulfill their important roles;
- **Accountability to Investors** – A clear recognition that investors are the key customer of audited financial reports and, therefore, the primary role of audited financial reports should be to satisfy in a timely manner investors’ information needs (this includes having significant, prominent and adequately balanced representation from qualified investors on the standard setter’s staff, standard-setting board, oversight board and outside monitoring or advisory groups);
- **Due Process** – A thorough public due process that includes solicitation of investor input on proposals and careful consideration of investor views before issuing proposals or final standards;
- **Adequate Protections** – A structure and process that adequately protects the standard setter’s technical decisions and judgments (including the timing of the implementation of standards) from being overridden by government officials or bodies; and
- **Enforcement** – A clear, rigorous and consistent mechanism for enforcement by regulators of the accounting and auditing standards.<sup>5</sup>

We generally agree with the proposed MGC guiding principles subject to the following of improvements that we believe are necessary to more closely align the principles to our policies:

#### *Overarching Principle<sup>6</sup>*

We believe the MGC’s proposed “Overarching Principle: The Public Interest,”<sup>7</sup> should acknowledge that investors are the main users of audited financial reports, and, therefore, that the primary role of those reports should be to satisfy in a timely manner investors information needs. We also believe the overarching principle should include the concept that auditing is a public

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<sup>5</sup> CII, Policies on Other Issues, Independence of Accounting and Auditing Standard Setters, [http://www.cii.org/policies\\_other\\_issues#indep\\_acct\\_audit\\_standards](http://www.cii.org/policies_other_issues#indep_acct_audit_standards).

<sup>6</sup> Monitoring Group at 9.

<sup>7</sup> *Id.*

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good, necessary to investor confidence in individual enterprises and the global capital markets as a whole.

*Supporting Principles*<sup>8</sup>

We believe the MGC's "Supporting Principles"<sup>9</sup> should require that the independent standard setting structure provides resources sufficient to fund the standard-setting process, including a secure, stable source of funding that is not dependent on voluntary contributions from those subject to the standards. In addition, the standard setting structure and process should adequately protect the standard-setter's technical decisions and judgments from being overridden by government officials and bodies, including members of the MG.

We also believe that the supporting principles should require that each group or board within the independent standard setting structure, including the MG, have significant, prominent, and adequately balanced representation from qualified investors, and a thorough public due process.

Finally, we believe that the supporting principles should require the independent standard setting board have full-time members and staff that are required to sever all employment relationships and positions that may give rise to economic incentives or other conflicts, and possess the technical expertise necessary to fulfill their important roles.

A more detailed description of our views are described in the attachment which includes responses to a number of the specific questions raised in the MGC.

Thank you for the opportunity to submit our comments regarding these important matters. Should you have any questions, please do not hesitate to contact me at 202.261.7081 or [jeff@cii.org](mailto:jeff@cii.org).

Sincerely,



Jeffrey P. Mahoney  
General Counsel

Attachment

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<sup>8</sup> *Id.* at 9-10.

<sup>9</sup> *Id.*

## Selected Responses to Monitoring Group Consultation (MGC) Questions

**Question 1: Do you agree with the key areas of concern identified with the current standard setting model? Are there additional concerns that the Monitoring Group [(MG)] should consider?<sup>1</sup>**

The Council of Institutional Investors (CII) generally agrees with the MGC key areas of concern identified with the current audit-related standard setting model. However, we offer the following proposed improvements to the key concerns, including the addition of a fourth key area of concern.

### *Key Concern #1*

CII policies, which are approved by our general members, reflect the view that having a standard-setting model that is independent in appearance and in fact is (1) critical to enhancing the credibility of the standard setting process and (2) lessens the ability of special interest groups to manipulate the process to favor their own short-term interests to the detriment of the interests of investors and other like-minded stakeholders.<sup>2</sup> Moreover, we believe that independence promotes the long-term sustainability of international standards and better ensures continual buy-in and participation by all interested parties.

In our view, the current international standard setting model is not sufficiently independent. On this issue, we generally share the views of then-U.S. Public Company Accounting Oversight Board (PCAOB) member Steven B. Harris who, commenting on key concern #1, said:

I share these concerns about the independence of the international audit and ethics standards. Today, a majority of the governing boards of both the audit and ethics standard setters is not independent of the profession . . . . As a result, the standards are open to what I consider to be legitimate concerns that they may be susceptible to a standard setter's form of regulatory capture.<sup>3</sup>

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<sup>1</sup> Monitoring Group Consultation, Strengthening the Governance and Oversight of the International Audit-Related Standard-Setting Boards in the Public Interest 8 (2017), <https://www.iosco.org/library/pubdocs/pdf/IOSCOPD586.pdf>.

<sup>2</sup> Council of Institutional Investors (CII), Policies on Other Investment Related Issues, Independence of Accounting and Auditing Standard Setters (Updated Mar. 1, 2017), [http://www.cii.org/policies\\_other\\_issues#indep\\_acct\\_audit\\_standards](http://www.cii.org/policies_other_issues#indep_acct_audit_standards); see, e.g., Letter from Jeff Mahoney, General Counsel, CII, to Tamara Oyre, Assistant Corporate Secretary, IASC Foundation 5 (Sept. 25, 2008) (addressing proposals by the trustees of the International Accounting Standards Committee Foundation to amend their constitution) (on file with CII).

<sup>3</sup> PCAOB, Steven B. Harris, Remarks at the 2017 International Institute on Audit Regulation, Q&A: The Monitoring Group Consultation Paper 1 (Dec. 7, 2017), <https://pcaobus.org/News/Speech/Pages/Harris-QA-monitoring-group-consultation-paper-12-07-17.aspx>.

## Key Concern #2

We agree with the MGC that “there is a risk that standards are not developed fully in the public interest.”<sup>4</sup> However, we also share the observation of the Chief Accountant of the U.S. Securities and Exchange Commission (SEC) that the reference to “public interest” identified in key concern #2 and throughout the MGC notably does not appear to include “investor protection.”<sup>5</sup>

Consistent with our membership approved policies,<sup>6</sup> we agree with the SEC Chief Accountant Wesley R. Bricker that:

Investors are the main users of audited financial statements, and as the residual claimant of the company, shareholders ultimately also bear the cost of the audit. It would seem appropriate for the MG to identify how investor protection . . . [is] considered . . . . It is important to note that investor protection is not at odds with including a broader set of stakeholders in international audit-related standard-setting.<sup>7</sup>

In addition, we strongly object to the language in footnote 3 of the MG that appears to suggest that the “public interest” may diverge from the needs of investors with respect to international audit-related standard-setting in order to satisfy “safety and soundness considerations.”<sup>8</sup> We believe safety and soundness is a consequence of high quality accounting and audit-related standards that meet the needs of investors.<sup>9</sup> As a result, our policies would generally lead us to oppose the MG, the Public Interest Oversight Board (PIOB), or other governmental officials or bodies from overriding the “technical decisions and judgments” of an independent audit-related standard setter.<sup>10</sup>

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<sup>4</sup> Monitoring Group Consultation at 8.

<sup>5</sup> Letter from Wesley R. Bricker, Chief Accountant, U.S. Securities and Exchange Commission, to The Monitoring Group, C/O International Organization of Securities Commissions 4 (Jan. 23, 2018) (“Investor protection is notably missing from the mention of public interest in the CP”) (on file with CII).

<sup>6</sup> CII, Policies on Other Investment Related Issues, Independence of Accounting and Auditing Standard Setters (“Investors are the key customer of audited financial reports”).

<sup>7</sup> Letter from Wesley R. Bricker at 4.

<sup>8</sup> Monitoring Group Consultation at 4 n.3.

<sup>9</sup> See, e.g., Hans Hoogervorst Discusses the Objectives of Financial Reporting (Feb. 9, 2011) (describing the inherent conflict between a standard setter’s goal of transparency and a “financial stability objective”), <https://www.iasplus.com/en/news/2011/February/news6548>.

<sup>10</sup> CII, Policies on Other Investment Related Issues, Independence of Accounting and Auditing Standard Setters; see generally Professor Donna L. Street, Mahrt Chair of Accounting, University of Dayton, Criteria for an Independent Accounting Standard Setter, How Does the IASB Rate? 20-21 (describing pressure from bank regulators on international accounting standard setting in the wake of the financial crisis), [http://www.cii.org/files/publications/white\\_papers/06\\_06\\_11\\_criteria\\_for\\_an\\_independent\\_accounting\\_standard\\_setter.pdf](http://www.cii.org/files/publications/white_papers/06_06_11_criteria_for_an_independent_accounting_standard_setter.pdf); Stephen G. Ryan, Professor of Accounting and Peat Marwick Faculty Fellow, Stern School of Business, New York University, Understanding the Issues Raised by the Credit Crunch 17 (July 2008) (commenting that “most bank regulators” opposed fair value accounting despite the evidence that that most investors supported fair value accounting, in part, because it is superior to other existing accounting approaches, particularly during times of illiquid or disorderly markets as experienced during the financial crisis), [http://www.cii.org/files/publications/white\\_papers/07\\_11\\_08\\_fair\\_value\\_accounting.pdf](http://www.cii.org/files/publications/white_papers/07_11_08_fair_value_accounting.pdf).

We believe that providing the standard setter with full discretion in establishing, developing and pursuing its standard-setting agenda is necessary for establishing and preserving the independence of the standard setting process. Providing or facilitating veto power or the authority to approve the standard setter's work plan is unnecessary and over time would be likely harmful to public confidence in the governance of the standard-setting process.<sup>11</sup>

We agree with the MG that a public interest framework is "at the very heart of any reformed standard-setting process."<sup>12</sup> We, therefore, urge the MG and the PIOB to prioritize the development of the public interest framework that incorporates investor protection.<sup>13</sup>

### *Key Concern # 3*

We are concerned about the "relevance and timeliness" of current audit-related standards.<sup>14</sup> On this issue, we again generally share the views of former PCAOB member Harris who said:

I share these concerns and would note that, on average, it takes audit and accounting standard setters in the United States and internationally five to 10 years to adopt a major standard.

Compare that to how long it took the United States to land a man on the moon. President Kennedy challenged Americans to do just that in 1961 and the mission was accomplished in 1969. Eight years.

I think we all have an obligation to demonstrate the need and define the problem to be addressed before considering any standard, but once that is done, standards should be adopted in a far more timely fashion than is currently the case.

I consider the current timeframes to be unacceptable. I also think we must strive to reduce the complexity and length of our standards whenever possible, which may also speed up their adoption.

Finally, before contemplating any new standard-setting initiative, I believe all audit and accounting standard setters should reach out first and foremost to the investor community, which is the primary constituency of standard setters and the audit profession alike.<sup>15</sup>

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<sup>11</sup> See, e.g., Letter from Jeff Mahoney, General Counsel, CII, to Tamara Oyre, Assistant Corporate Secretary, IASC Foundation at 5 (Commenting on CII concerns about potential impact or override of decisions or judgments of International Accounting Standards Board by Monitoring Group).

<sup>12</sup> Monitoring Group Consultation at 5.

<sup>13</sup> *Id.* at 5.

<sup>14</sup> *Id.* at 8.

<sup>15</sup> PCAOB, Steven B. Harris at 2 (footnote omitted).

#### *CII Key Concern # 4*

We believe the MG needs to more carefully consider the current underrepresentation of investors in the development of audit-related standards. Our membership approved policies indicate that 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 of audited financial reports should be to satisfy in a timely manner investors' information needs (this includes having significant, prominent and adequately balanced representation from qualified investors on the standard setter's staff, standard-setting board, oversight board and outside monitoring or advisory groups).<sup>16</sup>

We note that our policy is generally consistent with the following recommendation contained in the 2008 Final Report of the Advisory Committee on Improvements to Financial Reporting to the SEC:

Recommendation 2.1: Investor perspectives are critical to effective standards-setting, as investors are the primary consumers of financial reports. Only when investor perspectives are properly considered by all parties does financial reporting meet the needs of those it is primarily intended to serve. Therefore, investor perspectives should be given *pre-eminence* by all parties involved in standards-setting. Although it is more challenging to obtain investor perspectives than those of other constituents involved in the standards-setting process, additional investor representation would facilitate increased consideration of investor perspectives in the standards-setting process.<sup>17</sup>

While this recommendation was directed at accounting standards setting, we believe it is equally applicable to audit-related standard setters since, as indicated by the SEC Chief Accountant in response to the MGC, investors are the main users of audited financial statements.<sup>18</sup> Moreover, as described by then-PCAOB Chair James R. Doty in testimony before the SEC:

The majority of the comments on our standards come from auditors and preparers, and that also affects our timeline. We are exploring ways to get additional insights from auditors because we recognize they are directly affected.<sup>19</sup>

We believe that the most direct and effective means to obtain additional insights from investors in the audit-related standard-setting process is for the audit-related standard setting boards to

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<sup>16</sup> CII, Policies on Other Investment Related Issues, Independence of Accounting and Auditing Standard Setters.

<sup>17</sup> Final Report of the Advisory Committee on Improvements to Financial Reporting to the United States Securities and Exchange Commission 10 (Aug. 1, 2008) (emphasis added and footnotes omitted), <https://www.sec.gov/about/offices/oca/acifr/acifr-finalreport.pdf>.

<sup>18</sup> Letter from Wesley R. Bricker at 4.

<sup>19</sup> James R. Doty, Chairman, PCAOB 2016 Budget Presentation to the SEC 5 (Mar. 14, 2016), <https://pcaobus.org/News/Speech/Pages/PCAOB-2016-Budget-Presentation-to-the-SEC.aspx>.

have significant representation from qualified investors.<sup>20</sup> We find it unacceptable, for example, that per review of the on-line biographies of the 19 current members of the International Audit and Assurance Standards Board, there does not appear to be a single member that has an investor background or is otherwise from the investor community.<sup>21</sup>

More broadly, we believe each tier of the MG's proposed standard setting structure, including the tier containing the MG, would benefit from having significant, prominent, and adequately balanced representation from qualified investors.<sup>22</sup> As long as investors do not have substantial decision making authority for either the governance or standard setting activities of an audit-related standard setter the standard setting model cannot fully and credibly serve investors in the global markets.<sup>23</sup> While we understand the challenges of finding qualified investors to fill audit-related standard setting positions, we remain confident that CII together with other investor based organizations around the globe could successfully identify qualified candidates for those positions.<sup>24</sup>

**Question 2: Do you agree with the overarching and supporting principles as articulated? Are there additional principles which the Monitoring Group should consider and why?<sup>25</sup>**

We generally agree with the overarching and supporting principles as articulated. We offer the following suggested improvements and additional principles for your consideration.

Overarching Principle

As indicated in response to Question 1, since the MG appropriately contemplates an audit-related standard setting board whose responsibilities include serving the international capital markets, we believe that it is critical that the overarching principle acknowledge, consistent with our policies, that investors are the key customer of audited financial reports and, therefore, the

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<sup>20</sup> See, e.g., Letter from Jeff Mahoney, General Counsel, Council of Institutional Investors, to Florence E. Harmon, Acting Secretary, Securities and Exchange Commission 9 attachment (Apr. 20, 2009) (“we believe the most direct and effective means of ensuring that investor perspectives are given pre-eminence . . . is for the standard setting board to have significant representation from the investor community”), <https://www.sec.gov/comments/s7-27-08/s72708-194.pdf>.

<sup>21</sup> IFAC, IAASB, Members, <https://www.iaasb.org/about-iaasb/members>.

<sup>22</sup> See Letter from Jeff Mahoney, General Counsel, CII, to Tamara Oyre, Assistant Corporate Secretary, IASC Foundation at 6 (advocating for “significant representation on the Monitoring Group from the primary consumers of financial reports”); see also Letter from Jeff Mahoney, Co-Chair, Investors Technical Advisory Committee, to Tamara Oyre, Assistant Corporate Secretary, IASC Foundation 9 (Mar. 31, 2009) (“the Monitoring Group will be likely be unable to fulfill . . . [its] important role if . . . investors do not have direct and *significant* representation on the group”) (on file with CII).

<sup>23</sup> See, e.g., Letter from Jack T. Ciesielski, Investors Technical Advisory Committee, to Ms. Florence E. Harmon, Acting Secretary, Securities and Exchange Commission 5 (Jan. 30, 2009) (“As long as investors are not admitted to the deliberation table and do not have substantial decisionmaking authority for either the governance (proposed Monitoring Group and IASC Foundation) or standard setting activities at the IASB, this body cannot credibly serve as the sole global financial reporting standard setter for investors and global markets.”), [http://www.fasb.org/jsp/FASB/Page/itac\\_01-30-09.pdf](http://www.fasb.org/jsp/FASB/Page/itac_01-30-09.pdf).

<sup>24</sup> See, e.g., Letter from Jeff Mahoney, General Counsel, CII, to Tamara Oyre, Assistant Corporate Secretary, IASC Foundation 10 (Mar. 26, 2009) (responding to lack of investor representation on the Standards Advisory Council of the International Accounting Standards Committee Foundation) (on file with CII).

<sup>25</sup> Monitoring Group Consultation at 10.

primary of those reports should be to satisfy in a timely manner investors information needs. In addition, and also consistent with our policies, we believe the overarching principle should include the concept that auditing “is a public good, necessary to investor confidence in individual enterprises and the global capital markets as a whole.”<sup>26</sup> Also indicated in response to Question 1, we agree with the SEC Chief Accountant that the incorporation of our proposed language, or similar language, into the overarching principle should not be at odds with including a broader set of stakeholders in international audit-related standard-setting.

## Supporting Principles

### *Independent*

We believe, consistent with our membership approved policies, that the “independent” supporting principle should include the concept that the standard setting board and staff should be full-time and be required to sever all employment relationships and positions that may give rise to economic incentives that might call into question a board member or staff’s independence of judgment in setting audit-related standards.<sup>27</sup>

Having full-time board members is absolutely essential to ensuring the independence of an audit-related standard setter.<sup>28</sup> Part-time board members are more likely to be conflicted by positions taken by their employer and could face difficult decisions as to which constituency they owe their allegiance.<sup>29</sup>

Those potential conflicts are not hypothetical. As one example, the creation of the Financial Accounting Standards Board in the U.S. with full-time members was largely in response to concerns that the decisions of the part-time members of the prior accounting standard setting organization—the Accounting Principles Board—were influenced by “conflict[s], real or apparent, between the member’s private interest and the public interest.”<sup>30</sup> We believe part-time members of international audit-related standard setting boards would likely be subject to similar and perhaps more frequent conflicts of interest.

In addition, we generally agree with the MG that the “Board, its working groups and the PIOB should, at each stage, reflect the diversity (including geographic diversity) of their key stakeholders.”<sup>31</sup> We, however, also believe that the MG should be cautious that the pursuit of “geographic diversity” does not result in a rigid formula for determining the composition of the standard setting boards, its working groups, or the PIOB. A rigid geographical diversity

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<sup>26</sup> CII, Policies on Other Investment Related Issues, Independence of Accounting and Auditing Standard Setters.

<sup>27</sup> *Id.* (“A full-time standard-setting board and staff that are independent from prior employers or similar conflicts . . .”).

<sup>28</sup> *See, e.g.*, Letter from Jeff Mahoney, General Counsel, CII, to Tamara Oyre, Assistant Corporate Secretary, IASC Foundation 8 (Sept. 25, 2008) (“[w]e believe that having full time board members is absolutely essential to ensuring the ongoing independence of the IASB”) (on file with CII).

<sup>29</sup> *See, e.g.*, Letter from Paul G. Haaga, Jr., Vice Chairman, Capital Research and Management, to Constitution Review Committee, International Accounting Standards Board 3 (July 2, 2008) (raising concerns about part time members of the International Accounting Standards Board) (on file with CII).

<sup>30</sup> Establishing Financial Accounting Standards, Report of the Study on Establishment of Accounting Principles 72 (Am. Inst. of Certified Pub. Accountants Mar. 1972) (on file with CII).

<sup>31</sup> Monitoring Group Consultation at 9.

formulation could create the perception that individual members are expressing the views of a geographical constituency that they represent rather than their individual views.<sup>32</sup>

We believe that the independent supporting principle should also include the concept, referenced in response to Question 1, that an audit-related standard setter should have a “structure and process that adequately protects the standard setter’s technical decisions and judgments (including the implementation of standards) from being overridden by government officials or bodies . . . .”<sup>33</sup> This is all the more critical for an international audit-related standard setter that may be subject to pressures from multiple legislators and regulators from multiple governments with differing priorities. Without such protection the proposed audit-related standard setter could face a real danger of becoming a “representative, politicized, polarized, bureaucratic UN-style body”<sup>34</sup> unable or unwilling to serve the public interest.

In addition, we believe that the independent supporting principle should also include the concept of sufficient funding. We note that the proposed MGC reforms appear likely to create a standard setting model that is potentially much more costly than current arrangements. Thus, it is all the more critical that the supporting principles adopt our policy of the standard-setting process including “a secure, stable, source of funding that is not dependent on voluntary contributions of those subject to the standards.”<sup>35</sup>

Economic independence is an important guiding principle in institutionalizing a standard setting body that is responsive to the needs of investors. Then U.S. SEC Chairman Mary Schapiro warned, with reference to the International Accounting Standards Board (IASB), that the funding mechanism should not be such that funders could say, “[w]e do not like this, so we will reduce our contribution.”<sup>36</sup>

Our policies also recognize that the funding of an international independent standard setter is challenging and “may depend on governmental and stakeholder cooperation from multiple jurisdictions, including the United States.”<sup>37</sup> In light of those challenges, we would generally support the approach suggested by the SEC Chief Accountant involving “publication revenues and market-oriented funding arrangements with national standard-setters, such as a membership fee for national standard-setters to participate in an international forum of standard-setters sponsored by the international audit-related standard setter.”<sup>38</sup>

We generally agree with the SEC Chief Accountant that a broader “multi-stakeholder, market-based approach is one way for establishing a more market-driven direct connection between

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<sup>32</sup> See, e.g., Letter from Paul G. Haaga, Jr., Vice Chairman, Capital Research and Management, to Constitution Review Committee, International Accounting Standards Board at 2 (raising similar concerns about the use of a “geographical component” for selecting members of the International Accounting Standards Board).

<sup>33</sup> CII, Policies on Other Investment Related Issues, Independence of Accounting and Auditing Standard Setters.

<sup>34</sup> See, e.g., Ray Ball, International Financial Reporting Standards (IFRS): Pros and Cons for Investors, *Acct. & Bus. Res.* 44 (Sept. 13, 2006), [https://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=929561](https://papers.ssrn.com/sol3/papers.cfm?abstract_id=929561).

<sup>35</sup> CII, Policies on Other Investment Related Issues, Independence of Accounting and Auditing Standard Setters.

<sup>36</sup> Steve Burkholder, SEC Wants IASB Funding as International Board Runs Deficit, *BBNA*, Nov. 4, 2010 (on file with CII).

<sup>37</sup> CII, Policies on Other Investment Related Issues, Independence of Accounting and Auditing Standard Setters.

<sup>38</sup> Letter from Wesley R. Bricker at 10.

funding and quality of the standard setting processes.”<sup>39</sup> Such an approach would be entirely consistent with our membership approved policies to the extent it results in a secure, stable source of funding that is not dependent on voluntary contributions of those subject to its standards.

Finally, we believe that the independent supporting principle, for the reasons previously stated in response to Question 1, should also include the concept that each board or group in the formal standard setting structure, including the MG, should have significant, prominent, and adequately balanced representation from qualified investors.

### *Transparent*

We believe, consistent with our membership approved policies, that the “transparent” supporting principle should be modified to include the related concept of a “public due process . . . .”<sup>40</sup> In our view, the attributes of an effective audit-related standard setter requires that each entity in each tier of the proposed standard setting structure, including in this case the MG, should, at a minimum, have a process that includes meetings that are conducted in the public with adequate notice.<sup>41</sup> We believe that requiring public meetings would increase public confidence in the governance of the international accounting and auditing relating processes.

We applaud the fact that the current chair of the MG is a former asset manager. But we are concerned that the International Organization of Securities Commissions appears to be the only current member of the MG that explicitly includes investor protection and promoting investor confidence as part of its mission,<sup>42</sup> thus making it unlikely that the current composition of the MG would result in “significant, prominent, and adequately balanced representation from qualified investors” consistent with our policies.<sup>43</sup>

Finally, we agree with the SEC Chief Accountant (1) the “MG should review, with a public consultation, its mandate and composition, recognizing the importance of the MG’s role in setting a clear and consistent tone for accountability to investors in local capital markets;”<sup>44</sup> and (2) that the absence of a through public due process, including in connection with the MGC itself, presents “an undue risk that . . . could set back – and not advance – international auditing related standards.”<sup>45</sup>

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<sup>39</sup> *Id.*

<sup>40</sup> CII, Policies on Other Investment Related Issues, Independence of Accounting and Auditing Standard Setters.

<sup>41</sup> *See, e.g.*, Letter from Jeff Mahoney, Co-Chair, Investors Technical Advisory Committee, to Ms. Tamara Oyre, Assistant Corporate Secretary, IASC Foundation 9 (Mar. 31, 2009) (commenting that the “the Monitoring Group will be unlikely to fulfill this important role if . . . the meetings are not conducted in the public with adequate notice”) (on file with CII).

<sup>42</sup> OICU-IOSCO, President’s Committee of the International Organization of Securities Commissions, Resolution on IOSCO’s Mission, Goals, and Priorities 1-2 (2010) (Mission includes “to enhance investor protection and promote investor confidence in the integrity of securities markets . . . .”), <https://www.iosco.org/library/resolutions/pdf/IOSCORES26.pdf>.

<sup>43</sup> CII, Policies on Other Investment Related Issues, Independence of Accounting and Auditing Standard Setters.

<sup>44</sup> Letter from Wesley R. Bricker at 4.

<sup>45</sup> *Id.* at 11.

**Question 4: Do you support establishing a single independent board, to develop and adopt auditing and assurance standards and ethical standards for auditors, or do you support the retention of separate boards for auditing and assurance and ethics? Please explain your reasoning.**<sup>46</sup>

We generally support the retention of two boards for auditing/assurance standards and ethical standards, respectively. Our membership approved policies provide that attributes of an effective independent standard setter include having a “full time standard-setting board and staff . . . [that] possess the technical expertise necessary to fulfill their important roles . . . .”<sup>47</sup> We agree with the MGC comment that a single board creates the risk “that it might create too wide remit . . . to deliver successfully . . . .”<sup>48</sup> We also reject the MG’s view that that risk could be mitigated by relieving board members from “reviewing detailed drafting.”<sup>49</sup> We generally agree with the SEC Chief Accountant that “separate boards are more likely to have sufficient time and resources to accomplish the necessary work in setting high quality standards and to have the ability to address key issues on a timely basis.”<sup>50</sup>

**Question 5: Do you agree that responsibility for the development and adoption of educational standards and the IFAC [International Federation of Accountants (IFAC)] compliance program should remain a responsibility of IFAC? If not, why not?**<sup>51</sup>

We do not object to allowing IFAC to remain responsible for the development and adoption of educational standards and the IFAC compliance program. We generally agree with the MG that these are “key role[s] of the profession rather than being a function that needs to be subject to the same level of public interest oversight as auditing . . . standards for auditors.”<sup>52</sup>

**Question 6: Should IFAC retain responsibility for the development and adoption of ethical standards for professional accountants in business? Please explain your reasoning.**<sup>53</sup>

We do not object to IFAC retaining responsibility for the development and adoption of ethical standards for professional accountants in business. We generally agree with the MG that professional accountants who are not auditors “are not required to be fully independent of the entity they work for, and the public interest considerations are not the same as they are for auditors.”<sup>54</sup>

**Question 8: Do you agree that the focus of the board should be more strategic in nature? And do you agree that the members of the board should be remunerated?**<sup>55</sup>

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<sup>46</sup> Monitoring Group Consultation at 12.

<sup>47</sup> CII, Policies on Other Investment Related Issues, Independence of Accounting and Auditing Standard Setters.

<sup>48</sup> Monitoring Group Consultation at 11.

<sup>49</sup> *Id.*

<sup>50</sup> Letter from Wesley R. Bricker at 10.

<sup>51</sup> Monitoring Group Consultation at 12.

<sup>52</sup> *Id.*

<sup>53</sup> *Id.* at 13.

<sup>54</sup> *Id.* at 12.

<sup>55</sup> *Id.* at 16.

We do not object to having the focus of the boards be more strategic in nature, but only to the extent that that focus does not dilute the technical competence of the board. For example, we agree with the MG that board members should not “draft text itself in board meetings.”<sup>56</sup> However, consistent with our membership approved policies,<sup>57</sup> we also agree with the MG that technical expertise of the board is necessary “[t]o maintain user confidence in the standards and the standard-setting setting process . . . .”<sup>58</sup>

We generally agree with the MG that members of the board should be remunerated “at a level commensurate with comparable public interest corporate governance roles . . . .”<sup>59</sup> We believe that full-time adequately remunerated board members are not only important to the independence of an audit-related standard setter, but, as described in the MGC, necessary “to attract high-quality candidates from outside the auditing profession.”<sup>60</sup>

**Question 9: Do you agree that the board should adopt standards on the basis of a majority?<sup>61</sup>**

We agree that the boards should adopt standards on the basis of majority vote. We agree with the MG that a majority vote standard for audit-related standards boards “could allow the board[s] to be more decisive, avoid unnecessary delays and reflect the fact that acting in the public interest requires standards that not all stakeholders necessary agree with.”<sup>62</sup>

**Question 10: Do you agree with changing the composition of the board to no fewer than 12 (or a larger number of) members; allowing both full time (one quarter?) and part-time (three quarters?) members? Or do you propose an alternative model? Are there other stakeholder groups that should also be included in the board membership, and are there any other factors that the Monitoring Group should take account of to ensure that the board has appropriate diversity and is representative of stakeholders?<sup>63</sup>**

We would propose an alternative model of two boards of no fewer than seven or nine full-time members each. As indicated in response to Question 2, we generally agree with the MG that “a permanent, full time board . . . might better resource the necessary work of the Board, and also [more importantly] better address any risk to independence should board members continue to have other engagements.”<sup>64</sup>

Our proposed alternative would be composed of two boards with no fewer than 14 members in total. We believe the two boards should be sufficient to meet the MG’s objective of having

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<sup>56</sup> *Id.* at 14.

<sup>57</sup> CII, Policies on Other Investment Related Issues, Independence of Accounting and Auditing Standard Setters (Attributes that underpin an effective . . . auditing standard setter include . . . technical expertise necessary to fulfill their role . . . .”).

<sup>58</sup> Monitoring Group Consultation at 16.

<sup>59</sup> *Id.*

<sup>60</sup> *Id.* at 13.

<sup>61</sup> *Id.* at 16.

<sup>62</sup> *Id.* at 14.

<sup>63</sup> *Id.* at 16.

<sup>64</sup> *Id.* at 15.

“proper stakeholder representation . . . and cover the range of skills required.”<sup>65</sup> We note that the IASB appears to have achieved appropriate diversity and representation of stakeholders with fourteen board members.<sup>66</sup>

We strongly oppose the MG’s proposed grouping for deriving members of the boards for at least two reasons. First, we agree with the SEC Chief Accountant that it is inappropriate to group preparers and investors “together within the single ‘user’ stakeholder group, even though preparers and investors typically have different interests,” and because in contrast to preparers, investors have been historically underrepresented in the standard setting process.<sup>67</sup> Second, for the reasons stated in response to Question 1, we do not believe the proposed groupings provide sufficient recognition and representation of investors as the main users of audited financial statements in the global capital markets.

In our proposed alternative, each board would be drawn from four groups. One group would be composed entirely of qualified investors. The other three groups would be as proposed in the MGC with the exception of “users” group.<sup>68</sup> That group would include only “preparers, academics, and those charged with governance . . . .”<sup>69</sup>

If each board has seven members, we believe the membership should include at least two qualified investors – one of whom would be chair for the auditing/assurance standards board; and at least one qualified member from each of other three categories. We note that having a qualified investor as chair would generally be consistent with the MG’s proposal that “[t]he Chair must not come from a practitioner/audit firm background.”<sup>70</sup> We recommend at least three investor members of each board if individual board size is set at nine, again with a requirement that an investor chair the auditing/assurance standards board.

We further note that our proposed alternative has a number of advantages over the MGC proposal. First, it begins to address the underrepresentation of investors in audit-related standard setting. Second, as discussed in response to Question 4, it avoids the disadvantages of having a single board. Third, it provides for an odd number of members providing each vote with greater significance in a proposed majority voting system. Finally, it could provide for more flexibility to match the availability of qualified candidates. The proposed seven member board could be composed of as many as three former preparers, academics, those charged with governance, regulators, or auditors.

### **Question 11: What skills or attributes should the Monitoring Group require of board members?**<sup>71</sup>

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<sup>65</sup> *Id.* at 14.

<sup>66</sup> IFRS, International Accounting Standards Board, Members, <http://www.ifrs.org/groups/international-accounting-standards-board/#members>.

<sup>67</sup> Letter from Wesley R. Bricker at 4.

<sup>68</sup> Monitoring Group Consultation at 15.

<sup>69</sup> *Id.*

<sup>70</sup> *Id.* at 16.

<sup>71</sup> *Id.*

As indicated in response to Question 4, we agree with the MG that “[t]o maintain user confidence in the standards and the standard-setting process, the board collectively will need to continue to demonstrate a high level of *technical competence*, so that in adopting a standard, the board can have assurance that it has been developed: to achieve the objectives that the board had set; and can be practically used by the profession to deliver high-quality audits.”<sup>72</sup> We also agree with the MG that “[a]cting in the public interest [should be] . . . a key consideration for all board members.”<sup>73</sup>

**Question 12: Do you agree to retain the concept of a CAG [Consultation Advisory Group (CAG)] with the current role and focus, or should its remit and membership be changed, and if so, how?<sup>74</sup>**

We generally agree with retaining the concept of the CAG. However, as we indicated in response to Question 1, we believe the membership of the CAG would benefit from having significant, prominent, and adequately balanced representation from qualified investors.

**Question 13: Do you agree that task forces used to undertake detailed development work should adhere to the public interest framework?<sup>75</sup>**

We generally agree that task forces used to undertake detailed development work should adhere to the public interest framework. However, as indicated in response to Question 1, we believe the framework should incorporate investor protection and should not suggest that the public interest may diverge for the needs of investors in order to satisfy safety and soundness or similar considerations.

**Question 14: Do you agree with the changes proposed to the nomination process?<sup>76</sup>**

We do not object to the proposed changes to the nomination process to the extent the PIOB is reconstituted, as indicated in response to Question 1, to include significant, prominent and adequately balanced representation from qualified investors.

**Question 15: Do you agree with the role and responsibilities of the PIOB as set out in this consultation? Should the PIOB be able to veto the adoption of a standard, or challenge the technical judgements made by the board in developing or revising standards? Are there further responsibilities that should be assigned to the PIOB to ensure that standards are set in the public interest?<sup>77</sup>**

We do not object to the role and responsibilities of the PIOB as set forth in the MBC subject to at least two conditions. For the reasons indicated in response to Question 1, we would oppose allowing the PIOB to “hold powers that would allow the PIOB to veto the adoption of a particular standard and/or the ability to instruct the standard-setting board(s) to take measures to

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<sup>72</sup> *Id.* (emphasis added).

<sup>73</sup> *Id.* at 15.

<sup>74</sup> *Id.* at 16.

<sup>75</sup> *Id.*

<sup>76</sup> *Id.* at 17.

<sup>77</sup> *Id.* at 20.

remedy any identified breach of the public interest.”<sup>78</sup> Second, for the same reasons, we would oppose the PIOB “approving the standard-setting board’s strategy and work plan.”<sup>79</sup> Finally, as also indicated in response to Question 14, we would strongly support reconstituting the membership of the PIOB to include significant, prominent and adequately balanced representation from qualified investors.

**Question 16: Do you agree with the option to remove IFAC representation from the PIOB?<sup>80</sup>**

We generally agree with the proposed option of removing IFAC representation from the PIOB in order to, in the words of the MGC, “ensure that the PIOB is viewed by stakeholders as independent of the accountancy and audit professions.”<sup>81</sup>

**Question 17: Do you have suggestions regarding the composition of the PIOB to ensure that it is representative of non-practitioner stakeholders, and what skills and attributes should members of the PIOB be required to have?<sup>82</sup>**

As indicated in response to Question 14, we would strongly support reconstituting the membership of the PIOB to include significant, prominent and adequately balanced representation from qualified investors. As indicated in response to Question 1, we believe significant investor representation is critical to facilitating increased consideration of the views of investors in the standard setting process consistent with the public interest.

**Question 18: Do you believe that PIOB members should continue to be appointed through individual MG members or should PIOB members be identified through an open call for nominations from within MG member organizations, or do you have other suggestions regarding the nomination/appointment process?<sup>83</sup>**

We do not object to PIOB members being identified through an open call for nominations from within MG member organizations subject to the governance improvements to the MG described in response to Question 2.

**Question 20: Do you agree that the Monitoring Group should retain its current oversight role for the whole standard-setting and oversight process including monitoring the implementation and effectiveness of reforms, appointing PIOB members and monitoring its work, promoting high-quality standards and supporting public accountability?<sup>84</sup>**

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<sup>78</sup> *Id.* at 18.

<sup>79</sup> *Id.* at 19; *see, e.g.*, Letter from Jeff Mahoney, General Counsel, CII, to Tamara Oyre, Assistant Corporate Secretary, IASC Foundation 7 (Mar. 26, 2009) (strongly objecting to the International Accounting Standards Committee Foundation having involvement in the International Accounting Standards Board’s “agenda setting process”) (On file with CII).

<sup>80</sup> Monitoring Group Consultation at 20.

<sup>81</sup> *Id.*

<sup>82</sup> *Id.*

<sup>83</sup> *Id.*

<sup>84</sup> *Id.* at 21.

We do not object to the MG retaining its current oversight role for the whole standard-setting and oversight process subject to the governance improvements to the MG described in response to Question 2.

**Question 21: Do you agree with the option to support the work of the standard-setting board with an expanded professional technical staff? Are there specific skills that a new standard-setting board should look to acquire?**<sup>85</sup>

We agree with the proposed option to support the work of the standard-setting boards with an expanded professional technical staff. As indicated in response to Question 2, our policies support a full-time staff that are independent from prior employers and other conflicts. Those policies also support a staff that has significant technical expertise and includes significant, prominent, and adequately balanced representation from qualified investors. We believe the MG proposed option if aligned with our policies would assist in addressing “stakeholder concerns about independence” identified by the MG.<sup>86</sup>

**Question 22: Do you agree the permanent staff should be directly employed by the board?**<sup>87</sup>

We do not object to the permanent staff being directly employed by the board or boards. We generally agree with the MG that “[i]n order to address concerns about the independence of the standard-setting process and to ensure that all parties involved work in the public interest, the staff will need to be employed, compensated and evaluated by the independent board itself rather than IFAC.”<sup>88</sup>

**Question 24: Do you agree with the Monitoring Group that appropriate checks and balances can be put in place to mitigate any risk to the independence of the board as a result of it being funded in part by audit firms or the accountancy profession (eg independent approval of the budget by the PIOB, providing the funds to a separate foundation or the PIOB which would distribute the funds)?**<sup>89</sup>

We agree with the MG that appropriate checks and balances can be put in place to mitigate the risk to the independence of the board or boards as a result of being funded in part by audit firms or the accountancy profession. We believe, as indicated in response to Question 2, those checks and balances should include the principle that funding not be dependent on *voluntary contributions* of the audit firms, accounting profession, or others that are subject to the standards.

**Question 25: Do you support the application of a “contractual” levy on the profession to fund the board and the PIOB? Over what period should that levy be set? Should the**

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<sup>85</sup> *Id.* at 22.

<sup>86</sup> *Id.*

<sup>87</sup> *Id.*

<sup>88</sup> *Id.*

<sup>89</sup> *Id.* at 25.

**Monitoring Group consider any additional funding mechanisms, beyond those opt for in the paper, and if so what are they?<sup>90</sup>**

We do not object to the application of a “contractual” levy on the profession to fund the board or boards and the PIOB in the short term. However, as indicated in response to Question 2, longer term we generally agree with the SEC Chief Accountant that a broader, multi-stakeholder, market-based approach would be a better way to address the challenge of sufficiently funding independent standard setters and establishing a direct connection between funding and quality of the standard setting processes.

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<sup>90</sup> *Id.*