

Via Email

June 29, 2020

The Honorable Jay Clayton
Chairman
U.S. Securities and Exchange Commission
100 F Street NE
Washington, DC 20549

Re: Public Company Accounting Oversight Board (PCAOB) Appointment Process

Dear Mr. Chairman:

We are writing to you regarding the recent statement issued by the Chief Accountant of the Securities and Exchange Commission (Commission) on the commencement of the appointment process to replace PCAOB member James G. Kaiser (Statement).¹ The Statement indicates that Mr. Kaiser “has informed the Commission that he does not wish to stand for reappointment.”² The Statement also indicates that “Mr. Kaiser occupies a CPA position, so we expect that the candidate selected . . . will be a CPA.”³

The Council of Institutional Investors (CII) has been, and continues to be, a strong proponent of the PCAOB and its mission.⁴ 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 \$4 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 15 million participants – true “Main Street” investors through their pension funds. Our associate members include non-U.S. asset owners with about \$4 trillion in assets, and a range of asset managers with more than \$35 trillion in assets under management.⁵

¹ Public Statement, Sagar Teotia, Chief Accountant, Statement on Commencement of Appointment Process for the 2020-2025 PCAOB Board Seat (June 24, 2020), <https://www.sec.gov/news/public-statement/statement-teotia-062419>.

² *Id.*

³ *Id.*

⁴ *See, e.g.*, Letter from Jeffrey P. Mahoney, General Counsel, Council of Institutional Investors to Office of the Secretary, PCAOB 1 (Sept. 6, 2018), https://www.cii.org/files/issues_and_advocacy/correspondence/2018/September%206.%202018%20PCAOB%20Strategic%20Plan.pdf (“We strongly endorse the [PCAOB’s] mission, vision, and values.”).

⁵ For more information about the Council of Institutional Investors (“CII”), including its board and members, please visit CII’s website at https://www.cii.org/about_us.

CII members share a commitment to healthy public capital markets and strong corporate governance for which the PCAOB and its members play an important role.⁶ Our members also share the view that investors are the key customer of audited financial reports and that in order to better ensure accountability to its key customer, PCAOB members should include at least one qualified investor.⁷

We note that when the PCAOB was initially formed its founding members included a qualified investor with more 16 years of experience at a public pension plan.⁸ We also note that the two founding members that were certified public accountants had prior careers demonstrating an understanding of and commitment to “the interests of investors,”⁹ perhaps best exemplified by their distinguished service at the Commission.¹⁰

We respectfully request that you consider qualified investors and other candidates whose careers clearly demonstrate an understanding of and commitment to the interests of investors when appointing a replacement for Mr. Kaiser.

⁶ See, e.g., Council of Institutional Investors, Policies On Other Issues, **Independence of Accounting and Auditing Standard Setters** (updated Mar. 1, 2017), https://www.cii.org/policies_other_issues#indep_acct_audit_standards (“The quality, comparability and reliability of [financial] . . . information, in turn, depends directly on the quality of the . . . standards that: . . . auditors use in providing assurance that the preparers’ recognition, measurement and disclosures are free of material misstatements or omissions.”).

⁷ *Id.* (“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-setting board . . . and outside monitoring or advisory groups.”).

⁸ See PCAOB, Former Board Member, Biography, Kayla J. Gillan, Board Member, 2002-2008 (last visited June 27, 2020), <https://pcaobus.org/About/Board/Former/Pages/KaylaGillan.aspx> (“Gillan served for six years as general counsel at the California Public Employees’ Retirement System and for 10 years in other positions, including deputy general counsel.”).

⁹ Sarbanes-Oxley Act of 2002, Pub. L. No. 107–204, § 101(e)(1), 116 Stat. 745, 751 (July 30, 2002), <https://www.congress.gov/107/plaws/publ.204/PLAW-107publ204.pdf> (“The Board shall have 5 members, appointed from among prominent individuals of integrity and reputation who have a demonstrated commitment to the interests of investors and the public . . .”).

¹⁰ See PCAOB, Former Board Member, Biography, Charles D. Niemeier, Board Member, 2002-2011 (last visited June 27, 2020), <https://pcaobus.org/About/Board/Former/Pages/CharlesDNiemeier.aspx> (“Prior to joining the Board, Mr. Niemeier was Chief Accountant in the Division of Enforcement of the SEC and Co-Chair of the Commission’s Financial Fraud Task Force.”); Daniel L. Goelzer, Board Member, 2002-2012 (last visited June 27, 2020), <https://pcaobus.org/About/Board/Former/Pages/DanielLGoelzer.aspx> (“From 1983 to 1990, Mr. Goelzer served as General Counsel of the SEC [and] [b]efore his appointment as General Counsel, he held a variety of positions in the Office of the Commission’s Chairman and in the Office of the General Counsel.”).

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We would welcome the opportunity to discuss this issue with you, in more detail, at your convenience.

Sincerely,

A handwritten signature in cursive script that reads "Jeff Mahoney". The signature is written in black ink and is positioned above the typed name.

Jeffrey P. Mahoney
General Counsel

CC: The Honorable Allison Herren Lee, Commissioner
The Honorable Hester M. Peirce, Commissioner
The Honorable Elad L. Roisman, Commissioner
Rick Fleming, Investor Advocate
Sagar Teotia, Chief Accountant