

Via Email

September 15, 2022

Office of the Secretary  
PCAOB  
1666 K Street NW  
Washington, DC 20006-2803

**Re: PCAOB No. 2022-003**

Dear Madam Secretary:

The Council of Institutional Investors (CII) appreciates the opportunity to provide comments to the Public Company Accounting Oversight Board (PCAOB or Board) in response to the Request for Public Comment, Draft 2022-2026 PCAOB Strategic Plan (Draft Plan).<sup>1</sup>

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 \$40 trillion in assets under management.<sup>2</sup>

CII strongly endorses the Draft Plan’s description of the PCAOB’s mission and vision.<sup>3</sup> We believe the mission and vision are generally consistent with our membership-approved policies.<sup>4</sup> Those policies that we believe may be most relevant to the PCAOB and the Draft Plan include the following:

**CII Policies**

Financial Gatekeepers

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<sup>1</sup> Request for Comment, Draft 2022-2026 PCAOB Strategic Plan, PCAOB Release No. 2022-003 (Aug. 16, 2022), [https://pcaob-assets.azureedge.net/pcaob-dev/docs/default-source/about/administration/documents/strategic\\_plans/2022-003-rfc-draftstrategicplan.pdf?sfvrsn=fdc9859a\\_4](https://pcaob-assets.azureedge.net/pcaob-dev/docs/default-source/about/administration/documents/strategic_plans/2022-003-rfc-draftstrategicplan.pdf?sfvrsn=fdc9859a_4;); PCAOB, Strategic Plan, 2022-2026, Draft for Comment (Aug. 2022), [draft-2022-2026-strategic-plan.pdf](https://pcaob-assets.azureedge.net/pcaob-dev/docs/default-source/about/administration/documents/strategic_plans/2022-003-rfc-draftstrategicplan.pdf?sfvrsn=fdc9859a_4).

<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> See PCAOB, Strategic Plan, 2022-2026, Draft for Comment at 3.

<sup>4</sup> See Council of Institutional Investors, CII Policies (2022), <https://www.cii.org/policies>.

The Council of Institutional Investors believes financial gatekeepers should be transparent in their methodology and avoid, or tightly manage, conflicts of interest. Robust oversight and genuine accountability to investors are also imperative. Regulators should remain vigilant and work to close gaps in oversight. Continued reforms are needed to ensure that the pillars of transparency, independence, oversight and accountability are solidly in place.

Auditors . . . , and other financial “gatekeepers” play a vital role in ensuring the integrity and stability of the capital markets. They provide investors with timely, critical information they need, but often cannot verify, to make informed investment decisions. With vast access to management and material non-public information, financial gatekeepers have an inordinate impact on public confidence in the markets. They also exert great influence over the ability of corporations to raise capital and the investment options of many institutional investors.

. . . .

. . . The Sarbanes-Oxley Act of 2002 . . . bolstered the transparency, independence, oversight and accountability of accounting firms . . . . For example, accounting firms now are barred from providing many consulting services to companies . . . .

. . . CII welcomes further examination of financial gatekeepers by regulators, lawmakers, academics and others, to determine what changes, including new rules and stronger oversight, are needed.<sup>5</sup>

### Independence of Accounting and Auditing Standard Setters

Audited financial statements including related disclosures are a critical source of information to institutional investors making investment decisions. The efficiency of global markets—and the well-being of the investors who entrust their financial present and future to those markets—depends, in significant part, on the quality, comparability and reliability of the information provided by audited financial statements and disclosures. The quality, comparability and reliability of that 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. The result should be timely, transparent and understandable financial reports.

The Council of Institutional Investors has consistently supported the view that the responsibility to promulgate . . . auditing standards should reside with independent organizations.

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<sup>5</sup> Council of Institutional Investors, Policies on Other Issues, Financial Gatekeepers (adopted Apr. 10, 2010), [https://www.cii.org/policies\\_other\\_issues#fin\\_gatekeepers](https://www.cii.org/policies_other_issues#fin_gatekeepers).

In order to be high quality, . . . auditing standards must be seen as meeting the needs of the investing public, and the standard setting process must be independent and free from undue influence. Attributes that underpin an effective . . . auditing standard setter include:

- **Recognition of the Role of Reporting** – A recognition that . . . the quality of auditing . . . is a public good, necessary to investor confidence in individual enterprises and the global capital markets as a whole; . . .
- **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; . . .
- **Enforcement** – A clear, rigorous and consistent mechanism for enforcement by regulators of the . . . auditing standards.<sup>6</sup>

### Auditor Independence

**2.13a Audit Committee Responsibilities Regarding Independent Auditors:** 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. Even in the absence of egregious reasons, the committee should consider the appropriateness of periodically changing the auditor, bearing in mind factors that include, but are not limited to: . . .

- the quality and frequency of communication from the auditor to the audit committee
- the experience, expertise and professional skepticism of the audit partner, manager and senior personnel assigned to the audit, and the extent of their involvement in performing the audit . . .
- the clarity, utility and insights provided in the auditor’s report and the auditor’s letter to management in relation to the audit
- the level of transparency and robustness of the audit firm with the audit committee and investors, including with respect to audit quality indicators, governance practices and underlying principles, and the financial stability of the audit firm

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<sup>6</sup> 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](https://www.cii.org/policies_other_issues#indep_acct_audit_standards).

- enforcement actions (in process or completed), inspection results and fines levied by the Public Company Accounting Oversight Board or other regulators . . .

Investors are the “customers” and end users of financial statements and disclosures in the public capital markets. Both the audit committee and the auditor should recognize this principle.<sup>7</sup>

In light of these and other membership-approved policies and related CII public positions, we offer the following specific comments on select strategic goals and objectives of the Draft Plan:

### **Goal 1: Modernize Standards<sup>8</sup>**

#### Goal 1 Objectives:<sup>9</sup>

*Adopt Standards That Meaningfully Improve Audit Quality and Enhance Our Ability to Enforce the Standards and Inspect for Compliance<sup>10</sup>*

CII strongly supports the objective of adopting standards that meaningfully improve audit quality. Our policy on the Independence of Accounting and Auditing Standard Setters reflects the view that the quality of PCAOB standards impacts the quality, comparability and reliability of the information provided by audited financial statements and that such information is critical to institutional investors making investment decisions.

We are pleased that the Board “expect[s] to propose and adopt numerous amendments and new standards over the coming years, in accordance with [its] . . . standard-setting and research agendas [and] . . . plan[s] to evaluate certain existing standards to determine whether they are outmoded.”<sup>11</sup> Consistent with our policy on Independence of Accounting and Auditing Standard Setters, we agree with Securities and Exchange Commission (SEC) Chair Gary Gensler’s recent remarks about PCAOB standard setting:

First, the Enron crisis revealed a key problem: the quality of auditing standards.

Candidly, the relationships between issuers and auditors, between standard-setters and auditing firms, were too clubby.

It matters who sets the standards. It matters who “audits the auditors.”

Auditing standards were set by the American Institute of Certified Public Accountants (AICPA), a professional association. The profession was writing its own rules. That’s an inherent conflict.

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<sup>7</sup> Council of Institutional Investors, CII Corporate Governance Policies, § 2.13 Auditor Independence (updated Mar. 7, 2022), [https://www.cii.org/files/03\\_07\\_22\\_corp\\_gov\\_policies.pdf](https://www.cii.org/files/03_07_22_corp_gov_policies.pdf).

<sup>8</sup> PCAOB, Strategic Plan, 2022-2026, Draft for Comment at 7 (emphasis added).

<sup>9</sup> *Id.* (emphasis added).

<sup>10</sup> *Id.* at 7 (emphasis added).

<sup>11</sup> *Id.* at 7.

....

To correct course, the Sarbanes-Oxley Act established the Public Company Accounting Oversight Board (PCAOB), an independently funded board under the regulatory oversight of the SEC.

The PCAOB is tasked with setting enhanced auditing standards. For practical purposes, Congress permitted the then-new PCAOB to carry over existing AICPA standards on an interim basis. The expectation was that the Board would produce a more appropriate set of standards going forward.

Historically, though, the PCAOB has been too slow to update auditing standards.

Twenty years later, most of those *interim standards* remain.

In May 2022, the PCAOB announced that it plans to update almost all of the remaining *interim standards*. I look forward to these critical auditing standard updates.<sup>12</sup>

In addition to prioritizing, as requested by Chair Gensler, the Board's standard setting project on "Interim Standards,"<sup>13</sup> we believe the Board should also prioritize its project on "Quality Control."<sup>14</sup> With respect to that project, we generally agree with the following observations and recommendation of Daniel L. Goelzer, a founding member of the PCAOB:

*Adopt new quality control standards.* In the long run, improving audit quality requires firms to improve their quality control mechanisms. The foundation for stronger quality control is stronger quality control standards, particularly standards that incentivize firms to think proactively about emerging risks to audit quality. The PCAOB has proposed strengthening its quality control standards and bringing them into better alignment with the international standards. *That project should be finalized as soon as possible and the new standards integrated into the board's inspections program.*<sup>15</sup>

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<sup>12</sup> Chair Gary Gensler, Prepared Remarks at Center for Audit Quality "Sarbanes-Oxley at 20: The Work Ahead" (July 27, 2022) <https://www.sec.gov/news/speech/gensler-remarks-center-audit-quality-072722> (emphasis added & footnote omitted); see J. Robert Brown Jr., Board Member, Statement Regarding the PCAOB's Revised Research and Standard-Setting Agendas: Reducing Credibility, Accountability and Confidence in the Financial Reporting Process (Oct. 13, 2020), <https://pcaobus.org/news-events/speeches/speech-detail/statement-regarding-the-pcaob-s-revised-research-and-standard-setting-agendas-reducing-credibility-accountability-and-confidence-in-the-financial-reporting-process> ("The Board adopted, on an 'interim' basis, the same standards that were written during the era of self-regulation and sharply criticized in Congressional hearings [and as] [a]n expediency, the decision was accompanied by a commitment to reexamine the standards 'as soon as possible' [and] [n]onetheless, seventeen years later, despite a very different auditing environment, many of these standards remain in place without material change.").

<sup>13</sup> PCAOB, Standard-Setting and Research Projects (last visited Sept. 11, 2022), <https://pcaobus.org/oversight/standards/standard-setting-research-projects>.

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

<sup>15</sup> Daniel L. Goelzer, JD, LL.M., Audit Oversight and Effectiveness, Understanding the Past and Looking toward the Future, CPA J. (Feb. 2021), <https://www.cpajournal.com/2021/02/22/audit-oversight-and-effectiveness/> (emphasis added).

Moreover, as indicated in our March 2020 comment letter in response to the PCAOB’s Concept Release, Potential Approach to Revisions to PCAOB Quality Control (QC) Standards,<sup>16</sup> the Quality Control project supported by Mr. Goelzer has the potential of incorporating recommendations of the Department of the Treasury Advisory Committee on the Auditing Profession for improving audit quality<sup>17</sup> including:

- [Requiring] all of the largest audit firms . . . to have independent directors on their boards [whose duties include] . . . ‘resource allocation decisions . . . the annual review of the QC system, the effectiveness of remediation of QC concerns, and the integration of audit quality into the system of incentives and rewards for firm personnel.’<sup>18</sup>
- “[R]equir[ing] [firms] to establish quantifiable performance measures for the achievement of quality objectives”,<sup>19</sup> and
- “[R]equir[ing] public disclosure by firms about their QC systems [including] . . . larger U.S. auditing firms be[ing] required to produce public annual reports that incorporate information about the firm’s governance structure.”<sup>20</sup>

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<sup>16</sup> Concept Release, Potential Approach to Revisions to PCAOB Quality Control Standards, PCAOB Release No. 2019-003 (Dec. 17, 2019), <https://pcaobus.org/Rulemaking/Docket046/2019-003-Quality-Control-Concept-Release.pdf>.

<sup>17</sup> See Advisory Committee on the Auditing Profession, Final Report, Dep’t Treasury (Oct. 6, 2008) (on file with CII).

<sup>18</sup> Letter from Jeffrey P. Mahoney, General Counsel, Council of Institutional Investors to Office of Secretary, PCAOB 4 (Mar. 19, 2020), [https://www.cii.org/files/issues\\_and\\_advocacy/correspondence/2020/March%2019%202020%20PCAOB%20Letter.pdf](https://www.cii.org/files/issues_and_advocacy/correspondence/2020/March%2019%202020%20PCAOB%20Letter.pdf); see Advisory Committee on the Auditing Profession, Final Report, Dep’t Treasury at VII:8 (“Recommendation 3. Urge the PCAOB and the SEC, in consultation with other federal and state regulators, auditing firms, investors, other financial statement users, and public companies, to analyze, explore, and enable, as appropriate, the possibility and feasibility of firms appointing independent members with full voting power to firm boards and/or advisory boards with meaningful governance responsibilities to improve governance and transparency of auditing firms.”).

<sup>19</sup> Letter from Jeffrey P. Mahoney, General Counsel, Council of Institutional Investors to Office of Secretary, PCAOB at 4; see Advisory Committee on the Auditing Profession, Final Report, Dep’t Treasury at VIII:14 (“Recommendation 3. Recommend the PCAOB, in consultation with auditors, investors, public companies, audit committees, boards of directors, academics, and others, determine the feasibility of developing key indicators of audit quality and effectiveness and requiring auditing firms to publicly disclose these indicators. Assuming development and disclosure of indicators of audit quality are feasible, require the PCAOB to monitor these indicators.”); see generally Audit Quality with Bob Conway, Voice Corp. Governance (Aug. 24, 2022), <https://www.cii.org/podcasts> (discussing the need for audit quality indicators).

<sup>20</sup> Letter from Jeffrey P. Mahoney, General Counsel, Council of Institutional Investors to Office of Secretary, PCAOB at 6; see Advisory Committee on the Auditing Profession, Final Report, Dep’t Treasury at VII:20 (“Recommendation 7. Urge the PCAOB to require that, beginning in 2010, larger auditing firms produce a public annual report incorporating (a) information required by the EU’s Eighth Directive, Article 40 Transparency Report deemed appropriate by the PCAOB, and (b) such key indicators of audit quality and effectiveness as determined by the PCAOB in accordance with Recommendation 3 in Chapter VIII of this Report. Further, urge the PCAOB to require that, beginning in 2011, the larger auditing firms file with the PCAOB on a confidential basis audited financial statements.”).

*Engage in Robust Dialogue With Stakeholders*<sup>21</sup>

CII strongly supports the objective of engaging in robust dialogue with stakeholders.<sup>22</sup> And we agree that “ongoing input and insights from . . . advisory groups” is important to fulfilling that objective.<sup>23</sup> However, as we noted in our February 2022 letter in response to the Request for Public Comment, Advisory Groups—Draft Governance Frameworks,<sup>24</sup> engaging in robust dialogue with the Investor Advisory Group (IAG) and investors generally deserves the Board’s special attention:

CII believes the PCAOB’s mission “to protect investors[,]” combined with the general underrepresentation of investors on the PCAOB’s board and staff, and in connection with the PCAOB’s comment letter process, suggests the need for more, rather than less, input from investors. Our membership[-]approved policies reflect the view that as the “key customer of audited financial reports,” investor input is essential to the PCAOB in fulfilling its mission . . . .<sup>25</sup>

In that regard, CII respectfully recommends that the PCAOB consider supporting and allocating sufficient resources to new approaches to enhancing the dialogue with investors, including the establishment of IAG task forces that could:

- Develop and issue comment letters based on established due process procedures to encourage more high-quality investor responses to the PCAOB’s public requests for comment;
- Develop and issue for public comment an annual survey of the standard setting priorities of the PCAOB, encouraging responses from individual members of the IAG, individual Board members, PCAOB senior staff, and the general public and subsequently issue a public report summarizing the survey results; and
- Develop and publicly issue an annual performance review of the PCAOB’s activities and accomplishments in pursuing each of its statutory duties, based on established criteria and including commentary on how the Board’s performance might be improved.

*Evaluate Developments in Data and Technology*<sup>26</sup>

CII strongly supports the objective of evaluating developments in data and technology. We believe the Board should “continue to assess whether there is a need for guidance, changes to PCAOB standards, or other action in light of the increased use of technology-based tools by

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<sup>21</sup> PCAOB, Strategic Plan, 2022-2026, Draft for Comment at 8 (emphasis added).

<sup>22</sup> *See id.*

<sup>23</sup> *Id.*

<sup>24</sup> Request for Comment, Advisory Groups – Draft Governance Frameworks, PCAOB Release No. 2022-001 (Jan. 31, 2022), [https://pcaob-assets.azureedge.net/pcaob-dev/docs/default-source/about/advisory/documents/2022-001-advisory-groups.pdf?sfvrsn=2332d5b6\\_5](https://pcaob-assets.azureedge.net/pcaob-dev/docs/default-source/about/advisory/documents/2022-001-advisory-groups.pdf?sfvrsn=2332d5b6_5).

<sup>25</sup> Letter from Jeffrey P. Mahoney, General Counsel, Council of Institutional Investors to Office of the Secretary, PCAOB 2-3 (Feb. 10, 2022), [https://www.cii.org/files/issues\\_and\\_advocacy/correspondence/2022/February%2010%202022%20PCAOB%20\(fin%20al\).pdf](https://www.cii.org/files/issues_and_advocacy/correspondence/2022/February%2010%202022%20PCAOB%20(fin%20al).pdf).

<sup>26</sup> PCAOB, Strategic Plan, 2022-2026, Draft for Comment at 8 (emphasis added).

auditors and financial statement preparers.”<sup>27</sup> As indicated in our September 2018 letter in response to PCAOB Draft Strategic Plan 2018-2022,<sup>28</sup> that assessment should include a review of the use of Inline eXtensible Business Reporting Language (XBRL) and its implications for the auditing profession (September Letter).<sup>29</sup> More specifically, the September Letter stated:

[W]e respectfully request that the PCAOB consider examining whether processes and procedures within authoritative literature can be relied upon by the auditing profession to improve, on a cost-effective manner, “the efficiency and effectiveness of financial reporting and the audit process” relating to the adoption of Inline XBRL.<sup>30</sup>

CII believes the Board’s assessment of whether there is a need for changes to PCAOB standards in light of the increased use of technology-based tools by auditors and financial statement preparers should also include the consideration of the following observations and recommendations of Mr. Goelzer:

It is widely recognized that technology is changing auditing. The auditing standards, however, were largely written during the pencil-and-paper era. For example, the standards governing receivables confirmation are predicated on the assumption that the process will be conducted through the mail. Today confirmation is largely electronic. Sampling is another area where the auditing standards lag behind technology. The current standards, which allow for judgmental sampling, are antiquated in the age of Big Data and the ability to perform instantaneous, automated reviews of entire populations of contracts or transactions. *The PCAOB should undertake a comprehensive review of its auditing standards to bring them into the 21st century.*<sup>31</sup>

## **Goal 2: Enhance Inspections<sup>32</sup>**

### Goal 2 Objectives:<sup>33</sup>

#### *Increase Transparency in Reporting Inspection Results<sup>34</sup>*

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<sup>27</sup> *Id.*

<sup>28</sup> PCAOB Draft Strategic Plan 2018-2022 (Aug. 10, 2018),

<https://pcaobus.org/About/Administration/Documents/Strategic%20Plans/Draft-2018-2022.pdf>.

<sup>29</sup> See Letter from Jeffrey P. Mahoney, General Counsel, Council of Institutional to Office of the Secretary, PCAOB 8-9 (Sept. 6, 2018),

[https://www.cii.org/files/issues\\_and\\_advocacy/correspondence/2018/September%206,%202018%20PCAOB%20Strategic%20Plan.pdf](https://www.cii.org/files/issues_and_advocacy/correspondence/2018/September%206,%202018%20PCAOB%20Strategic%20Plan.pdf) (letter responding to “OBJECTIVE ONE: Assess and address the impact of emerging technologies and the quality of audit services.”).

<sup>30</sup> *Id.* at 9.

<sup>31</sup> Daniel L. Goelzer, JD, LL.M., Audit Oversight and Effectiveness, Understanding the Past and Looking toward the Future, CPA J. (emphasis added).

<sup>32</sup> PCAOB, Strategic Plan, 2022-2026, Draft for Comment at 9 (emphasis added).

<sup>33</sup> *Id.* (emphasis added).

<sup>33</sup> *Id.* (emphasis added).

<sup>34</sup> *Id.* (emphasis added).

CII strongly supports the objective of increasing transparency in reporting inspection results. We agree that the Board should make “publicly available relevant and reliable information that is useful to . . . stakeholders [including] . . . increasing the transparency of . . . inspection reports.”<sup>35</sup>

As indicated by our policy on **Audit Committee Responsibilities Regarding Independent Auditors**, our members view inspection results as an important factor for audit committees to consider in exercising their authority to hire, terminate, compensate, and oversee the company’s independent auditor. Inspection results may also be an important factor for shareholders when voting on the election of a chair and members of the audit committee and on the ratification of the external auditor.

*Improve the timeliness of Inspection Results*<sup>36</sup>

CII strongly supports the objective of improving the timeliness of inspection results. We agree that the Board should be “taking additional steps to streamline . . . internal processes to enable more timely issuance of inspection reports.”<sup>37</sup> As indicated in the September Letter:

CII strongly supports the objective of providing more “timely and relevant feedback” to stakeholders about PCAOB inspections. We believe that some of the issuer criticisms of the inspections are, in part, the consequence of audit firm communications to the issuer that may not always objectively describe or explain the inspection activities or results. More timely and relevant feedback from the PCAOB directly to stakeholders, including public company boards and investors, may assist in a better understanding of the benefits of the inspections, including how the inspection activities and results might facilitate improvements to the quality of financial reporting.<sup>38</sup>

**Goal 3: Strengthen Enforcement**<sup>39</sup>

Goal 3 Objectives:<sup>40</sup>

*Rigorously Enforce PCAOB and Other Applicable Standards, Laws, and Rules*<sup>41</sup>

CII strongly supports the objective of rigorously enforcing PCAOB and other applicable standards, laws, and rules. We agree with the Board that “[r]igorous enforcement incentivizes the auditing profession to diligently follow all applicable requirements and, in so doing, promotes audit quality and investor protection.”<sup>42</sup>

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<sup>35</sup> *Id.*

<sup>36</sup> *Id.* (emphasis added).

<sup>37</sup> *Id.*

<sup>38</sup> Letter from Jeffrey P. Mahoney, General Counsel, Council of Institutional to Office of the Secretary, PCAOB at 5 (Sept. 6, 2018) (footnote omitted).

<sup>39</sup> PCAOB, Strategic Plan, 2022-2026, Draft for Comment at 10 (emphasis added).

<sup>40</sup> *Id.* (emphasis added).

<sup>41</sup> *Id.* (emphasis added).

<sup>42</sup> *Id.*

As indicated by our policy on Independence of Accounting and Auditing Standard Setters, our members view rigorous enforcement of PCAOB auditing standards as an important tool for the Board to successfully promote audit quality and investor protection. In furtherance of this objective, we respectfully request that, consistent with the recent statement of SEC Acting Chief Accountant Paul Munter, the PCAOB rigorously enforce those audit requirements that may be violated by “accounting firms looking to avoid the uncertainty about whether they will be in compliance with the Holding Foreign Companies Accountable Act (HFCA Act).”<sup>43</sup> CII was an active proponent of the legislation that resulted in HFCA Act and continues to support its effective implementation and enforcement.<sup>44</sup>

*Increase Transparency in Enforcement Actions*<sup>45</sup>

CII strongly supports increasing the transparency of enforcement actions. We agree with the Board that increasing “transparency in settled enforcement actions by more frequently naming the issuers or broker-dealers whose audits are implicated and by increasing transparency around penalties.”<sup>46</sup>

As indicated by our policy on **Audit Committee Responsibilities Regarding Independent Auditors**, our members would view the transparency of enforcement actions as potentially relevant to audit committees in exercising their authority to hire, terminate, compensate, and oversee the company’s independent auditor. The transparency of enforcement actions may also be relevant for shareholders when voting on the election of a chair and members of the audit committee and on the ratification of the external auditor.

With respect to existing limits on the ability for the Board to increase the transparency of its enforcement actions we agree with the following observations and recommendation of Mr. Goelzer:

***Shine sunlight on enforcement.*** The PCAOB is often faulted for the level of its enforcement activity. Whatever one’s view of how and when the board should use its enforcement authority, there is a serious structural flaw that limits the utility of PCAOB enforcement. Today, SOX requires that PCAOB enforcement actions be nonpublic until the conclusion of the case—and, if the PCAOB loses, that the case

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<sup>43</sup> Paul Munter, Acting Chief Accountant, Statement, Audit Quality and Investor Protection under the Holding Foreign Companies Accountable Act (Sept. 6, 2022), <https://www.sec.gov/news/statement/munter-statement-audit-quality-and-investor-protection-090622>.

<sup>44</sup> See, e.g., Letter from Jeffrey P. Mahoney, General Counsel, Council of Institutional Investors to The Honorable Carolyn B. Maloney, Chair, Subcommittee on Investor Protection, Entrepreneurship, and Capital Markets, Committee on Financial Services, United States House of Representatives et al. 6 (June 18, 2019), [https://www.cii.org/files/issues\\_and\\_advocacy/correspondence/2019/June%2018%202019%20Letter%20to%20Subcommittee%20on%20Investor%20Protection%20Entrepreneurship%20and%20Capital%20Markets%20\(finalF\).pdf](https://www.cii.org/files/issues_and_advocacy/correspondence/2019/June%2018%202019%20Letter%20to%20Subcommittee%20on%20Investor%20Protection%20Entrepreneurship%20and%20Capital%20Markets%20(finalF).pdf) (“We acknowledge that there are a number of possible alternative actions the SEC, the PCAOB, the stock exchanges, or Congress could potentially take to address, at least in part, the investor protection and general oversight issues that exist for U.S. Chinese listed companies [and] [i]n our view, the provisions of the . . . Act are not an unreasonable response, particularly in light of the apparent increasing size, scope, and significance of those issues.”).

<sup>45</sup> PCAOB, Strategic Plan, 2022-2026, Draft for Comment at 10 (emphasis added).

<sup>46</sup> *Id.*

remain nonpublic forever. Nonpublic proceedings encourage delay, discourage settlements, and deprive the public of a real-time understanding of the kinds of auditing lapses that the board believes require sanctions. *Congress should amend the law to end enforcement secrecy and make PCAOB enforcement actions—including SEC enforcement actions—open to the public, beginning with the decision to bring a case.*<sup>47</sup>

And we are pleased that a member of the PCAOB staff recently indicated that they support, consistent with Mr. Gensler’s recommendation, “legislative efforts to amend the Sarbanes-Oxley Act of 2002 to make disciplinary proceedings public.”<sup>48</sup>

#### **Goal 4: Improve Organizational Effectiveness**<sup>49</sup>

##### Goal 4 Objectives:<sup>50</sup>

##### *Enhance Stakeholder Engagement*<sup>51</sup>

CII strongly supports the objective of enhancing stakeholder engagement. We agree that the Board should seek to “increase and improve . . . engagement with investors [and] investor advocates . . . .”<sup>52</sup>

The objective is generally consistent with our policy on Independence of Accounting and Auditing Standard Setters, which indicates that the PCAOB’s actions should reflect a recognition that investors are the key customers of audited financial reports and, therefore, the primary role of those reports should be to satisfy, in a timely manner, investors’ information needs. Our prior response to “Goal 1 Objectives: *Engage in Robust Dialogue With Stakeholders* provides some specific recommendations for IAG task forces that we believe the PCAOB should support as part of its efforts in pursuing this objective.

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<sup>47</sup> Daniel L. Goelzer, JD, LL.M., Audit Oversight and Effectiveness, Understanding the Past and Looking toward the Future, CPA J. (emphasis added); *see, e.g.*, Letter from Jeffrey P. Mahoney, General Counsel, Council of Institutional Investors to The Honorable Carolyn B. Maloney, Chair, Subcommittee on Investor Protection, Entrepreneurship, and Capital Markets, Committee on Financial Services, United States House of Representatives et al. at 7 (expressing CII support for the “provisions of the Transparency Act [that] would amend SOX to make PCAOB enforcement hearings and all related notices, orders, motions, and sanctions open and available to the public unless otherwise ordered by the Board”).

<sup>48</sup> Soyoung Ho, Senior Editor, Accounting and Compliance Alert, Enforcement Staff Supports Legislation to Make PCAOB Disciplinary Proceedings Public, Thomson Reuters (June 15, 2022), <https://tax.thomsonreuters.com/news/enforcement-staff-supports-legislation-to-make-pcaob-disciplinary-proceedings-public/>.

<sup>49</sup> PCAOB, Strategic Plan, 2022-2026, Draft for Comment at 11 (emphasis added).

<sup>50</sup> *Id.* (emphasis added).

<sup>51</sup> *Id.* (emphasis added).

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

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CII appreciates the opportunity to submit comments on this important matter and is available to provide any additional information the PCAOB requests.

Sincerely,

A handwritten signature in black ink that reads "Jeff Mahoney". The signature is written in a cursive style with a large, stylized "J" and "M".

Jeffrey P. Mahoney  
General Counsel