



News & Events

Board Proposes Rules on Oversight of Non-U.S. Accounting Firms, Registration Deadline

Washington, DC, December 9, 2003 – The Public Company Accounting Oversight Board today voted unanimously to propose for public comment rules relating to the inspection and investigation of non-U.S. public accounting firms. The Board also voted unanimously to propose extending the registration for non-U.S. firms by 90 days to July 19, 2004.

Section 106(a) of the Sarbanes-Oxley Act of 2002 provides that any non-U.S. public accounting firm that prepares or furnishes an audit report with respect to any U.S. public company is subject to the Act and rules of the Board and the Securities and Exchange Commission, in the same manner and to the same extent as a public accounting firm that is organized and operates under the laws of any state in the United States.

The Board has previously recognized that certain aspects of the registration, inspection, investigation and adjudication provisions of the Act and the Board's rules raise special concerns for non-U.S. accounting firms. In an effort to address such concerns, the Board has developed a framework under which, with respect to non-U.S. firms, the Board could implement the Act's provisions by relying, to an appropriate degree, on a non-U.S. system.

Inspections

Section 104(a) of the Act directs the Board to conduct a continuing program of inspections to assess the degree of compliance of each registered public accounting firm and associated persons of that firm with the Act, the Board's and the Commission's rules, and professional standards in connection with the performance of audits, the issuance of audit reports, and related matters involving U.S. public companies. In conducting an inspection, Section 104(d) of the Act directs the Board to take specific steps regarding its inspections.

The Board recognizes that inspections conducted under PCAOB Rules 4001 and 4002 raise special concerns for non-U.S. registered firms, such as unnecessarily duplicative costs and potential conflicts of law. Accordingly, as explained in its Oct. 28 briefing paper, the Board believes that it is "necessary or appropriate in the public interest or for the protection of investors" to develop an efficient and effective cooperative arrangement where reliance may be placed, to the maximum extent consistent with the independence and rigor of the home country system, on an inspection of a non-U.S. registered firm conducted by such system.

As a general matter, the proposed rule would permit the Board to rely on the work of oversight systems in other jurisdictions, based on a sliding scale: the more independent and more rigorous a local oversight system, the greater the Board's reliance on that system. These principles include the adequacy and integrity of the system; the independence of the system's operation from the auditing profession; the nature of the system's source of funding; the transparency of the system, and the system's historical performance.

The proposed rule also provides that the Board evaluate its discussions with the non-U.S. inspecting body concerning an inspection work program for the registering firm. The proposed rule also contemplates that the Board weigh heavily the non-U.S. inspecting entity's willingness to agree to an inspection work program that meets certain requirements.

The allocation of work between the PCAOB staff and the non-U.S. staff, under the proposed rule, would vary depending on the independence and rigor of the non-U.S. system. In jurisdictions with the highest level of independence and rigor, the inspection work program would be executed by the local inspecting body with the participation of experts designated by the Board. PCAOB participation would be greater in those jurisdictions with less independent and less rigorous systems of oversight. In jurisdictions where auditor oversight is conducted solely by a profession-organized peer review system, the Board would direct PCAOB staff to execute the inspection work program, but could permit some assistance from the non-U.S. peer review body, which would execute certain agreed-upon modules of the program.

In a related action, the Board proposed permitting a non-U.S. accounting firm to provide the Board with preliminary information about the applicant's home country oversight system. The proposal would allow the firm to include with its registration application the name and address of the applicant's non-U.S. registrar or any other authority responsible for the regulation of the applicant's practice of accounting, including any authority that inspects the applicant.

Investigations

The proposed rule provides that, in carrying out its investigative responsibilities under Section 105(b) of the Act, the Board may, in appropriate circumstances, rely upon the investigation or sanction, if any, of a foreign registered public accounting firm by a non-U.S. authority.

In addition to the Board's assessment of the circumstances at hand, the application of the proposed rule may depend on the non-U.S. body's willingness and authority to provide the Board or the Director of Enforcement and Investigations with access to the evidence gathering in its investigation. In addition, reliance pursuant to the proposed rule would depend, in part, on the independence and rigor of the non-U.S. investigatory authority. Further, because the Board may not always be in a position to wait until the close of the non-U.S. authority's inquiry for deciding whether to commence its own investigation, the non-U.S. authority's willingness to share information and to update the Board during the investigation may also be relevant to the application of the proposed rule.

Finally, the proposed rule contemplates that circumstances may require that the PCAOB conduct an investigation of the audit work of a non-U.S. registered public accounting firm, or an associated person of such a firm and does not limit the Board's authority under PCAOB Rule 5200 to commence disciplinary proceedings whenever it appears to the Board such action is warranted.

The Board will consider comments before adopting the rules and will submit the proposals to the SEC for approval pursuant to Section 107 of the Act. Proposals and comments will be available on the Board's Web site at www.pcaobus.org under Rulemaking.

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The PCAOB is a private-sector, non-profit corporation, created by the Sarbanes-Oxley Act of 2002, to oversee the auditors of public companies in order to protect the interests of investors and further the

public interest in the preparation of informative, fair, and independent audit reports.

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