CENTER FOR CAPITAL MARKETS COMPETITIVENESS

TOM QUAADMAN
VICE PRESIDENT

1615 H STREET, NW
WASHINGTON, DC 20062-2000
(202) 463-5540
tquaadman@uschamber.com

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Ms. Elizabeth M. Murphy
Secretary
U.S. Securities and Exchange Commission
100 F Street, NE
Washington, DC 20549-1090

Re: File Number PCAOB-2010-01, Public Company Accounting Oversight Board Proposed Rules on Auditing Standards Related to the Auditor's Assessment of and Response to Risk and Related Amendments to PCAOB Standards

Dear Ms. Murphy:

The U.S. Chamber of Commerce (the "Chamber") is the world's largest federation of businesses and associations, representing the interests of more than three million U.S. businesses and professional organizations of every size and in every economic sector. These members are both users and preparers of financial information. The Chamber created the Center for Capital Markets Competitiveness ("CCMC") to promote a modern and effective regulatory structure for capital markets to fully function in a 21st century economy.

Because of continuing substantive concerns, the CCMC believes that the Risk Standards should not be approved by the SEC and sent back to the Public Company Accounting Oversight Board ("PCAOB") for reconsideration. In summary, the CCMC's concerns are centered upon:

1) **The Risk Standards have been considered and approved by an undermanned PCAOB;**
2) **The proposed effective date provides an insufficient time for their implementation;**
3) **The PCAOB did not issue a concept release for comment;**

4) **The Risk Standards restrict the use of judgment;**
5) **The PCAOB has failed to work with other entities to converge audit standards;**
6) **Incongruities with existing standards; and**
7) **The blending of fraud and error.**

The CCMC's concerns are discussed with greater specificity below.

CCMC Concerns Regarding the Risk Standards

The CCMC recognizes the vital role of external audits in the sound operation of our capital markets and supports efforts to maintain and improve audit effectiveness. Auditors' assessment of and responses to risk are fundamental to the audit process, and so we appreciate the opportunity to comment on the rules adopted by the PCAOB on *Auditing Standards Related to the Auditor's Assessment of and Response to Risk* ("Risk Standards"), which have been submitted to the U.S. Securities and Exchange Commission ("SEC") for approval as required by The Sarbanes-Oxley Act of 2002 ("SOX").

The PCAOB adopted the Risk Standards after twice proposing them for public comment. The PCAOB's initial draft was proposed on October 21, 2008 and the second draft on December 17, 2009. The CCMC provided comment letters to the PCAOB on both drafts, raising serious concerns with the Risk Standards.[1] The CCMC stated that the proposed Risk Standards should be withdrawn.

The final Risk Standards adopted by the PCAOB represent a marginal improvement over the initial proposals, but full scale reconsideration has still not taken place. Accordingly, the CCMC recommends that the SEC vote to disapprove the Risk Standards in their current form and remand the matter back to the PCAOB for reconsideration. Approving the Risk Standards at this time would be premature, both procedurally and substantively.

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[1] See comment letters from the United States Chamber of Commerce's Center for Capital Markets Competitiveness dated February 18, 2009, and March 2, 2010, on PCAOB rulemaking docket matter No. 026, *Proposed Auditing Standards Related to the Auditor's Assessment of and Responses to Risk.*

1. Allowing the Risk Standards to Become Effective Would Be Procedurally Premature

Newly Constituted PCAOB

The eight standards comprising the Risk Standards proposal, if promulgated, will create the core of Auditing Standards for years to come. However, the Risk Standards have not been considered by a fully constituted PCAOB. It is anticipated that two new members and a new Chairman will be appointed shortly. Standards of this significance should not be adopted by a PCAOB that is not at full membership that may have a diversity of views that could give a full range of input in standard development. This is particularly true when the proposals under consideration are of such import that could form the foundation of audit standards for years to come. For this reason alone, SEC approval at this time would be premature.

Effective Date

The CCMC is concerned that the PCAOB has adopted an effective date for the Risk Standards that provides insufficient time for their implementation. The Risk Standards carry an effective date for audits of fiscal years beginning on or after December 15, 2010. Given that 2010 is drawing to a close and that time is needed for SEC due process and consideration,[2] this is not only an ambitious effective date, it is unrealistic.

The PCAOB proposed this effective date and received comments that stressed this date would not allow adequate time for audit firms to revise their audit methodologies and train their audit staffs around the world for audits in 2011. However, the PCAOB declined to reconsider this effective date because it said that "auditors already employ risk-based audit methodologies, which should facilitate the methodology changes and training necessary to implement the standards by the effective date."

[2] In light of the number and complexity of the Risk Standards and, thus, to allow additional time sufficient for notice and comment, and consideration of comments, the SEC has determined to extend to December 27, 2010, as the date by which the SEC should take action on the proposed rules.

Because of the importance of audited financial statements in a 21st Century economy, we believe that high quality audit standards and their implementation be done in such a manner as to benefit all stakeholders involved. By cramming down these Risk Standards just before the end of the year, is not conducive to the implementation of high quality audit standards.

Accordingly, if the SEC were to allow the Risk Standards to be implemented, the CCMC urges the SEC to recognize that an effective date of audits for fiscal years beginning on or after December 15, 2011. This is not only a more realistic target date for implementing any new risk standards, but it will allow adequate time to implement the other recommendations in our letter.

2. **Allowing the Risk Standards to Become Effective Would Be Substantively Premature**

Concept Release

As stated earlier, the proposed Risk Standards constitute a major body of the audit regulatory framework and should not be adopted until the shape and functionality of audit standards as a whole have been established. In our comment Letters to the PCAOB, we noted that at the October 2008 Standing Advisory Group ("SAG") meeting, the PCAOB staff stated an intention to develop a concept release For public comment and feedback in early 2009 regarding the PCAOB's plans for addressing its review of the PCAOB Interim Auditing Standards ("Auditing Standards"). The concept release was to include a schedule and procedures for the review. No such concept release has been issued. While we recognize that recent SAG meetings have provided updates on the PCAOB's standard-setting current and planned projects and the PCAOB's website does so, too, these updates do not replace the need for a concept release. The CCMC continues to strongly recommend that this concept release be developed, exposed for public comment, and finalized *before* the PCAOB Board and staff revise extant Auditing Standards.

It is vital that the concept release should encompass these Risk Standards considering the pervasive implications of risk assessment and response for the audit process. Without an overarching plan and framework for revising current Auditing

Standards or transparency on either,[3] piecemeal and ad hoc changes in existing standards will likely produce inconsistencies in the audit process and undermine audit quality. Such changes can result in confusion and the lack of comprehension regarding the interrelationship of standards and their application, not the least of which may be due, for example, to the different drafting styles and conventions.

Audit Judgment Framework

Furthermore, it is important to recognize that auditors exercise judgment during the entire audit process. Indeed, the term "judgment" appears throughout current PCAOB Auditing Standards. However, because the use of judgment is pervasive and the PCAOB considers it a given, as a drafting convention, the PCAOB has decided not to include the term judgment in its Risk Standards. This is another issue that begs for discussion in a concept release.

This approach also reinforces the need for the PCAOB to take action on the recommendation of the SEC's Advisory Committee on Improvements to Financial Reporting ("CIFiR") for the PCAOB to "develop and articulate guidance related to how the PCAOB, including its inspection and enforcement divisions, would evaluate the reasonableness of judgments based on PCAOB auditing standards." Having such a policy statement on auditor judgments would provide a framework for the PCAOB to consider any necessary revisions to Auditing Standards, including those related to risk. Also, it would provide a context for others to consider and comment on any such proposed revisions.[4] Thus, such a policy statement should precede the promulgation of these Risk Standards.

Prescriptive Standards and the Restriction of Judgment

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[3] The CCMC has expressed concern about the lack of transparency in the PCAOB's standard-setting process. For example, see CCMC letter to Acting Chairman Daniel L. Goelzer dated October 7, 2009.

[4] CIFiR recommended that the Commission articulate the components of a framework for accounting judgments as a policy statement and CIFiR suggested the components of an accounting judgment framework for the SEC to consider, which were subject to public comment before CIFiR's final report was completed. These components are consistent with SEC staff speeches and advice, including advice on the SEC website to companies and auditors for consultations on accounting matters. The PCAOB has no comparable advice on audit judgments and CIFiR provided no suggestions in this regard.

To the extent that the unexplained intent and assumptions giving rise to the Risk Standards are only visible in the implementation of other standards, the CCMC is concerned that the PCAOB sees audit regulation as prescriptive and involves the narrowing of the important and pervasive role of auditor judgment. If so, this is another concept that needs transparency and exposure to public comment.

To illustrate our concerns, CCMC notes that two recent PCAOB proposed auditing standards related to *Communications with Audit Committees*[5] and *Confirmation*[6] appear to "build-out" these Risk Standards by applying a very high level of prescriptiveness that is troubling and, among other implications, has the potential for resulting in a "check-the-box" mentality that degrades audit quality.[7] This approach to writing auditing standards should be exposed for public comment in an overarching way through a concept release, rather than by "one-off" requests for comment on each individual standard in isolation.

Fraud

The Risk Standards reflect mostly changes in form, as discussed more fully below, based on assumptions that the PCAOB has made about how to improve the conduct of audits with regards to consideration of fraud. The PCAOB stated that its inspection process has identified instances where auditors performed the procedures related to consideration of fraud in a mechanical fashion or auditors failed to respond appropriately to any identified fraud risk factors. In our first comment letter to the PCAOB, we disagreed that a change in form would cause any meaningful change in audit firm methodologies. If auditors currently view the consideration of fraud as an isolated mechanical process rather than an integral part of the audit, they will likely continue to do so. It is the rarity of fraud that is the heart of the problem, not where the guidance is located in auditing standards.

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[5] See comment letter from the United States Chamber of Commerce's Center for Capital Markets Competitiveness dated May 28, 2010, on PCAOB rulemaking docket matter No. 030, *Proposed Auditing Standard Related to Communications with Audit Committees.*
[6] See comment letter from the United States Chamber of Commerce's Center for Capital Markets Competitiveness dated September 13, 2010, on PCAOB rulemaking docket matter No. 028, *Proposed Auditing Standard Related to Confirmations and Related Amendments to PCAOB Standards.*
[7] Various participants in the PCAOB's September 21, 2010, Roundtable on the *Proposed Auditing Standard Related to Communications with Audit Committees* also expressed concern about the prescriptive nature of the standard.

However, irrespective of the nature of these changes, from a procedural standpoint any changes are premature. They are premature, in part, because they are ad hoc. The changes do not occur in the context of any cohesive framework. Thus far, the PCAOB has shown no vision or ability to confront the challenge of fraud. For example, the PCAOB adopted the Risk Standards prior to any implementation of the PCAOB's announced intention to establish a fraud center, which was in response to the recommendation of the U.S. Department of the Treasury Advisory Committee on the Auditing Profession.

3. Other Substantive Concerns

Convergence

In accordance with our previous comment letters to the PCAOB, the CCMC, along with a number of other groups both domestic and international, support efforts to converge auditing standards. We appreciate that the PCAOB included in release text to the Risk Standards a comparison of these standards to the objectives and requirements of the analogous standards of the International Auditing and Assurance Standards Board ("IAASB") and the Auditing Standards Board ("ASB") of the American Institute of Certified Public Accountants. However, in many instances, the comparisons still fall short of explaining whether the PCAOB views it's Risk Standards as being substantively different from those of the IAASB and ASB and, if so, the rationale for such differences and what is intended to be accomplished by the PCAOB's standards.

In addition, by taking this approach, the PCAOB again fails to acknowledge the globalization of the economy and the unique needs these changes have imposed upon businesses and investors alike. Commonalities in the dissemination, reliability, and evaluation of financial information assist in the sound operation of markets. With these Risk Standards, the PCAOB has missed an important opportunity to advance the convergence of international auditing standards.

As part of its oversight authority under SOX, the CCMC encourages the SEC to ask the PCAOB to make audit convergence a priority and to take up the leadership mantle in making this goal a reality.

Incongruities with Existing Standards

As pointed out in our February 18, 2009 and March 2, 2010, comment letters to the PCAOB, the PCAOB's Risk Standards produce incongruities when viewed under the parameters of the existing standards. For instance, AU Section 316, *Consideration of Fraud in a Financial Statement Audit,* is just one illustration. The PCAOB's Risk Standards move the requirements related to the auditor's responsibilities in the area of fraud out of the fraud standard (AU Section 316) and blend them in with other audit requirements in the Risk Standards. The CCMC disagrees with this approach, in part, because AU Section 316 no longer represents a fraud standard or even a sufficiently comprehensive audit standard in relation to its title. Given the importance of auditor's responsibilities related to fraud to investors and other users of financial statements, it is a mistake to leave AU Section 316 so sparse. This mistake is compounded with the lack of transparency around the PCAOB's future standard-setting plans in this regard.

Merging Fraud and Error

In blending the requirements from AU 316 into the Risk Standards, the PCAOB has extended what is currently a unique and special focus on fraud to encompass misstatements due to both error and fraud. This not only has the potential to dilute or undermine the auditor's focus on fraud, but it can result in the auditor performing costly procedures of no import.

For example, AU 316 recognizes that judgments about the risk of material misstatement due to fraud have an overall effect on how the audit is conducted, including the predictability of auditing procedures. AU 316 goes on to say that the auditor should incorporate an element of unpredictability into audit procedures as one way to address the risk of material misstatement due to fraud.

On the other hand, in the PCAOB's Risk Standards, Auditing Standard No. 12 on *Identifying and Assessing Risks of Material Misstatement* extends the use of unpredictability to immaterial misstatements. Specifically, Auditing Standard No. 12 states that the auditor might perform substantive auditing procedures on financial statement accounts, disclosures, and assertions that are *not* determined to involve a risk of material misstatement as a means of introducing unpredictability in the procedures performed (see par. 62 including note and footnote).

Introducing unpredictability under these circumstances might still make sense for immaterial misstatements due to fraud because of other audit requirements related to the evaluation and communication of detected misstatements due to fraud even if inconsequential. However, inconsequential errors need not involve any auditor response, so it is not obvious why auditors would conduct audit procedures to detect them. Again, these are the type of issues that should be addressed in a concept release before any changes in extant standards are promulgated.

4. Conclusions

For the foregoing reasons, the CCMC believes that it is in the best interests of financial reporting policy that the PCAOB's Risk Standards not be approved by the Commission. Instead, they should be returned to the PCAOB for reconsideration as discussed in this letter.

The CCMC recognizes that the action we request is significant and arises in a context of regulatory transformation, responsibility overload, and economic fragility. However, we make this request, in the belief that it is precisely these current conditions that make it necessary for the PCAOB to reflect during 2011 on issues that were substantially decided in 2008 before the financial and regulatory storms had run their course. Further, declining to approve the Risk Standards for 2010 is warranted on the basis of time constraints alone.

Further, it is an essential time for the SEC to insist that those who share responsibility for financial reporting in the U.S. recognize the importance of global conditions, and take a leading role in shaping global audit standards for the betterment of the financial reporting system.

For all of these reasons we urge that the Risk Standards be rejected and the matter remanded to the PCAOB for reconsideration at the appropriate time. The

CCMC stands ready to work with the Commission and the PCAOB if we can be helpful in this vital endeavor.

Sincerely,