



September 8, 2015

Secretary  
Securities and Exchange Commission  
100 F Street, NE  
Washington, DC 20549-1090  
Electronically submitted: Via e-mail to [rule-comments@sec.gov](mailto:rule-comments@sec.gov)

Re: Concept Release Regarding Possible Revisions to Audit Committee Disclosures  
File Number S7-13-15

Marcum LLP ("we" or "our") is pleased to submit our observations with respect to the Securities and Exchange Commission's (the SEC's) Concept Release Regarding Possible Revisions to Audit Committee Disclosures (the "Release"). While not responding to specific questions raised by the SEC, we are presenting our views on several issues we consider critical to enhance the interactive communications between audit committees and stakeholders and to assist audit committees in becoming more effective in their oversight of the auditor.

#### AUDIT COMMITTEE OVERSIGHT OF THE AUDITOR

We support the SEC's exploration of the issues related to the role of the audit committee in overseeing the auditor, and how that role is executed and communicated to investors and other stakeholders. Recent studies of proxy disclosures conducted by the AICPA's Center for Audit Quality and others present a significant lack of consistency in the disclosures across all company size sectors and a diminishing level of auditor oversight disclosures within the S&P SmallCap and MicroCap sectors. However, it is clear that some companies are voluntarily disclosing more than is currently required and are attempting to better centralize the location of this information in the audit committee report or in a dedicated section of their proxy.

The Release solicits input on many areas of possible additional disclosure. In our view, the SEC should focus its consideration on the following areas:

- Achieving greater consistency in the presentation of current required disclosures including more comprehensive and centralized disclosure within the proxy and the audit committee report
- Enhancing disclosures regarding non-audit services and how the audit committee evaluated the impact such services had or will have on the auditor's independence
- Enhancing disclosures regarding the audit committee's consideration in appointing the auditor in terms of qualifications, geographic reach, specialized industry expertise, etc.
- Enhancing disclosures regarding the criteria considered by the audit committee in hiring or retaining the auditor
- Enhancing disclosures regarding the relationship between audit fees and audit quality



While we support enhanced disclosure of the process by which the audit committee evaluates its oversight of the auditor in the five areas noted above, we do not support certain of the Release's more expansive proposals regarding the disclosure of all communications required by the SEC's rules and PCAOB standards (including the matters to be communicated under Auditing Standard No. 16, Communications with Audit Committees), as we believe it will create substantive difficulties for issuers or audit committees to comply with, and will create a likely "chilling effect" on the ability of audit committees to have candid conversations with their auditors.

- Disclosure regarding the nature of the audit committee's recurring communication with the auditor, such as the overall audit strategy, timing, significant risks identified, and the nature and extent of specialized skills needed, for example, create a number of issues. Such issues include: (1) the cost/benefit scenario in formalizing the disclosure in a suitable manner for use by third parties, (2) regardless of how robust the disclosure, it could put the Company at a competitive disadvantage, (3) the disclosures could be taken out of context and (4) suppress ongoing critical communications between the audit committee and their auditor. The end result would likely lead to more cookie-cutter disclosure.
- In the micro-cap market sector, the more delicate and critical discussions are typically held in executive session without management present. Thus, if the SEC does choose a more expansive disclosure model, the SEC might wish to initially focus on required adoption by accelerated filers, and allow for an extended adoption period, or outright exemption, for smaller reporting and emerging growth companies. Additionally, there should be consideration to limit or exempt certain discussions from public disclosure, such as for example, those surrounding human capital. To do otherwise, will likely cause significant disruption of the ongoing communication process within the audit committee and between the audit committee and the auditor.

There are two important pending proposals that deal directly with the audit committee's oversight of the auditor:

- The PCAOB Auditor's Reporting Model project creates a dramatically expanded audit report, including disclosure of some of the information suggested in the Release. That project is expected to be re-exposed in the fourth quarter of 2015.
- The PCAOB Concept Release on Audit Quality Indicators has been released with an initial comment deadline of September 29, 2015. Twenty-eight metrics for measuring "audit quality" are set forth. Many of these metrics would be useful to audit committees in evaluating the overall effectiveness of the services performed by their auditors.

The SEC should allow the PCAOB to complete these projects, provide its feedback to the PCAOB and to allow for their ultimate adoption in practice for a reasonable period of time prior to establishing any other new definitive disclosures for audit committees as set forth in the Release.

We also recommend the SEC refrain from requiring the disclosure in any SEC filing of the name of the lead audit engagement partner or any of the other matters currently under consideration in the PCAOB's Supplemental Request for Comment on Improving Transparency Through

Disclosure of Engagement Partner and Certain Other Participants in Audits. If ultimately adopted, identifying the location of such information, as contemplated to be filed on a new form with the PCAOB, would be sufficient disclosure for stakeholders.

#### AUDIT COMMITTEE COMPETENCY AND TRANSPARENCY

Stakeholders need sufficient information regarding the competency and independence of audit committee members to cast their vote for or against directors who are audit committee members. We have experienced a wide divergence of basic skills among audit committee members of smaller reporting and emerging growth companies to the point we recommend the SEC consider developing enhanced guidance regarding:

- What constitutes a “financial expert” in terms of actual knowledge

For example, we have observed a wide diversity in practice regarding the level of accounting skills among audit committee members of smaller reporting and emerging growth companies. Several of these companies enter into various forms of alternative financings that give rise to complex accounting and valuation matters, however the audit committee financial expert may or may not demonstrate sufficient knowledge or understanding of the accounting issues to adequately assess the accounting considerations or ramifications. We have also observed that some audit committees who do not demonstrate such knowledge will engage their own “financial consultant” to contribute specialized financial expertise. In all of these cases, we believe the qualifications of an audit committee financial expert should be customized to the specific registrant’s facts and circumstances, and accordingly, further guidance to clarify what constitutes a “financial expert” would be beneficial as well as possibly requiring the company to disclose why and how their “designated financial expert” meets the established definition.

- Enhanced disclosure regarding whether directors are truly independent of management as a result of prior business or other relationships that are not a typical “related party” by definition

The disclosures related to the identification, qualification, selection for nomination and election of board members should be enhanced to allow for transparency of prior and other relationships amongst the existing management and board members. Improvements in such disclosures will:


- Challenge nominating committees to further consider prior business and other relationships and to consider the true “technical” qualifications of financial experts
- Improve the quality of the designated financial experts and provide accountability in the identification, qualification, selection for nomination and election of board members.
- Provide sufficient information to stakeholders to possibly assist them in making more informed decisions

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We thank you for the opportunity to comment on this important matter. We would be glad to discuss our opinions with you further should you have any questions or require further information.

Very truly yours,

Marcum LLP

A handwritten signature in black ink, appearing to read 'Gregory Giugliano', with a long horizontal flourish extending to the right.

Gregory Giugliano, CPA  
Partner in Charge of Assurance Services

GG/th