
STAFF QUESTIONS AND ANSWERS

REGISTRATION OF BROKER-DEALER AUDITORS

February 19, 2009

Summary: The questions and answers below set forth staff guidance to assist auditors of non-public broker-dealers considering registration with the Public Company Accounting Oversight Board ("PCAOB" or "Board"). This guidance does not constitute Board rules, nor has it been approved by the Board.

The staff questions and answers below were prepared by the Division of Registration and Inspections to supplement PCAOB Release No. 2003-011B, *Frequently Asked Questions Regarding Registration with the Board*. Questions should be directed to the PCAOB's registration staff, by emailing registration-help@pcaobus.org or by calling 202-207-9329. The Securities and Exchange Commission ("SEC") staff and the Financial Industry Regulatory Authority ("FINRA") have also each published guidance on issues related to the requirement that auditors of non-public broker-dealers register with the Board. The SEC staff guidance can be found at www.sec.gov/divisions/marketreg/faq-pcaobregbdauditors.htm. The FINRA guidance can be found at www.finra.org/Industry/Regulation/Notices/2009/P117689.

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Overview of Registration

Q1. My firm audits broker-dealers but does not audit or participate in audits of public companies. Does my firm have to register with the Board?

A1. Yes. Section 17(e) of the Securities Exchange Act of 1934 (as amended by the Sarbanes-Oxley Act of 2002) provides that every registered broker or dealer shall annually file with the SEC certain financial statements that are certified by a firm that is registered with the PCAOB. Until recently, an order of the Securities and Exchange Commission (the "SEC Order") had provided non-

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public broker-dealers with relief from that requirement. As a result of the SEC Order's recent expiration, financial statements of non-public broker-dealers for fiscal years ending after December 31, 2008 must be certified by a registered public accounting firm.

Q2. What does my firm have to do to become registered with the Board?

A2. To register with the Board, your firm must submit a registration application and the Board must approve it. Links to the instructions to Form 1 and to Section 2 of the Board's rules (which govern the registration process) may be found at www.pcaobus.org/Rules/Rules_of_the_Board. You may also view a sample registration application by clicking on "Sample Registration Form 1" located on the Registration page of the Board's website (www.pcaobus.org/Registration). You can read a discussion of the information Form 1 requires by going to www.pcaobus.org/rules/docket_001 and clicking on Release 2003-007. The Board has also published answers to frequently asked questions concerning the application process generally, which you can find on the Registration page. This document, PCAOB Release No. 2003-011B, *Frequently Asked Questions Regarding Registration with the Board*, is referred to below as "Board FAQs" and can be found at www.pcaobus.org/Registration/Registration_FAQ.pdf.

In addition to submitting the Form 1 registration application, your firm will have to pay a non-refundable registration fee prior to Board consideration of your application. If your firm audited no issuers during the previous calendar year, the registration fee is \$250. "Issuer" is defined in the Sarbanes-Oxley Act of 2002 and PCAOB rules and does not include a non-public broker-dealer.

Q3. Will PCAOB registration affect the manner in which my firm audits broker-dealers?

A3. The Board does not determine, inspect for compliance with, or enforce the standards applicable to audits of entities that are not issuers. In addition, the SEC staff has published guidance indicating that the requirement to register with the PCAOB does not affect the existing requirement, under SEC rules, that audits of the financial statements of non-public broker-dealers be conducted

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according to generally accepted auditing standards. See "PCAOB Registration of Auditors of Non-Public Broker-Dealers Frequently Asked Questions" (Question 5), available at www.sec.gov/divisions/marketreg/faq-pcaobregbdauditors.htm.

Q4. If my firm becomes registered with the Board, what ongoing obligations will it have to the PCAOB?

A4. Board rules currently pending with the SEC would require all registered firms, including those that do not audit issuers, to comply with the PCAOB's annual and special reporting requirements. Once those rules are effective, you will have to file with the Board an annual report, providing basic information about your firm. You will also have to file a special report if certain, specified events occur. These rules, once effective, will also require firms to pay an annual fee. The amount of that fee has not yet been announced. You can read a full description of the annual and special reporting rules adopted by the Board in PCAOB Release No. 2008-004 at www.pcaobus.org/Rules/Docket_019.

In any given year, both the requirement to file an annual report and the requirement to pay an annual fee apply only to firms that are registered as of March 31 of that year. Firms that become registered after March 31 of a given year would not file an annual report or pay an annual fee that year.

A firm's failure to comply with the reporting and fee requirements, as well as a failure to comply with the requirements to provide complete and accurate information in the application process, could result in disciplinary sanctions, potentially including revocation of a firm's registration.

Mechanics of Registration

Q5. How does my firm submit a registration application?

A5. Registration applications are electronic and can only be obtained by accessing the Board's secure registration system. To gain access to the

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registration system, go to the Registration page of the Board's website (www.pcaobus.org/Registration) and click on "Register with the PCAOB" in the gray box on the right. You will be presented with a log-in box and instructions to establish a user ID and password by submitting an "Online Entitlement Request Form." Follow the instructions to establish a user ID and password, and return to this log-in page to access PCAOB's secure registration system, where you may download the PDF version of the Form 1 registration application. (Note: The registration system also offers the option to submit Form 1 using XML. See Board FAQ #3 for further information on this option). Complete the application on your computer, making sure to take careful note of the name and location of the file containing your application.

To submit the registration application, log back into the registration system and follow the instructions to upload your completed Form 1. After Form 1 is uploaded, the system will calculate your firm's registration fee and present you with an invoice. You will be given a link to a site where you can submit your payment electronically. Once you've paid, your application will be deemed submitted.

Q6. How long will it take my firm to get registered?

A6. The Board has up to 45 days after the date your firm submits its application to take action on the application. The actual number of days until approval will vary depending on the information contained in the application and the number of applications that are pending at the same time as your firm's application. However, if the Board requests additional information concerning the application, a new 45-day period will begin when the additional information is received. In addition, if the Board cannot determine whether it is in the public interest to approve a firm's application, the Board may hold a hearing. While the applicant could elect to treat the hearing notice as a denial, if it does not do so, it will have waived the 45-day requirement for Board action. See Board FAQ #14 for additional information concerning notices of hearing.

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Content of the Registration Application

Q7. My firm does not participate in audits of issuers. Are there sections of the registration application we can skip?

A7. Before responding to any item in the registration application, an applicant should give careful attention to the definitions of terms used in the item. Of particular significance in this context are the definitions of “issuer” (which does not include a non-public broker-dealer), “audit” and “audit report” (which are limited to work and reports relating to the financial statements of issuers), and “associated person” of the applicant (which encompasses only persons that perform work in connection with an audit of an issuer).

If your firm did not, in the current calendar year or in the year preceding submission of its application, participate at all in the audit of an issuer, and your firm does not expect to do so in the current calendar year, it will have no information responsive to Part II (Listing of Applicant’s Public Company Audit Clients and Related Fees) or to Item 7.1 (Listing of Accountants Associated with Applicants), and may not have information responsive to other items on the application. The form contains “NA” boxes that you should check to indicate that particular parts of the form do not apply to your firm. A firm that certifies financial statements of broker-dealers, however, should, when filling out an application, also bear in mind the answer to question no. 9 below.

Before concluding that it does not participate in audits of issuers, an applicant should understand that audit work performed for a non-public entity could nevertheless constitute participation in an audit of an issuer if that work is used by another firm in connection with the other firm’s audit of an issuer, such as a parent company. In that circumstance, applicants should carefully consider whether they have played, or expect in the current calendar year to play, a “substantial role” in the audit of an issuer as that defined term is used in the registration application.

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Q8. Part IV of the registration application requires my firm to provide a statement of its quality control policies. How detailed should we be in describing our quality control policies?

A8. Your firm's discussion of quality control policies should be a summary description presented in a clear, concise and understandable format. You should not provide us with your entire internal quality control manual, but should prepare a brief document that provides an overview of your firm's policies with respect to independence, integrity and objectivity; engagement performance; personnel management; acceptance and continuance of clients and engagements; and monitoring.

Q9. Should my firm provide any specific information relevant to its work for broker-dealers?

A9. In light of the expiration of the SEC order, the staff believes that certain specific information may be relevant to the Board's consideration of an application. In order to avoid the Board seeking the information through a formal request for additional information, which could delay Board action on the application until 45 days after all requested additional information is submitted, the staff urges all applicants who have certified financial statements for SEC filings by broker-dealer clients in the two-year period preceding submission of the application and who intend to continue to do so to (a) indicate that fact in the "Applicant Profile" section on the first page of Form 1 by checking the box for item number 2, and (b) provide the following information:

1. Broker-dealer clients: Include in Exhibit 4.1, in addition to a description of the firm's quality control policies, a separate file listing (a) all broker-dealers for which the firm certified financial statements in the current or preceding calendar year, including the business address of each broker-dealer and, as to each, the dates of any such certification by the firm; and (b) any additional broker-dealers for which the firm expects to certify financial statements in the current calendar year, including the business address of each.

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2. Individuals' disciplinary histories: Include in Exhibit 5.3 a statement indicating whether any proprietor, partner, principal, shareholder, or officer of the firm, or any accountant employed by the firm who participates in the firm's work relating to certification of broker-dealer financial statements, has a history that meets any of the criteria described in Item 5.1.a. of Form 1. If any of those individuals has such a history, provide as to each matter the information described in Item 5.1.b. of Form 1. In considering the criteria described in Item 5.1.a.1., please give careful attention to Board FAQ #33.

Q10. Are registration applications made public? If so, can my firm protect any of the information it provides in the application from public disclosure?

A10. The Board makes registration applications available to the public by posting them to its web site as soon as practicable after approving or disapproving them. If your firm wishes to protect information in its registration application from public disclosure, it may request confidential treatment for that information by checking the box labeled "CR" that appears in the application relating to the exact item of information that you want to be treated confidentially. Your firm will be notified of the Board's determination with respect to your request after the Board has acted on your application.

For each request for confidential treatment, your firm must attach, as exhibit 99.1, an explanation as to why you believe the information should be treated confidentially. Refer to Board Rule 2300 (www.pcaobus.org/Rules/Rules_of_the_Board/Section_2.pdf) for the test the Board will apply in considering whether to grant your requests.

Requesting confidential treatment of a portion of a text exhibit to Form 1 requires your firm to submit two versions of the exhibit – one version should contain all the information in the exhibit and the other version should redact those portions of the exhibit as to which the firm is seeking confidential treatment and show with a notation each redaction that has been made.

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Further Questions About Registration

Q11. What should I do if I have further questions?

A11. If you have questions, you should first review the Board's FAQs on Registration, the Board's rules and Instructions to Form 1, and the Instructions for filling out Form 1 that are available for download after you log in to the registration system. If you still have questions, you can email the PCAOB's registration staff at registration-help@pcaobus.org, or call the registration staff's help line at (202) 207-9329. The hours of operation for the help line are 9 a.m. to 5 p.m. EDT, Monday through Friday.