

Proposed Rules, with one commenter noting that they are consistent with the Commission's amended Rule 17a-5 and are necessary to enable auditors of brokers and dealers to comply with the requirements therein.¹²

IV. Conclusion

The Commission has carefully reviewed and considered the Proposed Rules and the information submitted therewith by the PCAOB, including the comment letters received. In connection with the PCAOB's filing and the Commission's review, the Commission finds that the Proposed Rules are consistent with the requirements of the Sarbanes-Oxley Act and the securities laws and are necessary or appropriate in the public interest or for the protection of investors.¹³

It is therefore ordered, pursuant to Section 107 of the Act and Section 19(b)(2) of the Exchange Act, that the Proposed Rules (File No. PCAOB-2013-01) be and hereby are approved.

By the Commission.

Kevin M. O'Neill,

Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-71525; File No. PCAOB-2013-02]

Public Company Accounting Oversight Board; Order Granting Approval of Proposed Rules, Auditing Standard No. 17, Auditing Supplemental Information Accompanying Audited Financial Statements, and Related Amendments to PCAOB Standards

February 12, 2014.

I. Introduction

On October 30, 2013, the Public Company Accounting Oversight Board (the "Board" or the "PCAOB") filed with the Securities and Exchange Commission (the "Commission"), pursuant to Section 107(b) ¹ of the Sarbanes-Oxley Act of 2002 (the "Sarbanes-Oxley Act") and Section 19(b) ² of the Securities Exchange Act of 1934 (the "Exchange Act"), proposed rules to adopt Auditing Standard No. 17, *Auditing Supplemental Information*

Accompanying Audited Financial Statements, and related amendments to PCAOB standards (collectively, the "Proposed Rules"). The Proposed Rules were published for comment in the **Federal Register** on November 15, 2013.³ At the time the notice was issued, the Commission designated a longer period to act on the Proposed Rules, until February 13, 2014.⁴ The Commission received one comment letter in response to the notice.⁵ This order approves the Proposed Rules.

II. Description of the Proposed Rules

Auditing Standard No. 17, which would supersede PCAOB interim auditing standard AU section 551, *Reporting on Information Accompanying the Basic Financial Statements in Auditor-Submitted Documents*, applies when the auditor of the company's financial statements is engaged to perform audit procedures and report on supplemental information that accompanies financial statements audited pursuant to PCAOB standards. Such supplemental information includes:

- Supporting schedules that brokers and dealers are required to file pursuant to Exchange Act Rule 17a-5;⁶
- Supplemental information (i) required to be presented pursuant to the rules and regulations of a regulatory authority and (ii) covered by an independent public accountant's report on that information in relation to financial statements that are audited in accordance with PCAOB standards; or
- Information that is (i) ancillary to the audited financial statements, (ii) derived from the company's accounting books and records, and (iii) covered by an independent public accountant's report on that information in relation to the financial statements that are audited in accordance with PCAOB standards.

Historically, when auditors reported on supplemental information, they often expressed their opinions on the supplemental information "in relation to" the basic financial statements taken as a whole.⁷ Audit procedures regarding that supplemental information generally have been performed in conjunction with the audit of the financial statements. The auditor's report on supplemental information under AU sec. 551 is rooted in the concept that the supplemental information is fairly

presented "in relation to" the financial statements as a whole. The Proposed Rules retain the existing "in relation to" language in the auditor's report; however, they also update the report to describe the auditor's responsibilities for the supplemental information.

The Proposed Rules establish procedural and reporting responsibilities for the auditor regarding supplemental information accompanying financial statements. Specifically, the Proposed Rules establish:

- Requirements that the auditor perform audit procedures to test the supplemental information;
- Requirements that the auditor evaluate the supplemental information, which include evaluating (1) whether the supplemental information, including its form and content, is fairly stated, in all material respects, in relation to the financial statements as a whole, and (2) whether the supplemental information is presented in conformity, in all material respects, with the relevant regulatory requirements or other applicable criteria;
- Requirements that promote enhanced coordination between the work performed on the supplemental information with work performed on the financial statement audit and, if applicable, other engagements, such as an attestation engagement for brokers and dealers; and
- Reporting requirements that clearly articulate the auditor's responsibilities when reporting on supplemental information.

As part of the Proposed Rules, the Board adopted conforming amendments to several PCAOB standards, including superseding PCAOB interim auditing standard AU section 551.

The Proposed Rules would be effective for audit procedures and reports on supplemental information that accompanies financial statements for fiscal years ending on or after June 1, 2014.

III. Comment Letters

As noted above, the Commission received one comment letter concerning the Proposed Rules. The commenter expressed unqualified support for the Proposed Rules, noting that they are consistent with the Commission's amended Rule 17a-5 and are necessary to enable auditors of brokers and dealers to comply with the requirements therein.⁸ The commenter further noted that the requirements for auditors included in the Proposed Rules are

¹² See Deloitte Letter.

¹³ Because these proposed rules apply solely in connection with the obligations of registered brokers and dealers pursuant to 17 CFR 240.17a-5, no separate determination is necessary under 15 U.S.C. 7213(a)(3)(C).

¹ 15 U.S.C. 7217(b).

² 15 U.S.C. 78s(b).

³ See Release No. 34-70843 (November 8, 2013), 78 FR 68872 (November 15, 2013).

⁴ Ibid.

⁵ See letter to the Commission from Deloitte & Touche LLP, dated December 5, 2013 ("Deloitte Letter").

⁶ See 17 CFR 240.17a-5.

⁷ See AU sec. 551.12.

⁸ See Deloitte Letter.

consistent with the goal of improving the confidence of investors and other stakeholders in the quality and consistency of supplemental information.⁹

IV. The PCAOB's EGC Request

Section 103(a)(3)(C) of the Sarbanes-Oxley Act provides that any additional rules adopted by the PCAOB subsequent to April 5, 2012 do not apply to the audits of emerging growth companies ("EGCs"), unless the Commission determines that the application of such additional requirements is necessary or appropriate in the public interest, after considering the protection of investors and whether the action will promote efficiency, competition, and capital formation.¹⁰ Having considered those factors, and as explained further below, the Commission finds that applying the Proposed Rules to audits of EGCs is necessary or appropriate in the public interest.

The PCAOB has proposed application of its Proposed Rules to audits of all issuers, as applicable, including EGCs; and the PCAOB requested that the Commission make the determination to the extent necessary required by Section 103(a)(3)(C). To assist the Commission in making its determination, the PCAOB prepared and submitted to the Commission its own EGC analysis. The PCAOB's EGC analysis includes discussions of: (1) The economic baseline for consideration of the Proposed Rules; (2) the PCAOB's consideration of alternatives; (3) economic considerations; and (4) characteristics of EGCs. In its analysis, the PCAOB noted that, according to its research, the PCAOB is not aware of EGCs for which auditors would be required to apply the Proposed Rules, but that issuers may voluntarily file supplemental information to which the standard could apply.

The PCAOB's EGC analysis was included in the Commission's public notice soliciting comment on the Proposed Rules. No comments were received on the analysis. Based on the analysis submitted, we believe the information in the record is sufficient for us to make the EGC determination in relation to this standard. Specifically, the PCAOB's EGC analysis discussed its approach to developing the new standard and its consideration of alternatives, as well as the characteristics of EGCs and economic

considerations. The Commission also takes note, in particular, of the PCAOB's analysis which explained that the PCAOB is not aware of EGCs for which auditors would be required to apply the Proposed Rules, and the only entities that are currently required to file supplemental information to which Auditing Standard No. 17 would apply are: (1) Brokers and dealers pursuant to Rule 17a-5; and (2) Form 11-K¹¹ filers that elect to file plan financial statements and schedules prepared in accordance with the financial reporting requirements of the Employee Retirement Income Security Act of 1974.¹² Nonetheless, audited supplemental information can be provided by an EGC voluntarily. Although electing to do so is rare, the Commission believes that the Proposed Rules represent an improvement over PCAOB interim auditing standard AU section 551 for auditing and reporting on such information and should therefore be applied in such circumstances. Applying the same standard to audits of EGCs who voluntarily file supplemental information would be efficient for issuers and auditors and because of its scalability should not disproportionately affect EGCs.¹³ Approving the Proposed Rules for audits of EGCs also ensures that PCAOB standards continue to include appropriate direction for auditors when engaged to audit supplemental information.

V. Conclusion

The Commission has carefully reviewed and considered the Proposed Rules and the information submitted therewith by the PCAOB, including the PCAOB's EGC analysis and the comment letter received. In connection with the PCAOB's filing and the Commission's review,

A. The Commission finds that the Proposed Rules are consistent with the requirements of the Sarbanes-Oxley Act and the securities laws and are necessary or appropriate in the public interest or for the protection of investors; and

B. Separately, the Commission finds that the application of the Proposed

Rules to EGC audits is necessary or appropriate in the public interest, after considering the protection of investors and whether the action will promote efficiency, competition, and capital formation.

It is therefore ordered, pursuant to Section 107 of the Act and Section 19(b)(2) of the Exchange Act, that the Proposed Rules (File No. PCAOB-2013-02) be and hereby are approved.

By the Commission.

Kevin M. O'Neill,

Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-71549; File No. SR-OCC-2014-801]

Self-Regulatory Organizations; The Options Clearing Corporation; Notice of Filing of Advance Notice of and No Objection to an Amendment to The Options Clearing Corporation's Unsecured, Committed Credit Agreement

February 12, 2014.

Notice is hereby given that, on January 14, 2014, The Options Clearing Corporation ("OCC") filed an advance notice with the Securities and Exchange Commission ("Commission") pursuant to Section 806(e)(1)(A) of Title VIII of the Dodd-Frank Wall Street Reform and Consumer Protection Act, entitled the Payment, Clearing, and Settlement Supervision Act of 2010 ("Clearing Supervision Act"),¹ and Rule 19b-4(n)(1)(i) of the Securities Exchange Act of 1934 ("Exchange Act").² The advance notice is described in Items I, II, and III below, which Items have been prepared by OCC. The Commission is publishing this notice to solicit comments from interested persons, to issue a non-objection to the changes set forth in the advance notice, and to authorize OCC to implement those changes earlier than 60 days after the filing of the advance notice.

¹¹ 17 CFR 249.311. Form 11-K is used for annual reports pursuant to Exchange Act Section 15(d) with respect to employee stock purchase, savings and similar plans.

¹² 29 U.S.C. 1001 et seq. (1974).

¹³ To the extent the Commission considers in the future to amend filing requirements to require any new supplemental information to which the Proposed Rules would be applicable, the application of such requirements to EGCs could be considered in connection with any such rulemaking.

¹ 12 U.S.C. 5465(e)(1)(A). The Financial Stability Oversight Council designated OCC a systemically important financial market utility on July 18, 2012. See Financial Stability Oversight Council 2012 Annual Report, Appendix A, <http://www.treasury.gov/initiatives/fsoc/Documents/2012%20Annual%20Report.pdf>. Therefore, OCC is required to comply with Title VIII of the Dodd-Frank Wall Street Reform and Consumer Protection Act.

² 17 CFR 240.19b-4(n)(1)(i).

⁹ Ibid.

¹⁰ Section 103(a)(3)(C) of the Sarbanes-Oxley Act, as amended by Section 104 of the Jumpstart Our Business Startups Act (the "JOBS Act"). The term "emerging growth company" is defined in Section 3(a)(80) of the Exchange Act.