

**UNITED STATES OF AMERICA  
BEFORE THE  
SECURITIES AND EXCHANGE COMMISSION**

**Securities Act of 1933  
Release No. 9025 / April 13, 2009**

**Securities Exchange Act of 1934  
Release No. 59759 / April 13, 2009**

**ORDER APPROVING INCREASE TO PUBLIC COMPANY ACCOUNTING  
OVERSIGHT BOARD ANNUAL ACCOUNTING SUPPORT FEE FOR CALENDAR  
YEAR 2009**

The Sarbanes-Oxley Act of 2002 (the “Act”) established the Public Company Accounting Oversight Board (“PCAOB”) to oversee the audits of public companies and related matters, to protect investors, and to further the public interest in the preparation of informative, accurate and independent audit reports. The PCAOB is to accomplish these goals through registration of public accounting firms and standard setting, inspection, and disciplinary programs. Section 109 of the Act provides that the PCAOB shall establish a reasonable annual accounting support fee, as may be necessary or appropriate to establish and maintain the PCAOB. Section 109(h) amends Section 13(b)(2) of the Securities Exchange Act of 1934 to require issuers to pay the allocable share of a reasonable annual accounting support fee or fees, determined in accordance with Section 109 of the Act. Under Section 109(f), the aggregate annual accounting support fee shall not exceed the PCAOB’s aggregate “recoverable budget expenses,” which may include operating, capital and accrued items. Section 109(b) of the Act directs the PCAOB to establish a budget for each fiscal year in accordance with the PCAOB’s internal procedures, subject to approval by the Securities and Exchange Commission (the “Commission”).

On July 18, 2006, the Commission amended its Rules of Practice related to its Informal and Other Procedures to add a rule to facilitate the Commission's review and approval of PCAOB budgets and accounting support fees.<sup>1</sup> This budget rule provides, among other things, a timetable for the preparation and submission of the PCAOB budget and for Commission actions related to each budget, a description of the information that should be included in each budget submission, limits on the PCAOB's ability to incur expenses and obligations except as provided in the approved budget, procedures relating to supplemental budget requests, requirements for the PCAOB to furnish on a quarterly basis certain budget-related information, a list of definitions that apply to the rule and to general discussions of PCAOB budget matters, and the ability of the Commission to waive compliance with any provisions of the rule.

On December 17, 2008, the Commission approved the PCAOB's 2009 budget of \$157.6 million and 2009 annual accounting support fee of \$151.8 million.<sup>2</sup> Due to the development of certain unforeseen contingencies, on March 16, 2009 the PCAOB requested Commission approval to increase its 2009 annual accounting support fee by \$5.6 million, to \$157.4 million. The primary reason for the requested increase relates to proposed legislation in Congress that would increase the PCAOB's responsibilities over auditors of broker-dealers.

Specifically, the PCAOB's request would create an additional reserve for contingencies in addition to the five month working capital reserve provided for in the

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<sup>1</sup> 17 CFR 202.11. See Release No. 33-8724 (July 18, 2006) [71 FR 41998 (July 24, 2006)].

<sup>2</sup> See Release No. 33-8989 (December 17, 2008) [73 FR 78861 (December 23, 2008)].

Commission's budget rule.<sup>3</sup> Therefore, the requested amount of the increase to the annual accounting support fee would result in the PCAOB being noncompliant with certain provisions of the Commission's budget rule. The Commission's budget rule provides that the Commission, in its discretion, may waive compliance with any provision of the rule,<sup>4</sup> and the PCAOB has requested a waiver. In approving the PCAOB's request to increase its 2009 annual accounting support fee, the Commission is hereby waiving paragraph (d)(3) of the budget rule with respect to the PCAOB's 2009 budget and annual accounting support fee.

Pursuant to the budget rule, and as the PCAOB indicates in its request, the incremental monies collected by the PCAOB are to be held by the PCAOB until the Commission, through the approval of a supplemental budget, later approves disbursement of such monies. The procedures for submitting a supplemental budget request are provided in the budget rule. Prior to submission of any such supplemental budget request or to the implementation of any legislation that expands the PCAOB's authority over the auditors of broker-dealers, the PCAOB shall consult with the Commission on a timely basis about the PCAOB's plans for additional resources, program changes, or information technology developments and enhancements contemplated.

The Commission has determined that the PCAOB's increased annual accounting support fee is consistent with Section 109 of the Act. Accordingly,

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<sup>3</sup> See 17 CFR 202.11(d)(3), which provides that, "In addition to amounts needed to fund disbursements during the budget year, a budget may reflect receipts in amounts needed to fund expected disbursements during a period not to exceed the first five months of the fiscal year immediately following the budget year (the working capital reserve), provided such amounts shall be disbursed only as specified in the following year's budget or in a supplemental budget approved by the Commission."

<sup>4</sup> See 17 CFR 202.11(i).

IT IS ORDERED, pursuant to Section 109 of the Act, that the PCAOB's increase to its annual accounting support fee for calendar year 2009 is approved.

By the Commission.

Elizabeth M. Murphy  
Secretary