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### I. Background and Overview

Section 102(d) of the Sarbanes-Oxley Act of 2002 ("the Act") provides that each registered public accounting firm shall submit an annual report to the Board, and may also be required to report more frequently to provide to the Board information specified by the Board or the Commission. Pursuant to Section 102(d), the Board is proposing rules and forms to govern and facilitate annual reporting of certain information and to require, govern, and facilitate special reporting of certain other information if specified events occur.

The proposal reflects the Board's view that reporting should serve three fundamental purposes. First, firms should report information to keep the Board's records current about such basic matters as the firm's name, location, contact information, and licenses. Second, firms should report information reflecting the extent and nature of the firm's audit practice related to issuers, in order to facilitate analysis and planning related to the Board's inspection responsibilities and to inform other Board functions. Third, firms should report circumstances or events that could, depending upon the situation, merit follow-up through the Board's inspection process or its investigative process, or that otherwise may warrant being brought to the public's attention.

The Board's proposal seeks to accomplish those purposes without imposing any unnecessary burdens. For example, the proposal generally does not require firms to report information that is reasonably available to the Board and the public in other ways, such as through reports that a firm's audit client is required to make to the Commission. As another example, the proposal does not require firms to provide a roster of the firm's accountants. Rather, the proposal focuses on a narrower scope of more immediately meaningful information, by requiring a firm to report information if the firm becomes associated with an individual with a certain type of disciplinary history. The nature of the proposal's substantive reporting requirements is discussed below in Section II.

Under the Board's proposal, annual and special reports would be made public on the Board's Web site promptly upon being filed by the firm, subject to exceptions for information for which a firm requests confidential treatment. The proposal includes amendments to the existing rule on confidential treatment for registration applications (Rule 2300) so that the rule will apply to annual and special reporting as well. The proposal would, however, exclude the possibility of confidential treatment requests, on annual and special reports, for certain categories of information as to which there is no reasonable basis for asserting confidentiality. The public availability of that information should not have to be delayed while the Board processes a baseless request for confidential treatment. Confidential treatment issues are discussed in Section III below.

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In the proposal, the Board continues its practice of affording reasonable accommodations to foreign registered firms faced with non-U.S. legal restrictions on their ability to provide information to the Board. The proposal adapts to the reporting process the same principles underlying PCAOB Rule 2105, which allows firms to withhold certain otherwise required information when applying for registration. Section IV below addresses the legal conflict point.

### **II. The Substance of the Proposed Reporting Requirements**

The Board's proposed reporting framework includes two types of reporting obligations. First, the proposal would require each registered firm to provide basic information once a year about the firm and the firm's issuer-related practice over the most recent 12-month period. The firm would do so by filing an annual report on Form 2. Second, the proposal identifies certain events that, if they occur with respect to a registered firm, must be reported by the firm within 14 days. The firm would comply with this requirement by filing a special report on Form 3.

There is no significant overlap between the information required to be reported annually on Form 2 and the special reporting required on Form 3. Special reporting does not, as a general matter, serve to update information reported on Form 2.<sup>1/</sup> The purpose of Form 2 reporting is principally to provide a profile of the firm at a point in time, based on its activity related to issuers over the most recent 12-month period. The purpose of Form 3 reporting is principally to alert the Board to the occurrence of events that may, depending upon the situation, have somewhat more immediate bearing on how the Board carries out its regulatory responsibilities regarding the firm. The proposed rules and forms would accomplish these objectives without burdensome reporting requirements.

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<sup>1/</sup> Among the things that would be required in an annual report on Form 2 are the firm's name and certain contact information for the firm's Board contact person. The proposal would require that any changes to those two specific items be reported on Form 3. No other information required on Form 2 would be subject to similar updating via Form 3.

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### A. Annual Reporting on Form 2

#### 1. Required Information

Proposed Form 2 naturally requires threshold information about the identity of the firm and the location of its offices. Beyond that, proposed Form 2 requires substantive information in essentially three broad categories. The information required in all three categories would provide basic profiling information relevant to analysis and planning for the Board's inspection program, and may also be relevant to other Board operations.

First, proposed Form 2 requires information about the firm's issuer-related practice in the 12-month reporting period. Required reporting on this point includes information about whether the firm issued any audit reports for issuers (and, if not, whether the firm played a substantial role in any audits of issuers),<sup>2/</sup> identifying information concerning all such issuers, the number of firm personnel who exercised authority to sign the firm's name to an audit report, and a breakdown showing the percentage of the firm's total billings that was attributable to each of the following categories of services provided to issuer audit clients: audit services, other accounting services, tax services, and non-audit services.<sup>3/</sup>

Proposed Form 2 does not require a firm to provide the actual dollar amounts it billed, either to particular issuers or in the aggregate. Rather, the proposed form requires the information to be reported only in percentage terms, relative to the firm's total billings for all services rendered to all clients. This information will provide a picture of how the firm's services for issuer audit clients compare generally with the firm's services for other clients, and will also provide a picture of the allocation of services the firm provided to issuer audit clients.<sup>4/</sup>

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<sup>2/</sup> Continuing with the approach employed on Form 1, Form 2 would not require a firm that reports having issued any audit reports to report separately whether the firm played a substantial role in any other audits.

<sup>3/</sup> These four categories are defined in the Board's rules. See PCAOB Rules 1001(a)(vii) (audit services), 1001(o)(i) (other accounting services), 1001(t)(i) (tax services), and 1001(n)(ii) (non-audit services). These categories correspond to categories with respect to which the Commission's rules require issuers to report the amounts paid to the issuer's auditor.

<sup>4/</sup> The Board's 2003 release adopting rules related to registration indicated an intention to later adopt reporting rules under which the fee information reported by a firm in each of the above four categories would include fees received from issuers and non-issuers. See PCAOB Release No. 2003-007

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Second, proposed Form 2 requires information about internal and external resources on which the firm draws in performing audits for issuers. As to internal resources, the proposed form requires information about the total number of the firm's personnel, accountants, and certified public accountants, and the total number of those personnel (broken down by functional level) who provided audit services during the reporting period.<sup>5/</sup> The proposed form does not require the firm to identify all of the individuals in any of those categories. As to external resources, the proposed form requires the firm to identify and describe any memberships or affiliations in or with any network, alliance, or similar arrangement that affords the firm access to resources for use in issuer audits, including procedures, manuals, or personnel.

Third, the proposed form requires that the firm report certain potentially significant new relationships entered into during the reporting period. If the firm took on (whether as an employee, partner, or in some other ownership capacity), or entered into an arrangement to receive consulting or other professional services from, individuals or entities meeting certain criteria regarding disciplinary history, proposed Form 2 requires the firm to report information about that relationship.<sup>6/</sup> If the firm acquired another accounting firm, or took on at least

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(May 6, 2003) at A3-xlvi. In preparing the current proposal, the Board has concluded that combining issuer and non-issuer fees in each of the four categories would be less enlightening concerning the firm's issuer audit practice (which is the Board's focus) than the proposed approach, which limits reporting to information specifically about the firm's issuer audit practice and does so in a way that facilitates analysis of how that practice compares generally with the firm's practice for clients that are not issuer audit clients.

<sup>5/</sup> PCAOB Rule 1001(a)(vii)(2) defines "audit services" as "professional services rendered for the audit of an issuer's annual financial statements, and (if applicable) for the reviews of an issuer's financial statements included in the issuer's quarterly reports or services that are normally provided by the accountant in connection with statutory and regulatory filings or engagements for those fiscal years."

<sup>6/</sup> Proposed Form 3 requires prompt reporting of new relationships in circumstances that resemble this Form 2 requirement but that, in fact, are different from and do not overlap with the circumstances described in the Form 2 requirement. The nature of the disciplinary history criteria described in the Form 3 requirement is such that the new relationship is more likely to warrant some degree of consideration by the Board's inspection or enforcement staff more immediately than a new relationship meeting the Form 2 criteria.

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75% of the individuals who were partners, shareholders, principals, members, or owners of another firm, proposed Form 2 requires the firm to report that as well.

The proposed reporting requirements for this third category include a distinctive feature: the first time that a firm files a Form 2, the firm must provide information on new relationships and acquisitions (Parts VII and VIII of Form 2), not only for the 12-month reporting period, but back to the cut-off date that the firm used for purposes of information provided on its Form 1 application for registration. Unlike other information reported on Form 2, this information is useful to a current profile of the firm even if it has its origins before the reporting period. The proposal therefore seeks to eliminate any information gaps on these points between the time of the Form 1 information and the beginning of the firm's first Form 2 reporting period.<sup>7/</sup>

In addition to requiring the information described above, proposed Form 2 requires an annual affirmation related to the Act's requirements that the firm consent to cooperate with the Board and enforce cooperation by the firm's associated persons. Tracking the consent language included in Form 1, proposed Form 2 requires the firm (1) to affirm its consent to cooperate with Board requests for testimony or documents, (2) to affirm that it has secured from each of its associated persons the required consents to cooperate with the Board, and (3) to affirm the firm's understanding and agreement that its cooperation and compliance, and the securing and enforcing of consents from its associated persons, is a condition of its continued registration with the Board.

The inclusion of the affirmation in Form 2 should not be understood to suggest that a firm's original consent, as required by the Act and executed in the firm's Form 1, expires at any point. Rather, the purposes of the Form 2 affirmation are to serve as an annual reminder to the firm of both the firm's obligation to cooperate and its obligation to secure signed consents from new associated persons.<sup>8/</sup> Under the proposed rules, subject only to an

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<sup>7/</sup> The requirement to reach back to the Form 1 cut-off date will apply both to firms that are currently registered (many of which would reach back to a 2003 cut-off date to supply this information, if any, in their first Form 2) and to firms that register in the future (since a firm could have a Form 1 cut-off date that predates the beginning of the reporting period for the firm's first Form 2).

<sup>8/</sup> As time passes, and firm leadership changes from the persons responsible for the firm's Form 1 submission, the Form 2 affirmation will help keep the firm's cooperation obligations in focus.

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accommodation for registered firms that face non-U.S. legal obstacles,<sup>9/</sup> the firm's affirmation of these points is strictly required. The Board's system will not accept for filing a Form 2 that does not include the affirmation.

To be accepted for filing, a Form 2 must also include a signed certification by an authorized partner or officer of the firm. In addition to certifying to the completeness and accuracy of the information in the form, the signer must certify that the firm filed a special report on Form 3 with respect to each Form 3 event that occurred during the reporting period. If a firm ignored or overlooked the special reporting requirements for some period of time, the firm would eventually discover that it needed to become current on its Form 3 obligations, even if that meant late filing of a Form 3, so that it could truthfully provide the certification required in order to satisfy the annual reporting requirement.<sup>10/</sup>

### 2. Timing

Proposed Rule 2201 sets June 30 as the deadline for the annual filing of Form 2. The reporting period covered by the report would be April 1 to March 31, leaving each firm with three months to prepare and file a Form 2 reflecting information from that 12-month period. Any firm that was registered as of March

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<sup>9/</sup> The proposed reporting framework includes accommodations for foreign registered firms that assert that non-U.S. law limits their ability to comply with Form 2 requirements. These accommodations are discussed in Section IV below. In addition, a note to the affirmation section in Form 2 explains that the affirmation shall not be understood to include an affirmation that the firm has secured consents from associated persons that are unregistered foreign firms that assert that non-U.S. law prohibits them from providing the consent, as long as certain requirements concerning that assertion are satisfied. The point of the note is solely to put a parameter on the reporting requirement being created. The proposal includes this parameter to facilitate reporting concerning all other associated person consents, without miring the affirmation point in the issues raised by unregistered foreign firms' assertions about non-U.S. restrictions. This parameter on the reporting requirement is not intended to modify a firm's obligation, under Section 102(b)(3)(A) of the Act, to secure the required consents, and it is not in any way an exercise of the Board's exemption authority under Section 106(c) of the Act.

<sup>10/</sup> Form 2 does not require a firm to certify that it has filed all required Form 3's on a timely basis, but only that it has filed them. The result is to force a firm to file any overdue Form 3 before the firm can truthfully provide the certification necessary to file Form 2.

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31 of a particular year would be required to file Form 2 by June 30 of that year, but any firm that became registered in the period between and including April 1 and June 30 would not be required to file a Form 2 until June 30 of the following year.

In the Board's view, a single filing deadline for all firms is more appropriate than varying deadlines tied to individual firms' fiscal years. The use of a reporting period ending March 31 is intended to coincide with the end point of the period for which the Board's inspection staff will generally request substantial information from firms scheduled for inspection in that year. Using that same end point for purposes of Form 2 may spare a firm from having to prepare, on a single topic (e.g., a list of issuers for which the firm prepared audit reports and the dates of the reports), a lengthy response for purposes of the inspection and a different lengthy response for purposes of Form 2. In addition, none of the information required by proposed Form 2 involves any complexity or burden that makes it unreasonable to require a firm to prepare the information for a period other than its fiscal year.

### **B. Special Reporting on Form 3**

#### **1. Required Information**

The proposed rules require a registered firm to file a special report on Form 3 if any of the reportable events described in Form 3 occur, and to file that special report no more than 14 days after the event. The reportable events described on proposed Form 3 are not events that routinely occur, and the Board anticipates that most firms will go through most years without having any of the reportable events occur. Many firms may never experience a reportable event. Nevertheless, reportable events will sometimes occur with some firms, and the public interest, as well as the ability to consider whether prompt action is warranted by the Board's inspection staff or enforcement staff, would be served by contemporaneous reporting of the event.

The events that trigger a reporting requirement under proposed Form 3 are summarized below. For ease of reference, the events, as summarized, are set out together on a single page.



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### Proposed Form 3 Reporting Triggers

- With respect to the 100 issuer audit client threshold that determines the frequency of Board inspections under Rule 4003, the firm has crossed to a different side of the threshold than the firm was on in the preceding calendar year.
- The firm has withdrawn an audit report on financial statements, and the issuer failed to comply with Commission reporting requirements (Item 4.02 of Commission Form 8-K) concerning the matter.
- The firm has learned that an issuer, in a report containing the issuer's financial statements, has made use of the Firm's name without the consent of the Firm in circumstances where such consent is required or the *issuer* indicates that such consent was provided.
- The firm, or a partner, shareholder, principal, owner, member, or manager of the firm, has become a defendant in certain types of criminal proceedings, or any such proceeding has been concluded as to the firm or the individual.
- The firm, or a partner, shareholder, principal, owner, member, or manager of the firm, has become a defendant or respondent in a government-initiated civil proceeding, or an administrative or disciplinary proceeding (other than a Board proceeding), arising out of conduct in the course of providing professional services, or any such proceeding has been concluded as to the firm or the individual.
- The firm, or a parent or subsidiary, has become the subject of a petition filed in bankruptcy court or certain similar proceedings.
- The firm has taken on, or entered into an arrangement to receive consulting or other professional services from, individuals or entities meeting certain criteria regarding disciplinary history.
- The firm has obtained a new license or certification authorizing the firm to engage in the business of accounting or auditing, or there has been a change in the status of an existing license or certification.
- The firm has changed its legal name, while otherwise remaining the same legal entity that it was before the name change.
- Contact information for the firm's Board contact person has changed.

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Each trigger is potentially of some immediate concern to the Board for specific reasons. If a firm has gone from a calendar year in which it issued audit reports for 100 or fewer issuers to a calendar year in which it issued reports for more than 100 issuers, or vice versa, the Board wants to know that fact as early as possible because of the implications, under Rule 4003, for inspection scheduling. If a firm, or certain individuals in a firm are charged with certain types of crimes or with misconduct in the course of providing professional services, the specific circumstances may suggest the need for follow-up through a Board inspection or a Board investigation. Similarly, if a firm has taken on, or entered into arrangements with, persons or entities who are subject to certain sanctions, such as a bar or suspension on association with a registered public accounting firm, the specific circumstances may suggest the need for follow-up. (In addition, that reporting requirement should drive firms to ascertain that disciplinary status in circumstances in which some firms might otherwise overlook it.)

A bankruptcy petition or similar proceeding that threatens to shift control of the firm's assets could have immediate implications for pending or contemplated enforcement investigations concerning the firm. Changes in a firm's license status may affect whether a particular state regulator is what the Act defines as an "appropriate state regulatory authority" with respect to that firm, with immediate implications for whether the Board should transmit any new inspection report on that firm to that state. The usefulness of prompt reporting of changes in a firm's legal name or contact information is apparent.<sup>11/</sup>

Two of the proposed reporting triggers raise issues that the Board particularly encourages commenters to address. Both the requirement to report a withdrawn audit report (triggered only if the issuer has failed to make the

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<sup>11/</sup> Under the proposed reporting framework, a registered firm's name change should be reported on Form 3 only if the firm remains the same legal entity that it was before the name change. If the name change is in connection with a more significant change in which the firm, as previously constituted, ceases to exist – such as a change in the legal form of the firm or a merger resulting in a new legal entity – the new entity does not automatically succeed to the registration status of the former entity and may not report the event on Form 3 as a mere name change. In a separate release, the Board is today proposing rules and a form (Form 4) that would govern whether and how a new firm may succeed to the registration status of a predecessor. Under that proposal, succession to registration status would not involve any Form 3 filing.

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required report to the Commission on the Commission's Form 8-K),<sup>12/</sup> and the requirement to report that an issuer has used the firm's name without the firm's consent (such as by misrepresenting a draft audit report as an audit report that the firm has issued),<sup>13/</sup> are intended to draw investors' attention to the problem relatively quickly. In the Board's view, imposing these reporting obligations on registered firms would protect investors and serve the public interest.

At the same time, these obligations might be viewed as unnecessary in light of a registered firm's existing obligation, under Section 10A(b) of the Securities Exchange Act of 1934, to follow the steps prescribed there when the firm becomes aware of an illegal act. The Board does not intend that its proposed reporting requirements on these two points would supplant Section 10A(b), or that compliance with the reporting requirements would substitute for compliance with Section 10A(b). It is possible, though, that many registered firms faced with these reportable events may not recognize that the circumstances involve the type of illegal act that triggers the obligations set out in Section 10A(b). In the case of such a firm, a Board reporting requirement would inform the public of important information that might otherwise remain unknown indefinitely.<sup>14/</sup> Moreover, even if a firm does address these issues through the Section 10A(b) process, that process would not necessarily ensure that relevant information would become public as quickly as it would pursuant to the proposed Form 3 reporting. The Board encourages commenters to address, in light of Section 10A(b), the value of including these two reporting triggers.

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<sup>12/</sup> Item 2.1 of proposed Form 3 would require a firm to file a report on Form 3 if "the Firm has withdrawn an audit report, or withdrawn its consent to the use of its name in a report, document, or written communication containing an issuer's financial statements, and the issuer has failed to comply with a Commission requirement to make a timely report concerning the matter pursuant to Item 4.02 of Commission Form 8-K."

<sup>13/</sup> Item 2.4 of proposed Form 3 would require a firm to file a report on Form 3 if "the Firm has become aware that an issuer has made use of the Firm's name, without the consent of the Firm, in a report, document, or written communication containing the issuer's financial statements."

<sup>14/</sup> In addition, the fact of the Board's reporting requirement (and the discussion in this Release) may help to raise awareness among registered firms that the circumstances discussed here can trigger the obligations set out in Section 10A(b).

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The proposed requirement to report withdrawn audit reports (Item 2.1 of Form 3) is limited to circumstances in which the firm's issuer client has an obligation to make a report pursuant to Item 4.02 of the Commission's Form 8-K and has failed to do so.<sup>15/</sup> One consequence of that approach is to exclude from the Form 3 requirement any obligation to report that a firm has withdrawn a report on management's assessment of internal control over financial reporting, since a firm's issuer client has no obligation to report that event, in and of itself, under Item 4.02 of Form 8-K.<sup>16/</sup>

### 2. Organization of Form 3

One aspect of proposed Form 3's organization warrants discussion. Part II of the proposed form requires the firm to indicate, by checking a box, which triggering event listed in Part II has occurred and is the reason for the report. For each box checked, Part II directs the firm to the particular Parts of the report that the firm must complete to provide the relevant details.

This approach serves two principal purposes. First, it allows a reader of the form to ascertain quickly, from a glance at Part II, the nature of the event or events being reported, without having to page through the entire form to see where the firm has included information. Second, it takes into account that some foreign registered firms may assert that non-U.S. law prohibits them from providing the details that the form requires about a particular event,<sup>17/</sup> and it provides a mechanism for at least alerting the Board at a very general level that a certain type of event has occurred.<sup>18/</sup>

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<sup>15/</sup> If the issuer reports the matter under Item 4.02 of Commission Form 8-K, proposed Item 2.1 of Form 3 would not require reporting by the firm, regardless of whether the issuer reports under Item 4.02(a) or Item 4.02(b) of Form 8-K.

<sup>16/</sup> Another consequence of tying this Form 3 item to the Commission requirement is that the requirement to file a Form 3 catch-up report (as discussed in Section II.B.3 below) would, for this item, extend back only to August 23, 2004, the effective date of the Commission's Item 4.02 reporting requirement.

<sup>17/</sup> The Board's proposed approach to making accommodations for conflicts with non-U.S. law is described in Section IV below.

<sup>18/</sup> For example, a firm might contend that non-U.S. law prohibits the firm from providing the name of a partner who has been charged with a crime. Without running afoul of that prohibition, the firm still could report the general fact that someone in the firm has been charged with a crime encompassed by Form

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To make the firm's responses to Part II as specifically informative as possible, Part II breaks some of the categories of reportable events into granular components. That is, some of the reportable events summarized in a single bullet point above are broken down in Part II into two or three more specific triggers in order to provide more focused information, from a simple checkbox in Part II, about the event being reported.

### **3. Form 3 Reporting to Fill Gaps in the Period After a Firm's Cut-Off Date for Information on Form 1**

In addition to requiring firms to file Form 3 as events occur going forward, proposed Rule 2203 includes filing requirements designed to eliminate gaps that otherwise would occur in the information the Board has about a firm. The proposed rule requires that within 14 days after a firm becomes registered with the Board, the firm must file a Form 3 concerning any reportable events that occurred between the cut-off date that the firm used for information provided on Form 1 and the date of registration.

The proposed rule also includes a corresponding catch-up provision for firms already registered. Specifically, if a Form 3 reportable event occurred between the firm's cut-off date for Form 1 information and the effective date of the proposed rule, the proposed rule would require the firm to report the event. Even for firms with Form 1 cut-off dates as far back as 2003, however, the Board anticipates that most firms would have few or no Form 3 events to report for the catch-up period. The deadline for that catch-up reporting relates to the timing of Commission approval of the proposed rule and is discussed in Section VII below.

### **C. Amendments**

Under proposed Rule 2205, a firm that becomes aware that it provided incorrect information or omitted required information on Form 2 or Form 3 must file an amended form unless the error or omission is clearly inconsequential. The proposed rule requires that the firm file the amended form within 14 days of becoming aware of the error or omission. When filing an amended form, the firm would be required to re-file the entire completed form, as corrected, rather than

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3, and Part II of proposed Form 3 provides the vehicle for that general report. The Board then could consider the possible need to follow up through the Board's inspection or investigation processes in the context of the Board's framework for cooperation with non-U.S. regulators, discussed in Section IV below.

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only filing the corrected information.<sup>19/</sup> A section of the proposed forms will require the firm to identify the particular item or items with respect to which the firm has revised its response.

The requirement to amend an incorrect or incomplete report should not be understood to include any duty to update information reported on a form in the event the information changes. The proposed rule imposes a duty to amend only when the firm learns that a report was incorrect or incomplete at the time the firm filed the report.

The proposed rule would not require amendment if the error or omission is clearly inconsequential. Insignificant discrepancies in quantitative information, or misspellings and typographical errors that do not affect the meaning of the information or the identifiability of a person or entity, for example, would not trigger a requirement to file an amended report.

### D. The Effect of Pending Requests to Withdraw from Registration

Existing Rule 2107 governs the process by which a firm may seek to withdraw from registration with the Board. Under Rule 2107, a firm cannot withdraw at will, but must request the Board's permission to withdraw, and the Board may withhold that permission under certain conditions.<sup>20/</sup>

The Board proposes to modify the way Rule 2107 addresses the reporting obligations of a firm that has filed Form 1-WD seeking leave to withdraw. Existing Rule 2107(c)(2)(i) provides that, beginning on the fifth day after the Board receives a completed form 1-WD, the firm can satisfy any annual reporting requirement by submitting a report stating that a completed Form 1-WD has been filed and is pending. Under the proposed amendment, the firm's reporting obligation, including both annual and special reporting, would simply be suspended while Form 1-WD was pending. Because a firm cannot prepare or issue audit reports, or play a substantial role in the preparation or furnishing of audit reports, while Form 1-WD is pending, and because the withdrawal process normally ends with the firm ceasing to be registered, there is no reason to subject

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<sup>19/</sup> The Board's Web-based reporting system will facilitate such re-filing by giving the firm access to an electronic copy of the previously filed form that the firm wishes to amend, so that the firm can make the necessary changes without needing to reconstruct the entire form.

<sup>20/</sup> See PCAOB Rule 2107(d)-(e).

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the firm to a reporting burden. If a firm withdraws its Form 1-WD and continues as a registered firm, however, Rule 2107 would require the filing of any annual or special reports, and the payment of any annual fee, that otherwise would have been required while the Form 1-WD was pending.

The proposal also includes eliminating from Rule 2107 the five-day delay between receipt of a completed Form 1-WD and the effect of that filing on a firm's reporting obligation. Suspension of that obligation would occur immediately upon the Board's receipt of the completed Form 1-WD.<sup>21</sup>

### III. Balancing Legitimate Confidentiality Interests and the Public Interest in Prompt Availability of Information

The Board intends that as much reported information as possible be publicly available as soon as possible after filing. To accomplish that goal, the proposal relies on two elements.

First, the Board's Web-based reporting system will automatically publish a Form 2 or a Form 3 to the Board's Web site as soon as the form is filed.<sup>22</sup> In doing so, the system will redact from the published version any information for

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<sup>21/</sup> In connection with that change to Rule 2107, the proposal would also eliminate the five-day delay before certain other consequences take effect. Among other things, the proposal would amend Rule 2107(c)(2)(iii) so that the Board would, immediately upon receipt of the completed Form 1-WD, have the discretion to forego any regular inspection of the firm that otherwise would commence. This proposed change necessitates a conforming change to Rule 4003(c), and that conforming change is included in this proposal.

<sup>22/</sup> Under the proposal, a form is treated as "filed" when a form, completed in accordance with the form's instructions, is submitted. Satisfaction of the criteria for "filing" will be recognized in the automated system, which will then direct the form to the Web site for publication. Users of the Web site will be able to go to a page for a particular firm and find there a chronological list of all filings by the firm, with each item on the list linking to a complete copy of the filed form. The Board envisions eventually adding a separate current profile page for each firm, which will bring together in one place the most current information reported by the firm on certain basic matters, drawn from various reports (including amendments) filed by the firm.

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which the firm requested confidential treatment.<sup>23/</sup> Unless and until the request for confidential treatment is denied, the information will remain redacted, but processing the pending request will not delay publication of the rest of the form.

Second, the proposed forms identify certain categories of information for which a firm simply may not request confidential treatment. The proposal reflects an effort to identify categories of information as to which there is no genuine possibility that the information could include information that is proprietary or is otherwise protected from disclosure by any applicable law. Precluding the possibility of confidential treatment requests for those categories will avoid having to delay publication while the Board processes a baseless request.

The Board does not take lightly the preclusion of confidential treatment requests. Section 102(e) of the Act requires the Board to honor "applicable laws relating to the confidentiality of proprietary, personal, or other information," and also requires that "in all events, the Board shall protect from public disclosure information reasonably identified by the subject accounting firm as proprietary information." Taking into account confidential treatment issues with which the Board and its staff have become familiar in connection with the registration process, including issues of non-U.S. law, the proposal errs on the side of allowing confidential treatment requests with respect to categories for which there is any genuine possibility that the required information could include information that is proprietary or is otherwise protected from disclosure by any applicable law.

Set out below is a summary of the types of reportable information for which the proposal does not permit confidential treatment requests. The Board encourages commenters to review the specific corresponding items in the forms and to comment on whether the proposal overlooks any confidentiality protection provided by law.

- Information identifying the firm (including any changes in the firm's name), contact persons, and office locations.
- The period covered by an annual report.

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<sup>23/</sup> PCAOB Rule 2300(b)-(h) provides a process for confidential treatment requests for information provided on Form 1. The Board's proposal would amend Rule 2300 to encompass confidential treatment requests on Forms 2 and 3. As discussed below in this Section, the proposed amendments also would revise certain aspects of the process.



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- Very general information about the nature of a firm's practice (e.g., whether, during the reporting period, the firm issued any audit reports for issuers).
- The percentage of a firm's annual billings attributable to certain broad categories of services provided to issuers.
- The identity of a firm's issuer audit clients.
- Basic information about whether the firm is a member of any network or affiliation related to its audit practice for issuers.
- The identity of any other firm acquired by the firm.
- Affirmation of the firm's statutorily required consent to cooperate with the Board.
- The identity of an issuer concerning which the firm has withdrawn an audit report.<sup>24/</sup>
- The identity of an issuer that has, without the firm's consent, used the firm's name in a document containing the issuer's financial statements.
- Changes in licenses authorizing the firm to engage in the business of auditing or accounting.

In addition to limiting the categories of information for which a firm may request confidential treatment, the Board's proposal includes new requirements concerning the support that a firm must supply for a confidential treatment request.<sup>25/</sup> The proposed amendments require that a firm support a request with both a representation that the information has not otherwise been publicly disclosed and either (1) a detailed explanation of the grounds on which the information is considered proprietary, or (2) a detailed explanation of the basis for

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<sup>24/</sup> As discussed above, the proposal requires a firm to report this information only if the issuer has failed to make a timely filing on SEC Form 8-K concerning the matter.

<sup>25/</sup> The proposed amendments concerning the required support would apply prospectively to confidential treatment requests on Form 1, as well as on Forms 2 and 3. See Proposed Rule 2300(b)-(c).

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asserting that the information is protected by law from public disclosure and a copy of the specific provision of law.

The proposed amendments also provide that the firm's failure to supply the required support constitutes sufficient grounds for denial of the request. The Board does not, however, intend to deny confidential treatment reflexively in every case in which support is not provided. In some cases, the appropriateness of the request may be evident on its face, or the Board may otherwise be aware of a provision of law that protects the information. In those circumstances, the Board will not deny confidential treatment just because the firm failed to supply support. At the same time, the Board does not view Section 102(e) as requiring that the Board independently research whether certain information is protected from disclosure if the firm itself does not point to any basis for that protection. Accordingly, under proposed Rule 2300(b)(2), a firm's failure to supply the required support may well, on that basis alone, result in denial of the request.

#### IV. Accommodating Non-U.S. Legal Restrictions

In developing its rules, policies, and programs, the Board consistently seeks to accommodate the legitimate concerns of non-U.S. firms faced with legal restrictions that might limit their ability to provide information to the Board. Early on, the Board adopted a rule that allowed firms to omit required information from registration applications if non-U.S. law prohibited the firm from submitting the information to the Board.<sup>26/</sup> The Board has also articulated a framework for cooperation with non-U.S. regulators, the objectives of which include working with those regulators to resolve potential conflict of law problems as they arise.<sup>27/</sup> The Board's commitment to that framework is embodied in Board rules related to inspections and a Board rule related to disciplinary investigations.<sup>28/</sup>

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<sup>26/</sup> See PCAOB Rule 2105; see also Registration System for Public Accounting Firms, PCAOB Release No. 2003-007 (May 6, 2003), at 13-21 ([www.pcaobus.org/Rules/Docket\\_001/2003-06-06\\_Release\\_2003-007.pdf](http://www.pcaobus.org/Rules/Docket_001/2003-06-06_Release_2003-007.pdf))

<sup>27/</sup> See Oversight of Non-U.S. Public Accounting Firms, PCAOB Release No. 2003-020 (Oct. 28, 2003) (hereafter "Oversight of Non-U.S. Firms"), at 5 ([www.pcaobus.org/News\\_and\\_Events/News/2003/10-28.aspx](http://www.pcaobus.org/News_and_Events/News/2003/10-28.aspx)).

<sup>28/</sup> See PCAOB Rules 4011, 4012, and 5013; see also Final Rules Relating to the Oversight of Non-U.S. Public Accounting Firms, PCAOB Release No. 2004-005 (June 9, 2004) ([www.pcaobus.org/Rules/Docket\\_013/2004-06-09\\_Release\\_2004-005.pdf](http://www.pcaobus.org/Rules/Docket_013/2004-06-09_Release_2004-005.pdf)).

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With proposed Rule 2207, the Board continues its commitment to reasonable accommodations for non-U.S. firms and reliance on a cooperative framework with non-U.S. regulators. The core principle underlying proposed Rule 2207's treatment of legal conflicts is the same as the core principle underlying Rule 2105 in the registration context. Specifically, so long as a firm has certain materials that support its assertion of a legal conflict and has made appropriate efforts to obtain waivers or consents that would overcome the conflict, a report on Form 2 or Form 3 will satisfy the basic filing requirement even if it omits the information that is the subject of the conflict.

Although the core principle is the same, the proposed Rule 2207 process differs in some respects from the Rule 2105 process. As described below, the process differences are designed to accomplish two goals: (1) minimizing certain burdens relating to the supporting materials; and (2) making clear to readers of the form whether the firm is actually withholding information, and eliminating the possibility of an ambiguous general assertion that non-U.S. law limits the firm's ability to provide information of a particular type.

### **A. Materials Supporting the Asserted Conflict**

Under proposed Rule 2207, when a firm withholds required information from Form 2 or Form 3, it must have certain supporting materials, including (1) a copy of the relevant provisions of non-U.S. law, (2) a legal opinion concluding that the firm would violate non-U.S. law by submitting the information to the Board, and (3) a written explanation of the firm's efforts to seek consents or waivers that would be sufficient to overcome the conflict with respect to the information. These are the same materials that are required to support the withholding of information from a registration application under Rule 2105.

Unlike in the Rule 2105 process, however, proposed Rule 2207 would not require a firm routinely to include those supporting materials with the form that the firm files. Rather, the firm must certify on the form that it has the supporting materials in its possession. The proposed rule reserves to the Board, and to the Director of the Division of Registration and Inspections, the discretion to require that a firm submit any of those supporting materials in a particular case, but the proposed rule does not include those materials in the basic filing requirement.

In addition, proposed Rule 2207 makes clear that a firm is not required to secure a new legal opinion specific to each Form 2 or Form 3 that the firm files. Rather, the supporting materials maintained by the firm need only contain a legal opinion that the firm has reason to believe is current with respect to the relevant point of law. The proposed rule does not attempt to specify the ways in which a firm may satisfy this requirement, and various approaches might be satisfactory.

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Compliance does, however, depend upon a firm implementing in good faith some mechanism for generally being aware of relevant changes in the law, rather than relying on a particular legal opinion in perpetuity without genuine regard for whether the law changes.

### B. Transparency Concerning the Meaning of an Asserted Conflict

The Board's experience with legal conflict assertions in the registration context has informed the design of the proposed Rule 2207 process in two significant respects. In combination, these elements are intended to allow a reader of a Form 2 or a Form 3 to discern at a basic level whether a certain condition exists or a certain event has occurred, while preserving a firm's opportunity to withhold details that it asserts it cannot lawfully provide.

First, in the vast majority of cases in which firms assert conflicts, firms do not assert that non-U.S. law prohibits them from providing a general indication of whether a condition exists or an event has occurred. Accordingly, both Form 2 and Form 3 routinely employ formulations that facilitate reporting of the basic foundational point. For example, if a partner in a non-U.S. firm becomes a defendant in a criminal proceeding involving certain types of crimes, Item 2.6 of Form 3 provides a place for (and requires) the firm to report that basic fact, even if the firm asserts that it cannot lawfully provide identifying information or other details required in Part V of the Form. Once notified of the basic fact, the Board can determine whether the matter warrants additional follow-up, including, for example, through the cooperative framework with non-U.S. regulators.

Second, unlike with Form 1, a legal conflict can be asserted on Form 2 or Form 3 only if the firm is actually withholding information that the form requires. A firm may not indicate a legal conflict on Form 2 or Form 3 as a way of making a general point that non-U.S. law would prohibit the firm from providing certain information if the firm had any such information. For clarity on this point, Form 2 and Form 3 will differ from Form 1 with respect to how a legal conflict is indicated. On Form 1, the opportunity to indicate a legal conflict appears throughout the form with an "LC" checkbox next to each item in the form, giving rise to the potential for ambiguity about whether the firm is actually withholding information.<sup>29/</sup> On Form 2 and Form 3, "LC" checkboxes will not appear

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<sup>29/</sup> For example, on Form 1, a firm that does not have any information to report on a particular item would leave the item blank but might nevertheless check an "LC" box next to that item, with the idea of making a general point about the legal conflict or attempting to preserve a right to withhold information in that category at a later date. A reader of the form would not know whether the firm had information that it was withholding or was just making the general point.

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throughout the form. Instead, a separate section at the end of each relevant part of the form instructs the firm that if any portion of its response in that part is incomplete because of an asserted legal conflict, the firm must, in that separate section, identify the specific items in that part with respect to which the firm actually has withheld responsive information.<sup>30/</sup>

### C. Limits on Asserting a Conflict

The Board believes it is feasible to identify a small number of items on Forms 2 and 3 as to which either (1) it is not realistically foreseeable that any law would prohibit supplying the information or (2) the Board could not, consistent with its most basic responsibilities, allow a firm to withhold the information and remain registered. Accordingly, for those few items, the proposal does not afford a firm the option of withholding the information on the basis of non-U.S. law.

Set out below is a summary of the types of reportable information that the proposal does not permit a firm to withhold on the basis of non-U.S. law. The Board encourages comment on whether the proposal overlooks any actual or realistically foreseeable non-U.S. legal restriction and, if so, the Board encourages comment on whether the Board could realistically satisfy its most basic obligations under the Act with respect to a firm that does not supply the information.

- Basic identifying information about the firm (including any changes in the firm's name) and a firm contact person.
- The period covered by an annual report.
- Very general information about the nature of a firm's practice (e.g., whether, during the reporting period, the firm issued any audit reports for issuers).
- The identity of a firm's issuer audit clients.

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<sup>30/</sup> Rule 2207 and the instructions to Forms 2 and 3 make clear that only a foreign registered public accounting firm may withhold required information on the basis of an asserted legal conflict. The Board cannot envision a circumstance in which the Board would honor any assertion by a U.S. firm that non-U.S. law prohibits the firm from providing, on Form 2 or Form 3, information in the firm's possession.

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### D. Preservation of the Board's Authority

While resolutely committed to cooperation and reasonable accommodation in its oversight of registered non-U.S. firms, the Board has not surrendered any of its statutory authority ultimately to compel firms to provide information necessary for the Board to fulfill its investor protection and public interest mandates. For example, while Rule 2105 lets applicants withhold required information without having the application treated as incomplete, the Board reserves its ultimate authority to deny registration if questions concerning the withheld information prevent the Board from finding that approval is consistent with the public interest and the protection of investors.<sup>31/</sup> Similarly, the Board's commitment to the cooperative framework – a framework for carrying out the Board's mission without creating unnecessary confrontations between legal systems – does not entail any relinquishing of the Board's ultimate authority to require information from registered firms if the cooperative framework is unavailing in a particular case.<sup>32/</sup>

Proposed Rule 2207 continues in that vein. The proposed rule is first and foremost an important accommodation to reasonable concerns of non-U.S. firms. Paragraph (e), however, provides that the Board may ultimately require a firm to file an amended Form 2 or Form 3 providing the withheld information. Although the Board by no means intends to invoke paragraph (e) with any regularity, its inclusion is necessary to preserve the authority that Congress intended for the Board to have over all registered firms.<sup>33/</sup>

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<sup>31/</sup> See Frequently Asked Questions Regarding Issues Relating to Non-U.S. Accounting Firms (March 11, 2004), at 2 ([www.pcaobus.org/Registration/2004-03-11\\_FAQ.pdf](http://www.pcaobus.org/Registration/2004-03-11_FAQ.pdf)).

<sup>32/</sup> See Oversight of Non-U.S. Firms, at 5.

<sup>33/</sup> Because of the different context to which Rule 2105 applies, no comparable rule provision is necessary to preserve the Board's authority there. Rule 2105 accommodates non-U.S. firms by providing, essentially, that the Board will act on an incomplete application. But that accommodation provides no guarantee about how the Board will Act. The Board retains the authority to impose the relevant sanction in that context; i.e., to disapprove the application if questions concerning the withheld information prevent the Board from finding that approval would satisfy the Rule 2106(a) standard. Once a firm is registered, though, the situation is different. The Board can sanction a registered firm only if the firm violates some provision of certain laws, rules, or standards. Proposed Rule 2207(e) preserves the Board's authority to obtain information by preserving the possibility that, in an appropriate case involving sufficiently important

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To date, the Board's accommodations and cooperative framework have worked well. The Board is optimistic that this approach will continue to work well and that reservations of authority such as that in proposed Rule 2207(e) will serve a purpose that is principally theoretical, and will rarely need to be invoked as practical tools.

### **V. Follow-Up Pursuant to the Board's Inspection Authority**

As information comes to the Board's attention through the reporting process, it may be appropriate for the Board to follow up with focused inquiries concerning a matter, without in the first instance launching a full inspection or investigation, in order to determine whether any more formal action or inquiry is immediately warranted. Accordingly, the Board is proposing an amendment to its inspection rules that would make clear that the Board may require a firm to provide additional information.

Specifically, the Board proposes to amend Rule 4000, which provides that registered firms shall be subject to such regular and special inspections as the Board chooses to conduct. The proposed amendment would add a paragraph providing that the Board, in the exercise of its inspection authority, may at any time request that a registered firm provide additional information or documents relating to information provided on Form 2 or Form 3, or relating to information that has otherwise come to the Board's attention. The proposed amendment provides that the request and response would be considered to be in connection with the firm's next regular or special inspection. Accordingly, the cooperation requirements of Rule 4006 would apply, and the request and response would be subject to the confidentiality restrictions of Section 105(b)(5) of the Act.

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information that is not otherwise forthcoming (e.g., through the cooperative framework), the Board can ultimately put the firm to the choice of providing the information or being subject to a sanction for violating the Board's rules.

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### VI. Annual Fee

Section 102(f) of the Act provides that the Board shall assess and collect a registration fee and an annual fee from registered firms in amounts sufficient to cover the costs of processing and reviewing applications and annual reports. Proposed Rule 2202 would require each registered firm to pay an annual fee by July 31 of any year in which the firm is required to file an annual report.<sup>34/</sup>

Proposed Rule 2202 provides that the Board will, from time to time, announce the current annual fee. In accordance with the fee schedule, the Board's Web-based system will present an invoice to the firm at the time the firm submits its annual report. The firm would be required to pay the fee by July 31. Failure to pay the fee would violate the rule, which could result in disciplinary sanctions up to and including suspension or revocation of registration.

### VII. Effective Date of Rules and Timing of First Reports

The proposed rules, amendments, and Forms 2 and 3, if adopted, would take effect on the date that is 21 days after Commission approval. The reason for that delay is to build in sufficient lead time for firms to become aware of Commission approval of the rules<sup>35/</sup> and to begin finalizing any reports that will be due shortly after the rules take effect, as described below.

The Board intends that the first reporting period for which an annual report on Form 2 will be required is the period from April 1, 2006 to March 31, 2007. Under proposed Rule 2201, the annual report for that period would be required to be filed by June 30, 2007.

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<sup>34/</sup> As described in Section II.A.2 above (and in proposed Rule 2201), a firm that becomes registered after March 31 in a particular year would not be required to file an annual report that year. Accordingly, under proposed Rule 2202, that firm would not be required to pay an annual fee that year.

<sup>35/</sup> For example, if the proposed rules took effect on the date of Commission approval, and a firm experienced a Form 3 reportable event that day, the 14-day period for reporting the event would begin to run immediately, even though the firm may not immediately be aware that the Commission has approved the rule and that the time is running. To help avoid that type of situation, the proposal builds in a 21-day lag, before the rules take effect.





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**Appendix – Draft Rules and Forms Related to Reporting**

**SECTION 2. REGISTRATION AND REPORTING**  
**Part 2 – Reporting**

**2200. Annual Report**

Each registered public accounting firm must file with the Board an annual report on Form 2 by following the instructions to that form. Unless directed otherwise by the Board, the registered public accounting firm must file such annual report and exhibits thereto electronically with the Board through the Board's Web-based system.

**2201. Time for Filing of Annual Report**

Each registered public accounting firm must file the annual report on Form 2 no later than June 30 of each year, provided, however, that a registered public accounting firm that has its application for registration approved by the Board in the period between and including April 1 and June 30 of any year shall not be required to file an annual report in that year.

Note: Pursuant to Rule 1002, in any year in which the filing deadline falls on a Saturday, Sunday, or federal legal holiday, the deadline for filing the annual report shall be the next day that is not a Saturday, Sunday, or federal legal holiday.

**2202. Annual Fee**

Each registered public accounting firm must pay an annual fee to the Board on or before July 31 of any year in which the firm is required to file an annual report on Form 2. The Board will, from time to time, announce the current annual fee. No portion of the annual fee is refundable.

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### 2203. Special Reports

(a) A registered public accounting firm must file a special report on Form 3 to report information to the Board as follows –

(1) Upon the occurrence, on or after **[insert effective date of this rule]**, of any event specified in Form 3, a registered public accounting firm must report the event in a special report filed no later than the fourteenth day after the occurrence of the event;

(2) No later than the fourteenth day after receiving notice of Board approval of its application for registration, a registered public accounting firm that becomes registered after **[insert effective date of this rule]** must file a special report to report any event specified on Form 3 that occurred after the date used by the firm for purposes of General Instruction 9 to Form 1 and before the date that the Board approved the firm's registration; and

(3) No later than **[insert date 14 days after the effective date of this rule]**, a registered public accounting firm that is registered as of **[insert effective date of this rule]** must file a special report to report any event specified on Form 3 that occurred after the date used by the firm for purposes of General Instruction 9 to Form 1 and before **[insert effective date of this rule]**.

(b) A registered public accounting firm required to file a special report shall do so by filing with the Board a special report on Form 3 in accordance with the instructions to that form. Unless directed otherwise by the Board, a registered public accounting firm must file such special report and exhibits thereto electronically with the Board through the Board's Web-based system.

### 2204. Signatures

Each signatory to a report on Form 2 or Form 3 shall manually sign a signature page or other document authenticating, acknowledging or otherwise adopting his or her signature that appears in typed form within the electronic submission. Such document shall be executed before or at the time the electronic submission is made and shall be retained by the filer for a period of seven years. Upon request, an electronic filer shall furnish to the Board or its staff a copy of all documents retained pursuant to this Rule.

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### **2205. Amendments**

A registered public accounting firm that has filed a report on Form 2 or Form 3 and becomes aware that it reported information that was incorrect at the time of such filing, or that it omitted any information or affirmation that it was, at the time of such filing, required to include in such report, shall, no later than the fourteenth day after becoming aware of the error or omission, file an amended report on Form 2 or Form 3 by following the instructions to those forms concerning amendments unless the error or omission is clearly inconsequential.

### **2206. Date of Filing**

(a) An annual report shall be deemed to be filed on the date on which the registered public accounting firm submits a Form 2 in accordance with Rule 2200 that includes the signed certification required in Part X of Form 2.

(b) A special report on Form 3 shall be deemed to be filed on the date that the registered public accounting firm submits a Form 3 in accordance with Rule 2203 that includes the signed certification required in Part IX of Form 3.

### **2207. Assertions of Conflicts with Non-U.S. Laws**

If, in a report on Form 2 or Form 3, a foreign registered public accounting firm omits any information or affirmation required by the instructions to the relevant form on the ground that providing such information or affirmation on the form filed with the Board would constitute a violation of non-U.S. law by the foreign registered public accounting firm, the foreign registered public accounting firm shall –

(a) In accordance with the instructions to the form –

(1) Indicate that it has omitted required information or affirmations on the ground that providing such information or affirmations on the form filed with the Board would constitute a violation of non-U.S. law by the foreign registered public accounting firm;

(2) Identify all Items on the form with respect to which it has withheld any required information or affirmation on that ground; and

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(3) Represent that, with respect to all such omitted information or affirmations, the foreign registered public accounting firm has satisfied the requirements of paragraph (b) of this Rule and has in its possession the materials required by paragraph (c) of this Rule;

- (b) Before filing the form with the Board, make reasonable, good faith efforts, where not prohibited by law, to seek any consents or waivers that would be sufficient to allow it to provide the required information or affirmation on the form filed with the Board without violating non-U.S. law;
- (c) Have in its possession, before the date on which the foreign registered public accounting firm files the form with the Board and for a period of seven years thereafter –

(1) An electronic version of the form that includes all information required by the instructions to the form (including certification and signature) and a manually signed signature page or other document that would satisfy the requirement of Rule 2204 if that version of the form were filed with the Board;

(2) A copy of the provisions of non-U.S. law that the foreign registered public accounting firm asserts that it would violate by providing the required information or affirmations on the form filed with the Board, and an English translation of any such provisions that are not in English;

(3) A legal opinion, in English, addressed to the foreign registered public accounting firm and that the foreign registered public accounting firm has reason to believe is current with respect to the relevant point of law, that providing the omitted information or affirmation on the form filed with the Board would constitute a violation of non-U.S. law by the foreign registered public accounting firm;

(4) A written description, in English, of its efforts to seek consents or waivers that would be sufficient to allow it to provide the required information or affirmation on the form filed with the Board, dated or updated not more than 30 days before the submission of the form to the Board, manually signed by the

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same person whose signature appears in the certification portion of the form, and indicating that the signer has reviewed the description and that the description is, based on the signer's knowledge, accurate and does not contain any untrue statements of material fact or omit to state a material fact necessary to make the statements made not misleading;

- (d) Not later than the fourteenth day after any request by the Board or by the Director of the Division of Registration and Inspections for any of the documents described in subparagraphs (2) – (4) of paragraph (c) of this Rule, file an amended report on Form 2 or Form 3 including, as an exhibit to the amended report, the requested documents; and
- (e) Not later than the fourteenth day after any request by the Board for any of the information included in the document described in subparagraph (1) of paragraph (c) of this Rule, file an amended report on Form 2 or Form 3 including the requested information.

Note: Rule 2207(c)(1) does not require that the version of the form maintained by the firm include any affirmation required by Part IX of Form 2. If the firm withholds any such affirmation, however, the asserted legal conflict must be addressed in accordance with subparagraphs (2) – (4) of Rule 2207(c).

Note: Rule 2207(c)(1) does not require a firm to include on the form maintained by the firm any information (1) that the firm does not possess, and (2) as to which the firm asserts that the firm would violate non-U.S. law by requiring another person to provide the information to the firm. The asserted legal conflict that prevents the firm from requiring another person to provide the information to the firm, however, must be addressed, in accordance with subparagraphs (2) - (4) of Rule 2207(c).

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**DRAFT AMENDMENTS TO EXISTING RULES 2107, 2300, AND 4000**

**Rule 2107. Withdrawal from Registration** *[Amended Rule – additions to existing rule indicated by underlining, deletions indicated by strike-throughs]*

(a) and (b) unchanged

**(c) Effect of Filing**

~~(1) Beginning on the date of Board receipt of a completed Form 1-WD, the firm that filed the Form 1-WD shall not engage in the preparation or issuance of, or play a substantial role in the preparation or furnishing of, an audit report, other than to issue a consent to the use of an audit report for a prior period, unless it first withdraws its Form 1-WD.~~

~~(2) Beginning on the fifth day following the Board's receipt of a completed Form 1-WD, and continuing for as long as the Form 1-WD is pending –~~

~~(i) the firm may satisfy the annual reporting requirement by submitting a report stating that a completed Form 1-WD has been filed and is pending;~~

(1) the firm shall not engage in the preparation or issuance of, or play a substantial role in the preparation or furnishing of, an audit report, other than to issue a consent to the use of an audit report for a prior period;

(2) the firm's obligation to file annual reports on Form 2, and special reports on Form 3 shall be suspended;

~~(ii) any annual fee assessed shall be zero;~~

~~(3) the Board shall have the discretion to forego any regular inspection that would otherwise commence pursuant to Rule 4003(a) or Rule 4003(b); and~~

(4) the firm's registration status shall be designated as "registered – withdrawal request pending," and the firm shall not publicly represent its registration status without specifying it as "registered – withdrawal request pending."

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**(d)** and **(e)** unchanged.

**(f) Withdrawal of Form 1-WD**

A registered public accounting firm that has submitted a Form 1-WD may withdraw the form at any time by filing with the Board a written notice of intent to withdraw the Form 1-WD along with any annual fee ~~and~~, annual report, and special report that the firm would have been required to submit during the period that the Form 1-WD was pending if not for the provisions of paragraph (c)(2).

**(g)** unchanged



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**Rule 2300. Public Availability of Information Submitted to the Board; Confidential Treatment Requests.** *[Amended Rule – additions to existing rule indicated by underlining, deletions indicated by strike-throughs]*

(a) Except as provided in paragraph (b) below =

(1) an application for registration will be publicly available as soon as practicable after the Board approves or disapproves such application; and

(2) all other forms filed pursuant to Part 1 or Part 2 of this Section of the Rules of the Board, and any amendments thereto, will be publicly available as soon as practicable after filing, except to the extent otherwise specified in the Board's rules or the instructions to the form.

(b) **Confidential Treatment Requests.**

(1) A public accounting firm may request confidential treatment of any information submitted to the Board in connection with its application for registration on Form 1, and may request confidential treatment of information on other forms filed pursuant to Part 1 or Part 2 of this Section of the Rules of the Board to the extent specified in the instructions to the form, provided that the information as to which confidential treatment is requested –

(1i) has not otherwise been publicly disclosed, and

(2ii) either (A) contains information reasonably identified by the public accounting firm as proprietary information, or (B) is protected from public disclosure by applicable laws related to the confidentiality of proprietary, personal, or other information.

(2) Failure to provide an exhibit that complies with the requirements of paragraph (c)(2) of this Rule constitutes sufficient grounds for denial of any request for confidential treatment.

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### (c) Application Procedures.

To request confidential treatment of information for which such requests are permitted by paragraph (b)(1) of this Rule~~submitted to the Board in connection with an application for registration, the requestor must –~~

(1) identify, in accordance with the instructions ~~on Form 1~~ to the form, the information that it desires to keep confidential; and

(2) include as an exhibit to ~~Form 1~~ a detailed explanation as to why, based on the facts and circumstances of the particular case, the information meets the requirements of paragraph (b) of this Rule~~the form a representation that, to the requestor's knowledge, the information for which confidential treatment is requested has not otherwise been publicly disclosed and –~~

(i) a detailed explanation of the grounds on which the information is considered proprietary; or

(ii) a detailed explanation of the basis for asserting that the information is protected by law from public disclosure and a copy of the specific provision of law that the requestor claims protects the information from public disclosure.

(d) and (e) Unchanged

(f) Unless the ~~applicant~~ requestor requests otherwise, the exhibit containing an explanation supporting a confidential treatment request will be afforded confidential treatment without the need for a request for confidential treatment.

(g) Information as to which the Board grants confidential treatment under this ~~Rule~~ will not be made available to the public by the Board. The granting of confidential treatment will not, however, limit the ability of the Board (1) to provide the information as to which confidential treatment was granted to the Commission, or (2) to comply with any subpoena validly issued by a court or other body of competent jurisdiction. In the event the Board receives such a subpoena, the Board will notify the applicant or the registered public accounting firm of such subpoena, to the extent permitted by law, to allow the applicant or registered public accounting firm the opportunity to object to such subpoena.

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(h) Unchanged

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**SECTION 4. INSPECTIONS**

**Rule 4000. General** [Amended Rule – additions to existing rule indicated by underlining]

(a) Every registered public accounting firm shall be subject to all such regular and special inspections as the Board may from time to time conduct in order to assess the degree of compliance of each registered public accounting firm and associated persons of that firm with the Act, the Board's rules, the rules of the Commission, and professional standards, in connection with its performance of audits, issuance of audit reports, and related matters involving issuers.

(b) In furtherance of the Board's inspection process, the Board may at any time request that a registered public accounting firm provide to the Board additional information or documents relating to information provided by the firm in any report filed pursuant to Section 2 of these Rules, or relating to information that has otherwise come to the Board's attention. Any request for information or documents made pursuant to this Rule, and any information or documents provided in response to such a request, shall be considered to be in connection with the next regular or special inspection of the registered public accounting firm.

(c) Inspection steps and procedures shall be performed by the staff of the Division of Registration and Inspections, and by such other persons as the Board may authorize to participate in particular inspections or categories of inspections.

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**Rule 4003. Frequency of Inspections** *[Amended Rule – additions to existing rule indicated by underlining, deletions indicated by strike-throughs]*

(a) and (b) unchanged.

(c) With respect to a registered public accounting firm that has filed a completed Form 1-WD under Rule 2107, the Board shall have the discretion to forego any regular inspection that would otherwise commence during the period beginning on the fifth day following the filing of the date of Board receipt of a completed Form 1-WD and continuing until the firm's registration is deemed withdrawn or the firm withdraws the Form 1-WD.

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**FORM 2 – ANNUAL REPORT FORM**

GENERAL INSTRUCTIONS

1. Submission of this Report. A registered public accounting firm must use this Form to file with the Board the annual report required by Section 102(d) of the Act and Rule 2200 and to file any amendments to an annual report. Unless otherwise directed by the Board, the Firm must file this Form, and all exhibits to this Form, electronically with the Board through the Board's Web-based system.
2. Defined Terms. The definitions in the Board's rules apply to this Form. Italicized terms in the instructions to this Form are defined in the Board's rules. In addition, as used in the instructions to this Form, the term "the Firm" means the registered public accounting firm that is filing this Form with the Board.
3. When Report is Considered Filed. Annual reports on this Form are required to be filed each year on or before June 30, subject to the qualification in Rule 2201 concerning any firm that has its application for registration approved by the Board in the period between and including April 1 and June 30. An annual report is considered filed when the Firm has submitted to the Board a Form 2 in accordance with Rule 2200 that includes the signed certification required in Part X of Form 2.
4. Period Covered by this Report. Annual reports on this Form shall cover a 12-month period from April 1 to March 31, subject to the qualifications in Parts VII and VIII of these instructions relating to the first annual report filed by the Firm. In the instructions to this Form, this is the period referred to as the "reporting period."
5. Amendments to this Report. Amendments to an annual report must be filed no later than the fourteenth day after the Firm's discovery that it provided incorrect information in its annual report or that it failed to include in its annual report information that it was, at the time it filed its annual report, required to include in its annual report, unless the error or omission is clearly inconsequential. When filing a Form 2 to amend an earlier filed Form 2, the Firm must supply not only the corrected or supplemental information, but must include in the amended Form 2 all information, affirmations, and certifications that were required to be included in the original Form 2.

## RELEASE

Note: The *Board* will designate an amendment to an annual report as a report on "Form 2/A."

6. Rules Governing this Report. In addition to these instructions, the *rules* contained in Part 2 of Section 2 of the *Board's rules* govern this Form. Please read these *rules* and the instructions carefully before completing this Form.
7. Requests for Confidential Treatment. The Firm may, by marking the Form in accordance with the instructions provided, request confidential treatment of any information submitted in Part VI, Part VII, or Exhibit 99.3 of this Form that has not otherwise been publicly disclosed and that either contains information reasonably identified by the Firm as proprietary information or that is protected from public disclosure by applicable laws related to confidentiality of proprietary, personal, or other information. See Rule 2300. If the Firm requests confidential treatment, it must identify the information in Part VI, Part VII, or Exhibit 99.3 that it desires to keep confidential, and include, as Exhibit 99.1 to this Form, an exhibit that complies with the requirements of Rule 2300(c)(2). The *Board* will determine whether to grant confidential treatment requests on a case-by-case basis. If the Firm fails to include Exhibit 99.1, or includes an Exhibit 99.1 that fails to comply with Rule 2300(c)(2), the request for confidential treatment may be denied solely on the basis of that failure.
8. Assertions of Conflicts with Non-U.S. Law. If the Firm is a *foreign registered public accounting firm*, the Firm may, unless otherwise directed by the *Board* pursuant to Rule 2207(e), decline to provide certain information and affirmations required by this Form if providing the information or affirmations would constitute a violation of non-U.S. law by the Firm and the Firm proceeds in accordance with Rule 2207. The Firm may withhold responsive information and affirmations on that basis from any Part of the Form other than Parts I, II, and X and Items 3.1.a, 3.1.b, 3.1.d, and 4.1. If the firm withholds responsive information, the Firm must indicate, in accordance with the instructions in the relevant Part of the Form, the particular Items with respect to which the Firm has withheld responsive information or a required affirmation. The Firm may not use the Form to make any general assertion that a particular requirement may conflict with non-U.S. law, but only to indicate that, on the basis of an asserted conflict, the Firm has in fact withheld from this Form required information or a required affirmation.

**RELEASE**

9. Language. Information submitted as part of this Form, including any exhibit to this Form, must be in the English language.



## RELEASE

### PART I – IDENTITY OF THE FIRM AND CONTACT PERSONS

**In Part I, the Firm should provide information that is current as of the date of the certification in Part X.**

#### Item 1.1 Name of the Firm

- a. State the legal name of the Firm.
- b. If different than its legal name, state the name or names under which the Firm issues *audit reports*, or issued any *audit report* during the reporting period.
- c. If the Firm's legal name at the beginning of the reporting period was different than the name provided under Item 1.1.a, state that legal name and any other legal name the Firm had during the reporting period. Include the legal name of any *registered public accounting firm* that merged into, or was acquired by, the Firm during the reporting period.

#### Item 1.2 Contact Information of the Firm

- a. State the physical address (and, if different, mailing address) of the Firm's headquarters office.
- b. State the telephone number and facsimile number of the Firm's headquarters office. If available, state the Website address of the Firm.

#### Item 1.3 Primary Contact with the *Board*

State the name, business title, physical business address (and, if different, business mailing address), business telephone number, business facsimile number, and business e-mail address of a partner or authorized officer of the Firm who will serve as the Firm's primary contact with the *Board*, including for purposes of the annual report filed on this Form and any special reports filed on Form 3.

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### PART II – GENERAL INFORMATION CONCERNING THIS REPORT

#### Item 2.1 Reporting Period

State the reporting period covered by this report.

Note: The reporting period, which the Firm should enter in Item 2.1, is the period beginning on April 1 of the year before the year in which the annual report is required to be filed and ending March 31 of the year in which the annual report is required to be filed. That is the period referred to where this Form refers to the "reporting period." Note, however, that in the first annual report that the Firm files after having an application for registration approved, Parts VII and VIII of this Form require the Firm to provide any responsive information from a period that begins with the date used by the Firm for purposes of General Instruction 9 of Form 1, regardless of whether that date was before or after the beginning of the reporting period.

#### Item 2.2 Amendments

If this is an amendment to a report previously filed with the *Board* –

- a. Indicate, by checking the box corresponding to this item, that this is an amendment.
- b. Identify the specific Item numbers of this Form (other than this Item 2.2) as to which the Firm's response has changed from that provided in the most recent Form 2 or amended Form 2 filed by the Firm with respect to the reporting period.

### PART III – GENERAL INFORMATION CONCERNING THE FIRM

#### Item 3.1 The Firm's Practice Related to the Registration Requirement

- a. Indicate whether the Firm issued any *audit report* with respect to an *issuer* during the reporting period.
- b. In the event of an affirmative response to Item 3.1.a, indicate whether the *issuers* with respect to which the Firm issued *audit reports* during the reporting period were limited to employee benefit plans that file reports with the *Commission* on Form 11-K.

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c. In the event of a negative response to Item 3.1.a, indicate whether the Firm *played a substantial role in the preparation or furnishing of an audit report* with respect to an *issuer* during the reporting period.

d. In the event of a negative response to both Items 3.1.a and 3.1.c, indicate whether, during the reporting period, the Firm issued any document with respect to financial statements of a non-*issuer* broker-dealer in which the Firm either set forth an opinion on the financial statements or asserted that no such opinion can be expressed.

### Item 3.2 The Firm's Revenues

Of the total fees billed by the Firm to all clients for services that were rendered in the reporting period, state the percentage (rounded to the nearest whole number) attributable to fees billed to *issuer audit* clients for—

- a. *Audit services*;
- b. *Other accounting services*;
- c. *Tax services*; and
- d. *Non-audit services*.

Note: In responding to Item 3.2, careful attention should be paid to the definitions of the italicized terms, which are found in *Board Rules* 1001(i)(iii) (*issuer*), 1001(a)(v) (*audit*), 1001(a)(vii) (*audit services*), 1001(o)(i) (*other accounting services*), 1001(t)(i) (*tax services*), and 1001(n)(ii) (*non-audit services*).

## PART IV – AUDIT CLIENTS AND AUDIT REPORTS

### Item 4.1 *Audit Reports* Issued by the Firm

a. Provide the following information concerning each *issuer* for which the Firm issued any *audit report(s)* during the reporting period –

1. The *issuer's* name;
2. The *issuer's* CIK number, if any; and

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3. The date(s) of the *audit report(s)*.

b. If the Firm identified any issuers in response to Item 4.1.a., provide the total number of Firm personnel who exercised the authority to sign the Firm's name to an *audit report* during the reporting period.

Note: In responding to Item 4.1, careful attention should be paid to the definition of *audit report*, which is found in Rule 1001(a)(vi) of the *Board's Rules*, and which does not encompass reports prepared for entities that are not *issuers*, as that term is defined in Rule 1001(i)(iii).

Note: In responding to Item 4.1, do not list any *issuer* more than once. In the entry for each *issuer* provide the dates of all *audit reports* for that *issuer*, including the dates of separate *audit reports* and each date of any dual-dated *audit report*.

Item 4.2 *Audit Reports With Respect to Which the Firm Played a Substantial Role* during the Reporting Period

a. If no issuers are identified in response to Item 4.1.a, but the Firm *played a substantial role in the preparation or furnishing of an audit report* that was issued during the reporting period, provide the following information concerning each *issuer* with respect to which the Firm did so –

1. The *issuer's* name;
2. The *issuer's* CIK number, if any;
3. The name of the *registered public accounting firm* that issued the *audit report(s)*;
4. The date(s) of the *audit report(s)*; and
5. A description of the substantial role played by the Firm with respect to the *audit report(s)*.

Note: If the Firm identifies any *issuer* in response to Item 4.1, the Firm need not respond to Item 4.2.

Note: In responding to Item 4.2, do not list any *issuer* more than once. In the entry for each *issuer* provide the dates of all *audit reports* for that *issuer*,

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including the dates of separate *audit reports* and each date of any dual-dated *audit report* with respect to which the Firm *played a substantial role in the preparation or furnishing of the audit report*.

## PART V – OFFICES AND AFFILIATIONS

**In Part V, the Firm should provide information that is current as of the last day of the reporting period.**

### Item 5.1 Firm's Offices

List the physical address and, if different, the mailing address, of each of the Firm's offices.

### Item 5.2 *Audit*-related Memberships, Affiliations, or Similar Arrangements

a. State whether the Firm has any:

1. Membership or affiliation in or with any network, arrangement, alliance, partnership or association that licenses or authorizes *audit* procedures or manuals or related materials, or the use of a name in connection with the provision of *audit services* or accounting services;
2. Membership or affiliation in or with any network, arrangement, alliance, partnership or association that markets or sells *audit services* or through which joint *audits* are conducted; or
3. Affiliation, whether by contract or otherwise, with another entity through or from which the Firm commonly employs or leases personnel to perform *audit services*, or with which the Firm otherwise engages in an alternative practice structure.

b. If the Firm provides an affirmative response to Item 5.2.a, identify, by name and address, the entity with which the Firm has each such relationship, and provide a brief description of each such relationship.

Note: Item 5.2.b does not require information concerning every other entity that is part of the network, arrangement, alliance, partnership or association, but only information concerning the network, arrangement, alliance, partnership, or association itself, or the principal entity through which it operates.

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### PART VI – PERSONNEL

**In Part VI, the Firm should provide information that is current as of the last day of the reporting period.**

#### Item 6.1 Number of Firm Personnel

Provide the following numerical totals –

- a. Total number of the Firm's *accountants*;
- b. Total number of the Firm's certified public accountants (include in this number all *accountants* employed by the Firm with comparable licenses from non-U.S. jurisdictions);
- c. Total number of the Firm's personnel; and
- d. Total numbers of the Firm's personnel who, during the reporting period, provided *audit services*, segregated by functional level.

Note: Item 6.1.d encompasses only persons who provided *audit services* during the reporting period and were with the Firm at the end of the reporting period. The total number of such persons should be reported separately for different levels of responsibility. For example, functional levels may be broken down according to the following tiers: partner, senior manager, manager and *audit* staff.

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### PART VII – CERTAIN RELATIONSHIPS

**In Part VII, the Firm should provide information on relationships that commenced during the reporting period, except that in the first annual report that the Firm files after having an application for registration approved, the Firm should provide this information for the period running from the date used by the Firm for purposes of General Instruction 9 of Form 1 (regardless of whether that date was before or after the beginning of the reporting period) through March 31 of the year in which the annual report is required to be filed.**

#### Item 7.1 Certain Sanctioned Individuals

a. Other than a relationship required to be reported in Item 6.1 of Form 3, state whether the Firm took on as an employee, partner, shareholder, principal, or member, or otherwise became owned or partly owned by, an individual who, within the last five years, was the subject of a *Board* disciplinary sanction or a *Commission* sanction under Rule 102(e) of the *Commission's* Rules of Practice without that sanction having been vacated on review or appeal.

b. If the Firm provides an affirmative response to Item 7.1.a, provide –

1. The name of each such individual;
2. A description of the nature of the relationship; and
3. The date that the Firm entered into the relationship.

#### Item 7.2 Individuals Connected With Certain Sanctioned Firms

a. State whether the Firm took on as an employee, partner, shareholder, principal, or member, or has otherwise become owned or partly owned by, an individual who, at the time of the conduct giving rise to the sanctions listed below, was a partner, shareholder, principal, member, or proprietor of a *public accounting firm* that, within the last five years, was the subject of (a) a *Board* disciplinary sanction, which has not been vacated on review or appeal, suspending or revoking that firm's registration or disapproving that firm's application for registration, or (b) a *Commission* sanction under Rule 102(e) of the *Commission's* Rules of Practice, which has not been vacated on appeal, suspending or denying the privilege of appearing or practicing before the *Commission*.

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- b. If the Firm provides an affirmative response to Item 7.2.a, provide –
1. The name of each such individual;
  2. A description of the nature of the relationship; and
  3. The date that the Firm entered into the relationship.

Item 7.3 Certain Sanctioned Entities

a. Other than a relationship required to be reported in Item 6.2 of Form 3, state whether the Firm became owned or partly owned by an entity that, within the last five years, was the subject of (a) a *Board* disciplinary sanction, which has not been vacated on review or appeal, suspending or revoking that entity's registration or disapproving that entity's application for registration, or (b) a *Commission* sanction under Rule 102(e) of the *Commission's* Rules of Practice, which has not been vacated on appeal, suspending or denying the privilege of appearing or practicing before the *Commission*.

- b. If the Firm provides an affirmative response to Item 7.3.a, provide –
1. The name of each such entity;
  2. A description of the nature of the relationship; and
  3. The date that the Firm entered into the relationship.

Item 7.4 Certain Arrangements to Receive Consulting or Other Professional Services

a. Other than a relationship required to be reported in Item 6.3 of Form 3, state whether the Firm entered into a contractual or other arrangement to receive consulting or other professional services from any individual or entity meeting the criteria described in Items 7.1.a., 7.2.a, or 7.3.a.

- b. If the Firm provides an affirmative response to Item 7.4.a, provide –
1. The name of each such individual or entity;



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2. A description of the nature of the relationship;
3. The date that the Firm entered into the relationship; and
4. A description of the services to be provided to the Firm by the individual or entity.

## **PART VIII – ACQUISITION OF ANOTHER ACCOUNTING FIRM OR SUBSTANTIAL PORTIONS OF ANOTHER ACCOUNTING FIRM'S PERSONNEL**

**In Part VIII, the Firm should provide information on acquisitions that occurred during the reporting period, except that in the first annual report that the Firm files after having an application for registration approved, the Firm should provide this information for the period running from the date used by the Firm for purposes of General Instruction 9 of Form 1 (regardless of whether that date was before or after the beginning of the reporting period) through March 31 of the year in which the annual report is required to be filed.**

Item 8.1 Acquisition of Another Accounting Firm or Substantial Portions of Another Accounting Firm's Personnel

- a. State whether the Firm acquired another accounting firm.
- b. If the Firm provides an affirmative response to Item 8.1.a, provide the name(s) of the accounting firm(s) that the Firm acquired.
- c. State whether the Firm, without acquiring another accounting firm, took on as employees, partners, shareholders, principals, members, or owners 75% or more of the persons who were the partners, shareholders, principals, members, or owners of another accounting firm.
- d. If the Firm provides an affirmative response to Item 8.1.c, provide the name of the other accounting firm and the number of the other accounting firm's former partners, shareholders, principals, members, owners, and *accountants* that joined the Firm.

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### PART IX – AFFIRMATION OF CONSENT

#### Item 9.1 Affirmation of Understanding of, and Compliance with, Consent Requirements

Whether or not the Firm, in applying for registration with the *Board*, furnished the signed statement required by Item 8.1 of Form 1, affirm that –

- a. The Firm has consented to cooperate in and comply with any request for testimony or the production of documents made by the *Board* in furtherance of its authority and responsibilities under the Sarbanes-Oxley Act of 2002;
- b. The Firm has secured from each of its *associated persons*, and agrees to enforce as a condition of each such person's continued employment by or other association with the Firm, a consent indicating that the *associated person* consents to cooperate in and comply with any request for testimony or the production of documents made by the *Board* in furtherance of its authority under the Sarbanes-Oxley Act of 2002, and that the *associated person* understands and agrees that such consent is a condition of his or her continued employment by or other association with the Firm; and
- c. The Firm understands and agrees that cooperation and compliance, as described in Item 9.1.a, and the securing and enforcing of consents from its *associated persons* as described in Item 9.1.b, is a condition to the continuing effectiveness of the registration of the Firm with the *Board*.

Note 1: The affirmation in Item 9.1.b shall not be understood to include an affirmation that the Firm has secured such consents from any *associated person* that is a *registered public accounting firm*.

Note 2: The affirmation in Item 9.1.b shall not be understood to include an affirmation that the Firm has secured such consents from any *associated person* that is a *foreign public accounting firm* in circumstances where that *associated person* asserts that non-U.S. law prohibits it from providing the consent, so long as the Firm possesses in its files documents relating to the *associated person's* assertion about non-U.S. law that would be sufficient to satisfy the requirements of subparagraphs (2) through (4) of Rule 2207(c) if that *associated person* were a *registered public accounting firm* filing a Form 2 and withholding this affirmation. This exception to the affirmation in Item 9.1.b does not relieve the Firm of its obligation to enforce cooperation and compliance with *Board* demands by any such *associated person* as a condition of continued association with the Firm.

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Note 3: If the Firm is a *foreign registered public accounting firm*, the affirmations in Item 9.1 that relate to *associated persons* shall be understood to encompass every *accountant* who is a proprietor, partner, principal, shareholder, officer, or manager of the Firm and who provided at least ten hours of *audit services* for any *issuer* during the reporting period.

### PART X – CERTIFICATION OF THE FIRM

#### Item 10.1 Signature of Partner or Authorized Officer

This Form must be signed on behalf of the Firm by an authorized partner or officer of the Firm including, in accordance with Rule 2204, both a signature that appears in typed form within the electronic submission and a corresponding manual signature retained by the Firm. The signer must certify that –

- a. the signer is authorized to sign this Form on behalf of the Firm;
- b. the signer has reviewed this Form;
- c. based on the signer's knowledge, the Firm has filed a special report on Form 3 with respect to each event that occurred before the end of the reporting period and for which a special report on Form 3 is required under the *Board's rules*;
- d. based on the signer's knowledge, the Form does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading; and

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e. either –

1. based on the signer's knowledge, the Firm has not failed to include in the Form any information or affirmation that is required by the instructions to the Form, or

2. based on the signer's knowledge –

(A) the Firm is a *foreign registered public accounting firm* and has not failed to include in the Form any information or affirmation that is required by the instructions to the Form except for information or affirmations that the Firm asserts it is prohibited by non-U.S. law from providing to the *Board* on this Form 2;

(B) with respect to any such withheld information or affirmation, the Firm has satisfied the requirements of PCAOB Rule 2207(b) and has in its possession the materials required by PCAOB Rule 2207(c); and

(C) the Firm has indicated, in accordance with the instructions to this Form, each Item of this Form with respect to which the Firm has withheld any required information or affirmation.

The signature must be accompanied by the signer's title, the capacity in which the signer signed the Form, the date of signature, and the signer's business mailing address, business telephone number, business facsimile number, and business e-mail address.

**PART XI – EXHIBITS**

To the extent applicable under the foregoing instructions or the *Board's rules*, each annual report must be accompanied by the following exhibits:

Exhibit 99.1 Request for Confidential Treatment

Exhibit 99.3 Materials Required by Rule 2207(c)(2)–(4) – *Submit Only as an Exhibit to an Amended Form 2 in Response to a Request Made Pursuant to Rule 2207(d)*

**RELEASE**

**FORM 3 – SPECIAL REPORT FORM**

GENERAL INSTRUCTIONS

1. Submission of this Report. Effective **[insert effective date of Rule 2203]**, a *registered public accounting firm* must use this Form to file special reports with the *Board* pursuant to Section 102(d) of the *Act* and Rule 2203 and to file any amendments to a special report. Unless otherwise directed by the *Board*, the Firm must file this Form, and all exhibits to this Form, electronically with the *Board* through the *Board's* Web-based system.
2. Defined Terms. The definitions in the *Board's rules* apply to this Form. Italicized terms in the instructions to this Form are defined in the *Board's rules*. In addition, as used in the instructions to this Form, the term "the Firm" means the *registered public accounting firm* that is filing this Form with the *Board*.
3. When this Report is Required and When It is Considered Filed. Upon the occurrence of any event specified in Part II of this form, the Firm must report the event on this Form, by following the instructions to this Form. With respect to events that occur on or after **[insert effective date of Rule 2203]** and while the Firm is registered, the Firm must file the Form no later than the fourteenth day after the occurrence of the event reported. Different timing requirements apply with respect to the reporting of events that occurred before **[insert effective date of Rule 2203]**, or in a certain specified period before a firm's application for registration was approved. See Rule 2203(a). A special report shall be deemed to be filed on the date that the Firm submits a Form 3 in accordance with Rule 2203 that includes the signed certification required in Part IX of Form 3.
4. Completing the Form. A firm filing this Form must always complete Parts I, II, and IX of this Form. Parts III through VIII should be completed to the extent applicable, as described more fully in the instructions to Part II of the Form.
5. Amendments to this Report. The Firm must file an amendment to a special report no later than the fourteenth day after becoming aware that it provided incorrect information in a special report or that it failed to include in a special report information that it was, at the time it filed the special report, required to include in the special report, unless the error or omission is clearly inconsequential. When filing a Form 3 to amend an

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earlier filed Form 3, the Firm must supply not only the corrected or supplemental information, but must include in the amended Form 3 all information, affirmations, and certifications that were required to be included in the original Form 3.

Note: The *Board* will designate an amendment to a special report as a report on "Form 3/A."

6. Rules Governing this Report. In addition to these instructions, the *rules* contained in Part 2 of Section 2 of the *Board's rules* govern this Form. Please read these *rules* and the instructions carefully before completing this Form.
7. Requests for Confidential Treatment. The Firm may, by marking the Form in accordance with the instructions provided, request confidential treatment of any information submitted in Item 3.1.c, 4.1.c, Part V, Part VI, Item 7.1.d, Item 8.1.d, or Exhibit 99.3 of this Form that has not otherwise been publicly disclosed and that either contains information reasonably identified by the Firm as proprietary information or that is protected from public disclosure by applicable laws related to confidentiality of proprietary, personal, or other information. See Rule 2300. If the Firm requests confidential treatment, it must identify the information in Item 3.1.c, 4.1.c, Part V, Part VI, Item 7.1.d, Item 8.1.d, or Exhibit 99.3 that it desires to keep confidential, and include, as Exhibit 99.1 to this Form, an exhibit that complies with the requirements of Rule 2300(c)(2). The *Board* will determine whether to grant confidential treatment requests on a case-by-case basis. If the Firm fails to include Exhibit 99.1, or includes an Exhibit 99.1 that fails to comply with Rule 2300(c)(2), the request for confidential treatment may be denied solely on the basis of that failure.
8. Assertions of Conflicts with Non-U.S. Law. If the Firm is a *foreign registered public accounting firm*, the Firm may, unless otherwise directed by the *Board* pursuant to Rule 2207(e), decline to provide certain information required by this Form if providing the information would constitute a violation of non-U.S. law by the Firm and the Firm proceeds in accordance with Rule 2207. The Firm may withhold responsive information on that basis from any Part of the Form other than Parts I, II, and IX, and Items 8.1.a, 8.1.b, 8.1.c, and 8.2. If the firm withholds responsive information, the Firm must indicate, in accordance with the instructions in the relevant Part of the Form, the particular Items with respect to which the Firm has withheld responsive information. The Firm may not use the Form to make any general assertion that a particular

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requirement may conflict with non-U.S. law, but only to indicate that, on the basis of an asserted conflict, the Firm has in fact withheld from this Form required information.

9. Language. Information submitted as part of this Form, including any exhibit to this Form, must be in the English language.

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### PART I – IDENTITY OF THE FIRM

#### Item 1.1 Name of Firm

- a. State the legal name of the Firm.

Note: If the Firm is filing this Form 3 to report that the Firm's legal name has changed, the name entered in Item 1.1.a should be the Firm's legal name before the name change that is being reported. The Firm's new name should be included in the response to Item 1.1.c.

- b. If different than its legal name, state the name or names under which the Firm issues *audit reports*.
- c. If the Firm is filing this Form 3 to report that the Firm's legal name has changed, state the new legal name of the Firm.

### PART II – REASON FOR FILING THIS REPORT

Indicate, by checking the relevant box(es) from among Items 2.1 through 2.17 below, the event(s) being reported on this Form. More than one event may be reported in the same Form 3 filing. For each event indicated below, proceed to the Parts and Items of this Form indicated parenthetically for the specific event being reported and provide the information therein described. Provide responses only to those Parts and Items of the Form specifically indicated for the event or events that the Firm identifies in this Part II as an event being reported on this Form. (For example, if the Form is being filed solely to report that the Firm has withdrawn a previously issued *audit report*, check the box for Item 2.1 in this Part of the Form, and complete only Item 3.1 and Part IX of the Form.) If the Firm is filing this Form to amend a previous filing, the Firm also should complete Item 2.18.

#### **Audit Reports**

- Item 2.1 The Firm has withdrawn an *audit report* on financial statements, or withdrawn its consent to the use of its name in a report, document, or written communication containing an *issuer's* financial statements, and the *issuer* has failed to comply with a *Commission* requirement



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to make a timely report concerning the matter pursuant to Item 4.02 of *Commission* Form 8-K. (Complete Item 3.1 and Part IX.)

- Item 2.2 The Firm has issued *audit reports* with respect to more than 100 *issuers* in a calendar year immediately following a calendar year in which the Firm did not issue *audit reports* with respect to more than 100 *issuers*. (Complete Part IX.)
- Item 2.3 The Firm has issued *audit reports* with respect to 100 or fewer *issuers* in a completed calendar year immediately following a calendar year in which the Firm issued *audit reports* with respect to more than 100 *issuers*. (Complete Part IX.)
- Item 2.4 The Firm has become aware that an *issuer*, in a report, document, or written communication containing the *issuer's* financial statements, has made use of the Firm's name without the consent of the Firm, in circumstances where such consent is required or the *issuer* indicates that such consent was provided. (Complete Item 4.1 and Part IX.)

### Certain Legal Proceedings

- Item 2.5 The Firm has become aware that the Firm has become a defendant in a criminal proceeding prosecuted by a governmental criminal law enforcement authority. (Complete Item 5.1 and Part IX.)
- Item 2.6 The Firm has become aware that a partner, shareholder, principal, owner, member, or manager of the Firm has become a defendant in a criminal proceeding prosecuted by a governmental criminal law enforcement authority and is charged with fraud, embezzlement, forgery, extortion, bribery, obstruction of justice, perjury, or false statements; or charged with any crime arising out of alleged conduct relating to accounting, auditing, securities, banking, commodities, taxation, consumer protection, insurance, or dishonesty; or charged with any crime arising out of alleged conduct that, if proven, would bear materially on the individual's fitness to provide *audit services* to *issuers*. (Complete Item 5.1 and Part IX.)
- Item 2.7 The Firm has become aware that, in a matter arising out of the Firm's conduct in the course of providing professional services for a client, the Firm has become a defendant or respondent in a civil or alternative dispute resolution proceeding initiated by a governmental

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entity or in an administrative or disciplinary proceeding other than a *Board* disciplinary proceeding. (Complete Item 5.1 and Part IX.)

Item 2.8 The Firm has become aware that, in a matter arising out of the person's conduct in the course of providing professional services for a client, a partner, shareholder, principal, owner, member, or manager of the Firm has become a defendant or respondent in a civil or alternative dispute resolution proceeding initiated by a governmental entity or in an administrative or disciplinary proceeding other than a *Board* disciplinary proceeding. (Complete Item 5.1 and Part IX.)

Item 2.9 The Firm has become aware that a proceeding meeting the criteria described in Items 2.5, 2.6, 2.7, or 2.8 above has been concluded as to the Firm or a partner, shareholder, principal, owner, member, or manager of the Firm (whether by dismissal, acceptance of pleas, through consents or settlement agreements, the entry of a final judgment, or otherwise). (Complete Item 5.2 and Part IX.)

Item 2.10 The Firm has become aware that the Firm, or the parent or a subsidiary of the Firm, has become the subject of a petition filed in a bankruptcy court, or has otherwise become the subject of a proceeding in which a court or governmental agency (or, in a non-U.S. jurisdiction, a person or entity performing a comparable function) has assumed jurisdiction over substantially all of the assets or business of the Firm or its parent or a subsidiary. (Complete Item 5.3 and Part IX.)

### Certain Relationships

Item 2.11 The Firm has taken on as an employee, partner, shareholder, principal, or member, or has otherwise become owned or partly owned by, a person who is currently the subject of (a) a *Board* disciplinary sanction suspending or barring the person from being an *associated person of a registered public accounting firm* or (b) a *Commission* sanction under Rule 102(e) of the *Commission's* Rules of Practice suspending or denying the privilege of appearing or practicing before the *Commission*. (Complete Item 6.1 and Part IX.)

Item 2.12 The Firm has become owned or partly owned by, an entity that is currently the subject of (a) a *Board* disciplinary sanction suspending

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or revoking that entity's registration or disapproving that entity's application for registration, or (b) a *Commission* sanction under Rule 102(e) of the *Commission's* Rules of Practice suspending or denying the privilege of appearing or practicing before the *Commission*. (Complete Item 6.2 and Part IX.)

Item 2.13 The Firm has entered into a contractual or other arrangement to receive consulting or other professional services from a person or entity meeting any of the criteria describe in Items 2.11 or 2.12 above. (Complete Item 6.3 and Part IX.)

### **Licenses and Certifications**

Item 2.14 The Firm has become aware that a license or certification issued to the Firm authorizing it to engage in the business of auditing or accounting has been terminated, revoked, suspended, surrendered, made subject to conditions or contingencies, or has expired without renewal. (Complete Item 7.1 and Part IX.)

Item 2.15 The Firm has obtained a license or certification not identified on any Form 1 or Form 3 previously filed by the Firm, or there has been a change in a license or certification number identified on a Form 1 or Form 3 previously filed by the Firm. (Complete Item 7.2 and Part IX.)

### **Changes in the Firm or the Firm's *Board* Contact Person**

Item 2.16 The Firm has changed its legal name while otherwise remaining the same legal entity that it was before the name change. (Complete Item 8.1 and Part IX.)

Item 2.17 There has been a change in the business mailing address, business telephone number, business facsimile number, or business e-mail of the person most recently designated by the Firm (on Form 2, Form 3, or Form 4) as the Firm's primary contact with the *Board*, or the Firm is designating a new person to serve as the primary contact. (Complete Item 8.2 and Part IX.)

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### Amendment

#### Item 2.18 Amendments

If this is an amendment to a report previously filed with the *Board* –

- a. Indicate, by checking the box corresponding to this item, that this is an amendment.
- b. Identify the specific Item numbers of this Form (other than this Item 2.18) as to which the Firm's response has changed from that provided in the most recent Form 3 or amended Form 3 filed by the Firm with respect to the events reported on this Form.

## PART III – WITHDRAWN *AUDIT REPORTS*

#### Item 3.1 Withdrawn *audit reports* and consents

If the Firm has withdrawn an *audit report* on financial statements, or withdrawn its consent to the use of its name in a report, document, or written communication containing an *issuer's* financial statements, and the *issuer* has failed to comply with a *Commission* requirement to make a timely report concerning the matter pursuant to Item 4.02 of *Commission* Form 8-K, provide –

- a. The *issuer's* name and CIK number, if any;
- b. The date(s) of the *audit report(s)* that the Firm has withdrawn, or to which the Firm's withdrawal of consent relates; and
- c. A description of the reason(s) the Firm has withdrawn the *audit report(s)* or the consent.

Note: The Firm's obligation to report a withdrawn *audit report* on Form 3 is triggered only by the *issuer's* failure to make a timely report concerning the matter pursuant to Item 4.02 of *Commission* Form 8-K. Accordingly, the 14-day period in which the Firm must report the event does not begin to run unless and until the *issuer* fails to report on Form 8-K within the time required by the *Commission's* rules. The Firm must then report the event on Form 3 within 14 days of the expiration of the required Form 8-K filing deadline, unless, within that 14-day period, the *issuer* reports on a late-filed Form 8-K.

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### **PART IV – UNAUTHORIZED USE OF FIRM NAME**

#### Item 4.1 Unauthorized Use of Firm Name

If the Firm has become aware that an *issuer*, in a report, document, or written communication containing the *issuer's* financial statements, has made use of the Firm's name without the consent of the Firm, in circumstances where such consent is required or the *issuer* indicates that such consent was provided, provide –

- a. The *issuer's* name and CIK number, if any;
- b. The date that the Firm became aware of the unauthorized use of the Firm's name; and
- c. A description of the circumstances and the steps the Firm has taken to address the unauthorized use.

### **PART V – CERTAIN PROCEEDINGS**

#### Item 5.1 Criminal, Governmental, Administrative, or Disciplinary Proceedings

If the Firm has become a defendant or respondent in any proceeding meeting the criteria described in Items 2.5 or 2.7, or any partner, shareholder, principal, owner, member, or manager of the Firm has become a defendant or a respondent in any proceeding meeting the criteria described in Items 2.6 or 2.8, provide the following information with respect to each such proceeding –

- a. The name, filing date, and case or docket number of the proceeding, and the nature of the proceeding, *i.e.*, whether it is a criminal proceeding, a civil or alternative dispute resolution proceeding, or an administrative or disciplinary proceeding.
- b. The name of the court, tribunal, or body in or before which the proceeding was filed.
- c. An indication whether the Firm itself is a defendant or respondent in the proceeding and, if so, the statutes, rules, or legal duties that the firm is alleged to have violated, and a brief description of the firm's alleged conduct in violation of those statutes, rules, or legal duties.

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d. The names of every defendant or respondent who is a partner, shareholder, principal, owner, member, or manager of the Firm, or who was such either at the time the Firm received notice of the proceeding or at the time of the alleged conduct on which any claim or charge is based and, as to each, the statutes, rules, or legal duties that he or she is alleged to have violated, and a brief description of his or her alleged conduct in violation of those statutes, rules, or legal duties.

e. The name of any client that was the recipient of the professional services to which any claim or charge in the proceeding relates.

Note: For the purpose of this Part, administrative or disciplinary proceedings include those of the *Commission*; any other federal, *state*, or non-U.S. agency, board, or administrative or licensing authority; and any professional association or body. Investigations that have not resulted in the commencement of a proceeding need not be included.

### Item 5.2 Concluded Criminal, Governmental, Administrative, or Disciplinary Proceedings

If any proceeding meeting the criteria described in Items 2.5, 2.6, 2.7, or 2.8, including any proceeding reported in Item 5.1, has been concluded as to the Firm or a partner, shareholder, principal, owner, member, or manager of the Firm (whether by dismissal, acceptance of pleas, through consents or settlement agreements, the entry of a final judgment, or otherwise), provide –

a. The name, filing date, and case or docket number of the proceeding, and the nature of the proceeding, *i.e.*, whether it is a criminal proceeding, a civil or alternative dispute resolution proceeding, or an administrative or disciplinary proceeding;

b. The name of the court, tribunal, or body in or before which the proceeding was filed; and

c. A brief description of the terms of the conclusion of the proceeding as to the Firm or partner, shareholder, principal, owner, member, or manager.

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### Item 5.3 Bankruptcy or Receivership

If the Firm, or the parent or a subsidiary thereof, has become the subject of a petition filed in a bankruptcy court, or has otherwise become the subject of a proceeding in which a court or governmental agency (or, in a non-U.S. jurisdiction, a person or entity performing a comparable function) has assumed jurisdiction over substantially all of the assets or business of the Firm or its parent or a subsidiary, provide –

- a. the name of the proceeding;
- b. the name of the court or governmental body;
- c. the date of the filing or of the assumption of jurisdiction; and
- d. the identity of the receiver, fiscal agent or similar officer, if applicable, and the date of his or her appointment.

## PART VI – CERTAIN RELATIONSHIPS

### Item 6.1 New Relationship with Person Subject to Bar or Suspension

If the Firm has taken on as an employee, partner, shareholder, principal, or member, or has otherwise become owned or partly owned by, a person who is currently the subject of (a) a *Board* disciplinary sanction suspending or barring the person from being an *associated person of a registered public accounting firm* or (b) a *Commission* sanction under Rule 102(e) of the *Commission's* Rules of Practice suspending or denying the privilege of appearing or practicing before the *Commission*, provide –

- a. the name of the person;
- b. the nature of the person's relationship with the Firm; and
- c. the date on which the person's relationship with the Firm began.

### Item 6.2 New Ownership Interest by Sanctioned Firm

If the Firm has become owned or partly owned by, an entity that is currently the subject of (a) a *Board* disciplinary sanction suspending or revoking that entity's registration or disapproving that entity's application for registration, or (b) a

## **RELEASE**

*Commission* sanction under Rule 102(e) of the *Commission's* Rules of Practice suspending or denying the privilege of appearing or practicing before the *Commission*, provide –

- a. the name of the entity that has obtained an ownership interest in the Firm;
- b. the nature and extent of the ownership interest; and
- c. the date on which the ownership interest was obtained.

### **Item 6.3 Certain Arrangements to Receive Consulting or Other Professional Services**

If the Firm has entered into a contractual or other arrangement to receive consulting or other professional services from a person or entity meeting any of the criteria described in Items 6.1 or 6.2 above, provide –

- a. the name of the person or entity;
- b. the date that the Firm entered into the contract or other arrangement; and
- c. a description of the services to be provided to the Firm by the person or entity.

## **PART VII – LICENSES AND CERTIFICATIONS**

### **Item 7.1 License or Certification No Longer in Effect**

If any license or certification issued to the Firm authorizing it to engage in the business of auditing or accounting was terminated, revoked, suspended, surrendered, made subject to any conditions or contingencies, or has expired without renewal, provide –

- a. the name of the issuing *state*, agency, board or other authority;
- b. the number of the license or certification;
- c. the date of the termination, revocation, suspension, surrender, expiration, or imposition of conditions or contingencies, and
- d. a brief description of the reason(s) for such action.



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### Item 7.2 New License or Certification

If the Firm has obtained any license or certification not identified on any Form 1 or Form 3 previously filed by the Firm, or there has been a change in any license or certification number identified on a Form 1 or Form 3 previously filed by the Firm, provide –

- a. the name of the issuing *state*, agency, board or other authority;
- b. the number of the license or certification;
- c. the date the license or certification took effect; and
- d. if the license or certification replaces another license or certification issued by the same authority, the number of the replaced license or certification.

Note: If the Firm is filing a Form 4 to report a change in its form of organization, change in jurisdiction, or a business combination, the Firm should report any related license change on Form 4 and not on Form 3.

## PART VIII – CHANGES IN THE FIRM OR THE FIRM'S *BOARD CONTACT PERSON*

### Item 8.1 Change in Name of Firm

If the Firm is reporting a change in its legal name –

- a. State the new legal name of the Firm;
- b. State the legal name of the Firm immediately preceding the new legal name;
- c. State the effective date of the name change;
- d. Provide a brief description of the reason(s) for the change; and
- e. Affirm, by checking the box corresponding to this Item, that, other than the name change, the Firm is the same legal entity that it was before the name change.

Note: If, other than the name change, the Firm is not the same legal entity that it was before the name change, whether because of a change in the

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Firm's legal form of organization or because of other transactions, the registration status of the predecessor firm does not automatically attach to the Firm, and the Firm cannot report the event as a name change. If the Firm cannot make the affirmation required by Item 8.1.e, the Firm cannot execute the certification in Part IX as to Item 8.1, and this Form cannot be deemed filed under Rule 2206.

In that event, the Firm should consider whether, pursuant to the provisions of Rule 2108, the Firm can make the representations required in a Form 4 filing to enable the predecessor firm's registration to attach to the Firm. If the Firm cannot or does not file with the Board a Form 4 making all necessary representations, the predecessor firm's registration does not attach to the Firm. In those circumstances, the Firm may not lawfully prepare or issue an *audit report* without first filing an application for registration on Form 1 and having that application approved by the *Board*.

Note: If the Firm is filing a Form 4 to report a change in its form of organization, change in jurisdiction, or a business combination, the Firm should report any related name change on Form 4 and not on Form 3.

### Item 8.2 Change in Contact Information

If there has been a change in the business mailing address, business telephone number, business facsimile number, or business e-mail address of the person most recently designated by the Firm (on Form 2, Form 3, or Form 4) as the Firm's primary contact with the *Board*, or if the Firm is designating a new person to serve as the primary contact, provide the name and current business mailing address, business telephone number, business facsimile number, and business e-mail of the partner or authorized officer of the Firm who will serve as the Firm's primary contact with the *Board*.

## PART IX – CERTIFICATION OF THE FIRM

### Item 9.1 Signature of Partner or Authorized Officer

This Form must be signed on behalf of the Firm by an authorized partner or officer of the Firm including, in accordance with Rule 2204, both a signature that appears in typed form within the electronic submission and a corresponding manual signature retained by the Firm. The signer must certify that –

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- a. the signer is authorized to sign this Form on behalf of the Firm;
- b. the signer has reviewed this Form;
- c. based on the signer's knowledge, the Form does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading; and
- d. either –
  1. based on the signer's knowledge, the Firm has not failed to include in the Form any information or affirmation that is required by the instructions to the Form, with respect to the event or events being reported on the Form, or
  2. based on the signer's knowledge –
    - (A) the Firm is a *foreign registered public accounting firm* and has not failed to include in the Form any information or affirmation that is required by the instructions to the Form, with respect to the event or events being reported on the Form, except for information or affirmations that the Firm asserts it is prohibited by non-U.S. law from providing to the *Board* on this Form 3;
    - (B) with respect to any such withheld information or affirmation, the Firm has made the efforts required by PCAOB Rule 2207(b) and has in its files the materials required by PCAOB Rule 2207(c); and
    - (C) the Firm has indicated, in accordance with the instructions to this Form, each Item of this Form with respect to which the Firm has withheld any required information.

The signature must be accompanied by the signer's title, the capacity in which the signer signed the Form, the date of signature, and the signer's business mailing address, business telephone number, business facsimile number, and business e-mail address.

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**PART X – EXHIBITS**

To the extent applicable under the foregoing instructions, each special report must be accompanied by the following exhibits:

Exhibit 99.1 Request for Confidential Treatment

Exhibit 99.3 Materials Required by Rule 2207(c)(2)-(4) – *Submit Only as an Exhibit to an Amended Form 3 in Response to a Request Made Pursuant to Rule 2207(d)*