PCAOB Proposes to Replace 135-Day Limit on Comfort Letter Negative Assurance

November 9, 2026

On November 3, 2026, the Public Company Accounting Oversight Board (the "PCAOB") proposed amendments to certain provisions of AS 6101, *Letters for Underwriters and Certain Other Requesting Parties*, that would replace the current 135-day limit on an auditor's ability to provide negative assurance on subsequent changes to specified financial statement items with a new cut-off tied to the issuer's next required financial reporting deadline.

The proposal could extend the availability of customary comfort in securities offerings beyond the current cut-off date of 135 days following the most recent audit or review, which would provide issuers with greater flexibility to access the market. The proposal also would alleviate further potential misalignment as a result of the semiannual reporting framework proposed by the U.S. Securities and Exchange Commission (the "SEC") and discussed in our May 7, 2026 article, where we noted that corresponding changes to applicable accounting and auditing standards will likely be necessary.

The full text of the proposed amendments is available here.

Background. Underwriters customarily obtain comfort letters from an issuer's auditor as part of their due diligence in securities offerings. Among other things, a comfort letter may provide negative assurance on "subsequent changes" in specified financial statement items, such as a statement that nothing came to the auditor's attention indicating an increase in long-term debt since the most recent audited or reviewed period. Under existing AS 6101.46 and .47, auditors may provide negative assurance only as of a date less than 135 days after the end of the most recent audited or reviewed financial statement period, after which they are limited to describing the procedures performed and findings obtained (commonly known as "management inquiries"). For non-accelerated filers, the time between the end of the third quarter and the next—annual—filing deadline can be as long as 182 days, resulting in a gap of 47 days where negative assurance is unavailable. The interval between the most recent interim period end and the next annual filing deadline can go up to 212 days for a proposed subcategory of small non-accelerated filers under the Filer Status Proposal and 274 days for semiannual filers under the SEC's proposed semiannual reporting framework. Receiving

negative assurance from auditors in comfort letters is generally an important component of an underwriter's due diligence process and, accordingly, an issuer's ability to conduct securities offerings after 135 days following its most recent audit or review is currently typically limited.

Key Considerations.

For Public Companies and IPO Companies.[1] The proposal would make two targeted changes to the existing framework, while retaining the current limitation for late filers.

- **A filing-deadline-based window.** An auditor could provide negative assurance up to the date by which financial statements for the next annual or interim period must be filed, instead of being subject to the current 135-day limit. This would remove timing-based gaps that now arise even when an issuer remains current in its SEC reporting.

- **Auditor discretion and safeguards.** To alleviate concerns over increased risk of unknown changes caused by longer time periods, auditors would be free to decline providing negative assurance. A proposed note identifies relevant factors that may impact an auditor's decision on whether to provide negative assurance, including the time elapsed since the last audit or review, management's ability to respond to inquiries at the requested cut-off date, changes in key personnel or auditors, the effectiveness of a company's financial reporting internal controls, a company's going concern and recent restatements. The proposal would not prescribe additional audit or review procedures, and negative assurance would continue to be based on the most recent audited or reviewed financial statements.

- **A continuing limitation for late filers.** If an issuer fails to file its next required financial statements by the applicable deadline, the auditor would be prohibited from providing negative assurance on subsequent changes as of a date on or after that deadline (but could continue to report procedures performed and findings obtained).

Non-Reporting Issuers (e.g., Rule 144A / High Yield Offerings). Auditors of private companies typically follow AICPA auditing standards, including AICPA AU-C Section 920, which contains a separate 135-day limitation that the PCAOB proposal would not itself amend. However, given the historical alignment between the AICPA and PCAOB comfort-letter standards, we expect the AICPA to consider corresponding adjustments

[1] The proposal does not expressly address its application to IPOs, and instead focuses on periodic reporting deadlines for public companies. While not free from doubt, we believe the proposal should be interpreted to apply the same timing standards to IPO companies as to all other public companies, such that negative assurance comfort may be provided in connection with the IPO for so long as the financial statements contained in the IPO registration statement are not "stale" for purposes of Regulation S-X.

if the PCAOB proposal is adopted, potentially extending similar flexibility to private companies in Rule 144A offerings, including high yield bond offerings. For non-reporting issuers, the applicable comfort-letter standard should be confirmed with the auditors.

Practical Considerations. The proposal could provide issuers and underwriters with more flexibility, while also codifying auditor discretion to provide negative assurance comfort.

- **Flexibility in timing.** The proposed amendments would provide issuers with greater flexibility in the timing of securities offerings by expanding the periods during which auditors may provide negative assurance.

- **Auditor discretion.** Given that auditors would retain discretion in determining whether to provide negative assurance, the scope of the expanded flexibility could be limited in certain circumstances. In scenarios where auditors determine they cannot provide negative assurance, underwriters would still need to determine whether the provided comfort is sufficient in light of the offering and the issuer's circumstances, and underwriters may require additional due diligence to bridge gaps in comfort if auditors decide not to provide negative assurance.

- **Different reporting profiles.** Issuers with longer reporting cycles may benefit most. Foreign private issuers will need to consider their applicable filing deadlines and whether the auditor has reviewed interim information.

Final Thoughts. Public comments to the proposed amendments are due January 4, 2027. Final rules will require SEC approval before they take effect, and the PCAOB is soliciting comments on whether the amendments should be effective immediately upon SEC approval or whether a 30-day delayed effective date should be imposed. The PCAOB's proposed amendments could relieve existing comfort-letter timing constraints that may impact an issuer's ability to conduct securities offerings, but practical benefits would be ultimately subject to its auditor's discretion to provide negative assurance.

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Please do not hesitate to contact us with any questions.



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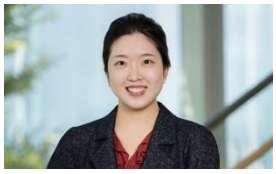
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