
PCAOB Developments: Board Proposes HFCA Rule; SEC to Replace Its Members

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The Public Company Accounting Oversight Board (the “PCAOB” or the “Board”) has released proposed Rule 6100 to establish a framework for determining if it “is unable to inspect or investigate completely registered public accounting firms located in a foreign jurisdiction because of a position taken by one or more authorities in that jurisdiction” under the Holding Foreign Companies Accountable Act (the “HFCA Act” or the “Act”). Under the Act, once such a determination is made, the rules of the Securities and Exchange Commission (the “SEC” or the “Commission”) will require issuers covered by the Act that retain such accounting firms to make certain disclosures or submissions and may ultimately prohibit trading in such issuers’ securities.

Subsequently, incoming SEC Chair Gary Gensler removed PCAOB Chair William Duhnke, and the Commission announced its intention to seek to replace all five positions on the Board, creating, among other things, a degree of uncertainty regarding adoption of the rule as proposed.

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