



February 8, 2023

The Honorable Elizabeth Warren
United State Senate
Washington, DC 20510

The Honorable Ron Wyden
United States Senate
Washington, DC 20510

Dear Senators Warren and Wyden:

Thank you for your letter dated January 25, 2023, regarding the role of auditing firms and the statutory authority of the Public Company Accounting Oversight Board (PCAOB or “Board”) as it relates to the cryptocurrency industry.

Please know the PCAOB’s commitment to protecting investors is stronger than ever. Our investor-protection mission drives everything we do, including our work to prioritize inspections of audit engagements involving cryptocurrencies – which is detailed below.

In an effort to answer your questions thoroughly, please find two appendixes attached to this letter: Appendix 1 provides additional information on the PCAOB’s activities related to cryptocurrency beginning in 2018. Appendix 2 provides detailed responses to each of the 12 questions outlined in your letter, as prepared by our technical staff.

I share your concern that, when PCAOB-registered auditors perform “sham audits” – even for entities whose audits generally fall outside of our jurisdiction – there are risks to investors and the PCAOB. This is why, in November of 2022, I warned investors of potential risks related to crypto-related audit work and noted that investors should be cautious about drawing conclusions when audit firms tout their work for clients when the PCAOB does not have jurisdiction over the audits of those clients.

Unfortunately, the PCAOB faces statutory limits when it comes to regulating the audits of certain cryptocurrency companies.

While the PCAOB has a clear mission to protect investors, Congress has placed strict limits on the scope of our authority. The Sarbanes-Oxley Act of 2002 (the “Act”) established that the PCAOB’s statutory jurisdiction extends to audits (and related engagements) of public companies (“issuers” in the terminology of the Act). The Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010 expanded the Board’s authority to include audits (and related engagements) of certain brokers and dealers registered with the U.S. Securities and Exchange Commission (SEC). As a general matter, audit firms registered with the PCAOB must follow PCAOB standards and rules specifically in connection with their audits of SEC-registered issuers, brokers or dealers only.

To the extent that a crypto-affiliated entity is an SEC-registered issuer, broker or dealer, as defined under the applicable laws, PCAOB standards and rules generally apply to an audit (and related

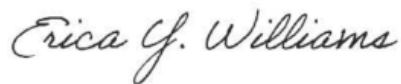
engagements) thereof – and we have prioritized inspecting and vigorously enforcing our standards in such cases. However, legislative changes would be needed for the PCAOB’s standard-setting, inspections, and enforcement programs to apply to audits and auditor behavior concerning entities that are not SEC-registered issuers, brokers or dealers.

Additionally, the Act currently prohibits the PCAOB from making public any ongoing investigations and disciplinary proceedings, which prevents me from discussing any disciplinary action the PCAOB may be undertaking that is not completed. This prohibition extends beyond cryptocurrency to all of the PCAOB’s enforcement work, and I have expressed my support for legislation to change this and allow the PCAOB to increase transparency for the benefit of investors.

As Congress considers legislative efforts to address potential threats that cryptocurrency-related issues might pose to investors, we stand ready to work with you to identify any gaps in investor protection and to provide any technical assistance that you might require.

I appreciate your leadership on matters related to investor protection, and I welcome the opportunity to work with you to address these challenging issues. I welcome the opportunity to brief you on our current efforts and to discuss any way we can be of assistance to you and your staff. Of course, as always, my staff is available to your staff, and we are happy to set up a briefing to discuss these issues further. Kent Bonham, Director of our Office of Communications and Engagement, can be reached anytime at BonhamK@pcaobus.org.

Sincerely,



Erica Y. Williams
Chair

Appendix 1: PCAOB Crypto-Related Activities Since 2018

The PCAOB has and continues to prioritize inspections – and enforcement action where appropriate – of audit engagements involving digital assets.

Regarding inspections, each year, the PCAOB develops an inspection plan and inspection procedures to focus on anticipated financial reporting and audit risks. Since 2019, the Division of Registration and Inspections (DRI) has fielded a “target team” of inspectors who focus specifically on cryptocurrency and other emerging audit risks and topics that staff believes could have important implications for audits performed by the firms we inspect.

We recognize that use of digital assets presents unique audit risks to companies and requires an appropriate risk assessment and audit response by audit firms. We have been monitoring developments in the crypto industry and are exploring audit-related implications. We have focused on identifying companies that have material digital asset holdings and significant activity related to digital assets. Audits of these identified companies have been selected for inspection, where appropriate, with an emphasis on selecting relevant focus areas and assertions related to existence, valuation, rights and obligations, and financial statement disclosures of digital assets.

As we [have informed the public in publications](#), because of our focus on digital assets, our inspectors have identified deficiencies where the auditor did not perform procedures to evaluate the sufficiency and appropriateness of audit evidence obtained over the existence and valuation of cryptoassets recorded at year end.

Regarding enforcement, we have investigated audits of issuers who held digital assets or were involved in crypto-related activities. In November 2022 the Board announced a settled disciplinary order sanctioning a firm and its Director of Audit and Quality Control for failures in the firm’s system of quality control related to the audit of The Crypto Company.¹

The following list details the actions that the PCAOB has taken regarding cryptocurrency.

- In December 2018, the PCAOB issued a Spotlight (staff publication), entitled [Inspections Outlook for 2019](#), which contains a section on digital assets, noting that 2019 inspections would include: (i) evaluation of registered auditor firms’ responses to risks associated with digital assets (e.g., cryptocurrencies, initial coin offerings, and uses of distributed ledger technology (DLT)); (ii) efforts to understand audit firms’ client acceptance and retention decisions, resource management, and planned audit procedures in the area; and (iii) whether audit firms are maintaining their independence while offering new service lines relating to digital assets.
- In 2019, DRI created a target team consisting of inspectors who focus on cryptocurrency and other emerging audit risks and topics that staff believes could have important implications for audits performed by the firms we inspect.

¹ PCAOB Release No. 105-2022-029 (Nov. 3, 2022).

- On an annual basis, DRI personnel have been meeting with each annually-inspected registered audit firm (both global network firms and non-affiliate firms) to: (i) ask, among other things, what the firm has been encountering with respect to its issuer, broker, and dealer audit clients holding material cryptoassets for their own use and/or on behalf of customers, or those that have been involved with any material transactions with cryptoassets; (ii) discuss changes, if any, to the firm’s audit approach including consultation requirements, as well as changes to the firm’s acceptance and continuance procedures related to its issuer, broker, and dealer audit clients engaged in material cryptoassets transactions; and (iii) inquire about training and skills of auditor personnel and any audit tools used or developed by the firm to assist engagement teams.
- In May 2020, the PCAOB issued a staff Spotlight, entitled [Audits Involving Cryptoassets: Information for Auditors and Audit Committees](#), that observes the need for a greater focus by auditors on the identification and assessment of the risks of material misstatement to the financial statements related to cryptoassets, as well as the planning and performing of an appropriate audit response. The Spotlight highlighted considerations for auditors, in meeting their responsibilities under PCAOB standards, who audit public companies that transact in or hold cryptocurrencies.
- In October 2020, the PCAOB issued a staff Spotlight, entitled [Staff Update and Preview of 2019 Inspection Observations](#), noting that, in some inspected firms, inspections staff: (i) observed instances in which issuers used DLT to support recording a digital asset in their general ledger; (ii) identified deficiencies where the audit firm did not perform procedures to evaluate the relevance and reliability of audit evidence obtained over the existence and valuation of digital assets (specifically, cryptoassets), recorded at year-end; (iii) provided an example of the audit firm having relied on certain third-party reports without performing procedures to test the reliability and accuracy thereof.
- In April 2021, the PCAOB issued a staff Spotlight, entitled [Staff Outlook for 2021 Inspections](#), which contains a section on auditing digital assets, noting that, as more issuers, brokers, and dealers venture into the realm of digital assets, such as through the holding of cryptoassets, inspections staff will select certain audits for review where transactions in such assets are material to the financial statements and review how: (i) firms identify and assess the risks of material misstatement, including valuation issues; and (ii) the related audit responses are designed and performed.
- In October 2021, the PCAOB issued a staff Spotlight, entitled [Staff Update and Preview of 2020 Inspection Observations](#), which contains a section on DLT and digital assets, noting that inspections staff: (i) continued to observe instances in which issuers used DLT to support recording a digital asset in their general ledger; and (ii) identified deficiencies where the audit firm did not perform procedures to evaluate the sufficiency and appropriateness of audit evidence obtained over the existence and valuation of cryptoassets recorded at year-end.
- In June 2022, the PCAOB issued a staff Spotlight, entitled [Staff Overview for Planned 2022 Inspections](#), which contains a section on “Technology,” addressing, among other things, auditing digital assets. The Spotlight warned that the use of digital assets presents unique audit risks to companies and requires an appropriate risk assessment and audit response by audit firms, noting that: (i) inspections staff would continue to focus on identifying companies that have material digital

asset holdings and significant activity related to digital assets; and (ii) audits of these identified companies would be selected for inspection, where appropriate, with an emphasis on selecting relevant focus areas and assertions related to existence, valuation, rights and obligations, and financial statement disclosures.

- In August 2022, the PCAOB issued a staff Spotlight, entitled [Audit Committee Resource](#), intended as a timely reference point for auditors, audit committee members, investors, and others; the Spotlight contains questions that audit committees of public companies might want to consider as part of their ongoing engagement and discussion with their auditors, including a section on auditing digital assets.
- In November 2022, the PCAOB [announced a settled disciplinary order](#) sanctioning an audit firm and the partner in charge of its audit department and responsible for quality control in connection with the firm's audit of the 2017 financial statements of The Crypto Company, an issuer for which cryptocurrency investment and trading were significant parts of both assets and revenue.²
- In December 2022, the Director of DRI spoke publicly to the AICPA & CIMA Conference on Current SEC and PCAOB Developments about PCAOB inspection results and plans regarding cryptoassets.
- In December 2022, the PCAOB issued a staff Spotlight, entitled [Staff Update and Preview of 2021 Inspection Observations](#), containing a section on digital assets, noting that, inspections staff: (i) has selected certain audits for review, as more issuers venture into the realm of digital assets, where transactions in these assets were material to the financial statements; and (ii) identified deficiencies where the audit firm did not perform procedures to evaluate the sufficiency and appropriateness of audit evidence obtained over the existence and valuation of cryptoassets recorded at year-end.

² PCAOB Release No. 105-2022-029 (Nov. 3, 2022).

Appendix 2: Answers to Questions Raised in the January 25 Letter

Question 1

What risks do retail investors face when crypto firms – whether publicly traded or private – attempt to pass off proof-of-reserve examinations as “audits” and what is the PCAOB doing to mitigate these risks?

A Proof of Reserve engagement (PoR) is a way for a crypto firm to provide investors or customers with some form of third-party comfort that assets have been verified and that balances held on exchanges are backed by real assets. Importantly, it is merely an asset-verification technique for a single asset type at a particular moment in time that is subject to significant limitations in terms of the procedures performed (e.g., it does not evaluate whether the crypto firm has exclusive possession of the private key to the crypto assets, nor whether the assets have been borrowed as window dressing for the PoR engagement) and in terms of the entity performing the engagement (e.g., there are no consistent standards governing the knowledge, skills, ability, or independence of the entity performing the PoR engagement). By contrast, an audit performed over an issuer in the U.S. securities markets is performed according to PCAOB auditing standards that mandate the rigor to be applied to the engagement and the assurance to be provided, by an auditor that is (1) independent from the issuer and (2) registered with the PCAOB and subject to PCAOB inspection – all of which is backed by the potential of PCAOB or SEC enforcement if improperly performed.

If a crypto firm were to attempt to pass off a PoR engagement as a PCAOB audit, then investors – particularly retail investors who may lack the experience and resources of institutional investors to protect themselves through other means – risk being misled that the limited comfort being offered through a PoR engagement is equivalent to the robust third-party assurance provided through a PCAOB audit, when in fact they are receiving none of those safeguards. As a result, investors may underestimate investment risk and make erroneous investment decisions to their potentially severe detriment.

What the PCAOB Is Doing to Mitigate These Risks

- Under AS 1001, *Responsibilities and Functions of the Independent Auditor*, the Board requires that an audit report issued under PCAOB auditing standards expressly disclose that PCAOB standards apply, so that investors (and other users of audit reports) understand when an audit has – and has not – been performed under the Board’s standards. If a firm fails to follow this requirement with respect to an issuer audit, such failure would be publicly noted in their inspection report for investors to consider. As with all PCAOB standards, AS 1001 only applies to audits of “issuers,” “brokers,” and “dealers” within the PCAOB’s jurisdiction, as defined in the Act, and the PCAOB can only enforce AS 1001 in connection with such engagements.

- PCAOB Board Members and staff engage in regular outreach to educate the investing public on audits subject to PCAOB standards and oversight and encourage auditors to take heed of special risks associated with emerging technologies and asset classes.³
- The PCAOB’s staff has issued several publications specifically highlighting cryptocurrency- and other DLT-related audit risks. (See Appendix 1.)
- In 2022, the PCAOB created and filled a new Investor Advocate position to help lead investor outreach in connection with the audit and associated risks. In 2023, the Board elevated that position to a Director-level position and will continue working to support the Office of Investor Advocate as it works to educate investors.
- In 2022, the Board re-established the PCAOB Investor Advisory Group to provide the Board with important feedback on investor concerns.

Question 2

Are PCAOB-registered auditors, or the private, non-broker-dealer companies who receive their audit-like services, required to disclose to investors that those services are performed outside of the oversight of the PCAOB?

Under the law, PCAOB rules and standards do not cover assurance services provided by registered auditors and their associated persons to entities that are not issuers, brokers, or dealers. As such, neither PCAOB-registered auditors, nor private, non-broker-dealer companies who receive their PoR or similar services, are required under PCAOB rules and standards affirmatively to disclose to investors that those services are performed outside of the oversight of the PCAOB.

Within the PCAOB’s jurisdiction, we have taken the view that it would be an act of fraud for a PCAOB-registered auditor to claim that assurance services it provided were within the scope of PCAOB oversight (standards, inspections, enforcement) if that were not true. In that connection, the PCAOB’s Division of Enforcement and Investigations has pursued registered audit firms that have claimed to have adhered to PCAOB standards in an audit – but demonstrably did not. For an example of a settled order in connection with which the Board charged for auditors issuing an audit opinion asserting that an audit under PCAOB standards was performed where, in fact, no audit work at all was performed, with fraud under Section 10(b) of the Securities Exchange Act of 1934 (“Exchange Act”) and Exchange Act Rule 10b-5, see *Weld Asia Associates and Tan Chin Huat, Chartered Accounts*.⁴

³ See, e.g., J. Robert Brown Jr., *The Future of Audit Oversight*, Virtual Presentation (Jan. 15, 2021), available at <https://pcaobus.org/news-events/speeches/speech-detail/the-future-of-audit-oversight>; J. Robert Brown Jr., *Facilitating Investor Participation at the Standard-Setting Table*, Speech Delivered to the Public Pension Financial Forum (Oct. 21, 2019), available at https://pcaobus.org/news-events/speeches/speech-detail/facilitating-investor-participation-at-the-standard-setting-table_708; Jeannette M. Franzel, *Audit Expectations Gap: A Framework for Regulatory Analysis*, Speech Delivered to PCAOB’s 2016 International Institute on Audit Regulation (Dec. 13, 2016), available at https://pcaobus.org/news-events/speeches/speech-detail/audit-expectations-gap-a-framework-for-regulatory-analysis_640.

⁴ PCAOB Release No. 105-2017-046 (Dec. 13, 2017).

Please find additional information on the PCAOB's jurisdiction and disclosure rules within the PCAOB's jurisdiction below.

In accordance with the authority granted to the PCAOB by Congress, PCAOB rules require registered audit firms and their associated persons to comply with applicable auditing and related professional practice standards only in connection with the preparation and issuance of any audit report for an "issuer," "broker," or "dealer" (as those terms are defined in the Act). Among the requirements under PCAOB standards regarding disclosures relating to the application of PCAOB standards are that an auditor:

- Disclose whether the audit was conducted in accordance with the standards of the PCAOB (AS 1001, *Responsibilities and Functions of the Independent Auditor*, ¶ .01);
- Include, in the second section of the auditor's report on the audit of internal controls over financial reporting a section entitled "Basis for Opinion" that states that the audit was conducted in accordance with the standards of the PCAOB (AS 2201, *An Audit of Internal Control Over Financial Reporting That Is Integrated with an Audit of Financial Statements*, ¶ .85D.e);
- Incorporate a statement into its audit opinion that the audit was conducted in accordance with the standards of the PCAOB (AS 3101, *The Auditor's Report on an Audit of Financial Statements When the Auditor Expresses an Unqualified Opinion*, ¶ .09.c) (the same requirement applies in connection with certain types of special reports under AS 3305, *Special Reports*, and under AS 4105, *Reviews of Interim Financial Information*, ¶ .37C.b, which also requires an express statement that a review of interim financial information is "substantially less in scope than an audit conducted in accordance with" PCAOB standards);
- Is prohibited from expressing an opinion on financial statements when not independent, as any procedures the accountant would perform would not be in accordance with the standards of the PCAOB (AS 3320, *Association with Financial Statements*, ¶ .09); and
- Ordinarily include in a report on the application of accounting principles, when PCAOB standards are followed, a statement that the engagement was performed under PCAOB standards (AS 6105, *Reports on the Application of Accounting Principles*, ¶ .10.a).

In addition, PCAOB standards describe the risk of misunderstandings in the context of comfort letters containing unaudited interim financial information and require an express disclaimer in such circumstances that the accountants have not audited such information in accordance with PCAOB standards – in letters regarding unaudited condensed interim financial information (AS 6101, *Letters for Underwriters and Certain Other Requesting Parties*, ¶ .38).

Question 3

Was the PCAOB aware of potential conflicts of interest or other concerning behavior that betrayed a lack of professional skepticism by Armanino or Prager Metis and their client FTX before FTX’s collapse?

To the best of our knowledge, none of the entities actually operating the FTX cryptocurrency exchange and the associated crypto hedge fund have ever qualified as an “issuer,” “broker,” or “dealer” (as those terms are defined in the Act).⁵ The PCAOB, therefore, has not, and could not have, inspected any of their historical audit engagements.

Audit firms registered with the PCAOB – “registered public accounting firms” in the terminology of the Act – must follow PCAOB standards and rules specifically in connection with their audits (and related engagements) of “issuers,” “brokers,” or “dealers” (as those terms are defined in the Act). PCAOB inspections of registered audit firms, along with the PCAOB’s collection of information about such firms, focuses on issuer, broker, and dealer engagements, and on registered audit firms’ quality control systems with respect thereto. The PCAOB faces limits on disciplining – including suspending or permanently deregistering – audit firms for their work outside the PCAOB’s jurisdiction. In other words, the Act permits the PCAOB to write standards for, inspect, investigate, and bring disciplinary proceedings arising out of registered firms’ audit and related engagements with respect to issuer, broker, or dealer clients. Legislative change would be needed for PCAOB’s programs to reach more broadly.

- While the PCAOB is precluded by statute from inspecting the audits of the entities operating the FTX cryptocurrency exchange, the PCAOB has regularly inspected both Armanino’s and Prager Metis’s audit work that falls within our jurisdiction and made those inspection results public to help inform investors. Because Armanino has fewer than 100 audit clients, the firm is inspected by the PCAOB at least once every three years. The most recent inspection of Armanino was in 2021 ([report issued October 6, 2022](#)), and we inspected two audits.⁶ In both audits inspected, PCAOB inspectors identified deficiencies that were of such significance that we believe the firm, at the time it issued its audit report, had not obtained sufficient appropriate audit evidence to

⁵ We are aware of two broker-dealer affiliates of FTX that were SEC-registered at the time of the FTX collapse: FTX Capital Markets, LLC (FTX CM), and Embed Clearing LLC (Embed). Both broker-dealer entities appear to be recent FTX acquisitions (FTX-affiliated entities appear to have acquired: (a) FTX CM – formerly RJI Capital Group, LLC – in late 2021 (now deregistered, stating that it ceased business on November 30, 2022); and (b) Embed, which registered with the SEC on April 14, 2021 -- in mid-2022, expressly to support FTX’s new equities and ETF – as opposed to crypto – trading platform). As required, each of these entities was audited by a PCAOB-registered firm. The most recent annual financial report filed with the SEC of: (i) FTX CM, for the fiscal year ended March 31, 2022, was audited by Raich Ende Malter & Co. LLP (auditor since 2022); and (ii) Embed, for the fiscal year ended December 31, 2021, was audited Ryan & Juraska LLP). The audits of these affiliates were eligible for PCAOB review; however, neither FTX CM’s nor Embed’s filings indicate any crypto activities. Had these entities disclosed crypto-related business, it is likely that PCAOB staff would have identified these entities as higher risk during the annual inspection planning process. Separate and apart from risks associated with cryptocurrency, insolvency of a broker-dealer’s parent may also be considered by PCAOB staff in determining subsequent broker-dealer inspection selections.

⁶ PCAOB Release No. 104-2022-240 (Oct. 6, 2022).

support its opinion on the issuer's financial statements. The PCAOB published those inspection findings to inform investors.

The PCAOB has also previously issued a revised version of a past Armanino inspection report, making public a quality control finding that the firm failed to sufficiently remediate in a timely fashion.

- Similarly, Prager Metis is subject to PCAOB inspection at least once every three years. The PCAOB [inspected both Prager Metis-registered firms in 2020](#) (reports issued May 13, 2022).⁷ For Prager Metis' New York-based firm, we reviewed four audits in total. In all four audits inspected, PCAOB inspectors identified deficiencies that were of such significance that we believe the firm, at the time it issued its audit report, had not obtained sufficient appropriate audit evidence to support its opinion on the issuer's financial statements. The PCAOB published those inspection findings to inform investors.

As a general matter, the PCAOB often takes additional steps to protect investors above and beyond making its inspection report findings public.

For example:

- The PCAOB may, where appropriate, refer inspection findings for investigation and enforcement action. If this were to occur, the PCAOB would be prohibited by law from making any such disciplinary proceedings public until they are completed.
- Additionally, the PCAOB may choose to accelerate the inspection cycle for a given firm, inspecting that firm sooner than required by statute. If this were to occur, that information would not become public until the resulting inspection report was published.
- Finally, the PCAOB is prohibited by law from making any quality control related findings public in its initial inspection reports of any firm. Instead, the firm has at least one year to remediate any quality control concerns. By law the PCAOB only makes quality control findings public if they are not remediated to the Board's satisfaction after that time.

Question 3.a

If so, did the PCAOB provide any warnings to Armanino or Prager Metis about this behavior? Please provide copies of any communications between PCAOB and the accounting firms.

As noted in the response to Question 3: To the best of our knowledge, none of the entities actually operating the FTX cryptocurrency exchange and the associated crypto hedge fund has ever qualified as

⁷ PCAOB Release No. 104-2022-137 (May 13, 2022); PCAOB Release No. 104-2022-138 (May 13, 2022).

an “issuer,” “broker,” or “dealer” (as those terms are defined in the Act).⁸ The PCAOB, therefore, has not, and could not have, inspected any of their historical audit engagements.

We note that Armanino and Prager Metis are both subject to regular inspection on account of their performance of audits, issuance of audit reports, and related matters, subject to the PCAOB’s jurisdiction. The PCAOB has issued inspection reports, which can serve as a warning, with respect to each that enumerate those deficiencies observed that the PCAOB is statutorily authorized to disclose.

The PCAOB previously issued a revised version of a past Armanino inspection report, making public a quality control finding the firm failed to sufficiently remediate in a timely fashion.

As a general matter, the PCAOB may, where appropriate, refer inspection findings for investigation and enforcement action. If this were to occur, the PCAOB would be prohibited by law from making any such disciplinary proceedings public until they are completed.

Additionally, the PCAOB may choose to accelerate the inspection cycle for a given firm, inspecting that firm sooner than required by statute. If this were to occur, that information would not become public until the resulting inspection report was published.

Question 4

Does the PCAOB restrict PCAOB-registered auditors from publicly praising or endorsing the companies they provide services to? Please provide relevant guidance governing public endorsements or praise of clients.

With respect to audits of “issuers,” “brokers,” and “dealers,” as each of those terms is defined in the Act, the PCAOB restricts PCAOB-registered auditors from publicly praising or endorsing the companies to which they provide services. For example, in a pair of 2019 [settled disciplinary orders involving Marcum LLP and its affiliated firm, Marcum Bernstein & Pinchuk LLP](#), the PCAOB interpreted these requirements to restrict a registered audit firm and its associated persons from publicly touting the firm’s audit clients at conferences where the audiences included potential investors.⁹

Under PCAOB auditor independence-related standards and rules – which, among other things, refer to, and mandate compliance with, applicable SEC auditor independence requirements – registered audit firms and certain of their associated persons may impair their independence when they publicly praise or endorse audit clients in contexts over which the Board has jurisdiction (i.e., with respect to audits of “issuers,” “brokers,” and “dealers,” as each of those terms is defined in the Act). Of particular note:

- Under PCAOB Rule 3520, *Auditor Independence*, a registered audit firm and its associated persons must be independent of the firm’s audit client throughout the audit and professional engagement period.

⁸ See *supra* note 5.

⁹ PCAOB Release No. 105-2019-022 (Sep. 10, 2019); PCAOB Release No. 105-2019-023 (Sep.10, 2019).

- Under the PCAOB’s auditing standards (specifically, AS 1005, *Independence*), in all matters relating to the engagement, an independence in mental attitude is to be maintained by the auditor or auditors, without bias with respect to the client, since otherwise the auditor would lack that impartiality necessary for the dependability of the auditor’s findings, no matter how technically proficient the auditor may be.
- AS 1005.04 refers to the profession’s established precepts to guard against the *presumption* of loss of independence in the American Institute of Certified Public Accountants’ (AICPA) Code of Professional Conduct, and states that, insofar as these precepts have been incorporated into the profession’s code, they have the force of professional law for the independent auditor.
- Rule 2-01(b) of SEC Regulation S-X, which generally applies to audits of issuers, brokers, and dealers, provides that an accountant is not independent of an audit client if, at any point during the audit and professional engagement period, “the accountant is not, or a reasonable investor with knowledge of all relevant facts and circumstances would conclude that the accountant is not, capable of exercising objective and impartial judgment on all issues encompassed within the accountant’s engagement.” In this regard, both the SEC and the PCAOB consider, among other things, whether a relationship or service creates a “mutual or conflicting interest between the accountant and the audit client” or “places the accountant in the position of being an advocate for the audit client.”
- Under AS 1015, *Due Professional Care in the Performance of Work*, auditors are obligated to exercise professional skepticism (see ¶¶ .07-.09). This obligation relates an attitude that includes, among other things: (i) a questioning mind and a critical assessment of audit evidence in the conduct of an audit; and (ii) neither assuming that management is dishonest nor an assumption of unquestioned honesty. In a situation where an auditor was promoting or praising an audit client, questions would necessarily arise as to whether the auditor could exercise the due professional care and professional skepticism required for the engagement. *See also* AS 2301, *The Auditor’s Responses to the Risks of Material Misstatement*, ¶ .07; and AS 2401, *Consideration of Fraud in a Financial Statement Audit*, ¶ .13.

Question 5

Does the PCAOB have the authority to strip auditors of their PCAOB-registered status if they provide services or engage in conduct that fall short of PCAOB standards and rules, even if those actions are taken in relation to private, non-SEC registered companies?

No. The Act permits the PCAOB to write standards for, inspect, investigate, and bring disciplinary proceedings arising out of registered firms’ audit and related engagements with respect to “issuer,” “broker,” or “dealer” (as those terms are defined in the Act) clients only. As such, the Board only has authority to suspend or revoke an audit firm’s registration in connection with actions taken by the registered firm – or to impose a temporary or permanent bar on the registered firm’s associated persons – in relation to audit (and related engagement) clients that are issuers, brokers, or dealers. Legislative change would be needed for PCAOB’s programs to reach more broadly.

Question 6

PCAOB Rule 3100 states that “A registered public accounting firm and its associated persons shall comply with all applicable auditing and related professional practice standards.” Were the activities of Armanino and Prager Metis on behalf of FTX, and of Mazars on behalf of Binance, consistent “with all applicable auditing and related professional practice standards?”

Consistent with the scope of the PCAOB’s authority, PCAOB Rule 3100 only applies in the context of registered audit firms’ issuer, broker, and dealer audits and related engagements. For PCAOB Rule 3100 to reach the particular activities that the registered audit firms referred to above conducted on behalf of FTX and Binance (and similar entities in the crypto space that are not issuers, brokers, or dealers), legislative change would be needed.

Section 101(a) of the Act establishes the PCAOB’s mandate and states that the Board is established “to oversee the audit of *companies that are subject to the securities laws*” (emphasis added). The Act goes on to grant the PCAOB oversight authority specifically with respect to audits (and related engagements) of “issuers,” “brokers,” and “dealers” (as those terms are defined in the Act). The Board’s standard-setting authority under Section 103(a)(1) of the Act extends to standards to be used by registered public accounting firms in the preparation and issuance of “audit reports,” which the Act defines with specific reference to issuers, brokers, and dealers.¹⁰ While, PCAOB Rule 3100 states, “[a] registered public accounting firm and its associated persons shall comply with all applicable auditing and related professional practice standards,” PCAOB Rule 1001(a)(viii) defines the term “Auditing and Related Professional Practice Standards” as “the auditing standards, related attestation standards, quality control standards, ethical standards, and independence standards (including any rules implementing Title II of the Act), and any other professional standards, that are established or adopted by the Board under Section 103 of the Act.”

PCAOB Rule 3100, adopted by the Board in 2003 and approved by the SEC,¹¹ is limited by the statutory authority provided to the PCAOB in the Act.

In fact, in the PCAOB Adopting Release that accompanied PCAOB Rule 3100, the PCAOB at the time stated: “The Board recognizes its responsibility to oversee the audits of issuers, as that term is defined in the Act, and does not intend to suggest that registered public accounting firms and their associated persons must comply with the Board’s Standards in auditing non-issuers.”¹² Thus, the PCAOB’s

¹⁰ Section 110 of the Act defines the term “audit report” as “a document, report, notice, or other record— (A) prepared following an audit performed for purposes of compliance by an issuer, broker, or dealer with the requirements of the securities laws; and (B) in which a public accounting firm either— (i) sets forth the opinion of that firm regarding a financial statement, report, notice, or other document, procedures, or controls; or (ii) asserts that no such opinion can be expressed. The term “audit” is further defined with reference to the “rules of the Board.” Section 110 defines the term “audit” as “an examination of the financial statements, reports, documents, procedures, controls, or notices of any issuer, broker, or dealer by an independent public accounting firm in accordance with the rules of the Board or the Commission, for the purpose of expressing an opinion on the financial statements or providing an audit report.”

¹¹ SEC Release No. 34-48730 (Oct. 31, 2003).

¹² PCAOB Release No. 2003-009 (Jun. 30, 2003), at 5.

jurisdiction granted under the Act, and reflected in the PCAOB's Rules, does not reach the audits of registered firms' non-issuer clients.

To the best of our knowledge:

- None of the entities actually operating the FTX cryptocurrency exchange and the associated crypto hedge fund have ever qualified as an "issuer," "broker," or "dealer" (as those terms are defined in the Act).¹³ The PCAOB, therefore, could not inspect any of their historical audit engagements.
- Binance has never qualified as an "issuer," broker," or "dealer" (as those terms are defined in the Act). Further, the PoR engagement undertaken by Mazars (South Africa), a registered firm, on behalf of Binance, was not an audit (or related engagement) for purposes of the Act. No Mazars assurance engagement for Binance has been reported to the PCAOB or is a candidate for inspection.

As a result, the audits of the entities operating the FTX cryptocurrency exchange and the associated crypto hedge fund, and the PoR engagement undertaken for Binance, were not required to comply with PCAOB standards, and the PCAOB is unable to assess whether the activities of Armanino and Prager Metis on behalf of FTX, and of Mazars on behalf of Binance, were consistent with any (non-PCAOB) requirements or standards that may have been applicable thereto.

Question 6.a

Please explain how the PCAOB assesses compliance with Rule 3100 and describe any instances of actions taken against firms found to be out of compliance.

The Board generally assesses compliance with PCAOB Rule 3100 through the PCAOB's enforcement and inspections programs.

- In the enforcement context, PCAOB Rule 3100 is typically referenced in the violations section of disciplinary orders for the purposes of introducing the notion that respondent audit firms and their associated persons are obligated to comply with PCAOB auditing and related professional practice standards generally. This is typically followed by a more detailed description of the conduct at issue and how it supports violations of specific provisions of enumerated auditing and related professional practice standards. For example, in 2022: (i) 25 of 41 PCAOB settled orders refer to Rule 3100 and the obligations thereunder; and (ii) the single adjudicated PCAOB disciplinary order refers to the respondent's violation of PCAOB Rule 3100. In these 26 orders, the Board imposed significant sanctions on 15 firms and 25 individuals, including: revocations and suspensions of firm registrations; bars, suspensions and limitations on the activities of individual auditors; undertakings and millions of dollars of civil money penalties. Each of these

¹³ See *supra* note 5.

orders referencing PCAOB Rule 3100 is listed in the table below (in order of recency) and is also available on the PCAOB website.

Martin Lundie, CPA (12/22/22)	Hay & Watson and Essop Mia, CPA (9/13/22)
Alvarez & Associates, Inc., Certified Public Accountants, and Vicente Alvarez, CPA (12/21/22)	KPMG Inc., Cornelis Van Niekerk, and Coenraad Basson (8/29/22)
Scott J. Reams, CPA, Brandon R. Keyes, CPA, and James C. Budge, CPA (12/20/22)	Jin Tae Kim (8/16/22)
Edgar Mauricio Ramirez Rueda (12/6/22)	KPMG Samjong Accounting Corp. (8/16/22)
Jose Daniel Melendez Gimenez (12/6/22)	Se Woon Jung (8/16/22)
KPMG Assurance and Consulting Services LLP and Sagar Pravin Lakhani (12/6/22)	Kevin F. Pickard, CPA (6/22/22)
KPMG LLP (12/6/22)	Robert C. Duncan, Accountancy Corporation and Robert C. Duncan, CPA (6/22/22)
KPMG S.A.S. (12/6/22)	Bo-Shiang Lien, CPA (5/24/22)
Marco Alexander Rodriguez Ramirez (12/6/22)	Citrin Cooperman & Company, LLP; Joseph Puglisi, CPA; Mark Schniebolck, CPA; and John Cavallone, CPA (5/11/22)
Hui Yi Chew (Adjudicated Disciplinary Order) (11/15/22)	JLKZ CPA LLP and Jimmy P. Lee, CPA (4/19/22)
Hall & Company Certified Public Accountants & Consultants, Inc. and Anthony J. Price, CPA (11/3/22)	WWC, P.C. (4/19/22)
Jonathan B. Taylor, CPA (10/18/22)	BMKR LLP and Joseph Mortimer, CPA (2/24/22)
Spielman Koenigsberg & Parker, LLP (10/18/22)	PKF O'Connor Davies, LLP (1/25/22)

- In the inspection context, the Board assesses whether a registered firm has complied with PCAOB Rule 3100 by assessing whether it has complied with the applicable auditing and related professional practice standards. The Board issues reports describing instances where firms have failed to follow those specific standards. Accordingly, the most recent inspections of the registered public accounting firms identified in Question 6 cited firms for specific violations of the PCAOB's standards, rather than for lack of compliance with PCAOB Rule 3100.

The PCAOB encourages investors to review registered audit firms' disciplinary histories when considering relying on services or reports provided by such firms. That is the case even if such disciplinary histories address different types of engagements than those on which such investors are considering relying. Each PCAOB disciplinary order can be reviewed on the PCAOB website in the Enforcement section of the Oversight tab. The orders on this page can also be searched for specific registered audit firms or individuals using the available search features.

Question 7

PCAOB Rule 3200 states that “in connection with the preparation or issuance of any audit report, a registered public accounting firm and its associated persons shall comply with all applicable auditing standards adopted by the Board.” Were the activities of Armanino and Prager Metis on behalf of FTX, and of Mazars on behalf of Binance, consistent with this standard?

Consistent with the scope of the PCAOB’s authority, PCAOB Rule 3200 only applies in the context of registered audit firms’ issuer, broker, and dealer audits and related engagements. For PCAOB Rule 3200 to reach the activities the registered audit firms referred to above conducted on behalf of FTX and Binance (and similar entities in the crypto space that are not issuers, brokers, or dealers), legislative change would be needed.

Section 101(a) of the Act establishes the PCAOB’s mandate and states that the Board is established “to oversee the audit of *companies that are subject to the securities laws*” (emphasis added). Given this statutory mandate, the PCAOB only has jurisdiction over the audits (and related engagements) of “issuers,” “brokers,” and “dealers” (as those terms are defined in the Act). The Board’s standard-setting authority under Section 103(a)(1) of the Act extends to standards to be used by registered public accounting firms in the preparation and issuance of “audit reports” which the Act defines with specific reference to issuers, brokers, and dealers. Section 110 of the Act defines “audit report,” with specific reference to an audit performed for an issuer, broker, or dealer.¹⁴

PCAOB Rule 3200, adopted by the Board in 2003 and approved by the SEC,¹⁵ is limited by the statutory authority provided to the PCAOB in the Act.

PCAOB Rule 3200 states, “in connection with the preparation or issuance of any audit report, a registered public accounting firm and its associated persons shall comply with all applicable auditing standards adopted by the Board.” PCAOB Rule 1001(a)(vi) further defines the term “audit report” as “a document, report, notice, or other record – (1) prepared following an audit performed for purposes of compliance by an issuer, broker, or dealer with the requirements of the securities laws; and (2) in which a public accounting firm either – (i) sets forth the opinion of that firm regarding a financial statement, report, notice, or other document, procedures, or controls; or (ii) asserts that no such opinion can be expressed.”

¹⁴ Section 110 of the Act defines the term “audit report” as “a document, report, notice, or other record— (A) prepared following an audit performed for purposes of compliance by an issuer, broker, or dealer with the requirements of the securities laws; and (B) in which a public accounting firm either— (i) sets forth the opinion of that firm regarding a financial statement, report, notice, or other document, procedures, or controls; or (ii) asserts that no such opinion can be expressed. The term “audit” is further defined with reference to the “rules of the Board.” Section 110 defines the term “audit” as “an examination of the financial statements, reports, documents, procedures, controls, or notices of any issuer, broker, or dealer by an independent public accounting firm in accordance with the rules of the Board or the Commission, for the purpose of expressing an opinion on the financial statements or providing an audit report.”

¹⁵ SEC Release No. 33-8222 (Apr. 25, 2003) (PCAOB Rule 3200 was initially adopted as initial or transitional standard pursuant to Section 103(a)(3)(B) of the Act).

To the best of our knowledge:

- None of the entities actually operating the FTX cryptocurrency exchange and the associated crypto hedge fund has ever qualified as an “issuer,” “broker,” or “dealer” (as those terms are defined in the Act).¹⁶ The PCAOB, therefore, has not, and could not have, inspected any of their historical audit engagements. Although FTX.US engaged Armanino LLP, a registered audit firm (Armanino), and FTX Trading LLC engaged Prager Metis CPAs LLC, also a registered audit firm (Prager Metis), to provide audit services, these engagements were neither reported to the PCAOB prior to FTX’s collapse, nor candidates for inspection.
- Binance has never qualified as an “issuer,” broker,” or “dealer” (as those terms are defined in the Act). Further, the PoR engagement undertaken by Mazars (South Africa), a registered firm, on behalf of Binance, was not an audit (or related engagement) for purposes of the Act. No Mazars assurance engagement for Binance has been reported to the PCAOB or is a candidate for inspection.

As a result, the audits of the entities operating the FTX cryptocurrency exchange and the associated crypto hedge fund, and the PoR on behalf of Binance, were not required to comply with PCAOB standards, and the PCAOB is unable to assess whether the activities of Armanino and Prager Metis on behalf of FTX, and of Mazars on behalf of Binance, were consistent with any (non-PCAOB) requirements or standards that may have been applicable thereto.

Had the PCAOB inspected or investigated FTX’s or Binance’s engagements (which it did not), pursuant to Section 105(b)(5)(A) of the Act, the Board would have been statutorily obligated to maintain the confidentiality of, and refrain from disclosing, documents and information received by or specifically for the Board, and deliberations of the Board and its employees and agents, in connection with such an inspection or investigation, unless and until presented in a public inspection report or in connection with a public proceeding or released in a disciplinary proceeding under the Act.

¹⁶ See *supra* note 5.

Question 7.a

Please explain how the PCAOB assesses compliance with Rule 3200 and describe any instances of actions taken against firms found to be out of compliance.

The Board generally assesses compliance with PCAOB Rule 3200 through the PCAOB’s enforcement and inspections programs.

- In the enforcement context, PCAOB Rule 3200 is typically referenced in the violations section of disciplinary orders for the purposes of introducing the notion that respondent audit firms and their associated persons are obligated to comply with PCAOB auditing and related professional practice standards generally. This is typically followed by a more detailed description of the conduct at issue and how it supports violations of specific provisions of enumerated auditing and related professional practice standards. For example, in 2022: (i) 20 of 41 PCAOB settled orders refer to Rule 3200 and the obligations thereto; and (ii) the single adjudicated PCAOB disciplinary order refers to the respondent’s violation of PCAOB Rule 3200. These 21 orders imposed significant sanctions on registered firms and individual auditors, including: revocations and suspensions of firm registrations; bars, suspensions and limitations on the activities of individual auditors; undertakings and significant civil money penalties of over \$2 million. Each of these orders referencing PCAOB Rule 3200 is listed in the table below (in order of recency) and is also available on the PCAOB website.

Martin Lundie, CPA (12/22/22)	KPMG Samjong Accounting Corp. (8/16/22)
Alvarez & Associates, Inc., Certified Public Accountants, and Vicente Alvarez, CPA (12/21/22)	Se Woon Jung (8/16/22)
Scott J. Reams, CPA, Brandon R. Keyes, CPA, and James C. Budge, CPA (12/20/22)	Kevin F. Pickard, CPA (6/22/22)
KPMG Assurance and Consulting Services LLP and Sagar Pravin Lakhani (12/6/22)	Robert C. Duncan, Accountancy Corporation and Robert C. Duncan, CPA (6/22/22)
KPMG LLP (12/6/22)	Bo-Shiang Lien, CPA (5/24/22)
Hui Yi Chew (Adjudicated Disciplinary Order) (11/15/22)	Citrin Cooperman & Company, LLP; Joseph Puglisi, CPA; Mark Schniebolk, CPA; and John Cavallone, CPA (5/11/22)
Jonathan B. Taylor, CPA (10/18/22)	JLKZ CPA LLP and Jimmy P. Lee, CPA (4/19/22)
Spielman Koenigsberg & Parker, LLP (10/18/22)	WWC, P.C. (4/19/22)
Hay & Watson and Essop Mia, CPA (9/13/22)	BMKR LLP and Joseph Mortimer, CPA (2/24/22)
KPMG Inc., Cornelis Van Niekerk, and Coenraad Basson (8/29/22)	PKF O’Connor Davies, LLP (1/25/22)
Jin Tae Kim (8/16/22)	

- In the inspection context, the Board assesses whether a registered firm has complied with PCAOB Rule 3200 by assessing whether the firm has complied with PCAOB auditing standards.

The PCAOB issues reports describing instances where firms have failed to follow those specific standards. Accordingly, the most recent inspections of the registered public accounting firms cited firms for violations of the PCAOB's specific standards, rather than for lack of compliance with PCAOB Rule 3200.

The PCAOB encourages investors to review registered audit firms' disciplinary histories when considering relying on services or reports provided by such firms. That is the case even if such disciplinary histories address different types of engagements than those on which such investors are considering relying. Each PCAOB disciplinary order can be reviewed on the PCAOB website in the Enforcement section of the Oversight tab. The orders on this page can also be searched for specific registered audit firms or individuals using the available search features.

Question 8

In May 2022, the PCAOB released a public version of a 2020 inspection report for Prager Metis in which it found deficiencies in all four audits the agency reviewed, including a failure to "evaluate revenue projections developed by the issuer" and a failure to "identify, and appropriately address, the issuer's omission of certain disclosures." Since its inspection, what steps has the PCAOB taken to ensure that Prager Metis has corrected these deficiencies?

Making inspection findings public so that investors have access to that information when making decisions is a critical step toward encouraging firms to correct deficiencies.

The PCAOB faces restrictions under the Act from disclosing certain follow up activity related to inspections. However, as a general matter, the PCAOB often takes additional steps to protect investors above and beyond making inspection report findings public. For example:

- The PCAOB may, where appropriate, refer inspection findings for investigation and enforcement action. If this were to occur, the PCAOB would be prohibited by law from making any such disciplinary proceedings public until they are completed.
- Additionally, the PCAOB may choose to accelerate the inspection cycle for a given firm, inspecting that firm sooner than required by statute. If this were to occur, that information would not become public until the resulting inspection report was published.
- Finally, the PCAOB is prohibited by law from making any quality control related findings public in its initial inspection reports of any firm. Instead, the firm has at least one year to remediate any quality control concerns. By law the PCAOB only makes quality control findings public if they are not remediated to the Board's satisfaction after that time.

Legislative change would be needed for the PCAOB to have greater latitude in disclosing such information for the benefit of investors.

Question 8.a

The May 2022 inspection report notes that “Portions of the complete report are omitted from this document in order to comply with Sections 104(g)(2) and 105(b)(5)(A) of the Sarbanes-Oxley Act of 2002” and that per Section 104(g)(2) of Sarbanes-Oxley, “If a firm does not address to the Board’s satisfaction any criticism of, or potential defect in, the firm’s system of quality control within 12 months after the issuance of our report, we will make public any such deficiency.” Does the PCAOB intend to publicly release the remaining portions of Prager Metis’s inspection report in May 2023?

To the extent that the PCAOB identified any quality control criticism during our 2020 inspections of Prager Metis – the initial reports relating to both Prager Metis registered firms (New York-based and California-based) were issued on May 13, 2022 – and the associated 12-month remediation period is not complete. Therefore, the PCAOB remains statutorily restricted from further disclosures about any such criticisms that may have been identified.

However, pursuant to the Act, the PCAOB will, after the inspection staff evaluates the firm’s remedial efforts and makes a recommendation to the Board, make public any criticism of the firm’s system of quality control (or portion thereof) that inspections staff identified during the associated inspection – should there have been any – that the Board determines was not addressed to its satisfaction during the period following the initial issuance of the report (absent an appeal to, and determination adverse to the Board, by the SEC).

Please find additional information on how the PCAOB releases information relating to quality control findings as dictated by the Act below.

- Section 104(g)(2) of the Act states that “no portions of the inspection report that deal with criticisms of or potential defects in the quality control systems of the firm under inspection shall be made public if those criticisms or defects are addressed by the firm, to the satisfaction of the Board, not later than 12 months after the date of the inspection report.” Part II of PCAOB inspection reports includes criticisms of, and potential defects in, the firm’s system of quality control, to the extent any are identified.
- In accordance with the Act, when PCAOB inspection reports are first issued publicly, Part II deficiencies are excluded. Only if a firm fails to address to the Board’s satisfaction any criticism of, and potential defect in (or, in each case, a portion thereof), the firm’s system of quality control within 12 months after the initial issuance of the inspection report – and, to the extent the inspection firm seeks review of the Board’s determination, the SEC does not overturn such determination – is that criticism (or portion thereof) made public. [PCAOB Rule 4009](#) governs the procedures for firms to address quality control criticisms and potential defects as well as the process through which the Board makes nonpublic portions of the inspection report publicly available. A [list](#) of firms that fail to address quality control criticisms satisfactorily is maintained on the PCAOB website and is publicly accessible.

Question 9

In June 2019, the PCAOB released a public version of a 2018 inspection report for Armanino in which it found multiple deficiencies, including one “of such significance that it appeared to the inspection team that [Armanino], at the time it issued its audit report, had not obtained sufficient appropriate audit evidence to support its opinion that the financial statements were presented fairly, in all material respects, in conformity with the applicable financial reporting framework. In other words, in this audit, the auditor issued an opinion without satisfying its fundamental obligation to obtain reasonable assurance about whether the financial statements were free of material misstatement.” Since its inspection, what steps has the PCAOB taken to ensure that Armanino has corrected these deficiencies?

Making inspection findings public so that investors have access to that information when making decisions is a critical step toward encouraging firms to correct deficiencies.

As mentioned in response to Question 8 above, the PCAOB faces restrictions under the Act from disclosing certain follow-up activity related to inspections.

However, as a general matter, the PCAOB often takes additional steps to protect investors above and beyond making inspection report findings public.

For example:

- The PCAOB may, where appropriate, refer inspection findings for investigation and enforcement action. If this were to occur, the PCAOB would be prohibited by law from making any such disciplinary proceedings public until they are completed.
- Additionally, the PCAOB may choose to accelerate the inspection cycle for a given firm, inspecting that firm sooner than required by statute. If this were to occur, that information would not become public until the resulting inspection report was published.
- Finally, the PCAOB is prohibited by law from making any quality control related findings public in its initial inspection reports of any firm. Instead, the firm has at least one year to remediate any quality control concerns. By law the PCAOB only makes quality control findings public if they are not remediated to the Board’s satisfaction after that time.

Legislative change would be needed for the PCAOB to have greater latitude in disclosing such information for the benefit of investors.

Question 9.a.

Has the PCAOB publicly released the remaining portions of the 2018 inspection report? If not, why?

Yes. Following the PCAOB’s standard procedures, on October 5, 2021, the PCAOB issued [a revised version](#) of the June 20, 2019, Armanino inspection report. The revised version disclosed publicly one criticism of, or potential defect in, the firm’s system of quality control that was not addressed to the Board’s satisfaction during the 12-month statutory remediation period.

Additional information on how the PCAOB releases information relating to quality control findings as dictated by the Act below (the same information is provided in our response to Question 8.a. above).

- Section 104(g)(2) of the Act states that “no portions of the inspection report that deal with criticisms of or potential defects in the quality control systems of the firm under inspection shall be made public if those criticisms or defects are addressed by the firm, to the satisfaction of the Board, not later than 12 months after the date of the inspection report.” Part II of PCAOB inspection reports includes criticisms of, and potential defects in, the firm’s system of quality control, to the extent any are identified.
- In accordance with the Act, when PCAOB inspection reports are first issued publicly, Part II deficiencies are excluded. Only if a firm fails to address to the Board’s satisfaction any criticism of, and potential defect in (or, in each case, a portion thereof), the firm’s system of quality control within 12 months after the initial issuance of the inspection report – and, to the extent the inspection firm seeks review of the Board’s determination, the SEC does not overturn such determination – is that criticism (or portion thereof) made public. [PCAOB Rule 4009](#) governs the procedures for firms to address quality control criticisms and potential defects as well as the process through which the Board makes nonpublic portions of the inspection report publicly available. A [list](#) of firms that fail to address quality control criticisms satisfactorily is maintained on the PCAOB website and is publicly accessible.

Question 10

Will you commit to using your inspection authority to evaluate and publicly report on auditors that provided services for any crypto company acting as a broker-dealer, even if the firm was not registered as such with the SEC?

The PCAOB is committed to using its authority to inspect – and report publicly on inspections of – registered public accounting firms in accordance with the Act and PCAOB rules, and our inspections team has prioritized inspections of audit engagements involving cryptocurrencies. To the extent a registered public accounting firm issued (or, in some cases, played a substantial role in the preparation or issuance of) an audit report for an entity over whose audit the PCAOB has jurisdiction (i.e., an “issuer,” “broker,” or “dealer,” as those terms are defined in the Act), the auditor is subject to PCAOB inspection and the particular audit engagement is subject to review during such an inspection. A key function of those reports is to inform investors about the quality of work performed by auditors where PCAOB has authority to inspect, which can help inform investors decision making more broadly.

With respect to brokers and dealers, the Board relies on their primary regulators to identify for the PCAOB the universe of entities that meets the relevant statutory definition of “broker” or “dealer” (such that their auditors and audit engagements are subject to PCAOB oversight).¹⁷ To the extent that a crypto-affiliated company is identified to the PCAOB as meeting either or both of those definitions, its audit will be eligible for inspection (and, where appropriate, investigation). The PCAOB intends to use such authority vigorously.

The PCAOB cannot reasonably identify entities that meet the Act’s definitions of “broker” and “dealer” on its own for the following reasons:

- The Act’s definitions of the terms “broker” and “dealer” are expressly keyed off the definitions of those terms in the Exchange Act, a statute which the PCAOB does not administer.
 - The PCAOB, as both a legal and practical matter, defers to the authority of the SEC, the primary regulator of brokers and dealers and the agency tasked by Congress with administering the Exchange Act, to identify which entities do and do not qualify as brokers and dealers under that statute.
- The Act’s definitions of “broker” and “dealer” contain two additional limitations relative to the Exchange Act’s definitions of those terms, thereby focusing the PCAOB’s authority over audits (and related matters) of brokers and dealers on a subset of SEC-determined brokers and dealers.
 - PCAOB authority extends only to the subset of Exchange Act-defined brokers and dealers: (i) that the SEC determines must file a balance sheet, income statement, or other financial statement under Section 17(e)(1)(A) of the Exchange Act (which, by its terms, in conjunction with Section 3(a)(48) of the Exchange Act, applies only to those brokers and dealers registered or required to be registered with the SEC); and (ii) whose financial statement the SEC determines must be certified by a PCAOB-registered audit firm.
- The PCAOB must therefore rely on the SEC to define the universe of brokers and dealers that: (i) meet the Exchange Act definitions of those terms (which the SEC administers); (ii) are within the subset that, under Section 17(e)(1)(A) of the Exchange Act, the SEC determines must file a financial statement; and (iii) are within the further subset that the SEC determines must have such financial statement certified by a PCAOB-registered auditor (which the SEC has done in Exchange Act Rule 17a-5), just as the PCAOB relies on the SEC’s authorization to receive (from the designated examining authorities to which SEC-registered brokers and dealers submit nonpublic filings) essential information about brokers and dealers the PCAOB uses in connection with reviewing of broker and dealer audit engagements for compliance with applicable PCAOB rules and standards.

¹⁷ The PCAOB cannot reasonably identify such entities on our own. The Act’s definitions of “broker” and “dealer” are expressly keyed off the Securities Exchange Act of 1934’s definitions of those terms. The SEC maintains authority to identify who qualifies or does not for these purposes. The PCAOB must leave that to the SEC as the primary regulator of brokers and dealers.

In terms of reporting, under the PCAOB’s inspection program related to audits of brokers and dealers, no less frequently than every twelve months, the PCAOB publishes a report that describes the progress of the program, including data about the number of registered public accounting firms and the number of broker-dealer audits that have been subjected to inspection procedures and any significant observations from those procedures.

For the foregoing reasons, absent legislative change, the PCAOB cannot – as a legal or practical matter – use its inspection authority to evaluate and publicly report on audits of non-issuer crypto-affiliated companies acting as unregistered brokers or dealers.

Question 11

While the Big Four accounting firms have largely avoided providing auditing services to the risk-laden crypto industry, their subsidiaries “have at least a dozen [crypto-affiliated] audits clients listed on public stock exchanges globally including Coinbase Global Inc., WisdomTree Inc., Northern Data AG, and Bitfarms LTD/Canada—companies that meet strict audit, disclosure, and other regulatory requirements that come with a public listing.” Please describe the standards established by the PCAOB for these audits and the PCAOB’s assessments of the audits for these crypto-affiliated clients.

To the extent that a crypto-affiliated entity – whether or not listed on a public stock exchange – qualifies as an “issuer,” “broker,” or “dealer” (as those terms are defined under the Act), regardless of what audit firm (*i.e.*, whether or not a member of a global network) prepares or issues an “audit report” (as that term is defined under the Act) with respect to that client: (i) that audit firm must be PCAOB-registered; and (ii) PCAOB standards and rules generally apply.

PCAOB standards impose a wide range of requirements on audit firms that are designed to protect the interests of investors and further the public interest by promoting informative, accurate, and independent audit reports. Our standards, among other things, set forth general and specific responsibilities and functions of the auditor, mandate independence between the auditor and its client, call for sufficient training and proficiency among audit personnel, and require due professional care in the performance of work. Our rules and standards impose supervision obligations in connection with the audit engagement, describe the obligations of engagement partners to review the work of engagement team members, provide guidelines regarding the use of specialists, and establish principles regarding audit evidence and documentation. They also govern auditor communications with audit committees, audit planning and consideration of materiality, identification, and assessment of risks of material misstatement, and audit procedures. Our standards also dictate conditions for evaluating audit results, auditor reporting, ethics compliance, and audit firm quality control systems. We also have standards and rules specifically geared toward internal control over financial reporting, attestation and agreed-upon-procedures engagements, registration with and reporting to the PCAOB, inspections, investigations and adjudications, and international matters.

In terms of overseeing compliance with our rules and standards, as indicated above, the PCAOB inspects registered audit firms to assess compliance with the Act, Board rules, SEC rules, and professional standards, in connection with the firm’s performance of audits, issuance of audit reports, and related

matters involving issuers, brokers, and dealers. And the PCAOB has prioritized inspections of audit engagements involving digital assets.

PCAOB inspections are designed to review portions of a firm’s audits and evaluate elements of a firm’s quality control system. The process aims to drive improvement in the quality of audit services through a focus on effective prevention, detection, and deterrence of audit and quality control deficiencies—and oversight of firms’ remediation of identified deficiencies. PCAOB inspection teams may refer matters, where appropriate, to the PCAOB’s Division of Enforcement and Investigations, and/or—consistent with requirements of the Act and PCAOB Rule 4004 – to the SEC or other appropriate regulatory or law enforcement authorities (federal, state, or non-U.S.).

The PCAOB also enforces professional standards and other related laws and rules governing the audits of issuers, brokers, and dealers. PCAOB staff investigates potential violations by registered firms and individuals of these standards, laws, and rules. To conduct investigations, PCAOB staff uses a wide variety of tools, including: (i) written requests and demands for documents and information; (ii) sworn testimony of individuals and firm representatives; and (iii) public filings, referrals, and whistleblower tips. The Board prioritizes enforcement efforts that address those issues that pose the greatest risk to investors and are most likely to deter improper conduct. PCAOB staff focuses its work on significant audit violations, failures relating to auditor independence, and matters threatening the Board’s oversight integrity (e.g., noncooperation with PCAOB inspections and investigations). When violations are found, the PCAOB may impose sanctions, including censures, monetary penalties, and limitations on a firm’s or an individual’s ability to audit issuers, brokers, or dealers.

The PCAOB has investigated audits of issuers who held digital assets or were involved in crypto-related activities. As required by the Act, PCAOB investigations and disciplinary proceedings are confidential and nonpublic. However, the PCAOB posts publicly, in accordance with its authority under the Act, available opinions, orders, and other final Board actions imposing sanctions in litigated disciplinary proceedings, as well as related SEC and court actions on review of those sanctions.

Question 12

Banks, publicly traded companies, and registered investment funds maintain large investments in crypto firms, including FTX, and in some cases may hold digital assets on their balance sheets. Given that audits of these companies would unquestionably fall within the jurisdiction of the PCAOB, please describe the standards by which auditors must abide when evaluating the risk of exposure to crypto firms or validating the valuation of crypto investments.

To the extent an entity of one of the specified types qualifies as an “issuer,” “broker,” or “dealer” (as those terms are defined in the Act), PCAOB standards and rules generally apply to an audit (or related engagement) thereof. Please see the response to Question 11 for a general description of PCAOB standards.

Where cryptoasset holdings are recorded and disclosed as material to an issuer’s, broker’s, or dealer’s financial statements, or transactions involving cryptoassets are material to the financial statements, PCAOB standards call for auditors to, among other things, allocate sufficient attention to the

identification and assessment of the risks of material misstatement to the financial statements related to cryptoassets, as well as the planning and performing of an appropriate audit response. PCAOB staff has publicly emphasized certain auditor responsibilities under PCAOB standards at the firm level, relating to the firm's system of quality control, and at the audit engagement level, relating to audit planning and risk assessment in connection with cryptoassets.¹⁸ More specifically:

- Under PCAOB quality control standards, a firm should establish policies and procedures for deciding whether to accept or continue a client relationship and whether to perform a specific engagement for that client. This involves establishing policies and procedures which provide reasonable assurance that:
 - The firm undertakes only those engagements that the firm can reasonably expect to be completed with professional competence. For example: (i) the performance of audits involving cryptoassets may require certain specialized skill and knowledge, as discussed in more detail below; and (ii) the performance of engagement quality reviews would require appropriate level of knowledge and competence relating to cryptoassets.
 - The firm appropriately considers the risks associated with providing professional services in the particular circumstances. For example, because holdings of cryptoassets generally are designed to be pseudonymous (i.e., concealing an account holder's real identity behind an alphanumeric code), it may be more difficult for an auditor to recognize when a cryptoassets-related transaction involves fraud or another illegal act, or related parties.
- PCAOB standards on audit planning address, among other things, the engagement team's need for specialized skill or knowledge. In particular, the auditor should determine whether specialized skill or knowledge is needed. For example:
 - The engagement team may need specialized skill or knowledge in the areas of cryptography, distributed ledger technology, valuation, and laws and regulations (including with respect to know-your-customer (KYC) and anti-money laundering (AML) provisions).
 - Differing business models and technologies underlying transactions in cryptoassets (e.g., generating new coins vs. trading existing ones) may require different skills, knowledge, and resources (including specialized audit software) to identify, assess, and respond to risks of material misstatement.
 - The engagement team may need specialized skill or knowledge in applying existing legal and regulatory frameworks to cryptoassets.

¹⁸ For the requirements discussed in this section, see generally QC 20, *System of Quality Control for a CPA Firm's Accounting and Auditing Practice*, AS 1220, *Engagement Quality Review*, AS 2101, *Audit Planning*, AS 2110, *Identifying and Assessing Risks of Material Misstatement*, and AS 2301, *The Auditor's Responses to the Risks of Material Misstatement*.

- PCAOB standards on risk assessment address, among other things, identifying and assessing the risks of material misstatement, including obtaining an understanding of the issuer and its environment, and considering the risk of management override of controls. The auditor should identify and assess the risks of material misstatement to the financial statements, which includes evaluating the types of potential misstatements, assessing the likelihood and magnitude of misstatements, and determining the likely sources of potential misstatements. The auditor should then design and perform audit procedures in a manner that addresses the assessed risks of material misstatement for each relevant assertion of each significant account and disclosure as applicable (i.e., performing audit procedures that address risks of material misstatement relating to existence or occurrence, completeness, valuation or allocation, rights and obligations, and presentation and disclosure).
 - The auditor should obtain an understanding of the issuer and its environment, which could include obtaining and analyzing relevant information about the nature of the issuer’s transactions involving cryptoassets. Such information is key to effective risk identification and assessment and is the basis for planning and performing an appropriate audit response. For example: (i) the types of potential misstatements associated with balances of cryptoassets could depend on whether the cryptoassets are stored in the issuer’s own digital wallet or by a third party; (ii) the likelihood and magnitude of potential misstatements associated with transactions involving cryptoassets could depend on the number of cryptoasset types, the number of customers, the volume of transactions, and the nature of recordkeeping (e.g., whether customer transactions are recorded outside the blockchain); and (iii) determining the likely sources of potential misstatements related to the validating fee could involve considering the structure of the issuer’s validating operations, including any involvement of third parties in the provision and pooling of equipment.
 - The auditor should obtain an understanding of the issuer’s objectives, strategies, and related business risks that might reasonably be expected to result in risks of material misstatement. For example: (i) the pseudonymous nature of transactions involving cryptoassets may obscure the true identity of the issuer’s counterparties, exposing the issuer to the risk of non-compliance with KYC and AML provisions, or the risk of not identifying involvement of related parties; and (ii) the issuer may not have the personnel or expertise to deal with cryptoassets, increasing the risk of error in processing and reporting transactions that involve cryptoassets.
 - The auditor also should obtain a sufficient understanding of the issuer’s internal control over financial reporting, including its information system(s) relevant to financial reporting, to identify the types of potential misstatement, assess the factors that affect the risks of material misstatement, and design further audit procedures.¹⁹ Understanding relevant controls related to transactions involving cryptoassets may

¹⁹ In an integrated audit, the scope of the required understanding of controls may be broader, reflecting the requirement for the auditor to identify and test controls that are important to the auditor’s conclusion about whether the issuer’s controls sufficiently address the assessed risk of misstatement to each relevant assertion.

include, for example: (i) understanding controls over the generation and management of private keys (i.e., access passcodes), which are important to addressing risks relating to the existence of balances of cryptoassets; (ii) when important internal controls reside at a third party, determining whether a service auditor’s report addresses those controls, or whether the controls would need to be tested directly by the issuer’s auditor to obtain evidence of their effectiveness; (iii) understanding controls over the reliability of blockchain information to be used as audit evidence (e.g., controls that address alterations to the information stored on blockchain); and (iv) understanding controls over cryptoasset-related transactions that are recorded outside the blockchain (e.g., information about customer transactions in a trading platform’s system) and therefore not covered by the same controls as transactions recorded on the blockchain.

- In identifying fraud risks, the discussion among the key engagement team members about the potential for material misstatement due to fraud may include, for example: (i) the risk of management override of controls over the private keys, which may result in misuse or misappropriation of holdings of cryptoassets by those who control the keys; (ii) the susceptibility of the financial statements to material misstatement through transactions with related parties. The related parties’ identities may be difficult to ascertain because of the pseudonymous nature of transactions involving cryptoassets.