

# SEC Concept Release on Audit Committees Predicted to be Issued in March

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It is difficult to make any predictions at this point about when the SEC may take any rulemaking-related actions, but the [WSJ reports](#) that the Commission intends to issue a concept release related to audit committees by the end of March. A concept release is not rulemaking, and is instead an effort by the SEC to solicit the public's views.

Last October, Chair White stated that the SEC staff is working on a concept release that will address many of the [same issues](#) noted by the Investor Advisory Group (IAG) of the Public Company Accounting Oversight Board (PCAOB), with respect to the relationship between the audit committee and independent auditors. A subcommittee of the IAG presented four observations on the current role of the audit committee:

- An actual or perceived lack of transparency exists for audit committee activities, despite fiduciary and statutory duties imposed on the audit committee.
- The work of the audit committee does not appear in the financial statements, only in the annual proxy statement.
- Audit committees members may have less training or experience than the auditors who the audit committee oversees.
- A disparity exists between the amount of time the audit committee spends on activities other than overseeing the auditors and the emphasis the audit committee report places on auditor oversight.

The ideas presented by the IAG subcommittee to address these issues include:

- The audit committee could increase its transparency by reporting on the processes it oversees within the same documents containing the outcomes of those processes, namely annual and quarterly reports filed on Form 10-K and 10-Q, respectively.
- The requirements of the audit committee report could be increased to better match the specific interests of investors and regulators.
- As a check on the audit committee, the external auditors could be required to assess and report on the design (the audit committee charter) and effectiveness (the qualifications and activities) of the audit committee as a critical part of assessing an issuer's internal control over financial reporting and the tone at the top.

The PCAOB has no power to regulate audit committees, but can expand the auditor's role to include assessments of audit committee effectiveness. Any such effort is likely to be controversial. The IAG subcommittee debated whether an evaluation of the audit committee should be reported privately to the board or publicly to shareholders.

If you have any questions regarding the matters covered in this publication, please reach out to any of the lawyers listed below or your usual Davis Polk contact.

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