

Communication with respect to the ongoing negotiation of a cooperative agreement with the PCAOB

“ The Belgian Audit Oversight College (BAOC) has been negotiating throughout the year 2020 a cooperative agreement with the US Public Company Accounting Oversight Board (PCAOB) relating to the oversight of auditors.

This cooperative agreement is intended to allow for the exchange of information between the two parties and to enable the PCAOB to commence joint inspections with the BAOC in Belgium.

This is particularly important in light of recent legislative developments in the United States, and in particular the passing of the Holding Foreign Companies Accountable Act (HFCAA). This Act requires the suspension of trading of foreign companies' securities listed on US exchanges or US regulated markets if the PCAOB has not been able to complete inspections or investigations in those companies' home jurisdiction for a period of three years or more. Although this Act is aimed at Chinese companies, it could potentially engender unfortunate repercussions for Belgian companies, albeit after three years.

However, the BAOC and PCAOB are on the brink of concluding a cooperative agreement. This also entails the conclusion of a data protection agreement (DPA). A standard document for such a DPA, which can serve as a model for all EU member states, is currently under scrutiny by the European Data Protection Board (EDPB), which will likely make its decision in the first quarter of the year 2021. If the DPA is approved, the BAOC will pursue the national procedure and seek the Belgian Data Protection Authority's approval of the DPA to be concluded with the PCAOB. Such approval is a prerequisite for signing the cooperative agreement with the PCAOB, which is expected in the first half of 2021.”
