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I was recently asked whether public companies are required, as a technical matter, to have principal accounting officers (PAOs). While PAOs are not strictly required, companies without PAOs should be aware of the result—that the controller will fill that role by default and be considered a Section 16 officer.

Certain SEC filings like Form S-3 and Form 10-K require the signature of the company's PAO or controller. The PAO is a designation that is often held by a company's controller or chief financial officer (CFO). Sometimes the PAO designation is held by someone who is not the controller or CFO. But is a PAO technically required?

Rule 16a-1 of the Exchange Act is instructive and defines an officer as the "principal accounting officer (*or, if there is no such accounting officer, the controller*)" (emphasis added). Under Rule 16a-1, if a company does not have a PAO, then the controller is deemed to fill that role and is considered a Section 16 officer. It's possible for the controller to be a Section 16 officer and not otherwise be treated as an "executive officer" under Rule 3b-7 of the Exchange Act if the controller doesn't have a policy-making function.

Nasdaq and NYSE rules also don't explicitly require a PAO and define "executive officer" (strictly for the purposes of their rules regarding compensation clawback policies) to include the "principal accounting officer (or if there is no such accounting officer, the controller)."

All this said, a company's bylaws could require a PAO (so be sure to check), and if a company doesn't have a controller, then a PAO would be required. After all, *someone* has to sign Form S-3 and Form 10-K!

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