

Conflict Minerals Reports Questions & Answers: Independence



.01 Auditing Both Financial Statements and Conflict Minerals Report

Inquiry—Does being the auditor of an Securities and Exchange Commission (SEC) issuer’s financial statements preclude a firm from performing an Independent Private Sector Audit (IPSA) of that client’s Conflict Mineral Report (CMR)? Conversely, does performing the IPSA of the CMR preclude a firm from auditing that client’s financial statements or providing other attestation services?

Reply—No, auditing an SEC issuer’s financial statements and performing the IPSA of the CMR would not be inconsistent with the SEC’s independence requirements under Rule 2-01 of Regulation S-X. The engagement to perform the IPSA of the CMR would nevertheless be considered a “nonaudit service” subject to the pre-approval requirements of Rule 2-01(c)(7) of Regulation S-X. In addition, the fees related to IPSA of the CMR would need to be included in the “All Other Fees” category of the principal accountant fee disclosures.

.02 Relevant Independence Requirements

Inquiry—When considering whether to accept an engagement to perform an IPSA of an issuer’s CMR, what are the relevant independence requirements to consider?

Reply—Because an IPSA is required to be performed in accordance with generally accepted government auditing standards (GAGAS, also referred to as the Yellow Book), the independence requirements of the Government Accountability Office (GAO) apply. The independence requirements of the AICPA relevant to an attestation examination also apply.

.03 GAO Independence Requirements For Performance Audits and Attestation Engagements

Inquiry—Do the GAO’s independence requirements differ if a firm performs the IPSA of the CMR as a performance audit rather than as an attestation engagement?

Reply—No. The independence requirements for the IPSA of the CMR are the same under Yellow Book regardless of whether the IPSA is done as a performance audit or an attestation examination engagement. The objective of the IPSA is the same regardless and the auditor is required to obtain reasonable assurance that evidence is sufficient and appropriate to support the auditors’ findings and conclusions in both a performance audit and an attestation examination engagement. This point, in particular, is important to consider with regard to the provision of nonaudit services. Specifically, notwithstanding the fact that paragraph 3.47 of the Yellow Book permits the provision of otherwise prohibited nonaudit services if such services do not relate to the specific subject matter of the performance audit, such services are still subject to evaluation under the GAO conceptual framework and any services involving management responsibilities would be prohibited.

The GAO has not stated any conclusion on whether the financial interests guidance would be the same for either type of engagement; however, given that other independence requirements are the same there is no reason to

believe financial interests guidance would differ. Financial interest restrictions generally apply to the firm and other “covered members” (as defined in the AICPA Code of Professional Conduct) and any permitted financial relationships would be subject to evaluation under the GAO conceptual framework.

.04 Independence and Mix of Services

Inquiry—What mix of services related to conflict minerals can a firm offer its clients without impairing independence?

Reply—If a firm is not auditing the financial statements, performing the IPSA of the CMR, or providing any other attest service to a client, independence requirements are not triggered. Accordingly, there would be no independence restrictions with respect to providing any conflict mineral-related nonaudit services to that client.

If a firm is auditing the financial statements, performing the IPSA of the CMR, or providing any other attest services to a client, independence is required. Therefore, the firm needs to consider all relevant independence rules in considering the mix of conflict-mineral-related services (IPSA of the CMR and conflict mineral-related nonaudit services) that can be provided to an issuer client.

View a [flowchart](#) that depicts the process of considering what mix of conflict mineral-related services can be provided to an issuer client.

View a [matrix](#) showing illustrative services and whether the mix of services is permissible or prohibited from an independence perspective. Note that this illustrative list is not exhaustive and should be considered in conjunction with applicable standards.

.05 Independence, Financial Statement Audit Client, IPSA, and Other Conflict Mineral-Related Services

Inquiry—For a financial statement audit client for whom a firm may seek to also perform the IPSA of the CMR, what conflict minerals-related nonaudit services can be performed without impairing independence?

Reply—If a firm is performing an audit of the issuer’s financial statements, that firm should already be complying with SEC and PCAOB independence rules. Performing conflict mineral-related services that involve assuming a management responsibility or performing a management function would impair independence not only with regard to the IPSA of the CMR, but also with regard to the audit of the client’s financial statements. Conflict mineral-related services such as assessing, recommending, and commenting are generally permissible subject to the following: an evaluation under the GAGAS conceptual framework of any threats to independence impacting the IPSA of the CMR and, where threats are significant, application of safeguards; evaluation of management’s skills, knowledge, or experience relevant to conflict minerals; establishing the necessary understanding with management; and complying with applicable documentation requirements.

See Column A of the [matrix](#) for illustrative services permissible or prohibited from an independence perspective when the firm is both the financial statements auditor and performing the IPSA of the CMR.

.06 Independence, Nonfinancial Statement Audit Client, IPSA, and Other Services

Inquiry—For a nonfinancial statement audit client for whom a firm may seek to perform the IPSA of the CMR, what other nonattest services can be performed without impairing independence?

Reply—The independence requirements for the IPSA of the CMR are the same under Yellow Book regardless of whether the IPSA is done as a performance audit or an attestation examination engagement. Independence is required during the period covered by the subject matter of the audit and the professional engagement period (a limited exception applies as discussed in paragraph 3.48 of the Yellow Book). Accordingly, if the firm performs other services whose nature involves assuming a management responsibility or performing a management function, the firm’s independence is impaired and the firm cannot audit the CMR for that period, regardless of whether such services are related or unrelated to conflict minerals. Services such as assessing, recommending, and commenting are generally permissible subject to the following: an evaluation under the GAGAS conceptual framework of any threats to independence impacting the IPSA of the CMR and, where threats are significant, application of safeguards; evaluation of management’s skills, knowledge, or experience relevant to the subject matter of the

service; establishing the necessary understanding with management; and complying with applicable documentation requirements.

Performing conflict mineral-related services that involve implementing systems, or preparing and leading systems training, generally would impair independence with regard to performing the IPSA of the CMR because such services relate to the specific subject matter of the audit engagement as well as being considered management responsibilities.

See Column B of the [matrix](#) for illustrative services permissible or prohibited from an independence perspective when the firm is not the financial statements auditor and is performing the IPSA of the CMR.

.07 Independence, Financial Statement Audit Client, Conflict Mineral Services Other Than IPSA

Inquiry—For a financial statement audit client, if a firm does not seek to perform the IPSA of the CMR, are there any independence considerations with regard to providing conflict mineral-related nonaudit services to that client?

Reply—If a firm is performing an audit of the issuer's financial statements, that firm should already be complying with SEC and PCAOB independence rules and must continue to do so with regard to conflict minerals-related nonaudit services. As the firm is not performing the IPSA of the CMR, independence requirements of GAGAS are not applicable.

See Column C of the [matrix](#) for illustrative services permissible or prohibited from an independence perspective when the firm is the financial statements auditor and is not performing the IPSA of the CMR.

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