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May 15, 2015

Ms. Lisa A. Snyder, CPA
Director of the Professional Ethics Division
American Institute of Certified Public Accountants
1211 Avenue of the Americas
New York, NY 10036-8775

Via e-mail: lsnyder@aicpa.org

Re: *Firm Mergers and Acquisitions Interpretation – Proposed Interpretation of the AICPA Professional Ethics Division*

Dear Ms. Snyder:

Moss Adams LLP appreciates the opportunity to share our views on the AICPA Professional Ethics Executive Committee's (PEEC) proposed Firm Mergers and Acquisitions Interpretation (the Proposal).

Moss Adams LLP is one of the 15 largest accounting and consulting firms in the United States. Our staff of more than 2,000 includes approximately 260 partners. Founded in 1913, Moss Adams LLP provides accounting, tax, and consulting services to public and private middle-market enterprises in many different industries.

We appreciate the PEEC's efforts to provide enhanced guidance related to situations where independence with respect to an attest client may become impaired as a result of a firm merger or acquisition. It is our view that guidance in this area will benefit members, firms, and attest clients by providing more specific direction in these circumstances. In furtherance of that objective, we offer the following specific observations and suggestions that we believe merit further consideration by the PEEC.

Prohibited Nonattest Services Provided by Acquiring Firm

The proposed interpretation creates a significant distinction between the threats that exist by providing prohibited nonattest services during the period of the professional engagement or the period covered by the financial statements, depending on which firm is providing such services to the other firm's attest client. It implies an imbalance of influence and authority of the acquiring firm over the acquired firm that may not exist in a given firm merger or acquisition.

Under the Proposal, when such services are provided by the acquired firm to the acquiring firm's attest client, the acquiring firm's independence would not be impaired subject to the provisions and evaluation described in proposed 1.220.040.07 through .10. In contrast, the Proposal states that

when such services are provided by the acquiring firm to the acquired firm's attest client, the threats created would be so significant that they cannot be reduced to an acceptable level and the acquiring firm's independence would be impaired (proposed paragraph 1.220.040.05).

We recognize certain situations may occur where the application of safeguards would not reduce threats to an acceptable level, however we do not agree that threats arising as a result of the acquiring firm providing prohibited nonattest services to the acquired firm's attest client during this period are *always* so significant that they cannot be reduced to an acceptable level by the application of safeguards. In our view, the severity of such threats should not be predicated on which firm provided the prohibited nonattest services but rather based on the facts and circumstances involved. Accordingly, we believe a more appropriate approach to the evaluation of such threats created by the performance of prohibited nonattest services by the acquiring firm would be to include a provision for the application of safeguards, similar to the guidance for instances where the acquired firm performed the prohibited nonattest services.

We recommend the PEEC remove the proposed difference in how to approach threats arising from one firm providing prohibited nonattest services during the period of the professional engagement or the period covered by the financial statements to the other firm's attest clients. This could be accomplished by eliminating proposed paragraph 1.220.040.05 and modifying the provisions in the "Prohibited Nonattest Services Provided by Acquired Firm" section to apply to either the acquiring firm or acquired firm.

Evaluation of Threats on the Basis of Attribution

Paragraph .07b of the Proposal requires that the extent of the prescribed evaluation of threats be determined on the basis of whether the acquiring firm will assume responsibility for the results of the prohibited nonattest services provided by the acquired firm to an attest client of the acquiring firm. Specifically, the time period during which prohibited nonattest services were provided is expanded when the results will be attributable to the acquiring firm. We do not agree that the method of evaluating threats should be influenced by the attribution of the results of the nonattest services to the acquiring firm.

The extent of the attribution of the results of nonattest services provided by the acquired firm to the acquiring firm's attest clients is determined during negotiations of the legal structure of the firm merger or acquisition. The negotiated legal structure of the transaction should not have a bearing on the extent of a firm's evaluation of threats to its independence. While we agree that attribution may be a relevant factor to consider in some circumstances, in our view the significance of threats to independence (and the necessary time period over which such threats should be evaluated) should not be dictated by the legal structure of the transaction.

Furthermore, we believe that public opinion would not place a great deal of importance on the basis of attribution when assessing the appearance of independence. Variations in the extent of the evaluation of threats on the basis of attribution could lead to different conclusions being reached on the same (or similar) threats among acquiring firms that differ only on the basis of attribution. We do not believe this is in the best interest of preserving the appearance of independence for firms among the public.

We recommend the PEEC revise proposed paragraph 1.220.040.07b to require the evaluation of the threats to assess all prohibited nonattest services provided by the acquired firm to the acquiring firm's attest client over the financial statement period to be covered by the acquiring firm's next attest report, irrespective of the basis of attribution.

Communications with Those Charged With Governance

Proposed paragraph 1.220.040.11 requires a responsible individual within the firm to discuss with those charged with governance the prohibited nonattest services performed by the acquired firm that are subject to evaluation in paragraph .07b, and any safeguards applied, and encourages documentation of the substance of the discussion. We agree with the PEEC's proposal to require the discussion. However, we see no reason that documentation of this discussion important enough to hold with those charged with governance would not be required by the interpretation (rather than simply encouraged). As a result, we recommend the PEEC amend proposed paragraph 1.220.040.11 to require the documentation of this discussion with those charged with governance.

Similarly, paragraph .03(e) includes discussion with those charged with governance as a necessary safeguard to prevent impairment of independence in situations involving employment or association with an attest client, and encourages documentation of this discussion. For the reasons stated above, we also recommend the PEEC require this discussion be documented.

Interaction of a Partner or Professional Employee Formerly Employed or Associated with an Attest Client

Paragraph .03d of the Proposal states that threats related to a partner of professional employee's former employment or association with an attest client will not be reduced to an acceptable level if the partner of professional employee "will have interaction with members of the attest engagement team regarding the attest client". While we agree with what we believe is the intended spirit of this provision (that is, to limit the partner or professional employee's ability to influence the attest engagement team), we find the use of the phrase "will have interaction with" to be too imprecise to be practical. Members could infer a wide variety of meanings from this phrase.

In addition, situations often arise when interaction with the partner of professional employee is merited, as long as the partner or professional employee is not in a position to influence the engagement team. For example, the partner or professional employee may have specific knowledge of risks relevant to the attest engagement (for example, management integrity, possible internal control deficiencies, material misstatements, or fraud) that the attest engagement team may be otherwise unaware of. As currently proposed, the interpretation would prevent the partner or professional employee from alerting the engagement team to such known risk areas without jeopardizing the firm's independence, and create an inherent conflict with the partner or professional employee's responsibilities to his or her firm. In such a situation, we believe the partner or professional employee should be permitted to communicate his or her unique knowledge to the attest engagement team.

We agree that the partner of professional employee should not be permitted to be in a position to influence the attest engagement team. However, we do not believe that the proposed stringent and ambiguously worded prohibition on "interaction with members of the attest engagement team" promotes independence.

Accordingly, we recommend the PEEC amend paragraph .03d of the Proposal by removing the phrase "will have interaction with members of" from subparagraph .i and replacing it with the phrase "is in a position to influence". This replacement phrase, used elsewhere in the AICPA *Code of Professional Conduct*, also allows more consistent member understanding of the interpretation's requirements.

Effective Date

Paragraph .13 notes that the interpretation is proposed to be effective as of the last day of the month that it is published in the Journal of Accountancy. We believe that a transition period is warranted to apply the provisions of the interpretation, and we urge the PEEC to provide firms with such a transition period.

Firm mergers and acquisitions are complex transactions that require extensive due diligence. Several aspects of the proposed interpretation would require specific attention by both acquiring and acquired firms prior to the closing of a merger or acquisition. If the provisions of the interpretation were made effective relatively immediately, a large burden would be placed on those firms currently in negotiations of merger or acquisition transactions in order to comply with the provisions prior to the effective date of the merger or acquisition.

We recommend the PEEC provide a transition period of at least six months after the last day of the month that the final interpretation is published in the Journal of Accountancy. We believe that this transition period will provide firms adequate time to revise their due diligence and independence processes, where necessary, to ensure compliance with interpretation.

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We hope that you find our comments and suggestions meaningful and we appreciate the opportunity to provide feedback. If you would like to discuss our comments further, please contact Erica Forhan in our Professional Practice Group at (206) 302-6826.

Very truly yours,

Moss Adams LLP