

February 26, 2020

Mr. Brian S. Lynch  
Chair, AICPA Professional Ethics Executive Committee  
AICPA  
220 Leigh Farm Road  
Durham, NC 27707

Via email: [ethics-exposedraft@aicpa-cima.com](mailto:ethics-exposedraft@aicpa-cima.com)

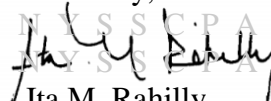
**Re: AICPA Professional Ethics Executive Committee Consultation Paper,  
Strategy and Work Plan**

Dear Mr. Lynch:

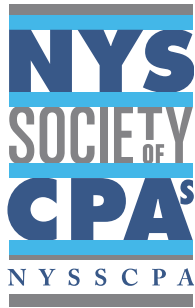
The New York State Society of Certified Public Accountants (NYSSCPA), representing more than 23,000 CPAs in public practice, industry, government and education, welcomes the opportunity to comment on the above-captioned consultation paper.

The NYSSCPA's Professional Ethics Committee deliberated the consultation paper and prepared the attached comments. If you would like additional discussion with us, please contact Jo Ann Golden, Chair of the Professional Ethics Committee, at (212) 719-8300, or Ernest J. Markezin, NYSSCPA staff, at (212) 719-8303.

Sincerely,

  
Ita M. Rahilly  
President

Attachment



**NEW YORK STATE SOCIETY OF  
CERTIFIED PUBLIC ACCOUNTANTS**

**COMMENTS ON  
AICPA PROFESSIONAL ETHICS EXECUTIVE COMMITTEE CONSULTATION  
PAPER, STRATEGY AND WORK PLAN**

**February 26, 2020**

**Principal Drafters**

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Victoria L. Pitkin**

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Ernest J. Markezin

**New York State Society of Certified Public Accountants**  
**Comments on**  
**AICPA Professional Ethics Executive Committee Consultation Paper,**  
**Strategy and Work Plan**

The New York State Society of Certified Public Accountants (NYSSCPA or the Society) appreciates the opportunity to provide comments on the AICPA's Professional Ethics Executive Committee's (PEEC) Consultation Paper, Strategy and Work Plan.

The Society offers the following comments on PEEC's proposed new standard-setting projects, proposed new member enrichment projects and additional matters.

**Proposed New Standard-Setting Projects**

In general, the recommendations of actions are quite succinct, and as such, it is difficult to garner sufficient insight into the issue to formulate a comprehensive response. However, below are our comments on some of the proposed projects. In general, we would urge PEEC to address only those projects where broad reaching threats to members' compliance with the extant rules and interpretations of the *Code of Professional Conduct* (the Code) are prevalent due to a significant shift in business practices, technology or other circumstances. Issuing new interpretations for matters that happen rarely or infrequently should be avoided, as they cause confusion and are often forgotten because they address situations that rarely arise. We believe the Conceptual Framework in conjunction with the Principles of Professional Conduct are strong enough for a member to address "one-off" situations appropriately.

***Business Relationships***

The recommended actions may be most applicable to larger firms that might enter into such cooperative arrangements with attest or non-attest clients, but we do not believe that this project has broader application to most CPA firms or members in public practice. Middle market and smaller firms, along with their clients, generally do not participate in the types of business relationships discussed in 1.265.010.03 *Cooperative Arrangements with Attest Clients*. Accordingly, we do not support this project being given priority over other projects the PEEC might want to pursue.

***Definition of "Office"***

In today's work environment, many individuals do not have an "office" as that term has traditionally been used. Often, members work from home, a common work location or even a local coffee shop. Basing independence decisions on proximity to another individual's office should be reconsidered and the measuring standards revised to emphasize working relationships, career path influence, and reporting responsibilities rather than the concept of physical location. Some employees, though nominally assigned

to a specific office, may only be in the office a handful of times throughout the year. It is hard then to say that those individuals are likely to be influenced by others within that office. The Society believes that additional guidance in this area would be very helpful in light of the changes technology has brought to the ways in which and locations from which people work.

### ***Artificial Intelligence***

The increasing reliance on the use of artificial intelligence (AI) presents an increased threat to member's compliance with the Code. We believe that the potential threats are more basic than what is covered in the Integrity and Objectivity Rule (1.100.001) and the General Standards Rule (1.300.001). These threats potentially affect the Principles of Professional Conduct (0.300). As CPAs rely more on AI, there is a risk that they will subordinate their professional judgment to the conclusions reached by the algorithms in the program, without having a sound comprehension of how those algorithms are created or on what they are based. Accordingly, we strongly support the creation of this task force.

### ***Reporting on an Independence Breach to an Affiliate that is also an Attest Client***

We are not sure how prevalent the situation described in this project is. The project seems to suggest that those charged with governance would be expected to be different for the affiliate than it is for the principal entity. We are not convinced that this is the case in most instances. However, the Society believes that the Breach of an Independence interpretation is sufficient to cover the situation described in the project. If the two entities have common governance, then those charged with governance have been communicated with in accordance with the interpretation. If those charged with governance are not the same for each entity, the interpretation seems clear that a breach needs to be communicated to those charged with governance (in this case those charged with governance at each entity). It may be that those charged with governance agree to continue for one entity and not another. Each attest client needs to be considered separately regardless of the relationship between the entities.

### **Proposed New Member Enrichment Projects**

The Society would appreciate a clearer understanding of what constitutes a member enrichment project. It is unclear to us if these projects are meant to be training programs, technical questions and answers, frequently asked questions, or something else entirely.

### ***Data Security and Breaches***

States are currently enacting laws and regulations governing data security and breaches at a sharply increasing pace. We are not convinced that PEEC should spend significant time and effort trying to refine guidance in this area, when (a) it may conflict with state or Federal laws and regulations when guidance is issued, or (b) may come into conflict with state or Federal laws and regulations subsequent to issuance. While PEEC is an important part of the AICPA, we are not sure that PEEC has sufficient resources to monitor the shifting landscape of this area.

### ***Conflicts of Interest***

The Society believes that any guidance concerning conflicts of interest should explain the risks that these conflicts present, such as loss of independence or threats to professional skepticism.

### ***Operational Enhancements to the Code***

The Society recognizes the importance of the Code in detailing the member's professional responsibilities and expressing the basic tenets of ethical and professional conduct which allow the profession to remain self-governing. However, we also recognize that most practicing members do not study in depth the intricacies of the Code – its rules and interpretations. We believe that members would benefit from clear, plain English guidance on the repercussions a member might face for violating various parts of the Code. PEEC's history of enforcement could be analyzed for trends on Code violations. In addition, a thorough description of the investigation process when an alleged violation of the Code is brought to PEEC's attention could be appended to the Code.

### ***Additional Matters***

The Society recognizes that the Noncompliance with Laws and Regulations (NOCLAR) interpretation remains an open issue at PEEC. We believe that if and when this interpretation is released, it should be accompanied by significant guidance to help practitioners deal with the practicalities of the interpretation. Issues involving materiality, keeping client matters confidential and the need for reliance on the opinion of legal counsel, among other issues, should all be addressed.

### ***Member Enrichment Projects***

With respect to the plan to identify and document the areas where the Code differs from the International Ethics Standards Board for Accountants (IESBA) *Code of Ethics for Professional Accountants* (IESBA Code), we believe that not only should the differences be identified, but also the effects of those differences on (a) members who provide attest and assurance services to entities that operate in multiple jurisdictions where some of the services are covered by the AICPA's Code and other services are covered by the IESBA Code; and (b) member firms that practice in multiple jurisdictions.

The Society fully supports PEEC's efforts with the Enhancing Audit Quality initiative, the Center for Plain English Accounting and the Accounting Standards teams to develop a webcast to discuss potential independence issues that exist when assisting clients with implementing new accounting standards. However, we do not believe that a single webcast is sufficient outreach to members. As accounting standards continue their increase in complexity, it is nearly impossible for middle market companies to keep up with the implementation issues of new standards, which forces these entities to increasingly rely on their trusted advisor for assistance. Therefore, with no foreseeable end to the high volume of standards issued each year or the complexity of the issues raised by the Financial Accounting Standards Board, we think the AICPA groups noted above need more rigorous and more proactive communication regarding the

independence threats that a member and a member's firm face by being an entity's trusted advisor.

With respect to the plan to enhance the visibility of non-authoritative guidance, we strongly suggest PEEC resume issuance of the *Ethically Speaking* newsletter in addition to the podcasts of the same title. The podcasts are helpful, but they are not well advertised, and apparently most members are not opening the ethics page of the AICPA website on a regular basis to see if a new podcast is available. The newsletters were an effective way to get members actively thinking about ethics issues with more regularity.

#### ***Current Projects of the Professional Ethics Executive Committee***

With respect to the NOCLAR task force, the Society recognizes that there are significant issues related to NOCLAR when considered in light of the particularly litigious environment in the United States of America. The NOCLAR interpretation has hung in limbo for almost three years. It is not clear to us why the PEEC is only now charging the NOCLAR task force with reviewing IESBA's standard as we presumed that would have been done prior to the issuance of the NOCLAR exposure draft. After three years, we suggest that PEEC commit to moving forward with NOCLAR, significantly rewrite and re-circulate a new, revised exposure draft to address issues raised in the comment letters, or drop the NOCLAR effort entirely.

#### ***Comparison to Other Standard Setter's Rules***

The Society believes that a project undertaken to compare the AICPA Code to the rules of other standard setters would be very beneficial to members. Such a project should highlight the differences in the rules between standard setters and provide members with guidance on how to address the identified differences.