American Institute of Certified Public Accountants
Professional Ethics Division
Professional Ethics Executive Committee
Open meeting minutes
February 11, 2020

The Professional Ethics Executive Committee (committee) held a duly called meeting on February 11, 2020. The virtual meeting convened at 10:00 a.m. and adjourned at 1:45 p.m.

Attendance: Brian Lynch, Chair Coalter Baker Chris Cahill Tom Campbell Robert Denham Anna Dourdourekas Anika Heard Kelly Hunter Jennifer Kary Martin Levin	Jeff Lewis William McKeown James Newhard Stephanie Saunders Lewis Sharpstone Lisa Snyder Peggy Ullmann Douglas Warren Lawrence Wojcik
Staff: James Brackens, VP - Ethics & Practice Quality Toni Lee-Andrews, Director Ellen Goria, Associate Director Jennifer Clayton, Senior Manager Michele Craig, Lead Manager Summer Young, Lead Manager Aradhana Aggarwal, Manager Liese Faircloth, Manager Jennifer Kappler, Manager Iryna Klepcha, Manager Melissa Powell, Manager Michael Schertzinger, Manager April Sherman, Manager John Wiley, Manager	Shannon Ziemba, Manager Henry Grzes, Lead Manager - Tax Practice & Ethics Kristy Illuzzi, TIC Staff Liaison Mao Chen, Manager - Product Management & Development Elena Redko, Manager - Content Development & Management – MA Teresa Bordeaux, Lead Manager - Governmental Auditing & Accounting Kelly Mullins, Manager – Support Services and Communications Elaine Bagley, Specialist Hanna Mayle, Job Coordinator Karen Puntch, Case Investigator
Guests: Catherine Allen, Audit Conduct Sonia Araujo, PwC Kent Absec, Idaho State Board of Accountancy Ellen Adkins, Enforcement Subcommittee Paul Balas, State of Michigan Rita Barnard, Kansas Society of CPAs	Kimberly Kuhl, KPMG Stacey Lockwood, Society of Louisiana CPAs Nancy Miller, KPMG Andy Mintzer, Hemming Morse, LLP Angela Miratsky, BKD, LLP Christine Piche', CLA Jacqueline M. Reardon, TPRC

Boyd Busby, Alabama State Board of Public Accountancy Ian Benjamin, Chair, Enforcement Subcommittee Allan Cohen, RSM US LLP Karen Cookson, U. S. Dept of Housing and Urban Development Scott Davis George Dietz, PwC Anna Durst, Nevada Society of of CPAs Dan Dustin, NASBA Jerold Fetzer, Arkansas Society of CPAs Wendy Garvin, Tennessee State Board of Accountancy Jo Ann Golden, New York State Society of CPAs Harrison Greene, Jr. Federal Deposit Insurance Corporation Pamela Hill, Missouri Society of CPAs Kelly Hnatt, External Counsel	Michael Reese, The Hanover Insurance Group Rebecca Riklin, U.S. Government Accountability Office Brian Ross, Plante Moran PLLC Joseph Sanford, Enforcement Subcommittee Stephanie Sauer-Watts, PwC Rachel Sinks, Enforcement Subcommittee Ivona Szady, Deloitte Joseph Tapajna, TPRC Teresa Taylor Jessica Tomc, EY Paula Tookey, Deloitte Sharron Waugh, Tennessee State Board of Accountancy James West, BDO Dan Wise, CohnReznick Paul Ziga, Georgia State Board of Accountancy

1. Welcome

Mr. Lynch welcomed the committee and discussed administrative matters.

2. Staff augmentation

Ms. Snyder indicated that at the November PEEC meeting, the staff augmentation task force proposed a revised interpretation that reflected a significant change in position from the version originally exposed. The revised proposal essentially prohibited staff augmentation arrangements for attest clients except in very limited situations where the arrangement was unexpected, and if the activities were not performed, it would cause the client a significant hardship. It also included a rebuttable presumption that the arrangement would not last more than 30 days. Committee members who represented NASBA/state boards were supportive of the proposal, and that staff augmentation arrangements should be generally prohibited due to the appearance of employment with the client. On the other hand, there were a fair number of PEEC members who believed the proposal was too proscriptive and that the guidance should recognize the significant threats caused by staff augmentation arrangements that should be prohibited, as well as those arrangements that result in insignificant threats to independence, and therefore should be permissible. There was also robust discussion regarding how the proposal would align with the current IESBA code and how the proposal's prohibition would be applied to client affiliates. Near the end of the discussion, a straw poll was held, and the committee was fairly split on which direction to go.

Ms. Snyder then discussed that subsequent to the November PEEC meeting, the task force reconvened and revised the November proposal to address the concerns that the proposal was too restrictive as it would prohibit these arrangements even when the activities performed by the augmented staff would not be subject to attest procedures. The task force recommended bifurcating the interpretation based upon whether the activities performed would or would not be subject to attest procedures to address the self-review threat and included specific safeguards to be required for both situations. The revised proposal also included an extension of the presumed short period of time presumption to 60 days and incorporated an exception for certain affiliates similar to the exception available for non-attest services.

Ms. Snyder explained that after the agenda materials were distributed to PEEC members, AICPA staff learned that NASBA's board of directors adopted a resolution regarding staff augmentation on January 17, 2020. The resolution in effect stated that based upon overwhelming opposition expressed by state board representatives, the NASBA board of directors opposes any new interpretation of the AICPA independence rule that would compromise independence by allowing a firm's staff to provide nonattest services to an attest client through a "staff augmentation" arrangement. The resolution further stated that some firms may be in violation and therefore urges that noncompliant licensees immediately stop violating the rule and that state boards of accountancy enforce the rule.

Ms. Snyder asked those PEEC members who are representatives of NASBA if the more proscriptive interpretation proposed in November would still be acceptable and they responded that the NASBA board wanted the guidance to be more restrictive than what was proposed then. The NASBA representatives from PEEC said that their initial agreement to the compromise proposed in November was not unanimous, and the resolution was the result of a more comprehensive look.

As a result, Ms. Snyder asked PEEC to consider the effect of this resolution on the project and decide what the next steps should be. The following four options, including the pros and cons of each, were presented to the committee by Ms. Snyder:

- Option 1: Table the project indefinitely and do not issue any guidance.

- Option 2: Continue to deliberate the proposal to see if a position can be reached that would be acceptable to most committee members for future exposure.

- Option 3: Expose for comment either the proscriptive or more permissive proposal (or something in between) and ask specific questions in order to obtain input from members and the public.

- Option 4: Issue an “Invitation for Comment” requesting input on staff augmentation arrangements from various constituents representing the profession and the public.

The committee was fairly unanimous that option 1, do nothing, would not be acceptable. Most committee members agreed with option 2 in that the task force should continue to deliberate and most committee members expressed that nothing should be exposed without NASBA’s support.

Ms. Snyder stated that based on the feedback at the meeting, the task force would go back and start with the November proposal and work with NASBA members to develop guidance that they can hopefully support and then bring it back to the committee for possible exposure.

3. IESBA updates

Mr. Mintzer and Ms. Goria provided the committee with updates on three ongoing projects and an overview of two exposure drafts.

Ongoing Projects

With respect to the ongoing projects, Mr. Mintzer reported that the PIE and tax planning projects were in the very early stages. The tax planning task force continues to gather information and will be meeting with Accountancy Europe next week. The PIE project team met for the first-time last week and one idea discussed was to not use the term “non-PIE” since all services provided to clients have a public interest component. To accomplish this, one suggestion was to refer to entities as either public interest entities or significant public interest entities.

The third project the committee was updated on was the technology project. Ms. Goria explained that the technology working group plans to issue its final phase 1 report shortly. In that report there are a number of findings and recommendations, including one related to auditor independence in connection with

- Technology tools uses in an audit
- Technology applications sold to audit clients
- Provision of technology-related nonassurance services and
- Certain terms and concepts in the code needing modernization.

The IESBA agreed that a project should begin to focus on the above independence concerns.

Exposure Drafts

The committee was provided with an overview of two of the IESBA's exposure drafts. Ms. Goria reported that one exposure draft addresses concerns related to the objectivity of the engagement quality reviewer (EQR). She explained that at a high level, this proposal presents application material that would be added to the conceptual framework section of the IESBA Code. This proposal is principles-based, so a bright line related to cooling off or other threats is not provided, rather the proposal provides examples of the different types of threats to an engagement quality reviewer's objectivity and safeguards or actions that might address these threats.

The other exposure draft provides additional independence restrictions when providing nonassurance services or NAS. At a high level, the key components of this proposal include three that specifically relate to PIEs and one that relates to all entities. The PIE provisions include:

- Prohibitions from providing nonassurance services to a PIE if the self-review threat to independence will be created. This differs from our guidance as for the most part, services can be provided if the general requirements are adhered to.
- Elimination of materiality when tied to the permissibility of a NAS that gives rise to the self-review threat.
- Strengthened provisions regarding auditor communication to those charged with governance (TCWG), including a requirement for NAS pre-approval by TCWG.

The component of the exposure draft that relates to all entities basically prohibits the provision of certain tax and corporate finance services when certain conditions exist.

The next steps are to develop comment letters on these proposals and continue to follow the ongoing projects.

4. Records requests - Fees for copying/retrieval

Ms. Ullmann provided the committee with a draft of the task force's proposed edits to the "Records Requests" interpretation. The proposals included:

- Edits to paragraphs .06 and .11a to clarify that a member cannot withhold client-provided records pursuant to any type of unpaid fees due to the member, but a member may require payment of copying, retrieving, and shipping fees prior to providing *copies* of client-provided records to a client;
- Edits throughout the interpretation that reduce a member's responsibility to "return" or "provide" records other than client-provided records. The member would now only be required to make records, other than client-provided records, *available* to the member; and

- A corrective edit to paragraph .03 to clarify that a member must make both *member-prepared records* and member's work products available to a client beneficiary when the member is engaged by the client to perform services on behalf of the beneficiary.

Ms. Ullmann added that NASBA submitted a minor edit to paragraph .03 to enhance the understanding of the paragraph. The committee agreed to the edit.

Ms. Ullmann also presented the results of a NASBA survey sent to the state boards of accountancy. The responses seemed to vary about whether the boards would allow their licensees to charge fees for copying, retrieving, and shipping records and whether they would allow the licensees to require payment of the fees before providing the records.

Mr. Cahill questioned if the "make available wording" might conflict with the "Hosting Services" interpretation (including FAQs and other guidance). Staff agreed to research this issue prior to exposure.

Ms. Heard questioned if the committee should edit paragraph .11c to highlight the fact that the member's right to make and retain copies of client-provided records can be overridden by a contractual obligation to dispose of the records. The language in paragraph .10 does not cover this concern because that paragraph does not address records provided *to* the client. The language in paragraph .07 does not cover the concern because paragraph .07 does not address records originally provided *by* the client. The committee opted not to add any language for a couple of reasons:

- Ms. Ullmann - The lead-in sentence of paragraph .11 says "may" and .11c says "make and retain copies," meaning that the member is not required to retain copies and therefore should be able to comply with contractual obligations to dispose of the records.
- Mr. Lynch - The lead-in sentence of paragraph .11 states that paragraphs a-c relate to *copies* of client-provided records previously provided to the client; therefore, the contract that Ms. Heard is referencing would not apply here (as the member would only have copies in the first place if the contract allowed for it).

A motion was seconded and unanimously approved to accept and expose the proposed edits with the following additional edits:

- Replacement of a phrase in paragraph .06 to clarify that client-provided records cannot be withheld "regardless of nonpayment of fees."
- Addition of a phrase to the lead-in sentence in paragraph .11 to specify that the paragraph is referring to records previously provided *to the client.*

Staff will determine if the exposure draft will include the questions that NASBA included in its survey.

The committee discussed whether the exposure draft should be issued as soon as possible (i.e March 2020) or if staff should wait until after busy season and issue on April 16, 2020. Staff agreed to determine if other guidance had been exposed during busy season in the past. The committee agreed to a 60-day exposure period and to a 60-day delayed effective date of the final guidance. The committee believed that there may be some members who need time to adjust to the proposal.

5. NOCLAR

Mr. Denham reported on task force activity since the November meeting. He indicated that the PEEC NOCLAR Task Force met on December 20th and reviewed the revised geography of the extant proposed NOCLAR interpretations. The task force agreed to (1) separate the attest services and nonattest services NOCLAR guidance for Members in Public Practice, (2) not exclude certain nonattest services from the NOCLAR guidance, (3) not use and define the term “assurance” but rather use the term “attest” or the phrase “financial statement audit or review” where appropriate, and (4) allow both senior professionals and non-senior professionals that are members in business to report a NOCLAR to a regulatory authority that is currently prohibited by the “Confidential Information Obtained From Employment or Volunteer Activities” interpretation.

Mr. Denham informed the committee that at its January 2020 meeting the ASB considered PEEC’s recommendation to modify its current standards for possible revisions to generally accepted auditing standards (GAAS) with respect to a communication requirement between predecessor and successor auditors. The ASB, although supportive of the change to the standards, elected to defer exposure when informed that the standards would not be currently implementable due to laws/regulations in over 40 jurisdictions. The ASB believed it problematic to have an audit requirement that, if promulgated, would likely be followed by smaller firms without realizing they were violating the law. Deferring exposure will allow for additional detail to be provided about the laws/regulations in each jurisdiction.

The PEEC NOCLAR Task Force met again on February 3rd. During this meeting the task force (1) edited wording to state “performing services” rather than “performing nonattest services” which captures the responsibility of an engagement partner that does not perform an audit or review to communicate within the firm, (2) agreed with the extant proposed interpretation that communication within the firm should apply to financial statement audit and review clients of the firm as well as clients of a network firm, (3) changed wording in several places to “Financial Statement Audit or Review Client” rather than “attest client,” and (4) edited the paragraph that relates to the responsibility of professionals other than those that are senior professionals reporting out a NOCLAR to add "unless prohibited by laws or regulation."

Mr. Denham stated that the next PEEC NOCLAR Task Force meeting is being planned for the second week of March. Staff will be researching the guidance that IESBA has for other assurance engagements to help the task force determine if these engagements are addressed appropriately in the AICPA proposed interpretation. Next steps for the task force include a fresh read of the edits made in the February meeting, discussing other comments received from the NOCLAR exposure draft to make sure issues are addressed, and consideration of any additional edits based on the fresh read and discussion of comments.

6. **Inducements**

Ms. Dourdourekas provided the committee with an update on the task force's progress with the practice aid. She mentioned that the task force met since the last PEEC meeting and reviewed the feedback received from PEEC. Ms. Dourdourdekas explained that the practice aid is still a work in process due to the volume of feedback received and that the task force is working on providing a draft copy for the committee to review at the May PEEC meeting.

Ms. Craig provided an overview on the changes to the practice aid. She explained that the focus of the practice aid would be on other actions that influence behavior that are not addressed in the code such as, hospitality, political and charitable contributions, since the code has interpretations that address gifts and entertainment. Ms. Craig explained that the practice aid guidance will focus on the integrity and objectivity rule only, as the AICPA's guidance is more restrictive than IESBA's guidance as it relates to independence. However, the AICPA's guidance on integrity and objectivity was close but not fully in line with IESBA's guidance. Ms. Craig mentioned that based on feedback received, examples and FAQs that provided definitive answers, including the reasonable in circumstances table, were removed from the practice aid.

7. **SEC independence proposal**

Mr. Lynch provided the committee with an update on the SEC independence proposal that outlines the SEC's efforts on amending its auditor independence framework. Mr. Lynch explained that the proposal has changes in several areas including amending the definition of affiliate for sister entities and Investment Company Complex (ICC) and shortening the lookback period for domestic first-time filers.

A preliminary task force is being formed to work on drafting a comment letter from PEEC responding to the SEC's proposed amendments. The task force comments will promote converging with the AICPA's standards and international convergence.

Comments are due by March 16 and the committee will have an opportunity to review the comment letter once the task force has completed drafting the letter.

8. Single Audits

Ms. Powell and Ms. Miller gave an overview of the scope of the single audit phase of the SLG affiliate project, which will include looking at how the SLG client affiliate guidance should or should not be extended to the single audit environment. In its deliberations, the task force will consider situations where the auditor is only engaged to perform the single audit for a financial statement attest client, and also consider whether there are situations when an affiliate of a financial statement attest client would not require the auditor's independence as part of the single audit, which may occur when the auditor only performs a portion of the single audit.

Ms. Powell requested volunteers to join the project's task force as some task force members for the first phase of the affiliate project will be rolling off. Lewis Sharpstone, Ian Benjamin and Kelly Hunter volunteered to join the task force. Kristy Illuzzi (TIC Staff Liaison) also indicated that she would request a volunteer from TIC who would have extensive expertise in this area. Ms. Miller indicated that she would be willing to chair this phase of the project.

Ms. Powell asked if anyone on PEEC had any concerns over starting the project at this time. Chris Cahill asked a question regarding the timeline of the project and whether it would affect practitioners already dealing with upcoming standards in the industry. Ms. Miller indicated that the project was just beginning so it would not likely affect practitioners for a while. PEEC did not express any concerns with beginning this project.

Ms. Kappler gave an update to PEEC on the SLG Client Affiliates Implementation Guide, indicating that once it was finalized it would be sent to the task force for fatal flaw review and then sent to PEEC for review.

9. Strategy and work plan consultation paper

Mr. Lynch updated the committee that no substantive feedback had been received to date and that staff had received a few inquiries mainly related to hosting and artificial intelligence topics. Mr. Lynch noted that interested parties are encouraged to provide their comments in writing. Ms. Lee-Andrews reminded meeting participants that the consultation paper seeks input on specific items as well as other topics for consideration/comment.

10. Statements on Standards for Tax Services

Ms. Saunders gave the committee an update on the activities of the Statements on Standards for Tax Services (SSTS) revision task force. The full SSTS Revision Task Force met in Washington, DC on November 14 to walk through the revised standards in advance of a discussion with the Tax Practice Responsibilities Committee (TPRC) the following day. Members of the task force met with the TPRC on November 15 to walk through the work on the project done to date and to do a detailed review of the revised standards as proposed. Feedback on the revised standards was provided on all aspects of the project.

Subsequent to those two meetings, the three subgroups of the task force met independent of one another to digest suggested changes and other comments received from the November meetings as well as to evaluate other comments received from outside sources as a result of the two articles that had been published in the *Journal of Accountancy* and The Tax Adviser in their November 2019 issues.

The full task force met again in January to review the changes made as a result of the feedback received. The task force also met with the TPRC in January to discuss the proposed changes. At its January 2020 meeting, the TPRC voted to approve release of this initial draft for review by the Tax Executive Committee (TEC).

The TEC met on Feb. 3 and 4, 2020 and the status of the project was discussed. The TEC was provided a copy of the revised standards, some notes summarizing the development of standards on certain topics and a mapping document to trace the existing standards to the revised ones. The TEC plans on doing a detailed review of the revised standards at its meeting in June 2020.

Ms. Saunders noted that PEEC would be provided a draft copy of the revised standards at a future date to be determined.

11. Minutes of the PEEC open meeting

With new members, Anika Heard and Lewis Sharpstone, abstaining it was moved, seconded and agreed to approve the minutes from the November 2019 open meeting with no dissent.