



# Professional Ethics Executive Committee

Open meeting agenda

**May 5, 2020**  
**Virtual**



**AICPA Professional Ethics Executive Committee  
Open Meeting Agenda  
May 5, 2020**

<b>Open meeting: Phone access: +1 312 626 6799 (US Toll) or +1 646 876 9923 (US Toll)</b> <b>Meeting ID: Web access: <a href="https://aicpa.zoom.us/j/96287945120">https://aicpa.zoom.us/j/96287945120</a></b> <b>International numbers available: <a href="https://zoom.us/j/96287945120">https://zoom.us/j/96287945120</a></b> <b>Observers: Email <a href="mailto:PEECCoordinator@aicpa.org">PEECCoordinator@aicpa.org</a> for meeting password</b>		
<i>May 5<sup>th</sup></i>	<i>Open meeting begins</i>	
10:00 a.m. – 10:05 a.m.	<b>Welcome</b> Mr. Lynch will welcome the committee members and discuss administrative matters.	
10:05 a.m. – 11:05 a.m.	<b>NOCLAR</b> Mr. Denham and Ms. Craig will discuss task force activity and request feedback.	<b>Agenda item 1A</b> <b>Agenda item 1B</b> <b>Agenda item 1C</b>
11:05 a.m. – 12:05 p.m.	<b>Staff augmentation</b> Ms. Snyder and Mr. Wiley will request the committee approve for re-exposure the revised proposal for comment.	<b>Agenda item 2A</b> <b>Agenda item 2B</b> <b>Agenda item 2C</b> <b>Agenda item 2D</b> <b>Agenda item 2E</b>
12:05 p.m. – 12:35 p.m.	<i>Break</i>	
12:35 p.m. – 12:45 p.m.	<b>Strategy and work plan consultation paper</b> Mr. Lynch and Ms. Klepcha will update the committee on task force activity to date.	
12:45 p.m. – 1:15 p.m.	<b>Inducements</b> Ms. Dourdourekas and Ms. Craig will seek feedback from the committee on the draft practice aid.	<b>Agenda item 3A</b> <b>Agenda item 3B</b>
1:15 p.m. – 1:25 p.m.	<b>IESBA update</b> Mr. Mintzer, Ms. Madden and Ms. Gorla will update the committee on the activities from the March meeting.	
1:25 p.m. – 1:45 p.m.	<b>Effective date deferral</b> Ms. Gorla will request for delay in the effective dates for three independence interpretations.	<b>Agenda item 4</b>
1:45 p.m. – 1:50 p.m.	<b>Statements on Standards for Tax Services</b> Ms. Saunders, Mr. Grzes and Mr. Wiley will provide the committee with a status report on this project.	
1:50 p.m. – 1:55 p.m.	<b>Minutes of the PEEC open meetings</b> The committee is asked to approve the minutes from the October 2019 and February 2020 open meetings.	<b>Agenda item 5A</b> <b>Agenda item 5B</b>
	<b>Future meeting dates</b> <ul style="list-style-type: none"> <li>• August 11 - 12, 2020; Virtual</li> <li>• November 17 - 18, 2020; Virtual</li> <li>• February 9 - 10, 2021*</li> <li>• May 4 - 5, 2021*</li> </ul> * Meeting format not yet determined.	

## **Non-Compliance with Laws and Regulations (NOCLAR) Task Force**

### **Task force members**

Bob Denham (Chair), Sam Burke, Brian Lynch, Bill Mann, Elizabeth Pittelkow, Stephanie Saunders, Lisa Snyder

Observers: Coalter Baker, Dan Dustin, Tom Neill

Staff: Toni Lee-Andrews, Jim Brackens, Ellen Gorla, Michele Craig, Skip Braziel

### **Task force charge**

The task force's charge is to develop conforming guidance in response to standards entitled Responding to NOCLAR promulgated by the International Ethics Standards Board for Accountants (IESBA).

### **Reason for agenda item**

To review and provide feedback on the proposed new interpretations 1.170.010 and 2.170.010, both entitled Responding to Non-Compliance with Laws and Regulations.

### **Background**

In response to the NOCLAR exposure draft (exposure draft), the National Association of State Boards of Accountancy (NASBA) submitted a comment letter indicating that the guidance in the exposure draft did not go far enough, and client confidentiality should not impede reporting a NOCLAR to an outside authority. Specifically, there were concerns that the proposed language would discourage CPAs from acting in the public interest even after the CPA demonstrated compliance with all relevant professional standards and may also be construed as either limiting or prohibiting a NOCLAR disclosure without written client consent. NASBA recommended "tabling this project until such time as UAA (Uniform Accountancy Act) language is developed to incorporate NOCLAR requirements." NASBA added this project to the joint AICPA/NASBA UAA committee's agenda.

### **Joint task force**

A joint task force was formed to address NOCLAR, consisting of equal representation of both PEEC and UAA members as well as AICPA and NASBA representatives. The joint task force met several times during 2019 and discussed NOCLAR as it relates to members in public practice, performance of nonattest services, members in business and the activities of the Auditing Standards Board (ASB) and the Audit Issues Task Force (AITF).

### ***Confidentiality for members in public practice***

The joint task force addressed the AICPA code's client confidentiality guidance that would not permit disclosure of a NOCLAR without specific consent of the client. The extant "Confidential

Client Information Rule” (1.700.001) of the AICPA code prohibits members in public practice from disclosing confidential client information without specific consent of the client (except in limited circumstances).

One of the limited circumstances where the AICPA code allows disclosure of confidential client information without specific client consent is when the member is required to do so as part of their professional obligations of the “Compliance With Standards Rule” (1.310.001).

As an option to further address NOCLAR, the joint task force agreed that encouraging the ASB to change its current standards and require communication to successor auditors of a former client if a member determines to resign from an engagement due to a client’s NOCLAR.

Accordingly, the PEEC’s NOCLAR task force met and agreed that PEEC should make this recommendation to the ASB.

### **PEEC’s communication to ASB**

At a special open session meeting of PEEC held on October 22, 2019, PEEC voted to formally request the ASB to modify its current standards and require communication to successor auditors of a former client if at the time of termination of the assurance engagement the member is aware of the client’s NOCLAR. The ASB accepted PEEC’s request and included this project in its Proposed Strategy and Work Plan for 2020-2021.

### **ASB update**

At its January 2020 meeting, the ASB considered PEEC’s recommendation and although supportive of the change to the standards, the ASB elected to defer exposure when informed by one of its NASBA representative that the standards would not be currently implementable due to the various laws and 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 allows for additional detail to be provided about the laws and regulations in each jurisdiction.

As a result, NASBA agreed to research and summarize the laws and regulations of all licensing jurisdictions to determine the extent and effort involved to modify such laws and regulations so that the revised standard would be implementable. NASBA has completed its research. Their analysis indicated that 52 of 55 jurisdictions provide for a form of exemption through law, rule or reference to the code. The remaining 3 jurisdictions may also allow the communication subject to an interpretation of their laws and rules. AICPA staff has sought clarification from NASBA about why the research resulted in such a dramatic difference from the information provided in January.

Through conversations with Audit & Accounting (A&A) staff, the ethics staff understand the ASB will likely consider a vote to expose the proposed standard at its July meeting if a satisfactory

explanation can be provided about why the original estimate of over 40 states where the proposed standard would not be implementable has changed now to only 3 jurisdictions.

### **Task force activities**

The task force met four times since the October 2019 meeting and agreed to the following revisions (**agenda item 1B**):

### ***Revisions to extant proposed NOCLAR interpretation-Members in Public Practice- Responding to Non-Compliance with Laws and Regulations (1.170.010)***

#### *Member's requirement to comply with standards*

The task force revised paragraphs .05d and .21b.iv of the extant proposed interpretation to emphasize the member's requirement to comply with standards in accordance with the ASB's pending revision to its guidance.

Additionally, the task force revised the guidance in paragraph.03 to include reporting in accordance with regulations and standards and referenced paragraph .05. The last sentence in paragraph.03, of the extant proposed guidance did not allow members in public practice to report out to a regulatory authority in accordance with the "Confidential Client Information Rule" (1.700.001) unless expressly permitted by the rule. This may change depending on ASB and the Accounting and Review Services Committee's (ARSC) pending revision to their guidance.

#### *Nonattest services*

The task force revised the extant proposed NOCLAR interpretation structure to clarify separate guidance for members performing attest services and members providing nonattest services. Currently, the AICPA's proposed NOCLAR guidance is different from IESBA's standards, as IESBA provides separate guidance for nonaudit services that is less restrictive whereas the extant proposed AICPA guidance does not clearly distinguish between members providing nonattest services and attest services.

To clarify the guidance members should use when providing attest services, the task force added the heading, "Members Providing Attest Services." The guidance under this heading includes the subheadings, "Obtaining an Understanding of the Matter," "Addressing the Matter, Communication with Respect to Group Audit Engagements," "Determining Whether Withdrawal from the Engagement is Necessary," and "Documentation."

***However, the task force will meet to address whether the guidance under the proposed subheading applies to all attest services or to audit and review services only.***

For members providing nonattest services, the task force carved out the guidance provided under the proposed extant interpretation heading, "Communicating the Matter to the Client's

Auditor” and added two sub headings, “Members Providing Services to a Financial Statement Audit or Review Client” and “Members Providing Services to a Client that is not a Financial Statement Audit or Review Client.” **The task force will meet to discuss the guidance that a member performing a service that that is not an audit or review should follow other than communicating the matter to the client’s auditor.**

*Note: The joint task force discussed the requirements relating to a member’s discovery of a NOCLAR during the performance of nonattest engagements. The joint task force agreed that a member should be required to disclose a NOCLAR to the audit engagement team when the member’s firm provides nonattest services to an assurance client. The joint task force recognized that there may be defensible reasons about why including additional requirements for addressing NOCLAR when providing nonattest services would not be reasonable.*

Edits to these sections (paragraphs .13 and .32 through .35) are reflected in **agenda item 1B**.

#### *Suspected or identified NOCLAR committed by a third party*

The ASB raised a question regarding the clarification of the NOCLAR guidance as it relates to a NOCLAR committed by a third party that is not the engaging or responsible party.

The task force discussed the level of responsibility a member would have to report a NOCLAR if the third party entity is not the entity that engaged the member as well as the use of the term “client” throughout the proposed extant interpretation. The task force noted that the IESBA’s code (paragraph 360.7A3) excludes noncompliance by other parties not identified in its guidance, such as when performing due diligence on a third party, and the third party has committed the identified or suspected NOCLAR. To converge with IESBA guidance, the task force decided that the member’s responsibility throughout the proposed interpretation should be to the “engaging entity” if not the same as the “subject entity.”

To be consistent with IESBA’s guidance the task force added language in paragraph .10b that clarifies the member’s responsibility when a NOCLAR is committed by a third party.

Additionally, the task force added a sentence to paragraph .01 that provides an explanation if the subject entity and engaging entity are different.

**However, the extant proposed interpretation includes language that may refer to the “subject entity.” The task force will meet to determine when the use of “engaging entity” is appropriate.**

*Note: In response to the extant exposure draft, a commenter (CL1) mentioned the PEEC providing additional third-party guidance to the extant proposed interpretation.*

**Revisions to Extant Proposed NOCLAR Interpretation Members in Business-Responding to Non-Compliance with Laws and Regulations (2.170.010)**

### *Senior professionals and non-senior professionals reporting NOCLAR*

The task force agreed to allow both senior professionals and non-senior professionals to report a NOCLAR to a regulatory authority that would otherwise be prohibited by the extant “Confidential Information Obtained From Employment or Volunteer Activities” interpretation (2.400.070). This is consistent with IESBA’s guidance.

Accordingly, the task force edited paragraph .26c and added paragraph .34 to indicate that a member may report a NOCLAR to a regulatory authority.

*Note: The joint task force agreed that allowing a member in business to report a NOCLAR would be more desirable than requiring a member to report a NOCLAR.*

### *Additional comments received in response to the extant exposure draft*

The following are comments received in response to the extant exposure draft ([link to comment letters](#)):

#### *Members in public practice*

##### *References to the regulators’ guidance*

There were two comments received (CL2 & CL6) that suggested references to the actual sections of the ASB, SEC and PCAOB that addresses fraud, illegal acts, and whistleblowing provisions should be included. The task force agreed that references to actual sections of the regulators’ guidance can be addressed via nonauthoritative guidance such as, a frequently asked questions (FAQs) document instead of adding to the proposed interpretation.

##### *Legal advice*

In response to the extant exposure draft, a commenter (CL14) noted that members advising client’s management or those charged with governance (TCWG) with respect to rectifying a NOCLAR could cross the line into advice typically provide by attorneys. The task force did not agree with this comment and believed that the guidance in paragraph .20, as stated, suggests that the member may advise the client to obtain legal advice if it is clear to the member that the client does not understand the applicable laws and regulations.

##### *Communication with respect to group attest engagements*

A commenter (CL12) noted that the concept of “group” had not been addressed by the Statement on Standards for Attestation Engagements (SSAEs). The extant exposure draft states that the IESBA NOCLAR standard only requires communications for group audit engagements. When considering the extant proposed interpretation, PEEC believed that it was in the public interest to have the requirements relevant to group audit engagements apply to all attest engagements

The task force considered this matter and questioned if the ASB would be addressing this issue in the future. During the March task force meeting, the task force received a response from Bob Dohrer stating that the ASB did not have plans to address group engagements performed under the attestation standards. Based on this information, the task force agreed that the references to “attest” in this section should be replaced with the term “audit.” Accordingly, the task force revised the language in the extant proposed interpretation. **See agenda item 1B.**

### *Members in business*

#### *Professional accountant’s discretion to disclose NOCLAR to external auditors*

In response to the extant exposure draft, a commenter (CL10) disagreed with any member (management, senior professional accountant, other accountant) of an employing organization not fully disclosing a NOCLAR matter to that organization’s external auditor.

The task force discussed this matter and considered whether the language in paragraphs .20 and .33 is ambiguous or conflicts with the code’s “Obligation of a Member to His or Her Employer’s External Accountant” interpretation (2.130.030). As a result of this discussion, the task force agreed to edit paragraphs .20 and .33 to require professional accountants in business to disclose a NOCLAR to the external auditor if the member determines such disclosure is necessary pursuant to the member’s obligation to provide all information. This edit would also leave flexibility for whistleblowing protection. **See agenda item 1B.**

Additionally, the task force deleted the phrase “duty or legal” as it relates to the member’s obligation in paragraphs .20 and .33, as the code does not define the term “duty” and the previous paragraphs in the extant proposed interpretation require members to comply with laws and regulations. **See agenda item 1B.**

#### *Other recommendations to proposed interpretations*

In response to the extant exposure draft, a commenter (CL13) recommended that the PEEC:

- Include specific thresholds for communicating and documenting instances of NOCLAR; and
- Clarify a member’s role on identifying NOCLAR and how the term “client” is defined within the interpretation.

The task force did not agree with the recommendation to include thresholds for communicating and documenting instances of NOCLAR as the task force deemed it impossible to quantify the many potential scenarios to establish a single threshold. Rather, the task force believed each situation needs to be evaluated based on individual facts and circumstances. The task force addressed the clarification of the term “client” in paragraph. 01.



A commenter (CL15) recommended in their response letter that the PEEC:

- Clarify the phrase “noncompliance or suspected non-compliance” used throughout the proposed interpretations, as this phrase is believed to be unclear and vague that could lead to a broader view of what is expected than intended. The phrase should be replaced with “specific information indicating the possibility of non-compliance;” and
- Include explicit language specifying that members are neither required nor expected to perform additional procedures designed to detect NOCLARs.

The task force did not agree with these recommendations as the phrase in the proposed interpretation, “noncompliance or suspected noncompliance,” is consistent with IESBA’s guidance and the term “made aware” in paragraph .01 of the proposed interpretation implies that additional procedures are not required.

*Note: The comments received for nonattest services were addressed by the task force during prior meetings.*

#### **Action needed**

The committee is asked to review and provide feedback on the revisions made to the extant proposed interpretation for NOCLAR (**agenda item 1B**).

#### **Materials presented**

**Agenda item 1B-** Revisions to extant proposed NOCLAR Interpretation

**Agenda item 1C-** [March 10, 2017 Responding to NOCLAR Exposure Draft](#)

## Revisions to extant text of proposed new interpretation “Responding to Non-Compliance with Laws and Regulations”

Revisions are in ***Boldface italic or stricken text that is highlighted***

**(Applicable to members in public practice)**

[Terms in italic only are defined terms]

### 1.170 Responding to Non-Compliance With Laws and Regulations

#### 1.170.010 Responding to Non-Compliance With Laws and Regulations

##### *Introduction*

**.01** When a *member* encounters or is made aware of non-compliance or suspected non-compliance with laws and regulations in the course of providing a *professional service* to a *client*, *threats* to compliance with the “*Integrity and Objectivity Rule*” [1.100.001] may exist. The purpose of this interpretation is to set out the *member’s* responsibilities when encountering such non-compliance or suspected non-compliance, and guide the *member* in assessing the implications of the matter and the possible courses of action when responding to it. ***The member’s responsibilities in this interpretation apply to a person or entity that engages the member or member’s firm to perform professional services (engaging entity). Therefore, when the engaging entity and subject entity are different, the term client refers to the engaging entity.***

.02 Non-compliance with laws and regulations (non-compliance) comprises acts of omission or commission, intentional or unintentional, that are contrary to the prevailing laws or regulations and are committed by a *client* or by *those charged with governance*, by management, or by other individuals working for or under the direction of a *client*.

.03 When responding to non-compliance or suspected non-compliance in the course of providing a *professional service* to a *client*, the *member* should consider the *member’s* obligations under the “*Confidential Client Information Rule*” [1.700.001]. For example, a *member* should not disclose the non-compliance or suspected non-compliance to a third party without the *client’s* consent unless expressly permitted under the “*Confidential Client Information Rule*,” such as when reporting the non-compliance or suspected non-compliance to a regulatory authority in order to comply with applicable laws and regulations ***or compliance with professional standards***, as discussed in paragraphs .04 and ***.05d., respectively.***

.04 Some regulators, such as the SEC or state boards of accountancy, may have regulatory provisions governing how a member should address non-compliance or suspected non-compliance which may differ from or go beyond this interpretation. In some circumstances, state and federal civil and criminal laws may also impose additional requirements. When encountering non-compliance or suspected non-compliance, a *member* has a responsibility to obtain an understanding of those legal or regulatory provisions and comply with them, including any requirement to report the matter to an appropriate authority, and any prohibition on alerting the client prior to making any disclosure.

.05A distinguishing mark of the accountancy profession is its acceptance of the responsibility to act in the public interest. When responding to non-compliance or suspected non-compliance, the objectives of a member are as follows:

- a. To comply with the "Integrity and Objectivity Rule" [1.100.001]
- b. To alert management or, when appropriate, those charged with governance of the client, to enable them to
  - i. rectify, remediate or mitigate the consequences of the identified or suspected non-compliance or
  - ii. deter the commission of the non-compliance where it has not yet occurred
- c. To determine whether withdrawal from the engagement and the professional relationship is necessary, when permitted by law and regulation
- d. To report in accordance with regulations and professional standards**

## Scope

.06 This interpretation sets out the approach to be taken by a member who encounters or is made aware of non-compliance or suspected non-compliance with the following:

- a. Laws and regulations generally recognized to have a direct effect on the determination of material amounts and disclosures in the client's financial statements
- b. Other laws and regulations that do not have a direct effect on the determination of the amounts and disclosures in the *client's financial statements*, but compliance with

which may be fundamental to the operating aspects of the *client's* business, to its ability to continue its business, or to avoid material penalties

.07 Examples of laws and regulations which this interpretation addresses include those that deal with these issues:

- a. Fraud, corruption, and bribery
- b. Money laundering
- c. Securities markets and trading
- d. Banking and other financial products and services
- e. Data protection
- f. Tax and pension liabilities and payments
- g. Environmental protection
- h. Public health and safety

.08 Non-compliance may result in fines, litigation, or other consequences for the *client* that may have a material effect on its *financial statements*. Importantly, such non-compliance may have wider public interest implications in terms of potentially substantial harm to investors, creditors, employees, or the general public. For the purposes of this interpretation, an act that causes substantial harm is one that results in serious adverse consequences to any of these parties in financial or non-financial terms. Examples include the perpetration of a fraud resulting in significant financial losses to investors and breaches of environmental laws and regulations endangering the health or safety of employees or the public.

.09 A *member* who encounters or is made aware of matters that are clearly inconsequential in their nature and their impact, financial or otherwise, on the *client*, its stakeholders and the general public, is not required to comply with this interpretation with respect to such matters.

.10 This interpretation does not address the following:

- a. Personal misconduct unrelated to the business activities of the *client*.

- b. Non-compliance **by parties** other than **by the a client that is the engaging entity** or those charged with governance, management, or other individuals working for or under the direction of **the such** *client*. This includes, for example, circumstances in which a member has been engaged by a *client* to perform a due diligence assignment on a third party entity (**i.e., subject entity**) and the identified or suspected non-compliance has been committed by that third party.

A member may nevertheless find the guidance in this interpretation helpful in considering how to respond in these situations.

### **Responsibilities of the Client's Management and Those Charged with Governance**

- .11 The *client's* management is responsible, with the oversight of those charged with governance, to ensure that the *client's* business activities are conducted in accordance with laws and regulations. It is also the responsibility of management and *those charged with governance* to identify and address any non-compliance by the *client*, by an individual charged with governance of the entity, by a member of management, or by other individuals working for or under the direction of the *client*.

### **Responsibilities of Members in Public Practice**

- .12 When a member becomes aware of a matter to which this interpretation applies, the *member* should take timely steps to comply with this interpretation, taking into account the *member's* understanding of the nature of the matter and the potential harm to the interests of the entity, investors, creditors, employees or the general public.

### **Members Providing Attest Services**

#### *Obtaining an Understanding of the Matter*

- .13 If a member engaged to perform **professional attest** services becomes aware of information concerning an instance of non-compliance or suspected non-compliance, whether in the course of performing the engagement or through information provided by other parties, the *member* should obtain an understanding of the matter, including the nature of the act and the circumstances in which it has occurred or may occur.
- .14 A member is expected to apply knowledge, professional judgment, and expertise, but is not expected to have a level of knowledge of laws and regulations greater than that required to undertake the engagement. Whether an act constitutes non-compliance is ultimately a matter to be determined by a court or other appropriate adjudicative body. Depending on the nature and significance of the matter, the *member* may consult on a confidential basis with others within the firm, a network firm or a professional body, or with legal counsel.

- .15 If the member identifies or suspects that non-compliance has occurred or may occur, the *member* should discuss the matter with the appropriate level of management and, if the *member* has access to them and when appropriate, those charged with governance.
- .16 Such discussion serves to clarify the member's understanding of the facts and circumstances relevant to the matter and its potential consequences. The discussion also may prompt management or those charged with governance to investigate the matter.
- .17 The appropriate level of management with whom to discuss the matter is a question of professional judgment. Relevant factors to consider include these:
- a. The nature and circumstances of the matter
  - b. The individuals actually or potentially involved
  - c. The likelihood of collusion
  - d. The potential consequences of the matter
  - e. Whether that level of management is able to investigate the matter and take appropriate action
- .18 The appropriate level of management is generally at least one level above the person or persons involved or potentially involved in the matter. If a member believes that management is involved in the non-compliance or suspected non-compliance, the *member* should discuss the matter with those charged with governance. The *member* may also consider discussing the matter with internal auditors, when applicable. In the context of a group **attest audit** engagement, the appropriate level may be management at an entity that controls the client.

#### *Addressing the Matter*

- .19 In discussing the non-compliance or suspected non-compliance with management and, when appropriate, those charged with governance, the member should advise them to take the following appropriate and timely actions, if they have not already done so:
- a. Rectify, remediate or mitigate the consequences of the non-compliance.
  - b. Deter the commission of the non-compliance if it has not yet occurred.

- c. Disclose the matter to an appropriate authority where required by law or regulation or when considered necessary in the public interest.

.20 The member should consider whether the client's management and those charged with governance understand their legal or regulatory responsibilities with respect to the non-compliance or suspected non-compliance. If not, the *member* may suggest appropriate sources of information or recommend that they obtain legal advice.

.21 The member should comply with the following:

- a. Applicable laws and regulations, including legal or regulatory provisions governing the reporting of non-compliance or suspected non-compliance to an appropriate authority. In this regard, some laws and regulations may stipulate a period within which reports are to be made.
- b. Applicable requirements under auditing or other professional standards, including those relating to
  - i. identifying and responding to non-compliance, including fraud.
  - ii. communicating with those charged with governance.
  - iii. considering the implications of the non-compliance or suspected non-compliance for the auditor's report.

**iv. communicating a former client's non-compliance to the successor auditor.**

#### Communication With Respect to Group ~~Attest~~ **Audit** Engagements

.22 A member may do the following:

- a. For purposes of a group ~~attest~~ **audit** engagement, be requested by the group engagement team to perform work on financial or other information related to a component of the group
- b. Be engaged to perform an ~~attest~~ **audit** engagement of a component for purposes other than the group ~~attest~~ **audit** engagement, for example, a statutory audit

If the *member* becomes aware of non-compliance or suspected non-compliance in relation to the component in either situation, the *member* should, in addition to responding to the matter in accordance with the provisions of this interpretation, communicate it to the group engagement *partner* unless prohibited from doing so by law or regulation. This is to enable the group engagement *partner* to be informed about the matter and to determine, in the context of the group ~~attest~~ **audit** engagement, whether it should be addressed in accordance with the provisions in this interpretation and, if so, how.

.23 If the group engagement *partner* becomes aware of non-compliance or suspected non-compliance in the course of a group ~~attest~~ **audit** engagement, including as a result of being informed of such a matter in accordance with paragraph .22, the group engagement *partner* should, in addition to responding to the matter in the context of the group ~~attest~~ **audit** engagement in accordance with the provisions of this interpretation, consider whether the matter may be relevant to one or more components:

- a. Whose financial or other information is subject to procedures performed for purposes of the group ~~attest~~ **audit** engagement
- b. Whose financial or other information is subject to procedures performed for purposes other than the group ~~attest~~ **audit** engagement, for example, a statutory audit

In these circumstances, the group engagement *partner* should take steps to have the non-compliance or suspected non-compliance communicated to those performing work at components where the matter may be relevant, unless prohibited from doing so by law or regulation. If necessary in relation to paragraph 23b, appropriate inquiries should be made (either of management or from publicly available information) as to whether the relevant component is subject to ~~attest~~ **audit** procedures and, if so, to ascertain, to the extent practicable, the identity of the accountant. The communication is to enable those responsible for work at such components to be informed about the matter and to determine whether and, if so, how it should be addressed in accordance with the provisions in this interpretation.

#### *Determining Whether Withdrawal From the Engagement Is Necessary*

.24 The *member* should assess the appropriateness of the response of management and, if applicable, *those charged with governance*.

.25 Relevant factors to consider in assessing the appropriateness of the response of management and, where applicable, *those charged with governance* include whether

- a. the response is timely.



- b. the non-compliance or suspected non-compliance has been adequately investigated.
- c. action has been, or is being, taken to rectify, remediate, or mitigate the consequences of any non-compliance.
- d. action has been or is being taken to deter the commission of any non-compliance if it has not yet occurred.
- e. appropriate steps have been, or are being, taken to reduce the risk of recurrence, for example, additional controls or training.
- f. the non-compliance or suspected non-compliance has been disclosed to an appropriate authority where appropriate and, if so, whether the disclosure appears adequate.

.26 In light of the response of management and, if applicable, those charged with governance, the member should determine whether withdrawing from the engagement and the professional relationship is necessary, where permitted by law and regulation.

.27 The determination of whether withdrawing from the engagement and the professional relationship is necessary, will depend on various factors, including these:

- a. The legal and regulatory framework
- b. The urgency of the matter
- c. The pervasiveness of the matter throughout the client
- d. Whether the member continues to have confidence in the integrity of management and, if applicable, those charged with governance
- e. Whether the non-compliance or suspected non-compliance is likely to recur
- f. Whether there is credible evidence of actual or potential substantial harm to the interests of the entity, investors, creditors, employees, or the general public

.28 Examples of circumstances that may cause a member no longer to have confidence in the integrity of management and, where applicable, those charged with governance include situations such as the following:

- a. The *member* suspects or has evidence of management's involvement or intended involvement in any non-compliance.
- b. The *member* is aware that management has knowledge of such non-compliance and, contrary to legal or regulatory requirements, has not reported, or authorized the reporting of, the matter to an appropriate authority within a reasonable period.

.29 In determining the need to withdraw from the engagement and the professional relationship, a [member](#) should exercise professional judgment and take into account whether a reasonable and informed third party, weighing all the specific facts and circumstances available to the *member* at the time, would be likely to conclude that the *member* has acted appropriately and in the public interest.

.30 As consideration of the matter may involve complex analysis and judgments, a [member](#) may consider consulting internally, obtaining legal advice to understand the *member's* options and the professional or legal implications of taking any particular course of action, or consulting on a confidential basis with a regulator or professional body.

#### *Documentation*

.31 In relation to an identified or suspected act of non-compliance that falls within the scope of this interpretation, the member should, in addition to complying with the documentation requirements under applicable professional standards, document the following:

- a. The matter
- b. The results of discussion with management and, where applicable, those charged with governance and other parties
- c. How management and, where applicable, those charged with governance have responded to the matter
- d. The courses of action the member considered, the judgments made and the decisions that were taken, having regard to the reasonable and informed third party perspective

#### ***Communicating the Matter to the Client's Auditor***

#### ***Members Providing Services to a Financial Statement Audit or Review Client***

- .32 If the [member](#) is performing a service for a [financial statement](#) audit or review [client](#) of the [firm](#), or a component of a *financial statement* audit or review *client* of the *firm*, the *member* should communicate the non-compliance or suspected non-compliance within the *firm*. The communication should be made in accordance with the *firm's* protocols or procedures or, in the absence of such protocols and procedures, directly to the audit or review engagement [partner](#).
- .33 If the [member](#) is performing a service for a [financial statement](#) audit or review [client](#) of a [network firm](#), or a component of a *financial statement* audit or review *client* of a [network firm](#), the *member* should consider whether to communicate the non-compliance or suspected non-compliance to the *network firm*. If the communication is made, it should be made in accordance with the [network's](#) protocols or procedures or, in the absence of such protocols and procedures, directly to the audit or review engagement [partner](#).
- .34 In all cases, the communication is to enable the audit or review engagement [partner](#) to be informed about the non-compliance or suspected non-compliance and to determine whether it should be addressed in accordance with the provisions of this interpretation and if so, how.

#### **Members Providing Services to a Client that is not a Financial Statement Audit or Review Client**

- .35 If the [member](#) is performing ~~a service~~ **services** for a client that is not a financial statement audit or review [client](#) of the [firm](#), except as required by law or regulation, the member is not permitted to communicate the non-compliance or suspected non-compliance to the firm that is the client's external auditor, if one exists. See the "[Confidential Client Information Rule](#)" [1.700.001].

# Text of Proposed New Interpretation “Responding to Non-Compliance with Laws and Regulations”

## (Applicable to Members in Business)

[Terms in *italics* only are defined terms]

### 2.170 Responding to Non-Compliance with Laws and Regulations

#### 2.170.010 Responding to Non-Compliance with Laws and Regulations

##### *Introduction*

##### *Applicable to All Members in Business*

- .01 When a *member in business* encounters or is made aware of non-compliance or suspected non-compliance with laws and regulations in the course of carrying out *professional services, threats* to compliance with the “*Integrity and Objectivity Rule*” [2.100.010] may exist. The purpose of this interpretation is to set out the *member’s* responsibilities when encountering such non-compliance or suspected non-compliance and guide the *member* in assessing the implications of the matter and the possible courses of action when responding to it. This interpretation applies regardless of the nature of the *employing organization*.
- .02 Non-compliance with laws and regulations (non-compliance) comprises acts of omission or commission, intentional or unintentional, committed by the *member’s employing organization* or by *those charged with governance*, by management, or by other individuals working for or under the direction of the *employing organization* which are contrary to the prevailing laws or regulations.
- .03 When responding to non-compliance or suspected non-compliance in the course of carrying out *professional services*, the *member* should consider the *member’s* obligations under the “*Confidential Information Obtained from Employment or Volunteer Activities*” interpretation [2.400.070]. For example, a *member* should not disclose the non-compliance or suspected non-compliance to a third party without the employer’s consent unless expressly permitted under the “Confidential Information Obtained from Employment or Volunteer Activities” interpretation, such as when reporting the non-compliance or suspected non-compliance to a regulatory authority in order to comply with applicable laws and regulations, as discussed in paragraph .04.
- .04 Some regulators, for example, the SEC or state boards of accountancy, may have provisions governing how *members* should address non-compliance or suspected non-compliance which may differ from or go beyond this interpretation, and state and federal civil and criminal laws, in some circumstances, may impose additional requirements. When

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encountering such non-compliance or suspected non-compliance, the *member* has a responsibility to obtain an understanding of those provisions and comply with them, including any requirement to report the matter to an appropriate authority and any prohibition on alerting the relevant party prior to making any disclosure, for example, pursuant to anti-money laundering legislation.

.05 A distinguishing mark of the accountancy profession is its acceptance of the responsibility to act in the public interest. When responding to non-compliance or suspected non-compliance, the objectives of the *member* are as follows:

- a. To comply with the "Integrity and Objectivity Rule" [2.100.010]
- b. To alert management or, if appropriate, *those charged with governance* of the *employing organization*, to enable them to
  - i. rectify, remediate or mitigate the consequences of the identified or suspected non-compliance or
  - ii. deter the commission of the non-compliance where it has not yet occurred
- c. To take such further action as appropriate in the public interest

### **Scope**

.06 This interpretation sets out the approach to be taken by a *member* who encounters or is made aware of non-compliance or suspected non-compliance with the following:

- a. Laws and regulations generally recognized to have a direct effect on the determination of material amounts and disclosures in the *employing organization's financial statements*
- b. Other laws and regulations that do not have a direct effect on the determination of the amounts and disclosures in the *employing organization's financial statements*, but compliance with which may be fundamental to the operating aspects of the *employing organization's* business, to its ability to continue its business, or to avoid material penalties

.07 Examples of laws and regulations which this interpretation addresses include those that deal with the following:

- a. Fraud, corruption, and bribery

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- b. Money laundering
- c. Securities markets and trading
- d. Banking and other financial products and services
- e. Data protection
- f. Tax and pension liabilities and payments
- g. Environmental protection
- h. Public health and safety

.08 Non-compliance may result in fines, litigation or other consequences for the [employing organization](#) that may have a material effect on its [financial statements](#). Importantly, such non-compliance may have wider public interest implications in terms of potentially substantial harm to investors, creditors, employees or the general public. For the purposes of this section, an act that causes substantial harm is one that results in serious adverse consequences to any of these parties in financial or non-financial terms. Examples include the perpetration of a fraud resulting in significant financial losses to investors, and breaches of environmental laws and regulations endangering the health or safety of employees or the public.

.09 A [member](#) who encounters or is made aware of matters that are clearly inconsequential, judged by their nature and their impact, financial or otherwise, on the [employing organization](#), its stakeholders and the general public, is not required to comply with this interpretation with respect to such matters.

.10 This interpretation does not address the following:

- a. Personal misconduct unrelated to the business activities of the [employing organization](#)
- b. Non-compliance other than by the *employing organization* or [those charged with governance](#), management, or other individuals working for or under the direction of the *employing organization*

The [member](#) may nevertheless find the guidance in this section helpful in considering how to respond in these situations.

### **Responsibilities of the Employing Organization's Management and Those Charged with Governance**

- .11 It is the responsibility of the [employing organization's](#) management, with the oversight of [those charged with governance](#), to ensure that the *employing organization's* business activities are conducted in accordance with laws and regulations. It is also the responsibility of management and [those charged with governance](#) to identify and address any non-compliance by the *employing organization* or by an individual charged with governance of the entity, by a member of management, or by other individuals working for or under the direction of the *employing organization*.

### **Responsibilities of Members in Business**

- .12 Many [employing organizations](#) have established protocols and procedures (for example, an ethics policy or internal whistle-blowing mechanism) regarding how non-compliance or suspected non-compliance by the *employing organization* should be raised internally. Such protocols and procedures may allow for matters to be reported anonymously through designated channels. If these protocols and procedures exist within the [member's](#) *employing organization*, the *member* should consider them in determining how to respond to such non-compliance.
- .13 If a [member](#) becomes aware of a matter to which this interpretation applies, the steps that the *member* takes to comply with this section shall be taken on a timely basis, having regard to the *member's* understanding of the nature of the matter and the potential harm to the interests of the [employing organization](#), investors, creditors, employees, or the general public.

### **Responsibilities of Members who are Senior Professional Accountants in Business**

- .14 [Members](#) who are senior professional accountants in business are directors, officers, or senior employees able to exert significant influence over, and make decisions regarding, the acquisition, deployment and control of the [employing organization's](#) human, financial, technological, physical and intangible resources. Because of their roles, positions, and spheres of influence within the *employing organization*, there is a greater expectation for them to take whatever action is appropriate in the public interest to respond to non-compliance or suspected non-compliance than other professional accountants within the *employing organization*.

### **Obtaining an Understanding of the Matter**

- .15 If, in the course of carrying out [professional services](#), a [member](#) who is a senior professional accountant becomes aware of information concerning an instance of non-compliance or

suspected non-compliance, the *member* should obtain an understanding of the matter, including the following:

- a. The nature of the act and the circumstances in which it has occurred or may occur
- b. The application of the relevant laws and regulations to the circumstances
- c. The potential consequences to the [employing organization](#), investors, creditors, employees or the wider public

.16 A [member](#) who is a senior professional accountant is expected to apply knowledge, professional judgment and expertise, but is not expected to have a level of understanding of laws and regulations beyond that required for the *member's* role within the [employing organization](#). Whether an act constitutes non-compliance is ultimately a matter to be determined by a court or other appropriate adjudicative body.

.17 Depending on the nature and significance of the matter, the [member](#) may cause, or take appropriate steps to cause, the matter to be investigated internally. The *member* may also consult on a confidential basis with others within the [employing organization](#) or a professional body or with legal counsel.

### **Addressing the Matter**

.18 If the [member](#) who is a senior professional accountant identifies or suspects that non-compliance has occurred or may occur, the *member* should, subject to paragraph .12, discuss the matter with the *member's* immediate superior, if any, to determine how the matter should be addressed. If the *member's* immediate superior appears to be involved in the matter, the *member* should discuss the matter with the next higher level of authority within the [employing organization](#).

.19 The [member](#) who is a senior professional accountant should also take the following appropriate steps:

- a. Have the matter communicated to [those charged with governance](#) to obtain their concurrence regarding appropriate actions to take to respond to the matter and to enable them to fulfill their responsibilities.
- b. Comply with applicable laws and regulations, including legal or regulatory provisions governing the reporting of non-compliance or suspected non-compliance to an appropriate authority.



- c. Have the consequences of the non-compliance or suspected non-compliance rectified, remediated, or mitigated
- d. Reduce the risk of re-occurrence
- e. Seek to deter the commission of the non-compliance if it has not yet occurred

.20 In addition to responding to the matter in accordance with the provisions of this interpretation, the [member](#) who is a senior professional accountant should **determine whether disclosure** ~~disclose~~ of the matter to the [employing organization's](#) external auditor, if any, **if the member determines such disclosure** is necessary pursuant to the *member's* ~~duty or legal~~ obligation to provide all information necessary to enable the auditor to perform the audit. See the "[Obligation of a Member to His or Her Employer's External Accountant](#)" [2.130.030] interpretation for additional guidance.

### ***Determining Whether Further Action Is Necessary***

.21 The [member](#) who is a senior professional accountant should assess the appropriateness of the response of the *member's* superiors, if any, and [those charged with governance](#).

.22 Relevant factors to consider in assessing the appropriateness of the response of the [member's](#) superiors, if any, and [those charged with governance](#) include whether

- a. the response is timely.
- b. they have taken or authorized appropriate action to seek to rectify, remediate or mitigate the consequences of the non-compliance, or to avert the non-compliance if it has not yet occurred.
- c. the matter has been disclosed to an appropriate authority where appropriate and, if so, whether the disclosure appears adequate.

.23 In light of the response of the [member's](#) superiors, if any, and [those charged with governance](#), the *member* should determine if further action is necessary in the public interest. The determination of whether further action is necessary, and the nature and extent of it, will depend on various factors, including these:

- a. The legal and regulatory framework
- b. The urgency of the matter

- c. The pervasiveness of the matter throughout the employing organization
- d. Whether the *member* who is a senior professional accountant continues to have confidence in the integrity of the *member's* superiors and those charged with governance
- e. Whether the non-compliance or suspected non-compliance is likely to recur
- f. Whether there is credible evidence of actual or potential substantial harm to the interests of the *employing organization*, investors, creditors, employees or the general public

.24 Examples of circumstances that may cause the member who is a senior professional accountant no longer to have confidence in the integrity of the *member's* superiors and those charged with governance include such situations as these:

- a. The *member* suspects or has evidence of management's involvement or intended involvement in any non-compliance.
- b. Contrary to legal or regulatory requirements, management has not reported the matter, or authorized the matter to be reported, to an appropriate authority within a reasonable period.

.25 In determining the need for, and nature and extent of any further action necessary, the member who is a senior professional accountant should exercise professional judgment and take into account whether a reasonable and informed third party, weighing all the specific facts and circumstances available to the *member* at the time, would be likely to conclude that the *member* has acted appropriately in the public interest.

.26 Further action by the member who is a senior professional accountant may include the following:

- a. Informing the management of the parent entity of the matter if the employing organization is a *member* of a group
- b. Resigning from the *employing organization*
- c. Reporting the non-compliance or suspected non-compliance to a regulatory authority**

.27 When the member who is a senior professional accountant determines that resigning from the employing organization would be appropriate, doing so would not be a substitute for taking other actions that may be necessary to achieve the *member's* objectives under this section.

.28 As consideration of the matter may involve complex analysis and judgments, the member who is a senior professional accountant may consider consulting internally, obtaining legal advice to understand the *member's* options and the professional or legal implications of taking any particular course of action or consulting on a confidential basis with a regulator or professional body.

### **Documentation**

.29 In relation to an identified or suspected act of non-compliance that falls within the scope of this interpretation, the member who is a senior professional accountant is encouraged to have the following matters documented:

- a. The matter
- b. The results of discussions with the *member's* superiors, if any, and those charged with governance and other parties
- c. How the *member's* superiors, if any, and those charged with governance have responded to the matter
- d. The courses of action the *member* considered, the judgments made and the decisions that were taken
- e. How the *member* is satisfied that the *member* has fulfilled the responsibility set out in paragraph .23

### **Responsibilities of Members Other Than Those Who Are Senior Professional Accountants in Business**

.30 If, in the course of carrying out professional services, a member becomes aware of information concerning an instance of non-compliance or suspected non-compliance, the *member* should seek to obtain an understanding of the matter, including the nature of the act and the circumstances in which it has occurred or may occur.

.31 The member is expected to apply knowledge, professional judgment, and expertise, but is not expected to have a level of understanding of laws and regulations beyond that required

for the *member's* role within the [employing organization](#). Whether an act constitutes non-compliance is ultimately a matter to be determined by a court or other appropriate adjudicative body. Depending on the nature and significance of the matter, the *member* may consult on a confidential basis with others within the *employing organization* or a professional body, or with legal counsel.

.32 If the [member](#) identifies or suspects that non-compliance has occurred or may occur, the *member* should, subject to paragraph .12, inform an immediate superior to enable the superior to take appropriate action. If the *member's* immediate superior appears to be involved in the matter, the *member* should inform the next higher level of authority within the [employing organization](#).

.33 In addition to responding to the matter in accordance with the provisions of this interpretation, the [member](#) should ~~determine whether disclosure~~ **disclose** of the matter to the [employing organization's](#) external auditor, if any, **if the member determines such disclosure** is necessary pursuant to the *member's* ~~duty or legal~~ obligation to provide all information necessary to enable the auditor to perform the audit. See the "[Obligation of a Member to His or Her Employer's External Accountant](#)" interpretation [2.130.030] for additional guidance.

**.34 Further action by the member may include reporting the non-compliance or suspected non-compliance to a regulatory authority unless prohibited by laws or regulations.**

### **Documentation**

.35 **.34** In relation to an identified or suspected act of non-compliance that falls within the scope of this interpretation, the [member](#) is encouraged to have the following matters documented:

- a. The matter
- b. The results of discussions with the *member's* superior, management and, where applicable, [those charged with governance](#) and other parties
- c. How the *member's* superior has responded to the matter
- d. The courses of action the *member* considered, the judgments made and the decisions that were taken

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# **EXPOSURE DRAFT**

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## **AICPA PROFESSIONAL ETHICS DIVISION**

### **PROPOSED INTERPRETATIONS**

### **RESPONDING TO NON-COMPLIANCE WITH**

### **LAWS AND REGULATIONS**

**March 10, 2017**

**Comment deadline is May 12, 2017**

**Prepared by the AICPA Professional Ethics Executive Committee for comments from persons interested in independence, behavioral, and technical standards matters.**

**Comments should be addressed to Lisa A. Snyder, Senior Director of the Professional Ethics Division, at [lisa.snyder@aicpa-cima.com](mailto:lisa.snyder@aicpa-cima.com)**

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March 10, 2017

This exposure draft contains important proposals for review and comment by the AICPA's membership and other interested parties regarding pronouncements for possible adoption by the Professional Ethics Executive Committee (PEEC). The text and an explanation of the proposed pronouncements are included in this exposure draft.

After the exposure period is concluded and PEEC has evaluated the comments, PEEC may decide to publish the proposed interpretations. Once published, the interpretations will become effective on the last day of the month in which they are published in the Journal of Accountancy, unless otherwise stated in the interpretations.

Your comments are an important part of this process; please take this opportunity to comment. Responses must be received at the AICPA by May 12, 2017. All written replies to this exposure draft will become part of the public record of the AICPA and will be available at <http://aicpa.org/InterestAreas/ProfessionalEthics/Community/ExposureDrafts/Pages/ExposureDrafts.aspx>. Comments received will be considered by PEEC at its July 26--27, 2017 meeting.

Please email comments to Lisa A. Snyder, Director of the Professional Ethics Division at [Lisa.Snyder@aicpa-cima.com](mailto:Lisa.Snyder@aicpa-cima.com)

Sincerely,

Samuel L. Burke, *Chair*  
AICPA Professional Ethics Executive Committee

Lisa A. Snyder, *Senior Director*  
AICPA Professional Ethics Division

**Professional Ethics Executive Committee (2016–2017)**

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## **Explanation For the New Interpretations “Responding to Non-Compliance With Laws and Regulations”**

PEEC is exposing for comment two new interpretations, each entitled “Responding to Non-Compliance with Laws and Regulations” (ET sec. 1.170.010 and 2.170.010) under the “Integrity and Objectivity Rule” (ET sec. 1.100.001 and 2.100.001), applicable to members in public practice and in business, respectively.

### ***Purpose***

In developing the proposed interpretations, PEEC considered the International Ethics Standards Board for Accountants’ (IESBA) new ethics standards, sections 225 and 360, each entitled, Responding to Non-Compliance with Laws and Regulations.<sup>1</sup> PEEC believes that though many of the proposed requirements are consistent with that of the IESBA Code of Ethics for Professional Accountants (IESBA code), certain differences are necessary to enhance the clarity of the proposed interpretations and make them relevant to AICPA members in the United States. Most notably, as discussed further in a subsequent section, certain provisions were not included in the AICPA proposals as they would be incompatible with most state laws and regulations on client and employer confidentiality.

The AICPA Code of Professional Conduct does not currently address guidance for members when they may encounter non-compliance with laws or regulations (NOCLAR) or suspected NOCLAR. PEEC believes the public interest is served with the inclusion of the robust guidance in the proposed interpretations which sets forth a member’s responsibilities when encountering a NOCLAR at a client or within the employing organization. For purposes of this document, the term “NOCLAR” covers both actual NOCLARs and suspected NOCLARs.

The objective of members when encountering a NOCLAR is to enable a client’s or employing organization’s management and those charged with governance to rectify the NOCLAR, mitigate the effects of the NOCLAR or deter the commission of the NOCLAR by alerting the appropriate parties.

### ***Scope***

The interpretations state that a NOCLAR comprises acts of omission or commission, intentional or unintentional, committed by a client or an employer, or by those charged with governance, by management or by other individuals working for or under the direction of a client or employer which are contrary to the prevailing laws or regulations. The laws recognized by the interpretations include those generally recognized to have a direct effect on the determination of material amounts and disclosures in the financial statements. Other laws recognized by the interpretations are those that do not have a direct effect on the material amounts and disclosures in the financial statements, but compliance that may be fundamental to the operating aspects of the business of the client or employing organization, to its ability to continue business or to avoid material penalties. The interpretations do not address personal misconduct unrelated to the business activities of the employing organization.

Though the proposed interpretations require a member to obtain an understanding of the matter when a NOCLAR is discovered, the member is only expected to have a level of knowledge and

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<sup>1</sup> Approved in April 2016 for inclusion in the IESBA’s Code of Ethics for Professional Accountants.

understanding of laws and regulations necessary for the [professional service](#) for which the member was engaged or employed to perform. In addition, for members performing audit services for a client, the proposals are not intended to modify or interpret AU-C section 250, Consideration of Laws and Regulations in an Audit of Financial Statements. The proposed guidance, however, does impose requirements on auditors that go beyond the audit standards for purposes of fulfilling their ethical obligations under the AICPA code.

### ***Confidentiality***

A member in public practice or business must remain mindful of the member's obligations under the "Confidential Client Information Rule" (ET sec. 1.700.001) and the "Confidential Information Obtained from Employment or Volunteer Activities" interpretation (ET sec. 2.400.070), respectively, when addressing a NOCLAR and ensure not to disclose the NOCLAR to a third party without the client's consent unless required by law or regulation. Most state boards of accountancy have laws or regulations that would prohibit the disclosure of confidential client or employer information without the client or employer's consent unless required by law or regulation to make such disclosure. Accordingly, the proposed Interpretations do not include the provisions of the IESBA standards relevant to disclosure by the member to an appropriate authority or external auditor (except for a senior professional accountant when dealing with the employing organization's auditor). The IESBA recognizes that some jurisdictions would not permit a professional accountant to disclose confidential client or employer information and thus, the IESBA standards specifically state, "Disclosure of the matter to an appropriate authority would be precluded if doing so would be contrary to law or regulation."

The IESBA standard has a provision that would require a professional accountant in public practice who has withdrawn from a professional relationship, upon request from the successor accountant, to disclose a NOCLAR to the successor accountant. Due to state laws and regulations on confidentiality noted previously, the AICPA proposed interpretation does not contain a similar provision regarding disclosure to a successor accountant. The member would need to obtain the client's permission to discuss the matter with the successor. If the client refuses to permit the member to discuss all matters with the successor, the successor should be mindful of a potential issue. The AICPA code addresses this situation in the "Disclosing Information from Previous Engagements" interpretation (ET sec. 1.700.020)."

### ***Responsibilities of Members in Public Practice***

The proposed NOCLAR requirements for members in public practice are generally the same for members who provide attest services and those who provide nonattest services to clients. The IESBA standard, however, distinguishes between auditors and non-auditors with more stringent requirements applicable to auditors. In drafting the proposed interpretation, PEEC believed it was unnecessary to bifurcate the guidance since it did not incorporate the IESBA provisions relevant to disclosure to an appropriate authority and the other provisions were deemed appropriate for auditors and non-auditors alike.

When a member in public practice discovers a NOCLAR, the member is required to obtain an understanding of the matter, including the nature of the act and the circumstances in which it has occurred or may occur. After obtaining an understanding, the member is then required to discuss the matter with the appropriate level of management and, if the member has access to them and it is appropriate, those charged with governance. The proposals therefore recognize that depending on the nature of the engagement, a member might not have access to senior management or those charged with governance. Such discussions alert the appropriate parties

within the client entity so that they are able to address the NOCLAR. The member should advise the client to take appropriate actions to rectify or remediate the NOCLAR, and where appropriate, disclose the matter to an authority where required by law or regulation, for example, if the client is under the jurisdiction of the SEC and the NOCLAR is required to be reported under the SEC's rules.

### ***Group Attest Engagements***

When performing professional services for a component of a group during a group attest engagement, the member is required to respond to a NOCLAR in accordance with the interpretation by communicating it to the group engagement partner unless prohibited by law or regulation. This is to enable the group engagement partner to be informed of the matter to determine how the NOCLAR should be addressed. When the group engagement partner becomes aware of a NOCLAR, that member should consider whether the NOCLAR may be relevant to one or more components of the group engagement. The IESBA NOCLAR standard only requires communications for group audit engagements. The PEEC, however, believes it is in the public interest to have the requirements relevant to group audit engagements apply to all *attest engagements*.

### ***Determining Whether Withdrawal Is Necessary***

If a member follows the guidance and determines that the response of management is not appropriate, the member is required to consider withdrawing from the engagement, unless prohibited by law or regulation. When making such determination, the member is required to exercise professional judgment and take into account whether a reasonable and informed third party, weighing all the specific facts and circumstances available to the member at the time, would be likely to conclude that the member has acted appropriately and in the public interest. In addition, the proposed guidance lists various factors for the member to consider in making the determination of whether withdrawal might be necessary.

### ***Communication to Client's Auditor***

If a member is performing a service for a financial statement audit or review client of the firm, or a component of a financial statement audit or review client of the firm, the member is required to communicate the NOCLAR within the firm in accordance with the firm's policies and procedures. If such policies and procedures do not exist, then the member should communicate directly with the audit or review engagement partner. This would enable the audit or review engagement partner to determine how the NOCLAR should be addressed in accordance with the requirements of the proposed interpretation. If the NOCLAR occurs while a member is performing an audit or review of a client of a network firm, the member is required to consider whether the NOCLAR should be communicated to the network firm.

As noted in the previous section "Confidentiality", If a member is performing a service for a client that is not a financial statement audit or review client of the firm, the member would be prohibited from communicating the NOCLAR to the external auditor.

### ***Documentation***

Members in public practice are required to document certain aspects of the NOCLAR. PEEC is more restrictive than IESBA with regards to the documentation requirement for non-auditors. Under the IESBA standard, non-auditors are encouraged to document rather than required to

document. PEEC, however, believes due to the significance of a NOCLAR, documentation should be required in order to retain a record of the professional judgments made and actions taken by the member and to help demonstrate compliance with the requirements of the interpretation.

### ***Responsibilities of Senior Professional Accountants in Business***

When responding to a NOCLAR, members in business are required to consider protocols and procedures that may exist within the members' employing organizations. Because of the role and sphere of influence of senior professional accountants in business, there is a greater expectation for them to take whatever action is appropriate in the public interest to respond to a NOCLAR. For purposes of the interpretation, senior professional accountants in business are directors, officers or senior employees able to exert significant influence over, and make decisions regarding, the acquisition, deployment and control of the employing organization's human, financial, technological, physical and intangible resources.

If a member who is a senior professional accountant in business discovers a NOCLAR, the member should obtain an understanding of the matter. The member should discuss the matter with the member's immediate superior to determine how the NOCLAR should be addressed. If the immediate superior is suspected of involvement, the member is required to discuss the matter with the next higher level of authority.

The interpretation requires certain steps be taken by a member who is a senior professional accountant, including having the matter communicated to those charged with governance to obtain concurrence regarding the appropriate actions to take to enable them to fulfill their responsibilities.

In responding to a NOCLAR, the member who is a senior professional accountant is required to determine whether disclosing the matter to the employing organization's external auditor is necessary, pursuant to the member's duty or legal obligation to provide all information necessary to enable the auditor to perform the audit.

### ***Determining Whether Further Action Is Necessary***

If a member who is a senior professional accountant in business follows the guidance and determines that the response of management is not appropriate, the member is required to consider whether further action is necessary. The interpretation states that such further action could include informing management of the parent entity of the matter if the employing organization is a member of a group or, in extreme circumstances, resigning from the organization. When making such determination, the member is required to exercise professional judgment and take into account whether a reasonable and informed third party, weighing all the specific facts and circumstances available to the member at the time, would be likely to conclude that the member has acted appropriately and in the public interest. In addition, the proposed guidance lists various factors for the member to consider in making the determination of whether further action might be necessary.

### ***Responsibilities of Other Professional Accountants in Business***

A member who is a professional accountant in business (that is, not a senior professional accountant) is required to obtain an understanding of a discovered NOCLAR. The member should discuss the matter with that member's immediate superior to enable the supervisor to take

appropriate action. If the immediate superior is suspected of involvement, the member is required to discuss the matter with the next higher level of authority.

The interpretation requires that the member determine whether disclosure of the matter to the employing organization's external auditor, if any, is necessary pursuant to the member's duty or legal obligation to provide all information necessary to enable the auditor to perform the audit.

### ***Documentation***

Both senior professional accountants in business and other professional accountants in business who are members are encouraged to document certain aspects of the NOCLAR. PEEC believes that encouraging documentation is appropriate as the AICPA code currently has no documentation requirements for members in business. This is consistent with the documentation guidance under the IESBA standard.

### ***Effective Date***

PEEC believes that a delayed effective date for transition purposes is necessary. Accordingly, PEEC proposes that the final interpretations be effective one year from the last day of the month in which they are published in the Journal of Accountancy.

### ***Questions***

1. Should members in public practice who provide only nonattest services to a client be required to document certain aspects of the NOCLAR? Or, rather, should they be encouraged to document certain aspects of the NOCLAR?
2. Is a one year transition period for the effective date appropriate? If not, what is an appropriate time period and why?

# Text of Proposed New Interpretation “Responding to Non-Compliance With Laws and Regulations”

## (Applicable to Members in Public Practice)

[Terms in italic only are defined terms]

### 1.170 Responding to Non-Compliance With Laws and Regulations

#### 1.170.010 Responding to Non-Compliance With Laws and Regulations

##### *Introduction*

- .01 When a *member* encounters or is made aware of non-compliance or suspected non-compliance with laws and regulations in the course of providing a *professional service* to a *client*, *threats* to compliance with the “*Integrity and Objectivity Rule*” [1.100.001] may exist. The purpose of this interpretation is to set out the *member’s* responsibilities when encountering such non-compliance or suspected non-compliance, and guide the *member* in assessing the implications of the matter and the possible courses of action when responding to it.
- .02 Non-compliance with laws and regulations (non-compliance) comprises acts of omission or commission, intentional or unintentional, that are contrary to the prevailing laws or regulations and are committed by a *client* or by *those charged with governance*, by management, or by other individuals working for or under the direction of a *client*.
- .03 When responding to non-compliance or suspected non-compliance in the course of providing a *professional service* to a *client*, the *member* should consider the *member’s* obligations under the “*Confidential Client Information Rule*” [1.700.001]. For example, a *member* should not disclose the non-compliance or suspected non-compliance to a third party without the *client’s* consent unless expressly permitted under the “*Confidential Client Information Rule*,” such as when reporting the non-compliance or suspected non-compliance to a regulatory authority in order to comply with applicable laws and regulations, as discussed in paragraph.04.
- .04 Some regulators, such as the SEC or state boards of accountancy, may have regulatory provisions governing how a *member* should address non-compliance or suspected non-compliance which may differ from or go beyond this interpretation. In some circumstances, state and federal civil and criminal laws may also impose additional requirements. When encountering non-compliance or suspected non-compliance, a *member* has a responsibility to obtain an understanding of those legal or regulatory provisions and comply with them, including any requirement to report the matter to an appropriate authority, and any prohibition on alerting the *client* prior to making any disclosure.
- .05 A distinguishing mark of the accountancy profession is its acceptance of the responsibility to act in the public interest. When responding to non-compliance or suspected non-compliance, the objectives of a *member* are as follows:

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- a. To comply with the [“Integrity and Objectivity Rule”](#) [1.100.001]
- b. To alert management or, when appropriate, [those charged with governance](#) of the [client](#), to enable them to
  - i. rectify, remediate or mitigate the consequences of the identified or suspected non-compliance or
  - ii. deter the commission of the non-compliance where it has not yet occurred
- c. To determine whether withdrawal from the engagement and the professional relationship is necessary, when permitted by law and regulation

### **Scope**

.06 This interpretation sets out the approach to be taken by a [member](#) who encounters or is made aware of non-compliance or suspected non-compliance with the following:

- a. Laws and regulations generally recognized to have a direct effect on the determination of material amounts and disclosures in the [client’s financial statements](#)
- b. Other laws and regulations that do not have a direct effect on the determination of the amounts and disclosures in the *client’s financial statements*, but compliance with which may be fundamental to the operating aspects of the *client’s* business, to its ability to continue its business, or to avoid material penalties

.07 Examples of laws and regulations which this interpretation addresses include those that deal with these issues:

- a. Fraud, corruption, and bribery
- b. Money laundering
- c. Securities markets and trading
- d. Banking and other financial products and services
- e. Data protection
- f. Tax and pension liabilities and payments
- g. Environmental protection



h. Public health and safety

- .08 Non-compliance may result in fines, litigation, or other consequences for the *client* that may have a material effect on its *financial statements*. Importantly, such non-compliance may have wider public interest implications in terms of potentially substantial harm to investors, creditors, employees, or the general public. For the purposes of this interpretation, an act that causes substantial harm is one that results in serious adverse consequences to any of these parties in financial or non-financial terms. Examples include the perpetration of a fraud resulting in significant financial losses to investors and breaches of environmental laws and regulations endangering the health or safety of employees or the public.
- .09 A *member* who encounters or is made aware of matters that are clearly inconsequential in their nature and their impact, financial or otherwise, on the *client*, its stakeholders and the general public, is not required to comply with this interpretation with respect to such matters.
- .10 This interpretation does not address the following:
- a. Personal misconduct unrelated to the business activities of the *client*.
  - b. Non-compliance other than by the *client* or *those charged with governance*, management, or other individuals working for or under the direction of the *client*. This includes, for example, circumstances in which a *member* has been engaged by a *client* to perform a due diligence assignment on a third party entity and the identified or suspected non-compliance has been committed by that third party.

A *member* may nevertheless find the guidance in this interpretation helpful in considering how to respond in these situations.

***Responsibilities of the Client's Management and Those Charged with Governance***

- .11 The *client's* management is responsible, with the oversight of *those charged with governance*, to ensure that the *client's* business activities are conducted in accordance with laws and regulations. It is also the responsibility of management and *those charged with governance* to identify and address any non-compliance by the *client*, by an individual charged with governance of the entity, by a *member* of management, or by other individuals working for or under the direction of the *client*

***Responsibilities of Members in Public Practice***

- .12 When a *member* becomes aware of a matter to which this interpretation applies, the *member* should take timely steps to comply with this interpretation, taking into account the *member's* understanding of the nature of the matter and the potential harm to the interests of the entity, investors, creditors, employees or the general public.

***Obtaining an Understanding of the Matter***

- .13 If a member engaged to perform professional services becomes aware of information concerning an instance of non-compliance or suspected non-compliance, whether in the course of performing the engagement or through information provided by other parties, the *member* should obtain an understanding of the matter, including the nature of the act and the circumstances in which it has occurred or may occur.
- .14 A member is expected to apply knowledge, professional judgment, and expertise, but is not expected to have a level of knowledge of laws and regulations greater than that required to undertake the engagement. Whether an act constitutes non-compliance is ultimately a matter to be determined by a court or other appropriate adjudicative body. Depending on the nature and significance of the matter, the *member* may consult on a confidential basis with others within the firm, a network firm or a professional body, or with legal counsel.
- .15 If the member identifies or suspects that non-compliance has occurred or may occur, the *member* should discuss the matter with the appropriate level of management and, if the *member* has access to them and when appropriate, those charged with governance.
- .16 Such discussion serves to clarify the member's understanding of the facts and circumstances relevant to the matter and its potential consequences. The discussion also may prompt management or those charged with governance to investigate the matter.
- .17 The appropriate level of management with whom to discuss the matter is a question of professional judgment. Relevant factors to consider include these:
- a. The nature and circumstances of the matter
  - b. The individuals actually or potentially involved
  - c. The likelihood of collusion
  - d. The potential consequences of the matter
  - e. Whether that level of management is able to investigate the matter and take appropriate action
- .18 The appropriate level of management is generally at least one level above the person or persons involved or potentially involved in the matter. If a member believes that management is involved in the non-compliance or suspected non-compliance, the *member* should discuss the matter with those charged with governance. The *member* may also consider discussing the matter with internal auditors, when applicable. In the context of a group attest engagement, the appropriate level may be management at an entity that controls the client.

### **Addressing the Matter**

.19 In discussing the non-compliance or suspected non-compliance with management and, when appropriate, those charged with governance, the member should advise them to take the following appropriate and timely actions, if they have not already done so:

- a. Rectify, remediate or mitigate the consequences of the non-compliance.
- b. Deter the commission of the non-compliance if it has not yet occurred.
- c. Disclose the matter to an appropriate authority where required by law or regulation or when considered necessary in the public interest.

.20 The member should consider whether the client's management and those charged with governance understand their legal or regulatory responsibilities with respect to the non-compliance or suspected non-compliance. If not, the member may suggest appropriate sources of information or recommend that they obtain legal advice.

.21 The member should comply with the following:

- a. Applicable laws and regulations, including legal or regulatory provisions governing the reporting of non-compliance or suspected non-compliance to an appropriate authority. In this regard, some laws and regulations may stipulate a period within which reports are to be made.
- b. Applicable requirements under auditing or other professional standards, including those relating to
  - i. identifying and responding to non-compliance, including fraud.
  - ii. communicating with those charged with governance.
  - iii. considering the implications of the non-compliance or suspected non-compliance for the auditor's report.

### ***Communication With Respect to Group Attest Engagements***

.22 A member may do the following:

- a. For purposes of a group attest engagement, be requested by the group engagement team to perform work on financial or other information related to a component of the group
- b. Be engaged to perform an attest engagement of a component for purposes other than the group attest engagement, for example, a statutory audit

If the *member* becomes aware of non-compliance or suspected non-compliance in relation to the component in either situation, the *member* should, in addition to responding to the matter in accordance with the provisions of this interpretation, communicate it to the group engagement [partner](#) unless prohibited from doing so by law or regulation. This is to enable the group engagement *partner* to be informed about the matter and to determine, in the context of the group *attest engagement*, whether it should be addressed in accordance with the provisions in this interpretation and, if so, how.

.23 If the group engagement [partner](#) becomes aware of non-compliance or suspected non-compliance in the course of a group *attest engagement*, including as a result of being informed of such a matter in accordance with paragraph .22, the group engagement *partner* should, in addition to responding to the matter in the context of the group *attest engagement* in accordance with the provisions of this interpretation, consider whether the matter may be relevant to one or more components:

- a. Whose financial or other information is subject to procedures performed for purposes of the group *attest engagement*
- b. Whose financial or other information is subject to procedures performed for purposes other than the group *attest engagement*, for example, a statutory audit

In these circumstances, the group engagement *partner* should take steps to have the non-compliance or suspected non-compliance communicated to those performing work at components where the matter may be relevant, unless prohibited from doing so by law or regulation. If necessary in relation to paragraph 23b, appropriate inquiries should be made (either of management or from publicly available information) as to whether the relevant component is subject to attest procedures and, if so, to ascertain, to the extent practicable, the identity of the accountant. The communication is to enable those responsible for work at such components to be informed about the matter and to determine whether and, if so, how it should be addressed in accordance with the provisions in this interpretation.

### ***Determining Whether Withdrawal From the Engagement Is Necessary***

.24 The [member](#) should assess the appropriateness of the response of management and, if applicable, [those charged with governance](#).

.25 Relevant factors to consider in assessing the appropriateness of the response of management and, where applicable, [those charged with governance](#) include whether

- a. the response is timely.
- b. the non-compliance or suspected non-compliance has been adequately investigated.
- c. action has been, or is being, taken to rectify, remediate, or mitigate the consequences of any non-compliance.

- d. action has been or is being taken to deter the commission of any non-compliance if it has not yet occurred.
- e. appropriate steps have been, or are being, taken to reduce the risk of recurrence, for example, additional controls or training.
- f. the non-compliance or suspected non-compliance has been disclosed to an appropriate authority where appropriate and, if so, whether the disclosure appears adequate.

.26 In light of the response of management and, if applicable, those charged with governance, the member should determine whether withdrawing from the engagement and the professional relationship is necessary, where permitted by law and regulation.

.27 The determination of whether withdrawing from the engagement and the professional relationship is necessary, will depend on various factors, including these:

- a. The legal and regulatory framework
- b. The urgency of the matter
- c. The pervasiveness of the matter throughout the client
- d. Whether the member continues to have confidence in the integrity of management and, if applicable, those charged with governance
- e. Whether the non-compliance or suspected non-compliance is likely to recur
- f. Whether there is credible evidence of actual or potential substantial harm to the interests of the entity, investors, creditors, employees, or the general public

.28 Examples of circumstances that may cause a member no longer to have confidence in the integrity of management and, where applicable, those charged with governance include situations such as the following:

- a. The member suspects or has evidence of management's involvement or intended involvement in any non-compliance.
- b. The member is aware that management has knowledge of such non-compliance and, contrary to legal or regulatory requirements, has not reported, or authorized the reporting of, the matter to an appropriate authority within a reasonable period.

.29 In determining the need to withdraw from the engagement and the professional relationship, a member should exercise professional judgment and take into account whether a reasonable and informed third party, weighing all the specific facts and circumstances available to the

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*member* at the time, would be likely to conclude that the *member* has acted appropriately and in the public interest.

- .30 As consideration of the matter may involve complex analysis and judgments, a [member](#) may consider consulting internally, obtaining legal advice to understand the *member's* options and the professional or legal implications of taking any particular course of action, or consulting on a confidential basis with a regulator or professional body.

### **Communicating the Matter to the Client's Auditor**

- .31 If the [member](#) is performing a service for a [financial statement](#) audit or review [client](#) of the [firm](#), or a component of a *financial statement* audit or review *client* of the *firm*, the *member* should communicate the non-compliance or suspected non-compliance within the *firm*. The communication should be made in accordance with the *firm's* protocols or procedures or, in the absence of such protocols and procedures, directly to the audit or review engagement [partner](#).
- .32 If the [member](#) is performing a service for a [financial statement](#) audit or review [client](#) of a [network firm](#), or a component of a *financial statement* audit or review *client* of a *network firm*, the *member* should consider whether to communicate the non-compliance or suspected non-compliance to the *network firm*. If the communication is made, it should be made in accordance with the [network's](#) protocols or procedures or, in the absence of such protocols and procedures, directly to the audit or review engagement [partner](#).
- .33 If the [member](#) is performing a service for a [client](#) that is not a [financial statement](#) audit or review *client* of the [firm](#), except as required by law or regulation, the *member* is not permitted to communicate the non-compliance or suspected non-compliance to the *firm* that is the *client's* external auditor, if one exists. See the ["Confidential Client Information Rule"](#) [1.700.001].
- .34 In all cases, the communication is to enable the audit or review engagement [partner](#) to be informed about the non-compliance or suspected non-compliance and to determine whether it should be addressed in accordance with the provisions of this interpretation and if so, how.

### **Documentation**

- .35 In relation to an identified or suspected act of non-compliance that falls within the scope of this interpretation, the [member](#) should, in addition to complying with the documentation requirements under applicable professional standards, document the following:
- a. The matter
  - b. The results of discussion with management and, where applicable, [those charged with governance](#) and other parties
  - c. How management and, where applicable, *those charged with governance* have responded to the matter

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- d. The courses of action the *member* considered, the judgments made and the decisions that were taken, having regard to the reasonable and informed third party perspective

# Text of Proposed New Interpretation “Responding to Non-Compliance with Laws and Regulations”

## (Applicable to Members in Public Practice)

[Terms in italic only are defined terms]

### 2.170 Responding to Non-Compliance with Laws and Regulations

#### 2.170.010 Responding to Non-Compliance with Laws and Regulations

##### *Introduction*

##### *Applicable to All Members in Business*

- .01 When a *member in business* encounters or is made aware of non-compliance or suspected non-compliance with laws and regulations in the course of carrying out *professional services, threats* to compliance with the “Integrity and Objectivity Rule” [2.100.010} may exist. The purpose of this interpretation is to set out the *member’s* responsibilities when encountering such non-compliance or suspected non-compliance and guide the *member* in assessing the implications of the matter and the possible courses of action when responding to it. This interpretation applies regardless of the nature of the *employing organization*.
- .02 Non-compliance with laws and regulations (non-compliance) comprises acts of omission or commission, intentional or unintentional, committed by the *member’s employing organization* or by *those charged with governance*, by management, or by other individuals working for or under the direction of the *employing organization* which are contrary to the prevailing laws or regulations.
- .03 When responding to non-compliance or suspected non-compliance in the course of carrying out *professional services*, the *member* should consider the *member’s* obligations under the “Confidential Information Obtained from Employment or Volunteer Activities” interpretation [2.400.070]. For example, a *member* should not disclose the non-compliance or suspected non-compliance to a third party without the employer’s consent unless expressly permitted under the “Confidential Information Obtained from Employment or Volunteer Activities” interpretation, such as when reporting the non-compliance or suspected non-compliance to a regulatory authority in order to comply with applicable laws and regulations, as discussed in paragraph .04.
- .04 Some regulators, for example, the SEC or state boards of accountancy, may have provisions governing how *members* should address non-compliance or suspected non-compliance which may differ from or go beyond this interpretation, and state and federal civil and criminal laws, in some circumstances, may impose additional requirements. When encountering such non-compliance or suspected non-compliance, the *member* has a responsibility to obtain an understanding of those provisions and comply with them, including any requirement to report the matter to an appropriate authority and any prohibition on alerting the relevant party prior to making any disclosure, for example, pursuant to anti-money laundering legislation.

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.05 A distinguishing mark of the accountancy profession is its acceptance of the responsibility to act in the public interest. When responding to non-compliance or suspected non-compliance, the objectives of the member are as follows:

- a. To comply with the “Integrity and Objectivity Rule” [2.100.010]
- b. To alert management or, if appropriate, those charged with governance of the employing organization, to enable them to
  - i. rectify, remediate or mitigate the consequences of the identified or suspected non-compliance or
  - ii. deter the commission of the non-compliance where it has not yet occurred
- c. To take such further action as appropriate in the public interest

### **Scope**

.06 This interpretation sets out the approach to be taken by a member who encounters or is made aware of non-compliance or suspected non-compliance with the following:

- a. Laws and regulations generally recognized to have a direct effect on the determination of material amounts and disclosures in the employing organization’s financial statements
- b. Other laws and regulations that do not have a direct effect on the determination of the amounts and disclosures in the employing organization’s financial statements, but compliance with which may be fundamental to the operating aspects of the employing organization’s business, to its ability to continue its business, or to avoid material penalties

.07 Examples of laws and regulations which this interpretation addresses include those that deal with the following:

- a. Fraud, corruption, and bribery
- b. Money laundering
- c. Securities markets and trading
- d. Banking and other financial products and services
- e. Data protection

- f. Tax and pension liabilities and payments
- g. Environmental protection
- h. Public health and safety

.08 Non-compliance may result in fines, litigation or other consequences for the [employing organization](#) that may have a material effect on its [financial statements](#). Importantly, such non-compliance may have wider public interest implications in terms of potentially substantial harm to investors, creditors, employees or the general public. For the purposes of this section, an act that causes substantial harm is one that results in serious adverse consequences to any of these parties in financial or non-financial terms. Examples include the perpetration of a fraud resulting in significant financial losses to investors, and breaches of environmental laws and regulations endangering the health or safety of employees or the public.

.09 A [member](#) who encounters or is made aware of matters that are clearly inconsequential, judged by their nature and their impact, financial or otherwise, on the [employing organization](#), its stakeholders and the general public, is not required to comply with this interpretation with respect to such matters.

.10 This interpretation does not address the following:

- a. Personal misconduct unrelated to the business activities of the [employing organization](#)
- b. Non-compliance other than by the *employing organization* or [those charged with governance](#), management, or other individuals working for or under the direction of the *employing organization*

The [member](#) may nevertheless find the guidance in this section helpful in considering how to respond in these situations.

### ***Responsibilities of the Employing Organization's Management and Those Charged with Governance***

.11 It is the responsibility of the [employing organization's](#) management, with the oversight of [those charged with governance](#), to ensure that the *employing organization's* business activities are conducted in accordance with laws and regulations. It is also the responsibility of management and [those charged with governance](#) to identify and address any non-compliance by the *employing organization* or by an individual charged with governance of the entity, by a member of management, or by other individuals working for or under the direction of the *employing organization*.

### ***Responsibilities of Members in Business***

.12 Many [employing organizations](#) have established protocols and procedures (for example, an ethics policy or internal whistle-blowing mechanism) regarding how non-compliance or

suspected non-compliance by the *employing organization* should be raised internally. Such protocols and procedures may allow for matters to be reported anonymously through designated channels. If these protocols and procedures exist within the *member's employing organization*, the *member* should consider them in determining how to respond to such non-compliance.

- .13 If a *member* becomes aware of a matter to which this interpretation applies, the steps that the *member* takes to comply with this section shall be taken on a timely basis, having regard to the *member's* understanding of the nature of the matter and the potential harm to the interests of the *employing organization*, investors, creditors, employees, or the general public.

### ***Responsibilities of Members who are Senior Professional Accountants in Business***

- .14 *Members* who are senior professional accountants in business are directors, officers, or senior employees able to exert significant influence over, and make decisions regarding, the acquisition, deployment and control of the *employing organization's* human, financial, technological, physical and intangible resources. Because of their roles, positions, and spheres of influence within the *employing organization*, there is a greater expectation for them to take whatever action is appropriate in the public interest to respond to non-compliance or suspected non-compliance than other professional accountants within the *employing organization*.

### ***Obtaining an Understanding of the Matter***

- .15 If, in the course of carrying out *professional services*, a *member* who is a senior professional accountant becomes aware of information concerning an instance of non-compliance or suspected non-compliance, the *member* should obtain an understanding of the matter, including the following:
- a. The nature of the act and the circumstances in which it has occurred or may occur
  - b. The application of the relevant laws and regulations to the circumstances
  - c. The potential consequences to the *employing organization*, investors, creditors, employees or the wider public
- .16 A *member* who is a senior professional accountant is expected to apply knowledge, professional judgment and expertise, but is not expected to have a level of understanding of laws and regulations beyond that required for the *member's* role within the *employing organization*. Whether an act constitutes non-compliance is ultimately a matter to be determined by a court or other appropriate adjudicative body.
- .17 Depending on the nature and significance of the matter, the *member* may cause, or take appropriate steps to cause, the matter to be investigated internally. The *member* may also consult on a confidential basis with others within the *employing organization* or a professional body or with legal counsel.

### **Addressing the Matter**

- .18 If the [member](#) who is a senior professional accountant identifies or suspects that non-compliance has occurred or may occur, the *member* should, subject to paragraph .12, discuss the matter with the *member's* immediate superior, if any, to determine how the matter should be addressed. If the *member's* immediate superior appears to be involved in the matter, the *member* should discuss the matter with the next higher level of authority within the [employing organization](#).
- .19 The [member](#) who is a senior professional accountant should also take the following appropriate steps:
- a. Have the matter communicated to [those charged with governance](#) to obtain their concurrence regarding appropriate actions to take to respond to the matter and to enable them to fulfill their responsibilities.
  - b. Comply with applicable laws and regulations, including legal or regulatory provisions governing the reporting of non-compliance or suspected non-compliance to an appropriate authority.
  - c. Have the consequences of the non-compliance or suspected non-compliance rectified, remediated, or mitigated
  - d. Reduce the risk of re-occurrence
  - e. Seek to deter the commission of the non-compliance if it has not yet occurred
- .20 In addition to responding to the matter in accordance with the provisions of this interpretation, the [member](#) who is a senior professional accountant should determine whether disclosure of the matter to the [employing organization's](#) external auditor, if any, is necessary pursuant to the *member's* duty or legal obligation to provide all information necessary to enable the auditor to perform the audit. See the "[Obligation of a Member to His or Her Employer's External Accountant](#)" [2.130.030] interpretation for additional guidance.

### **Determining Whether Further Action Is Necessary**

- .21 The [member](#) who is a senior professional accountant should assess the appropriateness of the response of the *member's* superiors, if any, and [those charged with governance](#).
- .22 Relevant factors to consider in assessing the appropriateness of the response of the [member's](#) superiors, if any, and [those charged with governance](#) include whether
- a. the response is timely.

- b. they have taken or authorized appropriate action to seek to rectify, remediate or mitigate the consequences of the non-compliance, or to avert the non-compliance if it has not yet occurred.
- c. the matter has been disclosed to an appropriate authority where appropriate and, if so, whether the disclosure appears adequate.

.23 In light of the response of the member's superiors, if any, and those charged with governance, the *member* should determine if further action is necessary in the public interest. The determination of whether further action is necessary, and the nature and extent of it, will depend on various factors, including these:

- a. The legal and regulatory framework
- b. The urgency of the matter
- c. The pervasiveness of the matter throughout the employing organization
- d. Whether the *member* who is a senior professional accountant continues to have confidence in the integrity of the *member's* superiors and those charged with governance
- e. Whether the non-compliance or suspected non-compliance is likely to recur
- f. Whether there is credible evidence of actual or potential substantial harm to the interests of the *employing organization*, investors, creditors, employees or the general public

.24 Examples of circumstances that may cause the member who is a senior professional accountant no longer to have confidence in the integrity of the *member's* superiors and those charged with governance include such situations as these:

- a. The *member* suspects or has evidence of management's involvement or intended involvement in any non-compliance.
- b. Contrary to legal or regulatory requirements, management has not reported the matter, or authorized the matter to be reported, to an appropriate authority within a reasonable period.

.25 In determining the need for, and nature and extent of any further action necessary, the member who is a senior professional accountant should exercise professional judgment and take into account whether a reasonable and informed third party, weighing all the specific facts and circumstances available to the *member* at the time, would be likely to conclude that the *member* has acted appropriately in the public interest.

.26 Further action by the [member](#) who is a senior professional accountant may include the following:

- a. Informing the management of the parent entity of the matter if the [employing organization](#) is a *member* of a group
- b. Resigning from the *employing organization*

.27 When the [member](#) who is a senior professional accountant determines that resigning from the [employing organization](#) would be appropriate, doing so would not be a substitute for taking other actions that may be necessary to achieve the *member's* objectives under this section.

.28 As consideration of the matter may involve complex analysis and judgments, the [member](#) who is a senior professional accountant may consider consulting internally, obtaining legal advice to understand the *member's* options and the professional or legal implications of taking any particular course of action or consulting on a confidential basis with a regulator or professional body.

### **Documentation**

.29 In relation to an identified or suspected act of non-compliance that falls within the scope of this interpretation, the [member](#) who is a senior professional accountant is encouraged to have the following matters documented:

- a. The matter
- b. The results of discussions with the *member's* superiors, if any, and [those charged with governance](#) and other parties
- c. How the *member's* superiors, if any, and [those charged with governance](#) have responded to the matter
- d. The courses of action the *member* considered, the judgments made and the decisions that were taken
- e. How the *member* is satisfied that the *member* has fulfilled the responsibility set out in paragraph .23

### **Responsibilities of Members Other Than Those Who Are Senior Professional Accountants in Business**

.30 If, in the course of carrying out [professional services](#), a [member](#) becomes aware of information concerning an instance of non-compliance or suspected non-compliance, the *member* should seek to obtain an understanding of the matter, including the nature of the act and the circumstances in which it has occurred or may occur.

- .31 The [member](#) is expected to apply knowledge, professional judgment, and expertise, but is not expected to have a level of understanding of laws and regulations beyond that required for the *member's* role within the [employing organization](#). Whether an act constitutes non-compliance is ultimately a matter to be determined by a court or other appropriate adjudicative body. Depending on the nature and significance of the matter, the *member* may consult on a confidential basis with others within the *employing organization* or a professional body, or with legal counsel.
- .32 If the [member](#) identifies or suspects that non-compliance has occurred or may occur, the *member* should, subject to paragraph .12, inform an immediate superior to enable the superior to take appropriate action. If the *member's* immediate superior appears to be involved in the matter, the *member* should inform the next higher level of authority within the [employing organization](#).
- .33 In addition to responding to the matter in accordance with the provisions of this interpretation, the [member](#) should determine whether disclosure of the matter to the [employing organization's](#) external auditor, if any, is necessary pursuant to the *member's* duty or legal obligation to provide all information necessary to enable the auditor to perform the audit. See the "[Obligation of a Member to His or Her Employer's External Accountant](#)" interpretation [2.130.030] for additional guidance.

#### **Documentation**

- .34 In relation to an identified or suspected act of non-compliance that falls within the scope of this interpretation, the [member](#) is encouraged to have the following matters documented:
- a. The matter
  - b. The results of discussions with the *member's* superior, management and, where applicable, [those charged with governance](#) and other parties
  - c. How the *member's* superior has responded to the matter
  - d. The courses of action the *member* considered, the judgments made and the decisions that were taken

### Staff Augmentation Task Force

#### Task force members

Lisa Snyder (Chair), Coalter Baker, Jeff Lewis, Brian Lynch, Nancy Miller  
Staff: Ellen Gorla, John Wiley

#### Task force charge

The Staff Augmentation Task Force's initial charge is to study the issue of staff augmentation and independence and determine whether additional guidance for members is warranted.

#### Reason for agenda item

The task force seeks the committee's approval to expose the proposed revised "Staff Augmentation Arrangements" interpretation (ET section 1.275.040) found in **agenda item 2B**.

#### Summary of issues

##### *Background*

At the PEEC meeting on February 11, 2020, the task force presented a revision of the interpretation proposed at the PEEC's November 2019 meeting. This revision addressed concerns that the November 2019 proposal was too restrictive as it would prohibit staff augmentation arrangements even when the activities performed by the augmented staff would not be subject to attest procedures. The revised proposal was bifurcated 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 one available for nonattest services.

After sending the agenda papers out to the members of PEEC, 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 NASBA board 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.

In light of the NASBA board resolution, NASBA representatives on PEEC were asked if the more proscriptive interpretation proposed in November would still be acceptable for exposure.



They responded that the NASBA Board wanted the guidance to be more restrictive than what was proposed then. The NASBA representatives 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.

After discussion of the various issues, Ms. Snyder stated that based on the feedback at the meeting, the task force would regroup and reconsider the November proposal for possible revisions and that the task force would work with NASBA members to develop guidance that they could hopefully support and then bring it back to the committee for possible exposure.

#### *March task force meeting*

The task force met on March 3, 2020 to discuss staff revisions of the interpretation proposed in November based on the comments at the February PEEC meeting. The proposed interpretation was updated for language to reflect that these arrangements would be prohibited unless all the safeguards described previously were met, as well as adding the safeguard that the firm cannot use the augmented staff on the attest engagement team. In addition, the proposal was updated to include a reference to the affiliate exception (similar to that afforded for nonattest services). Staff received input from the task force in support of the current revision and subsequently sought feedback from NASBA. NASBA was provided the task force’s agenda materials from the March 3 meeting for purposes of their discussion.

#### *NASBA feedback*

On March 30, 2020 NASBA sent a letter to staff via email stating that their Ethics Committee met to discuss the alternative language proposed by the task force at its March meeting and that it continues to support the January 17, 2020 NASBA board resolution opposing any new interpretation that would compromise independence by allowing a firm’s staff to provide nonattest services to an attest client through a staff augmentation arrangement. The Ethics Committee also noted that it supports the exposure of the proposed interpretation as presented at the November 2019 PEEC meeting as long as it is clear in the exposure draft that the interpretation also applies to affiliates of a financial statement attest client and that it includes a question regarding whether staff augmentation should be permitted under any circumstances. The Ethics Committee stated that it believes the revised text under 1.224.010 Client Affiliates should not be pursued by PEEC.

On April 1, 2020, staff and members of the task force had a call with Cathy Allen, the NASBA Ethics Committee Chair and Dan Dustin (NASBA) to discuss the March 30, 2020 letter. In response to a question on whether the Ethics Committee considered if there were threats to independence when staff augmentation is provided to a sister affiliate of a private equity audit client, Ms. Allen noted that though there was lengthy discussion surrounding the affiliates exception, the Ethics committee had not specifically considered the independence implications

of affiliate relationships in a private equity structure. Ms. Snyder noted that in such structures, the appearance of “acting as an employee” could be mitigated as portfolio companies are often unrelated businesses and managed by separate individuals and boards.

#### *April task force meeting*

The task force met on April 7, 2020 and discussed the feedback received from NASBA’s Ethics Committee as well as options presented at its March meeting. Based upon this discussion, the task force recommends that PEEC expose the revised November 2019 version of the proposed interpretation, amended to include language that the firm cannot use the augmented staff on the attest engagement team. In addition, the task force is recommending that an exception be included in the proposal that would require members to use the Conceptual Framework for Independence when affiliates “c through l” are involved rather than an outright prohibition for all affiliates. This means that if an affiliate “a or b” (i.e., downstream affiliates) requests that the firm provide it with staff augmentation services, the firm would be prohibited from doing so unless it terminated the audit engagement. It also means that if an affiliate “c through l” requests that the firm provide it with staff augmentation services, the member would be required to evaluate the potential relationship to determine if threats are at an acceptable level and if not, determine if safeguards could be applied to reduce threats to an acceptable level. The task force further believes that a question should be included in the exposure draft requesting specific input on whether the affiliates exception is appropriate or if staff augmentation should be prohibited for all affiliates.

The task force’s proposed revision appears in **agenda item 2B**.

#### *Questions for the committee*

1. Do you agree that the application of the proposed interpretation should be exempted for certain affiliates as proposed by the task force?
2. If you agree that the application of the proposed interpretation should be exempted for certain affiliates, should the exemption language be:
  - a. Consistent with the exemption language for leases as currently proposed in **agenda item 2D**, or
  - b. Consistent with the exemption language for nonattest services?
3. A concern that was expressed at the task force meeting in April was that by placing the interpretation under the simultaneous employment section, there would be no exception for staff augmentation services provided to an AUP client such as that afforded for otherwise prohibited nonattest services that are not subject to audit (see 1.297.030, “Engagements, Other Than AUPs, Performed in Accordance With SSAEs”). Should a similar exception be added to 1.297.030 for staff augmentation services?
4. During the April task force call it was noted that the [Simultaneous Employment or Association With an Attest Client](#) interpretation currently contains the two exceptions in

paragraph.03. Since the proposal would in essence be a third exception (albeit very limited), the committee is asked if a reference to the interpretation should be added to paragraph.03 for consistency purposes. For discussion purposes, a mark-up to is provided in **agenda item 2F**.

### *Exposure draft questions*

The task force proposes the following questions be included in the exposure draft:

1. Do you agree that staff augmentation services should be permitted for those affiliates described in “c through l” of the affiliate definition provided threats are determined to be at an acceptable level or should staff augmentation services be prohibited for all affiliates of an attest client?
2. Are there specific aspects of the proposal that you believe are too permissive or too restrictive? If so, please explain.
3. Should there be an exception for staff augmentation services provided to AUP clients provided the services do not relate to the subject matter of the engagement?

### *Questions for the committee*

1. Do you agree with the exposure draft questions proposed above?
2. Do you have any other questions that should added?

### **Effective date**

The task force continues to believe that the proposal should be effective three months after publication in *The Journal of Accountancy*.

### **Action needed**

The task force believes that the proposed revised interpretation addresses the concerns expressed by a majority of committee members in February and believes the revised interpretation should be exposed for public comment. The committee is asked to approve the proposal for exposure.

If the committee agrees to expose, the committee should decide whether a 60-day comment period is sufficient given the current environment.

### **Communications plan**

Ms. Mullins will work with task force staff to develop an appropriate communications plan.

**Materials presented**

- Agenda item 2B** Proposed revised interpretation
- Agenda item 2C** November 2019 version marked for proposed changes
- Agenda item 2D** Proposed addition to the “Client Affiliates” interpretation
- Agenda item 2E** Proposed addition to the “Simultaneous Employment or Association with an Attest Client” interpretation

Proposed revised interpretation for the May 2020 meeting

1.275.040 Staff Augmentation Arrangements

.01 In this interpretation, staff augmentation arrangements involve lending *firm* personnel (“augmented staff”) to an attest client whereby the *attest client* is responsible for the direction and supervision of the activities performed by the augmented staff. Under such arrangements, the *firm* bills the *attest client* for the activities rendered by the augmented staff but does not direct or supervise the actual performance of the activities.

.02 If a *partner* or professional employee of the *member’s firm* serves as augmented staff for an *attest client*, familiarity, management participation, advocacy, or self-review *threats* to the *member’s* compliance with the “[Independence Rule](#)” [1.200.001] may exist. *Threats* would *not* be at an acceptable level and *independence* would be *impaired unless* all of the following *safeguards* are met:

- a. The staff augmentation arrangement is being performed due to an unexpected situation that would create a significant hardship for the attest client to make other arrangements.
- b. The augmented staff arrangement is not expected to reoccur.
- c. The augmented staff arrangement is performed only for a short period of time. There is a rebuttable presumption that a short period of time would not exceed 30 days.
- d. The augmented staff performs only activities that would not otherwise be prohibited by the “Nonattest Services” subtopic (ET sec. 1.295) of the “Independence Rule” (ET sec. 1.200.001).
- e. The *member* is satisfied that client management designates an individual or individuals who possess suitable skill, knowledge, and experience, preferably within senior management, to be responsible for
  - i. determining the nature and scope of the activities to be provided by the augmented staff;
  - ii. supervising and overseeing the activities performed by the augmented staff; and
  - iii. evaluating the adequacy of the activities performed by the augmented staff and the findings resulting from the activities.
- f. The firm does not use the augmented staff on the attest engagement team.

## Agenda item 2B

.03 Refer to paragraph .02 f. of the “[Client Affiliates](#)” interpretation [1.224.010] of the “[Independence Rule](#)” [1.200.001] for additional guidance.

### **Effective Date**

.04 Effective [three months after announcement is published in the *Journal of Accountancy*].

November 2019 version marked for proposed changes

(Additions in bold italic and deletions are stricken)

1.275.040 Staff Augmentation Arrangements

- .01 In this interpretation, staff augmentation arrangements involve lending *firm* personnel (“augmented staff”) to an attest client whereby the *attest client* is responsible for the direction and supervision of the **activities** ~~nonattest services~~ performed by the augmented staff. Under such arrangements, the *firm* bills the *attest client* for the **activities** ~~nonattest services~~ rendered by the augmented staff but does not direct or supervise the actual performance of the **activities** ~~nonattest services~~.
- .02 If a *partner* or professional employee of the *member’s firm* serves as augmented staff for an *attest client*, familiarity, management participation, advocacy, or self-review *threats* to the *member’s* compliance with the “[Independence Rule](#)” [1.200.001] may exist. However, ~~if~~ *Threats* would **not** be at an acceptable level and *independence* would ~~not~~ be *impaired* in [TBD] situations provided **unless** all of the following *safeguards* are met:
- a. ***The staff augmentation arrangement is being performed due to an unexpected situation that would create a significant hardship for the attest client to make other arrangements.***
  - b. The augmented staff arrangement is not expected to reoccur.
  - c. ***The augmented staff arrangement*** ~~and~~ is performed only for a short period of time. There is a rebuttable presumption that a short period of time would not exceed 30 days.
  - d. The augmented staff performs only activities that would not otherwise be prohibited by the “Nonattest Services” subtopic (ET sec. 1.295) of the “Independence Rule” (ET sec. 1.200.001).
  - e. The *member* is satisfied that client management designates an individual or individuals who possess suitable skill, knowledge, and experience, preferably within senior management, to be responsible for
    - i. determining the nature and scope of the activities to be provided by the augmented staff;
    - ii. supervising and overseeing the activities performed by the augmented staff; and

## Agenda item 2C

- iii. evaluating the adequacy of the activities performed by the augmented staff and the findings resulting from the activities.

**f. The firm does not use the augmented staff on the attest engagement team.**

**.03 Refer to paragraph .02 f. of the “[Client Affiliates](#)” interpretation [1.224.010] of the “[Independence Rule](#)” [1.100.001] for additional guidance.** ~~Where practicable, the firm should consider not using the augmented staff on the attest engagement team, or not using the augmented staff to perform attest procedures on any areas for which the staff performed activities during the augmented staff arrangement~~

### Effective Date

.04 Effective [three months after announcement is published in the *Journal of Accountancy*].



**Proposed addition to “Client Affiliates” interpretation**

(Additions in bold italic)

**1.224.010 Client Affiliates**

- .01 Financial interests in, and other relationships with, affiliates of a financial statement attest client may create threats to a member’s compliance with the “Independence Rule” [1.200.001].
- .02 When a client is a financial statement attest client, members should apply the “Independence Rule” [1.200.001] and related interpretations applicable to the financial statement attest client to their affiliates, except in the following situations:
- a. A covered member may have a loan to or from an individual who is an officer, a director, or a 10 percent or more owner of an affiliate of a financial statement attest client during the period of the professional engagement unless the covered member knows or has reason to believe that the individual is in such a position with the affiliate. If the covered member knows or has reason to believe that the individual is an officer, a director, or a 10 percent or more owner of the affiliate, the covered member should evaluate the effect that the relationship would have on the covered member’s independence by applying the “Conceptual Framework for Independence” [1.210.010].
  - b. A member or the member’s firm may provide prohibited nonattest services to entities described under items c–l of the definition of affiliate during the period of the professional engagement or during the period covered by the financial statements, provided that it is reasonable to conclude that the services do not create a self-review threat with respect to the financial statement attest client because the results of the nonattest services will not be subject to financial statement attest procedures. For any other threats that are created by the provision of the nonattest services that are not at an acceptable level (in particular, those relating to management participation), the member should apply safeguards to eliminate or reduce the threats to an acceptable level.
  - c. A firm will only have to apply the “Subsequent Employment or Association With an Attest Client” interpretation [1.279.020] of the “Independence Rule” if the former employee, by virtue of his or her employment at an entity described under items c–l of the definition of affiliate, is in a key position with respect to the financial statement attest client. Individuals in a position to influence the attest engagement and on the attest engagement team who are considering employment with an affiliate of a financial statement attest client will still need to report consideration of employment to an appropriate person in the firm and remove themselves from the financial statement attest engagement, even if the position with the affiliate is not a key position.
  - d. A covered member’s immediate family members and close relatives may be employed in a key position at an entity described under items c–l of the definition of affiliate during the period of the professional engagement or during the period covered by the financial

## Agenda item 2D

statements, provided they are not in a key position with respect to the financial statement attest client.

- e. A covered member who is an individual on the attest engagement team, an individual in a position to influence the attest engagement, or the firm may have a lease that does not meet the requirements of the “Leases” interpretation [1.260.040] under the “Independence Rule” [1.200.001] with an entity described under items c–l of the definition of affiliate during the period of the professional engagement. The covered member should use the “Conceptual Framework for Independence” [1.210.010] to evaluate whether any threats created by the lease are at an acceptable level. If the covered member concludes that threats are not at an acceptable level, the covered member should apply safeguards to eliminate the threats or reduce them to an acceptable level.
- f. ***A member or member’s firm may enter into a staff augmentation arrangement with entities described under items c–l of the definition of affiliate during the period of the professional engagement or during the period covered by the financial statements. The member should use the “Conceptual Framework for Independence” to evaluate whether any threats created by the staff augmentation arrangement are at an acceptable level. If the member concludes that threats are not at an acceptable level, the member should apply safeguards to eliminate the threats or reduce them to an acceptable level.***

[Paragraphs .03–.09 are unchanged.]

[See Revision History Table.]

### Proposed addition to “Simultaneous Employment or Association with an Attest Client” interpretation

(Additions in bold italic)

#### 1.275.005 Simultaneous Employment or Association With an Attest Client

- .01 In this interpretation, simultaneous employment or association with an *attest client* is serving as a director, an officer, an employee, a promoter, an underwriter, a voting trustee, a trustee for any pension or profit-sharing trust of the *attest client*, or in any capacity equivalent to that of a member of management of an *attest client* during the period covered by the *financial statements* or the *period of the professional engagement*.
- .02 If a *partner* or professional employee of the *member’s firm* is simultaneously employed or associated with an *attest client*, familiarity, management participation, advocacy, or self-review *threats* to the *member’s* compliance with the “[Independence Rule](#)” [1.200.001] would not be at an *acceptable level* and could not be reduced to an *acceptable level* by the application of *safeguards*. Accordingly, *independence* would be *impaired*. [Prior reference: paragraph .02C of ET section 101]
- .03 However, *threats* will be at an *acceptable level* and *independence* will not be *impaired* when ~~either~~ **any** of the following situations exists:
- a. A *partner* or professional employee of a *firm* serves as an adjunct faculty member of an educational institution that is an *attest client* of the *firm* and the *partner* or professional employee meets all of the following *safeguards*:
    - i. Does not hold a *key position* at the educational institution
    - ii. Does not participate on the *attest engagement team*
    - iii. Is not an *individual in a position to influence the attest engagement*
    - iv. Is employed by the educational institution on a part-time and non-tenure basis
    - v. Does not participate in any employee benefit plans sponsored by the educational institution, unless participation is required
    - vi. Does not assume any management responsibilities or set policies for the educational institution

Upon termination of employment, the *partner* or professional employee should comply with the requirements of the “[Former Employment or Association With an Attest Client](#)” interpretation [1.277.010] of the “Independence Rule” [1.200.001]. [Prior reference: paragraph .21 of ET section 101]

## Agenda Item 2E

- b. A *member* in a government audit organization performs an *attest engagement* with respect to the government entity and the head of the government audit organization meets at least one of the following:
- i. Is directly elected by voters of the government entity with respect to which *attest engagements* are performed
  - ii. Is appointed by a legislative body and is subject to removal by a legislative body
  - iii. Is appointed by someone other than the legislative body, as long as the appointment is confirmed by the legislative body and removal is subject to oversight or approval by the legislative body
- c. ***A partner or professional employee of the member's firm serves as augmented staff for an attest client when all the safeguards identified in the Staff Augmentation Arrangements interpretation (1.275.040) are met.***

.04 *Members* that are simultaneously employed or associated with an *attest client* should consider their obligations as a *member in business* under [part 2](#) of the code. [No prior reference: new content]

### ***Effective Date***

.05 Paragraph .04 of this interpretation is effective December 15, 2014.

A nonauthoritative question and answer regarding independent contractors retained by the firm who are simultaneously employed or associated with an attest client is available at [www.aicpa.org/interestareas/professionalethics/resources/tools/downloadabledocuments/ethics-general-faqs.pdf](http://www.aicpa.org/interestareas/professionalethics/resources/tools/downloadabledocuments/ethics-general-faqs.pdf).

[See Revision History Table.]

### Inducements Task Force

#### Task force members

Anna Dourdourekas (Chair), Tom Campbell, Sharon Jensen, Peggy Ullmann, and Jennifer Kary, AICPA Staff: Michele Craig and Ellen Gorla

#### Task force charge

Consider the revisions made by the International Federation of Accountants' (IFAC) International Ethics Standards Board for Accountants (IESBA) to the IESBA Code of Ethics for Professional Accountants (the IESBA code) pertaining to the offering and accepting of inducements and recommend to the Committee the appropriate actions for convergence purposes.

#### Reason for agenda item

To request the committee's feedback regarding the direction of the draft practice aid.

#### *Nonauthoritative guidance (practice aid)*

At the February 2020 PEEC meeting, the task force provided the committee with an update on the task force's progress with the practice aid. The task force has met several times since the November PEEC meeting and reviewed the feedback received from PEEC.

Based on PEEC's feedback, the task force decided that the practice aid (**agenda item 3B**) should focus on the integrity and objectivity rule and not include the independence rule, as the AICPA's guidance is more restrictive than IESBA's guidance as it relates to independence. In addition, the task force agreed that since the AICPA code's interpretations provide guidance on offering or accepting gifts and entertainment to or from a client, the practice aid should focus on other actions that would influence a member's behavior, such as, hospitality and political or charitable contributions.

The task force revised the guidance in the practice aid including the frequently asked questions (FAQs) and case studies and removed answers that were definitive, so that members may use their professional judgment when analyzing a situation. This revision included deleting the "reasonable in the circumstances" examples.

Additional revisions to the practice aid include these:

- Changing the title of the practice aid to "Understanding actions to influence behavior that may compromise your professional integrity and objectivity."
- Updating the language in the introduction to the practice aid to clarify that the practice aid does not include guidance on independence matters.
- Adding an FAQ on hospitality.
- Integrating the conceptual framework worksheet from the conceptual framework toolkit as an appendix in the practice aid.

### ***Questions for the committee***

1. Does the committee agree with the title of the practice aid, “Understanding actions to influence behavior that may compromise your professional integrity and objectivity”?
2. Are the scenarios used for the FAQs and case studies sufficient? If not, what other examples does the Committee believe should be included in the practice aid?

### **Action needed**

The Committee is asked to provide its feedback on the draft practice aid and whether it continues to believe convergence with the IESBA inducements guidance should be addressed through a nonauthoritative document.

### **Materials presented**

**Agenda item 3B** – Draft nonauthoritative guidance for inducements

# Practice aid:

Understanding actions to influence behavior that may compromise your professional integrity and objectivity

As of XXX, 2020

## The practice aid: What's it all about?

The AICPA Code of Professional Conduct (code) currently provides guidance to members on how to address the offering or acceptance of gifts or entertainment, but what about other actions to influence behavior that are not addressed by the code?

The FAQs and case studies in this practice aid are based on guidance the AICPA Professional Ethics Division staff have provided to members' hotline inquiries. The focus of this practice aid is other actions that may influence a member's behavior with respect to compliance with the "Integrity and Objectivity Rule" (ET sec. 1.100.001 and ET sec. 2.100.001) only. Independence matters are not included in the practice aid.<sup>1</sup>

The examples are not rules, regulations, or statements issued by the Professional Ethics Executive Committee and are not considered authoritative guidance.

The examples also do not address the requirements of other standard-setters or regulatory bodies, such as the state boards of accountancy, the SEC, and the U.S. GAO, whose positions may differ from the AICPA.

Terms that are defined in the code are italicized. The first instance of a defined term or code citation links to the code.

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<sup>1</sup>See "[Offering or Accepting Gifts or Entertainment](#)" interpretation (1.285.010) for independence guidance.



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## What actions other than gifts and entertainment may compromise your professional integrity?

The AICPA Code of Professional Conduct (code) specifically addresses members receiving and giving gifts or entertainment and how this might create threats to compliance with the “Integrity and Objectivity Rule” (ET secs. 1.100.001 and 2.100.001). But there are other actions that might be intended to influence an outcome or behavior that you may need to evaluate and consider what a reasonable and informed third party would conclude.

Such actions may include

- Political or charitable contributions<sup>2</sup>
- Preferential treatment, rights, or privileges
- Hospitality
- Employment or other commercial opportunities
- Mutual recommendation or promotion of business interest, product, or service
- Interactions between a family member and a client

## Using the conceptual framework to identify threats to integrity and objectivity

Actions that might be intended to influence an outcome or behavior could result in the following threats to your compliance with the “Integrity and Objectivity Rule”: self-interest, undue influence, and familiarity.

The conceptual framework will help you evaluate the significance of threats and figure out any appropriate safeguards to reduce those threats to an acceptable level:

- If you’re in public practice, use “[Conceptual Framework for Members in Public Practice](#)” (ET sec. 1.000.010).
- If you’re in business, use “[Conceptual Framework for Members in Business](#)” (ET sec. 2.000.010).

If you aren’t familiar with these two interpretations or find you could use some extra help, there are toolkits<sup>3</sup> available to assist you with applying the steps of the conceptual framework. The worksheets within the toolkits can also be used to satisfy the documentation requirement.

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<sup>2</sup> Political or charitable contributions are included in this document as an “other action” since they are not considered gifts. See paragraph 10 of the [AICPA’s Basis for Conclusion Document for Gifts and Entertainment](#).

<sup>3</sup> For additional guidance on the application of the conceptual framework see the [Members in Public Practice](#) and [Members in Business](#) Conceptual Framework Toolkits.

## What factors may help you determine what’s “reasonable in the circumstances”?

These are suggestions of some relevant factors to assist with your assessment of what’s reasonable in the circumstances, none of them on its own determines what’s reasonable:

- Nature of the action
- Occasion or reason giving rise to the action
- Cost or value
- Frequency
- Whether the action was associated with the conduct of business
- Extent of participation by others

## What to consider when making political or charitable contributions

When making political or charitable contributions, appearance can be everything. How will such contributions be regarded? Will they affect your integrity or objectivity? Can they reasonably be perceived to affect your integrity or objectivity?

### Practices that might help you protect your integrity and objectivity

- Formalize the organization’s approval policy for contributions and sponsorships.
- Create an approval structure to review proposed contributions by members of the organization.
- Adopt a policy of participating only at or below a certain level of donorship (for example, avoid being the platinum sponsor of an event).
- Adopt a policy of rotating support for charitable causes from year to year.
- Provide guidance to your team for evaluating what is reasonable in the circumstances. Have them consider things like nature, occasion, frequency, value.
- Monitor the client relationship on a regular basis if you are regularly sponsoring or making contributions.
- Limit the contribution amounts, including frequency, to clients or have a rotational schedule for clients who request contributions.
- Lower the amount of the contribution to a level consistent with other donors.
- Lower the amount of the contribution to a level that is reasonable in the circumstances to either the organization (donor) or the client (recipient).

### Applying safeguards

Sometimes threats to integrity and objectivity can’t be completely avoided; however, safeguards may reduce threats to an acceptable level.

If you find yourself in a position that contributing to a political or charitable organization would create significant threats to compliance, consider the following safeguards:

- Have a member of the organization who is not on the engagement team review the proposed contribution.
- Remove from the engagement team any member who is volunteering in a political campaign of a client.
- Add a reviewer to any engagements your organization is currently working on for the client receiving the contribution.

## Members in public practice: Frequently asked questions and answers

### Political campaign contributions

*Question.* A political candidate is associated with an attest client in a key position or holds a financial interest in an attest client that is material or enables the candidate to exercise significant influence over the attest client (or both). May a member contribute to that campaign without compromising the member's integrity or objectivity?

*Answer.* A member may make this contribution without compromising the member's integrity or objectivity as long as the contribution would not appear to be intended to procure or retain professional services and as long as it complies with federal and state laws or regulations.

### Charitable donations

*Question.* A consulting client is requesting that a member join the client's running team for a marathon benefiting a not-for-profit entity. To join the team, the member needs to pledge or obtain pledges to raise funds for the not-for-profit. May the member participate in this event with the client and raise funds?

*Answer.* A member may participate in this event, but when volunteering or assisting a client's fundraising efforts the member should take care to avoid the appearance of close association.

### Sponsorship

#### *Basic sponsorship of a charitable event*

*Question:* A charitable organization is having a fundraising gala event. An officer of one of the firm's clients is on the organization's governing board and will be honored at the fundraising gala. The lead partner on the engagement has requested that his firm sponsor a table at the gala and make a contribution to the charity.

Can the firm sponsor a table at the fundraising event for the firm's partners and professionals attending or make a contribution to the client's charitable organization?

*Answer:* The firm may sponsor a table or contribute to the client's charitable organization if the contribution would not appear to be intended to influence the client's behavior. However, members should take care in evaluating whether charitable contributions are reasonable in the circumstances, such as the timing and relation to new opportunities or contract renewal for professional services. The level of sponsorship is an important consideration as well as how it aligns with other sponsors' contributions. If the contribution appears to influence the client's behavior, this may create threats to compliance with the "Integrity and Objectivity Rule" (ET sec. 1.100.001) such as, the self-interest threat.

#### *Premier or sole sponsorship of a charitable event*

*Question:* A not-for-profit client is holding a golf outing to raise funds. The client asks the partner on the engagement if the firm will be one of the premier sponsors of the golf outing and whether the firm will also sponsor the "hole in one" prize.

Are there ethical considerations for being a premier sponsor of a client's charitable event?

*Answer:* Being a premier sponsor of a client's charitable event may create threats to compliance with the "Integrity and Objectivity Rule" (ET sec. 1.100.001) such as, the familiarity threat. Is the accounting firm becoming closely identified with the client? When analyzing threats, consider the level of sponsorship and donation to the not-for-profit client compared to other sponsors and whether applying safeguards, such as adding a reviewer, would reduce the threats to an acceptable level.

## Hospitality

### Scenario 1

Question: You receive an email from the CEO of a consulting client requesting your presence at her home this weekend for dinner.

If you accept the CEO's invitation would this compromise your professional integrity and objectivity?

*Answer:* It depends on the circumstances associated with the event. In this case you may need to assess if the familiarity threat is present because the client's hospitality throughout the engagement may lead to you becoming too trusting of the client. For example, prior to accepting you may consider,

- Is the CEO inviting you over for an elaborate dinner?
- Have you previously attended a dinner at the CEO's home?
- Will the CEO's family members be attending the dinner?
- Who else from your firm and the CEO's company will be attending?
- Do you have reason to believe that the CEO's intent is to build a relationship that would influence your behavior?

### Scenario 2

Question: What if the email in scenario 1 was an invitation to her annual "pig roast" that is a big event held in the CEO's backyard? The guest list includes other vendors, the client's customers, and individuals of influence such as, a congressperson that the client supports. Would this create an ethical issue?

In this case the threats may be reduced to an acceptable level, as the invitation is not limited to only you and your firm, but you may still need to analyze who is participating in the event and whether other threats may be present to compliance with the "Integrity and Objectivity Rule" (ET. sec. 1.100.001).

## Gifts or entertainment to family members

*Question:* The daughter of the engagement team's lead partner is getting married and the company's CEO gives a gift card to her favorite store as a wedding present.

Would the daughter's acceptance of this gift have any ethical implications?

*Answer:* It depends. Does it appear that the client is trying to improperly influence the lead partner's behavior? If so, threats to compliance with the "Integrity and Objectivity Rule" (ET. sec. 1.100.001) may exist at a higher than acceptable level. The client's intent is key, even if the gift is clearly insignificant and given to someone outside of the member's firm, such as a member's immediate family member or close relative.

## Members in business: Frequently asked questions and answers

### Vendor relationship

*Question:* A controller of a company has a daughter who works for an accounting software vendor. The controller has been vetting other accounting software vendors because the contract with this current vendor is up for renewal. The company's internal audit has raised a red flag regarding the invoices from this vendor and the controller is aware of this issue.

What are the ethical implications if the controller continues the vendor relationship?

*Answer:* If the controller chooses to stay with this vendor, the perception could be that the daughter's employment influenced the controller's behavior to use that particular vendor rather than thoroughly vetting all vendors and selecting the best one for the company.



## Case studies

### Case study 1: Financial contribution and volunteer services to a political campaign

#### *The situation*

You are part of an engagement team in a firm that provides consulting services to a law firm. The managing partner of the law firm tells you that he will be running in a local election if he gets enough support.

Your firm has a significant portion of its business in the city where the election will take place, so the candidate asks you to volunteer as his campaign treasurer. He also asks your firm to make a financial contribution to his campaign and allow firm staff to volunteer to campaign for him.

Your firm already provides consulting services, so it is clear to you that the contribution is not intended, nor would appear to have been intended, to secure a contract. You know a contribution would not be acceptable if that were the intent or would appear to be the intent.

#### *The applicable guidance*

Because political donations are not considered gifts<sup>4</sup> you wouldn't use the "Offering or Accepting Gifts or Entertainment" interpretation (ET sec. [1.120.010](#)) to evaluate any effects on you or your firm's integrity or objectivity.

Rather, you would apply the conceptual framework approach outlined in paragraph.07 of the "Conceptual Framework for Members in Public Practice" (ET sec. [1.000.010](#)) to determine whether there will be any effects on your integrity or objectivity.

#### *Analysis*

##### **What threats does this situation present?**

Using the conceptual framework, you identify the **familiarity threat** as a possible threat in this situation.

This threat may be present if you or other firm staff who volunteer for the campaign also participate on the consulting engagement. What if a close relationship develops with the candidate as a result of volunteering on the campaign?

##### **How significant is this threat?**

Now that you've identified the threat that may exist, it's time to evaluate its significance. In doing so, consider whether your client requested similar participation and contributions from other vendors and service providers,

##### **What safeguards can you apply?**

If you conclude that the threat to compliance with the code is significant, you may consider one or more of the following safeguards:

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<sup>4</sup> Paragraph 10 of the [Gifts and Entertainment Basis for Conclusion Document](#) notes that donations to a charitable organization are not considered gifts.

- Have the work reviewed by someone who is not associated with the consulting engagement. This person can be either inside or outside your firm.
- If you do volunteer as campaign treasurer, stop participating on the consulting engagement.
- Ensure that no firm partners participate in the campaign.
- Ensure firm staff volunteer on their own time and in their own names instead of volunteering through your firm.

### *What does it all come down to?*

As with most ethical questions, safeguards are key to compliance. If you already have sufficient safeguards in place or apply the safeguards you identify, such as those in the previous list, then threats to compliance with the “Integrity and Objectivity Rule” (ET sec. 1.100.001) may be at an acceptable level and your firm may continue with the engagement.

In some situations, threats to compliance with the rule may be so significant that no safeguards can reduce or eliminate a threat to an acceptable level. In this case you and your firm may need to terminate the relationship or decline the opportunity to help with the campaign. An example of a threat this significant would be if you or your firm contribute to the political campaign with the intent, or the appearance of an intent, to influence your client’s behavior once your client is elected.

[xxx, 2020]

## Case study 2: Preferential treatment of immediate family member or close relative

### *The situation*

Company B is suing Company A for patent infringement and Company A engages you to provide litigation support. The deadline for you to submit your final analysis of the matter to Company A's CEO and legal counsel is Friday.

The CEO's son and your son play on the same little league team. The CEO is the coach of the team and he decides on the positions and amount of time each child plays during a game. Your son really wants to play 3<sup>rd</sup> base, but until now the CEO has refused to play your son in this position and instead has played him in the catcher's position for every game.

You share an initial draft of your analysis with the CEO on the Monday before your Friday deadline. The CEO tells you that he expected a different analysis and doesn't believe your analysis is accurate, nor will it be strong enough to win the case.

Based on the facts and prior conversations with the CEO, you believe the information in the initial draft to be accurate. In addition, you and Company A's legal counsel warned Company A's board of directors and the CEO that it would be difficult to win this case based on the facts and complexity of the matter.

The next day, Tuesday, the CEO provides you with new facts and tells you he expects a new analysis based on these facts. The CEO stresses that if Company A doesn't win this case, they may need to file bankruptcy.

You review the new information and still believe that the initial analysis was accurate. Furthermore, you cannot verify the accuracy or completeness of the new details.

Before rushing to leave for a business dinner on Wednesday, the CEO tells you that your son will be playing 3<sup>rd</sup> base during the next little league game.

### *The applicable guidance*

You decide to analyze this situation using the conceptual framework because the "Offering or Accepting Gifts or Entertainment" interpretation (ET sec. 1.120.010) does not seem applicable to the CEO's last-minute decision to change the position your son will be playing in the next game.

### *Analysis*

#### **What threats does this situation present?**

Application of the conceptual framework helps you identify the following threats.

If you don't change your analysis and Company A loses their case, Company A may not allow your firm to continue with the litigation engagement or other potential engagements. Additionally, the CEO may not permit your son to play his favorite position during the little league games. This could mean one or both, the **undue influence** or **self-interest**, threats may be present.

Because your son and the CEO's son play on the same team, it's possible you may approach the CEO's new facts with less skepticism and more leniency. This indicates the **familiarity threat** may also be present.

### How significant are these threats?

Now that you have identified the threats, it's time to consider their significance. Here are some things to think about:

- What does the CEO's intent in offering your son the 3<sup>rd</sup> base position appear to be?
- Is the CEO known for actions that might influence others' behavior?
- What is your relationship with the CEO outside of the engagement?

### What safeguards can you apply?

If you conclude that threats to compliance with the code are significant, here are some examples of safeguards you may consider:

- Have Company A's legal counsel and board of directors verify the new facts.
- Get representation from Company A's management (other than the CEO) on all information for the case.
- Have the work reviewed by someone who is not associated with the litigation engagement. This could be someone inside or outside of your firm.

### *What does it all come down to?*

If you have the appropriate safeguards in place or apply additional safeguards you identify, such as those in the previous list, then threats to compliance with the "Integrity and Objectivity Rule" (ET sec. 1.100.001) may be at an acceptable level and you may continue with the engagement.

In some situations, when it appears the intent of preferential treatment is to influence your behavior, threats to compliance with the "Integrity and Objectivity Rule" (ET sec. 1.100.001) may not be at an acceptable level and there may be no safeguards that can eliminate the threats or reduce them to an acceptable level. This is true even if the preferential treatment is not for you but is for an immediate family member or close relative and even if the action is clearly insignificant.

## Appendix 1-Conceptual framework example

The following example was used to complete the conceptual framework worksheet:

You are part of an engagement team in a firm that provides consulting services to a law firm. The managing partner of the law firm tells you that he will be running in a local election if he gets enough support.

Your firm has a significant portion of its business in the city where the election will take place, so the candidate asks you to volunteer as his campaign treasurer. He also asks your firm to make a financial contribution to his campaign and allow firm staff to volunteer to campaign for him.

Your firm already provides consulting services, so it is clear to you that the contribution is not intended, nor would appear to have been intended, to secure a contract. You know a contribution would not be acceptable if that were the intent<sup>5</sup>, or would appear to be the intent.

Because donations to a charitable organization are not considered gifts<sup>6</sup> you wouldn't use the "Offering or Accepting Gifts or Entertainment" interpretation (ET sec. [1.120.010](#)) to evaluate any effects on your or your firm's integrity or objectivity.

Rather, you would apply the conceptual framework approach outlined in paragraph.07 of the "Conceptual Framework for Members in Public Practice" (ET sec. [1.000.010](#)) to determine whether there will be any effects on your integrity or objectivity and consider what a reasonable and informed third party that is aware of the circumstances would conclude.

Summary of the relationship or circumstances	Step 1 Identify threats	Step 2 Evaluate the significance of threats	Step 3 Identify and apply safeguards	Step 4 Evaluate the effectiveness of safeguards
An owner of your client asked that you volunteer as his campaign treasurer for his campaign.	<i>Familiarity threat:</i> What if a close relationship develops with the candidate as a result of volunteering on the campaign?	Has your client requested similar participation from other vendors and service providers?	Have the work reviewed by someone who is not associated with the consulting engagement. This person can be either inside or outside your firm.	Examples of safeguards identified in step 3 may reduce the threat to an acceptable level.

<sup>5</sup> Page 4 of the [General Frequently Asked Questions Document](#) notes that contributions are acceptable if intent is not to influence the procurement of professional services.

<sup>6</sup> Paragraph 10 of the [Gifts and Entertainment Basis for Conclusion Document](#) notes that donations to a charitable organization are not considered gifts.

Summary of the relationship or circumstances	Step 1 Identify threats	Step 2 Evaluate the significance of threats	Step 3 Identify and apply safeguards	Step 4 Evaluate the effectiveness of safeguards
			If you do volunteer as campaign treasurer, stop participating on the consulting engagement.	
An owner of your client has asked that you allow firm staff to volunteer and campaign for him.	<i>Familiarity threat:</i> What if a close relationship develops with the candidate as a result of volunteering on the campaign?	Has your client requested similar participation from other vendors and service providers?	Ensure that no firm partners participate in the campaign.  Ensure firm staff volunteer on their own time and in their own names instead of volunteering through your firm.	Examples of safeguards identified in step 3 may reduce the threat to an acceptable level.
<b>Conclusion</b>	<p>As with most ethical questions, safeguards are key to compliance. If you already have sufficient safeguards in place or apply the safeguards you identify, such as those listed in this table, then threats to compliance with the “Integrity and Objectivity Rule” (ET sec. 1.100.001) may be at an acceptable level and your firm may continue with the engagement.</p> <p>In some situations, threats to compliance with the rule may be so significant that no safeguards can reduce or eliminate a threat to an acceptable level. In this case you and your firm may need to terminate the relationship or decline the opportunity to help with the campaign. An example of a threat this significant would be if you or your firm contribute to the political campaign with the intent to influence your client’s behavior once your client is elected.</p>			

### Delayed effective dates

#### Reason for agenda item

The committee is asked to consider delaying the effective dates of three independence interpretations.

#### Summary of issue

Following the declaration of a national emergency related to the COVID-19 pandemic, the AICPA has consistently heard from firms that regardless of when the COVID-19 pandemic is declared over or when social distancing restrictions are lifted, smaller and mid-size firms will be struggling to recover like so many other small businesses and will not have the time or other resources to effectively implement the following interpretations.

The AICPA believes that in this environment it would be in the public interest and welcome relief to many firms if the committee extended the effective dates for an additional year as highlighted below.

- “[Information Systems Services](#)” [1.295.145] (Effective January 1, 2021. Early implementation permitted.)
- “[State and Local Government Client Affiliates](#)” [1.224.020] (Effective for years beginning after December 15, 2020.)
- “[Leases](#)” [1.260.040] (Effective for fiscal years beginning after December 15, 2020. Early implementation is allowed.)

Though technically members are required to apply the Leases interpretation to attest clients whose fiscal years may have already begun, there are some attest clients whose fiscal years may not have begun yet. Accordingly, staff recommends the effective date of this interpretation be extended to assist with unforeseen situations that members may encounter as a result of the national emergency.

Staff consulted with the AICPA Office of General Counsel regarding due process involved in establishing a deferral of effective dates to previously issued independence interpretations. Public exposure of the proposed delay to the effective dates is *not* required as it involves no changes in objectives or requirements other than the effective date.

#### Action needed

The committee is asked to vote whether to defer the effective dates of the three independence interpretations and if so, for how long.

### **Communications plan**

Ms. Mullins will work with communications team to develop an appropriate communications plan.



**American Institute of Certified Public Accountants**  
**Professional Ethics Division**  
**Professional Ethics Executive Committee**  
**Open meeting minutes**  
**October 22, 2019**

The Professional Ethics Executive Committee (committee) held a duly called meeting on October 22, 2019. The virtual meeting convened at 2:00 p.m. and adjourned at 2:40 p.m.

<p><b>Attendance:</b>          Brian Lynch, Chair          Coalter Baker          Chris Cahill          Tom Campbell          Robert Denham          Anna Dourdourekas          Kelly Hunter          Sharon Jensen</p>	<p>Jennifer Kary          William McKeown          James Newhard          Stephanie Saunders          Lisa Snyder          Peggy Ullmann          Douglas Warren          Lawrence Wojcik</p>
<p><b>Staff:</b>          James Brackens, VP – Ethics &amp; Practice Quality          Toni Lee-Andrews, Director          Ellen Gorla, Associate Director          Jennifer Clayton, Senior Manager          Michele Craig, Lead Manager          Aradhana Aggarwal, Manager          Sarah Brack, Manager          Liese Faircloth, Manager          Jennifer Kappler, Manager          Iryna Klepcha, Manager          Michael Schertzinger, Manager          April Sherman, Manager</p>	<p>John Wiley, Manager          Shannon Ziemba, Manager          Henry Grzes, Lead Manager - Tax Practice &amp; Ethics          Mao Chen, Manager – Product Management &amp; Development          Jeannette Koger, VP – Advisory Services &amp; Credentialing          Kelly Mullins, Manager – Support Services and Communications          Elaine Bagley, Specialist          Hanna Mayle, Job Coordinator</p>
<p><b>Guests:</b>          Catherine Allen, Audit Conduct          Sonia Araujo, PwC          S. Barry          Tim Twofoot Boulette, New York State Society of CPAs          Trish Brigham, Maine Society of CPAs          Boyd Busby, Alabama State Board of Public Accountancy          Ian Benjamin, Chair, Enforcement Subcommittee</p>	<p>Jo Ann Golden, New York State Society of CPAs          Kelly Hnatt, External Counsel          Nancy Miller, KPMG          Jacqueline M. Reardon, TPRC          Joseph Sanford, Enforcement Subcommittee          Ivona Szady, Deloitte          Joseph Tapajna, TPRC          Jessica Tomc, EY          Paula Tookey, Deloitte</p>

Debbie Cutler, Debra A. Cutler, CPA, PC George Dietz, PwC Dan Dustin, NASBA	Michael Westervelt, CliftonLarsonAllen LLP Paul Ziga, Georgia State Board of Accountancy
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## NOCLAR

The special open session of PEEC was for the PEEC NOCLAR task force to ask PEEC to approve a formal request to the Auditing Standards Board (ASB) to modify its current standards and require communication to successor auditors of a former client if a member determines to resign from an engagement due to a client’s NOCLAR. Mr. Denham reported on the background of NOCLAR, including NASBA’s response to the exposure draft as well as PEEC/UAA Joint Task Force activity.

At its September meeting the Joint Task Force was informed of the process that would need to be followed for the ASB to consider revising assurance standards. Subsequently, the ASB’s Audit Issues Task Force (the planning task force for the ASB) discussed this proposal and noted this topic would ordinarily be addressed in the context of the ASB’s broader convergence policies. However, the AITF agreed to establish a working group to scope out a limited convergence project dealing only with NOCLAR auditor communications in such a manner to avoid “scope creep” into a larger convergence initiative. The goal is to discuss the working group’s project plan with the ASB during its meeting in late October. The PEEC NOCLAR Task Force met on October 9, 2019 and voted to recommend that PEEC formally request the ASB to take up the aforementioned initiative and expedite its process.

Mr. Burke discussed exposure to the auditor as the communication would be without client consent and that this should be flagged as an element of concern, as it would be in violation of a rule not to have this conversation with the client. members agreed that PEEC should remain in communication with the ASB to address such concerns. It was also discussed that the PEEC NOCLAR Task Force and the UAA will continue with discussions to address concerns as well. Ms. Kary suggested a revision to the formal communication to the ASB to include language regarding the member being aware of the client’s NOCLAR at the time of termination to capture if an auditor was terminated due to a NOCLAR in addition to when an auditor resigns from an engagement because of a NOCLAR.

The unanimously approved the issuance of a formal communication to the ASB that expresses PEEC’s desire for the ASB to modify its current standards and require communication to successor auditors of a former client if, at the time of termination of the assurance engagement the member is aware of the client’s NOCLAR. Further, the communication will request the ASB to expedite its process to the extent possible. The communication is to be delivered in time to be shared at the ASB’s October 28-31, 2019 meeting.

**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.

<p><b>Attendance:</b>          Brian Lynch, Chair          Coalter Baker          Chris Cahill          Tom Campbell          Robert Denham          Anna Dourdourekas          Anika Heard          Kelly Hunter          Jennifer Kary          Martin Levin</p>	<p>Jeff Lewis          William McKeown          James Newhard          Stephanie Saunders          Lewis Sharpstone          Lisa Snyder          Peggy Ullmann          Douglas Warren          Lawrence Wojcik</p>
<p><b>Staff:</b>          James Brackens, VP - Ethics &amp; Practice Quality          Toni Lee-Andrews, Director          Ellen Gorla, 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</p>	<p>Shannon Ziemba, Manager          Henry Grzes, Lead Manager - Tax Practice &amp; Ethics          Kristy Illuzzi, TIC Staff Liaison          Mao Chen, Manager - Product Management &amp; Development          Elena Redko, Manager - Content Development &amp; Management – MA          Teresa Bordeaux, Lead Manager - Governmental Auditing &amp; Accounting          Kelly Mullins, Manager – Support Services and Communications          Elaine Bagley, Specialist          Hanna Mayle, Job Coordinator          Karen Puntch, Case Investigator</p>
<p><b>Guests:</b>          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</p>	<p>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</p>

<p>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 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</p>	<p>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</p>
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**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. Gorla 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. Gorla 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. Gorla 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 20<sup>th</sup> 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 3<sup>rd</sup>. 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. Dourdourekas 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.