Professional Ethics Executive Committee

Open meeting agenda

February 9, 2021

Virtual

Open meeting agenda – February 9, 2021

Professional Ethics Division
Professional Ethics Executive Committee

Phone access: +1 312 626 6799 (US toll) or +1 646 876 9923 (US toll) **Meeting ID:** 963 5380 0790 **| Web access:** https://aicpa.zoom.us/j/96353800790 **International numbers available:** https://aicpa.zoom.us/u/abDJsLh9iV **Observers must register:** www.aicpa.org/PEECmeeting		
10:00–10:05	**Welcome** Mr. Lynch will welcome the committee members and discuss administrative matters.	
10:05–11:30	**NOCLAR** Mr. Denham will request approval to issue the exposure draft.	Agenda items 1A–1C
11:30–12:30	**Staff augmentation** Ms. Snyder and Mr. Wiley will request adoption of the interpretation.	Agenda items 2A–2H
12:30–1:00	*Break*	
1:00–1:45	**Records requests** Ms. Ullman and Ms. Ziemba will request adoption of the interpretation.	Agenda items 3A–3E
1:45–2:30	**SEC convergence** Ms. Kary and Ms. Goria will request approval of the task force's charge and seek feedback on proposed revisions to the loan provisions.	Agenda items 4A–4B
2:30–2:45	**Compliance audit** Ms. Miller and Ms. Powell will request approval of the task force's charge and provide an update.	

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2:45–3:00	**IFAC convergence** Ms. Brack and Ms. Goria will present the IFAC Convergence and Monitoring Task Force's recommendations related to the IESBA Role and Mindset project.	
3:00–3:20	**IESBA update** Mr. Mintzer and Ms. Goria will provide an update on the December 2020 meeting of the IESBA.	Agenda item 5A–5D
3:20–3:25	**Statements on Standards for Tax Services** Ms. Saunders will update the committee on recent activities.	
3:25–3:30	**Approval of November and December meeting minutes**	Agenda item 6A–6B
	Future meeting dates May 4–5, 2021 (virtual) August 17–18, 2021 (TBD) November 16–17, 2021 (TBD)	

NOCLAR

Task force members

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

Observers

Coalter Baker, Dan Dustin, Tom Neil

AICPA staff

Toni Lee-Andrews, Jim Brackens, Ellen Goria, Michele Craig

Task force charge

The task force's charge is to develop conforming guidance in response to standards entitled "Responding to Non-Compliance With Laws and Regulations" promulgated by the International Ethics Standards Board for Accountants (IESBA).

Reason for agenda item

The task force seeks the committee's approval to re-expose the proposed NOCLAR interpretations "Responding to Non-compliance with Laws and Regulations" for members in public practice (1.170.010) and members in business (2.170.010) located in agenda item 1B.

Task force activities

The task force met once since the last committee meeting to discuss the Auditing Standards Board's (ASB's) proposed revisions to AU-C section 210, *Terms of Engagement,* regarding communications between predecessor and successor auditors and other feedback received from the committee.

ASB update

During the November meeting, the task force informed PEEC that the ASB deferred voting on exposure of its proposed revisions to AU-C section 210 at their October meeting. They want to allow for further discussion with stakeholders, in particular NASBA, regarding concerns expressed on the proposed amendments. Accordingly, PEEC decided to defer re-exposure of its proposed NOCLAR interpretations get a better understanding of the ASB's direction.

The ASB NOCLAR task force (ASB task force) revisited the proposed revisions and presented a revised draft of the proposed amendments at the ASB's January 2021 meeting with a request that the ASB vote on exposure. The ASB considered the proposed amendments and voted to expose ""Proposed Statement on Auditing Standards: *Inquiries of the Predecessor Auditor Regarding Fraud and Noncompliance With Laws and Regulations.*" The proposed effective date is for audits of financial statements for periods ending on or after December 15, 2022.

ASB's revisions

Paragraph .11 of AU-C section 210 requires the successor auditor to request that the prospective client's management authorize the predecessor auditor's thorough response to the successor's auditor's inquiries on matters that will assist the successor auditor in determining whether to accept the engagement. The ASB is not proposing to amend this requirement.

However, the ASB's proposed revisions include adding a requirement to AU-C section 210. After management authorizes the predecessor auditor's response, this addition will require the successor auditor to make specific inquiries to the predecessor auditor regarding identified or suspected fraud and matters involving NOCLAR.

This proposed amendment will also require the predecessor auditor to respond timely and to indicate whether their response is limited. An example is if the predecessor auditor decides not to fully respond to the successor auditor due to impending, threatened, or potential litigation; disciplinary proceedings; or other unusual circumstances.

The ASB also considered the following approaches as possible revisions to its standards with respect to communication requirements between predecessor and successor auditors when an audit relationship is terminated and the client's NOCLAR has been identified or is suspected:

1. *A requirement that the successor auditor obtains the client's explicit consent as either a precondition for the audit or as a required element of the terms of the engagement***.** The ASB decided not to propose such a requirement because it was concerned that it might result in an entity being unable to engage a new auditor. Therefore, the ASB concluded thisapproach would not be in the public interest.

   Additionally, the ASB concluded that the construct in extant AU-C section 210 appropriately enables the client to give the successor auditor its understanding of the reasons for termination or resignation of the predecessor auditor before the successor auditor learns of the predecessor auditor's understanding of the termination or resignation.

2. *A requirement that the successor auditor communicate with the predecessor auditor without requiring a request that management authorize the predecessor auditor to respond fully to the successor auditor's inquires.* The ASB concluded that this approach was not practical with respect to the financial statements of a non-public entity. The predecessor auditor may not be alerted that management was considering engaging the successor auditor or the successor auditor may not be aware of the identity of the predecessor auditor.

Overall, the ASB believes that the successor auditor's requirement to inquire about and consider the reasons for the client's refusal to authorize the predecessor to fully respond to the successor's inquiries is sufficient to indicate potential concerns that could influence the

engagement acceptance process.

The ASB included a specific request for comment on management authorization of communication between successor and predecessor auditors in the explanatory/wrap material that is part of its exposure draft.

The PEEC task force noted that the AICPA code also addresses the predecessor's requirement to obtain the client's permission to discuss such matters with the successor. This requirement is in the "Disclosing Information from Previous Engagements" interpretation (ET sec. 1.700.020).

Specifically, paragraph .02 of the interpretation indicates that if a member withdraws from an engagement due to discovery of irregularities at a client and is then contacted by a successor auditor, the member should tell the successor auditor to obtain client consent to allow the member to discuss all matters freely with the successor auditor. This should put the successor auditor on notice of a potential issue

The "Confidentiality" section of PEEC's exposure draft has been updated to reflect ASB's proposed revisions and the related AICPA code guidance (see agenda item 1B).

PEEC exposure draft revisions

Based on the feedback PEEC provided during the November meeting and feedback received from other sources, the task force added

1. a specific question in the exposure draft related to other nonattest services that should be excluded from the proposed interpretation;
2. the definitions of *litigation* and *investigation* for engagements that are under forensic services;
3. a note indicating that the "Ethical Conflicts" interpretation will include a reference to the proposed NOCLAR interpretation; and
4. clarifying edits to the proposed definition of *financial statement attest services*.

The task force considered the two-year transition period for the effective date as recommended at the November meeting. However, based on feedback received on the original proposal, the task force decided that a one-year transition period was appropriate. This is consistent with the ASB's proposed effective date.

Action needed

The task force is asking PEEC to review and approve agenda item 1B for re-exposure, with a comment period ending late May/early June. This timing aligns with the ASB's exposure and comment period. The task force is also requesting that the committee discuss whether the recommended comment period is appropriate.

Communications plan

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

Materials presented

- Agenda item 1B: PEEC exposure draft, *Proposed interpretations and definition, Responding to Noncompliance With Laws and Regulations*
- Agenda item 1C: ASB exposure draft, *Proposed Statement on Auditing Standards,* Inquiries of the Predecessor Auditor Regarding Fraud and Noncompliance With Laws and Regulations

Exposure draft

Proposed interpretations and definition

Responding to Non-Compliance With Laws and Regulations

AICPA Professional Ethics Division

February XX, 2021

Comments are requested by May/June XX, 2021

Prepared by the AICPA Professional Ethics Executive Committee for comments from those interested in independence, behavioral, and technical standards. Please address comments to Ethics-Exposuredraft@aicpa.org.

X X, 2021

If you're an AICPA member or someone interested in the ethics of auditing and accounting, we want to hear your thoughts on this ethics exposure draft!

This proposal is part of the AICPA's Professional Ethics Executive Committee (PEEC) project to converge with the standards of the International Ethics Standards Board for Accountants (IESBA), specifically sections 260 and 360, *Responding to Non-Compliance with Laws and Regulations*.

This exposure draft is an explanation of the proposed pronouncement and the full text of the guidance being considered.

After the exposure period concludes and PEEC has evaluated the comments, PEEC may decide to publish the new interpretations.

Your comments are an important part of the standard-setting process; please take this opportunity to comment. Responses must be received at the AICPA by X X, 2021. All written replies to this exposure draft will become part of the public record of the AICPA and will be available at www.aicpa.org/peecprojects. PEEC will consider comments at its subsequent meetings.

Please email comments to Ethics-ExposureDraft@aicpa.com.

Sincerely,

Brian S. Lynch, Chair
Professional Ethics Executive Committee

Toni Lee-Andrews, Director, CPA, PFS, CGMA
Professional Ethics Division

Professional Ethics Executive Committee (2020–2021)

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Contents

Explanation for the new Interpretations "Responding to Non-Compliance With Laws and Regulations"

The Professional Ethics Executive Committee (PEEC) is re-exposing for comment two new interpretations, each entitled "Responding to Non-Compliance with Laws and Regulations." If adopted as final, the new interpretations will be in ET sec. 1.170.010 and 2.170.010 of the AICPA Code of Professional Conduct,[1] applicable to members in public practice and in business, respectively.

I. Purpose

1. As part of its international convergence efforts, on March 10, 2017, PEEC issued for comments an exposure draft proposing two new interpretations, "Responding to Non-Compliance with Laws and Regulations," under the "Integrity and Objectivity Rule." In developing the proposed interpretations, PEEC considered the International Ethics Standards Board for Accountants' (IESBA) new ethics standards, sections 260 and 360, each entitled, Responding to Non-Compliance with Laws and Regulations[2]. 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 modifications are necessary to enhance the clarity of the proposed interpretations and make them relevant to AICPA members in the United States.

2. The AICPA Code of Professional Conduct (AICPA code) does not currently provide specific guidance for members when they 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.

3. The general objective of members when encountering a NOCLAR is to alert the appropriate parties 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.

II. Scope

4. 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

[1] All ET sections can be found in AICPA *Professional Standards*.
[2] Approved in April 2016 for inclusion in the IESBA's Code of Ethics for Professional Accountants.

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 with them 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 client and employing organization.

5. 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 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 proposed guidance imposes ethical requirements that are separate from any audit or other applicable standards. The proposals are not intended to modify or interpret AU-C section 250, Consideration of Laws and Regulations in an Audit of Financial Statements.

III. Background

Original proposed interpretations

6. As noted above, PEEC is re-exposing its intepretations. In the original proposal:

    a. The proposed NOCLAR requirements for members in public practice were generally the same for members who provide attest services and those who provide nonattest services to clients.

    b. When performing professional services for a component of a group during a group attest engagement, a member in public practice would be required to respond to a NOCLAR by communicating it to the group engagement partner, unless prohibited by law or regulation.

    c. When 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 would be required to communicate the NOCLAR within the firm in accordance with the firm's policies and procedures. When 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 without the client's consent.

    d. The proposed interpretation required certain steps be taken by a member who is a senior professional accountant in business, 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.

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

Exposure draft feedback

7. PEEC received 17 comment letters on the original proposal. Most commenters had objections to various aspects of the exposure draft. The principal concerns identified in the comment letters related to members' professional obligation to comply with confidentiality requirements and the practical challenges and competitive disadvantages the proposed interpretations would impose on members performing nonattest services. Specifically, some expressed 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. Others did not support the original proposal because the interpretation did not differentiate requirements for those performing attest services and those performing nonattest services.

IV. Revisions to Original Proposal

8. Based upon comments received and further discussion of the issues, PEEC has made a number of changes to the originally proposed interpretations. The following summarizes the substantive changes to the original proposal:

Revisions to the originally proposed interpretation applicable to members in public practice

Separate requirements for members in public practice

9. Certain commenters believed that the original proposal was not consistent with IESBA's provision for professional services other than audits of financial statements, and that it did not sufficiently recognize differences between auditors and non-auditors (attestation and non-attestation services).To address these comments, PEEC bifurcated the guidance for members in public practice, so that there are now separate requirements for members providing financial statement attest services and members providing services other than financial statement attest services.

10. For members providing financial statement attest services:

    a. PEEC considered whether the same requirements should apply for all attest services, or whether additional steps should be required for certain attest services, such as financial statement audit and review services. PEEC decided that the requirements should be more stringent for financial statement attest services and

uses the term “financial statement attest services” throughout the proposed interpretation. This term is not specifically defined in the AICPA code so PEEC will define “financial statement attest services” under the Definitions section (0.400). The AICPA code defines the term “financial statement attest client”.

b. Specifically, for financial statement attest services, when a member in public practice discovers a NOCLAR, the member will be required to obtain an understanding of the matter, including the nature of the act and the circumstances surrounding its occurrence. After obtaining an understanding, the member would then be required to discuss the matter with the appropriate level of management and, if appropriate, those charged with governance. 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. If the member determines that management’s response was not appropriate, the member is required to consider withdrawing from the engagement, unless prohibited by law or regulation.

11. For members providing services other than financial statement attest services:

    a. PEEC considered the requirements for members providing services other than financial statement attest services and has added guidance to the proposed interpretation that is consistent with IESBA’s guidance for professional accountants providing nonattest services. For example, members providing such services would only be required to seek to obtain an understanding of the matter. Addressing the matter would be limited to communicating the matter to the appropriate level of management and those charged with governance, if the member has access to them, whereas members providing financial statement attest services are also required to “advise management to take specified appropriate and timely actions” when addressing a NOCLAR. Additionally, members providing services other than financial statement attest services would be encouraged to document, rather than be required to document, certain aspects of the NOCLAR.

Applicability

Use of the term “client”

12. PEEC discussed the responsibility a member would have to report a NOCLAR if the subject entity is not the entity that engaged the member, as well as the use of the term “client” throughout the proposed interpretation. PEEC noted that the IESBA’s code (paragraph 360.7A3) does not impose responsibility with respect to reporting to management of parties not identified in its guidance, such as a third party that is the subject of due diligence performed by a member. PEEC decided that the member’s responsibility throughout the proposed interpretation should be exclusively to the “engaging entity,” if not the same as the “subject entity”. PEEC therefore added an explanation in paragraph .01 that if the subject

entity and engaging entity are different, the term “client” refers to the engaging entity. PEEC also added language in paragraph .06b clarifying that the interpretation is not applicable to noncompliance by parties other than the client. Thus, if, for example, a member is engaged by an attorney or underwriter, the interpretation will not be applicable to any NOCLAR by the third party that may be the subject of the engagement.

Exclusion of certain nonattest services

13. Based on the review of services that were the subject of comments on the original proposal, PEEC has carved out certain nonattest services from the proposed interpretation applicable to members in public practice. Specifically, the interpretation will not be applicable to a litigation or investigation engagement as defined in, and subject to, the *AICPA’s Statement on Standards for Forensic Services No. 1* (SSFS No.1). This is because the member often is engaged to perform such services specifically to address a known or suspected NOCLAR, and compliance with the interpretation would be inconsistent with the structure and purpose of the engagement, and the applicability of various privileges*.*

14. SSFS No. 1 defines litigation and investigation engagements as follows:

    a. “Litigation. An actual or potential legal or regulatory proceeding before a trier of fact or a regulatory body as an expert witness, consultant, neutral, mediator, or arbitrator in connection with the resolution of disputes between parties. The term litigation as used herein is not limited to formal litigation but is inclusive of disputes and all forms of alternative dispute resolution.”

    b. “Investigation. A matter conducted in response to specific concerns of wrongdoing in which the member is engaged to perform procedures to collect, analyze, evaluate, or interpret certain evidential matter to assist the stakeholders (for example, client, board of directors, independent auditor, or regulator) in reaching a conclusion on the merits of the concerns.”

15. PEEC also considered tax engagements, where there may be applicable privileges that should be retained and would therefore be inconsistent with the NOCLAR requirements, such as “client privilege” and “Kovel arrangements”. PEEC decided to specifically carve out tax services pursuant to the protection of the Internal Revenue code (IRC) Section 7525 (“client privilege”) in paragraph .06 of the proposed interpretation. PEEC did not specifically exclude Kovel arrangements because these engagements are not defined by an AICPA or any other professional standard or regulation. However, PEEC believes that based on the nature of these engagements, Kovel arrangements could, depending on their circumstances, be excluded under the proposed interpretation’s guidance provided for forensic accounting engagements documented in paragraph .06. Moreover, this interpretation would generally not apply to Kovel arrangements where a law firm is the client, since the interpretation does not apply to non-compliance by parties other than the client as discussed in paragraph 12 above.

Confidentiality

16. Due to state laws and regulations protecting client confidentiality, the original proposal did not contain provisions that would require a member who has withdrawn from a professional relationship to disclose a NOCLAR, including to the successor accountant when there is an information request by the successor accountant.

17. Certain commenters believed that the originally proposed interpretation was too restrictive on NOCLAR disclosure. PEEC believes that it is in the public interest for an auditor who is aware of a NOCLAR, to be able to communicate the NOCLAR to the successor auditor. The "Confidential Client Information Rule" (1.700.001) would prohibit such disclosure without the client's consent, unless the communication met one of the specified exceptions set forth in the rule, which includes compliance with professional standards. Accordingly, on October 22, 2019, PEEC voted to request the Auditing Standards Board (ASB) to modify its current standards and consider requiring communication between predecessor and successor auditors if, at the time of termination of the assurance engagement, the predecessor auditor was aware of the client's NOCLAR. The ASB accepted PEEC's request to consider this matter. PEEC revised paragraphs .03, .05d, and 21b.iv of the proposed interpretation to emphasize the member's requirement to comply with standards in accordance with the ASB's possible revision to its standards.

18. In the ASB's proposed amendment to AU-C section 210, Terms of Engagement, the predecessor auditor will continue to be required to obtain specific consent from the client before discussing matters involving NOCLAR with the successor auditor. However, the ASB's proposed revisions to its standards include adding a requirement for a successor auditor to make specific inquiries to the predecessor auditor regarding identified or suspected fraud and matters involving NOCLAR once management provides authorization to the predecessor auditor to respond to the successor's inquiries. The proposed amendment will also require the predecessor auditor to respond fully and timely, and to indicate if their response is limited, as may occur, for example, if the predecessor auditor decides not to fully respond to the successor auditor after receiving the client's authorization due to impending, threatened, or potential litigation; disciplinary proceedings; or other unusual circumstances. For additional information on the proposed amendment, please review the ASB's exposure draft, "Proposed Statement on Auditing Standards: *Inquiries of the Predecessor Auditor Regarding Fraud and Noncompliance With Laws and Regulations*" (*add link*).

19. PEEC believes that regardless of any changes the ASB ultimately makes to its standards, 1.700.020 of the "Confidential Client Information Rule" directs members to give careful consideration to situations where the member withdraws from an engagement due to a NOCLAR. If a member withdraws from an engagement due to discovery of irregularities at a

client, and is contacted by a successor auditor, the member should tell the successor auditor to obtain client consent to allow the member to discuss all matters freely with the successor auditor, which should put the successor auditor on notice of a potential issue. (1.700.020.02). Additionally, 1.700.020.03 specifically states that the "Confidential Client Information Rule" is not "intended to help an unscrupulous client cover up illegal acts or otherwise hide information by changing CPAS," and strongly encourages members to seek legal advice in connection with any such circumstances.

20. Some commenters believed that the interpretation should go farther and require reporting of a NOCLAR to an outside authority. PEEC considered these comments but still believes that disclosure of a NOCLAR to a third-party without the client's consent is inconsistent with client confidentiality law and regulations, except in certain instances where already required by law. However, PEEC will continue to evaluate whether there are any circumstances, besides those that exist under the current provisions of the AICPA code and state law and regulations, where reporting of a NOCLAR to an outside authority should be further considered.

Revisions to the originally proposed interpretation applicable to members in business

Confidentiality

21. PEEC believes it would be in the public interest for members in business to have the ability to communicate a NOCLAR to an appropriate authority and, unlike the "Confidential Client Information Rule" (1.700.001) applicable to members in public practice, the "Confidential Information Obtained From Employment or Volunteer Activities" interpretation (2.400.070) permits a member in business to disclose confidential employer information if "there is a professional responsibility or right to disclose information, when not prohibited by law, to comply with professional standards and other ethics requirements." PEEC therefore agreed to revise the proposed interpretation to allow both senior professional accountants in business and other professional accountants in business to report a NOCLAR to a regulatory body. Accordingly, PEEC added paragraphs .25c and .34 to indicate that a member may report a NOCLAR to an appropriate authority unless prohibited by laws or regulations. Factors that members would consider when determining whether to disclose a NOCLAR to an appropriate authority, such as when protection exists under whistle-blowing legislation or regulation, were also added as paragraph .27.

V. Other Clarifications

22. PEEC is proposing a number of clarifications to the original proposal. PEEC believes these clarifications do not change the substance of the requirements in the original proposal; rather, they will assist members with operationalizing the requirements. The following summarizes significant clarifications included in the revised proposal

Members in public practice

Geography

23. PEEC revised the geography of the proposed interpretation applicable to members in public practice and added a new section, "Applicability," to provide clear guidance on situations to which the interpretation would not apply.

Communication with respect to group engagements

24. PEEC replaced the term "group attest engagements" with "group audit engagements," under the "Communication With Respect to Group Auditor" section, as the Statements on Standards for Attestation Engagements (SSAEs) do not refer to group engagements. PEEC also noted that the member has a requirement to communicate a NOCLAR to the group audit partner in accordance with professional standards (i.e., AU-C 600 *Special Considerations—Audits of Group Financial Statements* [*Including the Work of Component Auditors*] (*AICPA, Professional Standards*)). PEEC believes the requirement in the professional standards sufficiently addresses this matter and added language to the proposed interpretation referencing the professional standards.

25. PEEC also removed the language under this section related to statutory audits, as a member being engaged to perform a component audit for purposes of a statutory audit is not common in the U.S.

Clearly inconsequential

26. PEEC revised paragraph .10 of the proposed interpretation as it relates to the term "clearly inconsequential" for consistency with ASB standards (AU-C sec. 210 and AU-C sec. 250). The ASB does not define "clearly inconsequential". PEEC will not define this term either, in order to avoid any possible conflict with the ASB's standards.

Credible information

27. PEEC considered the sources of information, such as "other parties," concerning an instance of a NOCLAR. PEEC concluded that adding the term "credible" was appropriate to further clarify the level of information obtained by the member, whether the member directly obtains such information during the engagement or indirectly through other sources.

Occurrence

28. PEEC replaced the term “may occur” with the phrase “is likely to occur.” PEEC believes that the former term was too broad.

Access to management

29. PEEC deleted the phrase “if the member has access to them” as it relates to discussing a NOCLAR with the appropriate level of management, as PEEC believes that a member will likely have access to such individuals when providing financial statement attest services. This term remains included in the guidance for members providing services other than financial statement attest services where a member, depending on the nature of the engagement, might not have access to the appropriate level of management.

Members in business

Disclosing a NOCLAR to the external auditor

30. PEEC clarified the language in paragraphs .20 and .33 applicable to members in business to require both senior professional accountants in business and other 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 necessary to enable the auditor to perform the audit. PEEC believes the language in the original proposal may have been ambiguous or may have conflicted with the “Obligation of a Member to His or Her Employer’s External Accountant” interpretation (2.130.030).

31. PEEC also deleted the phrase “duty or legal” because the AICPA code does not define the term “duty” and the preceding paragraphs in the proposed interpretations require members to comply with laws and regulations. This revision would leave flexibility for whistleblowing protection.

Clearly inconsequential

32. PEEC revised paragraph .09 of the proposed interpretation as it relates to the term “clearly inconsequential” for consistency with the revision to paragraph .10 of the proposed interpretation for members in public practice.

Members in public practice and members in business

Professional judgment

33. For both members in public practice and members in business, to avoid redundancy and vaguely worded requirements, PEEC removed language related to a member exercising his or her professional judgment in determining the need to withdraw from an engagement, as compliance with all elements of this interpretation requires the exercise of professional judgment.

VI. Consideration of other comments

Members in public practice

Communication and documentation

34. A commenter recommended that PEEC include specific thresholds for communicating and documenting instances of NOCLAR in the proposed interpretation for members in public practice. PEEC considered this comment and decided not to include thresholds for communicating and documenting instances of NOCLAR, as it would be impossible to identify the many potential scenarios to establish a single threshold. Rather, PEEC believes each situation needs to be evaluated based on its own facts and circumstances.

Non-compliance or suspected non-compliance

35. PEEC received a comment recommending that PEEC clarify the phrase “non-compliance or suspected non-compliance” used throughout the proposed interpretations, Additionally, PEEC was asked to include explicit language specifying that members are neither required nor expected to perform additional procedures designed to detect NOCLARs. PEEC considered this comment and concluded that the language in the interpretation is consistent with IESBA and did not believe that further clarification of this phrase was necessary. PEEC believes that the term “made aware” in paragraph .01, is clear and implies that additional procedures are not required. Accordingly, PEEC believes explicit language is not necessary regarding detection of NOCLARs and did not want to create potential inconsistencies with other professional standards applicable to illegal acts.

Client’s understanding of legal or regulatory responsibilities

36. PEEC was requested to provide guidance regarding the procedures expected to be performed by the member to consider the client’s understanding of its legal or regulatory responsibilities. PEEC believes that the proposed guidance is clear 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 and that the member will not be providing legal advice in complying with the proposed interpretation.

VII. Revisions to other interpretations in the AICPA code

37. PEEC added references to the NOCLAR interpretations in the "Confidential Information Obtained from Employment or Volunteer Activities", (1.400.070 and 2.400.070) and "Subordination of Judgment" (1.130.020 and 2.130.020) interpretations for consistency in the AICPA code.

38. The "Ethical Conflicts" interpretation (1.000.020) of the "Introduction" section (1.000) for members in public practice provides an example to members to clarify that if a member suspects that a fraud may have occurred, the member would violate the client's confidentiality if the member reports the suspected fraud. PEEC will remove this example, since the proposed NOCLAR interpretation for members in public practice more specifically address this situation and will add a reference to the NOCLAR interpretation.

Effective date

39. PEEC recommends that the proposal be effective one year after notice is published by the *Journal of Accountancy*.

Request for comments

40. PEEC welcomes comments on all aspects of the proposed revisions. In addition, PEEC is seeking feedback on the following specific aspects of the proposed interpretations:

    a. Do you agree with the differentiation in requirements applicable to members in public practice providing services other than financial statement attest services?

    b. Do you agree that a litigation or investigation engagement as defined in, and subject to, SSFS No. 1, and an engagement pursuant to which the protections set forth in IRC Section 7525 apply, should be excluded from the proposed interpretation for members in public practice? If not, why? Are there other nonattest services that should be excluded from the proposed interpretation? If yes, please identify which services and explain why.

    c. Is a one-year transition period for the effective date appropriate? If not, why?

Text of proposed interpretation "Responding to Non-Compliance With Laws and Regulations" (Applicable to members in public practice)

1.170. Responding to Non-Compliance With Laws and Regulations

1.170.010 Responding to Non-Compliance With Laws and regulations

Revisions since the March 10, 2017 exposure draft are highlighted

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~~ ***evaluating*** the implications of the matter and the possible courses of action when responding to it. ***The member's responsibilities in this interpretation are owed 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 paragraph***s*** .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.

.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:

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 comply with applicable laws, regulations, and professional standards

~~Scope~~ Applicability

.06 This interpretation does not apply to the following:

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

b. Non-compliance by parties 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 (i.e., subject entity) and the identified or suspected non-compliance has been committed by that third party.

c. A litigation or investigation engagement as defined in, and subject to, the AICPA's Statement on Standards for Forensic Services No. 1

d. An engagement pursuant to which the protections set forth in Internal Revenue Code Section 7525 may apply

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

Scope

.07 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

.08 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

.09 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.

.10 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 Financial Statement Attest Services

Obtaining an Understanding of the Matter

.13 If a *member* engaged to perform ~~professional services~~ ***financial statement attest services*** becomes aware of ***credible*** 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~~ ***is likely to*** 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~~ ***is likely to*** 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***, if applicable,*** *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~~ ***on*** the ~~auditor's~~ ***audit, review, or compilation*** report.

iv. communicating a former client's non-compliance to the successor auditor to the extent required under professional standards.

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

.22 A *member* may, ~~do the following:~~ ***for purposes of a group audit engagement, be requested by the group engagement team to perform work on financial or other information related to a component of the group.***

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~~ ***section***, communicate ***it to the group audit partner in accordance with AU-C sec. 600 Special Considerations-Audits of Group Financial Statements [Including the Work of Component Auditors](AICPA, Professional Standards).*** ~~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 ***section*** and, if so, how.~~

.23 If the group ***audit*** 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 ***audit*** 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~~ ***section***, consider whether the matter may be relevant to one or more components ***whose financial or other information is subject to procedures performed for purposes of the group audit engagement.*** ~~:~~

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 ***audit*** 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 ***section***.~~

Determining Whether Withdrawal From the Engagement Is Necessary

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

.25 Relevant factors to consider ~~in assessing~~ ***when evaluating*** 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~~.

.29 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

.30 In relation to an identified or suspected act of non-compliance that falls within the scope of this ~~interpretation~~ ***section***, 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~~

Members Providing Services other than a Financial Statement Attest Service

Obtaining an Understanding of the Matter and Addressing the Matter

.31 If a member engaged to perform professional services other than a financial statement attest service becomes aware of credible 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 seek to obtain an understanding of the matter, including the nature of the act and the circumstances in which it has occurred or is likely to occur.

.32 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.

.33 If the member identifies or suspects that non-compliance has occurred or ~~may~~ is likely to 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.

.34 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.

.35 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

Communicating the Matter to the Client's Auditor

Members Performing a Service, other than a Financial Statement Attest Service, for a Financial Statement Attest Client

.36 If the *member* is performing a service ~~for~~ ***other than*** a *financial statement* ***attest*** ~~audit or review~~ ***service, for a financial statement attest*** client of the *firm*, or a component of a *financial statement* ~~audit or review~~ ***attest*** *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 ***attest*** ~~audit or review~~ engagement *partner*.

.37 If the *member* is performing a service for a *financial statement* ~~audit or review~~ ***attest*** client of a *network firm*, or a component of a *financial statement* ~~audit or review~~ ***attest*** *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~~ ***attest*** engagement *partner*.

.38 In all cases, the communication is to enable the ~~audit or review~~ ***attest*** 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 Attest Client

.39 If the *member* is performing ~~a service~~ ***services*** for a client that is not a financial statement ~~audit or review~~ ***attest*** 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].

Determining Whether Withdrawal From the Engagement Is Necessary

.40 The member should determine whether withdrawal from the engagement is necessary in the public interest.

.41 Whether withdrawal from the engagement is necessary, will depend on various factors, including the member's understanding of the following:

a. The legal and regulatory framework

b. The appropriateness and timeliness of the response of management and, where applicable, those charged with governance.

c. The urgency of the matter

d. Whether the member continues to have confidence in the integrity of management and, if applicable, those charged with governance

e. The likelihood of actual or potential substantial harm to the interests of the entity, investors, creditors, employees, or the general public

f. The pervasiveness of the matter throughout the client

g. Whether the non-compliance or suspected non-compliance is likely to recur

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

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.

. 43 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

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

- ***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***

Effective Date

.45 Effective one year after announcement is published in the *Journal of Accountancy*.

Text of proposed interpretation "Responding to Non-Compliance With Laws and Regulations" (Applicable to Members in Business)

2.170. Responding to Non-Compliance With Laws and Regulations

2.170.010 Responding to Non-Compliance With Laws and regulations

(Revisions since the March 10, 2017 exposure draft are highlighted)

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~~ ***evaluating*** 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.

.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~~ ***should*** 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 ***to***:

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~~ ***section***, 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~~ ***evaluate*** the appropriateness of the response of the *member's* superiors, if any, and *those charged with governance*.

.22 Relevant factors to consider in ~~assessing~~ ***evaluating*** 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~~ ***.25*** 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 an appropriate authority unless prohibited by laws or regulations

~~.27~~ ***.26*** 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~~ ***.27 The determination of whether to disclose the matter to an appropriate authority will also depend on external factors such as:***

a. Whether there is an appropriate authority that is able to receive the information and cause the matter to be investigated and action to be taken. Identifying an appropriate authority will depend upon the nature of the matter. For example, an appropriate authority could be a securities regulator in the case of fraudulent financial reporting or an environmental protection agency in the case of a breach of environmental laws and regulations.

b. Whether there exists robust and credible protection from civil, criminal or professional liability or retaliation afforded by legislation or regulation, such as under whistle-blowing legislation or regulation.

c. Whether there are actual or potential threats to the physical safety of the senior professional accountant or other individuals.

.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~~ ***section***, 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~~ ***section***, 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 an appropriate authority unless prohibited by laws or regulations. In determining whether to disclose the matter to an appropriate authority, the member may consider the factors in paragraph .27 above.

Documentation

.35 In relation to an identified or suspected act of non-compliance that falls within the scope of this ~~interpretation~~ ***section***, 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

Effective Date

.36 Effective one year after announcement is published in the *Journal of Accountancy*.

Text of new proposed definition “Financial Statement Attest Services”

Financial statement attest services. Services in which a member performs a financial statement audit or review, or a compilation for which the member’s report does not disclose a lack of independence.

Text of proposed revision to interpretation "Ethical Conflicts"

1.000 Introduction

1.000.020 Ethical Conflicts

(Deletions are stricken and highlighted. Additions are bold italic and highlighted.)

.01 An ethical conflict arises when a member encounters one or both of the following:

a. Obstacles to following an appropriate course of action due to internal or external pressures

b. Conflicts in applying relevant professional standards or legal standards

~~For example, a member suspects a fraud may have occurred, but reporting the suspected fraud would violate the member's responsibility to maintain client confidentiality.~~

.02 Once an ethical conflict is encountered, a member may be required to take steps to best achieve compliance with the rules and law. In weighing alternative courses of action, the member should consider factors such as the following:

a. Relevant facts and circumstances, including applicable rules, laws, or regulations

b. Ethical issues involved

c. Established internal procedures

.03 The member should also be prepared to justify any departures that the member believes were appropriate in applying the relevant rules and law. If the member was unable to resolve the conflict in a way that permitted compliance with the applicable rules and law, the member may have to address the consequences of any violations.

.04 Before pursuing a course of action, the member should consider consulting with appropriate persons within the firm or the organization that employs the member.

.05 If a member decides not to consult with appropriate persons within the firm or the organization that employs the member and the conflict remains unresolved after pursuing the selected course of action, the member should consider either consulting with other individuals for help in reaching a resolution or obtaining advice from an appropriate professional body or legal counsel. The member also should consider documenting the substance of the issue, the parties with whom the issue was discussed, details of any discussions held, and any decisions made concerning the issue.

.06 If the ethical conflict remains unresolved, the member will in all likelihood be in violation of one or more rules if he or she remains associated with the matter creating the conflict. Accordingly, the member should consider his or her continuing relationship

with the engagement team, specific assignment, client, firm, or employer. [No prior reference: new content.]

.07 ***Refer to the "Responding to Non-Compliance with Laws and Regulations" interpretation (1.170.010) of the "Integrity and Objectivity Rule" (1.100.001) for additional guidance.***

EXPOSURE DRAFT

PROPOSED STATEMENT ON AUDITING STANDARDS

INQUIRIES OF THE PREDECESSOR AUDITOR REGARDING FRAUD AND NONCOMPLIANCE WITH LAWS AND REGULATIONS

(Amends Statement on Auditing Standards [SAS] No. 122,* Statements on Auditing Standards: Clarification and Recodification, *as amended, section 210,* Terms of Engagement *[AICPA,* Professional Standards*, AU-C sec. 210])

February XX, 2021

Comments are requested by May/June XX, 2021

Prepared by the AICPA Auditing Standards Board for comment from persons interested in auditing and reporting issues.

Comments should be submitted in Word format and sent to CommentLetters@aicpa-cima.com.

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Introduction

This memorandum provides background to the proposed Statement on Auditing Standards (SAS) *Inquiries of the Predecessor Auditor Regarding Fraud and Noncompliance With Laws and Regulations* to require an auditor, once management authorizes the predecessor auditor to respond to inquiries from the auditor, to inquire of the predecessor auditor regarding identified or suspected fraud or noncompliance with laws or regulation (NOCLAR). If issued as final, the proposed SAS will amend SAS No. 122, *Statements on Auditing Standards: Clarification and Recodification*, as amended, section 210, *Terms of Engagement* (AICPA, *Professional Standards*, AU-C sec. 210).[1]

Background

The International Ethics Standards Board for Accountants (IESBA) Code of Ethics for Professional Accountants (IESBA code) requires a predecessor auditor to "provide all relevant facts and other information concerning the identified or suspected non-compliance (with laws and regulations) to the proposed accountant. The predecessor accountant shall do so even… where the client fails or refuses to grant the predecessor accountant permission to discuss the client's affairs with the proposed accountant, unless prohibited by law or regulation.[2]"

In 2016, the International Auditing and Assurance Standards Board (IAASB) revised ISA 250, *Consideration of Laws and Regulations in an Audit of Financial Statements*, to reflect certain relevant changes as adopted in the IESBA code. For example, ISA 250 (Revised) includes a conforming change to paragraph .A9 of ISA 220 (Revised), *Quality Control for an Audit of Financial Statements* which states, in part, "where the predecessor auditor has withdrawn from the engagement as a result of identified or suspected non-compliance with laws and regulations, the IESBA Code requires that the predecessor auditor, on request by a proposed successor auditor, provide all such facts and other information concerning such non-compliance that, in the predecessor auditor's opinion, the proposed successor auditor needs to be aware of before deciding whether to accept the audit appointment." As the AICPA Code of Professional Conduct (AICPA code) has not been similarly revised, the ASB has not revised AU-C section 250, *Consideration of Laws and Regulations in an Audit of Financial Statements.* AU-C section 250 was last revised in October 2011 with the issuance of SAS No. 122, *Statements on Auditing Standards: Clarification and Recodification.*

In March 2017, the AICPA's Professional Ethics Executive Committee (PEEC) issued an exposure draft with proposals for two new interpretations entitled "Responding to Non-Compliance with Laws and Regulations." Although similar to the IESBA code, the exposure draft explained that certain differences were necessary to enhance the clarity of the proposed interpretations and make them relevant to AICPA members in the United States. Most notably, certain provisions were not included in the AICPA proposals because they were believed to be incompatible with most state

[1] All AU-C sections can be found in AICPA *Professional Standards.*
[2] Paragraph R360.22 of the IESBA Code.

laws and regulations on client and employer confidentiality. The AICPA code does not permit a CPA to disclose confidential client information without client or employer consent unless required by professional standards. The following is the applicable excerpt from the AICPA code:

1.700.001 Confidential Client Information Rule

.01 A *member* in *public practice* shall not disclose any *confidential client information* without the specific consent of the *client*.

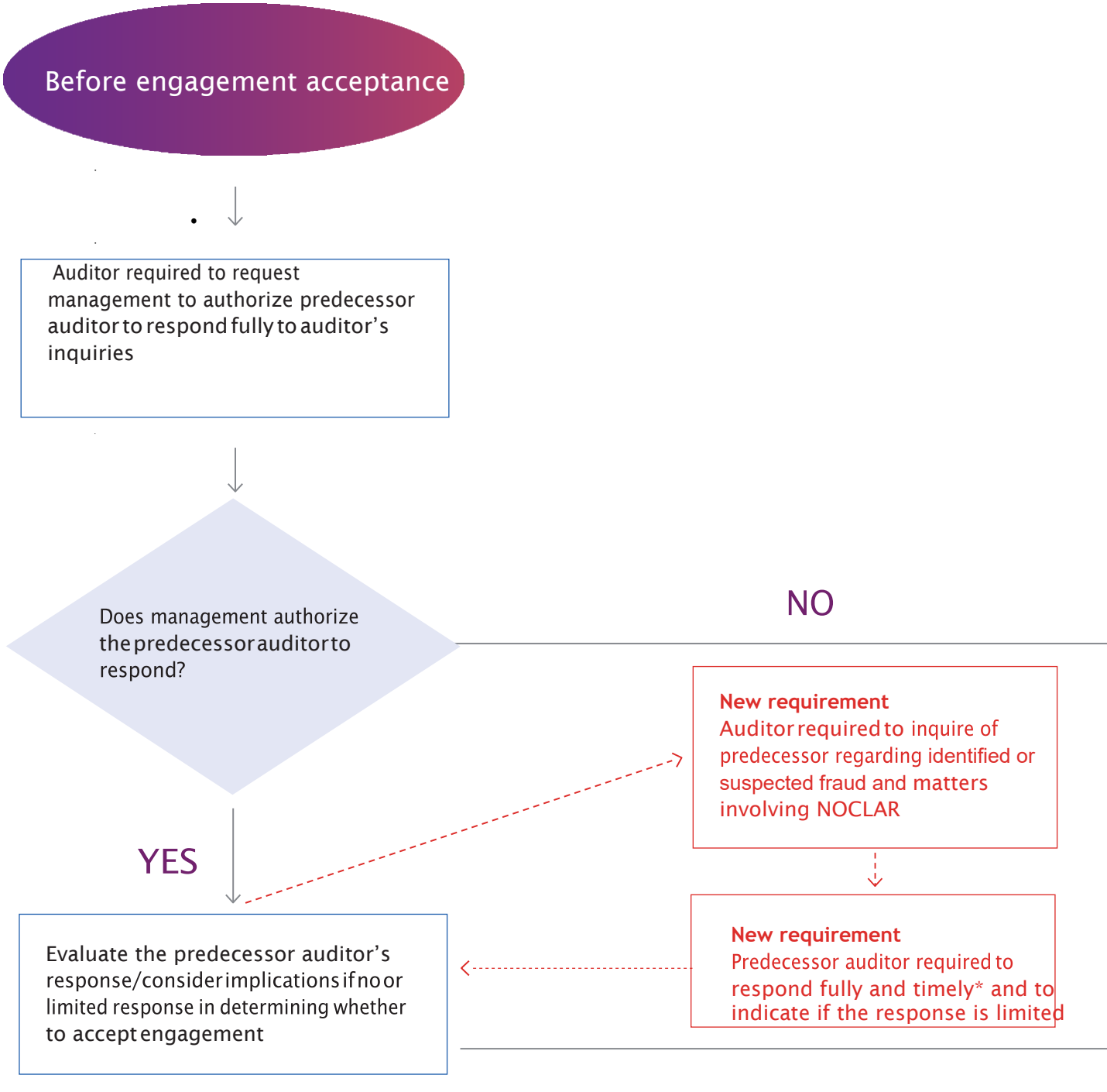
.02 This rule shall not be construed (1) to relieve a *member* of his or her professional obligations of the "Compliance With Standards Rule" [1.310.001] or the "Accounting Principles Rule" [1.320.001]

In response to the PEEC exposure draft, comments were received expressing concern that the proposed language would discourage CPAs from acting in the public interest even after the CPA demonstrated compliance with all relevant professional standards. The PEEC issued a revised exposure draft on February X, 2021. That exposure draft is available at….

The Auditing Standards Board (ASB) is not proposing a revision to the existing audit requirement that the auditor request management to authorize the predecessor auditor to respond fully to the auditor's inquiries regarding matters that will assist the auditor in determining whether to accept the engagement. However as an option to address identified or suspected fraud and matters involving NOCLAR, the ASB is proposing narrow revisions to auditing standards generally accepted in the United States of America (GAAS) to require an auditor, once management authorizes the predecessor auditor to respond to inquiries from the auditor, to inquire of the predecessor auditor regarding identified or suspected fraud and matters involving NOCLAR. The ASB believes this approach is similar to the approach included in the Public Company Auditing Oversight Board's AS 2610, *Initial Audits – Communications Between Predecessor and Successor Auditors* (PCAOB AS 2610) that directs the auditor to make more specific inquiries of the predecessor auditor after requesting permission from management to make an inquiry of the predecessor auditor. Furthermore, the absence of authorization by management for an auditor to make inquiries of a predecessor auditor should alert the auditor to carefully consider engagement acceptance, irrespective of the basis for the lack of authorization.

The ASB is not currently considering revisions to GAAS that would require auditors to report fraud or NOCLAR to other outside parties, such as the appropriate authorities.

The following flowchart illustrates the proposed narrow revisions to existing GAAS. The procedures in black are currently required by GAAS. The proposed additional procedures are in red.



*Stated as application guidance in extant based on Code of Professional Conduct statement that members have a responsibility to cooperate with each other.

Effective Date

If issued as final, the proposed amendment to AU-C section 210 will be effective for audits of financial statements for periods ending on or after December 15, 2022. Early implementation would be permitted.

Explanation of Proposed Changes

Management authorization of communication between auditor and predecessor auditor

The ASB decided to retain the requirement in paragraph .11 of extant AU-C section 210 for the auditor, prior to accepting an initial audit, including a reaudit engagement, to request management to authorize the predecessor auditor to respond fully to the auditor's inquiries. The ASB did consider a requirement for the auditor to obtain, as either a precondition for the audit or as a required element of the terms of the engagement, management's agreement to this request. The ASB concluded to not propose such a requirement because:

a. The ASB was concerned that such a requirement or precondition might result in an entity being unable to engage an auditor and concluded that this was not in the public interest, nor was it necessary, as the requirement to request management to authorize the predecessor auditor to respond fully to the auditor's inquiries regarding matters that will assist the auditor in determining whether to accept the engagement would now be in the auditor's professional standards, which management would be broadly acknowledging.

b. The construct in extant AU-C section 210 enables management to provide its understanding of the reasons for the termination or resignation of the predecessor auditor to the auditor prior to the auditor learning of the predecessor auditor's understanding of the termination or resignation. The ASB believes that this construct is appropriate.

The ASB also considered an approach where the auditor would be required to make inquiries of the predecessor auditor but would not be required to request management to authorize the predecessor auditor to respond fully to the auditor's inquiries. A majority of the ASB members concluded that such an approach would not be practical for the audit of financial statements of a non-public entity as the predecessor auditor may have no way of verifying that management was considering engaging the auditor or the auditor may not be aware of the identity of the predecessor auditor.

Further, the ASB believes that the requirement for the auditor to inquire about the reasons for a refusal to authorize the predecessor auditor to respond fully to the auditor's inquiries and to consider the implications of that refusal or limitation in deciding whether to accept the engagement" results in sufficiently drawing the auditor's attention to potential concerns that could influence the engagement acceptance process.

The requirement is consistent with the requirements in PCAOB AS 2610 for audits of financial statements of issuers.

Request for Specific Comment #1

Does the respondent agree with the ASB's determination that it is appropriate to retain the requirement for the auditor, prior to accepting an initial audit, including a reaudit engagement, to request management to authorize the predecessor auditor to respond fully to the auditor's inquiries? If not, why not, and how would the respondent revise the requirement (for example, making obtaining management's agreement a precondition for the auditor to accept the engagement or requiring the auditor to communicate with the predecessor auditor without management's authorization)?

Knowledge transfer from predecessor auditor to auditor

The ASB believes that it is in the public interest for a knowledge transfer from the predecessor auditor to the auditor with respect to identified or suspected fraud and matters involving NOCLAR. To effect such knowledge transfer with respect to the audit of the financial statements of a non-public entity, the ASB proposes that a requirement be added to AU-C section 210 whereby, if management authorizes the predecessor auditor to respond to the auditor's inquiries, the auditor makes specific inquiries regarding identified or suspected fraud and matters involving noncompliance with laws and regulations:

.12 ***If, pursuant to paragraph .11, management authorizes the predecessor auditor to respond to the auditor's inquiries regarding matters that will assist the auditor in determining whether to accept the engagement, the auditor should inquire of the predecessor auditor about matters that will assist the auditor in determining whether to accept the engagement, including: (Ref: par. .A30–.A32)***

a. identified or suspected fraud involving

i. management,

ii. employees who have significant roles in internal control, or

iii. others, when the fraud resulted in a material misstatement in the financial statements.

b. matters involving noncompliance or suspected noncompliance with laws and regulations that came to the predecessor auditor's attention during the audit, other than when the matters are clearly inconsequential.

The proposed additional required inquiries are consistent with matters that the predecessor auditor is required to communicate to those charged with governance by paragraph .40 of extant AU-C section 240, *Consideration of Fraud in a Financial Statement Audit*, and paragraph .21 of AU-C section 250, *Consideration of Laws and Regulations in an Audit of Financial Statements*.

If management does not authorize the predecessor auditor to respond or limits the predecessor's response, the requirement in extant AU-C section 210 for the auditor to inquire about the reasons

and consider the implications of that refusal or limitation in deciding whether to accept the engagement is not changed.

If management limits the predecessor auditor's response and such limitation relates to the matters that the auditor is required to inquire about pursuant to paragraph .12, paragraph .15 requires that the auditor document the inquiries and that the predecessor was not authorized by management to respond to the inquiries.

Further, while the AICPA code states that members have a responsibility to cooperate with each other and paragraph .A32 of extant AU-C section 210 states that, "therefore, the predecessor auditor is expected to respond to the auditor's inquiries promptly and, in the absence of unusual circumstances, fully, on the basis of known facts," the proposed revision would also include the following new requirement:

> *.13* ***If, pursuant to paragraph .11, management authorizes the predecessor auditor to respond to the auditor's inquiries regarding matters that will assist the auditor in determining whether to accept the engagement, the predecessor auditor should respond to the auditor's inquiries on a timely basis and, on the basis of known facts, unless prohibited by applicable law. However, when the predecessor auditor decides, due to impending, threatened, or potential litigation; disciplinary proceedings; or other unusual circumstances, not to fully respond to the auditor's inquiries, the predecessor auditor should clearly state that the response is limited. Such circumstances are expected to be rare. (Ref: par. .A33–.A35)***

The penultimate sentence in proposed paragraph .13 is intended to more explicitly state that the predecessor auditor is expected to respond fully to the auditor's inquires while acknowledging that there may be circumstances in which the predecessor auditor may not fully respond to the auditor's inquiries. The proposed language from that sentence is taken from paragraph .A32 of extant AU-C section 210. The statement in the AICPA code that members are expected to cooperate with each other is not affected. The final sentence in proposed paragraph .13 is intended to further elaborate the ASB's intent that the situations in which the predecessor auditor may limit its response to the auditor's inquiries were expected to be infrequent, while retaining the predecessor's ability to limit their responses when circumstances warrant.

The intent of the proposed required inquiries and response is to facilitate a knowledge transfer of identified or suspected fraud and matters involving NOCLAR from a predecessor auditor to an auditor.

If the predecessor auditor decides not to fully respond to the auditor's inquiries, paragraph .15 requires that the auditor document the inquiries and that the predecessor did not fully respond.

The ASB is unaware of significant practice issues involving predecessor auditors inappropriately limiting their responses and believes that the statement in the code that members are expected to cooperate with each other helps protect against the potential of a predecessor auditor inappropriately limiting the response to the auditor's inquiries.

Request for Specific Comment #2

Are the proposed requirements appropriate and complete, including whether it is appropriate to continue to provide an exception that permits the predecessor auditor to decline to respond to the auditor's inquiries due to impending, threatened, or potential litigation; disciplinary proceedings; or other unusual circumstances? If not, please suggest specific revisions to the proposals.

Documentation

The proposed SAS includes the following requirement:

.15 ***The auditor should document its inquiries with the predecessor auditor and the results of those inquiries.***

Request for Specific Comment #3

Is the proposed requirement appropriate and complete? If not, please suggest specific revisions.

Proposed effective date

If issued as final, the ASB proposes that the revisions to AU-C section 210 be effective for audits of financial statements for periods ending on or after December 15, 2022. Practically, any auditor changes during the calendar year 2022 and thereafter would be subject to the proposed revisions to AU-C section 210.[3] Early implementation would be permitted.

Request for Specific Comment #4
Are respondents supportive of the proposed effective date? If you are not supportive, please provide reasons for your response.

ASB Vote for Issuance of the Exposure Draft

Eighteen members voted to issue the proposed SAS as an exposure draft and Jon Heath dissented to issuance of the exposure draft. Mr. Heath's reasons for dissenting are included on pages 14–18 of this Explanatory Memorandum. Please consider this dissent as you develop your response.

Guide for Respondents

Respondents are asked to comment on the proposed changes to AU-C section 210.

Comments are most helpful when they refer to specific paragraphs, include the reasons for the comments, and, when appropriate, make specific suggestions for any proposed changes to wording. When a respondent agrees with proposals in the exposure draft, it will be helpful for the

[3] This proposed effective date is provisional but will not be earlier than December 15, 2022.

ASB to be made aware of this view, as well.

Written comments on the exposure draft will become part of the public record of the AICPA and will be available for public inspection at the offices of the AICPA for one year, beginning May/June XX, 2021. Responses should be submitted in Word format, sent to commentletters@aicpa-cima.com, and received by May/June XX, 2021. Respondents may also submit a PDF version of their response for posting to the AICPA website.

Comment Period

The comment period for this exposure draft ends May/June XX, 2021.

Auditing Standards Board
(2020–2021)

Tracy W. Harding, *Chair*
Brad C. Ames
Monique Booker
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Sherry Chesser
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Kristen A. Kociolek
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Senior Manager
Audit and Attest Standards — Public Accounting

Jon Heath's Dissent

I support the Auditing Standards Board (ASB) objectives in proposing amendments to the Statements on Auditing Standards (SASs) to enhance the role of AICPA members in protecting the public interest by requiring them to take certain actions to help address identified or suspected non-compliance with laws and regulations (NOCLAR). AICPA members proudly serve a vital role in protecting the public interest; and the ASB's objectives for the project to amend AU-C 210, *Terms of Engagement,* (AU-C 210) are an attempt to further those efforts and include:

- Aligning AU-C 210 with relatively recent changes to the International Ethics Standards Board for Accountants' (IESBA) International Code of Ethics for Professional Accountants (the "IESBA Code of Ethics") April 2016 pronouncement, *Responding to Non-compliance with Laws and Regulations* (the "IESBA NOCLAR Standard"), and corresponding changes by the International Auditing and Assurance Standards Board (IAASB) to the International Standards on Auditing (ISAs); and
- Providing a "red flag" regarding or preventing an unscrupulous client from changing auditors to cover up illegal acts or non-compliance with regulations.

While both of these are noble objectives aimed at a desirable outcome, in the absence of requisite changes to the AICPA's Code of Professional Conduct (AICPA Code) and the Uniform Accountancy Act (UAA), the proposed changes could significantly increase risks to AICPA members (specifically creating confusion regarding conflicts when applying our relevant professional standards while also meeting legal or regulatory standards) and potentially work against the public interest.

I dissent to the proposed changes to AU-C 210 for the following reasons:

1. The order of their issuance;
2. The current standards contemplation of this scenario;
3. The interplay between the various standards and matters of public interest;
4. Alignment with AU-C 250, *Consideration of Laws and Regulations in an Audit of Financial Statements* (AU-C 250); and
5. The lack of a differential approach in the AICPA Code.

The Order of Their Issuance

The fact that IESBA adopted changes to the IESBA Code of Ethics prior to any corresponding IAASB changes to the ISAs is significant (i.e., the order of issuance matters).

Shortly after the IESBA NOCLAR Standard was released, the AICPA Professional Ethics Executive Committee (PEEC) proposed interpretations, each entitled *Responding to Non-Compliance with Laws and Regulations*, under relevant AICPA Code sections (the "PEEC Proposals").

In response to the PEEC Proposals, the National Association of State Boards of Accountancy (NASBA) commented on May 9, 2017: "We seriously question the notion that confidentiality is preeminent to the degree that it must override all other ethical considerations, especially when public protection is threatened. …***we recommend tabling this project until such time as UAA language is developed to incorporate NOCLAR requirements.***" (emphasis added)

The NASBA UAA Committee Chair told the joint task force on July 30, 2017: "We want to increase public protection, enhance the public's perception of the CPA, and provide clarity to the profession as to the protocol to use when NOCLAR is encountered. However, we want to go about this task in a manner that does not harm the CPA professional."

The PEEC Proposals were not adopted and no subsequent NOCLAR-related changes have been made to AICPA Code nor the UAA. One of the primary reasons cited for the pause is the need for further deliberations with regard to the interaction with state law and the proposed changes to the AICPA Code and UAA. It seems clear that both PEEC and NASBA believed a pause was warranted in order to come to an appropriate answer.

During our ASB deliberations, one of the primary drivers for us taking on this project was a request from the PEEC to address changes through the auditing standards. This brings me pause for three reasons. First, as described more fully in the section **The Interplay between the Various Standards and Matters of Public Interest**, I don't believe that is how our rules are intended to operate. Next, it feels to me that, as I have stated in our deliberations, the ASB is being asked to "fix" a problem that is outside our purview. If an issue exists, then it rests with the interaction between the UAA, Code, and state law, not with the operation of the current auditing standards. The ASB cannot repair the conflicts through auditing standards. Finally, when one recognizes that the comments made by both PEEC and NASBA were made almost four years ago, I'm not sure why there seems to be an urgency to make changes to a mature standard that seems to operate as intended.

PEEC has a current project. The ASB's approach is to propose changes simultaneously with the new PEEC proposal; this approach has benefits. This approach provides respondents the opportunity to provide comprehensive comments (i.e. those that might affect both proposals). An equally valid argument is that the ASB should continue to rely on an operable, mature standard and make changes to AU-C 210 after the new PEEC proposal is finalized. While the ASB proposal may not, and probably will not, affect the new PEEC proposal, the new PEEC proposal will most certainly affect the ASB proposal.

Given that the PEEC proposal is approximately four years in the making, I'm not convinced that speed is the ASB's ally. Giving respect to the considerable time that PEEC and NASBA have taken, a slower pace seems appropriate. Therefore, I suggest that the ASB suspend its efforts until the PEEC proposal is completed.

The Current Standards Contemplation of This Scenario

The current UAA, AICPA Code, and extant standards are fully aligned and work in harmony to provide a mechanism for preventing an unscrupulous client from changing auditors to cover up illegal acts or non-compliance with regulations. In fact, AICPA Code Section *1.700.001 Confidential Client Information Rule,* paragraph .03 states (emphasis added) "The "Confidential Client Information Rule" [1.700.001] **is not intended to help an unscrupulous client cover up illegal acts or otherwise hide information by changing CPAs."**

The current framework functions as follows:

- Each member is expected to cooperate with another in the event of a change in accountant.
- When the successor evaluates the acceptance of the engagement, they should ask the client to allow the predecessor to respond fully.
- If the client does not allow full disclosure, that should be a "red flag" to the successor.
- The predecessor accountant should respond fully (as noted previously), unless they have a valid reason for not doing so. In that case, they should indicate that the response is limited.
- If the predecessor accountant specifies that the response is limited, that is also a "red flag".

The current system works as intended. The proposed amendments don't change where the "red flags" and knowledge transfer occur. However, they DO increase the risk regarding what information is shared. The risks are the same ones noted during the PEEC and NASBA deliberations. So, there is no benefit to the change occurring now, but there is a risk. Given that the UAA, AICPA Code, and extant AU-C 210 are currently aligned, it seems premature for the ASB to make stand-alone changes to AU-C 210.

The Interplay between the Various Standards and Matters of Public Interest

The current UAA, AICPA Code, and extant standards are fully aligned in that each effectively state that a member must keep client information confidential in the absence of client consent or an overriding legal or other appropriate requirement to disclose. Reading both the letter and the spirit of each rule indicates that *client confidentiality is also a public interest*. This public interest does compete, in this situation, with the public interest to disclose. While we can decide that disclosure and transparency are more important than keeping client information confidential, I don't believe that is prudent in this situation. There has always been, and will always be, a balance between these competing public interests. I am afraid that the proposed changes tip the scales in an unhealthy manner.

Additionally, the current basis for making the proposed changes to AU-C 210 appears to be predicated on the following from the UAA "…*however, that nothing herein shall be construed as prohibiting the disclosure of information required to be disclosed by the standards of the public accounting profession in reporting on the examination of financial statements…."* Effectively, the argument is that if the audit rules allow disclosure, that's a pathway to disclosure under the ethical rules.

Given that each set of guidance **starts** with the importance of client confidentiality and then allows for disclosure under limited circumstances, my response is that this argument is in conflict with both the spirit of the extant guidance and how our rules are intended to operate.

Alignment with AU-C 250

The position of the IESBA and PEEC is that the member is not expected to have a level of knowledge of laws and regulations greater than that required to undertake the engagement. With this in mind, AU-C 250 provides the appropriate framework in terms of defining the role of the auditor vis-à-vis the role of legal counsel in determining whether non-compliance with laws and regulations has occurred at the client and what further actions are necessary. Further, AU-C 250.A5 indicates that "[w]hether an act constitutes noncompliance with laws and regulations is a matter for legal determination, which ordinarily is beyond the auditor's professional competence to determine."

AU-C 250 gives clear guidance that it is the auditor's responsibility to obtain reasonable assurance whether the financial statements are impacted by NOCLAR related to laws and regulations that have a direct or indirect **material** effect on the financial statements or disclosures. The current proposal:

- Reduces the threshold for disclosure for both **known and suspected NOCLAR** to anything **that is more than inconsequential** and to parties outside of management or those charged with governance.
- Gives no guidance relative to direct or indirect violations or possible violations, even though the procedures for identifying each vary.
- Makes disclosure mandatory, rather than judgment based.

AU-C 250A.28 indicates "The auditor's professional duty to maintain the confidentiality of client information may preclude reporting identified or suspected noncompliance with laws and regulations to a party outside the entity. However, the auditor's legal responsibilities vary by jurisdiction, and in certain circumstances, the duty of confidentiality may be overridden by statute, the law, or courts of law…. Because potential conflicts with the auditor's ethical and legal obligations for confidentiality may be complex, the auditor may consult with legal counsel before discussing noncompliance with parties outside the entity."

Requiring the predecessor to disclose rather than allowing the predecessor to evaluate and act accordingly puts the predecessor in jeopardy (and more importantly potentially jeopardizes their former client's rights). Why take this risk when mechanisms, as noted above, exist and seem to operate appropriately?

Requiring disclosure of "suspected" NOCLAR to parties outside of management creates another layer of risk to the professional; after all, the client is innocent until proven guilty. What are the impacts on the client's rights to client-attorney privilege, if an auditor discloses to a separate third-party?

Lowering the threshold for disclosure outside of management to items that are "more than inconsequential", seems overly broad and misaligned with AU-C 250's threshold of items having a material effect on the financial statements or disclosures.

The Lack of a Differential Approach

The IESBA NOCLAR Standard adopted a differential approach; when encountering identified or suspected NOCLAR, a different level of expectation exists for accountants performing audits of financial statements than for those accountants providing services other than audits of financial statements. The AICPA Code provides uniform guidance and rules to all members in the performance of their professional responsibilities; the guidance is service agnostic (i.e., there is no differential approach). No distinction exists between those providing auditing services and those providing other services under U.S. guidelines.

The current model is clear; the same "general" rules apply no matter the service. Changing one rule unilaterally may create unintended consequences. If we unilaterally amend the auditing rules, we introduce the potential for confusion. That potential extends further if the firm is providing multiple services to an audit client. What if the non-compliance was identified in the execution of a consulting or tax engagement for an audit client? This has not been, in my opinion, fully debated.

The scenario above becomes even more complicated when it is combined with the points made above in **Alignment with AU-C 250**. What is the audit engagement team's responsibility to address non-compliance that is simply "more than inconsequential" if it is identified by the tax engagement team? This is one simple scenario, but I'm sure there are more; for instance, the same could be said about moving the threshold from known to suspected NOCLAR. Because the audit engagement team has historically been focused on material issues affecting the financial statements rather than those that are "more than inconsequential" or "suspected", most firms would need to create new mechanisms to meet these new thresholds. I am afraid the combination of potential issues noted in **Alignment with AU-C 250** along with the lack of a differential approach could work against the public interest, our clients, and our profession. Again, I feel that unilaterally or prematurely changing the auditing standards is not in the public interest.

While I've introduced five reasons above, my dissent can be summarized as follows:

- I believe that we put the public interest, our clients, and practitioners at risk if the ASB acts prematurely; and
- While I support the objectives of the project, the timing is not right. We have a working model. Waiting for the finalization of the new PEEC proposal seems more prudent.

Proposed Amendment to SAS No. 122, as amended, section 210, *Terms of Engagement* (AICPA, *Professional Standards, AU-C sec. 210)*

1. This amendment is effective for audits of financial statements for periods ending on or after December 15, 2022.

(***Boldface italics*** denotes new language. Deleted text is shown in ~~strikethrough~~.)

[No proposed amendment to paragraphs .01–.10. Paragraph .12 is renumbered to paragraph .14 but is otherwise unchanged and is included for contextual purposes.]

Initial Audits, Including Reaudit Engagements – *Communications With Predecessor Auditor*

.11 Before accepting an engagement for an initial audit, including a reaudit engagement, ***when a predecessor auditor exists,*** the auditor should request management to authorize the predecessor auditor to respond fully to the auditor's inquiries regarding matters that will assist the auditor in determining whether to accept the engagement ***and: (Ref: par. .A29)***

- ***If management authorizes the predecessor auditor to respond to the auditor's inquiries, perform the procedures required in paragraphs .12-.13***

- If management refuses to authorize the predecessor auditor to respond, or limits the response, the auditor should inquire about the reasons and consider the implications of that refusal ***or limitation*** in deciding whether to accept the engagement

.12 ***If, pursuant to paragraph .11, management authorizes the predecessor auditor to respond to the auditor's inquiries regarding matters that will assist the auditor in determining whether to accept the engagement, the auditor should inquire of the predecessor auditor about matters that will assist the auditor in determining whether to accept the engagement, including: (Ref: par. .A30–.A32)***

a. identified or suspected fraud involving

i. management,

ii. employees who have significant roles in internal control, or

iii. others, when the fraud resulted in a material misstatement in the financial statements.

b. matters involving noncompliance or suspected noncompliance with laws and regulations that came to the predecessor auditor's attention during the audit, other than when matters are clearly inconsequential.

.13 ***If, pursuant to paragraph .11, management authorizes the predecessor auditor to respond to the auditor's inquiries regarding matters that will assist the auditor in determining whether to accept the engagement, the predecessor auditor should respond to the auditor's inquiries on a timely basis and, on the basis of known facts, unless prohibited by applicable law. However, when the predecessor auditor decides, due to impending, threatened, or potential litigation; disciplinary proceedings; or other unusual circumstances, not to fully respond to the auditor's inquiries, the predecessor auditor should clearly state that the response is limited. Such circumstances are expected to be rare. (Ref: par. .A33–.A35)***

~~.12~~*.14* The auditor should evaluate the predecessor auditor's response, or consider the implications if the predecessor auditor provides no response or a limited response, in determining whether to accept the engagement. (Ref: par. ~~.A29 – .A34.~~***A36***)

.15 ***The auditor should document its inquiries with the predecessor auditor and the results of those inquiries.***

[Former paragraphs .13–.18 are renumbered as paragraphs .16–.21. The content is unchanged.]

Application and Other Explanatory Material

[No amendment to paragraphs .A1–.A29.]

Initial Audits, Including Reaudit Engagements – *Communications With Predecessor Auditor* **(Ref: par. .11–*.14*)**

~~.A31~~*A30* Relevant ethical and professional requirements guide the auditor's communications with the predecessor auditor and management, as well as the predecessor auditor's response. Such requirements provide that, except as permitted by the rules of the AICPA Code of Professional Conduct**,** an auditor is precluded from disclosing confidential information obtained in the course of an engagement unless management specifically consents. ~~Such~~ ***Relevant ethical and professional*** requirements also provide that both the auditor and the predecessor auditor hold in confidence information obtained from each other. This obligation applies regardless of whether the auditor accepts the engagement.

.A31 ***The inquiries specified in paragraph .12a-b are consistent with items that are communicated with those charged with governance as required by paragraph .40 of AU-C section 240,* Consideration of Fraud in a Financial Statement Audit*, and paragraph .21 of AU-C section 250,* Consideration of Laws and Regulations in an Audit of Financial Statements, *respectively.***

~~.A33~~*.A32* The communication with the predecessor auditor may be either written or oral. ***In addition to the inquiries specified in paragraph .12a–b,*** ~~M~~***m***atters subject to the auditor's inquiry of the predecessor auditor may include the following:

- Information that might bear on the integrity of management
- Disagreements with management about accounting policies, auditing procedures, or other similarly significant matters
- ~~Communications to those charged with governance regarding fraud and noncompliance with laws or regulations by the entity~~
- Communications to management and those charged with governance regarding significant deficiencies and material weaknesses in internal control
- The predecessor auditor's understanding about the reasons for the change of auditors

~~.A32~~*.A33* ~~In accordance with t~~***T***he AICPA Code of Professional Conduct~~, which~~ states that members have a responsibility to cooperate with each other~~,~~. ~~the predecessor auditor~~***,*** ~~is expected to respond to the auditor's inquiries promptly~~ ~~in the absence of unusual circumstances, fully, on the basis of known facts~~. ~~If, due to unusual circumstances, such as pending, threatened, or potential litigation; disciplinary proceedings; or other unusual circumstances, the predecessor auditor decides not to respond fully to the inquiries, the predecessor auditor is expected to clearly state that the response is limited.~~

.A34 ***Before responding to the auditor's inquiries made pursuant to paragraph .12, the predecessor auditor may consider it appropriate to obtain legal advice to determine whether any professional or legal requirements or unusual circumstances may limit the predecessor auditor's ability to respond. If, due to impending, threatened, or potential litigation; disciplinary proceedings; or other unusual circumstances, the predecessor auditor does not fully respond to the auditor's inquiries, pursuant to paragraph .13 the predecessor auditor is required to clearly state that the response is limited. Such circumstances are expected to be rare.***

~~.A30~~*.A35* When more than one auditor is considering accepting an engagement, the predecessor auditor is not expected to be available to respond to inquiries until an auditor has been selected by the entity and ~~has~~ ***plans to*** accept~~ed~~ the engagement, subject to the evaluation of the communications with the predecessor auditor as provided in paragraph .~~12~~***14***.

[Former paragraphs .A34–.A44 are renumbered to paragraphs .A36–.A46. The content is unchanged. No further amendment to AU-C section 210.]

Staff augmentation

Task force members

Lisa Snyder (chair), Coalter Baker, Jeff Lewis, Brian Lynch, Nancy Miller

AICPA Staff

Ellen Goria, John Wiley

Task force charge

The 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

On September 8, 2020, the division issued an exposure draft of the "Staff Augmentation Arrangements" interpretation (1.275.007). The division received 21 comment letters in response. The task force met on January 7, 2021 to consider the feedback received and developed the following recommendations for the committee.

Summary of issues

General comments summary

- 12 of the 20 comment letters were supportive of the proposal (CL 2, CL 3, CL 6, CL 8, CL 9, CL 10, CL 11, CL 13, CL 14, CL 16, CL 19 and CL 20).
- 5 of the 20 comment letters opposed the proposal (CL 4, CL 5, CL 7, CL 17 and CL 18).
- 2 of the 20 comment letters supported the issuance of non-authoritative guidance in the form of questions and answers (Qs & As) instead of issuing the proposed interpretation (CL 1 and CL 15).
- 1 comment letter did not have any comments at this time (CL 12).
- 3 of the comment letters (CL 2, CL 3 and CL 10) were from state boards of accountancy that stated that they were supportive of all of NASBA's comment letter responses (CL 13).

CL 6 believes the proposed revisions should relate only to "professional services" as defined in ET section 0.400.40. Narrowing the scope to professional services will prevent what they believe to be an unintended consequence of prohibiting services clearly unrelated to those of a traditional CPA firm such as technology, marketing, and human resources consulting. They suggest that a revision be made to ET section 1.275.001.01 as follows:

> In this interpretation, staff augmentation arrangements ***for professional services*** 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 performed by the augmented staff but does not direct or supervise the actual performance of the activities.

CL 11 identified one code reference in the exposure draft that appears to be incorrect. Paragraph .04 of ET section 1.297.020 references 1.275.040, but they believe the correct reference should be 1.275.007. The task force agrees that this is a typographical error that should be updated.

CL 15 believes that if PEEC proceeds with issuance of this proposed interpretation, it should add guidance in the form of a Q & A clarifying the difference between the type of engagement structure that would constitute a staff augmentation arrangement and the type of engagement structure that would be a typical nonattest service. Without adding this clarity, they believe there will be confusion in the application of this proposed interpretation.

CL 15 also believes that since members will likely review the "Nonattest Services" subtopic when the client requests this type of assistance, that adding a cross-reference from ET section 1.295.040.01*c*, "General Requirements for Performing Nonattest Services," to the "Staff Augmentation Arrangements" interpretation would be helpful. The draft cross-reference they recommend be added is

> ***If the engagement will involve no direction or supervision by the member firm, then the engagement is a staff augmentation arrangement rather than a nonattest service and should comply with the "Staff Augmentation Arrangements" interpretation [ET 1.275.007] of the "Independence Rule" [1.200.001].***

CL 16 also believes the description of staff augmentation arrangements set forth in paragraph .01 of the interpretation should be added to the "Definitions" subtopic 0.400. They also suggest the definition be revised to read as follows (proposed additions are shown in bold italic text, and deletions are struck through):

> 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 performed by the augmented staff but does not direct, ~~or~~ supervise ***or otherwise assume responsibility for*** the ~~actual~~ performance of the activities.

CL 16 suggests the following revisions with respect to paragraph .02 of the proposed interpretation:

1. If PEEC determines to allow exceptions for all types of engagements performed in accordance with the Statements on Standards for Attest Engagements, they suggest replacing “attest client” with “financial statement attest client.”

2. As proposed, only individuals in Covered Members categories a. and b. are restricted from providing augmented staff services to attest clients [1.275.007.02(d)]. They believe Covered Members in categories d. and e. also should be restricted from providing augmented staff services to attest clients.

CL 16 believes, as drafted, proposed paragraph .04 would permit staff augmentation arrangements as described in the “Staff Augmentation Arrangements” interpretation [1.275.040] (emphasis added) with AUP clients, provided the underlying services performed by the augmented staff do not relate to the specific subject matter of the AUP engagement. They believe the reference to the “Staff Augmentation Arrangements” interpretation should be limited to paragraph .01 of that interpretation (and that the reference would be entirely unnecessary if the description of staff augmentation arrangements was added to the definitions in subtopic 0.400). As currently drafted, the reference could be interpreted to imply that the staff augmentation arrangements must meet all the requirements of paragraph .02 of the “Staff Augmentation Arrangements” interpretation, and they do not believe that was PEEC’s intent. They also note that the current reference to [1.275.040] should be to [1.275.007]. If the description of staff augmentation arrangements is added to the “Definitions” subtopic 0.400, they suggest paragraph .04 of proposed revised interpretation 1.297.020 be revised to read as follows (proposed deletions are struck through):

> .04 When a member or member’s firm enters into a staff augmentation arrangement ~~described in the “Staff Augmentation Arrangements” interpretation [1.275.040]~~, threats would be at an acceptable level and independence would not be impaired provided the underlying services performed by the augmented staff do not relate to the specific subject matter of the AUP engagement.

Task force recommendations

The task force concluded that “professional services” as defined in ET 0.400.40 should not be added to paragraph .01 of the proposed interpretation as suggested by CL 6. The task force notes that the definition in 0.400.40 states professional services “include all services requiring accountancy or related skills that are performed by a member for a client, an employer, or on a volunteer basis. These services include, but are not limited to accounting, audit and other attest services, tax, bookkeeping, management consulting, financial management, corporate governance, personal financial planning, business valuation, litigation support, educational, and those services for which standards are promulgated by bodies designated by Council”. This definition includes the consulting standards, and as such, services such as technology, marketing and HR services would also be included as professional services under the Code and therefore, would not limit the provision to “traditional CPA services.”

Finally, the task force did not believe that the description of staff augmentation arrangements set forth in paragraph .01 of the interpretation should be added to the "Definitions" subtopic 0.400. The task force concluded that the limited use of the term staff augmentation in the code did not warrant a separate definition and did not support modification of paragraph .01 as exposed. However, the task force did agree that reference to *paragraph .01* of the staff augmentation interpretation should be included when referring to the description of staff augmentation in proposed paragraph .04 of the AUP Interpretation (see Agenda 2F).

The task force did support the development of a Q & A clarifying the difference between the type of engagement structure that would constitute a staff augmentation arrangement and the type of engagement structure that would be a typical nonattest service as suggested by CL 15. The task force also supports the addition of language cross-referencing from ET sec. 1.295.010, "Scope and Applicability of Nonattest Services," to the "Staff Augmentation Arrangements" interpretation as suggested by CL 15 (see Agenda 2H).

Question for the committee

1. Does the committee agree with the recommendations of the task force regarding the general comments received?

Responses to specific questions in the exposure draft

Question 24a. - Should staff augmentation arrangements with attest clients be permitted under any circumstances? Why or why not?

15 comment letters believe that staff augmentation arrangements should be allowed (CL 1, CL 2, CL 3, CL 5, CL 6, CL 8, CL 9, CL 10, CL 11, CL 13, CL 14, CL 15, CL 16, CL 19 and CL 20), 2 comment letters said they should not be allowed (CL 4 and CL 18), and 2 commenters did not respond to this question, but opposed the proposal (CL 7 and CL 17).

8 of the 15 comment letters in support of allowing staff augmentation arrangements cite that they should be used in limited circumstances subject to the safeguards proposed in the interpretation (CL 1, CL 2, CL 3, CL 9, CL 10, CL 11, CL 13 and CL 16). 7 comment letters note that such arrangements should be evaluated for threats and safeguards and may be permissible in circumstances other than those described in the proposal (CL 5, CL 6, CL 8, CL 14, CL 15, CL 19 and CL 20).

CL 4 believes that the appearance of simultaneous employment could not be overcome with safeguards and that required services could be equally well sourced from other sources. CL 6, noted that IESBA allows for staff augmentation arrangements, and that they believe that differences in ethical standards create significant operational issues for CPA firms.

Finally CL 18 believes the proposed safeguards are subjective in nature and expressed concern that members and members' firms may incorrectly conclude that threats to independence are at an acceptable level when reasonable, informed third parties would perceive auditor independence as impaired. CL 18 also cited that while the proposed interpretation is part of PEEC's efforts to converge its standards with the standards of IESBA, that practices in the U.S. environment provide consideration for the existence of differences between the code and IESBA's International Code of Ethics for Professional Accountants, citing the SEC rules as an example.

Task force recommendation

Based on the feedback received to this question, the task force did not see any reason not to move forward with the proposed interpretation which permits staff augmentation arrangements in limited circumstances.

Question for the committee

2. Does the committee still believe that staff augmentation arrangements should be permitted in certain circumstances?

Question 24b. - If you believe staff augmentation arrangements should be permitted, do you agree with the proposed interpretation, including the proposed safeguards, that would allow such arrangements in very limited situations? Why or why not?

Of the 15 comment letters in support of allowing staff augmentation arrangements, 12 generally supported the proposed interpretation (CL 1, CL 2, CL 3, CL 8, CL 9, CL 10, CL 11, CL 13, CL 14, CL 16, CL 19 and CL 20) and 3 did not (CL 5, CL 6 and CL 15).

Comments from supporters

There were many commenters who suggested guidance on certain terms used in the proposal. CL 1 suggests that the term "significant hardship" seems to be up for interpretation and could result in diversity in practice and suggested issuing interpretive guidance that gives some of the more common situations and whether they would be permitted. CL 11 suggests PEEC consider issuing a Q & A providing examples for applying the "not expected to reoccur" safeguard, believing members may be confused in applying this provision if a staff augmentation arrangement had been provided in the past, as they may believe that this type of arrangement can never reoccur.

CL 14 notes that paragraph .02a refers to "an unexpected situation" and paragraph .02b refers to "arrangement is not expected to reoccur." Paragraph .02b seems redundant and unnecessary, as by its very nature, an unexpected situation would not be foreseen and therefore not expected to reoccur. From that perspective, they recommend removing the safeguard within paragraph .02b. CL 14 also believes consideration should be given to whether

there could be alternative safeguards to allow longer term assignments, in certain situations, when the augmented staff duties and involvement does not at all overlap with the subject matter of the attest engagement. Such safeguards could include a requirement for a clearer definition of the staff augmentation role, including limitations on what the augmented staff will or will not perform, definition of duties and limitations on access.

CL 2, CL 3, CL 10, and CL 13 suggest PEEC replace the term, “unexpected situation” with “emergency situation” in paragraph .02(a). believing a firm could have a staff augmentation arrangement with an attest client only in the narrowest of circumstances and for the briefest period possible. CL 9 agrees that staff augmentation arrangements should only be used in very limited circumstances.

CL 8 expressed concerns that the definition of staff augmentation is too broad and could potentially be considered to include nonattest services already permitted if accompanied by appropriate safeguards. For example, section 1.295.120 of the code allows for bookkeeping, payroll, and other disbursement services if appropriate safeguards are in place. Often these services are structured in a way that require little oversight by the firm and could be interpreted as the attest client directing or supervising the staff as management fulfills their responsibility to authorize and approve the activities. They believe there should be further clarification distinguishing an augmentation arrangement from other allowable nonattest services when minimal oversight of the firm is necessary to direct or supervise such services.

CL 19 believes that the revised proposed standard would only allow staff augmentation in very limited situations and for relatively short period of time. They believe the proposed interpretation should permit staff augmentation arrangements with attest clients under certain circumstances and as long as adequate safeguards are in place to eliminate or reduce the independence threats to an acceptable level.

Comments from opposers

CL 5 does not agree with the proposed interpretation in that it would allow staff augmentation in very limited situations. They believe that staff augmentation arrangements should be permitted so long as the threats to independence can be maintained at an acceptable level. In all circumstances, they agree that the safeguards proposed in paragraph .02d. – f. should be required and while they believe that the augmented staff arrangement should only exist for a short period of time, they disagree that such period of time should (be presumed to) not exceed 30 days as set forth in proposed paragraph .02c. In addition, they do not support the proposed safeguards in paragraph .02a. – b. as they believe they would better serve as factors to be considered in evaluating whether the staff augmentation arrangement would result in significant threats.

CL 6 believes the interpretation should not contain incremental requirements over the IESBA requirements. Specifically, the IESBA guidance does not contain safeguards related to

"unexpected situations that would create a significant hardship" and "the augmented staff arrangement is not expected to reoccur". Both of these safeguards are not significantly clear and would result in implementation challenges.

CL 15 believes that the code as currently written already addresses staff augmentation arrangements in ET 1.295, "Nonattest Services." They also believe the proposed interpretation and proposed safeguards create ambiguity:

- The meaning of "unexpected situation" is unclear and can be subjective without a definition or examples.
- "Significant hardship" may also be subjective without examples.
- The phrase "not expected to reoccur" needs clarity regarding the time frame to which this evaluation applies (i.e., period of financial statements, period of engagement, application for continuing clients, etc.)
- The meaning of "direction and supervision" can be misconstrued.

Task force recommendation

The task force notes that many of the questions raised in the comment letters regarding the terminology used in the proposed interpretation has been deliberated at length by both the task force and the committee, and the task force still believes that the safeguards as proposed effectively narrow the use of staff augmentation arrangements for attest client to very limited situations, addressing the appearance concerns, while at the same time, allowing firms the ability to serve their clients and the public interest in times of need. The task force also recognized that the development of Qs & As in support of the proposed interpretation would be beneficial to practitioners in applying the safeguards as drafted. The task force, therefore, is not recommending any edits to the interpretation based on the comments received to this question.

Questions for the committee

3. Does the committee still agree with the safeguards as proposed in the exposure draft or are there items that should be reconsidered?
4. Should additional nonauthoritative guidance be considered for the following items?
    - Significant hardship
    - Unexpected situation
    - Not expected to reoccur
    - Nonattest services that have minimal oversight

Question 24c. - Do you believe that 30 days is an appropriate time period for the attest client to make other arrangements (see par. .02c of the interpretation)? If not, why?
11 comment letters believe that 30 days is an appropriate time period (CL 1, CL 2, CL 3, CL 4, CL 9, CL 10, CL 13, CL 14, CL 16, CL 19 and CL 20), and 5 comment letters did not (CL 5, CL 6, CL 8, CL 11 and CL 15).

Supporters of 30-day time period
CL 4 suggests that the 30-day period to be a strict proscription rather than a rebuttable presumption.
CL 19 believes that while 30 days may be a baseline time period for certain arrangements, there may be instances where the duration could be longer than 30 days, they believe that the member should be able to apply professional business judgement using the conceptual framework to evaluate the facts and circumstances of their attest client's situation and conclude on an appropriate short period of time.

Opponents of 30-day time period
CL 5 and CL 8 believe that to determine an appropriate "short period of time," the member should be permitted to consider the specific circumstances of the client and the client's ability to properly "make other arrangements" to remedy the situation that required the staff augmentation without causing the client undue hardship. However, if the PEEC wishes to set a definitive time period, they believe a minimum of 60 days would be more appropriate since the proposed 30 days would likely not be an adequate amount of time if the client's search for permanent personnel proves to be difficult. CL 6 believes that a bright line or rebuttable presumption is not helpful and that IESBA's rule for "a short period of time" is more appropriate. CL 8 was consistent with CL 5 in that they felt 30 days may be too short and suggested a 60 to 90 day period would be more reasonable.

CL 11 suggests removing the 30-day reference and then issue a Q & A that includes a recommended time period for applying the "short period of time" provision, similar to how PEEC provided a Q & A for the "reasonable period of time" provision in the "Hosting Services" interpretation (ET 1.295.143.04e).

CL 13 agrees that 30 days is an appropriate timeframe for the attest client to make other arrangements, but suggested the safeguard should be amended to say that the auditor should provide augmentation services only long enough to allow the client to make other arrangements, as they believed this was PEEC's intent. They also urged PEEC to eliminate the terms "short period of time" and "rebuttable presumption" as both add ambiguity to the safeguard. They believe that staff augmentation arrangements with attest clients should be performed for only a brief and finite timeframe not to exceed thirty (30) days. They suggest par. .02(c) read as follows:

> *The augmented staff arrangement is performed for only as brief a period as possible for the client to make other arrangements, if needed, and cannot exceed thirty (30) days.*

CL 15 suggested if the client is tasked with directing, supervising, and evaluating the work of a member's staff and simultaneously attempting to hire its own staff, 30 days seems somewhat unreasonable and recommended use of the Conceptual Framework to allow members to determine what time period is reasonable based upon the specific hardship.

Task force recommendation

The task force reviewed the comments and noted that the comment letter responses were very similar to the prior discussions of the task force and the committee, and that defining "short period of time" in the proposed interpretation as a rebuttable presumption not to exceed 30 days still appears to strike the right balance. The task force also believed that since 30 days was such a short period of time, it was unnecessary to add that the auditor should provide augmentation services "only long enough to allow the client to make other arrangements." Accordingly, the task force does not propose any changes to the language exposed.

Question for the committee:

5. Does the committee believe that the term "rebuttable presumption of 30 days" is still appropriate based on feedback received?

Question 24d. - Should an exception for staff augmentation arrangements with certain affiliates of a financial statement attest client, as described in paragraphs 14–19 of this explanation, be permitted? Why or why not? If it should be permitted, should the proposed additions discussed in paragraphs 18–19 of this explanation be added as drafted or do you have suggested revisions?

All 16 comment letters answering this question agreed that an exception should be made for certain affiliates and agreed with the additions proposed in the exposure draft.

CL 13 emphasized the interpretation needs to be as explicit as possible in terms of defining the CPA's obligations to apply the Conceptual Framework for Independence, including documenting the rationale for accepting a staff augmentation arrangement.

CL 4, who is opposed to staff augmentation arrangements for attest clients, believes that the provisions of ET sec. 1.224.010 Client Affiliates should be applied to staff augmentation arrangements between a firm and an affiliate of an attest client, and that the proposed addition of a new item (f) to paragraph .02 of ET sec. 1.224.010 would be acceptable.

Task force recommendation

Based on the comments received, the task force supports the proposed exception for certain affiliates as discussed in the exposure draft. The proposed modifications to 1.224.010 can be found at **agenda item 2E**. The task force concluded that the language used in the exposure draft adequately addressed the comments regarding the emphasis of firms applying the Conceptual Framework for Independence when evaluating staff augmentation arrangements with certain affiliates.

Question for the committee

6. Does the committee agree with the recommendation of the task force?

Question 24e. - Do you believe there should be an exemption for staff augmentation arrangements for all SSAE engagements when the services provided by the augmented staff do not relate to the specific subject matter of the SSAE engagement, or should the exemption be limited to only AUPs under the SSAEs? Why or why not?

13 comment letters support the exemption for all SSAE engagements when the services provided by the augmented staff do not relate to the specific subject matter of the SSAE engagement (CL 1, CL 2, CL 3, CL 5, CL 9, CL 10, CL 11, CL 13, CL 14, CL 15, CL 16, CL 19 and CL 20) and 3 did not (CL 6, CL 8 and CL 18).

Comments from supporters

CL 5 believes that the proposed language in paragraph 22 of the exposure draft would only permit staff augmentation arrangements when the "underlying services performed by the augmented staff do not relate to the specific subject matter" of the engagement even if such services are permissible under the "Non-attest Services" subtopic (1.295). In order to be consistent with the treatment afforded non-attest services under subtopic 1.297, "Independence Standards for Engagements Performed in Accordance With Statements on Standards for Attestation Engagements," they believe the guidance should refer to "non-attest services that would otherwise impair independence under the interpretations of the "Non-attest services" subtopic." In other words, if the underlying non-attest services would not impair independence, performing the services under a staff augmentation arrangement for a SSAE client should be permissible as threats to independence would be at an acceptable level even if they relate to the subject matter of the engagement. This treatment would be consistent with the non-attest services provisions under 1.297.020.03 and 1.297.030.03. If the Committee believes it would be appropriate, the guidance could also require that the Conceptual Framework be applied in situations where any permissible services relate to the subject matter of the engagement.

CL 9 believes the proposed additional language in paragraph 22 of the proposed interpretation should be included in the final interpretation, however, believe the reference to "AUP

engagement" at the end of proposed paragraph .04 should instead reference "SSAE engagement".

CL 13 agrees that an exemption that would allow staff augmentation arrangements with clients receiving only SSAE, including AUP, services could be appropriate, but believes the exemption needs to be as explicit as possible in terms of defining the CPA's obligations to apply the Conceptual Framework for Independence, including documenting the rationale for accepting a staff augmentation arrangement. The current "open-ended" nature of the exemption would allow these arrangements without reference to their duration, recurrence, or other elements the PEEC has deemed to be important considerations when evaluating staff augmentation arrangements with attest clients. They recommend the PEEC deliberate further on whether additional guidelines may be appropriate.

Comments from opponents

CL 6 believes the exemption should be limited only to AUP engagements. AUP engagements with specifically enumerated procedures help to remove certain aspects of professional judgement that are required when performing other attest engagements. Independence threats can therefore be reduced or eliminated in AUP engagements. They believe that other attest engagements still contain areas of professional judgment that could be subject to independence threats, and therefore should not be part of the exemption.

CL 8 believes it is not appropriate for prohibited nonattest services to be provided for SSAE engagements outside AUPs. In the proposed guidance for 1.297.020 paragraph .04, it's clear that the nature of the service should not impact the subject matter of an AUP, which aligns with paragraph .03 of that section that already provides similar allowances for AUPs. They believe that because SSAEs, such as examination and SOC engagements, provide an opinion on the subject matter, the level of assurance is akin to an audit, and accordingly, should require similar evaluation of threats and safeguards for nonattest services as outlined in 1.275.007.

CL 18 believes threats would be at a similar level for any attest engagement regardless of whether the underlying services that augmented staff perform relate to the specific subject matter of the engagement.

Task force recommendation

The task force reviewed the comments and noted most of the commenters supported the exception for all engagements under the SSAEs. However, after further consideration, the task force concluded that the arguments against this exception were persuasive and now recommends that this exception not be granted to SSAE engagements other than AUPs. The task force has conceptual concerns about inconsistencies of treatment since simultaneous employment is not permitted with SSAEs other than AUPs, and that SSAE engagements such as SOC engagements and examinations provide assurance, the threats to independence are more significant. The task force still believes that the exception for AUPs should be permitted as

such engagement do not provide assurance and restrictions are limited to only certain covered members.

The proposed modifications to 1.297.020 regarding the exception for AUP engagements can be found at **agenda item 2F**. The proposed modifications to 1.297.030 regarding the exception for SSAE engagements other than AUPs as presented in the explanation section of the exposure draft (strikethrough for the task force's recommendation) can be found at **agenda item 2G**.

Questions for the committee:

7. Does the committee agree with the task force that the proposed exception for SSAE engagements other than AUP engagements should not be allowed?
8. Does the committee agree that the exception for AUP engagements should still be allowed?

Question 24f. - Are there specific aspects of the proposal that you believe are too permissive or too restrictive? If so, please explain.

Of the 14 commenters answering this question, 8 believe there are aspects of the proposal that are too restrictive (CL 2, CL 3, CL 5, CL 11, CL 14, CL 15, CL 16, CL 19 and CL 20), (CL 6, CL 8 and CL 18), 6 believe there are aspects of the proposal that are too permissive (CL 2, CL 3, CL 4, CL 8, CL 10 and CL 13) and 2 believe that it is acceptable as drafted (CL 1 and CL 9). The comment letters referenced their responses in the general comments and the answers to the specific questions above.

Task force recommendation

The task force notes that the commenters addressed their concerns regarding this question in their general comments and responses to specific questions, and that overall, the task force believes the proposed interpretation as exposed provides the right balance.

Question 24g. - Does a six-month delayed effective date allow firms enough time to implement the necessary policies and procedures and terminate any relationships that would no longer be permitted? Why or why not?

10 comment letters believed the six-month delayed effective date would be acceptable (CL 1, CL 2, CL 3, CL 5, CL 10, CL 11, CL 13, CL 14, CL 15 and CL 20). 5 comment letters believed that six months may not be long enough (CL 6, CL 8, CL 9, CL 16 and CL 19).

CL 6, CL 9 and CL 16 all referenced the challenges of the COVID-19 pandemic on firm's processes and CL 9 notes that the pandemic has deferred several accounting and auditing standards already.

CL 8 believes if guidance potentially scopes in current nonattest services that would now be

considered staff augmentation arrangements as noted in their responses to questions 24a, 24b, and 24f, then firms would need significant lead time to identify such services and modify or terminate the arrangements.

CL 16 notes that because certain system and network maintenance, support and monitoring services frequently are performed through staff augmentation arrangements, they believe PEEC should consider making this interpretation and related revisions effective at the same time as the revised "Information System Services" interpretation [1.295.145].

CL 6, CL 9 and CL 19 all believe six months may not be enough time for members to implement the necessary policies and procedures and terminate any relationships that would no longer be permitted.

Task force recommendation

The task force concluded that based on the majority of the comments received, the proposed six-month delayed effective date was still appropriate.

Question for the committee

9. Does the committee believe that six months is still appropriate given the comments received?

Action needed

In addition to feedback as noted above, the committee is asked to adopt the proposal and for it to be effective six months after announcement is published in the Journal of Accountancy. The committee is also asked to provide input into the Qs & As that it believes should be developed.

Communication plan

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

Materials presented

- Agenda item 2B: Comment letter summary
- Agenda item 2C: Comment letter analysis
- Agenda item 2D: Text of proposed interpretation "Staff Augmentation Arrangements"
- Agenda item 2E: Text of proposed revised interpretation "Client Affiliates"
- Agenda item 2F: Text of proposed revised interpretation "Agreed-Upon Procedures Engagements Performed in Accordance With SSAEs"
- Agenda item 2G: Text of proposed revised interpretation "Engagements, Other Than AUPs, Performed in Accordance With SSAEs"

- Agenda item 2H: Text of proposed revised interpretation “Scope and Applicability of Nonattest Services”

Comment letter summary

Proposed "Staff Augmentation Services" interpretation of the "Independence Rule"
Exposure draft dated September 8, 2020

General comments		
CL 1	TIC ***Opposes, supports Qs & As***	TIC still does not believe that adding an additional interpretation is necessary as the current Code already has adequate guidance and safeguards that could be applied in many of these situations. TIC would suggest that, if the ethics team is receiving significant questions related to staff augmentation arrangements that are not already covered in ET sections 1.210 and 1.295, perhaps the issuance of specific questions and answers might be a better way to address these issues. TIC believes that providing specific situations and fact patterns might be a more effective way to address potential independence issues when firms are providing staff augmentation services.
CL 2	Montana Board of Public Accountants ***Supports with recommended changes***	Supports NASBA position. No additional comments provided.
CL 3	Kentucky State Board of Accountancy ***Supports with recommended changes***	Supports NASBA position. No additional comments provided.
CL 4	NYSSCPA	***Characterization of the interpretation***

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	Opposes interpretation, recommends change if it moves forward	We observe that PEEC has now changed the characterization of the Proposed Interpretation. Under the original proposal, the interpretation was classified as part of the ET sec. 1.295, Nonattest Services. The new proposal classifies the interpretation as part of ET sec. 1.275, Current Employment or Association with an Attest Client. We conclude, therefore, that PEEC believes that the relationship created by a staff augmentation arrangement is that of employer (i.e., attest client)/employee (i.e., loaned staff). We agree with the characterization of the relationship as an employment relationship because as stated in paragraph .01 of the ED "…the attest client is responsible for the direction and supervision of the activities performed by the augmented staff." Historically, the key determinant in the employee/independent contractor relationship issue centered around who supervises and directs the activity of the individual. In circumstances where the company directs the activities of the individual, the individual is, generally, determined to be an employee. We believe this concept should be applied to this issue. Accordingly, we conclude staff augmentation arrangements create employment relationships with attest clients. Because the staff augmentation arrangement creates an employment relationship, we believe ET sec. 1.275.005, Simultaneous Employment or Association with an Attest Client, already addresses these situations. Under this interpretation, employment relationships with an attest client create multiple threats to the member's independence that "…would not be at an acceptable level and could not be reduced to an acceptable level by the application of safeguards." (ET 1.275.005.02). The extant interpretation allows two very specific exceptions which would not impair the member's independence provided the prescribed safeguards are implemented. In a staff augmentation arrangement, an individual may work for the attest client during normal operating hours, but then be called upon to work for the firm after hours on other client matters. Accordingly, in order to avoid falling under the Simultaneous Employment interpretation, we believe the Proposed Interpretation needs to include a strict

		proscription against the individual performing any work on behalf of the firm during the period of the staff augmentation arrangement. Without such a strict prohibition against performing work on behalf of the firm while in the employ of the attest client, we do not believe that PEEC can support the creation of a new interpretation under ET sec. 1.275 because the requirements of ET sec. 1.275.005 would prevail. ***Potential conflicts between state boards of accountancy and AICPA*** Not every state has adopted the AICPA Code of Professional Conduct (the Code) as their code of conduct. A staff augmentation arrangement could easily cross state lines such that staff employed by a firm in a state that has adopted the Code is loaned to an attest client in a state that has not adopted the Code, or vice versa. We are concerned that the adoption of the interpretation will create situations where the staff or firm will run afoul of a state board of accountancy or other governing body while still complying with the requirements of the Code. ***Conflict between the AICPA Code of Professional Conduct and the International Code of Ethics for Professional Accountants (the International Code)*** We are aware that in accordance with the AICPA's agreement with IFAC, US standards cannot be less restrictive than international standards. We believe the maintenance of a strict proscription against the employment or association, including staff augmentation arrangements, with an attest client will not put the Code in a negative position in relation to the International Code. In fact, we believe that adherence to ET sec. 1.275.005 will make the Code more restrictive than the International Code. From a practical point of view, we believe that US members operate in a more litigious environment than firms operating elsewhere. In our view, the Proposed Interpretation exposes firms to potential litigation as lawyers will seek to exploit the conflicts between ET sec. 1.275.005 and proposed ET sec. 1.275.007. Accordingly, a more restrictive code with respect to staff augmentation

		arrangements would be warranted by the more litigious environment in which we operate.
CL 5	BDO ***Opposes, believes original interpretation is more appropriate***	Overall, BDO believes the originally proposed interpretation (released in the December 7, 2018 exposure draft) addressed staff augmentation arrangements more appropriately. We believe the revised proposal is too proscriptive. Specifically, we believe the various scenarios that may give rise to a client's need for staff augmentation can involve a broad range of circumstances and in some cases, it is in the client's interest as well as the public interest for staff augmentation arrangements to be permitted. We believe the current proposal is attempting to address all possible scenarios through a proscriptive and inappropriately restrictive approach that does not allow for consideration of actual or perceived threats to independence.
CL 6	Rubin Brown ***Supports with recommended changes***	With respect to the proposed revisions, we note that these appear to be written in the context of services generally provided by CPA firms, such as accounting, tax and consulting. However, many CPA firms of all sizes have expanded into new service lines, including technology, marketing and human resources consulting. Further, in some instances, these services are provided through a temporary staffing agency owned by the CPA firm. In many cases, these services are completely unrelated to the financial statements (or other attest subject matter), and don't comprise part of a client's internal control structure. As such, we believe that proposed revisions should only relate to "professional services" as defined in ET 0.400.40. Narrowing the scope to professional services will prevent what we believe to be an unintended consequence of prohibiting services clearly unrelated to those of a traditional CPA firm. The provision of these unrelated services would still require compliance with the general requirements for performing nonattest services. We suggest that a revision be made to ET 1.275.001.01 as follows: In this interpretation, staff augmentation arrangements ***for professional services***

		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 performed by the augmented staff but does not direct or supervise the actual performance of the activities.
CL 7	California Board of Accountancy ***Opposes***	The CBA discussed the Exposure Draft at its November 19, 2020 meeting. The CBA considered the practical application of how the concept of staff augmentation would affect the CBA's mission of consumer protection and whether the proposal offered in the Exposure Draft advances or detracts from this overall mission. Independence is a cornerstone of the CPA profession. The CBA realizes that the revised and reissued proposal included in the Exposure Draft seeks to provide enhanced guardrails for evaluating and mitigating independence. The safeguards remain, however, highly subjective and open to considerable interpretation. This ultimately would lead to potential issues with enforceability. For these reasons, the CBA is not in a position to support the proposal at this time. The CBA will continue to monitor the issue and should the AICPA expose another revised proposal, the CBA will consider any revisions for possible comment. Should the AICPA adopt the existing proposal, the CBA will consider any outcome and evaluate whether to take action to update the California Accountancy Act, CBA Regulations, or both.
CL 8	Eide Bailly ***Supports, recommends additional guidance***	No general comments were provided.
CL 9	NJCPA ***Supports with recommended changes***	The Group believes the revised interpretation addresses the concerns expressed in the original proposal by various respondents, including NASBA, regarding staff augmentation arrangements and its implications on independence. The original proposal provided that staff augmentation services would be permitted on attest

		clients provided perceived threats to independence were reduced to an acceptable level. The revised interpretation is much more restrictive providing that staff augmentation arrangements would generally impair independence except under very specific limited circumstances.
CL 10	DC Board of Accountancy ***Supports with recommended changes***	Supports NASBA position. No additional comments provided.
CL 11	Crowe ***Supports with recommended changes***	Overall, we support the proposed interpretation. We identified one Code reference that appears to be incorrect. Paragraph .04 of section 1.297.020 references 1.275.040, but we believe the correct reference should be 1.275.007.
CL 12	North Dakota Board of Accountancy ***No position***	No comments on the revisions. No letter submitted regarding original exposure.
CL 13	NASBA ***Supports with recommended changes***	Overall and subject to our comments below, we support the proposed interpretation, as an appropriate position, neither allowing staff augmentation arrangements with safeguards, as proposed in the Exposure Draft (ED) dated December 7, 2018 (2018 ED), nor imposing a complete ban on such arrangements. NASBA commends the PEEC for the substantial change in the interpretation's direction from that earlier version, in recognition of the significant concerns NASBA raised in our comment letter and subsequent deliberations.
CL 14	Plant & Moran ***Supports with recommended changes***	No general comments were provided.

CL 15	CLA ***Opposes, supports FAQs. Recommends changes if this moves forward***	In our view, as stated in our original comment letter dated March 4, 2019, staff augmentation services are already covered under ET sec. 1.295, "Nonattest Services" and ET sec. 1.210, "Conceptual Framework Approach." If the PEEC proceeds with issuance of this proposed interpretation, CLA believes the ED would benefit from the PEEC adding guidance clarifying the difference between the type of engagement structure that would constitute a staff augmentation arrangement and the type of engagement structure that would be a typical nonattest service. (See our response to Request for Comment b below.) Without adding this clarity, we believe there would be confusion in the application of this proposed interpretation. ***General Comments*** As an alternative to the issuance of this proposed interpretation, CLA continues to recommend that the PEEC consider adding the example threats and safeguards noted in the original proposal to the existing AICPA Frequently Asked Questions: Nonattest Services document to assist members in evaluating the threat of the appearance of simultaneous employment with the attest client. If the PEEC proceeds with issuance of this proposed interpretation, CLA recommends that the PEEC clarify the terms listed in our response to Request for Comment b below. In our specific comments below, we assumed that a staff augmentation arrangement is an arrangement where there is no level of member supervision of the nonattest service being performed. Also, because members will likely review the ET sec. 1.295, "Nonattest Services" subtopic when the client is requesting assistance, we recommend adding language cross-referencing from ET sec. 1.295.040.01c, "General Requirements for Performing Nonattest Services," to the "Staff Augmentation Arrangements" interpretation as noted in bold below: c. Before performing nonattest services the member establishes and documents in writing his or her understanding with the attest client (board of directors, audit committee, or management, as appropriate in the circumstances) regarding objectives of the engagement,

		i. services to be performed, ii. attest client's acceptance of its responsibilities, iii. member's responsibilities, and iv. any limitations of the engagement. **If the engagement will involve no direction or supervision by the member firm, then the engagement is a staff augmentation arrangement rather than a nonattest service and should comply with the "Staff Augmentation Arrangements" interpretation [ET 1.275.007] of the "Independence Rule" [1.200.001].**
CL 16	RSM ***Supports with recommended changes***	We generally believe the proposed interpretation would strengthen the AICPA Code of Professional Conduct by limiting the circumstances under which staff augmentation services could be provided to attest clients. ***Proposed Interpretation 1.275.007, "Staff Augmentation Arrangements"*** RSM believes the "Staff Augmentation Arrangements" interpretation would be better positioned within subtopic 1.295, "Nonattest Services," of the Code of Professional Conduct. However, we do not object to positioning the interpretation in subtopic 1.275, "Current Employment or Association With an Attest Client," as long as the exceptions provided for nonattest services in sections 1.224.010, 1.297.020 and 1.297.030 also apply to this interpretation. We believe the interpretation would be better positioned in subtopic 1.295 because, in the circumstances where the exceptions would apply, we believe safeguards generally could be applied to reduce the threats to independence to an acceptable level. In addition, we believe most practitioners would first look in subtopic 1.295 for guidance on staff augmentation arrangements, and the proposed and potential exceptions are consistent with those provided for nonattest services. RSM generally supports PEEC's proposal to allow staff augmentation arrangements with attest clients in certain situations for a short period of time.

		However, we believe the description of staff augmentation arrangements set forth in paragraph .01 of the interpretation should be added to the definitions in subtopic 0.400 of the Code of Professional Conduct. We also suggest the definition be revised to read as follows (proposed additions are shown in bold italic text, and deletions are struck through): 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 performed by the augmented staff but does not direct, ~~or~~ supervise ***or otherwise assume responsibility for*** the ~~actual~~ performance of the activities. We have the following suggestion with respect to paragraph .02 of the proposed interpretation: 1. If PEEC determines to allow exceptions for all types of engagements performed in accordance with the Statements on Standards for Attest Engagements, we suggest replacing "attest client" with "financial statement attest client." 2. As proposed, only individuals in Covered Members categories a. and b. are restricted from providing augmented staff services to attest clients [1.275.007.02(d)]. We believe Covered Members in categories d. and e. also should be restricted from providing augmented staff services to attest clients. ***Proposed Revised Interpretation 1.297.020, "Agreed-Upon Procedures Engagements Performed in Accordance With SSAEs"*** RSM supports allowing staff augmentation arrangements with agreed-upon procedures (AUP) clients, provided the underlying services performed by the augmented staff do not relate to the subject matter of the AUP engagement. However, as drafted, proposed paragraph .04 would permit staff augmentation

		arrangements as described in the "Staff Augmentation Arrangements" interpretation [1.275.040] (emphasis added) with AUP clients, provided the underlying services performed by the augmented staff do not relate to the specific subject matter of the AUP engagement. We believe the reference to the "Staff Augmentation Arrangements" interpretation should be limited to paragraph .01 of that interpretation (and that the reference would be entirely unnecessary if the description of staff augmentation arrangements was added to the definitions in subtopic 0.400). As currently drafted, the reference could be interpreted to imply that the staff augmentation arrangements must meet all the requirements of paragraph .02 of the "Staff Augmentation Arrangements" interpretation, and we do not believe that was PEEC's intent. We also note that the current reference to [1.275.040] should be to [1.275.007]. If the description of staff augmentation arrangements is added to the definitions in subtopic 0.400, we suggest paragraph .04 of proposed revised interpretation 1.297.020 be revised to read as follows (proposed deletions are struck through): .04 When a member or member's firm enters into a staff augmentation arrangement ~~described in the "Staff Augmentation Arrangements" interpretation [1.275.040]~~, threats would be at an acceptable level and independence would not be impaired provided the underlying services performed by the augmented staff do not relate to the specific subject matter of the AUP engagement. Finally, we support the application of a similar subject matter exception to staff augmentation arrangements for SSAE engagements that are not AUP engagements. ***Potential Revision of Section 1.224.010, "Client Affiliates"*** RSM supports the potential revision of section 1.224.010, as described in paragraphs 15 and 16 of the Exposure Draft, which would permit staff augmentation arrangements with entities described in items (c)- (l) of paragraph .02 of that section. However, we believe the caveats included in the first sentence

		of paragraph .02b of section 1.224.010 (the "not subject to audit" requirement) also should be included in paragraph .02f if the potential revision is adopted.
CL 17	Society of Louisiana CPAs ***Opposes, staff augmentation arrangements should be prohibited.***	The members of our committee that provided comment unanimously and strongly oppose the interpretation. A summary of the reasons for opposition are as follows: a. There are certain actions or relationships within the Code of Professional Conduct that have consistently impaired independence. Employment with an attest client is one of those relationships. Even in a temporary arrangement, we believe the self-review threat could not be reduced to an acceptable level. Regardless of the term "staff augmentation", the employed staff of the attest firm would be performing duties of an employee at an attest client. b. Paragraph 1.275.007.02(a) of the proposed interpretation lists the following safeguard: "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". Our committee strongly believes that the language in this paragraph does not describe a safeguard, but rather a situation that exists within a client. The definition of a safeguard is "Actions or other measures that may eliminate a threat or reduce a threat to an acceptable level". It is clear that paragraph 1.275.007.02(a) of the proposed interpretation does not meet the definition of a safeguard, yet this paragraph describes this situation as a safeguard. This is neither an action nor an other measure that is implemented by the firm, client, profession, regulatory body, or legislation. Our committee believes that lack of planning by an attest client for contingencies is not a sufficient reason for this threat to independence to be allowed. Also, in this global economy, it is

		highly unlikely that there is not another source of labor available for the attest client to "augment their staff" through means other than the audit, review, or attest firm. c. We believe that every entity that receives attest services would be able to overcome any hardships without having to employ members of the attest firm. It is not in the best interest of the public to allow a CPA firm to effectively allow their employees to perform functions at an attest client, regardless of the safeguards that may be put into place. d. The other safeguards mentioned in items b-f of the proposed interpretation are not relevant based on our position listed in items a-c above.
CL 18	GAO ***Opposes, staff augmentation arrangements should be prohibited.***	For the reasons discussed below, we believe that augmented staff arrangements for attest clients should be prohibited. We also believe that practices in the U.S. environment provide consideration for the existence of differences between the code and IESBA's International Code of Ethics for Professional Accountants.
CL 19	Grant Thornton ***Supports, recommends FAQs once finalized***	Grant Thornton supports PEEC's proposal to move the proposed interpretation from the "Nonattest Services" subtopic to the "Current Employment or Association With an Attest Client" subtopic since it would be consistent with placement in the IESBA code and agrees that staff augmentation arrangements would generally impair independence except under certain circumstances. However, we believe that the proposed standard set forth in the Exposure Draft does not properly balance the actual and perceived threats, is more restrictive than international requirements and have provided the following comments for PEEC's consideration. Grant Thornton suggests that PEEC consider developing non-authoritative guidance in the format of a frequently asked questions (FAQs) document that highlights various scenarios and examples where a staff augmentation arrangement may be permitted or prohibited under the proposed standard once

		finalized.
CL 20	KPMG ***Supports, with recommended changes***	Overall, we support the proposed interpretation. However, we do not believe staff augmentation arrangements should always be prohibited for (a) certain affiliates of a financial statement attest clients, or (b) certain agreed- upon-procedures (AUP) engagements. Generally, such arrangements would not create threats to a member's independence that are not at an acceptable level with respect to the attest client, as described below. ***Client affiliates*** We agree with the proposal that PEEC create an exception for affiliates of the attest client as defined in ET0.400.02 c through l ((c) through (l) affiliates) when there is: • an absence of a self-review threat at the attest client; • an absence of a management participation threat at the attest client; or • an absence of familiarity threat at the attest client. For example, a member provides augmented staff to a sister affiliate of an attest client. Because the sister affiliate's operations are not included in the attest client's results, it is unlikely that significant self-review threats exist with respect to the attest client. In addition, when there is separate management at the sister affiliate, it is unlikely that significant management participation threats exist with respect to the attest client. Finally, familiarity threats are unlikely to be created when the sister affiliate has separate management and systems, as is typically the case. ***AUP engagements*** ET 1.297.020.03 provides that impermissible services, including services that include performance of management responsibilities, that would otherwise impair independence do not impair independence as long as the services do not relate to the subject matter of an AUP engagement. We believe that threats to independence from most staff augmentation arrangements would typically be less

		significant than service arrangements under which a member assumes management responsibilities for the client. Therefore, we propose that the interpretation for staff augmentation engagements include a similar exception when the only attest service performed for the client is an AUP engagement.
CL 21	Minnesota Board of Accountancy ***Opposes interpretation, submitted comments if it moves forward***	Our comments are formulated pursuant to our reading of the NASBA comment letter dated November 2, 2020. However, our observations and comments offered stand on their own and constitute the position of the Minnesota State Board of Accountancy (MSBA) independently.

Q24*a*: Should staff augmentation arrangements with attest clients be permitted under any circumstances? Why or why not?		
CL 1	TIC	TIC believes that staff augmentation arrangements should be permitted in the outlined situations in the ED as TIC believes the proposed safeguards are sufficient to maintain independence.
CL 2	Montana Board of Public Accountants	Supports NASBA position. No additional comments provided.
CL 3	Kentucky State Board of Accountancy	Supports NASBA position. No additional comments provided.
CL 4	NYSSCPA	No. As discussed above, we believe that the staff augmentation arrangement creates an employer/employee relationship between the firm personnel and the attest client. We are not swayed by the provision that "…the firm bills the attest client for the activities performed by the augmented staff." Whether the staff is paid directly by the attest client or indirectly through the firm does not minimize the appearance that firm personnel are being simultaneously employed by the firm and an attest client.

		While, in an emergent situation, it may be easier for an attest client to turn to their CPA for assistance, the threat to the firm's appearance of independence is so great that we do not believe it can be reduced to an acceptable level through the application of safeguards. We believe that any service that could be provided by firm personnel could equally well be sourced from companies specializing in temporary personnel placement. The desire to service a client or, worse, the desire to increase client billings should not take precedence over the firm's independence.
CL 5	BDO	Yes. We believe that staff augmentation should be permitted when threats to the firm's independence, in fact and appearance, are at an acceptable level. As such, threats to independence, specifically, the management participation and self-review threats must be evaluated prior to entering into any staff augmentation arrangement to determine if threats are at an acceptable level or can be reduced to an acceptable level through the application of safeguards. Further, the firm should ensure that the appearance of independence is maintained in the view of a reasonable and informed third party. Only under these circumstances do we believe that staff augmentation should be permitted.
CL 6	Rubin Brown	We believe there are appropriate circumstances for staff augmentation arrangements. In a dynamic business environment, there are frequently client needs for short term staffing, and CPA firms are well suited to provide these services to clients. The existing relationship between the CPA firm and the client allow for meeting these needs in a timely manner. The existing relationship and client knowledge allow the CPA firm to assess independence related to these arrangements, and make appropriate determinations regarding permissible services. Further, we note that International Ethics Standards Board for Accountants (IESBA) allows for staff augmentation arrangements, and we believe that differences in ethical standards create significant operational issues for CPA firms.

CL 7	California Board of Accountancy	No specific comments submitted
CL 8	Eide Bailly	Yes, we agree that staff augmentation arrangements should be allowed where appropriate safeguards can be applied. We were unclear how staff augmentation arrangements differed from other nonattest service that could be paired with appropriate safeguards; accordingly, we recommend that the Committee clarify the intended difference between these services and other nonattest services. See also our response in 24f for expanded observations comparing staff augmentation to other allowed nonattest services.
CL 9	NJCPA	The Group believes staff augmentation services for attest clients does impair independence and should only be permitted under very limited circumstances and only when certain specific safeguards are in place. Section .02 of the revised interpretation stipulates specific safeguards all of which must be met in order to provide an attest client with staff augmentation services. One of the safeguards requires that “the augmented staff performs only activities that would not be prohibited by the “Nonattest Services” subtopic (ET sec. 1.295) of the “Independence Rule” (ET sec. 1.200.001). The requirement prohibiting services not permitted by the Nonattest Services rule would prevent any perceived independence concerns since the augmented staff would not be performing any management functions or making any management decisions.
CL 10	District of Columbia Board of Accountancy	Supports NASBA position. No additional comments provided.
CL 11	Crowe	We acknowledge there might be certain situations where an attest client has an unexpected event where assistance is needed, and the auditor may be the best suited to provide the assistance. We believe staff augmentation arrangements pose a threat to independence as they create the appearance of simultaneous employment; therefore, we support the PEEC's proposal to only permit these arrangements in limited circumstances.

CL 12	North Dakota Board of Accountancy	No specific comments submitted
CL 13	NASBA	NASBA believes that the proposed interpretation, as amended per our responses to questions 24(b) and (c), should permit staff augmentation arrangements under prescribed conditions with attest clients.
CL 14	Plant & Moran	Yes, we believe staff augmentation arrangements with attest clients should be permitted in circumstances where all of the safeguards listed in paragraph .02 of the exposure draft are met. Additionally, we feel that the subject matter and type of services to be performed in the staff augmentation arrangement should be considered. Based on the vast array of service offerings offered by modern CPA firms, staff augmentation services may be provided in an area completely unrelated to the subject matter of the attest engagement and those services may not create a significant threat to independence.
CL 15	CLA	CLA believes that staff augmentation arrangements should be permitted with safeguards. Such arrangements allow clients to receive timely and seamless temporary assistance from firms who already understand their businesses.
CL 16	RSM	RSM believes that staff augmentation arrangements should be permitted in the circumstances described in the proposed interpretation. If appropriate safeguards are in place to mitigate threats, such staff augmentation arrangements would not impact the integrity or objectivity of a firm also providing attest services.
CL 17	Society of LA CPAs	No specific comments submitted
CL 18	GAO	We acknowledge PEEC's efforts in revising its proposed interpretation to develop what it believes are safeguards to independence for situations in which members and members' firms lend personnel to clients under staff augmentation arrangements. We are concerned that the proposed safeguards contain elements

		that are subject to interpretation. As such, we believe that it will be difficult for members and members' firms to implement the proposed safeguards consistently to reduce threats to auditor independence to an acceptable level. It is our view that some of the proposed safeguards are subjective and thus could be inconsistently interpreted and implemented. For paragraph 02.a, a number of wide-ranging perspectives may exist—within the member and member firm community and with entities that have enforcement authority—as to what represents an "unexpected situation" and a "significant hardship." For example, state and local governments may experience unexpected budget cuts that lead to staffing reductions deemed to be significant hardships. These entities may rely on members and members' firms to augment government staff. In our view, this would give the appearance that the auditor is a government employee, and the public could conclude that the auditor was not independent. We believe that the proposed safeguard in paragraph 02.b is also subjective as it refers to member and member firms' expectations concerning the reoccurrence of staff augmentation arrangements. Expectations about something that will or will not happen in the future are subject to change based on the outcome of events. If the need for a subsequent staff augmentation arrangement arises, questions about the auditors' independence may also arise, as the proposed safeguard does not prohibit additional staff augmentation arrangements in current or future accounting periods. In addition, in paragraph 02.c, the proposed safeguard requires the augmented staff arrangement to be performed for a short period of time. Implementation of this proposed safeguard may also be subjective. For example, the augmented staff arrangement could extend for a number of months, as the proposed interpretation does not impose parameters on the rebuttable presumption for a short period of time of 30 days—such as, stating that the 30-day period represents consecutive business days within an accounting period. Also, members and members' firms may infer that it is permissible to exceed 30 days as long as the length of the

		augmented staff arrangement can be justified. Moreover, the proposed safeguard does not contain limits on the number of staff who could be involved in an augmented staff arrangement (e.g., whether arrangements for 20 staff for up to 30 days per each staff would be permitted). The proposed interpretation is part of PEEC's efforts to converge its standards with the standards of IESBA. The objective of IESBA is to serve the public interest by setting high quality ethics standards for professional accountants. IESBA's long-term objective is to converge International Code of Ethics for Professional Accountants ethical standards, including auditor independence standards, with those that regulators and national standard setters issue. To that end, differences may exist between the proposed interpretation and aspects of the U.S. regulatory environment concerning auditor independence. For example, the Securities and Exchange Act of 1934 Rule 2-01 of Regulation S-X is designed to ensure that auditors are qualified and independent of their audit clients both in fact and in appearance. The rule sets forth the general standard of auditor independence and prohibits an independent auditor from acting as an employee of an audit client. Given the subjective nature of some of the proposed safeguards, we are concerned that members and members' firms may incorrectly conclude that threats to independence are at an acceptable level when reasonable, informed third parties would perceive auditor independence as impaired. It is also our view that the proposed interpretation would pose challenges for the appropriate entities to enforce the auditor's adherence to it uniformly. For the reasons stated above, we believe that augmented staff arrangements for attest clients should be prohibited. We also believe that practices in the U.S. environment provide consideration for the existence of differences between the code and IESBA's International Code of Ethics for Professional Accountants.
CL 19	Grant Thornton	Grant Thornton believes that staff augmentation arrangements should be permitted with attest clients based on certain facts and circumstances, as long as adequate safeguards are applied to eliminate or reduce threats to independence to

		an acceptable level. Our general view would be to evaluate such arrangements in a similar manner to a nonaudit service. If permitted, the member should be required to evaluate the particular facts and circumstances under the AICPA's Conceptual Framework to determine whether the staff augmentation would be allowable. In its evaluation, the member should also take into consideration factors such as the level of the individual providing the staff augmentation, whether the service to be performed touches the financial statements (or internal controls over financial reporting) that are being audited by the member, frequency/duration of service, client's skills, experience and knowledge of the area the service would relate to and any potential risk that may arise if the member performs the staff augmentation service.
CL 20	KPMG	We believe that staff augmentation arrangements with attest clients where the member is providing permissible services, in circumstances, as proposed in the exposure draft, where a client hardship exists, and where safeguards have been applied to limit the duration of the engagement do not generally present threats to independence. Similarly, as described in the overall considerations section above, we believe staff augmentation arrangements should be permitted for (c) through (l) affiliates of the attest client, and for AUP engagement when there are no other attest services provided to the client and the augmented staff arrangements are not related to the subject matter of the AUP engagement.
CL 21	Minnesota Board of Accountancy	The MSBA answer is No. The preparation of accounting records to make such records ready for an attest function or merely maintain such records are management functions. Notwithstanding procedures posted as safeguards addressing the self-review threats such augmentation services yield, we do not believe there are safeguards to reduce the management participation threat to an acceptable level. Further, we believe that in most cases, the client in need of staff augmentation could obtain these services from a provider that is not required to be Independent.

Q24*a*: Should staff augmentation arrangements with attest clients be permitted under any circumstances? Why or why not?		
CL 1	TIC	TIC believes that staff augmentation arrangements should be permitted in the outlined situations in the ED as TIC believes the proposed safeguards are sufficient to maintain independence.
CL 2	Montana Board of Public Accountants	Supports NASBA position. No additional comments provided.
CL 3	Kentucky State Board of Accountancy	Supports NASBA position. No additional comments provided.
CL 4	NYSSCPA	No. As discussed above, we believe that the staff augmentation arrangement creates an employer/employee relationship between the firm personnel and the attest client. We are not swayed by the provision that "…the firm bills the attest client for the activities performed by the augmented staff." Whether the staff is paid directly by the attest client or indirectly through the firm does not minimize the appearance that firm personnel are being simultaneously employed by the firm and an attest client. While, in an emergent situation, it may be easier for an attest client to turn to their CPA for assistance, the threat to the firm's appearance of independence is so great that we do not believe it can be reduced to an acceptable level through the application of safeguards. We believe that any service that could be provided by firm personnel could equally well be sourced from companies specializing in temporary personnel placement. The desire to service a client or, worse, the desire to increase client billings should not take precedence over the firm's independence.

CL 5	BDO	Yes. We believe that staff augmentation should be permitted when threats to the firm's independence, in fact and appearance, are at an acceptable level. As such, threats to independence, specifically, the management participation and self-review threats must be evaluated prior to entering into any staff augmentation arrangement to determine if threats are at an acceptable level or can be reduced to an acceptable level through the application of safeguards. Further, the firm should ensure that the appearance of independence is maintained in the view of a reasonable and informed third party. Only under these circumstances do we believe that staff augmentation should be permitted.
CL 6	Rubin Brown	We believe there are appropriate circumstances for staff augmentation arrangements. In a dynamic business environment, there are frequently client needs for short term staffing, and CPA firms are well suited to provide these services to clients. The existing relationship between the CPA firm and the client allow for meeting these needs in a timely manner. The existing relationship and client knowledge allow the CPA firm to assess independence related to these arrangements, and make appropriate determinations regarding permissible services. Further, we note that International Ethics Standards Board for Accountants (IESBA) allows for staff augmentation arrangements, and we believe that differences in ethical standards create significant operational issues for CPA firms.
CL 7	California Board of Accountancy	No specific comments submitted
CL 8	Eide Bailly	Yes, we agree that staff augmentation arrangements should be allowed where appropriate safeguards can be applied. We were unclear how staff augmentation arrangements differed from other nonattest service that could be paired with appropriate safeguards; accordingly, we recommend that the Committee clarify the intended difference between these services and other nonattest services. See also our response in 24f for expanded observations comparing staff augmentation

		to other allowed nonattest services.
CL 9	NJCPA	The Group believes staff augmentation services for attest clients does impair independence and should only be permitted under very limited circumstances and only when certain specific safeguards are in place. Section .02 of the revised interpretation stipulates specific safeguards all of which must be met in order to provide an attest client with staff augmentation services. One of the safeguards requires that “the augmented staff performs only activities that would not be prohibited by the “Nonattest Services” subtopic (ET sec. 1.295) of the “Independence Rule” (ET sec. 1.200.001). The requirement prohibiting services not permitted by the Nonattest Services rule would prevent any perceived independence concerns since the augmented staff would not be performing any management functions or making any management decisions.
CL 10	District of Columbia Board of Accountancy	Supports NASBA position. No additional comments provided.
CL 11	Crowe	We acknowledge there might be certain situations where an attest client has an unexpected event where assistance is needed, and the auditor may be the best suited to provide the assistance. We believe staff augmentation arrangements pose a threat to independence as they create the appearance of simultaneous employment; therefore, we support the PEEC's proposal to only permit these arrangements in limited circumstances.
CL 12	North Dakota Board of Accountancy	No specific comments submitted
CL 13	NASBA	NASBA believes that the proposed interpretation, as amended per our responses to questions 24(b) and (c), should permit staff augmentation arrangements under prescribed conditions with attest clients.

CL 14	Plant & Moran	Yes, we believe staff augmentation arrangements with attest clients should be permitted in circumstances where all of the safeguards listed in paragraph .02 of the exposure draft are met. Additionally, we feel that the subject matter and type of services to be performed in the staff augmentation arrangement should be considered. Based on the vast array of service offerings offered by modern CPA firms, staff augmentation services may be provided in an area completely unrelated to the subject matter of the attest engagement and those services may not create a significant threat to independence.
CL 15	CLA	CLA believes that staff augmentation arrangements should be permitted with safeguards. Such arrangements allow clients to receive timely and seamless temporary assistance from firms who already understand their businesses.
CL 16	RSM	RSM believes that staff augmentation arrangements should be permitted in the circumstances described in the proposed interpretation. If appropriate safeguards are in place to mitigate threats, such staff augmentation arrangements would not impact the integrity or objectivity of a firm also providing attest services.
CL 17	Society of LA CPAs	No specific comments submitted
CL 18	GAO	We acknowledge PEEC's efforts in revising its proposed interpretation to develop what it believes are safeguards to independence for situations in which members and members' firms lend personnel to clients under staff augmentation arrangements. We are concerned that the proposed safeguards contain elements that are subject to interpretation. As such, we believe that it will be difficult for members and members' firms to implement the proposed safeguards consistently to reduce threats to auditor independence to an acceptable level. It is our view that some of the proposed safeguards are subjective and thus could be inconsistently interpreted and implemented. For paragraph 02.a, a number of wide-ranging perspectives may exist—within the member and member firm community and with entities that have enforcement authority—as to what

		represents an “unexpected situation” and a “significant hardship.” For example, state and local governments may experience unexpected budget cuts that lead to staffing reductions deemed to be significant hardships. These entities may rely on members and members’ firms to augment government staff. In our view, this would give the appearance that the auditor is a government employee, and the public could conclude that the auditor was not independent. We believe that the proposed safeguard in paragraph 02.b is also subjective as it refers to member and member firms’ expectations concerning the reoccurrence of staff augmentation arrangements. Expectations about something that will or will not happen in the future are subject to change based on the outcome of events. If the need for a subsequent staff augmentation arrangement arises, questions about the auditors’ independence may also arise, as the proposed safeguard does not prohibit additional staff augmentation arrangements in current or future accounting periods. In addition, in paragraph 02.c, the proposed safeguard requires the augmented staff arrangement to be performed for a short period of time. Implementation of this proposed safeguard may also be subjective. For example, the augmented staff arrangement could extend for a number of months, as the proposed interpretation does not impose parameters on the rebuttable presumption for a short period of time of 30 days—such as, stating that the 30-day period represents consecutive business days within an accounting period. Also, members and members’ firms may infer that it is permissible to exceed 30 days as long as the length of the augmented staff arrangement can be justified. Moreover, the proposed safeguard does not contain limits on the number of staff who could be involved in an augmented staff arrangement (e.g., whether arrangements for 20 staff for up to 30 days per each staff would be permitted). The proposed interpretation is part of PEEC’s efforts to converge its standards with the standards of IESBA. The objective of IESBA is to serve the public interest by setting high quality ethics standards for professional accountants. IESBA’s

		long-term objective is to converge International Code of Ethics for Professional Accountants ethical standards, including auditor independence standards, with those that regulators and national standard setters issue. To that end, differences may exist between the proposed interpretation and aspects of the U.S. regulatory environment concerning auditor independence. For example, the Securities and Exchange Act of 1934 Rule 2-01 of Regulation S-X is designed to ensure that auditors are qualified and independent of their audit clients both in fact and in appearance. The rule sets forth the general standard of auditor independence and prohibits an independent auditor from acting as an employee of an audit client. Given the subjective nature of some of the proposed safeguards, we are concerned that members and members' firms may incorrectly conclude that threats to independence are at an acceptable level when reasonable, informed third parties would perceive auditor independence as impaired. It is also our view that the proposed interpretation would pose challenges for the appropriate entities to enforce the auditor's adherence to it uniformly. For the reasons stated above, we believe that augmented staff arrangements for attest clients should be prohibited. We also believe that practices in the U.S. environment provide consideration for the existence of differences between the code and IESBA's International Code of Ethics for Professional Accountants.
CL 19	Grant Thornton	Grant Thornton believes that staff augmentation arrangements should be permitted with attest clients based on certain facts and circumstances, as long as adequate safeguards are applied to eliminate or reduce threats to independence to an acceptable level. Our general view would be to evaluate such arrangements in a similar manner to a nonaudit service. If permitted, the member should be required to evaluate the particular facts and circumstances under the AICPA's Conceptual Framework to determine whether the staff augmentation would be allowable. In its evaluation, the member should also take into consideration factors such as the level of the individual providing the staff augmentation, whether the service to be performed touches the financial statements (or internal controls over

		financial reporting) that are being audited by the member, frequency/duration of service, client's skills, experience and knowledge of the area the service would relate to and any potential risk that may arise if the member performs the staff augmentation service.
CL 20	KPMG	We believe that staff augmentation arrangements with attest clients where the member is providing permissible services, in circumstances, as proposed in the exposure draft, where a client hardship exists, and where safeguards have been applied to limit the duration of the engagement do not generally present threats to independence. Similarly, as described in the overall considerations section above, we believe staff augmentation arrangements should be permitted for (c) through (l) affiliates of the attest client, and for AUP engagement when there are no other attest services provided to the client and the augmented staff arrangements are not related to the subject matter of the AUP engagement.
CL 21	Minnesota Board of Accountancy	The MSBA answer is No. The preparation of accounting records to make such records ready for an attest function or merely maintain such records are management functions. Notwithstanding procedures posted as safeguards addressing the self-review threats such augmentation services yield, we do not believe there are safeguards to reduce the management participation threat to an acceptable level. Further, we believe that in most cases, the client in need of staff augmentation could obtain these services from a provider that is not required to be Independent.

Q24*b*: If you believe staff augmentation arrangements should be permitted, do you agree with the proposed interpretation, including the proposed safeguards, that would allow such arrangements in very limited situations? Why or why not?		
CL 1	TIC	TIC believes that staff augmentation arrangements should be permitted. However, the term "significant hardship" seems to be up for interpretation and could result in

		diversity in practice. TIC would suggest issuing some questions and answers or other interpretive guidance that gives some of the more common situations and whether they would be permitted.
CL 2	Montana Board of Public Accountants	Supports NASBA position. No additional comments provided.
CL 3	Kentucky State Board of Accountancy	Supports NASBA position. No additional comments provided.
CL 4	NYSSCPA	We do not believe the proposed safeguards are sufficient to reduce the threat to independence to an acceptable level. The fact that an unexpected situation created the need for staff augmentation (para. .02a), the arrangement will not recur (para. .02b), or will only last a short period of time (para. .02c) are not safeguards. These first three conditions read more like rationalizations to allow an arrangement that should be proscribed, as discussed in our General Comments section above.
CL 5	BDO	No. We do not agree with the proposed interpretation that would allow staff augmentation in very limited situations. We believe that staff augmentation arrangements should be permitted so long as the threats to independence can be maintained at an acceptable level. We believe this can be accomplished by providing guidance that is threats and safeguards based. There are a plethora of different factors giving rise to a client's need for staff augmentation arrangements. As such there are a broad range of factors to consider when determining if such services may be provided while safeguarding independence. This makes it impossible to draft a definitive set of requirements to address every possible situation. We further believe there are various scenarios where staff augmentation arrangements benefit the client and its stakeholders and allow independence to be maintained. With proper safeguards, members can assist a client that needs temporary, yet critical, assistance that is crucial to business continuance (see our

		example in c. below). Through the firm's knowledge of the client, such necessary assistance may be administered effectively and efficiently which would be beneficial to all stakeholders and safeguards can be applied to reduce threats to independence to an acceptable level. In all circumstances, we agree that the safeguards proposed in paragraph .02d. – f. should be required and while we believe that the augmented staff arrangement should only exist for a short period of time, we disagree that such period of time should (be presumed to) not exceed 30 days as set forth in proposed paragraph .02c. In addition, we do not support the proposed safeguards in paragraph .02a. – b. as we believe they would better serve as factors to be considered in evaluating whether the staff augmentation arrangement would result in significant threats.
CL 6	Rubin Brown	We believe the interpretation should not contain incremental requirements over the IESBA requirements. Specifically, the IESBA guidance does not contain safeguards related to "unexpected situations that would create a significant hardship" and "the augmented staff arrangement is not expected to reoccur". Both of these safeguards are not significantly clear, and would result in implementation challenges. The determination of significant hardship could be subject to different interpretations by similar professionals. Further, projecting the recurrence of future arrangements could be both subjective and arbitrary. Further, we believe that these incremental safeguards aren't responsive to threats to independence, as they are not focused on the service provided or the nature of the relationship between the CPA firm and the client.
CL 7	California Board of Accountancy	No specific comments submitted
CL 8	Eide Bailly	We have concerns that the definition of staff augmentation is too broad and could potentially be considered to include nonattest services already permitted if accompanied by appropriate safeguards. For example, section 1.295.120 of the codification allows for bookkeeping, payroll, and other disbursement services if appropriate safeguards are in place.Often these services are structured in a way

		that require little oversight by the firm and could be interpreted as the attest client directing or supervising the staff as management fulfills their responsibility to authorize and approve the activities. Many consulting services are structured in similar fashion in which the nature of the service does not require the firm to provide significant oversight of the staff and could be construed as the attest client directing the firm's staff. The proposed language for 1.275.007, paragraph .02(e) makes specific reference to "Nonattest Services" subtopic [1.295] as the basis for the types of activities that would be allowable in augmented arrangements. We believe there should be further clarification distinguishing an augmentation arrangement from other allowable nonattest services when minimal oversight of the firm is necessary to direct or supervise such services.
CL 9	NJCPA	The Group agrees with the proposed interpretation that only allows such arrangements in very limited situations and requires that specific safeguards be met. The Group agrees that the safeguards outlined in Section .02 are appropriate and sufficient.
CL 10	District of Columbia Board of Accountancy	Supports NASBA position. No additional comments provided.
CL 11	Crowe	We agree these arrangements should only be provided in limited situations. The safeguards proposed appear appropriate to reduce the threats caused by familiarity, management participation or self-review if the arrangement was short-term in nature, the augmented staff was performing activities not prohibited by the "nonattest services" subtopic, and that person was restricted from participating in, or influencing, the attest engagement. We recommend the PEEC consider issuing an FAQ providing examples for applying the "not expected to reoccur" safeguard. We believe members may be confused in applying this provision if a staff augmentation arrangement had been provided in the past, as they may believe that this type of arrangement can never reoccur. Alternatively, a member may conclude they can enter into multiple staff

		augmentation arrangements as long as they never expected to enter into each one. In addition, it is unclear whether the reoccurrence expectation is limited to a particular activity or whether the expectation relates to providing any staff augmentation arrangement for the client. For example, if a member enters into an arrangement to provide staffing to assist with a bookkeeping activity, does the member evaluate whether they do not expect that specific arrangement to reoccur or is the expectation focused on whether they do not expect any staff augmentation arrangements with the client to reoccur.
CL 12	North Dakota Board of Accountancy	No specific comments submitted
CL 13	NASBA	The simplest solution would be to prohibit all such arrangements with attest clients due to concerns we raised in our comment letter to the 2018 ED. However, we recognize that there may be urgent situations where it is in the public interest to allow an audit firm to assist the attest client on an emergency, short-term basis (30 days or less) to allow the client time to engage other resources (if needed longer term). We urge PEEC to amend certain proposed safeguards as described in our responses below to minimize ambiguities for practitioners and enhance the ability of state regulators to interpret and enforce the proposed interpretation. In par. .02(a), replace the term, "unexpected situation" with "emergency situation". NASBA believes a firm could have a staff augmentation arrangement with an attest client only in the narrowest of circumstances and for the briefest period possible. We are concerned that "unexpected situation" does not relay a sense of unusual urgency and suggest the term, "emergency situation" (which does) be used instead. We also believe the term "emergency" is more easily understood as nonrecurring than "unexpected" and, therefore, may be less prone to over-application and abuse. To illustrate, we offer the following example: A client's tax department is suddenly decimated by COVID-related sickness at a time when the federal return is a month

		away from the extension deadline. The company does not have enough time to vet unknown external resources and turns to the audit firm for temporary "emergency" assistance. The audit firm has tax department staff familiar with the client from having performed various non-audit tax services for the client in the past. The tax staff assigned are not involved with the audit of the client's tax provision, and will work under the client's direction. The arrangement will cease when the return is filed (within 30 days or possibly sooner if the client's personnel are able to return to work before the deadline).
CL 14	Plant & Moran	While we agree with the proposed safeguards in general, we have a few points for consideration: • Within the text of the proposed interpretation, paragraph .02a refers to "an unexpected situation" and paragraph .02b refers to "arrangement is not expected to reoccur." Paragraph .02b seems redundant and unnecessary, as by its very nature, an unexpected situation would not be foreseen and therefore not expected to reoccur. From that perspective, we recommend removing the safeguard within paragraph .02b. • We believe consideration should be given to whether there could be alternative safeguards to allow longer term assignments, in certain situations, when the augmented staff duties and involvement does not at all overlap with the subject matter of the attest engagement. Such safeguards could include a requirement for a clearer definition of the staff augmentation role, including limitations on what the augmented staff will or will not perform, definition of duties and limitations on access.
CL 15	CLA	CLA believes that the code as currently written already addresses staff augmentation arrangements in ET 1.295, "Nonattest Services." We believe the proposed interpretation and proposed safeguards create ambiguity: • The meaning of "unexpected situation" is unclear and can be subjective

		without a definition or examples. • "Significant hardship" may also be subjective without examples. • The phrase "not expected to reoccur" needs clarity regarding the time frame to which this evaluation applies (i.e., period of financial statements, period of engagement, application for continuing clients, etc.) • The meaning of "direction and supervision" can be misconstrued. All members are required to comply with the "Planning and Supervision" requirement of the "General Standards Rule" (ET 1.300.001), which requires that members adequately plan and supervise the performance of professional services. Therefore, we assume that the intent of the discussion of staff augmentation arrangements in the proposed interpretation is different in that the discussion is intended to scope in engagements where the member provides little to no direction and/or supervision (i.e., direction and supervision by the member firm ends when the member's staff begins performing the service for the client). Without clarification, it is unclear how staff augmentation arrangements differ from permitted nonattest services, especially when both services require client oversight (per the "General Requirements for Performing Nonattest Services" interpretation [ET 1.295.040]). We recommend that the PEEC provide examples of staff augmentation arrangements versus nonattest services and clarify the difference between the client oversight required by ET 1.295.040 and the direction and supervision described by the ED. ○ By way of example, a client is behind in reconciling their bank accounts. If a firm is requested to prepare these bank reconciliations consistent with the provisions of ET 1.295.120.02i, "Bookkeeping, Payroll, and Other Disbursements," would this be allowed, or would it now be considered a staff augmentation arrangement? What steps would members need to take for these to remain allowable nonattest services? How much member

		supervision of the activities being performed by the staff is required for it to remain an allowable nonattest service?
CL 16	RSM	RSM agrees that the proposed safeguards would be effective. They also create clear guidelines as to how members could serve their clients in a time of hardship and reduce disruption to clients as they seek alternative arrangements.
CL 17	Society of LA CPAs	No specific comments submitted
CL 18	GAO	For the reasons discussed above in our response to question a, we believe that augmented staff arrangements for attest clients should be prohibited.
CL 19	Grant Thornton	The revised proposed standard would only allow staff augmentation in very limited situations and for relatively short period of time. We believe the proposed interpretation should permit staff augmentation arrangements with attest clients under certain circumstances and as long as adequate safeguards are in place to eliminate or reduce the independence threats to an acceptable level. Grant Thornton believes that staff augmentation services should generally not be permitted in areas that relate to the client's financial statements or controls over financial reporting because the member would be auditing its own work unless there is an emergency situation that would involve the member performing such activities for a very short of period of time (for example, under 30 days). We believe certain aspects of the proposed standard, including the outlined safeguards, may be too restrictive. Overall, we understand and appreciate that there is risk associated with staff augmentation arrangements and the potential for a staff augmentation engagement to create the appearance of a prohibited simultaneous-employment relationship with the attest client and the firm. However, we do not necessarily believe that all staff augmentation arrangements would necessarily be considered simultaneous employment. Therefore, we believe that each member should be

		able to evaluate the particular facts and circumstance of the attest client, the nature, scope and structure of the staff augmentation arrangement and the relationship between the augmented staff and the attest client, such as the level of experience of the augmented staff, how they are being seen, the frequency and duration of the activities performed by the augmented staff, and other matters pertinent to existing risks and potential threats to independence and any other applicable regulatory standards and apply safeguards to address any potential threats or risks. We believe that based on evaluating the facts and circumstances, as noted above, and through the application of safeguards, the fact that the augmented staff are officially employed by the firm and not the attest client, may be receiving specific employee benefits by the firm and not the attest client, and other factors would support the conclusion that the augmented staff do not have an employment relationship with the attest client and the firm has not impaired their independence with respect to the attest client. Such safeguards should include limiting the duration of the arrangement to a short period of time as well as those noted in items d through f of paragraph 9 in the proposed interpretation in the Exposure Draft and other safeguards could be applied to make it clear that the augmented staff are vendors or independent contractors and not as employees. Further, we agree that the safeguards to be applied should include limiting the duration to a short period of time. However, the member should use its professional judgment to determine the period of time that would be acceptable based on the facts and circumstances.
CL 20	KPMG	We support the proposed interpretation, including the proposed safeguards. We believe the safeguards included in paragraph .02 of the proposed interpretation eliminate or reduce threats to an acceptable level when providing permissible nonattest services to an audit client as a result of limiting the circumstances to hardship situations, limiting the time period under which such services can be provided, and prohibiting augmented staff from participating or influencing the

		attest engagement.
CL 21	Minnesota Board of Accountancy	While the MSBA does not believe augmentation services can be provided to attest clients without impairing Independence, we do, however, provide Input on the definitional changes suggested by NASBA. Substituting "emergency situation" for "unexpected situation" while a possible improvement is definition parsing that is not effective without clarification of what such terms mean.

Q24c: Do you believe that 30 days is an appropriate time period for the attest client to make other arrangements (see par. .02c of the interpretation)? If not, why?		
CL 1	TIC	TIC believes that approximately 30 days is an appropriate time period for the attest client to make other arrangements. However, TIC believes the 30-day time period should not be a bright line; rather, 30 days should serve as general guidance.
CL 2	Montana Board of Public Accountants	Supports NASBA position. No additional comments provided.
CL 3	Kentucky State Board of Accountancy	Supports NASBA position. No additional comments provided.
CL 4	NYSSCPA	As discussed above, we do not believe the fact the staff augmentation relationship will last for “only a short period of time” (.02c) is an actual safeguard. Furthermore, we are concerned with the inclusion of a rebuttable presumption that a short period of time will not exceed 30 days. We are of the opinion that where there is a will to find a justification, a pretext that more time is needed will be found. If PEEC believes that 30 days is an appropriate limit on the “short period of time,” we suggest the Proposed Interpretation make the 30 day limit a strict proscription rather than a rebuttable presumption.

CL 5	BDO	No. We do not believe 30 days is an appropriate time period for the attest client to make other arrangements. Specifically, we do not believe the guidance should define a set number of days for an attest client to make other arrangements considering the significant number and various types of factors that could influence the "unexpected situation" and the client's need for staff augmentation services. To determine an appropriate "short period of time," the member should be permitted to consider the specific circumstances of the client and the client's ability to properly "make other arrangements" to remedy the situation that required the staff augmentation without causing the client undue hardship. For example, consider the current situation with the COVID–19 pandemic. There are many businesses, particularly in certain industries or markets, having difficulty maintaining the necessary staffing levels to keep their businesses running. This is a situation best rectified by staff augmentation services as the client's need for assistance is short term and temporary but may require more than a 30- day period. In this situation, the ability to bring in individuals who already have knowledge of the client's business and industry would save invaluable time and expense. We do believe, however, that an augmented staff arrangement should only exist for a short period of time so as not to present an appearance of a prohibited employment relationship. As such, we believe that the guidance should include a requirement that the staff augmentation arrangement not result in the appearance of a prohibited employment arrangement in the views of a reasonable and informed third party with knowledge of the facts and circumstances giving rise to the staff augmentation arrangement. Further, the guidance could provide a list of factors that must be considered in order to ensure independence in appearance. The duration of the engagement would be one such factor to consider in determining whether the staff augmentation arrangement would appear to be prohibited employment with the attest client. We also believe it would be helpful to issue FAQs that provide guidance on how a member should evaluate the "duration of the staff augmentation arrangement" with one example that could result in the

		appearance of employment and another that would not. However, if the PEEC wishes to set a definitive time period, we believe a minimum of 60 days would be more appropriate since the proposed 30 days would likely not be an adequate amount of time if the client's search for permanent personnel proves to be difficult.
CL 6	Rubin Brown	We believe a bright line or rebuttable presumption metric is not helpful. For example, certain arrangements may be for one or two days per week, and a 30-day period would only result in potentially four days of work to be allowed. We believe the IESBA rule for "a short period of time" is more appropriate.
CL 7	California Board of Accountancy	No specific comments submitted
CL 8	Eide Bailly	We have concerns that the 30-day limit may not allow for sufficient time to serve a client during an unexpected hardship, particularly when time may be needed for training to learn a client's processes. We believe a 60-90 day period would be more reasonable.
CL 9	NJCPA	Some members of the Group do not believe that 30 days is an appropriate time period as it is too restrictive. Although there is a rebuttable presumption that 30 days is sufficient, each client situation is unique and may require more time to make other arrangements. The proposed interpretation should stipulate "a time period that is short in duration and not to exceed three months". Other members of the Group believe that 30 days is an appropriate time period given these arrangements will be rare and should be temporary to avoid impairing independence.
CL 10	District of Columbia Board of Accountancy	Supports NASBA position. No additional comments provided.
CL 11	Crowe	We believe "short period of time" addresses that the service should not be

		permanent or long-term and should allow the attest client reasonable time to make other arrangements; however, we recommend the PEEC consider removing the reference to 30 days from the interpretation as this may be viewed as a bright-line measurement. Instead, we suggest the PEEC issue an FAQ that includes a recommended time period for applying the “short period of time" provision. This would be similar to how the PEEC provided an FAQ for the “reasonable period of time" provision in the Hosting interpretation (ET 1.295.143.04e).
CL 12	North Dakota Board of Accountancy	No specific comments submitted
CL 13	NASBA	NASBA agrees that thirty (30) days is an appropriate timeframe for the attest client to make other arrangements. However, we suggest two (2) changes to this safeguard, which we believe are critical. First, an important element is missing from the safeguard, i.e., that the auditor should provide augmentation services only long enough to allow the client to make other arrangements. Clearly, this was PEEC’s intent and should be added. Second, we urge PEEC to eliminate the terms “short period of time” and “rebuttable presumption” in par. .02(c) as both add ambiguity to the safeguard. NASBA believes that staff augmentation arrangements with attest clients should be performed for only a brief and finite timeframe not to exceed thirty (30) days. Inclusion of this legal term, which may not be well understood outside of the legal profession, is unnecessary and greatly weakens the proposed interpretation by enabling CPAs to conclude that a “short period of time” could exceed thirty (30) days. We suggest par. .02(c) read as follows: *The augmented staff arrangement is performed for only as brief a period as possible for the client to make other arrangements, if needed, and cannot exceed thirty (30) days.*
CL 14	Plant & Moran	Yes, we believe 30 days is sufficient time for the attest client to make other

		arrangements.
CL 15	CLA	If the client is tasked with directing, supervising, and evaluating the work of a member's staff and simultaneously attempting to hire its own staff, 30 days seems somewhat unreasonable. Use of the Conceptual Framework, as CLA recommended, would allow members to determine what time period is reasonable based upon the specific hardship. In addition, similar to our response in Request for Comment b, "not exceed 30 days" needs clarity regarding the time frame to which this evaluation applies (i.e., period of financial statements, period of engagement, application for continuing clients, etc.) As drafted, one could conclude that performing the long-standing permissible nonattest service of providing a client with financial preparation assistance (i.e., bank reconciliations) a few days a month under the direction of the client would be prohibited.
CL 16	RSM	Yes, RSM agrees with the rebuttable presumption that a short period of time would not exceed 30 days.
CL 17	Society of LA CPAs	No specific comments submitted
CL 18	GAO	For the reasons discussed above in our response to question a, we believe that augmented staff arrangements for attest clients should be prohibited.
CL 19	Grant Thornton	While 30 days may be a baseline time period for certain arrangements, we believe there may be instances where the duration could be longer than 30 days. We believe that the member should be able to apply professional business judgement using the "Conceptual Framework for Independence" interpretation (ET sec. 1.210.010) to evaluate the facts and circumstances of their attest client's situation and conclude on an appropriate short period of time.
CL 20	KPMG	We do not object to the proposed 30-day time period limitation.

CL 21	Minnesota Board of Accountancy	We do agree with the suggested wording provided by NASBA in their November 2 response. While the MSBA is opposed to augmentation arrangements for attest function clients, if permitted, they should be provided only long enough to allow the client to make other arrangements.

Q24*d*: Should an exception for staff augmentation arrangements with certain affiliates of a financial statement attest client, as described in paragraphs 14-19 of this explanation, be permitted? Why or Why not? If it should be permitted, should the proposed additions discussed in paragraphs 18-19 of this explanation be added as drafted or do you have suggested revisions?		
CL 1	TIC	TIC believes than an exception for staff augmentation arrangements with certain affiliates of financial statement attest clients should be permitted. TIC originally responded that we do not have specific identifiable concerns related to the application of the proposed interpretation to client affiliates.
CL 2	Montana Board of Public Accountants	Supports NASBA position. No additional comments provided.
CL 3	Kentucky State Board of Accountancy	Supports NASBA position. No additional comments provided.
CL 4	NYSSCPA	We believe that the provisions of ET sec. 1.224.010 should be applied to staff augmentation arrangements between a firm and an affiliate of an attest client. Because the affiliate is not an attest client itself, the provisions of ET sec. 1.275.005 would not apply. Because we do not support the inclusion of the Proposed Interpretation in the Code, the suggested inclusion of the paragraph described in .15 of the explanation is unnecessary. The proposed addition of a

		new item (f) to paragraph .02 of ET sec. 1.224.010, Client Affiliates, is acceptable.
CL 5	BDO	Yes, we believe there should be an exception for staff augmentation arrangements with certain affiliates of a financial statement attest client, as described in paragraphs 11 – 16 of the explanation section. We further believe it would be appropriate for the exception to be consistent with that provided for non-attest services in the Code. Specifically, in cases where any prohibited services provided under the staff augmentation arrangement are not subject to the firm's audit and so long as any other threats are at an acceptable level, independence in fact and in appearance would not be compromised. As noted in the explanation section, in the private equity environment, often a fund controls many portfolio companies that are not related in any other way except for the common ownership. Thus, the threats to independence when providing non-attest services through a staff augmentation arrangement to a sister portfolio company of an audit client are inherently low as they have no impact on the audit client. Threats to the appearance of independence are also insignificant since the portfolio companies typically each have their own management and employees. As such, we believe that staff augmentation arrangements should be permissible for all affiliates other than downstream affiliates. However, we believe staff augmentation arrangements should be permissible to said affiliates only after the member applies the "Conceptual Framework for Independence" (ET sec. 1.210.010) in order to ensure that any threats to independence are at an acceptable level. We also agree with the proposed additional language in paragraphs 15 and 16 of the exposure draft.
CL 6	Rubin Brown	We believe an exception for other than downstream affiliates should be permitted. This is consistent with existing guidance related to services for affiliates of an attest client. With a large and complex group of entities, such as certain private equity fund structures, there are often entities that meet the definition of an affiliate, but have no impact on the attest client. We believe the proposed additions

		to the guidance are suitable as drafted.
CL 7	California Board of Accountancy	No specific comments submitted
CL 8	Eide Bailly	We believe that the guidance provided in paragraphs 14-19 appears reasonable and consistent with other nonattest service considerations regarding affiliates. We also agree that paragraphs 18-19 provide an appropriate basis for AUP considerations in determining whether a service would impair independence regarding the related subject matter.
CL 9	NJCPA	The members of the Group believe that staff augmentation arrangements with certain affiliates of a financial statement attest client, as described in paragraphs 11-16 should be permitted in limited circumstances. The Group agrees that staff augmentation arrangements with downstream affiliates should be prohibited as noted in the proposed interpretation since those affiliates would be subject to audit procedures in the audit of the financial statement attest client. The Group agrees with the example used in the proposed interpretation, whereby staff augmentation services provided to a private equity “brother-sister” portfolio company of an attest client with no common employees or management would not create significant threats to independence, assuming all other factors have been carefully analyzed. Each client situation is unique and will require the practitioner to evaluate the potential staff augmentation arrangement to determine if threats to independence are at an acceptable level and, if not, what safeguards could be applied to reduce threats to an acceptable level. If safeguards are not available or cannot be applied to eliminate or reduce the threats to an acceptable level, the member should not enter into the staff augmentation arrangement. The Group agrees that the proposed exception is consistent with the exception already included in ET 1.224.010 paragraph .02b that allows a member to provide prohibited nonattest services to certain affiliates of a financial statement attest client. The proposed

		additional language in paragraphs 15 and 16 of the proposed interpretation should be included in the final interpretation and we have no suggested revisions to that language.
CL 10	District of Columbia Board of Accountancy	Supports NASBA position. No additional comments provided.
CL 11	Crowe	Staff augmentation arrangements create familiarity threats and employment appearance concerns. However, those concerns would be greatly reduced, perhaps removed, if providing the arrangement to an affiliate. In particular, entities included in items (c) - (l) of the affiliate definition create less risk given their relationship with the audited entity. Accordingly, we are supportive of including the exception for staff augmentation arrangement for these affiliates.
CL 12	North Dakota Board of Accountancy	No specific comments submitted
CL 13	NASBA	We agree that an exception that would potentially allow staff augmentation arrangements with certain affiliates of a financial statement attest client could be appropriate; However, we believe the interpretation needs to be as explicit as possible in terms of defining the CPA's obligations to apply the Conceptual Framework for Independence, including documenting the rationale for accepting a staff augmentation arrangement.
CL 14	Plant & Moran	Yes, we believe an exception for staff augmentation arrangements with certain affiliates of financial statement attest clients, as described in the exposure draft, should be permitted. The application of the conceptual framework in these situations will ensure that threats are appropriately considered when they exist, but will not limit services where, because of the nature of the relationship of the affiliates, significant threats do not exist. Further we would agree that the proposed additions discussed in the exposure draft should be added as drafted.

CL 15	CLA	CLA agrees that there should be an exception for staff augmentation arrangements with certain affiliates of a financial statement client as described in paragraphs 15-16 of the ED explanation. This exception would reflect that the significance of threats to independence (through a staff augmentation service) is slightly lower when performing the service for certain client affiliates (consistent with the nonattest services exception in the "Client Affiliates" interpretation [ET sec. 1.224.010]). The wording proposed in paragraphs 15-16 of the explanation may be added as drafted.
CL 16	RSM	Yes. RSM believes that a reasonable person with all the facts would not see an impact on the member's integrity or objectivity when a member has a staff augmentation arrangement with an "other than downstream affiliate" of an attest client. In many ownership structures today, organizations have a distinct disconnect between operations of affiliated entities. As discussed in paragraph 14 of the Exposure Draft, this situation is incredibly common for portfolio companies that are under common control by a private equity fund. We believe permitting staff augmentation arrangements for entities described in items c-l of the definition of affiliate is appropriate, given the disconnected operations and the required application of the "Conceptual Framework for Independence." As previously indicated, RSM generally supports the proposed revisions to the Staff Augmentation Arrangements" and "Client Affiliates" interpretations as set forth in paragraphs 15 and 16 of the Exposure Draft.
CL 17	Society of LA CPAs	No specific comments submitted
CL 18	GAO	For the reasons discussed above in our response to question a, we believe that augmented staff arrangements for attest clients should be prohibited.
CL 19	Grant Thornton	We agree that there should be an exception permitting staff augmentation arrangements with certain affiliates of a financial statement attest client, similar to the exception for nonattest services in ET sec 1.224.010 paragraph .02b. Further,

		we agree with the proposed exception outlined in paragraph 16 of the explanation to the Exposure Draft to be added as item (f) to paragraph .02 of the "Client Affiliates" interpretation (ET sec 1.224.010). We agree that for such affiliates afforded the exception, threats to independence in fact and appearance are significantly reduced as the activities performed by the augmented staff will have no effect on the financial statement attest client (FSAC) and likely there is no overlap in employees or management between the FSAC and the affiliate. However, by applying the "Conceptual Framework for Independence" interpretation (ET sec. 1.210.010), the member can evaluate and determine whether the application of safeguards may be necessary to reduce threats to an acceptable level.
CL 20	KPMG	We support the exception to permit staff augmentation arrangements to client affiliates as described in paragraphs 14-191 of the explanation. As noted above, we do not believe staff augmentation arrangements create significant threats to independence for (c) through (l) affiliates of a financial statement attest client due to the absence of (1) self-review threats, (2) familiarity threats, and (3) management participation threats at the attest client.
CL 21	Minnesota Board of Accountancy	The MSBA agrees with NASBA suggestions to bolster the Interpretation with explicitly defining responsibilities and applying the Conceptual Framework for Independence. The affiliates area provided a myriad of arcane corridors that need to be negotiated. This area needs to be closely analyzed.

Q24*e*: Do you believe there should be an exemption for staff augmentation arrangements for all SSAE engagements when the services provided by the augmented staff do not relate to the specific subject matter of the SSAE engagement, or should the exemption be limited to only AUPs under the SSAEs? Why or why not?		
CL 1	TIC	TIC believes there should be an exemption for staff augmentation arrangements

		for all SSAEs. If subject matter is not impacted, TIC does not see an issue with the services being performed.
CL 2	Montana Board of Public Accountants	Supports NASBA position. No additional comments provided.
CL 3	Kentucky State Board of Accountancy	Supports NASBA position. No additional comments provided.
CL 4	NYSSCPA	Whether the services provided in a staff augmentation arrangement do or do not relate to the specific subject matter of an SSAE engagement is irrelevant if the arrangement cannot, first, overcome the apparent conflict with the simultaneous employment or association with an attest client interpretation discussed in the General Comments section above.
CL 5	BDO	Yes. We believe there should be an exemption for staff augmentation for all SSAE engagements when the services that would otherwise impair independence (emphasis added) provided by the augmented staff do not relate to the specific subject matter of the SSAE engagement. We believe that this would be consistent in theory, reasoning and in application of the current rules for the performance of non-attest services to AUP engagement clients and all other SSAEs clients. We note, however, that the proposed language in paragraph 22 of the exposure draft would only permit staff augmentation arrangements when the “underlying services performed by the augmented staff do not relate to the specific subject matter” of the engagement even if such services are permissible under the “Non-attest Services” subtopic (1.295). In order to be consistent with the treatment afforded non-attest services under subtopic 1.297, “Independence Standards for Engagements Performed in Accordance With Statements on Standards for Attestation Engagements,” we believe the guidance should refer to “non-attest services that would otherwise impair independence under the interpretations of the “Non-attest services” subtopic.” In other words, if the underlying non-attest

		services would not impair independence, performing the services under a staff augmentation arrangement for a SSAE client should be permissible as threats to independence would be at an acceptable level even if they relate to the subject matter of the engagement. This treatment would be consistent with the non-attest services provisions under 1.297.020.03 and 1.297.030.03. If the Committee believes it would be appropriate, the guidance could also require that the Conceptual Framework be applied in situations where any permissible services relate to the subject matter of the engagement. We therefore recommend the Committee consider the following revisions (in red) to the proposed language in paragraph 22 for inclusion in the relevant sections of subtopic 1.297: When a member or member's firm enters into a staff augmentation arrangement described in the "Staff Augmentation Arrangements" interpretation [1.275.040], to perform services that would otherwise impair independence under the interpretations of the "Non-attest Services" subtopic [1.295], threats would be at an acceptable level and independence would not be impaired, provided the underlying services performed by the augmented staff do not relate to the specific subject matter of the AUP or other SSAE engagement and do not involve management responsibilities. When a member or member's firm enters into a staff augmentation arrangement where the underlying services performed by the augmented staff would not impair independence under the interpretations of the "Non-attest Services" subtopic [1.295], but the services relate to the specific subject matter of the AUP or other SSAE engagement, the member should use the "Conceptual Framework for Independence" to evaluate whether any threats created 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.

		If safeguards are not available or cannot be applied to eliminate or reduce the threats to an acceptable level, the member should not enter into the staff augmentation arrangement.
CL 6	Rubin Brown	We believe the exemption should be limited only to AUP engagements. AUP engagements with specifically enumerated procedures help to remove certain aspects of professional judgement that are required when performing other attest engagements. Independence threats can therefore be reduced or eliminated in AUP engagements. We believe that other attest engagements still contain areas of professional judgment that could be subject to independence threats, and therefore should not be part of the exemption.
CL 7	California Board of Accountancy	No specific comments submitted
CL 8	Eide Bailly	We do not believe it is appropriate for prohibited nonattest services to be provided for SSAE engagements outside AUPs. In the proposed guidance for 1.297.020 paragraph .04, it's clear that the nature of the service should not impact the subject matter of an AUP, which aligns with paragraph .03 of that section that already provides similar allowances for AUPs. We believe that because SSAEs, such as examination and SOC engagements, provide an opinion on the subject matter, the level of assurance is akin to an audit, and accordingly, should require similar evaluation of threats and safeguards for nonattest services as outlined in 1.275.007.
CL 9	NJCPA	The Group believes there should be an exemption for staff augmentation arrangements for all SSAE engagements when the services provided by the augmented staff do not relate to the specific subject matter of the SSAE engagement and should not be limited to only AUPs. This is consistent with ET 1.297.030 paragraph .03 which allows the member to perform prohibited nonattest services when performing an SSAE engagement that is not an AUP, provided the nonattest services do not relate to the specific matter of the SSAE engagement

		and the general requirements for performing nonattest services are met. The proposed additional language in paragraph 22 of the proposed interpretation should be included in the final interpretation, however, we believe the reference to "AUP engagement" at the end of proposed paragraph .04 should instead reference "SSAE engagement".
CL 10	District of Columbia Board of Accountancy	Supports NASBA position. No additional comments provided.
CL 11	Crowe	We suggest the same exemption that is being proposed for agreed-upon-procedures be extended to other SSAE engagements since we do not believe the risk is different between these engagements as it relates to staff augmentation arrangements. Given the similarity of staff augmentation arrangements to non-attest services, we considered it is reasonable to use a similar framework for evaluating threats to independence. For example, if the staff augmentation arrangement was considered a non-attest service, it could be provided to a SSAE attest client as long as the service does not relate to the subject matter of the SSAE engagement and the member can comply with the general requirements for providing non- attest services. Given the nature of staff augmentation arrangements which includes working under the direction of the client and performing activities that are not prohibited by ET 1.295, we believe complying with the general requirements should not be problematic since those arrangements would not typically include management functions.
CL 12	North Dakota Board of Accountancy	No specific comments submitted
CL 13	NASBA	NASBA agrees that an exemption that would allow staff augmentation arrangements with clients receiving only SSAE, including AUP, services could be appropriate, but we believe the exemption needs to be as explicit as possible in terms of defining the CPA's obligations to apply the Conceptual Framework for

		Independence, including documenting the rationale for accepting a staff augmentation arrangement. The current “open-ended” nature of the exemption would allow these arrangements without reference to their duration, recurrence, or other elements the PEEC has deemed to be important considerations when evaluating staff augmentation arrangements with attest clients. We recommend the PEEC deliberate further on whether additional guidelines may be appropriate.
CL 14	Plant & Moran	Yes, we believe that there should be an exemption for staff augmentation services for SSAE engagements, so long as the services provided by the augmented staff do not relate to the specific subject matter. We feel the inclusion of such an exemption is consistent with the spirit of the existing interpretations related to SSAE engagements that are not Agreed Upon Procedures, including ET sec. 1.297.030.
CL 15	CLA	CLA believes there should be exemptions for staff augmentation arrangements for all SSAE engagements, similar to the treatment of nonattest services for AUP engagements in the code. The exemptions should be as described in paragraphs 18 and 22 of the ED explanation.
CL 16	RSM	RSM believes that the current exception for nonattest services in section 1.297.030, “Engagements, Other Than AUPs, Performed in Accordance With SSAEs,” also should apply to staff augmentation arrangements. This would be more consistent with the current guidance of the AICPA and the International Ethics Standards Board for Accountants. Further, given the nature of the SSAE services and staff augmentation arrangements, the threats to the integrity and objectivity of the members providing the attest services generally would be at an acceptable level with the safeguards required by section 1.297.030.
CL 17	Society of LA CPAs	No specific comments submitted

CL 18	GAO	For the reasons discussed above in our response to question a, we believe that the code should not provide an exemption for staff augmentation arrangements for any Statements on Standards for Attestation Engagements (SSAE) engagements, including agreed-upon procedures (AUP) engagements. We believe threats would be at a similar level for any attest engagement regardless of whether the underlying services that augmented staff perform relate to the specific subject matter of the engagement.
CL 19	Grant Thornton	We agree with an exception for staff augmentation arrangements for financial statement attest clients for which the member is only performing SSAE engagements, including AUPs, when the services provided by the augmented staff do not relate to the specific subject matter of the SSAE engagements and, only as it relates to SSAE engagements, other than AUPs, the augmented staff do not perform any management responsibilities. We agree with the proposed exception outlined in paragraph 22 of the explanation to the Exposure Draft to be added as paragraph .04 of the “Agreed-Upon Procedure Engagements Performed in Accordance with SSAEs” interpretation (1.297.030).
CL 20	KPMG	We support the exception for staff augmentation arrangements for all SSAE engagements when the services provided by the augmented staff do not relate to the specific subject matter of the SSAE engagement for the reasons described in paragraphs 19-20 of the explanation of the revised proposal of the interpretation.
CL 21	Minnesota Board of Accountancy	While an exception allowing augmentation arrangements with clients receiving only SSA, including AUP, services could be appropriate, we disagree with the use of the clause “all SSAE engagements.” For example, if after the completion of an AUP engagement a client engages the firm that executed the AUP engagement, through theretofore rendered no other services to that client, to become its auditor. Does this raise an independence issue since the attest function might cover the period the SSAE covered?

Q24*f*: Are there specific aspects of the proposal that you believe are too permissive or too restrictive? If so, please explain.		
CL 1	TIC	Other than the suggestion in our response to question #3 to clarify that 30 days should be an approximation as opposed to a bright line definition, TIC does not believe there are additional aspects of the proposal that are too permissive or too restrictive.
CL 2	Montana Board of Public Accountants	Supports NASBA position. No additional comments provided.
CL 3	Kentucky State Board of Accountancy	Supports NASBA position. No additional comments provided.
CL 4	NYSSCPA	Please refer to our comments in the General Comments section above.
CL 5	BDO	We believe that, overall, the proposal is too proscriptive. Considering the significant number of circumstances that could arise where a client is in need of augmented staff, the guidance does not allow the firm to consider the specific facts and circumstance to determine if safeguards could be applied to reduce any significant threats to an acceptable level. As noted above, we believe it is difficult to place a specific time restriction on an augmented staff arrangement before the appearance of independence is tainted and believe that a 30-day limit could result in a significant hardship to the client and even potentially harm the public. As such, we believe the guidance should be threats and safeguards based (with certain mandated safeguards), as this would allow members to assess the situation and determine if threats to independence are too significant or if safeguards can be put in place to reduce threats to an acceptable level and protect the public interest.
CL 6	Rubin Brown	We believe the interpretation should not contain incremental requirements over the IESBA requirements. Specifically, the IESBA guidance does not contain

		safeguards related to “unexpected situations that would create a significant hardship” and “the augmented staff arrangement is not expected to reoccur”. Both of these safeguards are not significantly clear, and would result in implementation challenges. The determination of significant hardship could be subject to different interpretations by similar professionals. Further, projecting the recurrence of future arrangements could be both subjective and arbitrary. Further, we believe that these incremental safeguards aren’t responsive to threats to independence, as they are not focused on the service provided or the nature of the relationship between the CPA firm and the client.
CL 7	California Board of Accountancy	No specific comments submitted
CL 8	Eide Bailly	We have concerns that the definition of staff augmentation is too broad and could potentially be considered to include nonattest services already permitted if accompanied by appropriate safeguards. For example, section 1.295.120 of the codification allows for bookkeeping, payroll, and other disbursement services if appropriate safeguards are in place. Often these services are structured in a way that require little oversight by the firm and could be interpreted as the attest client directing or supervising the staff as management fulfills their responsibility to authorize and approve the activities. Many consulting services are structured in similar fashion in which the nature of the service does not require the firm to provide significant oversight of the staff and could be construed as the attest client directing the firm’s staff. The proposed language for 1.275.007, paragraph .02(e) makes specific reference to “Nonattest Services” subtopic [1.295] as the basis for the types of activities that would be allowable in augmented arrangements. We believe there should be further clarification distinguishing an augmentation arrangement from other allowable nonattest services when minimal oversight of the firm is necessary to direct or supervise such services.
CL 9	NJCPA	The Group believes the proposed rules are more restrictive than what was included in the original proposal after addressing the concerns raised by various

		respondents, including NASBA, as it relates to staff augmentation services provided to audit clients. However, it is more permissive than the SEC's interpretation of staff augmentation arrangements with issuer clients since they do not allow any exceptions. Due to the nature of private company clients and their available resources, we believe that allowing staff augmentation arrangements with an attest client in the limited circumstances provided for in the proposal when the specific safeguards have been put in place will serve the needs of those clients without creating significant threats or weakening independence. As noted in our reply to comment 24c above some members of the Group believe that 30 days is not an appropriate time period for the attest client to make other arrangements. Although there is a rebuttable presumption that 30 days is sufficient, each client situation is unique and may require more time to make other arrangements. The proposed interpretation should stipulate "a time period that is short in duration and not to exceed three months".
CL 10	District of Columbia Board of Accountancy	Supports NASBA position. No additional comments provided.
CL 11	Crowe	As noted above in #5, we believe the exemption for only certain SSAE engagements is too restrictive and should be extended to all SSAE engagements.
CL 12	North Dakota Board of Accountancy	No specific comments submitted
CL 13	NASBA	Please see our earlier comments regarding the nature of events that may permit staff augmentation arrangements and the length of such arrangements.
CL 14	Plant & Moran	Please see comments included within responses to a. and b. above.
CL 15	CLA	CLA believes the interpretation should not be more restrictive than the standards of the International Ethics Standards Board for Accountants (IESBA). As such, we

		believe that some aspects of the proposal are too restrictive: Regarding the expectation that the augmented staff arrangement not reoccur, for clients where firms already assist on an annual basis, asking those clients to employ another firm for temporary, yet recurring services (e.g., year-end audit preparation assistance) leads to a significant increase in client cost and decreased efficiency. Regarding the 30-day limitation, please refer to our comment on Request for Comment c.
CL 16	RSM	Please see our prior comments with respect to permitting exceptions for all SSAE clients and certain client affiliates.
CL 17	Society of LA CPAs	No specific comments submitted
CL 18	GAO	For the reasons discussed above in our response to question a, we believe that augmented staff arrangements for attest clients should be prohibited.
CL 19	Grant Thornton	We do not believe there are specific aspects of the proposal that are too permissive. Rather, refer to our response to Question 24.b. above regarding aspects of the proposal that we believe are too restrictive. Please see our responses to 24.c., 24.d., and 24.e. for areas that we believe the proposal is too restrictive.
CL 20	KPMG	As previously noted, we believe the proposed interpretation is too restrictive with respect to staff augmentation arrangements with (c) through (l) affiliates of a financial statement attest client and AUP engagement only clients. We support adding the language proposed in paragraph 16 of this explanation to paragraph .03(f) of the "Client Affiliates" interpretation. In addition, we support the AUP exception as exposed in the interpretation in ET 1.275.007.03 and ET 1.297.020.04.

CL 21	Minnesota Board of Accountancy	Our answer to 24a. is an indication of our position.

Q24g: Does a six-month delayed effective date allow firms enough time to implement the necessary policies and procedures and terminate any relationships that would no longer be permitted? Why or why not?		
CL 1	TIC	TIC believes that a six-month delayed effective date would allow firms enough time to implement the necessary policies and procedures and terminate any relationships that would no longer be permitted under this ED.
CL 2	Montana Board of Public Accountants	Supports NASBA position. No additional comments provided.
CL 3	Kentucky State Board of Accountancy	Supports NASBA position. No additional comments provided.
CL 4	NYSSCPA	We do not believe that this Proposed Interpretation should be implemented for the reasons discussed above.
CL 5	BDO	Yes. We believe a six-month delayed effective date will allow firms enough time to implement the necessary policies and procedures and terminate any relationships that would no longer be permitted.
CL 6	Rubin Brown	We believe a full year delay is more appropriate. The process of sourcing, screening and hiring employees can be time consuming, and this process has only been extended due to the global COVID-19 pandemic.
CL 7	California Board of Accountancy	No specific comments submitted

CL 8	Eide Bailly	The six-month delay depends on how the guidance is clarified based on our observations to questions 24a, 24b, and 24f. If the guidance is clarified that staff augmentation is an additional example of a nonattest service allowed under the guidance, then a six-month lead time would be appropriate. However, if this guidance potentially scopes in current nonattest services that would now be considered staff augmentation arrangements, then firms would need significant lead time to identify such services and modify or terminate the arrangements.
CL 9	NJCPA	The Group believes that a six-month delayed effective date does not allow firms sufficient time to implement the necessary policies and procedures. Due to challenges firms are currently facing with COVID-19 which caused the deferral of several accounting and audit standards (FASB and AICPA), a one-year effective date or longer is necessary.
CL 10	District of Columbia Board of Accountancy	Supports NASBA position. No additional comments provided.
CL 11	Crowe	The proposed six-month timeline appears to allow sufficient time for attest clients to make other arrangements for services that would no longer be permitted under this new interpretation.
CL 12	North Dakota Board of Accountancy	No specific comments submitted
CL 13	NASBA	Yes, NASBA agrees with the six-month delayed effective date.
CL 14	Plant & Moran	Yes, a six-month delayed effective date allows firms enough time to implement the policies and procedures necessary to terminate any relationships no longer permitted. We believe the effective date communication should be clear that the interpretation applies to staff augmentation services provided subsequent to the effective date to eliminate confusion regarding the application of the effective date.

CL 15	CLA	CLA believes that a six-month delayed effective date allows firms sufficient time to comply with the proposed interpretation. Six months is a sufficient amount of time for a client to either hire the staff it requires or engage a different firm to perform whichever service the member will cease performing.
CL 16	RSM	In light of the COVID-19 pandemic we believe an effective date prior to January 1, 2022 likely would present a hardship to members and their attest clients. Further, because certain system and network maintenance, support and monitoring services frequently are performed through staff augmentation arrangements, we believe PEEC should consider making this interpretation and related revisions effective at the same time as the revised “Information System Services” interpretation [1.295.145].
CL 17	Society of LA CPAs	No specific comments submitted
CL 18	GAO	We are not providing comments in response to this question.
CL 19	Grant Thornton	If the proposed standard is adopted as set forth in the Exposure Draft, we believe a six-month delayed effective date may not be enough time for members to implement the necessary policies and procedures and terminate any relationships that would no longer be permitted based on the original exposure draft issued on December 7, 2018 and suggest the consideration of a one-year delayed effective date.
CL 20	KPMG	We believe six-months provides sufficient time to allow a member to exit any prohibited relationships.
CL 21	Minnesota Board of Accountancy	In consideration of the COVID-19 era we are involved in, we believe this should be increased to 9 months.

Comment letter analysis

In response to the exposure draft of the proposed interpretation, "Staff Augmentation Arrangements," dated September 8, 2020, 21 comment letters have been received. Three of the comment letters received were from state boards stating they supported NASBA's comment letter. Four of the comment letters opposing the proposal did not submit responses to some, most, or all of the specific questions in the exposure draft. Finally, 1 comment letter stated that it had no comments at this time.

General comments

- 12 commenters supported and 6 commenters opposed the proposed interpretation. 2 commenters supported the issuance of non-authoritative guidance in the form of questions and answers (Qs & As).
- 1 of the letters of support also suggested Qs & As in addition to the proposal.
- All 3 of the commenters supporting Qs & As and 1 of the opposing commenters suggested clarifications if the proposed interpretation was to move forward.
- 1 of the commenters opposing the current interpretation was supportive of the originally exposed proposed interpretation.

Responses to specific questions in the exposure draft

Question 24a. - Should staff augmentation arrangements with attest clients be permitted under any circumstances? Why or why not?

- 15 commenters stated that staff augmentation arrangements for attest clients should be allowed. These commenters noted the following:
    - The safeguards in the proposed interpretation describe very limited situations where such arrangements can be made and not impair independence;
    - Firm's must evaluate threats to independence, specifically, the management participation and self-review threats prior to entering into any staff augmentation arrangement to determine if threats are at an acceptable level or can be reduced to an acceptable level through the application of safeguards. Further, the firm should ensure that the appearance of independence is maintained in the view of a reasonable and informed third party;
    - IESBA allows for staff augmentation arrangements, and we believe that differences in ethical standards create significant operational issues for CPA firms; and
    - The requirement prohibiting services not permitted by the Nonattest Services rule

would prevent any perceived independence concerns since the augmented staff would not be performing any management functions or making any management decisions.

- 3 commenters believed that staff augmentation arrangements for attest clients should be prohibited. These commenters noted the following:
    - The safeguards in the proposed interpretation are highly subjective and open to considerable interpretation;
    - The appearance of simultaneous employment cannot be overcome; and
    - Other arrangements can be made by the attest client.

Question 24b. - If you believe staff augmentation arrangements should be permitted, do you agree with the proposed interpretation, including the proposed safeguards, that would allow such arrangements in very limited situations? Why or why not?

- 12 commenters agreed with the proposed interpretation, with all but 2 recommending changes or clarifications. These include the following:
    - Having PEEC issue Qs & As regarding more common situations that can occur with staff augmentation arrangements
    - Concerns that the definition of staff augmentation is too broad and could potentially be considered to include nonattest services already permitted if accompanied by appropriate safeguards, and believing there should be further clarification distinguishing an augmentation arrangement from other allowable nonattest services when minimal oversight of the firm is necessary to direct or supervise such services
    - Replacing the term “unexpected situation” with “emergency situation” to minimize any ambiguity as the term unexpected does not relay a sense of unusual urgency, and that the term emergency is more easily understood as nonrecurring
    - Removing paragraph .02*b* regarding an “arrangement is not expected to reoccur” as this seems redundant and unnecessary, as by its very nature, an unexpected situation would not be foreseen and therefore not expected to reoccur
- 4 commenters did not agree with the proposed safeguards in the interpretation. These commenters noted the following:
    - They do not agree with the proposed interpretation that would allow staff augmentation in very limited situations, and that staff augmentation arrangements should be permitted so long as the threats to independence can be maintained at an acceptable level, believing this can be accomplished by providing guidance that is threats and safeguards based.
    - They believe the interpretation should not contain incremental requirements over

the IESBA requirements.

- They believe that the code as currently written already addresses staff augmentation arrangements in the “Nonattest Services” topic (1.295)” They believe the proposed interpretation and proposed safeguards create ambiguity.

Question 24c. - Do you believe that 30 days is an appropriate time period for the attest client to make other arrangements (see par. .02c of the interpretation)? If not, why?

- 12 commenters agreed that 30 days is an appropriate time period for the attest client to make other arrangements.
- 3 commenters disagreed with the 30-day time period, either in part or in whole. Comments included these:
  - Affirming that the 30 days should not be a bright line test, but rather general guidance.
  - Making the 30 day limit a strict proscription.
  - Suggesting a minimum of 60 days would be more appropriate since the proposed 30 days would likely not be an adequate amount of time if the client’s search for permanent personnel proves to be difficult.
  - Believing the IESBA rule for “a short period of time” is more appropriate.
  - PEEC issuing a nonauthoritative Q & A that includes a recommended time period for applying the “short period of time" provision. This would be similar to how the PEEC provided a Q & A for the “reasonable period of time" provision in the Hosting interpretation (ET 1.295.143.04e).
  - Recommending that the augmented staff arrangement is performed for only as brief a period as possible for the client to make other arrangements, if needed, and cannot exceed 30 days.
  - Stating that if the client is tasked with directing, supervising, and evaluating the work of a member’s staff and simultaneously attempting to hire its own staff, 30 days seems somewhat unreasonable, and suggests use of the Conceptual Framework would allow members to determine what time period is reasonable based upon the specific hardship.

Question 24d. - Should an exception for staff augmentation arrangements with certain affiliates of a financial statement attest client, as described in paragraphs 14–19 of this explanation, be permitted? Why or why not? If it should be permitted, should the proposed additions discussed in paragraphs 18–19 of this explanation be added as drafted or do you have suggested revisions?

- All 17 commenters answering this question agreed that an exception should be made for certain affiliates and agreed with the proposed additions.

- 1 commenter emphasized the interpretation needs to be as explicit as possible in terms of defining the CPA's obligations to apply the "Conceptual Framework for Independence," including documenting the rationale for accepting a staff augmentation arrangement.

Question 24e. - Do you believe there should be an exemption for staff augmentation arrangements for all SSAE engagements when the services provided by the augmented staff do not relate to the specific subject matter of the SSAE engagement, or should the exemption be limited to only AUPs under the SSAEs? Why or why not?

- 13 of the 17 commenters answering this question agreed that there should be an exception for staff augmentation arrangements for all SSAE engagements when the services provided by the augmented staff do not relate to the specific subject matter of the SSAE engagement.
- 1 commenter believes the exemption should be limited only to AUP engagements, as AUP engagements with specifically enumerated procedures help to remove certain aspects of professional judgement that are required when performing other attest engagements. Independence threats can therefore be reduced or eliminated in AUP engagements, where they believe that other attest engagements still contain areas of professional judgment that could be subject to independence threats, and therefore should not be part of the exemption.
- 1 commenter believes that because SSAEs, such as examination and SOC engagements, provide an opinion on the subject matter, the level of assurance is akin to an audit, and accordingly, should require similar evaluation of threats and safeguards for nonattest services as outlined in the proposed interpretation.
- 1 commenter believes the exemption needs to be as explicit as possible in terms of defining the CPA's obligations to apply the "Conceptual Framework for Independence," including documenting the rationale for accepting a staff augmentation arrangement. The current open-ended nature of the exemption would allow these arrangements without reference to their duration, recurrence, or other elements PEEC has deemed to be important considerations when evaluating staff augmentation arrangements with attest clients, and they recommend PEEC deliberate further on whether additional guidelines may be appropriate.
- 1 commenter noted that that the proposed language in paragraph .22 of the exposure draft would permit staff augmentation arrangements only when the "underlying services performed by the augmented staff do not relate to the specific subject matter" of the engagement even if such services are permissible under the "Non-attest Services" subtopic (1.295). In order to be consistent with the treatment afforded non-attest services under subtopic 1.297, "Independence Standards for Engagements Performed in Accordance With Statements on Standards for Attestation Engagements," we believe

the guidance should refer to “non-attest services that would otherwise impair independence under the interpretations of the “Non-attest services” subtopic.” In other words, if the underlying non-attest services would not impair independence, performing the services under a staff augmentation arrangement for a SSAE client should be permissible as threats to independence would be at an acceptable level even if they relate to the subject matter of the engagement. This treatment would be consistent with the non-attest services provisions under 1.297.020.03 and 1.297.030.03. If the committee believes it would be appropriate, the guidance could also require that the conceptual framework be applied in situations in which any permissible services relate to the subject matter of the engagement. This commenter recommends PEEC consider the following revisions to the proposed language in paragraph 22 for inclusion in the relevant sections of subtopic 1.297:

> When a member or member’s firm enters into a staff augmentation arrangement described in the “Staff Augmentation Arrangements” interpretation [1.275.040], ***to perform services that would otherwise impair independence under the interpretations of the “Non-attest Services” subtopic [1.295],*** threats would be at an acceptable level and independence would not be impaired, provided the underlying services performed by the augmented staff do not relate to the specific subject matter of the AUP ***or other SSAE engagement*** and do not involve management responsibilities.
>
> ***When a member or member’s firm enters into a staff augmentation arrangement where the underlying services performed by the augmented staff would not impair independence under the interpretations of the “Non-attest Services” subtopic [1.295], but the services relate to the specific subject matter of the AUP or other SSAE engagement, the member should use the “Conceptual Framework for Independence” to evaluate whether any threats created 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. If safeguards are not available or cannot be applied to eliminate or reduce the threats to an acceptable level, the member should not enter into the staff augmentation arrangement.***

Question 24f. - Are there specific aspects of the proposal that you believe are too permissive or too restrictive? If so, please explain.

- Of the 17 commenters answering this question, 8 believe there are aspects of the proposal that are too restrictive, 7 believe there are aspects of the proposal that are too permissive, and 2 believe that it is acceptable as drafted. The comments for this question have been addressed in the preceding comments.

Question 24g. - Does a six-month delayed effective date allow firms enough time to implement the necessary policies and procedures and terminate any relationships that would no longer be permitted? Why or why not?

- 10 commenters agreed with the 6-month delayed effective date.
- 6 commenters believed that 6 months may not be long enough. Comments include the following:
    - Believing a full year delay (or longer) is more appropriate, as the process of sourcing, screening and hiring employees can be time consuming, and this process has only been extended due to the global COVID-19 pandemic.
    - The 6-month delay depends on how the guidance is clarified based on our observations to questions 24a, 24b, and 24f. If the guidance is clarified that staff augmentation is an additional example of a nonattest service allowed under the guidance, then a 6-month lead time would be appropriate. However, if this guidance potentially scopes in current nonattest services that would now be considered staff augmentation arrangements, then firms would need significant lead time to identify such services and modify or terminate the arrangements.
    - If the proposed standard is adopted as set forth in the exposure draft, a 6-month delayed effective date may not be enough time for members to implement the necessary policies and procedures and terminate any relationships that would no longer be permitted based on the original exposure draft issued on December 7, 2018. Suggest the consideration of a 1-year delayed effective date.

Text of proposed interpretation
"Staff Augmentation Arrangements"

(Additions appear in ***bold italic*** and deletions in ~~strikethrough~~.)

1.275.007 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 performed 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 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 for only 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 neither participates in, nor is in a position to influence, an *attest engagement* covering any period that includes the staff augmentation arrangement.

    e. The augmented staff performs only activities that would not be prohibited by the "Nonattest Services" subtopic [1.295] of the "Independence Rule" [1.200.001].

    f. The member is satisfied that management of the attest client 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.

03. Refer to the “Agreed-Upon Procedure Engagements Performed in Accordance With SSAEs” interpretation [1. 297.020] ***and paragraph .02f of the “Client Affiliates” interpretation [1.224.010]*** of the “Independence Rule” [1.200.001] for additional guidance.

Effective Date

04. This interpretation is effective [insert date that is six months after announcement is published in the Journal of Accountancy].

Text of proposed revised interpretation "Client Affiliates"

(Additions appear in ***bold italic*** and deletions in ~~strikethrough~~.)

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 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" 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" 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. If safeguards are not available or cannot be applied to eliminate or reduce the threats to an acceptable level, the member should not enter into the staff augmentation arrangement.

03. This interpretation does not apply to a *financial statement attest client* that is covered by the "Entities Included in State and Local Government Financial Statements" interpretation [1.224.020] of the "Independence Rule" [1.200.001]. [Prior reference: paragraph .20 of ET section 101]

Acquisitions and Other Business Combinations That Involve a Financial Statement Attest Client

04. The exception in paragraph .06 would apply when (1) a *financial statement attest client* is acquired during the *period of the professional engagement* by either a non-client or a nonattest client (acquirer), (2) the *attest engagement* covers only periods prior to the acquisition, and (3) the *member* or *member's firm* will not continue to provide *financial statement* attest services to the acquirer.

05. *Independence* will not be considered *impaired* with respect to the *financial statement attest client* because a *member* or *member's firm* has an interest in or relationship with the acquirer that may otherwise *impair independence* as a result of the requirements of this interpretation or the definition of "*attest client*" (as it relates to the entity or person that engages the member or member's firm to perform the *attest engagement*).

06. Notwithstanding paragraph .06, a *member* should give consideration to the requirements of the "Conflicts of Interest" interpretation [1.110.010], under the "Integrity and Objectivity Rule" [1.100.001], with regard to any relationships that the *member* knows or has reason to believe exist with the acquirer, the *financial statement attest client*, or the *firm*.

07. A member should refer to paragraph .03 of "Application of the AICPA Code" [0.200.020] for guidance on circumstances involving foreign network firms.

Effective Date

08. Paragraphs .01–.04 are *effective* for engagements covering periods beginning on or after January 1, 2014. Early implementation is allowed.

Text of proposed revised interpretation "Agreed-Upon Procedures Engagements Performed in Accordance With SSAEs"

(Additions appear in ***bold italic*** and deletions in ~~strikethrough~~.)

1.297.020 Agreed-Upon Procedures Engagements Performed in Accordance With SSAEs

01. For purposes of this interpretation, subject matter is as defined in the SSAEs.

02. When performing agreed-upon procedures (AUP) engagements in accordance with the SSAEs, the application of the "Independence Rule" [1.200.001] is modified, as described in the "Application of the Independence Rule to Engagements Performed in Accordance With Statements on Standards for Attestation Engagements" interpretation [1.297.010] of the "Independence Rule" and this interpretation.

03. When providing nonattest services that would otherwise *impair independence* under the *interpretations* of the "Nonattest Services" subtopic [1.295] under the "Independence Rule" [1.200.001], *threats* would be at an *acceptable level* and *independence* would not be *impaired*, provided that the nonattest services do not relate to the specific subject matter of the SSAE engagement. *Threats* would be at an *acceptable level* and *independence* would also not be *impaired* if the "General Requirements for Performing Nonattest Services" interpretation [1.295.040] of the "Independence Rule" were not applied when providing the nonattest services, provided that the nonattest services do not relate to the specific subject matter of the AUP engagement.

***04. When a member or member's firm enters into a staff augmentation arrangement* as described *in paragraph .01* of the "Staff Augmentation Arrangements" interpretation [1.275.040], threats would be at an acceptable level and independence would not be impaired provided the underlying services performed by the augmented staff do not relate to the specific subject matter of the AUP engagement.**

05. In addition, when performing an AUP engagement under the SSAEs, *threats* would be at an *acceptable level* and independence would not be *impaired*, if the following *covered members* and their *immediate families* are independent of the responsible party(ies):

    a. Individuals participating on the AUP engagement team

    b. Individuals who directly supervise or manage the AUP engagement partner or partner equivalent

    c. Individuals who consult with the attest engagement team regarding technical or industry-related issues specific to the AUP engagement

06. Furthermore, *threats* to 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*, and *independence* would be *impaired*, if the *firm* had a material financial relationship with the responsible party(ies) that was covered by any of the following interpretations of the "Independence Rule":

    a. Paragraphs .01–.02 of "Overview of Financial Interests" [1.240.010]

    b. "Trustee or Executor" [1.245.010]

    c. "Joint Closely Held Investments" [1.265.020]

    d. "Loans" [1.260.010] [Prior reference: paragraph .13 of ET section 101]

Effective Date

07. The addition of *partner equivalents* to paragraph ***.05.04*** is effective for engagements covering periods beginning on or after December 15, 2014.

Text of proposed revised interpretation "Engagements, Other Than AUPs, Performed in Accordance With SSAEs"

(Additions appear in ***bold italic*** and deletions in ~~strikethrough~~.)

1.297.030 Engagements, Other than AUPs, Performed in Accordance With SSAEs

01. For purposes of this interpretation, subject matter is as defined in the SSAEs.

02. When performing an engagement, other than an AUP, in accordance with the SSAEs, the application of the "Independence Rule" [1.200.001] is modified, as described in the "Application of the Independence Rule to Engagements Performed in Accordance With Statements on Standards for Attestation Engagements" interpretation [1.297.010] of the "Independence Rule" and this interpretation.

03. When providing nonattest services that would otherwise *impair independence* under the *interpretations* of the "Nonattest Services" subtopic [1.295], *threats* would be at an *acceptable level* and *independence* would not be *impaired* if the following safeguards are met:

    a. *Nonattest* services do not relate to the specific subject matter of the SSAE engagement.

    b. The "General Requirements for Performing Nonattest Services" interpretation [1.295.040] of the "Independence Rule" [1.200.001] are met when providing the nonattest service. [Prior reference: paragraph .13 of ET section 101]

~~04. When a member or member's firm enters into a staff augmentation arrangement described in the "Staff Augmentation Arrangements" interpretation [1.275.007], threats would be at an acceptable level and independence would not be impaired, provided the underlying services performed by the augmented staff do not relate to the specific subject matter of the SSAE engagement and do not involve management responsibilities.~~

Text of proposed revised interpretation "Scope and Applicability of Nonattest Services"

(Additions appear in ***bold italic*** and deletions in ~~strikethrough~~.)

1.295.010 Scope and applicability of nonattest services (in part)

.08 Refer to the "Staff Augmentation Arrangements" interpretation [1.275.007] when the engagement involves 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.

Effective date

.09 ~~.08~~ Paragraph .06 of this interpretation is effective for engagements covering periods beginning on or after December 15, 2014.

Records requests

Task force members

Peggy Ullmann (chair), Martin Levin, Jeff Lewis, Stephanie Saunders, Anika Heard

AICPA staff

Ellen Goria, Shannon Ziemba

Task force charge

The task force's charge is to recommend to the committee changes to the "Records Requests" interpretation regarding the charging of copying, shipping, and retrieval fees.

Reason for agenda item

The task force is seeking adoption of the revised "Records Requests" interpretation (1.400.200) and feedback on three frequently asked questions.

Task force activities

Background

On May 1, 2020 the division issued an exposure draft proposing revisions to the "Records Requests" interpretation. The division received 11 comment letters and 3 responses to its outreach survey.[1] The task force considered the feedback received and presented its recommendations to the committee during the November 2020 meeting as outlined in **agenda item 3D**. Though the committee was supportive of these recommendations, it requested the task force consider developing additional guidance to clarify the interpretation for certain situations.

The task force has met once since November to discuss the situations raised by the committee during the November 2020 meeting. The situations discussed are as follows:

1. Should a member be required, if requested, to provide a commercial off the shelf (COTS) software product such as a QuickBooks datafile to a client if they were engaged to prepare the financial statements or the client's tax return but not engaged to perform bookkeeping services?
2. Would a member meet the requirements of the interpretation if they returned the client - provided records in a different manner than received?

[1] To obtain more feedback from interested parties, the division issued a survey that allowed individuals to easily indicate if they did or did not support the exposure draft and to provide comments. The survey was anonymous but all three individuals who completed the survey indicated they read the proposal and agreed with the proposal.

3. Should a member be required, if requested, to provide records to both spouses if the spouses are divorced or divorcing?

While developing these questions and answers (Qs & As), the task force also identified two clarifications it believes should be made to the interpretation presented to the committee during the November 2020 meeting.

Category 1: Provided datafile if requested by client

The task force was asked for clarification regarding whether members are required to provide a commercial off the shelf (COTS) software product such as a QuickBooks datafile when they are engaged to do write-up work/financial statement preparation for the client. Can the member give the client either a hard copy or an exported excel file from QuickBooks instead of the actual datafile? Would the answer be different if the member were engaged to prepare tax returns only? In both examples, the member was not engaged to do bookkeeping services.

In both scenarios, the task force does not believe the datafile meets the definition of member-prepared records:

> *d.* Member-prepared records are accounting or other records that the member was not specifically engaged to prepare and that are not in the client's books and records or are otherwise not available to the client, thus rendering the client's financial information incomplete. Examples include adjusting, closing, combining, or consolidating journal entries (including computations supporting such entries) and supporting schedules and documents that the member proposed or prepared as part of an engagement (for example, an audit).

In both scenarios, financial statement preparation and tax preparation, a COTS software product such as a QuickBooks datafile is not required to complete the client's financial information since the client provides the financial information used to prepare these work products.

The task force recommends adding two nonauthoritative Qs & As to clarify these scenarios:

> ***Datafile requested when member engaged to prepare financial statements (not a bookkeeping engagement)***
>
> **Question:** The member was engaged to prepare the financial statements using information provided by the client. As part of the engagement, the member entered the trial balance information received from the client into a commercial off the shelf (COTS) software product (e.g., QuickBooks) to generate the financial statements. The member provided the client the financial statements and any supporting documents in hard copy form. The client has now switched CPAs and the client has requested the member send his new CPA the datafile. Must the member provide the datafile to the new CPA?

Answer: Since the member was not engaged to perform bookkeeping services for the client and only engaged to prepare the financial statements, unless the engagement letter states otherwise, the datafile is considered the member's workpaper since the financial statements are not considered incomplete without it. Therefore, the member is not required to provide the datafile to the client but is not prohibited from doing so.

Datafile requested when member engaged to prepare tax return (not a bookkeeping engagement)

Question: The member was engaged to prepare a tax return for a client. As part of the engagement, the member entered the information received from the client into a commercial off the shelf (COTS) software product (e.g., QuickBooks). The member provided the client copies of the tax returns and supporting documents in hard copy form. The client has now switched CPAs and the client has requested the member send the new CPA the datafile. Must the member provide the datafile to the new CPA?

Answer: Since the member was not engaged to perform bookkeeping services for the client and unless the engagement letter states otherwise, the datafile is considered the member's workpaper and therefore the member is not required to provide the datafile to the client.

Question for the committee

1. Does the committee recommend issuing the Qs & As?

Category 2: Returning client provided records in another format than provided

The committee requested a Q & A to illustrate the concept of usable records when it relates to returning client-provided records. The task force was requested to clarify that if the client doesn't believe the method that records were returned is accessible then the member has not met the requirement under the interpretation.

The task force recommends adding the following nonauthoritative Q & A:

Returning client records in another format than provided to member

Question: The member was engaged to prepare a tax return. The tax client dropped off their documents at the member's office. As part of the engagement, the member scanned the documents and then posted them to the member's portal. Did the member meet their obligation to return client-provided records to their client?

Answer: If the client was able to access the records they provided from the portal, then

it can be concluded they have met their obligation. If the client says they cannot access the portal or cannot download their files or they specifically request to have their original documents returned to them, then the member has not met their obligation.

Question for the committee

2. Does the committee recommend issuing the Q & A?

Category 3: Returning records when spouses are divorcing or have divorced

A committee member requested the task force discuss whether a member should be required to make client-provided records, member-prepared records, and member's work products available to divorcing or divorced spouses if they filed a tax return as married filing jointly. The committee member believes this should be a requirement only when the spouses are divorcing or divorced, the member is aware of the divorce, and each spouse has requested the documents.

The extant "Records Requests" interpretation currently states:

> .09 A *member* who has provided records to an individual designated or held out as the client's representative, such as the general partner, majority shareholder, or spouse, is not obligated to provide such records to other individuals associated with the client.

There is also an interpretation under "Confidential Client Information Rule" that states in part:

> *1.700.030 Disclosing Information to Clients*
>
> When a *member* is engaged by either spouse to prepare a married couple's joint tax return, the two spouses are considered to be one *client*, even if the *member* deals exclusively with one spouse. Accordingly, if the married couple is undergoing a divorce and one spouse directs the *member* to withhold joint tax information from the other spouse, the *member* may provide the information to both spouses, in compliance with the "Confidential Client Information Rule" [1.700.001], because both are the *member's client*. The *member* should consider reviewing
>
> *a.* the legal implications of such disclosure with an attorney and
>
> *b.* responsibilities under any tax performance standards, such as Section 10.29 of IRS Circular 230.

The above interpretation relates to whether the member can withhold the joint tax information if one spouse requests it.

Accordingly, the extent code concludes that since both spouses are your client you are not prohibited from providing the client-provided records, member-prepared records, and member's work products to each spouse but you are also not required to provide them to both spouses.

Staff looked at Circular 230 and it discusses only that records should be provided to the client but does not address divorcing clients.

The code is written so that members are not put into the middle of internal disputes. The question is whether the committee believes that an exception to that rule should be made for divorcing or divorced spouses. The task force discussed this matter and does not believe that there should be a requirement to provide records to both spouses if they are divorcing or divorced. As already stated in the above "Disclosing Information to Clients" interpretation, a member is not prohibited from providing records to both spouses. The task force discussed different types of clients such as partnerships, limited liability clients, family-owned business, family trusts, and spouses. The task force did not believe there was a reason to carveout divorcing or divorced spouses from the extant interpretation.

If the committee determines that there should be an obligation to provide records to both spouses, then revisions would need to be developed and exposed.

Question for the committee

3. Does the committee believe the member should have an obligation to provide records to divorcing or divorced spouses?

Category 4: Shipping fees and file format

While reviewing the agenda materials, staff discussed whether a member needs to comply with a request for client-provided records in the original format even if the member could make these records available to the client in a different format.

A related question was whether a member could wait for receipt of payment before providing client-provided records if there were costs associated with making these records available.

To address these concerns, staff drafted the following nonauthoritative Q & A. Though the task force did not discuss the Q & A, the task force agreed through email that the answer is consistent with how the interpretation should be applied.

Client requesting files be shipped

Question: The member was engaged to prepare a tax return. The tax client dropped off

related documents at the member's office. The client then moved across the country and now wants the member to ship the original documents so the client can retain a new CPA to prepare the tax return.

Can the member either charge the client upfront to ship the client-provided records back to the client or require the client to collect the records at the member's office?

Answer: If the client requests that the member ship the client-provided records back to the client, the member can ask the client to pay the shipping fee prior to mailing. However, if the client does not pay the fee, the member is still required to comply with the request within 45 days.

If the client is not willing to pay the shipping, the member can ask the client if there is another format (such as, electronic) that would be usable and accessible to the client.

Because the client is now located a significant distance from the member, requiring the client to pick up the records at the member's office would not meet the accessibility requirement.

Ultimately the member is responsible for complying with the request for the client-provided records within 45 days using any means necessary.

Question for the committee

4. Does the committee recommend issuing the Q & A?

Two clarifications to the "Records Requests" interpretation from the November meeting

The task force recommends two clarifications to the "Records Requests*"* interpretation that was provided to the committee in November:

1. The task force recommends revising the definition of a beneficiary to make it clearer that the beneficiary is only the person or entity that the member was engaged to perform the professional services for:

   "Beneficiary is a person or entity **for which the engaging entity has requested** ~~other than the engaging entity for whom~~ the member to perform professional services."

2. The task force believes that because the term beneficiary is now defined for purposes of the interpretation, paragraph .02 would be better understood if the term beneficiary is inserted to replace the description: The task force believes that because the term

beneficiary is now defined for purposes of the interpretation, paragraph .02 would be better understood if the term beneficiary is inserted to replace the description:

> "When a person or entity engages a *member* to perform professional services (engaging entity) with respect to **a beneficiary** ~~or for the benefit of another person or entity~~, the *member* will be considered in compliance with the requirements of this interpretation related to client-provided records if the member makes these records available to the person or entity that provided the records to the member or individual designated or held out as the entity's or individual's representative.

Question for the committee

5. Does the committee agree with the edits to the interpretation from what was presented in November?

Action needed

In addition to feedback as noted above, the committee is asked to adopt the interpretation as revised and for it to be effective 60 days after publication in the *Journal of Accountancy*. The committee is also asked to provide feedback on the three nonauthoritative Qs&As. The committee is also asked to provide feedback on the three nonauthoritative Qs & As.

Communications plan

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

Materials presented

- Agenda item 3B: Comment letter summary
- Agenda item 3C: Text of proposed revised interpretation with the task force's recommendations (clean)
- Agenda item 3D: Text of proposed revised interpretation with the task force's recommendations (red line)
- Agenda item 3E: Text of proposed non-authoritative Qs & As related to records requests

Comment letter summary

Proposed Revised Interpretation "Record Requests"

Comment Letter	Feedback Highlights	Task Force Response
CL1 ***NASBA*** **Support with Recommendations**	Category 1: Client-provided records previously made available to a client CL 1 believes it would be clearer that the requirement only applies to a second request for client-provided records if the order of paragraph .11 was revised to read: "In fulfilling a request for the member's copy of client-provided records previously provided to the client (as referenced in paragraph .08), member-prepared records, or member's work products, the member may…." Category 3: Making records available to a client Unintended recordkeeper CL 1 suggests guidance be provided to help members understand what to do when a client fails to retrieve information from a portal or physical location in a timely manner, or at all. The commenter suggests that one way to address this issue would be to require the member notify the client that it will make the information available for a finite (i.e., reasonable) period of time (e.g., 45 days, which would be consistent with the timeframe imposed on members to make the requested information available). This commenter	The task force incorporated the substance of this recommendation into the revised interpretation found in agenda item 3B. The task force does not believe the interpretation should address the impact hosting an attest client's records has on independence. However, the task force suggests PEEC discuss whether adding a cross reference to

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		believes this approach would help establish the CPA's compliance with the rule and notify the client that the information will not be held in this manner indefinitely. This commenter also believes that when the requester is an attest client, incorporating a time limit for document retrieval would also reduce any risk that the CPA has become a de facto host of the client's information.	the Hosting Services interpretation would be helpful or whether it would just further confuse the two issues. A possible cross reference could read: ***If attest services are provided to the client or any of the parties in paragraphs .02 or .03, refer to the "Hosting Services" interpretation [1.295.143] of the "Independence Rule" [1.200.001] for guidance on how independence is impacted when hosting services are provided.***
CL2	***FICPA Accounting Principles and Auditing Standards Committee*** **Support with Recommendations**	*Category 3: Making records available to a client* Add examples and ensure accessibility CL 2 is concerned that the term "make available" could be broadly interpreted to include being available in the member's place of work that could be in a different city or state and so including examples would help avoid such unintended consequences.	The task force recommends that a new definition be added to the Terminology section of the interpretation that explains that ***Making records available means providing the***

			records in any format usable and accessible, whether electronic or otherwise, regardless of the format in which they were received. In order to provide as much flexibility as possible for practice to evolve, the task force believes that the interpretation should not specify the format that information be made available, rather, should focus on the fact that the records be in a format that is usable and accessible.
CL3	***NYSSCPA Professional Ethics Committee*** **Support with Recommendations**	*Category 1: Client-provided records previously made available to a client* CL 3 believes that since paragraph .08 does not discuss client-provided records, the reference to paragraph .08 would be better placed if it came immediately after "a member's work products." Staff believes the refence to paragraph .08 should remain connected with the term "client-provided records" because paragraph .08 is referring to the requirements stipulated in paragraphs .05, .06 and .07. Since paragraph .05 implicitly and .06 explicitly addresses client-provided records, it seems appropriate. Another option would be to replace the reference to paragraph .08 with references	The task force recommends eliminating the reference to paragraph .08 because the phrase "that was previously provided to the client" was added and because the applicable terms in paragraph .11 (renumbered as .10 in **agenda item 3B**)

	to paragraphs .05 and .06. *Category 3: Making records available to a client* Add examples and ensure accessibility CL 3 noted that these revisions will simplify compliance with such requests and recommends the examples included in the explanation to the exposure draft (i.e., picked up, portal) be added to the interpretation.	were adequately defined in the terminology section. The task force recommends that a new definition be added to the Terminology section of the interpretation that explains that ***Making records available means providing the records in any format usable and accessible, whether electronic or otherwise, regardless of the format in which they were received***. In order to provide as much flexibility as possible for practice to evolve, the task force believes that the interpretation should not specify the format that information be made available, rather, should focus on the fact that the records be in a format that is usable and accessible**.**

CL4	***NC State Board of CPA Examiners*** ***Support***		
CL5	***AICPA PCPS Technical Issues Committee*** ***Support with Recommendations***	*Category 1: Client-provided records previously made available to a client* CL 5 recommends that the request for client-provided records covered by paragraph .06 be clarified as "initial" client-provided records to help reduce misapplication or oversight. *Category 3: Making records available to a client* Add examples and ensure accessibility CL 5 is concerned that without examples the term "make available" could result in confusion in practice and recommends some FAQs be issued that would include examples of how members can make records available in an electronic or paper environment.	The task force believes that paragraph .06 is intended to apply to the initial request for client-provided records to be returned and proposes a revision to clarify this in **agenda item 3B**. The task force noted that the definition of client-provided records includes hardcopies and electronic reproductions and so does not believe further clarification is necessary. The task force recommends that a new definition be added to the Terminology section of the interpretation that explains that

		Making records available means providing the records in any format usable and accessible, whether electronic or otherwise, regardless of the format in which they were received. In order to provide as much flexibility as possible for practice to evolve, the task force believes that the interpretation should not specify the format that information be made available, rather, should focus on the fact that the records be in a format that is usable and accessible**.**
	Natural disasters CL 5 recommends the phrase “if practicable” be added at the end of the last sentence of paragraph .08 to clarify that there could be circumstances related to natural disasters that would make complying with an additional request to make records available, impracticable. Staff would support this addition.	The task force believes this clarification should be made.

	Formulas The exposure draft did not propose changes to paragraph .11b related to when a member is required to provide formulas to a client. However, CL 5 raised concerns that this requirement could result in confusion and prove difficult to apply in practice. To address these concerns, they recommend • The term "however" as used in the second sentence be deleted; and • That PEEC issue FAQs to clarify that formulas should only be required to be made available when the member is engaged to prepare a formula as part of a completed work product or when the client's financial information is incomplete without them. In an effort to demonstrate their concerns, they note that, in some cases, ○ Formulas prepared by the member are considered proprietary in nature. ○ Exporting formulas from certain IT systems could compromise data. For example, in instances where software programs are used to perform calculations, trying to extrapolate that data to include the underlying calculations could be burdensome since formulas often are built into the system, and the client may not have access to the same system that is owned or leased by the member.	The task force is recommending some edits be made to the discussion related to formulas to make it consistent with the definition of "member prepared records" and to clarify that the only time formulas need to be made available are when the member is engaged to make the formulas available as part of a completed work product or when they are used to create a member-prepared record and the client's financial information would be incomplete if they were not made available.

CL6	***TSCPA Technical Standards Committee*** ***Support with Recommendations***	*Category 4: Making records available to a beneficiary* CL 6 recommends that an example of a member-prepared record be added to the situational example already included in paragraph .03 and consider providing additional examples of "member- prepared records" in paragraph .01d other than depreciation schedules. CL 6 thinks that ambiguity could make compliance with these standards more difficult and suggests "client-prepared schedules" or "client-submitted schedules" could use additional clarifications.	The task force does not recommend a situational example be added since the definition of member-prepared records already provides some examples.
CL7	***ICPAS Ethics Committee*** ***Support with Recommendations***	*Category 1: Client-provided records previously made available to a client* CL 7 recommends that the phrase "or make available" be added to the first sentence of paragraph .06 to conform with PEEC's proposal that making records available would satisfy the requirement to return records. Staff believes this was an oversight and recommends the sentence be revised to read: "When a client makes a request for client-provided records, the member should ~~return~~ ***make*** those records in the member's custody or control ***available*** to the client.	The task force believes it was an oversight not to extend this to client-provided records that had not previously been made available and proposes revisions in **Agenda Item 3B** to address this oversight. However, since the explanation that accompanied the exposure draft indicated this change was with respect to member-prepared records, work products and member's copy of client-provided records previously provided to the client, the

			task force seeks PEEC's input regarding whether it had intended to scope out client-provided records that had not previously been made available. The task force recommends that "or delayed" be removed since paragraph .12 (renumbered to .11 in **agenda item 3B**) already provides guidance related to the timeliness of complying with requests.
CL8	***GT LLP*** ***Support with Recommendations***	*Category 1: Client-provided records previously made available to a client* Clarify the kind of client-provided records CL 8 suggests the intent of this paragraph should be to cover "original" client-provided records. CL 8 believes PEEC should consider modernizing the definition of client-provided records[1] to address todays professional work environment by considering how common it is for clients to share original documents as opposed to copies of these documents which are uploaded electronically. This commenter suggests PEEC consider developing a FAQ to differentiate between *original*	The task force believes that paragraph .06 is intended to apply to the initial request for client-provided records to be returned and proposes a revision to clarify this in **agenda item 3B**. The task force noted

[1] Client-provided records are accounting or other records, including hardcopy and electronic reproductions of such records, belonging to the client that were provided to the member by, or on behalf of, the client.

	financial records provided to the member in connection with a tax compliance engagement from electronic *copies* of a large volume of corporate records uploaded to an electronic portal for an advisory engagement. CL 8 further notes that without this clarification, members may be put in the position of acting as the uncompensated, de facto records managers for clients that do a poor job of their own records management. *Category 3: Making records available to a client* Unintended recordkeeper CL 8 also expressed concerns with members being relied upon as the client's recordkeeper or repository. As such, the commenter suggests a FAQ be developed that member's consider adding safeguard language to their engagement letters to make it clear the client has the sole responsibility for maintaining their books and records.	that the definition of client-provided records includes hardcopies and electronic reproductions and so does not believe further clarification is necessary. The task force does not believe the interpretation should address the impact hosting an attest client's records has on independence. However, the task force suggests PEEC discuss whether adding a cross reference to the Hosting Services interpretation would be helpful or whether it would just further confuse the two issues. A possible cross reference could read: ***If attest services are provided to the client or any of the parties in paragraphs .02 or .03,***

		Cross reference CL 8 does not believe it is clear why paragraph .08a references paragraphs .03-.04 as opposed to paragraphs .06-.07. As such, CL 8 recommends PEEC confirm that this reference is correct or consider removing the reference.	***refer to the "Hosting Services" interpretation [1.295.143] of the "Independence Rule" [1.200.001] for guidance on how independence is impacted when hosting services are provided***. The task force agrees that the cross reference seems off and so eliminated the reference to paragraphs .03-.04 and instead added a reference to paragraphs .02 through .07 to the lead in of paragraph .08.
CL9	***Montana Board of Public Accountants*** ***Support***		
CL10	***AICPA TPPC*** ***Support with Recommendations***	*Category 1: Client-provided records previously made available to a client* Clarify the kind of client-provided records CL 10 recommends the interpretation be clarified that the member only has to provide client-provided records to the extent that the client does not already have the original records in their possession. This commenter believes that	The task force believes that paragraph .06 is intended to apply to the initial request for client-provided

	without the clarification, the requirement would seem to be at odds with the hosting provision where a CPA cannot be the sole repository of a client's records and would be at odds with the relief in paragraph .08a.	records to be returned and proposes a revision to clarify this in **agenda item 3B**. The task force noted that the definition of client-provided records includes hardcopies and electronic reproductions and so does not believe further clarification is necessary
	Category 3: Making records available to the client Add examples and ensure accessibility CL 10 recommends clarification on what the term "make available" means and provides examples of two situations to demonstrate where a diversity of practice could evolve. One situation would be where records are left for the client to come and pick up and the other would involve the member having to spend money to mail the records even when the client may not reimburse the member for the costs. CL 10 also questions why the references in paragraphs .08a and .09 to 'make available' is in parentheses where in all other places it has replaced "provided."	The task force recommends that a new definition be added to the Terminology section of the interpretation that explains that. ***Making records available means providing the records in any format usable and accessible, whether electronic or otherwise, regardless of the format in which they were received.*** In order to provide as much flexibility as possible for practice to evolve, the task

			force believes that the interpretation should not specify the format that information be made available, rather, should focus on the fact that the records be in a format that is usable and accessible**.**
CL11	***Hunter College Advanced Auditing Class*** ***Support with Recommendations***	*Category 2: Costs incurred by member to make the records available* CL 11 does not believe the guidance related to shipping fees is clear They believe the exposure draft should clarify whether shipping fees will be included with time and expense fees so that everything falls under one single cost or if there are circumstances in which the client will only be charged fees for time and expense but not shipping (such as when a client picks up the records in person or when the records are sent electronically). CL 11 also believes that if a member fails to update a client's address and mails the records to a previous address instead of the current address, that the client should not have to pay the shipping fees for the member's mistake. CL 11 further believes that while clients should have to pay for the time, expense and shipment of the records requested, paragraph .12 should elaborate what would happen if after the 45 days the client still hasn't received the records requested since the request has not been fulfilled and provided the following suggested revision in yellow highlight:	The task force believes the proposal is sufficiently clear that the fees charged should be for only those expenses incurred. The task force does not recommend the interpretation address the shipping fees to prior addresses or whether the member should be required to reimburse all fees if the 45-day requirement is not met.

	.12 A member who is required to return or ~~provide~~ make records available to the client should comply with the client's request as soon as practicable but, absent extenuating circumstances, no later than 45 days after the request is made. **After 45 days of the request made, if the client has not received records, the client should be reimbursed for all cost/ fees paid since the member did not comply with the client's request.** *Category 3: Making records available to the client* Add examples and ensure accessibility CL 11 suggests that adding definitions and examples for both terms under paragraph .01 will help clarify and distinguish the minor intricacies between both types of deliveries (i.e., providing a document assures the delivery of such a document with responsibility placed on the member as opposed to *making* that document available where responsibility to retrieve the document is placed on the client). CL 11 notes that by providing a document a member would directly hand a client the document, whereas making the document available would resemble a situation where the member would upload the document and grant the client access to that uploaded document via a specific software or form of communication. CL 11 is also concerned with the accessibility of records. They recommend the interpretation clarify the difference between making a record available to a client versus the client being able to access it since making a record available through a portal or another electronic format may not	The task force recommends that a new definition be added to the Terminology section of the interpretation that explains that ***Making records available means providing the records in any format usable and accessible, whether electronic or otherwise, regardless of the format in which they were received.*** In order to provide as much flexibility as possible for practice to evolve, the task

	guarantee that the client will be able to retrieve the record. To demonstrate their concern, they present a scenario where certain clients may be incapable of using portals or any cloud based or internet-based alternative to receiving their records. Under those circumstances the availability of information, and thus the interpretation's requirement, would not be satisfied if a member made the client's records available through a portal, if they were knowledgeable of the fact that the client would not be able to access it. CL 11 suggests that for a member to be in compliance with the interpretation when making records available through a portal, they also have to make sure that the information can be accessed by the client. They do not believe a member should expect to just upload the records through the portal and think that they have completed the request. The record request may not be completed until the member has been reassured by the client that they have retrieved the information from the portal. The commenter provided the following suggested revisions in yellow highlight to help address this concern: .08 Once a member has complied with these requirements, he or she is under no ethical obligation to a. comply with any subsequent requests to again ~~provide~~ make records or copies of records described in paragraphs .03–.04 available to the client. However, if subsequent to complying with a request, a client experiences a loss of records due to a natural disaster or an act of war, **or a client is unable to access the records in the format**	force believes that the interpretation should not specify the format that information be made available, rather, should focus on the fact that the records be in a format that is usable and accessible**.**

	provided by the member (electronically, through portals, etc.) the member should comply with an additional request to provide (or make available) such records. .11 In fulfilling a request for ~~client-provided records~~ member-prepared records, ~~or~~ a member's work products, or the member's copy of client-provided records previously provided to the client (as referenced in paragraph .08), the member may a. … b. ~~provide~~ make the requested records available in any format usable **and accessible** by the client. However, the member is not required to convert records that are not in electronic format to electronic format. If the client requests records in a specific format and the records are available in such format within the member's custody and control, the client's request should be honored. In addition, the member is not required to ~~provide~~ make formulas available to the client ~~with formulas~~, unless the formulas support the client's underlying accounting or other records or the member was engaged to ~~provide~~ make such formulas available as part of a completed work product. Security precautions CL 11 is also concerned with the security of records citing the pandemic as one reason why clients are leaning towards online resources such as emails or cloud databases to deliver	The task force believes the definition of client combined with paragraphs .02

	records. This commenter indicates this change in practice, may increase the risk of potential hackers and unwanted individuals to steal that highly important client information. The commenter believes it is not enough to simply make such records available to the client, but members should be required to take additional precautions (use best practices) when making such electronic records available to their clients. For example, using a VPN or sending records to their clients through an encrypted email. Since changing "*provide"* to "*make available"* could further intensify the risk that records could be accessed by parties other than the client, CL 11 recommends adding to paragraph .14 a reference to the Confidential Client Information Rule reminding members of their obligation to ensure that the documents are made available to the correct individuals.	through .04, provide enough of a reminder to whom the records should be made available. So instead of including a reminder to the *Confidential Client Information Rule* the task force recommends clarifying throughout the interpretation, when parties other than the client might need to be considered. The task force also believes that eliminating references to "client" in some of the paragraphs that provide additional guidance related to how members can achieve compliance with the interpretation, will help with the readability of the interpretation. For example, the introduction sentence in new paragraph .10 clarifies that the guidance discussed in new paragraph .10 might also be applicable to a party identified in paragraph .02

		(i.e., the person that gave the member the records). So instead of having to add this clarification to items a. through c. of this paragraph, the task force proposes the reference to “client” be removed from items a. through c. since the scope of parties is already clarified in the lead in sentence.

Text of proposed revised interpretation "Records Requests" (clean)

(Clean version with task force's proposed revisions)

1.400.200 Records Requests

Terminology

.01 The following terms are defined here solely for use with this interpretation:

a. A client includes current and former clients.

b. A member means the *member* or the *member's firm*.

c. Client-provided records are accounting or other records, including hardcopy and electronic reproductions of such records, belonging to the client that were provided to the member by, or on behalf of, the client.

d. Member-prepared records are accounting or other records that the member was not specifically engaged to prepare and that are not in the client's books and records or are otherwise not available to the client, thus rendering the client's financial information incomplete. Examples include adjusting, closing, combining, or consolidating journal entries (including computations supporting such entries) and supporting schedules and documents that the member proposed or prepared as part of an engagement (for example, an audit).

e. Member's work products are deliverables set forth in the terms of the engagement, such as tax returns.

f. Working papers are all other items prepared solely for purposes of the engagement and include items prepared by the

i. member, such as audit programs, analytical review schedules, and statistical sampling results and analyses.

ii. client at the request of the member and reflecting testing or other work done by the member.

g. Making records available means providing the records in any format usable and accessible, whether electronic or otherwise, regardless of the format in which they were received.

h. Beneficiary is a person or entity for which the engaging entity has requested the member to perform professional services.

Applicability

.02 When a person or entity engages a member to perform *professional services* (engaging

entity) with respect to a beneficiary, the member will be considered in compliance with the requirements of this interpretation related to client-provided records if the member makes these records available to the person or entity that provided the records to the member, or individual designated or held out as the entity's or individual's representative.

.03 The member will be considered in compliance with the requirements of this interpretation related to member-prepared records and a member's work products if the member makes such records and work products available to the beneficiary, or individual designated or held out as the beneficiary's representative . For example, if a company engages a member to perform personal tax services for the benefit of its executives, the member would be in compliance with the interpretation if the member made the tax returns available to the executives (see the "Confidential Client Information Rule" [1.700.001]).

.04 When an engaging entity engages a *member* to perform *professional services* with respect to another entity that is not the beneficiary of the professional services, absent an agreement stating otherwise, the member would be in compliance with the requirements of this interpretation related to a member's work products if the member made such work products available to the engaging entity, or individual designated or held out as the engaging entity's representative. For example, if a company engaged a member to value the assets of another company for a possible acquisition, absent an agreement stating otherwise, the member would be in compliance with this interpretation if the member made the valuation report available only to the engaging entity.

Interpretation

.05 Members must comply with the rules and regulations of authoritative regulatory bodies, such as the member's state board(s) of accountancy, when the member performs services for a client and is subject to the rules and regulations of such regulatory bodies. For example, a member's state board(s) of accountancy may not permit a member to withhold certain records, even though fees are due to the member for the work performed. Failure to comply with the more restrictive provisions of the applicable regulatory body's rules and regulations concerning the return of certain records would constitute a violation of this interpretation.

.06 When an initial request for client-provided records is received, the member should make those records in the member's custody or control available to the person or entity that provided the records to the member. The member may charge a reasonable fee for the time and expense incurred to retrieve, copy, and ship such records; however, the client-provided records may not be withheld due to non-payment of such fees.

.07 A member and the client or beneficiary may agree to terms other than those stated in this paragraph. When this occurs, the member should respond in accordance with such agreement. Otherwise, a member should respond to a request for member-prepared records or a member's work products that are in the member's custody or control and that

have not previously been provided to the client or beneficiary as follows:

a. The member should make available member-prepared records relating to a completed and issued work product; however, such records may be withheld if fees are due to the member for that specific work product.

b. Member's work products should be made available, however, such work products may be withheld if

i. fees are due to the member for the specific work product;

ii. the work product is incomplete;

iii. for purposes of complying with professional standards (for example, withholding an audit report due to outstanding audit issues); or

iv. threatened or outstanding litigation exists concerning the engagement or member's work.

.08 Once a member has complied with paragraphs .02 through .07, he or she is under no ethical obligation to

a. comply with any subsequent requests to again make records or copies of records available. However, if after complying with a request, a loss of records due to a natural disaster or an act of war is experienced, the member should comply with an additional request to make such records available if practicable.

b. retain records for periods that exceed applicable professional standards, state and federal statutes and regulations, and contractual agreements relating to the service performed. [Prior reference: paragraph .02 of ET section 501]

c. make the records available to any other associated parties such as the general partner, majority shareholder, or spouse. [Prior reference: paragraphs .377–.378 of ET section 591]

.09 Working papers are the member's property, and the member is not required to make such information available. However, state and federal statutes and regulations and contractual agreements may impose additional requirements on the member.

.10 In fulfilling a request for the member's copy of client-provided records, that was previously provided to the client or a party identified in paragraph .02, member-prepared records, or a member's work products, the member may

a. charge a reasonable fee for the time and expense incurred to retrieve, copy and ship such records and require payment before the member makes the records available.

b. make the requested records available in any format usable and accessible. However, the member is not required to convert records that are not in electronic format to electronic format. If the records are requested in a specific format and the records

are available in such format within the member's custody and control, the request should be honored. In addition, the member is not required to make formulas available, unless the member was engaged to make such formulas available as part of a completed work product or the formulas were used to create member-prepared records without which the client's financial information would be incomplete.

c. make and retain copies of any records that the member already made available.

.11 A member who is required to make records available should comply with the request as soon as practicable but, absent extenuating circumstances, no later than 45 days after the request is made.

.12 The fact that the statutes of the state in which the member practices grant the member a lien on certain records in his or her custody or control does not relieve the member of his or her obligation to comply with this interpretation. [Prior reference: paragraph .02 of ET section 501]

.13 A member would be considered in violation of the "Acts Discreditable Rule" [1.400.001] if the member does not comply with the requirements of this interpretation.

Text of proposed revised interpretation "Records Requests" (red line)

Additions to the extant interpretation that were included in the exposure draft appear in ***bold italic*** and deletions in ~~strikethrough~~.

Additions made to the exposure draft version appear in ***purple bold italic*** and deletions are in ~~double strikethrough~~.

1.400.200 Records Requests

Terminology

.01 The following terms are defined here solely for use with this interpretation:

a. A client includes current and former clients.

b. A member means the *member* or the *member's firm*.

c. Client-provided records are accounting or other records, including hardcopy and electronic reproductions of such records, belonging to the client that were provided to the member by, or on behalf of, the client.

d. Member-prepared records are accounting or other records that the member was not specifically engaged to prepare and that are not in the client's books and records or are otherwise not available to the client, thus rendering the client's financial information incomplete. Examples include adjusting, closing, combining, or consolidating journal entries (including computations supporting such entries) and supporting schedules and documents that the member proposed or prepared as part of an engagement (for example, an audit).

e. Member's work products are deliverables set forth in the terms of the engagement, such as tax returns.

f. Working papers are all other items prepared solely for purposes of the engagement and include items prepared by the

i. member, such as audit programs, analytical review schedules, and statistical sampling results and analyses.

ii. client at the request of the member and reflecting testing or other work done by the member.

g. ***Making records available means providing the records in any format usable and accessible, whether electronic or otherwise, regardless of the format in***

which they were received.

h. ***Beneficiary is a person or entity for which the engaging entity has requested the member to perform professional services.***

Applicability

.02 When a person or entity engages a *member* to perform *professional services* (engaging entity) with respect to ~~or for the benefit of another person or entity~~ ***a beneficiary***, the *member* will be considered in compliance with the requirements of this interpretation related to client-provided records if the *member* ~~returns~~ ***makes*** these records ***available*** to the person or entity that ~~gave~~ ***provided*** the records to the member***, or individual designated or held out as the entity's or individual's representative***.

.03 ~~When an engaging entity engages a *member* to perform *professional services* for the benefit of another person or entity (beneficiary), t~~ ***T***he *member* will be considered in compliance with the requirements of this interpretation related to ***member-prepared records and*** a *member's* work products if the *member* ~~provides~~ ***makes*** such ~~work products~~ ***records and work products available*** to the beneficiary***, or individual designated or held out as the beneficiary's representative***. For example, if a company engages a *member* to perform personal tax services for the benefit of its executives, the *member* would be in compliance with the interpretation if the *member* ~~provided~~ ***made*** the tax returns ***available*** to the executives (see the "Confidential Client Information Rule" [1.700.001]).

.04 When an engaging entity engages a *member* to perform *professional services* with respect to another entity that is not the beneficiary of the *professional services*, absent an agreement stating otherwise, the *member* would be in compliance with the requirements of this interpretation related to a *member's* work products if the *member* ~~provided~~ ***made*** such work products ***available*** to the engaging entity***, or individual designated or held out as the engaging entity's representative***. For example, if a company engaged a *member* to value the assets of another company for a possible acquisition, absent an agreement stating otherwise, the *member* would be in compliance with this interpretation if the *member* ~~provided~~ ***made*** the valuation report ***available*** only to the engaging entity.

Interpretation

.05 Members must comply with the rules and regulations of authoritative regulatory bodies, such as the member's state board(s) of accountancy, when the member performs services for a client and is subject to the rules and regulations of such regulatory bod~~y~~***ies***. For example, a member's state board(s) of accountancy may not permit a member to withhold certain records, even though fees are due to the member for the work performed. Failure to comply with the more restrictive provisions of the applicable regulatory body's rules and regulations concerning the return of certain records would constitute a violation of this interpretation.

.06 ~~The member should return client-provided records in the member's custody or control to the client at the client's request.~~ ***When ~~a client makes~~ an initial request for client-provided records is received, the member should ~~return~~ make those records in the member's custody or control available to the person or entity that provided the records to the member ~~to the client~~. ~~Such client-provided records cannot be withheld regardless of nonpayment of fees. Further, although the~~ The member may charge ~~the client~~ a reasonable fee for the time and expense incurred to retrieve, copy, and ship such records~~,~~; however, the client-provided records may not be withheld ~~or delayed~~ due to non-payment of such fees.***

.07 ~~Unless a~~ ***A*** member and the client ***or beneficiary may agree to terms other than those stated in this paragraph. When this occurs, the member should respond in accordance with such agreement. Otherwise,*** ~~have agreed to the contrary,~~ ***a member should respond to*** ~~when a client makes~~ a request for member-prepared records or a member's work products that are in the member's custody or control and that have not previously been provided to the client, ***or beneficiary*** ~~the member should respond to the client's request~~ as follows:

a. The member should ~~provide~~ ***make available ~~to the client~~*** member-prepared records relating to a completed and issued work product ~~to the client~~, ~~except that~~ ***however,*** such records may be withheld if fees are due to the member for that specific work product.

b. Member's work products should be ~~provided~~ ***made available*** ~~to the client~~, ~~except that~~ ***however,*** such work products may be withheld ***if***

i. ~~if~~ fees are due to the member for the specific work product;

ii. ~~if~~ the work product is incomplete;

iii. ~~if~~ for purposes of complying with professional standards (for example, withholding an audit report due to outstanding audit issues); or

iv. ~~if~~ threatened or outstanding litigation exists concerning the engagement or member's work.

.08 Once a member has complied with ***paragraphs .02 through .07*** ~~these requirements~~, he or she is under no ethical obligation to

a. comply with any subsequent requests to again ~~provide~~ ***make*** records or copies of records ~~described in~~ paragraphs .03–.04 ***available ~~to the client~~.*** However, if ***after*** ~~subsequent to~~ complying with a request, ~~a client experiences~~ a loss of records due to a natural disaster or an act of war ***is experienced***, the member should comply with an additional request to ~~provide ***(or make available)***~~ such records ***available if practicable***.

b. retain records for periods that exceed applicable professional standards, state and

federal statutes and regulations, and contractual agreements relating to the service performed. [Prior reference: paragraph .02 of ET section 501]

c. ~~.09~~

c. ~~A member who has provided ***(or made available)***~~ ***make the*** records ***available*** to ***any other associated parties*** ~~an individual designated or held out as the client's representative~~, such as the general partner, majority shareholder, or spouse~~, is not obligated to provide ***or make*** such records ***available*** to other individuals associated with the client~~. [Prior reference: paragraphs .377–.378 of ET section 591]

.09 ~~.10~~ Working papers are the member's property, and the member is not required to ~~provide~~ ***make*** such information ***available*** ~~to the client~~. However, state and federal statutes and regulations and contractual agreements may impose additional requirements on the member.

.10 ~~.11~~ In fulfilling a request for ~~client-provided records member-prepared records, or a member's work products~~, ~~***or***~~ ***the member's copy of client-provided records that was previously provided to the client or a party identified in paragraph .02, member-prepared records, or a member's work products*** ~~***(as referenced in paragraph .08),***~~ the member may

a. charge ~~the client~~ a reasonable fee for the time and expense incurred to retrieve ~~and~~***,*** copy ***and ship*** such records and require ***payment*** ~~that the client pay the fee~~ before the member ~~provides~~ ***makes*** the records ***available*** ~~to the client~~.

b. ~~provide~~ ***make*** the requested records ***available*** in any format usable ***and accessible*** ~~by the client~~. However, the member is not required to convert records that are not in electronic format to electronic format. If the ~~client requests~~ records ***are requested*** in a specific format and the records are available in such format within the member's custody and control, the ~~client's~~ request should be honored. In addition, the member is not required to ~~provide~~ ***make formulas available*** ~~***to***~~ ~~the client~~ ~~with formulas~~, unless ~~the formulas support the client's underlying accounting or other records or~~ the member was engaged to ~~provide~~ ***make*** such formulas ***available*** as part of a completed work product ***or the formulas were used to create member-prepared records without which the client's financial information would be incomplete***.

c. make and retain copies of any records that the member ***already made available*** ~~returned or provided to the client~~.

.11 ~~.12~~ A member who is required to return or ~~provide~~ ***make*** records ***available*** ~~to the client~~ should comply with the ~~client's~~ request as soon as practicable but, absent extenuating circumstances, no later than 45 days after the request is made.

.12 ~~.13~~ The fact that the statutes of the state in which the member practices grant the member a lien on certain records in his or her custody or control does not relieve the member of his or her obligation to comply with this interpretation. [Prior reference: paragraph .02 of ET section 501]

.13 ~~.14~~ A member would be considered in violation of the "Acts Discreditable Rule" [1.400.001] if the member does not comply with the requirements of this interpretation.

Text of proposed Qs & As related to records requests

Datafile requested when member engaged to prepare financial statements (not a bookkeeping engagement)

Question: The member was engaged to prepare the financial statements using information provided by the client. As part of the engagement, the member entered the trial balance information received from the client into a commercial off the shelf (COTS) software product (e.g., QuickBooks) to generate the financial statements. The member provided the client the financial statements and any supporting documents in hard copy form. The client has now switched CPAs and the client has requested the member send his new CPA the datafile. Must the member provide the datafile to the new CPA?

Answer: Since the member was not engaged to perform bookkeeping services for the client and only engaged to prepare the financial statements, unless the engagement letter states otherwise, the datafile is considered the member's workpaper since the financial statements are not considered incomplete without it. Therefore, the member is not required to provide the datafile to the client but is not prohibited from doing so.

Datafile requested when member engaged to prepare tax return (not a bookkeeping engagement)

Question: The member was engaged to prepare a tax return for a client. As part of the engagement, the member entered the information received from the client into a commercial off the shelf (COTS) software product (e.g., QuickBooks). The member provided the client copies of the tax returns and supporting documents in hard copy form. The client has now switched CPAs and the client has requested the member send the new CPA the datafile. Must the member provide the datafile to the new CPA?

Answer: Since the member was not engaged to perform bookkeeping services for the client and unless the engagement letter states otherwise, the datafile is considered the member's workpaper and therefore the member is not required to provide the datafile to the client.

Returning client records in another format than provided to member

Question: The member was engaged to prepare a tax return. The tax client dropped off their documents at the member's office. As part of the engagement, the member scanned the documents and then posted them to the member's portal. Did the member meet their obligation to return client-provided records to their client?

Answer: If the client was able to access the records they provided from the portal, then it can be concluded the member has met their obligation. If the client says they cannot access the portal or cannot download their files or they specifically request to have their original documents returned to them, then the member has not met their obligation.

Client requesting files be shipped

Question: The member was engaged to prepare a tax return. The tax client dropped off related documents at the member's office. The client then moved across the country and now wants the member to ship the original documents so the client can retain a new CPA to prepare the tax return.

Can the member either charge the client upfront to ship the client-provided records back to the client or require the client to collect the records at the member's office?

Answer: If the client requests that the member ship the client-provided records back to the client, the member can ask the client to pay the shipping fee prior to mailing. However, if the client does not pay the fee, the member is still required to comply with the request within 45 days.

If the client is not willing to pay the shipping, the member can ask the client if there is another format (such as electronic) that would be usable and accessible to the client.

Because the client is now located a significant distance from the member, requiring the client to pick up the records at the member's office would not meet the accessibility requirement.

Ultimately the member is responsible for complying with the request for the client-provided records within 45 days using any means necessary.

SEC convergence

Task force members

Jennifer Kary (chair), Anika Heard, Anna Dourkourekas, Cathy Allen, Chris Cahill, Lawrence Wojcik, William McKeown

Observers

George Dietz, Sonia Araujo, Karen Liu Pham, Bella Rivshin, Faith Kim

AICPA staff

Ellen Goria

Task force charge

The task force recommends the following as its charge:

> Evaluate the amended rules issued on October 16, 2020 by the SEC to determine whether any revisions to the code are required.

Question for committee

1. Does the committee have any suggested revisions to the proposed charge?

Reason for agenda item

The committee is asked to provide feedback on the task force's recommendations on how to revise the code for the revisions made by the SEC to its loan rules.

Task force activities

The task force met two times since December to develop the following recommendations related to the revisions made by the SEC to its loan rules. We have not yet begun discussing the revisions made by the SEC related to mergers and acquisitions.

Amendments to "substantial stockholder" and "audit client's officers and directors"

The SEC's final amended rules replace the phrase "substantial stockholders" with the phrase "beneficial owners (known through reasonable inquiry) of the audit client's equity securities where such beneficial owner has significant influence over the entity under audit". The proposing release indicated that this change would improve the rule by making it clearer and less complex.

In addition, the final amended rule incorporates guidance "regarding the reference to "audit client" when identifying associated persons in a decision-making capacity over the entity under audit, rather than the audit client. Under this approach, the independence analysis focuses on

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whether the associated person has decision-making capacity over the entity under audit rather than the audit client." This was achieved by using the phrase "audit client's officers or directors that have the ability to affect decision-making at the entity under audit."

The SEC believes these revisions make the guidance clearer and less complex, especially because the term "substantial stockholders" is not defined in Regulation S-X. The SEC noted that "Under this approach, the independence analysis focuses on whether the associated person has decision-making capacity over the entity under audit rather than the audit client."

To align the code with this scope, the task force recommends the phrase "…any officer or director of the attest client who has the ability to affect decision-making, or any individual with a beneficial ownership interest (known through reasonable inquiry) that gives the individual significant influence over the attest client" replace the extant phrase "any officer or director of the attest client, or any individual owning 10 percent or more of the attest client's outstanding equity securities or other ownership interests". This replacement was made to the "Loans" interpretation [ET 260.010] and the "Loans and Leases with Lending Institutions" interpretation [ET 1.260.020].

In addition, the task force recommends a conforming revision be made to paragraph .02 a. of the "Client Affiliates" interpretation [ET 1.224.010]. For readability purposes, the task force believes the entire phrase is not needed.

The task force's recommended revisions are reflected in **agenda item 4B**.

Question for the committee

2. Does the committee agree with the task force's recommended revisions?

Amendments to except student loans

The SEC's final amended rules provide that student loans will not impair independence provided they were obtained prior to becoming a covered person. According to the SEC's release, they believe obtaining a loan as a covered person poses a higher risk to the auditor's objectivity and impartiality and creates, at a minimum, an independence appearance issue that is not present when a non-covered person obtained a similar student loan from such audit client.

The release also indicated that initially the SEC did not want to extend the exception to a covered person's immediate family due to concerns that the amount of the student loan borrowings could be significant when considering student loans obtained for multiple immediate family members and as a consequence could impact the auditor's objectivity and impartiality. However, the SEC decided to expand the exception to include immediate family student loans as the mortgage exception applies to immediate family members and these loans could be

substantially more significant than student loans. The release clarifies that the loans covered by this exception are intended to be limited to cover "…loans for the covered persons' and their immediate family member's educational expenses … and not loans they undertake to pay for another person's educational expenses."

The task force recommends that student loans be permitted if the loan was obtained before becoming a covered member, which is consistent with the SEC's revision. Although the SEC's position is that these loans should be permitted if they are for immediate family and covered member's educational expenses, the task force does not believe it is necessary to limit the scope to only those individuals. The task force believes it is likely uncommon for covered members to obtain student loans for individuals outside of their immediate family and so are not specifying any limits on whose education expenses should be covered.

The task force's recommended revisions are reflected in the "Loans and Leases with Lending Institutions" interpretation [ET 1.260.020] in **agenda item 4B**.

Question for the committee

3. Does the committee agree with the task force's recommended revisions?

Amendment to reference mortgage loans in the plural

The SEC's final amended rules clarify that the relief provided for a mortgage loan was not intended to be limited to a single outstanding mortgage loan on a borrower's primary residence. To clarify this, the phrase "mortgage loans" replaced the phrase "a mortgage loan." We believe the intent of the code was to be consistent with this revision because

- the title of paragraph .02 "Loans and Leases with Lending Institutions" interpretation [ET 1.260.020] uses the term "Home mortgages" in plural and
- prior to the code's 2014 codification, the phrase used in the code was "home mortgages."

To make the code clear that it intends to include multiple loans including mortgages, the task force recommends clarifications be made to the "Loans and Leases with Lending Institutions" interpretation [ET 1.260.020]. The clarifications to this interpretation are reflected in **agenda item 4B**.

Question for the committee

4. Does the committee agree with the task force's recommended revisions?

Amendments for consumer loans

The SEC's final amended rules broaden the credit card provision so that credit card debt and other forms of consumer financing, such as retail instalment plans and home improvement loans that are not secured by a mortgage on a primary residence, would be excluded if the outstanding balance is $10,000 or less on a current basis. The SEC indicated that it did not modify the outstanding balance because it believes $10,000 remains a significant amount of money for any individual covered by the amendment and having an outstanding consumer loan or loans with an audit client in excess of this amount could impair the auditor's objectivity and impartiality.

The task force recommends that item *d*. of paragraph .04 of the "Loans and Leases with Lending Institutions" interpretation be revised to encompass the types of consumer financing borrowers routinely obtain for personal consumption, for example, retail installment loans, cell phone installment plans, and home improvement loans that are not secured by a mortgage on a primary residence. To do this, the task force proposes the term "consumer loans" be added and credit cards be listed as an example of this type of loan along with retail installment loans and home improvement loans. The task force believes overdraft reserve accounts are different than consumer loans and recommends these balances remain as separate items. The recommended revisions are reflected in **agenda item 4B**.

Question for the committee

5. Does the committee agree with the task force's recommended revisions?

Action needed

The committee is asked for input on the task force's recommended revisions.

Communications plan

To be developed once the project is further along.

Materials presented

- Agenda item 4B: Affected interpretations for the loan revisions

Affected interpretations for the loan revisions

Additions appear in ***bold italic*** and deletions in ~~strikethrough~~.

1.260.010 Loans

.01 If a covered member has a loan to or from an attest client, any officer or director of the attest client ***who has the ability to affect decision-making***, or any individual ***with a beneficial ownership interest (known through reasonable inquiry) that gives the individual significant influence over*** ~~owning 10 percent or more of~~ the attest client~~'s outstanding equity securities or other ownership interests~~, a self-interest threat to the covered 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 if the loan exists during the period of the professional engagement, except as provided for in the "Loans and Leases With Lending Institutions" interpretation [1.260.020] of the "Independence Rule."

1.260.020 Loans and Leases with Lending Institutions

.01 The "Loans" interpretation [1.260.010] of the "Independence Rule" [1.200.001] provides that a self-interest threat would not be at an acceptable level and independence would be impaired if a covered member had a loan to or from an attest client, any officer or director of the attest client ***who has the ability to affect decision-making***, or any individual ***with a beneficial ownership interest (known through reasonable inquiry) that gives the individual significant influence over*** ~~owning 10 percent or more of~~ the attest client~~'s outstanding equity securities or other ownership interests~~, except as provided for in this interpretation.

~~*Home mortgages, secured loans, and immaterial unsecured loans.*~~ *Secured loans, home mortgages, immaterial unsecured loans and student loans*

.02 The loans covered by paragraph .03 include secured loans, home mortgages, unsecured loans that are not material to the covered member's net worth (that is, immaterial unsecured loans) and student loans.

.03 ~~However, t~~***T***hreats would be at an acceptable level and independence would not be impaired if a covered member or his or her immediate family has ***any of the loans identified in paragraph .02*** ~~an unsecured loan that is not material to the covered member's net worth (that is, immaterial unsecured loan), a home mortgage, or a secured loan~~ from a lending institution attest client, if all the following safeguards are met:

a. The ~~home mortgage, secured loan, or immaterial unsecured loan was~~ ***loans were*** obtained under the lending institution's normal lending procedures, terms, and requirements. In determining when the ~~home mortgage, secured loan, or immaterial unsecured~~ loan**s** ~~was~~ ***were*** obtained, the date a commitment or line of credit is

granted must be used, rather than the date a transaction closes or funds are obtained.

b. The ~~home mortgage, secured loan, or immaterial unsecured~~ loan***s were*** ~~was~~ obtained

   i. from the lending institution prior to it~~s~~ becoming an attest client;

   ii. from a lending institution for which independence was not required and was later sold to an attest client;

   iii. ~~after May 31, 2002,~~ from a lending institution attest client by a borrower prior to his or her becoming a covered member with respect to that attest client; or

   iv. prior to May 31, 2002 and the requirements of the loan transition provision in www.aicpa.org/interestareas/professionalethics/community/downloadabledocuments/transistion%20periods.pdf are met.

c. After becoming a covered member, any ~~home mortgage, secured loan, or immaterial unsecured~~ loan***s*** must be kept current regarding all terms***,*** at all times, and the terms may not change in any manner not provided for in the original agreement. Examples of changed terms are a new or extended maturity date, a new interest rate or formula, revised collateral, and revised or waived covenants.

d. The estimated fair value of the collateral for ~~a~~ home mortgage***s*** or other secured loan***s*** must equal or exceed the outstanding balance during the term of the home mortgage***s*** or other secured loan***s***. If the estimated fair value of the collateral is less than the outstanding balance of the home mortgage***s*** or other secured loan***s***, the portion that exceeds the estimated fair value of the collateral may not be material to the covered member's net worth.

Loans to partnerships and other similar entities

.04 For purposes of applying the loan provision in paragraph .02 when the covered member is a partner in a partnership, a loan to a limited partnership (or similar type of entity) or general partnership would be ascribed to each covered member who is a partner in the partnership on the basis of his or her legal liability as a limited or general partner if

a. the covered member's interest in the limited partnership, either individually or combined with the interest of one or more covered members, exceeds 50 percent of the total limited partnership interest, or

b. the covered member, either individually or together with one or more covered members, can control the general partnership.

Even if no amount of a partnership loan is ascribed to the covered member(s) previously identified, threats to compliance with the "Independence Rule" [1.200.001] would not be at an acceptable level and could not be reduced to an acceptable level through the application

of safeguards if the partnership renegotiates a loan or obtains a new loan that is not a permitted loan, as described in paragraph .04 of this interpretation. Accordingly, independence would be impaired.

Other loans and leases

.05 Threats would be at an acceptable level and independence would not be impaired if a covered member obtains one of the following types of loans or leases under the lending institution's normal lending procedures, terms, and requirements, provided the covered member complies with the terms of the loan or lease agreement at all times (for example, keeping payments current):

a. Automobile loans and leases collateralized by the automobile

b. Loans fully collateralized by the cash surrender value of an insurance policy

c. Loans fully collateralized by cash deposits at the same lending institution (for example, passbook loans)

d. Aggregate outstanding balances from ***consumer loans (for example,*** credit cards***, retail installment loans and home improvement loans)*** and overdraft reserve accounts that have a balance of $10,000 or less after payment of the most recent monthly statement made by the due date or within any available grace period

Other matters

.06 Members should consider that certain state and federal agencies may proscribe more restrictive requirements over lending institutions that are subject to their oversight and that, in turn, impose more restrictive requirements upon members that perform attest engagements for these lending institutions. For example, the Securities and Exchange Commission (SEC) proscribes more restrictive requirements over members providing attest services to lending institutions and broker-dealers within their purview. [Prior reference: paragraph .07 of ET section 101 and paragraphs .150–.151 of ET section 191]

.07 Covered members may be subject to additional restrictions, as described in the "Depository Accounts" interpretation [1.255.010] and the "Member of a Credit Union" interpretation [1.280.040] of the "Independence Rule" [1.200.001].

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 ***any individual with a beneficial ownership interest*** ~~a 10 percent or more owner~~ of an affiliate of a financial statement attest client during the period of the professional engagement ***provided the individual does not have decision-making ability or significant influence over the financial statement attest client*** ~~unless the covered member knows or has reason to believe that the individual 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 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" 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" 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.

.03 A member must expend best efforts to obtain the information necessary to identify the affiliates of a financial statement attest client. If, after expending best efforts, a member is unable to obtain the information to determine which entities are affiliates of a financial statement attest client, threats would be at an acceptable level and independence would not be impaired if the member (a) discusses the matter, including the potential impact on independence, with those charged with governance; (b) documents the results of that discussion and the efforts taken to obtain the information; and (c) obtains written assurance from the financial statement attest client that it is unable to provide the member with the information necessary to identify the affiliates of the financial statement attest client.

.04 This interpretation does not apply to a financial statement attest client that is covered by the "Entities Included in State and Local Government Financial Statements" interpretation [1.224.020] of the "Independence Rule" [1.200.001]. [Prior reference: paragraph .20 of ET section 101]

Acquisitions and Other Business Combinations that involve a financial statement attest client

.05 The exception in paragraph .06 would apply when (1) a financial statement attest client is acquired during the period of the professional engagement by either a non-client or a nonattest client (acquirer), (2) the attest engagement covers only periods prior to the acquisition, and (3) the member or member's firm will not continue to provide financial statement attest services to the acquirer.

.06 Independence will not be considered impaired with respect to the financial statement attest client because a member or member's firm has an interest in or relationship with the acquirer that may otherwise impair independence as a result of the requirements of this interpretation or the definition of "attest client" (as it relates to the entity or person that engages the member or member's firm to perform the attest engagement).

.07 Notwithstanding paragraph .06, a member should give consideration to the requirements of the “Conflicts of Interest” interpretation [1.110.010], under the “Integrity and Objectivity Rule” [1.100.001], with regard to any relationships that the member knows or has reason to believe exist with the acquirer, the financial statement attest client, or the firm.

.08 A member should refer to paragraph .03 of “Application of the AICPA Code” [0.200.020] for guidance on circumstances involving foreign network firms.

Effective Date

.09 Paragraphs .01–.04 are effective for engagements covering periods beginning on or after January 1, 2014. Early implementation is allowed.

[See Revision History Table.]

IESBA update

Reason for agenda item

This agenda item supplements the quarterly verbal update on IESBA's activities and provides project summaries for some of IESBA's projects and task forces.

Materials presented

- Agenda item 5B: Nonassurance services
- Agenda item 5C: Fees
- Agenda item 5D: Engagement team

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Nonassurance services

Project description

Key changes proposed in non-assurance services exposure draft

The key changes proposed in IESBA's non-assurance services (NAS) exposure draft:

- A prohibition on providing NAS to an audit client that is a public interest entity (PIE) if a self-review threat to independence will be created.
- Further tightening of the circumstances in which materiality may be considered in determining the permissibility of a NAS.

  The concept of materiality is retained as an example of a factor that a firm considers in evaluating the level of an identified threat.

  However, in the case of audit clients that are PIEs, firms and network firms will no longer be permitted to provide a NAS to an audit client on the grounds that the outcome or the result of the NAS will not be material to the financial statements (i.e., the materiality qualifier is withdrawn). In a few instances, the materiality qualifier is withdrawn for audit clients that are non-PIEs.

- Strengthened provisions for identifying and evaluating threats, including those that are created by the provision of multiple NASs to the same audit client.
- Strengthened provisions regarding auditor communication with those charged with governance (TCWG), including, for PIEs, a requirement for NAS pre-approval by TCWG.
- Stricter requirements regarding the provision of some NAS, including certain tax and corporate finance advice.
- Inclusion of enhanced guidance to assist firms in evaluating the level of threats to independence when providing NAS to audit clients. This includes more robust provisions to address threats, including new application material to emphasize how a firm might deal with situations when a safeguard is not available.

PEEC input on the project

PEEC's comment letter requested that IESBA implement a procedure that will allow for commenters to provide additional input on the NAS proposal once the PIE project is finalized because the NAS proposal significantly expands the prohibition of nonassurance services that professional accountants can provide to their PIE audit clients.

Additional comments in PEEC's letter were as follows:

- The proposal supports the enhanced prohibitions for PIEs because of the heightened

expectations of stakeholders but does not provide adequate evidence to support the conclusion that safeguards cannot be applied when the self-review threat is identified.

- Paragraph 600.11 A2[1] could be interpreted to mean that the self-review threat would be created even if there is a remote possibly of the criteria existing.

  To address this concern, PEEC recommend deleting the phrase "there is a risk that" so the professional accountant can factor in the probability of the criteria existing. If, however, IESBA prefers to retain a qualifier, PEEC recommended a qualifier that is more closely aligned to the phrase "will create a self-review threat."

- Clarify paragraph 600.12 A1[2] that describes advice and recommendations. As written, it could be interpreted as prohibiting a professional accountant from providing any advice or recommendations.

- Delete or clarify the example in the accounting and bookkeeping services section that states "Providing technical advice on accounting issues, including the conversion of existing financial statements from one financial reporting framework to another."

  As written, it could be read to mean that typical communications between a firm and an audit client related to technical accounting matters that take place as part of the audit process could result in the performance of a nonassurance service that creates a self-review threat. We recommend this example not be included in this paragraph.

- PEEC supports the threshold used in paragraph R604.4, "have a basis in tax law that is likely to prevail" provided it is not intended to be higher than the U.S. threshold "more likely than not."[3]

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[1] Paragraph 600.11 A2: Identifying whether the provision of a non-assurance service to an audit client will create a self-review threat involves determining whether there is a risk that (*a*) the results of the service will affect the accounting records, internal controls over financial reporting, or the financial statements on which the firm will express an opinion, (*b*) in the course of the audit of those financial statements, the results of the service will be subject to audit procedures, and (*c*) when making an audit judgment, the audit team will evaluate or rely on any judgments made or activities performed by the firm or network firm in the course of providing the service.

[2] Paragraph 600.12 A1: Providing advice and recommendations might create a self-review threat. Whether providing advice and recommendations creates a self-review threat involves making the determination set out in 600.11 A2. This includes considering the nature of the advice and recommendations and how such advice and recommendations might be implemented by the audit client. If a self-review threat is identified, application of the conceptual framework requires the firm to address the threat where the audit client is not a public interest entity. If the audit client is a public interest entity, paragraph R600.14 applies.

[3] The threshold "more likely than not" is used in PCAOB Rule 3522(b) *Tax Transactions*; Internal Revenue Code (IRC) Regulation Sec. 1.6662-4(d) *Substantial understatement of income tax. – Substantial authority*; IRC section 6694 - *Understatement of taxpayer's liability by tax return preparer* and Treasury Department Circular 230, Regulations Governing Practice before the Internal Revenue Service- § 10.34 - *Standards with respect to tax returns and documents, affidavits and other papers*.

- Do not delete the materiality qualifier for non-PIEs for tax advisory or tax planning services.

  That is, auditors of non-PIES should be permitted to continue to provide tax advisory or tax planning services to a non-PIE audit client if outcome or consequences of the tax advice will not have a material effect on a non-PIE's financial statements on which the firm will express an opinion.

- Add an example of a permitted litigation support service. PEEC also recommended the added example be internal investigations, such as investigations directed by those charged with governance.

  Internal investigations are consistent with the role of an independent professional accountant and could improve audit quality.

- Add an additional exception to expert witness services that is consistent with the exception in the AICPA code related to expert witness services that are provided to a large group of plaintiffs or defendants that includes one or more audit clients of the firm, provided that at the outset of the engagement certain conditions are met.
- Remove the example ""Performing due diligence in relation to potential acquisitions and disposals." in the corporate finance service discussion because it is not a corporate finance service.

Status

During the December 2020 meeting, IESBA adopted the final nonassurance services proposals. The revisions to the IESBA code for NAS are effective December 15, 2022.

Following are some of the topics covered in the final non-assurance services proposals.

R604.4 and use of "likely to prevail"

November update to PEEC

R604.4 was exposed as a new provision and the exposure draft explained on page 33 that it would be applicable to all audit clients and was adapted from US PCAOB Rule 3522. However, instead of using the "at least more likely than not" threshold used by the PCAOB, the proposal used a "likely to prevail" threshold. The proposed language was

> A firm or a network firm shall not provide a tax service or recommend a transaction to an audit client if the service or transaction relates to marketing, planning, or opining in favor of a tax treatment that was initially recommended, directly or indirectly, by the firm or network firm, and a significant purpose of the tax treatment or transaction is tax avoidance, unless that treatment has a basis in applicable tax law and regulation that is likely to prevail.

PEEC's comment letter supported the threshold "have a basis in tax law that is likely to prevail" provided it was not intended to be higher than the U.S. threshold "more likely than not."

At its September meeting, the board heard that respondents generally supported[4] or conditionally supported[5] the phrase "likely to prevail" for the application material relating to the provision of tax planning and advisory services that will create a self-review threat in paragraph ED-604.12 A2[6].

Many respondents questioned the use of the term "likely to prevail."[7] Respondents[8] also questioned the use of the same term in ED-R604.4 and they described it as "subjective" and lacking clarity."

At that same meeting the board also heard the following substantive comments and suggestions:

- The term "more likely than not" should be used in place of "likely to prevail" because it is more prevalent in accounting literature (e.g., the analogous PCAOB Rule 3522).

  Commenters suggested that IESBA consider making it clear that the phrases "more likely than not" and "likely to prevail" are equivalent.[9]

- The threshold of what is "likely to prevail" should be prescribed, for example, under US federal tax practice where "more likely than not" is better than 50 percent likelihood that the tax authority will accept a tax position. Additionally, it was not clear how these thresholds would link to the proposals.[10]
- A respondent[11] interpreted the term "likely to prevail" as meaning that tax services are

[4] Regulators/ MG: IRBA, MAOB, NASBA, UKFRC; Public Sector Organizations: AGNZ, AGSA, GAO; Independent NSS: APSESB, XRB; PAOs/ NSS: BICA, EFAA, IAA, ICAB, ICAG, ICAI, ICAS, ICPAR, ICPAU, IMCP, IPA, JICPA, NBAAT, SAICA, SAIPA, ZICA; Firms: BDO, Crowe, DTTL, EY, GTIL, Mazars, Moore, RSM; Others: CAQ.

[5] PAOs/ NSS: ACCA/CAANZ, AE, AICPA, CNCC, CPAC, ICAEW, MICPA; Firms: KPMG, PwC.

[6] Regulators/ MG: MAOB, NASBA; Independent NSS: APESB; PAOs/ NSS: ACCA-CAANZ, BICA, CPAC, EFAA; Firms: Crowe, DTTL, GTIL, Moore, Nexia.

[7] Regulators/ MG: IRBA, UKFRC; Public Sector Organizations: AGNZ, AGSA, GAO; Independent NSS: XRB; PAOs/ NSS: AE, AICPA, ASSIREVI, CAI, CNCC, CPAA, IDW, WPK; Firms: BDO, BKTI, EY, KPMG, Mazars, Nexia, PwC, RSM; Others: SMPC.

[8] Regulators/ MG: IRBA, NASBA, UKFRC; Independent NSS: APESB, PAOs/ NSS: AICPA, CAI, CNCC, CPAC, EFAA; Firms: BDO, BKTI, DTTL, KPMG, Mazars, Nexia; Others: SMPC.

[9] Firms: DTTL.

[10] Regulators/MG: NASBA.

[11] PAOs/NSS: EFAA

permissible whenever national or tax law allows.

- One respondent[12] suggested the IESBA consider deleting the term “likely to prevail” from the code, citing the concerns about its subjective nature.

The board discussed the threshold and took a straw poll regarding preference of the thresholds. By staff’s count

- 7 board members preferred the “more likely than not” threshold.
- 2 (1 board member and 1 PIOB member) preferred a higher standard that implied a clear probably that the advice will prevail.
- 2 board members believed that translating the “more likely than not” threshold would be difficult for their jurisdictions.

The task force developed a revised draft with the feedback from the September 2020 board meeting. The revised draft that went to the board and technical advisors on October 21, 2020 called for the firm to have confidence that the proposed treatment has a basis in applicable tax law and regulation that is likely to prevail and reads as follows (revisions are marked from exposure):

> A firm or a network firm shall not provide a tax service or recommend a transaction to an audit client if the service or transaction relates to marketing, planning, or opinion in favor of a tax treatment that was initially recommended, directly or indirectly, the firm or *a* network firm, and a significant purpose of the tax treatment or transaction is tax avoidance, unless ***the firm has confidence that the proposed*** ~~that~~ treatment has a basis in applicable tax law and regulation that is likely to prevail.

The explanation that accompanied this revision explained that

> The TF believes that the circumstances being addressed in §R604.4 and §604.12 A2 require a threshold that is a greater than just over 50% (i.e. 50.1% would **not** be acceptable). The TF's reasons are as follows: (i) In both paragraphs, the Code is concerned with situations where a firm will be expected to provide assurance on the output of work/advice that that firm has provided. (ii) The test in accounting and other standards is not appropriate because the circumstances contemplated in such standards apply to accountants in the general course of practice - and not where a firm is expected to provide an assurance opinion; (iii) In the two situations where the test is used, the objective is to set a threshold that eliminates or substantially reduces risk - (a) §R604.4 addresses the situation where an audit firm has recommended a tax treatment or transaction for the purpose of tax avoidance; (b) §604.12 A2 establishes the

[12] Regulators/MG: IRBA

circumstances in which the provision of tax advice and tax planning services will not create a self-review threat. The level of confidence required to warrant the conclusion that no self-review threat will be created must, in the TF's view be high. The TF's views were explained to the Forum of Firms. While there was support for 'more likely than not to prevail' (primary because it was established terminology), there was greater support for 'plain English' rather than language that has a technical meaning. The TF has also had regard to concerns that the subtleties of some formulations would not be able to be translated.

Because it appears the scope of services covered by R604.4 is significantly more robust than initially understood, is an outright prohibition, and applies to both PIEs and non-PIEs, staff recommended to the task force that the scope of R604.4 be adjusted to align with PCAOB Rule 3522 to cover only aggressive tax position transactions.

Staff recommended that IESBA request that the Tax Planning and Related Services Working Group perform fact finding about what other services should be covered by R604.4.

This would allow for a transparent discussion of the threats to independence, clear understanding of the services covered, and greater compliance/less noncompliance.

However, if the task force did not agree with staff's recommendation, then staff recommended the task force provide robust application guidance that will provide the necessary clarity so firms will understand what services are prohibited.

Examples of clarity include what services are covered and what is meant by "a significant purpose" and "likely to prevail." Staff also suggested the task force consider not extending the prohibition to entities that are not PIEs.

February update to PEEC regarding December IESBA decisions

Terminology

IESBA acknowledged during its December 2020 meeting the challenges presented by using the phrase "likely to prevail," which differs from "more likely than not," used in PCAOB Rule 3522, US tax law, and international accounting standards.

However, IESBA considered the difference necessary to be responsive to feedback from the September 2020 meeting that an audit firm should have a higher level of confidence than a tax provider when providing tax services to audit clients.

Changes for plain English

IESBA made the following revisions to R604.4 during its December 2020 meeting to be responsive to feedback from the Forum of Firms to use "plain English" that would be globally understandable and translatable to illustrate its intended threshold, (revisions are marked from

exposure):

> A firm or a network firm shall not provide a tax service or recommend a transaction to an audit client if the service or transaction relates to marketing, planning, or opining in favor of a tax treatment that was initially recommended, directly or indirectly, by the firm or network firm, and a significant purpose of the tax treatment or transaction is tax avoidance, unless ***the firm is confident that the proposed*** ~~that~~ treatment has a basis in applicable tax law ***or*** ~~and~~ regulation that is likely to prevail.

IESBA asked the task force to ensure that the basis for conclusion document and other non-authoritative materials prepared, clarify that the scope of this paragraph is tax shelters and should not be misconstrued as prohibiting the provision of tax services for non-PIE audit clients.

Acting as an expert witness in a class action

There was some concern expressed that once the 20 percent threshold is met, this service could not be provided to PIEs even if PIE audit clients represented only 1 percent of the total threshold. Currently, the SEC's independence rules do not permit these services.

Providing advice and recommendations as part of the audit process

It was confirmed that when advice and recommendations arising out of the normal course of an audit create a self-review threat for a PIE audit client, firms are exempt from applying the conceptual framework as long as the firm does not assume a management responsibility.

Firm is restricted in what it can communicate to TCWG

IESBA agreed to a revised simplified and more principle-based approach to the required communication. In this revised approach, if the firm cannot provide the relevant information regarding the proposed non-assurance service to TCWG for some reason, such as confidentiality laws or regulations, then the firm has to inform TCWG of the PIE that

- the provision of the service will not create a threat to the firm's independence from the PIE, or
- any identified threat is at an acceptable level or, if not, will be eliminated or reduced to an acceptable level.

To proceed, TCWG cannot disagree with the firm's conclusion. If TCWG do disagree, then the firm will need to decide whether to not perform the nonassurance services or the audit.

Scope of the self-review threat prohibition for PIE audit clients

During the December 2020 meeting, IESBA noted the following when discussing the scope of the self-review threat prohibition for PIE audit clients and their related:

- Paragraph R400.20 of the extant code should be applicable even when the self-review threat prohibition does not apply because the audit client is immaterial or is unlisted.

That is, where the audit team has reason to believe that a relationship or circumstance involving any other related entity of the client is relevant to the evaluation of the firm's independence from the client; the audit team is required to include such related entity in its assessment of independence. See tick mark * in the following table for applicable entities.

- The strengthened new provisions relating to firm communications with those charged with governance (TCWG) of a PIE audit client for a proposed non-assurance service to a related entity with control over the PIE audit client are applicable. See tick mark ^ in the following table for applicable entities.

	Does the self-review threat prohibition apply?		
Audit client by type	Audit client and its controlled related entities	Related entities with control over the audit client	Other related entities of the audit client
Listed PIE	Yes	Yes*^	Yes*
Unlisted PIE	Yes	No*^	No*

Accounting and bookkeeping services exemption

During the December 2020 meeting, IESBA agreed to a narrow exemption that allows a firm or a network firm to prepare statutory financial statements for certain related entities of a PIE audit client when specific conditions are met, including that the audit report on the group financial statements of the PIE audit client has already been issued. The task force chair believes that this condition, when combined with the others, does not create a self-review threat[13].

This exemption is necessary to provide relief to a PIE audit client that has smaller entities set up across different local jurisdictions globally where local regulators require the issuance of local statutory financial statements.

In these situations, the basis of accounting in that local jurisdiction is typically different from the basis of accounting in the jurisdiction where the PIE audit client filed its consolidated financial statements.

Generally, these smaller entities would require some assistance in the preparation of their local statutory financial statements, such as around the relevant locally required disclosures and footnotes. It was highlighted that it is seen to be in the public interest that appropriate expertise

[13] Some could view this as more of an example of permitted accounting and bookkeeping services as opposed to an exemption.

is made available for such smaller entities, as they may not have the resources or technical knowledge

Convergence considerations

As of January 26, 2021, IESBA had not issued the final standard and basis for conclusion document. Once these materials are issued, ethics division staff will evaluate the convergence efforts and meet with the IFAC Convergence and Monitoring Task Force to develop a recommendation for PEEC.

Fees

Project description

Objective

The objective of the International Ethics Standards Board for Accountants' (IESBA's) fees project is to review the provisions in the IESBA code pertaining to fee-related matters. The project responds to a public interest need for IESBA to deal with fee-related matters, including those that impact or are perceived to impact auditor independence, both independence of mind and independence in appearance.

Background

The project was informed by extensive fact-finding, which include research performed by an academic and a global stakeholder survey on the topic of fees. The results of this fact-finding are summarized in a final report that IESBA considered in June 2018.

In January 2020, IESBA issued an exposure draft proposing revisions to the code which include modifications to

- Articulate and address the issue of threats to independence created when fees are negotiated with and paid by the audit or assurance client.
- Clarify that the audit fee should be a standalone fee within the spectrum of total fees from the audit client so that the provision of services other than audit does not influence the level of the audit fee.
- Provide guidance for firms to evaluate and address the threats to independence created when a large proportion of total fees charged by the firm or network firms to an audit client is for services other than audit.
- Enhance the provisions regarding fee dependency both when audit clients are public interest entities (PIEs) and when they are non-PIEs, including establishing a threshold for addressing threats in the case of non-PIE audit clients. This paper refers to these thresholds as a bright line test.
- Require the firm to cease to be the auditor for a PIE audit client if circumstances of fee dependency continue beyond a certain period.
- Enhance transparency with regard to fee-related information for PIE audit clients to assist those charged with governance (TCWG) and the public in forming their views about the firm's independence.
- Enhance the robustness of guidance in the code regarding factors to evaluate the level of the threats created when fees are paid by an audit or assurance client and safeguards to address such threats.

PEEC input on the project

The committee submitted a comment letter that requested IESBA implement a procedure that will allow for commenters to provide additional input on the fees proposal once the PIE project is finalized since the fees proposal significantly expands the prohibition of non-assurance services that professional accountants can provide to their PIE audit clients. In addition to this global comment, the committee's comments explained that it believes the following:

- Disclosure of fees in the audit report may not address IESBA's concerns. The comment letter explained that
    - We believe the professional accountant's disclosure should be limited to reporting to those charged with governance (TCWG) and that any disclosure to third parties should be done by TCWG or in coordination with requirements of regulators; and that failure to disclose fees in the audit report should not result in an independence impairment and recommend this requirement be removed from the proposal.
    - If the proposals are adopted as exposed, we recommend specific guidance be provided regarding what information should be disclosed so that all stakeholders can make informed conclusions about auditors' independence. Without this additional clarification, we believe inconsistencies will arise and IESBA's desired outcome for informed conclusions will not be achieved.
    - If IESBA moves forward with requiring fees be disclosed in the audit report, we recommend IESBA coordinate with the IAASB to address the implications on existing audit and review standards.
- The significance of a client should be evaluated using a principles-based approach (as opposed to the bright-line test proposed). The comment letter explained that
    - For non-PIEs the proposed approach could
        - result in a firm failing to conduct an adequate assessment of its independence;
        - be subject to manipulation; and
        - place small firms at a disadvantage.
    - We recommend IESBA instead adopt a principles-based approach for non-PIEs that would allow for the professional accountant to apply judgment to determine whether an audit client is significant to the firm, office, practice unit, or partner of the firm.

      Such approach could include having firms consider implementing policies and procedures to identify and monitor significant clients to help mitigate possible threats to a member's objectivity and independence. We believe that the

principles-based approach would strike an appropriate balance by providing firms flexibility in evaluating the threats created by significant clients, especially given the additional limitations to non-assurance work proposed by the IESBA non-assurance services exposure draft. We pointed them to the principles-based approach outlined in the AICPA *Plain English Guide to Independence* as an example.

    - For non-PIEs, we do not believe it is necessary for IESBA to add as a possible safeguard "the existence of an independent committee which advises the firm on governance matters that might impact the firm's independence." Additionally, we believe this could pose operational challenges for most firms.
    - For PIEs we believe the mandatory firm rotation called for in R410.19 may act as a barrier for some firms to providing audit services to PIEs. Accordingly, we recommend IESBA eliminate the mandatory rotation until there is evidence to support its inclusion.
- We did not support the changes related to negotiation and payment of fees because we believe the extant IESBA code establishes sufficient and appropriate provisions to assist professional accountants and firms in addressing threats to independence that might be created by the negotiation of fees, level of fees charged, or payment of fees.

Status

September 2020 meeting

During the September 2020 meeting, IESBA discussed the comments raised during the exposure draft process. The most significant general comments raised were

- The ongoing revisions to the definition of PIE makes it difficult to comment fully on the proposals in the exposure draft as there might be issues for certain entities they cannot yet envision.
- The fees proposals move away from a principles-based code.

December 2020 meeting

During the December 2020 meeting, IESBA adopted the final fees proposals by a vote of 14 for and 1 against. The dissenting vote was because the board member believed the public would be better protected if the guidance was principles-based, as opposed to including a bright line.

The revisions to the code for fees is effective December 15, 2022.

Revisions made between September and December meetings

The revisions made to the proposals since September 2020 were:

- Removal of the proposed requirement regarding evaluation and re-evaluation of the threats created by fees paid by an audit client and instead, inclusion of application material that appropriately references to the pre-existing requirements in the conceptual framework.
- Highlighting, through inclusion of factors, that the level of the threats created by fees charged by network firms or pertaining to services delivered to related entities is generally expected to be lower.
- Clarification regarding the demonstrability of the cost savings achieved as a result of the provision of previous services that firms are allowed to consider when determining audit fees.
- Emphasizing the benefit to the client's stakeholders of the client making the required public disclosure of the information relating to fees, where this is not required by laws and regulations, and requiring firms to communicate with TCWG regarding the benefit of such disclosure.
- The disclosure of fees for the audit of the financial statements includes only fees paid by the firm and network firms.

  Firms are not required to disclose information about fees for other firms outside of the network.
- Providing exceptions from fee disclosure where there is no requirement to consolidate controlled entities in the group financial statements, e.g., in the case of private equity complexes.
- Providing exceptions from the fee disclosure in the case of certain subsidiaries and parent entities to avoid confusion and duplication of effort.
- A more flexible approach for firms to achieve transparency and including more examples of a suitable location for disclosure by the firm.

Convergence considerations

As of January 26, 2021, the final standard and basis for conclusion document have not been issued. Once IESBA issues these materials, staff will evaluate the convergence efforts and meet with the IFAC Convergence and Monitoring Task Force to develop a recommendation for the committee.

Engagement team

Project description

The IAASB changed the definition of engagement team in ISA 220 for quality management purposes to include component auditors that are not part of the network firm and service providers. This revision raised several questions with respect to compliance of these individuals with the International Independence Standards in the context of a group audit.

This project is to ensure that International Independence Standards provide clear and consistent guidance with respect to independence for

- engagement quality reviewers who are not in the firm or network;
- component auditors who are performing audit procedures and who are outside of the audit firm's network (i.e., individual independence requirements); and
- the firms that these component auditors are in (i.e., firm independence requirements).

The proposed ISA 600 (Revised), like the extant ISA 600, establishes a requirement for the group engagement partner to take responsibility for obtaining a confirmation from component auditors that ethical requirements relevant to the group audit engagement, including those related to independence, have been fulfilled.[1] If the component auditor does not meet the independence requirements relevant to the group audit, the proposed ISA 600 (Revised) requires the group engagement team to obtain sufficient appropriate audit evidence relating to the work performed at the component without involving that component auditor.[2]

Under the extant IESBA code, if a component auditor is from the same network as the group auditor, the component auditor will apply the same independence requirements applicable to the group engagement team when auditing a component. For example, if the parent entity is a public interest entity (PIE),[3] all network firms are required to comply with the provisions on non-assurance services (NAS) that apply to the PIE and its related entities (applying the related entity principle in paragraph R400.20).[4]

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1 Exposure Draft of Proposed ISA 600 (Revised) (ED-ISA 600), Special Considerations—Audits of Group Financial Statements (Including the Work of Component Auditors), paragraph 20(c)

2 ED-ISA 600, paragraph 22

3 The code defines a "public interest entity" as: (a) A Listed Entity; or (b)An entity: (i) Defined by regulation or legislation as a public interest entity; or (ii) For which the audit is required by regulation or legislation to be conducted in compliance with the same independence requirements that apply to the audit of listed entities. Such regulation might be promulgated by any relevant regulator, including an audit regulator.

4 Paragraph R400.20 states the following: As defined, an audit client that is a listed entity includes all of its related entities. For all other entities, references to an audit client in this Part include related entities over

In contrast, the IESBA code is effectively silent on the principles that should apply to a component auditor outside the group auditor's network. Accordingly, subject to a different agreement between the group auditor and the component auditor, the component auditor will apply the independence requirements in the IESBA code relevant to its audit client (i.e., the component). This would be the PIE provisions, where the component is a PIE, or more frequently, the non-PIE provisions if the component is not a PIE in its own right.

PEEC input on the project

AICPA staff welcomes PEEC's comments on the project including any concerns it believes should be monitored.

Status

At the December 2020 meeting, IESBA's Engagement Team – Group Audits Independence Task Force reported that there are a number of other matters that it still needs to consider including the following:

- Where resources have been obtained from a service provider (other than a non-network component auditor) for the performance of audit procedures on the group audit, the independence principles that should apply at the service provider level.
- The independence implications of how components are now conceptualized in proposed ISA 600 (Revised) based on the feedback received on the ISA 600 (Revised) exposure draft.
- A review of full or limited scope audits and their impact on the independence requirements for related entities of a component. Depending on the progression of ISA 600 (Revised), there may be implications based on the type of work performed, for example, on inventory observations when there is no self-review.
- A review of the NAS provisions in the context of group audits, subject to finalization of the NAS project.
- A review of the breaches provisions when there is a breach of independence at a non-network component auditor firm.

Following are the preliminary recommendations presented at the October 2020 meeting as well as any updates presented at the December 2020 meeting.

Engagement quality reviewers (EQRs)

Because the extant definitions of the terms "audit team," "review team," and "assurance team"

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which the client has direct or indirect control. When the audit team knows, or has reason to believe, that a relationship or circumstance involving any other related entity of the client is relevant to the evaluation of the firm's independence from the client, the audit team shall include that related entity when identifying, evaluating and addressing threats to independence.

scope in only EQRs within the firm or the network, the task force recommends these definitions be revised to scope in EQRs from outside of the firm or network.

Definition of engagement team and team

Preliminary recommendations (October 2020)

The task force's preliminary thinking was to align the definition of engagement team in the code with the revised definition of "engagement team" in ISA 220 (Revised). Because the code applies to both audit and other assurance engagements, the task force proposed bifurcating the term "engagement team" into two different terms to target: "audit engagements" and "other assurance engagements."

Given that the code also uses[5] or refers[6] to the term "review team" and defines that term with reference to the engagement team for the review engagement, the task force also tentatively proposed that a third term, "review engagement team," be introduced and defined.

One effect of aligning the proposed definition of "audit engagement team" with the definition of engagement team in ISA 220 (Revised) would be to make it explicit that the IIS definition applies to individuals from service providers who perform audit procedures on the engagement. The task force did not believe this would represent a change in practice because the extant code already defines individuals engaged by the firm or a network firm to perform audit procedures on the engagement to be part of the engagement team.

Updated recommendations (December 2020)

Taking into the account the feedback received from IESBA[7], the IESBA CAG[8] and a discussion with IAASB staff[9] related to this feedback, the task force has reconsidered its proposal to split the term "engagement team" into three separate terms for audits, reviews, and other assurance engagements. For simplicity, during the December 2020 meeting the task force proposed to do

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5 Paragraph 900.13

6 Paragraph 400.2

7 Questioned why the review ET would not include the same individuals as the audit ET, especially given that interim reviews feed into the audit and are often performed by the same individuals who perform the audit.

8 Questioned whether there was really a need to bifurcate the term into different terms to cater for the different types of engagements given that the distinction for review ET and assurance ET was fairly minimal.

9 The relevant review standards do not include a definition of review engagement team and was unlikely that the standards would be revised in the near future. The term "engagement team" in ISQM 1 applies to any team performing procedures on an engagement within the scope of ISQM 1 (i.e. an audit, review, other assurance or related services engagement). In ISQM 1, the IAASB has a more generic definition of ET which refers to the performance of procedures on an engagement "All partners and staff performing the engagement, and any other individuals who perform procedures on the engagement, excluding an external expert and internal auditors who provide direct assistance on an engagement."

the following:

- Use the generic term “team” to denote a team of individuals who perform an engagement. The impact of this would be
    - For extant references to **engagement team** in Part 3 → Changed to **team**.
    - For extant references to **engagement team** in Part 4A → terminology to be retained as **engagement team.**
    - For Part 4B, extant references to **assurance team** to be retained as **assurance team** only where the context implies individuals performing assurance procedures on the assurance engagement.
- Revise the definition of engagement team per the extant code to align with the definition of engagement team per ISQM 1, with additional guidance to clarify the nature of the various teams in reference to the different parts of the code. The definition would read as follows (changes marked from extant code):

> Engagement team: All partners and staff performing the engagement, and any ***other*** individuals ~~engaged by the firm or network firm~~ who perform ~~assurance~~ procedures on the engagement~~.~~, ~~This excludes~~ ***excluding an*** external expert~~s engaged by the firm or by a network firm~~ ***and internal auditors*** ~~The term “engagement team” also excludes individuals within the client’s internal audit function~~ who provide direct assistance on an ~~audit~~ engagement ~~when the external auditor complies with the requirements of ISA 610 (Revised 2013), *Using the Work of Internal Auditors*~~. ***In Part 4A, the term “engagement team” refers to individuals performing the audit or review procedures on the audit or review engagement. For further guidance on the definition of engagement team in the context of an audit of financial statements, see ISA 220 (Revised) issued by International Auditing and Assurance standards Board. In Part 4B, the term “engagement team” refers to individuals performing the assurance procedures on the assurance engagement***.

In response to this presentation, the PIOB representative at the December 2020 meeting asked the task force to consider including external specialists as members of the engagement team and so as a consequence, require them to be independent.

Individual independence

Preliminary recommendations (October 2020)

It was recommended that the same independence considerations that apply to individuals from component auditor firms within the network should be applied to component auditors outside of the group auditor’s network. This is because the work of the individuals from the non-network firms contributes to the audit opinion on the group financial statements just as much as the work

performed by individuals from component auditor firms within the network. It is believed that taking a consistent approach to personal independence, whether an individual is from a network firm or non-network firm, will eliminate any perception that the independence of component auditors on the engagement team outside the network is less important than that of component auditors on the engagement team within the network. In addition, since the concept of a component[10] under ED-ISA 600 is no longer limited to a corporate entity, the view that the IIS should also require independence of the individuals involved in the group audit engagement of any components that are not related entities.

Updated recommendations (December 2020)

During the December 2020 meeting, the task force presented a strawman for a new Group Audits section 405. The strawman required that all members of the engagement team be independent of the group audit client and indicated that the task force would consider providing guidance on what a related entity is for a component within the scope of ISA 600.

Firm independence

Preliminary recommendations (October 2020)

The task force believes that no new principles are required for component auditors within the group auditor's network because the IESBA code already requires network firms to be independent. Accordingly, the focus of the discussion was on firms that are outside of the group auditor's network. The general rule proposed is that a firm (and any of its network firms) that is outside of the group auditor's network, should

- be independent of the component it is auditing as well as any related entities that the component can control using the PIE or non-PIE standard that is applicable to the group audit client.
- apply the conceptual framework with respect to all other related entities of the component.

In addition, the task force believes the component firm should *not* have a financial interest in the group audit client when the group audit client is a PIE and does not believe that the level of the

10 ED-ISA 600 (Revised) defines a "component" as follows: "A location, function or activity (or combination of locations, functions or activities) determined by the group engagement team for purposes of planning and performing audit procedures in a group audit." Paragraph A4 of ED-600 notes that "the group engagement team uses professional judgment in determining the components for which audit procedures will be performed (by the group engagement team or component auditors on its behalf). The manner in which components are viewed for purposes of planning and performing a group audit may be influenced by the group structure, but may or may not be aligned with the way in which the group is organized, which could be, for example, by legal entities, geographic locations, or lines of business."

threats to independence would warrant going upstream of the group audit client, if the group audit client itself were not the ultimate holding entity, given the further degree of separation. This prohibition, however, would not extend to the component firm's network firms.

Updated recommendations (December 2020)

During the December 2020 meeting, the task force presented a strawman for a new Group Audits section 405. The strawman required a firm issuing the audit opinion on the group financial statements, and its network firms, be independent of the group audit client, its related entities [and any other components scoped in under proposed ISA 600 (Revised)]. It also indicated that the task force would monitor ISA 600 and propose any necessary changes and would consider whether to include the "chain of command" at the component auditor's firm when such firm is outside of the network.

For component audit firms that are outside of the network, the strawman also required the group engagement partner take responsibility for determining that component auditor firms have been made aware of relevant ethical requirements, including independence requirements, that are applicable given the nature and circumstances of the group audit engagement.

The strawman goes on to require the component auditor firm:

- Be independent of the component audit client
- Evaluate and address any relationships or circumstances it has that it knows or has reason to believe create a threat to its independence when such relationship or circumstance involves a related entity of the component audit client other than controlled related entities.
- Evaluate and address any interests or relationships a firm within its network has with a component audit client that it knows or has reason to believe create a threat to its independence.
- Comply with the independence provisions that apply to public interest entities with respect to the component audit client, when the group audit client is a public interest entity.

Convergence considerations

Staff's preliminary assessment is that while there may be some convergence efforts that will need to be taken, it is not clear whether those efforts will require standard setting or could be achieved by other means.

Staff's initial assessment of the definition of an attest engagement team in the AICPA code seems to be drafted broadly enough to include

- EQRs, as the definition states in part that the attest engagement team are "Those

individuals participating in the *attest engagement*, including those who perform concurring and ***engagement quality reviews***." (Emphasis added)

- component auditors, as the definition states in part that "The attest engagement team includes all employees and ***contractors retained by the firm who participate in the attest engagement,*** regardless of their functional classification (for example, audit, tax, or management consulting services)." (Emphasis added)

Agenda item 6A

Open meeting minutes – November 17, 2020

Professional Ethics Division
Professional Ethics Executive Committee

The Professional Ethics Executive Committee (PEEC or committee) held a duly called meeting on November 17, 2020. The virtual meeting convened at 10:00 a.m. and adjourned at 3:05 p.m.

Agenda materials for this meeting were made available to PEEC members and observers on November 4, 2020 and were posted to www.aicpa.org.

Contents

Attendance

Members

Brian Lynch, Chair

Catherine Allen

Christopher Cahill

Thomas Campbell

Robert Denham

Anna Dourdourekas

Anika Heard

Kelly Hunter

Sharon Jensen

Jennifer Kary

Jeff Lewis

Alan Long

William McKeown

James Newhard

Stephanie Saunders

Lewis Sharpstone

Lisa Snyder

Peggy Ullmann

Douglas Warren

Lawrence Wojcik

AICPA staff

James Brackens, Vice President – Ethics and Practice Quality

Toni Lee-Andrews, Director – Professional Ethics Division

Ellen Goria, Associate Director

Jennifer Clayton, Senior Manager

Michele Craig, Lead Manager

Summer Young, Lead Manager

John Wiley, Manager

Shannon Ziemba, Manager

Karen Puntch, Case Investigator

Hanna Mayle, Coordinator

Teresa Bordeaux, Lead Manager – Governmental Auditing & Accounting

Mike Glynn, Senior Manager – Audit and Attest Standards

Kelly Mullins, Manager–Support Services and Communications

Sarah, Brack, Manager

Emily Daly, Manager

Liese Faircloth, Manager

Jennifer Kappler, Manager

Henry Grzes, Lead Manager – Tax Practice and Ethics

Sue Hicks, Senior Manager – Employee Benefit Plan Audit Quality Center

Kristy Illuzzi, Technical Issues Committee (TIC) Staff Liaison

Iryna Klepcha, Manager

Melissa Powell, Manager

Michael Schertzinger, Manager

Elena Redko, Manager – Content Development and Management – MA

Barbara Andrews, Director – Forensics, Technology and Management Consulting

Guests

Sonia Araujo, PwC

Kent A. Absec, Idaho State Board of Accountancy

Arthur Auerbach, Arthur Auerbach CPA

Ian Benjamin, Chair, Enforcement Subcommittee

Claire Blanton, RSM US LLP

Lisa Brown, Ohio Society of CPAs

D. Boyd Busby, Alabama State Board of Public Accountancy

Allan Cohen, RSM US LLP

Giles T. Cohen, PwC

Colleen Conrad, NASBA

Karen Cookson, HUD OIG

Debbie Cutler, Debra A. Cutler CPA PC

James Dalkin, Government Accountability Office

George Dietz, PwC

Anna Durst, Nevada Society of CPAs

Dan Dustin, NASBA

Jason Evans, BDO

Wendy Garvin, Tennessee State Board of Accountancy

Jo Ann Golden, New York State Society of CPAs

Shelly Gower, Plante Moran

Andy Gripp, Crowe LLP

Mary Beth Halpern, Maryland Association of CPAs

Andy Mintzer, Hemming Morse, LLP

Angela Miratsky, BKD, LLP

Karen Moncrieff, EY

Christina Moser, Plante Moran

Jan Neal, Deloitte

Donna Oklok, Accountancy Board of Ohio

Jeff Olejnik, Wipfli LLP

Christine Piche', CliftonLarsonAllen

Rachel Reardon, Michigan Association of CPAs

Mark Reynolds, Creative Value Consulting

John Robinson, RSM US LLP

Anna Seto, KPMG

April Sherman, CliftonLarsonAllen

Rachel Sinks, CliftonLarsonAllen

Ola Marie Smith, State of Michigan

Annette Stalker, Stalker Forensics

Ivona Szady, Deloitte

Joseph Tapajna, University of Notre Dame

Jessica Tomc, EY

Paula Tookey, Deloitte

Pamela Ives Hill, Missouri Society of CPAs

Kelly Hnatt, External Counsel

David Holets, Crowe LLP

Karen Jones, PwC

Vassilios Karapano, Securities and Exchange Commission

Ken Kortas, Wipfli, LLP

Christopher Kosty, Schneider Downs & Co., Inc.
Kimberly Kuhl, KPMG

Holly Love, Deloitte Tax LLP

Shawn McCall, Georgia Society of CPAs

Nancy Miller, KPMG

Shelly Van Dyne, BDO

Sharron Waugh, Tennessee State Board of Accountancy

Les Williford, BDO

Michael Winter, Pennsylvania Institute of CPAs

Paula Young, EisnerAmper, LLP

Darlene Zibart, Kentucky Society of CPAs

Paul Ziga, Georgia State Board of Accountancy

Key votes in this meeting

Motion approved
Issuance of AICPA Professional Ethics Division: Strategy and Work Plan for 2021-2023

Motion failed
Re-exposure of the proposed Noncompliance With Laws and Regulations (NOCLAR) interpretation.

Welcome

Mr. Lynch welcomed the committee and discussed administrative matters.

NOCLAR

Mr. Denham updated PEEC on the task force's revisions to the proposed interpretations discussed at the August meeting including separate requirements for members in public practice. The task force made the following considerations and decisions:

- Whether the same requirements should apply for all attest services or whether more robust requirements should apply to certain attest services only, such as, financial statement audit and review services.

  The task force concluded that the guidance should be more robust for financial statement attest services.

- To use the term "financial statement attest services" for consistency throughout the interpretation and proposed defining this term.
- Regarding the pending issue discussed at the August meeting related to the exclusion of certain non-attest services, decided that the proposed interpretation should not apply to forensic accounting services, as a member may be hired to specifically address an identified NOCLAR.
- Regarding tax engagements, such as "client privilege" and "Kovel arrangements," concluded that tax services pursuant to the protection of IRC Section 7525 should be carved out and identified in the proposed interpretation. However, the task force did not specifically exclude "Kovel arrangements" because those engagements are not defined in the AICPA code or other professional standards.

The committee questioned whether there are other engagements that should be excluded from the proposed interpretation. Ms. Hnatt recommended including a question in the exposure draft on this topic. The goal would be to obtain additional feedback and definitions of litigation and

investigation engagements that fall under forensic services. This could provide an understanding that these services are inclusive.

Mr. Denham also provided the committee with an update on the Auditing Standards Board's (ASB's) activities:

- The ASB NOCLAR task force presented a draft of the proposed amendments at the ASB's October 2020 meeting with a request that the ASB vote on exposure.
- The ASB considered the proposed amendments but did not vote as scheduled and deferred exposure.

Committee members motioned, seconded and voted on re-exposing the NOCLAR exposure drafts. The motion failed and PEEC deferred re-exposure of the proposed NOCLAR interpretations in order to obtain greater understanding of the ASB's direction.

The task force will request re-exposure at the February 2021 meeting.

Records requests

After reviewing comments received on the May 1, 2020, exposure draft, the task force asked for PEEC's approval of changes to the "Records Requests" interpretation. Ms. Ullmann gave the update and the comments received back from the exposure draft were supportive overall.

PEEC requested further clarification and suggested task force draft some Qs & As related to requested datafiles and returning client-provided records.

There was no vote at this meeting to approve the revisions to the interpretation.

PEEC and division staff discussed the following in the meeting:

- Clarification around what format the files needed to be in when complying with an initial request for client provided records be returned to the client.
- The phrase "making records available." PEEC agreed with the use of this term.
- The phrase "usable and accessible" regarding the format of files. PEEC questioned whether it is the client or the member who determines if the format is usable and accessible and requested further clarification either in the interpretation itself or in a Q&A.
- The term "beneficiary." The task force recommended adding this term to the terminology section of the interpretation because doing so will make the guidance clearer. PEEC supported this but wants the term restricted to only professional services requested by an engaging entity to be performed for the benefit of another person or entity.
- Revisions to paragraph 10*b*. The purpose of these revisions was to clarify that formulas

need to be provided only when the member is engaged to make formulas available as part of a completed work product or when they are used to create a member-prepared record and the client's financial information would be incomplete if they were not made available.

- The assertion in paragraph .08*c* that after a member has provided records, there is no requirement to "make the records available to any other associated parties, such as the general partner, majority shareholder, or spouse." PEEC questioned whether this appropriate for spouses filing a joint tax return who subsequently separated or divorced. Should the member be required to provide records to both spouses, upon request? The task force will discuss this situation and, if appropriate, bring revisions for PEEC's consideration to the February 2021 meeting.
- Datafiles for a tax return preparation engagement. Clarification was requested on whether a member is required to provide a datafile in this circumstance.

The task force will report back on these matters during the February 2021 meeting, at which time it will also seek adoption of the revised "Records Requests" interpretation.

Strategy and work plan (SWP)

Ms. Lee-Andrews and Ms. Klepcha updated PEEC on this project and Mr. Lynch requested release to publish:

- The Planning Task Force (PTF) met once in the 3Q and updated the SWP to reflect feedback from PEEC after Ms. Sue Coffey's professional issues update in the August meeting.
- The PTF added three new member enrichment projects:
    - Protecting client confidentiality and data security. Though most commenters did not support protecting client confidentiality and data security when the SWP was issued, the pandemic has changed things. Many accounting firms and their clients are working remotely. This increases risks of intentional or unintentional disclosure of confidential information. Therefore, the PTF believes that the division should undertake a member enrichment project to provide non-authoritative guidance to increase data security awareness.
    - Gig employment. There is no guidance that specifically addresses whether gig workers are considered professional employees. The PTF believes that the division should undertake a member enrichment project to assist members in making this determination.
    - New services. Modern companies may outsource a key component of their business model to third parties and that organization's third-party relationships may pose various risks. In relation to this trend, CPAs are being asked to perform

new types of services, such as third-party assessments.

The PTF believes the division should undertake a member enrichment project to evaluate what provisions of the code apply when certain new services are rendered and whether any rules and interpretations should be updated to ensure the code is fit for purpose to be able to support the professional performing these services in a manner that protects the public interest.

Mr. Lynch asked the committee's approval to issue the AICPA Professional Ethics Division: Strategy and Work Plan for 2021-2023. Committee members moved, seconded and unanimously agreed to approve the issuance of the AICPA Professional Ethics Division: Strategy and Work Plan for 2021-2023.

Pooled employee plans (PEPs)

Ms. Goria reported to PEEC on this project:

- Staff has received questions related to PEPs, a new type of 401(k) multiple employer plan (MEP) created by Congress in the Setting Every Community Up for Retirement Enhancement (SECURE) Act of 2019, in which unrelated employers may participate and which is established by a pooled plan provider (PPP).
- To address these questions, staff worked with members of the AICPA Employee Benefit Plan Audit Quality Center, Mr. Lynch, and Ms. Dourdourekas to develop Qs & As to provide some guidance to members.

Question 1

Will a member need to be independent of the pooled plan provider when auditing the PEP?

This question arose because under item (*i*) of the affiliate definition, the code considers a participating employer an affiliate only when the employer is the plan administrator:

> *i.* The participating employer that is the plan administrator of a multiple employer employee benefit plan financial statement attest client.

Because the PPP will usually not be a participating employer, members were curious whether they should evaluate the situation using the conceptual framework or if they should conclude that the PPP was an affiliate since it is the plan administrator of the PEP.

Analysis and discussion

One of the division's existing Qs & As[1] explains that when it comes to a MEP, the participating sponsor that has overall responsibility for plan governance is the party that should be considered an affiliate of the plan. This is the party who oversees the day to day operations of

[1] Find this Q & A in Application of the independence rules to affiliates of employee benefit plans.

the plan, whether directly or by outsourcing.

Because PEP's are a type of MEP, the working group believes the PPP should be considered the affiliate of the PEP as under section 101(a)(3)(A)(i) of the SECURE Act the PPP is the plan administrator as well as a named fiduciary and is responsible for performing all administrative duties. Given this, it seems that the PPP should be considered an affiliate under item (*i*) as opposed to evaluating under the conceptual framework.

Because these plans go live on January 1, 2021 and because the Secretary of the Treasury has not yet issued the model plan language or guidance on the administrative duties and other actions required to be performed by a PPP, staff did not recommend a code revision at this time. Instead, staff recommended development of two new Qs & As.

The committee asked staff to edit the second FAQ to make it clearer that members are not required to monitor non-affiliates.

Question 2:

Does the member need to be independent of the PEP when a member's financial statement attest client is the PPP (or an entity controlling the PPP)?

This question arose because item (*j*) of the affiliate definition concludes that when a MEP is sponsored by a financial statement attest client (or an entity controlled by the financial statement attest client) the MEP is an affiliate.

> j. A single or multiple employer employee benefit plan sponsored by either a *financial statement attest client* or an entity *controlled* by the *financial statement attest client*. All participating employers of a multiple employer employee benefit plan are considered sponsors of the plan

So, members questioned whether the PPP, when not a participating employer, should be considered a sponsor and as such an affiliate under item (*j*) or if they should evaluate the relationship using the conceptual framework.

Analysis and discussion

Ms. Goria recommended that for purposes of item (*j*) of the affiliate definition, the PPP should be considered a sponsor and consequently an affiliate as opposed to evaluating the relationship using the conceptual framework. This conclusion is supported by

- Section 101(a)(3)(A)(i) of the SECURE Act. This section considers the PPP the plan administrator as well as a named fiduciary and is responsible for performing all administrative duties.
- The division's existing document *Application of the independence rules to affiliates of employee benefit plans*. The Qs & As in this document explain what a MEP is and

equates the plan sponsor to the participating employer that is the plan administrator. One Q&A in this document explains that the plan administrator is the entity that has overall responsibility for plan governance and is who oversees the day to day operations of the plan, whether directly or by outsourcing.

- the definition of plan sponsor[2] in the Employment Retirement Income Security Act (ERISA) which states in part that a plan sponsor includes the entity that "…maintains the plan."
- the plan governance discussion in paragraph .32 of the AICPA Guide *Employee Benefit Plans*.

Revision options

Options for revision of items (*i*). and (*j*). of the affiliate definition include the following:

- Revise the definition only if the Qs & As prove to be insufficient.
- Revise the definition because clarity in the enforceable standard is always helpful.
- Include revisions for items (*i*). and (*j*) the next time the affiliate definition is revised for something else.

Staff will bring the request back to the committee after the Secretary of the Treasury issues the model plan language or guidance on the administrative duties and other actions required to be performed by a PPP.

International Ethics Standards Board for Accountants updates

Mr. Mintzer reported to PEEC on the International Ethics Standards Board for Accountants (IESBA) activities for the following:

- Fees. This exposure draft generated 64 comment letters. Overall supportive.
- Nonassurance Services (NAS). This exposure draft generated 66 comment letters. Overall supportive.

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[2] The term "plan sponsor" means (i) the employer in the case of an employee benefit plan established or maintained by a single employer, (ii) the employee organization in the case of a plan established or maintained by an employee organization, or (iii) in the case of a plan established or maintained by two or more employers or jointly by one or more employers and one or more employee organizations, the association, committee, joint board of trustees, or other similar group of representatives of the parties who establish or ***maintain the plan.*** (emphasis added and source is https://www.law.cornell.edu/uscode/text/29/1002).

- Public interest entities (PIE)

Themes in the Fees and NAS comment letters

Lack of evidence

One of the criticisms received on the NAS exposure draft is that the rational for certain provisions (e.g., prohibiting NASs to PIEs that give rise to the self-review threat and bright line fee dependency) are purely optics as there is no empirical evidence to support them.

Effective date

Originally, the plan was for all three proposals (Fees, NAS and PIE) to have the same effective date and this was a common issue among commenters. In the September meeting, the IESBA discussed three possibilities:

1. All three effective December 2023
2. Non-PIE provisions effective December 2021 and PIE provisions effective December 2022
3. Non-PIE provisions effective December 2021 and PIE provisions effective December 2023

Option 3 is the PIE task force's recommendation, because it would allow for two years before the PIE provisions are effective, giving local bodies and firms additional time to implement.

Tax avoidance

The IESBA discussed the proposed guidance on tax avoidance, as highlighted in PEEC's open meeting agenda item 6B. The proposal as drafted currently seems to have moved to a very high degree of confidence.

Entities that fall under the PIE definition

The committee asked whether large private entities would fall under the definition of PIE. Mr. Mintzer believes the IESBA would want local jurisdictions to consider this question as it is trying to stay away from including any thresholds in the guidance. The committee requested that an analysis of entities that would fall under the PIE definition be added to the PIE project summary (agenda item 6C).

Engagement Quality Reviewer

IESBA has adopted guidance for this project and the final standard and basis for conclusion should be issued soon.

Engagement team

One question the engagement team project is dealing with is "What entities do component auditors need to be independent of when they are not part of the group auditor's network?"

Technology

This task force is developing guidance to address the recommendations from the phase 1 report issued by the Technology Working Group. Though many of the recommendations are for nonauthoritative guidance, the task force is looking to make some edits to the IESBA code. One such area that is being considered is independence and how the sale or leasing of technology to a client should be evaluated. Currently, the task force is exploring evaluating it as both a business relationship as well as the underlying service provided by the technology.

SEC update

Ms. Goria reported that the SEC issued revised independence rules.

The committee discussed whether to appoint a task force to consider SEC revisions to its independence rules and determine whether the code should be revised for any of these revisions:

- In the loan area, there are elements that would make SEC rules less restrictive than the code. For example, the SEC now permits student loans from an audit client, provided certain caveats are met. The SEC also broadened the $10,000 credit card provision to include all consumer loans.
- On the merger transition framework that the SEC issued, the code provides some guidance, but it is not as broad as the SEC's and so some could say the code is more restrictive.

Committee discussion

Because the SEC's changes will likely be effective before the task force concludes its work, the committee considered whether to and decided to issue a nonenforcement policy. This is consistent with what PEEC did in 2000 during the SEC's modernization effort.

PEEC also considered whether the policy should be evergreen or if PEEC should issue a specific policy for each situation.

The committee agreed that it was in favor of staff drafting a specific policy for the unique situation. The policy will conclude that the member will be in compliance with the code if the member implements and complies with the revised SEC's rules or our code.

The committee decided to rescind the 2020 policy and agreed to appoint a task force.

Staff will draft a nonenforcement policy for PEEC's consideration at the December 2020 meeting.

Minutes of the August PEEC open meeting

Committee members moved, seconded and agreed to approve the minutes from the August 2020 open meeting with no dissent.

Agenda item 6B

Open meeting minutes –December 21, 2020

Professional Ethics Division
Professional Ethics Executive Committee

The Professional Ethics Executive Committee (PEEC or committee) held a duly called meeting on December 21, 2020. The virtual meeting convened at 10:00 a.m. and adjourned at 3:46 p.m.

Agenda materials were made available to PEEC members and observers on December 10, 2020 and were posted to www.aicpa.org prior to the meeting.

Contents

Attendance

Members

Brian Lynch, Chair

Catherine Allen

Christopher Cahill

Thomas Campbell

Robert Denham

Anna Dourdourekas

Anika Heard

Kelly Hunter

Jennifer Kary

Jeff Lewis

Alan Long

William McKeown

James Newhard

Stephanie Saunders

Lewis Sharpstone

Lisa Snyder

Peggy Ullmann

Douglas Warren

Lawrence Wojcik

AICPA Staff

James Brackens, Vice President – Ethics and Practice Quality

Toni Lee-Andrews, Director – Professional Ethics Division

Ellen Goria, Associate Director

Jennifer Clayton, Senior Manager

Michele Craig, Lead Manager

Summer Young, Lead Manager

Kelly Mullins, Manager – Support Services and Communications

Sarah, Brack, Manager

Emily Daly, Manager

Liese Faircloth, Manager

Jennifer Kappler, Manager

Shannon Ziemba, Manager

Iryna Klepcha, Manager

Melissa Powell, Manager

Michael Schertzinger, Manager

John Wiley, Manager

Elaine Bagley, Specialist – Support Services

Karen Puntch, Case Investigator

Mike Glynn, Senior Manager – Audit and Attest Standards

Henry Grzes, Lead Manager – Tax Practice and Ethics

Kristy Illuzzi, Technical Issues Committee (TIC) Staff Liaison

Carl Peterson, Vice President - Small Firms - PA

Guests

Sonia Araujo, PwC

Kent A. Absec, Idaho State Board of Accountancy

Arthur Auerbach, Arthur Auerbach CPA

Ian Benjamin, Chair, Enforcement Subcommittee

Claire Blanton, RSM US LLP

Kirk Cloniger, RSM US LLP

Allan Cohen, RSM US LLP

Giles T. Cohen, PwC

Debbie Cutler, Debra A. Cutler CPA PC

George Dietz, PwC

Anna Durst, Nevada Society of CPAs

Dan Dustin, NASBA

Jason Evans, BDO

Nancy Glynn, Virginia Society of CPAs

Shelly Gower, Plante Moran

Andy Gripp, Crowe LLP

Allison Henry, Pennsylvania Institute of CPAs

Annette Hill, Anderson ZurMuehlen & Co.

Kelly Hnatt, External Counsel

Becca Huber, New York State Society of CPAs

Diane Jules, IESBA

Kristi Justice, West Virginia Board of Accountancy

Vassilios Karapano, Securities and Exchange Commission

Ken Kortas, Wipfli, LLP

Kimberly Kuhl, KPMG

Bill Mann, Mayer Hoffman McCann P.C.

Liz McKneely, Deloitte

Nancy Miller, KPMG

Angela Miratsky, BKD, LLP

Karen Moncrieff, EY

Christina Moser, Plante Moran

Jessica Mytrohovich, Georgia Society of CPAs

Jan Neal, Deloitte

Jennifer Noble, RSM LLP

Jeff Olejnik, Wipfli LLP

Christine Piche', CliftonLarsonAllen

Jacqueline Reardon, RS&F

John Robinson, RSM US LLP

April Sherman, CliftonLarsonAllen

Susan Speirs, Utah Association of CPAs

Marc Stepper, Washington Society of CPA's

Ivona Szady, Deloitte

John M Szczomak, New Jersey Society of CPAs

Joseph Tapajna, University of Notre Dame

Jessica Tomc, EY

Shelly Van Dyne, BDO

Darrell Wates, Enforcement Subcommittee

Sharron Waugh, Tennessee State Board of Accountancy

Jim West, BDO

Elliot Lesser, Berdon LLP- Retired

Kam Leung, IFAC

Stacey Lockwood, Society of Louisiana CPAs

John Lynch, Enforcement Subcommittee

Jasdeep Mangat, U.S. Securities and Exchange Commission

Shelby Williams, Kentucky Society of CPAs

Viki Windfeldt, Nevada State Board of Accountancy

Dan Wise, Tax Practice and Procedures Committee

Paula Young, EisnerAmper, LLP

Key votes during this meeting

Motions approved

- Publish the inducements practice aid
- Publish the temporary policy statement related to amendments to Rule 2-01 of Regulation S-X
- Rescind the December 1, 2000 PEEC Enforcement Policy

Welcome

Mr. Lynch welcomed the committee and discussed administrative matters.

Compliance Audit Task Force

Ms. Powell updated PEEC on the task force and its activities:

- Comprises 11 members.
- Ms. Miller is serving as the chair.
- Has held two meetings.
- Has surveyed practitioners to understand how independence requirements are being applied in compliance audits in practice and to determine whether there are inconsistencies in application.

  The task force received more than 100 responses and has begun reviewing those results, with the goal of coming back to PEEC in February with a clearer charge to present for approval.

  The survey results indicate guidance may be needed.

The wide variety of this type of engagement may present the opportunity for categorization and the task force is looking at this as it considers potential guidance.

The task force has tabled the discussion about a possible proposed standard-setting project until a later date.

Inducements

Ms. Dourdourekas updated PEEC on the task force's activities.

She requested the committee's approval to publish the practice aid.

The committee requested additional clarifying revisions and approved publishing after final review by the task force and committee chair.

The committee decided to leave the extant question and answer in the General Ethics FAQ rather than pulling it with the publication of the practice aid.

That Q & A addresses political contributions and whether such contributions impair independence. The practice aid focuses on the "Integrity and Objectivity Rule." The committee believes both are helpful.

Information system services

Ms. Dourdourekas updated PEEC on the task force's activities.

- The task force is in the planning stages of a member enrichment project. Currently, they are considering a practice aid. This approach seems preferable to questions and answers because it provides factors to consider rather than definitive answers.
- Ms. Dourdourekas asked the committee for specific areas where members may need clarification on how to apply the interpretation.

SEC convergence

Ms. Goria updated PEEC on the task force's activities:

- Held first meeting in December.
- Drafted a temporary non-enforcement policy to provide relief for members who implement and comply with the new SEC amendments that are less restrictive than the code.
- Provided staff with some directional guidance on how to approach the revisions to the loan interpretations.

PEEC provided clarifying edits to the temporary non-enforcement policy and voted to approve, as revised in the final document. It will be added to "New, Revised, and Pending Interpretations and Other Guidance" (ET sec. 0.600) in the January update of the online code.

This policy will be rescinded when PEEC completes its evaluation of the SEC amendments.

The committee unanimously agreed to rescind the December 1, 2000 PEEC Enforcement Policy.

Statements on Standards for Tax Services

Ms. Saunders updated PEEC on the SSTS revision project:

- Met with the Tax Executive Committee (TEC).
- The task force is receiving feedback from AICPA committees and technical resource panels, including the Personal Financial Planning Executive Committee (PFP).
- Some members of PEEC have firm colleagues currently serving on the TEC and the Tax

Practice Responsibilities Committee (TRPC), and the task force has given them the opportunity to share their thoughts with each other.

The task force hopes to expose the proposed standards by the end of 2021.

NOCLAR

Ms. Lee-Andrews updated PEEC on NOCLAR activities:

- The ASB decided to defer its vote to expose their proposed standard for comment. They continue to work on it with plans to expose at their January meeting.
- The PEEC NOCLAR Task Force will be meeting on January 11th with plans to request re-exposure at the February PEEC meeting.
- Mr. Bill Mann, a former PEEC member is participating on the ASB NOCLAR Task Force.
- Mr. Robert Denham, Mr. Mann, and the ASB and PEEC staff liaisons for NOCLAR had a recent meeting.

Member enrichment

Ms. Goria and Ms. Kappler updated PEEC on member enrichment projects:

- Staff has updated and issued the Plain English Guide for Independence. The update includes revisions related to the new technology, SEC revisions, international convergence and enhancing audit quality (EAQ) areas of focus.
- The division issued its reports on common violations found during investigations. These reports provide a more granular look into the details of the violations than previous reports.
- The communications team requested the division's participation in a "single audit content squad."
    - The Association believes that there will be an increased number of practitioners performing single audits given the governmental funding for COVID-19.
    - As part of activities on this squad, division staff have produced a single audit common violations report that can help these new single auditors (as well as veteran single auditors) understand what errors we are seeing.
    - In the coming months, this report will be issued in an interactive format on future.aicpa.org).
- The division issued its state and local government practice aids in October. Staff are currently monitoring feedback so that they can make revisions and enhancements to version 2.0, if necessary.
- In 2021, staff plans to
    - Begin a back to basics podcast series.

- Create greater awareness of the change to the DOL reporting standard.
- Create hosting services guidance.
- Issue an updated GAO independence comparison.
- Launch a new hotline database.
- Begin using a new project tracking system.