AICPA

Professional Ethics Executive Committee

Open meeting agenda

November 8-9, 2023

Durham, NC

Open meeting agenda — November 8-9, 2023

Professional Ethics Division

Professional Ethics Executive Committee

Meeting link: https://aicpa.zoom.us/j/98650740493 Meeting ID: 986 5074 0493 Observers must register: www.aicpa.org/peecmeeting		
November 8		
9:00–9:05 ET	**Welcome** Ms. Dourdourekas will welcome committee members and discuss administrative matters.	
9:05–10:00	**IESBA convergence: Public interest entities** The task force will request the committee's approval to adopt the new and revised definitions.	Agenda items 1A–1D
10:00–10:15	**IESBA convergence: Quality Management — related conforming amendments to the code** The task force will seek approval to update the Code for new terminology.	Agenda items 2A–2D
10:15–10:30	Morning break	
10:30–11:30	**Simultaneous employment or association with an attest client** The committee will receive an update on recent task force activities and seek input on direction.	Agenda items 3A-3C
11:30–12:00	**Reporting of an independence breach to an affiliate that is also an attest client** The task force will seek input on the proposed non-authoritative questions and answers.	Agenda items 4A–4B
12:00–1:00	Lunch break	

1:00–1:30	**Private equity investment in firms** The task force will provide conclusions reached for noncontrolling and controlling private equity investment scenarios, outline next steps, and seek input from PEEC.	Agenda item 5
1:30–2:00	**IESBA convergence: NAS — Legal services** The task force will request approval of the task force conclusion related to convergence.	Agenda items 6A–6C
2:00–2:15	**IESBA convergence: Fees** The committee will receive an update on the status of the task force's development of nonauthoritative guidance.	
2:15–2:25	**Conflicts of interest** Staff will provide recommendations for the project and request input from PEEC.	
2:25–2:30	**Section 529 Plans** The committee will receive an update on recent task force activities.	
2:30–2:45	Afternoon break	
2:45–3:00	**Engagements subject to the Statements on Standards for Attestation Engagements (SSAEs)** The committee will receive an update on recent task force activities.	
3:00–4:15	**IESBA monitoring: Sustainability** The committee will receive an update on the sustainability project and staff will seek input on feedback to provide to IESBA.	Agenda item 7

4:15–4:45	**IESBA monitoring: Use of experts** Staff will provide the committee with an update on the IESBA Use of experts project.	Agenda items 8A–8D
4:45–5:00	**IESBA update** Staff seeks feedback on IESBA's Strategy and Work Plan 2024-2026, Tax Planning and Related Services and Technology Working Group projects.	Agenda items 9A–9D
November 9		
8:30–9:30	**IESBA convergence: NAS — General** The committee will receive an update on recent task force activities and seek input on direction.	Agenda item 10
9:30–9:55	**IESBA monitoring: Technology Task Force** The IFAC convergence and monitoring task force seeks approval to form task forces to determine the convergence needs for the technology-related revisions to the IESBA code issued in April 2023	Agenda item 11
9:55–10:05	**Protecting Client Confidentiality and Data Security** The committee will receive an update on recent task force activities and seek input on direction.	
10:05–10:25	Morning break	
10:25–11:10	**IESBA convergence: NAS — Tax services** The task force will request approval of the project charge.	Agenda item 12
11:10–11:20	**IESBA monitoring: Engagement Team/Group Audits** The staff will provide the committee with an update.	

11:20–11:50	**Digital assets** The task force will request approval of the project charge and on the proposed nonauthoritative question and answer.	Agenda items 13A–13B
	Future meeting dates February 20–21, 2024 May 9–10, 2024 August 13–14, 2024	

IESBA convergence: Public interest entities

Task force members

Lisa Snyder (chair), Cathy Allen, Greg Collins, Nancy Miller, Andrew Prather, Katherine Savage

Observers

Alina Kalachnyuk, Brandon Mercer

AICPA staff

Jennifer Clayton, Ellen Goria

AICPA monitoring staff

Jason Brodmerkel, Mary Foelster, Ahava Goldman, Sue Hicks, Kim Kushmerick, Melinda Nolen, Brian Wilson

Task force charge

To determine convergence needs related to the International Ethics Standards Board for Accountants (IESBA) *Revisions to the Definitions of Listed Entity and Public Interest Entity in the Code*.

The revised definitions and related standard are effective for audits of financial statements for periods beginning on or after December 15, 2024, and early adoption is permitted. IESBA also issued a related basis for conclusion document and Q&As.

Reason for agenda item

To seek adoption of the proposal from the exposure draft on the "Proposed new definition of publicly traded entity and revised definition of public interest entity."

Task force activities

PEEC received 14 comment letters in response to this exposure draft. The following links are to the letters in agenda item 1D:

- CL 1: RSM US LLP
- CL 2: PricewaterhouseCoopers LLP (PWC)
- CL 3: Ernst & Young LLP (EY)
- CL 4: KPMG LLP
- CL 5: NASBA
- CL 6: Crowe LLP

- CL 7: Grant Thornton LLP
- CL 8: AICPA PCPS Technical Issues Committee (TIC)
- CL 9: CliftonLarsonAllen LLP
- CL 10: BDO USA LLP
- CL 11: Deloitte LLP
- CL 12: Baker Tilly US, LLP
- CL 13: Pennsylvania Institute of CPAs (PICPA)
- CL 14: New York State Society of CPAs (NYSSCPA)

Overall, commenters were supportive of the proposals. The task force discussed all comments and recommends certain revisions as outlined in the following sections. Details of commenters views are in agenda item 1B.

Summary of general comments for proposed new and revised definitions

Thirteen commenters support the overall approach with CL 8 stating the entities discussed in the exposure draft are strongly regulated in the United States and regulators are best able to set appropriate independence requirements. CL 6 states convergence with other standard setters and making standards uniform wherever possible helps to avoid confusion and potential misapplication and aids in enforcement from a regulator perspective.

CL 14, however, expressed concerns that PEEC's continuing effort to converge with IESBA often seems to place the goal of convergence ahead of the need for clear, meaningful, and appropriate standards for professionals in the United States. They believe a more appropriate goal would be to eliminate the differences between standards promulgated by the AICPA and the various regulatory bodies which may apply. They also believe the explanation of the proposed new and revised definitions is in many instances difficult to understand, even after several readings. This in part may be the result of trying to "arm wrestle" definitions to converge with IESBA's approach.

Task force response

As a member body of IFAC, PEEC must attempt to converge with the IESBA code to assist our members with functioning in a global economy.

IESBA's new definition of public interest entity (PIE) contains three mandatory categories and local bodies responsible for setting ethics standards are expected to refine these categories more explicitly to align with their jurisdiction. Without the AICPA refinements, some firms in the

United States would have to consider all publicly traded entities, all entities whose main function is to take deposits from the public and all entities whose main function is to provide insurance to the public as a PIE.

These three mandatory categories covered by the new IESBA PIE definition are already heavily regulated in the United States by the SEC, PCAOB, FDIC, and the National Association of Insurance Commissioners (NAIC). These regulators have established robust and appropriate independence requirements for the entities they oversee. As such, PEEC's new definition of "publicly traded entity" and revised definition of "public interest entity" includes IESBA's mandatory categories but defers to the relevant regulators for purposes of the specific independence requirements. This approach avoids the need to add a separate set of independence standards for PIEs which would introduce significant complexity to the AICPA code, which could, in turn, lead to inconsistencies between the AICPA code and the rules of a particular regulator.

Summary of comments for question a: Do you agree with the decision to defer to the relevant regulators for purposes of the specific independence requirements applicable to each PIE category? If not, please explain why.

Twelve commenters agree with the decision to defer to the relevant regulators for purposes of the specific independence requirements applicable to each PIE category. CL 2 offered no response but based on the overall response did not appear to disagree with this approach. CL 14 did not indicate support or nonsupport but indicated it is not clear what other options exist.

Summary of comments for question b: Do you agree with the refinement to the "publicly traded entity" category to include only those entities whose auditors are subject to Regulation S-X, SEC Rule 2-01? If not, please explain why.

Eleven commenters agree with the proposed refinement to the "publicly traded entity" category.

Three commenters (CL1, CL 2, and CL14) believe the category should be clarified with two commenters (CL 1 and CL 2) requesting the refinement specifically clarify that it only applies to entities whose auditors are subject to the SEC issuer independence rules.

- CL 1 agrees with the stated intention in paragraph 12 of the exposure draft to limit the publicly traded category of PIEs to entities whose auditors are subject to the SEC issuer independence rules. However, they are concerned that there may be some publicly traded entities (PTEs) whose auditors are subject to Rule 2-01 of SEC Regulation S-X that are not subject to the "issuer" rules within Rule 2-01. To avoid confusion, they suggest this category be revised to specifically limit the category to PTEs that are "issuers" rather than referencing Rule 2-01 of SEC Regulation S-X which applies to many entities other than issuers, some of which could, potentially, be publicly traded entities. They suggest the following revision to the definition.

> A publicly traded entity that is an 'issuer' (as defined in Section 3 of the Securities Exchange Act of 1934), the securities of which are registered under Section 12 of that Act or that is required to file reports under Section 15(d) of that Act (excluding Stock Purchase, Savings and Similar Plans), or that files or has filed a registration statement that has not yet become effective under the Securities Act of 1933, and that it has not withdrawn.

- CL 2 believes that category (a), as written appears to scope a broader population of entities into the PIE definition (that is, any PTE whose auditor is subject to SEC Rule 2-01) rather than what is described in paragraph 12 (that is, issuers only). They requested that the committee clarify category (a) of the proposed definition to reflect the refinement in paragraph 12 that a PIE is a PTE whose auditor is subject to SEC *issuer* independence rules. If category (a) is not clarified, the commenter believes the committee should, at a minimum, issue application guidance that incorporates the guidance contained in paragraph 12 and any other relevant paragraphs of the explanatory memorandum.

Task force recommendations

The intention of the task force, as explained in the exposure draft, is that refined category (a) capture only those entities whose auditors are subject to the SEC *issuer* independence rules. Those rules that apply to issuer audits are in many respects considered to be substantially similar to IESBA independence requirements for PIEs. This conclusion is supported by IESBA's benchmarking report.

The task force recommends adding language to category (a) to make clear that only entities whose auditors are subject to the issuer independence rules are considered a PIE.

> A publicly traded entity whose auditor is subject to ***provisions of*** Regulation S-X, SEC Rule 2-01, "Qualifications of Accountants" ***that are applicable to auditors of issuers***.

To address the issue raised by CL 1 related to entities that have filed a registration statement with the SEC that has not become effective, the task force recommends adding language to the definition of "publicly traded entity" to make clear that an entity is not considered a PTE until its registration statement becomes effective.

> An entity that issues financial instruments that are transferable and traded through a publicly accessible market mechanism, including through listing on a stock exchange. ***Where an entity is required to file a registration statement with the SEC, it will be considered a publicly traded entity when the registration statement becomes effective***.

Questions for the committee

1. Does the committee agree with the task force's recommended edits to category (a) of the refined PIE definition?
2. Does the committee agree with the task force's recommended edits to the definition of "publicly traded entity"?

Summary of comments for question c: Do you agree with the refinement to the "deposits from the public" category to include only those entities that have consolidated total assets of $1 billion or more and meet the annual audit requirement imposed by Part 363 of FDIC regulations (12 CFR 363 – "Annual Independent Audits and Reporting requirements")? If not, please explain why.

Ten commenters agree with the refinement proposed to the "deposits from the public" category and one did not comment.

One of these commenters (CL 5) generally agrees with the refinement proposed but suggests the committee consider if the $1 billion or more threshold should be increased to a higher amount. This commenter noted that a bank with $1 billion in deposits from the public may generate $25 - $40 million in annual revenue which is significantly lower than the threshold applied to those entities providing insurance to the public.

Three commenters (CL 6, CL 9, and CL 14) believe that the "deposits from the public" category should include those entities that have consolidated total assets of $500 million or more (and not $1 billion or more), which is consistent with the FDIC regulations.

- CL 6 agrees the refinement should be aligned with the FDIC Part 363 regulations since those regulations impose restrictive independence requirements that are substantially aligned with IESBA independence requirements for PIEs. They understand the reasoning for trying to apply this category to larger institutions which have heightened FDIC restrictions but noted the FDIC's heightened restrictions do not include more restrictive independence requirements. Accordingly, they believe it is more consistent with the FDIC's independence regulations to remove the limitation to financial institutions with total assets of more than $1 billion (that is, the threshold should be placed at $500 million or more).

  CL 6 states that another consideration for not limiting the "deposits from the public" category to entities with total assets of $1 billion or more is that financial institutions with total assets under $1 billion may issue brokered certificates of deposit and fall within a category that meets the definition of PTE. For financial institutions that have total assets of more than $500 million and meet the definition of PTE due to the issuance of brokered certificates of deposit, the financial institution will be considered a PIE because their

auditor is subject to SEC independence. However, a member might inappropriately apply 0.400.43(b) to that situation believing the financial institution is not a PIE because the financial institution has total assets below $1 billion.

- CL 9 believes from an independence standpoint there is no reason to increase the consolidated total assets from $500 million to $1 billion. They note that the "IESBA code prohibits members from providing non-assurance services to a PIE audit or review client if such services might create a self-review threat," and the FDIC regulations also have the same rules regarding providing non-assurance services to financial institutions regardless of whether the financial institution has consolidated total assets of $500 million or more or $1 billion or more, so the AICPA should align with the extant FDIC threshold.

Task force recommendations

The task force continues to believe the threshold for refinement to the "deposits from the public" category should remain at consolidated total assets of $1 billion or more. The FDIC has recognized a heightened risk for financial institutions with total assets of more than $1 billion where several requirements of Part 363 are triggered. Financial institutions with greater than $1 billion in total assets represent approximately 96 percent of the total assets held by financial institutions as of December 31, 2022. On the other hand, financial institutions with greater than $500 million in total assets represent approximately 98 percent of the total assets held by financial institutions as of December 31, 2022.

The task force recommends adding language to the definition of "public interest entity" to clarify that if an entity falls within any "one" of the PIE categories, it meets the definition of a PIE. This is recommended to address the issue noted by CL 6 where the additional refinement of the threshold to $1 billion or more of consolidated total assets may cause confusion if the financial institution has less than $1 billion but is publicly traded (that is, the member might only consider category (b) and not properly consider the entity as a PIE under category (a).)

An entity is a public interest entity when it falls within any ***one*** of the following categories:

Questions for the committee

3. Does the committee agree with the task force's recommendation not to change the refinement to the "deposits from the public" category from a threshold of $1 billion or more consolidated total assets to $500 million or more?
4. Does the committee agree with the edit to the "public interest entity" definition?

Summary of comments for question d: Do you agree with the refinement to the "insurance to the public" category to include only those entities that are subject to the NAIC Model Audit Rule that meet or exceed $500 million in annual direct written and assumed premiums? If not, please explain why.

Eleven commenters agree with the refinement proposed to the "insurance to the public" category and one did not comment.

Two of these commenters (CL 4 and CL 11) generally agree with the refinement but note that paragraph 28 in the explanatory materials identifies certain entities that are not included in the AICPA's refined insurance category because of inconsistent application of the Model Audit Rule (MAR) or varied state regulations. They believe that if the intention is to exempt these entities from the definition of PIE, it should be explicitly stated in the interpretation.

CL 6 agrees the refinement should be aligned with the MAR since those regulations impose restrictive independence requirements that are substantially aligned with IESBA independence requirements for PIEs. However, they do not believe the category should be limited to entities that meet or exceed $500 million in annual direct written and assumed premiums. While they understand the reasoning for trying to apply this category to larger insurers which have heightened NAIC restrictions, they noted the NAIC's heightened restrictions do not include more restrictive independence requirements. Accordingly, they believe it is more consistent with the NAIC's independence regulations to remove the limitation to entities that meet or exceed $500 million in annual direct written and assumed premiums.

CL 14 believes it is not clear why a lower threshold should not apply and that a consistent standard would seem appropriate.

Task force recommendations

Threshold

The task force continues to believe the threshold for refinement to the "insurance to the public" category should remain at $500 million or more in annual direct written and assumed premiums. The NAIC has recognized a heightened risk for insurers with direct and assumed premiums over $500 million. Reaching that threshold triggers several MAR requirements related to the insurer. This approach is also consistent to the approach noted in the "deposits from the public" category with additional requirements at an increased threshold.

Entities included within the refined scope

The task force discussed the confusion noted by the commenters of the treatment of other identified insurance entities that do not have uniform application of MAR-specific requirements or regulations. The entities noted in the exposure draft include the following:

a. Health maintenance organizations, managed care organizations, health care

entities

b. Warranty companies

c. Captives

d. Risk retention groups

The task force further discussed these entities and whether or not they should be excluded from the refined PIE category and noted the following:

- Captives and risk retention groups in some instances might be subject to the MAR but typically don't provide insurance to the public.
- Warranty companies are not always considered licensed and regulated insurance companies. If the state considers them a licensed and regulated insurance company they may subject them to the MAR.
- Health maintenance organizations, managed care organizations, and health care entities do not have consistent treatment under the MAR. The respective state regulators (typically through either a state health department or a state insurance department), determine whether they are licensed under the department of health or insurance and which independence rules auditors of these entities must follow.

The task force believes the regulators should determine the risk to the public and whether the above noted entities should be subject to the MAR. The approach for this project was to defer to the relevant regulators to determine the requirements for their respective entities. For insurance entities the NAIC MAR contains independence requirements for auditors of insurers that are comparable to those of the SEC issuer independence rules. Auditors should also know if their client is subject to the MAR.

If these entities were specifically excluded from the definition of PIE, the task force believes the definition would override the regulators which is inconsistent with the aforementioned approach for this project. Therefore, the task force does not recommend any edits to the proposed definition and believes that if an entity is subject to the MAR and has $500 million or more in annual direct written and assumed premiums it would be considered a PIE.

A member who does not belong to a firm that is part of the Forum of Firms would continue to comply with the AICPA code and rules of the applicable regulators. With this approach, no additional requirements are being created in these categories.

Questions for the committee

5. Does the committee agree with the task force's conclusion that the specified entities should not be excluded from the definition of PIE?
6. Does the committee agree with the recommendation not to change the refinement to the "insurance to the public" category?

Summary of comments for question e: Do you agree with the "investment company" category PEEC proposes to include in the PIE definition? If not, please explain why.

Nine commenters agree with the refinement proposed to the "investment company" category and one did not comment.

Four commenters (CL 1, CL 3, CL 4, and CL 11) agree with the category of investment companies but believe the category should be further refined.

- CL 1 believes the category should be expanded to include investment companies that file or have filed a registration statement that has not yet become effective under the Securities Act of 1940, and that it has not withdrawn. They suggest the following revision to the definition.

  > An investment company, other than an insurance company product, that is registered with the SEC pursuant to the Investment Company Act of 1940 or that files or has filed a registration statement that has not yet become effective under the Securities Act of 1940, and that it has not withdrawn.

- CL 3 agrees with the statement in paragraph 15 of the exposure draft's explanatory memo that publicly available mutual funds are considered PIEs if their auditors are subject to SEC issuer independence rules. However, they believe that paragraph 32 contradicts paragraph 15, as not all funds that are solely registered with the SEC pursuant to the Investment Company Act of 1940 (1940 Act) are offered to the public and therefore are not all publicly available or have significant public interest. They recommend that the proposed investment company category be revised as follows:

  > An investment company, other than an insurance company product, that is registered with the SEC pursuant to the Investment Company Act of 1940 **and the Securities Act of 1933**.

  They believe this change would provide further clarifications that entities such as nontraded and private business development companies (BDCs), in addition to nontraded real estate investment trusts (REITs) and insurance separate accounts, as identified in paragraphs 32 and 33, respectively, of the exposure draft's explanatory memo, would not be considered PIEs.

They also believe nonauthoritative guidance summarizing the U.S. entity types that are excluded from the new and revised definitions, such as those noted above, as well as others identified in the exposure draft's explanatory memo, including credit unions and 11-k filers, as identified in paragraphs 22 and 34, respectively, would be beneficial.

- Two commenters (CL 4 and CL 11) agree that it is appropriate to treat investment companies that have significant public interest as PIEs. The explanatory materials indicate that entities such as nontraded REITs would not be included within this category and therefore should not be considered PIEs. They believe that similar nontraded investment companies that are registered under the 1940 Act but not the Securities Act of 1933 should also be excluded from the definition of PIE because there is no publicly accessible market mechanism on which these investment companies can trade. As such, these entities do not represent broad public interest that triggers the incremental PIE independence requirements. They recommend that category (d) be refined to make this distinction and enable consistent application. They suggest the following edit for consideration (change shown in bold):

  > An investment company, other than an insurance company product, that is registered with the SEC pursuant to the Investment Company Act of 1940 **and the Securities Act of 1933**.

Task force recommendations

The task force believes entities that have not had their registration statement become effective should not be considered a PIE since until it becomes effective, these entities are not allowed to trade publicly. The task force recommends including additional language in the definition of "publicly traded entity" to make clear when an entity will be considered a PTE. See discussion above and question 2. to the committee.

The task force discussed the fact that not all funds that are solely registered with the SEC pursuant to the 1940 Act are publicly available. They believe these types of funds are limited and solicited to investors and not the general public and therefore, should not be considered a PIE. This approach is consistent with what was described in the exposure draft but further analysis by commenters provided additional examples of potential funds that could be captured by this category. The task force therefore recommends adding language to the "investment company" category to make clear the types of entities that are intended to be captured, i.e., those that are registered with the SEC and publicly available. The task force believes the addition of "the Securities Act of 1933" will accomplish this.

> An investment company, other than an insurance company product, that is registered with the SEC pursuant to the Investment Company Act of 1940 ***and the Securities Act of 1933***.

Question for the committee

7. Does the committee agree with the task force's recommended edit to the "investment company" category?

Summary of comments for question f: Do you believe other entities, such as credit unions, should be included as PIEs and thus subject to the more restrictive independence requirements consistent with those for IESBA PIEs? If so, which entities and why? If so, should the AICPA code incorporate a second set of more restrictive independence standards (i.e., consistent with IESBA PIEs), applicable to these other entities? If not, please explain an alternative approach.

Ten commenters do not believe other entities, such as credit unions, should be included as a PIE and three did not comment.

CL 5 believes that credit unions should be included as a PIE and thus subject to more restrictive independence requirements consistent with those for IESBA PIEs.

The commenter notes that credit unions have grown significantly both organically and through acquisitions including acquisitions of non-credit union financial institutions. They state that the Navy Federal Credit Union with $144 billion in assets and 12 million members is the largest credit union in the United States. It is larger than many other regional and national banks. The largest 250 credit unions in the United States all have over $1.5 billion in assets. From a public interest perspective, they believe credit unions are comparable to banks in both substance and form and should be considered as PIEs and thus subject to more restrictive independence requirements.

They believe that the AICPA code should incorporate a second set of more restrictive independence standards (i.e., consistent with IESBA PIEs) for credit unions. Consistent with their comment for exposure draft question c above, they believe the committee should consider whether a $1 billion threshold is appropriate for these entities.

Task force recommendations

The task force discussed the National Credit Union Administration (NCUA), which protects the interest of credit union members. The intended approach was to defer to the relevant regulators for purposes of the specific independence requirements. Adding a separate set of independence standards for PIEs would introduce significant complexity to the AICPA code, which could in turn lead to inconsistencies between the AICPA code and the rules of a particular regulator. The task force did note that there is nothing in the standards that prohibits the member from treating a credit union as a PIE if the member determines such treatment would be appropriate.

Given that commenters generally agreed with the exposure draft, the task force is not proposing revisions to the revised definition of PIE to include any additional entities.

Question for the committee

8. Does the committee agree with the task force's recommendation not to add any further entities to the revised definition of PIE?

Summary of comments for question g: Is the definition of publicly traded entity clear? If not, please explain how it should be clarified.

Eleven commenters believe the definition of PTE is clear and one did not comment.

CL 5 believes the definition of PTE is not clear. They state that paragraph 13 of the explanation section states that a PTE includes financial instruments of certain nonissuers such as government bonds. However, the definition of PTE (0.400 Definitions par. .45) refers only to "an entity." Misinterpretation of the definition by a member could lead to the application of greater restrictions than required. At a minimum, they suggest that the explanation be wholly consistent with the definition.

CL 14 believes the phrase "traded through a publicly accessible market mechanism" needs to be expanded, with illustrations provided. The proliferation of new types of entities and means of communication requires more complete and clear guidance.

Task force recommendations

The task force discussed the context of paragraph 13 from the exposure draft and understands the possible confusion in the wording. The language should have been clarified to indicate the following:

> 13 The AICPA's proposed new definition of *publicly traded entity* includes financial instruments of certain nonissuers, such as **a** governmental **entity that issues** bonds, as well as certain entities listed on OTC trading platforms.

The task force believes the proposed definition of "publicly traded entity" with the refinement in category (a) will continue to capture only entities for which the auditors are subject to the SEC issuer independence rules.

The task force believes most practitioners would understand "traded through a publicly accessible market mechanism" and does not recommend any modifications.

The task force does recommend changes to this definition to address issues noted above related to registration statements that have not become effective and whether those types of

entities would be considered a PIE. See question 2, above, to the committee.

Question for the committee

9. Does the committee agree with the task force's recommendation not to provide further clarification about "traded through a publicly available market mechanism"?

Summary of comments for question h: If an entity does not otherwise meet the definition of a PIE, are you aware of situations in which a member would treat an entity as a PIE when an engagement is subject to AICPA Statements on Auditing Standards, Statements on Standards for Accounting and Review Services, or Statements on Standards for Attestation Engagements? If so, describe such situations and which independence standards are typically applied. Do you believe it would be helpful to have guidance related to such situations? If so, should that guidance be authoritative (that is, included in the AICPA code) or nonauthoritative (for example, a Q&A or practice aid)? Do you believe that in such situations the member should be required to disclose that the independence requirements for PIEs have been applied? If so, how do you believe such disclose should be achieved when the regulator's transparency requirement is not applicable?

Four commenters are not aware of situations in which a member would treat an entity as a PIE and two did not comment.

- CL 3 does not believe additional guidance (authoritative or nonauthoritative) is necessary. They state that if the intent of the disclosure is to indicate a level of audit quality, they do not believe such disclosure is warranted. PIE classification should not be the trigger for a different level of audit quality, and the audit report already discloses the audit or attest standards being applied. If the intent of the disclosure is to enhance the confidence in the independence of the audit firm or engagement team providing the service, they believe such objective is met via a firm's transparency report, website or other disclosures regarding its system of effective quality management.

Eight commenters are aware of situations in which a member would treat an entity as a PIE. Most commenters agree that nonauthoritative guidance could be helpful.

- CL 1 is aware of situations in which, due to regulatory requirements, members perform audit engagements in accordance with both AICPA Statements on Auditing Standards and PCAOB Auditing Standards ("dual standards engagements"). In those cases, the independence rules of the SEC and the PCAOB must be complied with. They believe auditors who agree to conduct dual standards engagements understand the independence standards and rules applicable to such engagements and do not need

additional guidance to apply them. Further, they believe disclosure of those standards is unnecessary because it is inherent in the disclosure of the auditing standards applied.

- CL 2 did not mention any specific situations when a member would treat an entity as a PIE but agrees that, with or without the list of factors from the IESBA code's application guidance, the AICPA code allows a member to apply enhanced independence requirements and to treat a client as a PIE, when appropriate. As a result, they support not including the application guidance and do not believe any additional guidance is necessary.

- CL 5 notes entities that are about to go public, about to be purchased by a PTE, or if the member knows the financial statements will be included in a U.S. Securities & Exchange Commission filing are situations where a member should treat the entity as a PIE when an engagement is subject to AICPA Statements on Auditing Standards.

  They believe that the guidance related to such situations could be nonauthoritative either in a Q&A or practice aid.

  They believe that in such situations the member should be required to disclose that the independence requirements for PIEs have been applied. In these situations, the disclosure should be achieved through inclusion in the engagement letter and the communication to those charged with governance.

- CL 6 is aware of situations where members may voluntarily apply more restrictive independence requirements to an entity and treat the entity as a PIE, typically in advance of a company becoming a public company. However, they do not believe this category needs to be included in the AICPA's definition of PIE as members have independence rules they can apply in those situations and do not need for these to be included in the AICPA's definition.

- CL 8 and CL 9 believe the primary example of a situation in which a member would treat an entity as a PIE, when the entity does not otherwise meet the definition of a PIE, is when the entity is expecting to file an initial public offering. They do not believe that there would be any situations under the Statements on Standards for Accounting and Review Services.

  They believe it would be helpful to have guidance related to such situations and believe such guidance would be sufficiently addressed in the form of a Q&A or practice aid.

  In situations that the member is not required to treat an entity as a PIE, they do not believe the member should be required to disclose that the independence requirements for PIEs have been applied.

- CL 11 agrees there may be rare situations where an entity is not a PIE as defined by the

AICPA code but the entity's financial position is nevertheless significant to the public interest. They believe the baseline PIE factors presented at 400.9 supplemented by 400.19 A1 of the IESBA code are appropriate as a base for any AICPA guidance for these scenarios.

They believe nonauthoritative guidance could be helpful in addressing situations where a member concludes it is appropriate to treat an entity as a PIE although the entity is not a PIE as defined by the AICPA code. This approach would align with 400.19 A1 of the IESBA code.

They understand the intent of transparency is to provide the investor community with information that could aid in decision-making and improve trust, however when members apply the PIE independence requirements voluntarily, they do not believe members should be required to disclose such application for the following reasons:

- Where the entity is already subject to a regulator's independence requirements and the regulator has taken public interest into consideration when promulgating its independence requirements, it is unlikely that a transparency requirement would offer any incremental benefit to the public interest.
- If the application of PIE independence requirements is voluntary, members should take the same approach to the related transparency requirement. Firms could be encouraged to consider transparency but allow the client to make the ultimate decision. Just as a non-PIE client can choose to be treated as a PIE, it is reasonable to allow the same ability to use judgement when considering transparency.
- Any mandated transparency in such situations is likely to raise costs for clients and firms with limited incremental benefit, which is counter to the public interest. This might create unintended consequences, such as inadvertently discouraging clients and firms from applying the PIE requirements voluntarily.

Though they do not support the inclusion of a transparency requirement in the AICPA code for these situations, if a transparency requirement is included in the final revisions, they suggest the committee coordinate and consult with the Audit Standards Board (ASB) regarding the most appropriate methods and mechanisms for disclosures, if any, in this context to clarify the implementation of the transparency requirements when a regulator's transparency requirement is not applicable. These discussions should further consider the appropriateness of disclosures related to reports restricted in use or otherwise not made publicly available.

- CL 13 describes when the practitioner is serving as a component auditor of a subsidiary subject to international standards and the parent is a PIE, a practitioner could be subject to the international ethics standards. They do not believe that additional guidance is necessary and do not support disclosures in such situations.

Task force recommendations

The situation of an entity planning to go public described by many of the commenters was one that was also identified by the task force. The task force believes the recommended language to be added to the definition of "publicly traded entity" will help address this issue. The task force believes an entity should not be considered a PIE until their registration statement is effective.

The situation described related to a component auditor is a group audit matter and would not be addressed with the proposed definitions.

The commenters were split on the need for additional guidance when these situations arise. The task force discussed various alternatives to address these situations including items noted by commenters regarding additional guidance in the form of a practice aid, Q&As, or other nonauthoritative guidance. The task force also discussed issuing a basis for conclusion document as a possible way to address these requests. The task force noted that the proposed revisions will have significant effects on firms who are members of the Forum of Firms performing these types of engagements. The basis for how the committee reached the conclusions on the definitions and approach to convergence with IESBA only appears in the explanation section of the exposure draft which will not reside in the Online Ethics Library (OEL). A basis for conclusion document would be beneficial as it would be searchable and easily located in the OEL.

The task force, along with other key stakeholders, supports the development of a basis of conclusion document.

Questions for the committee

10. Does the committee believe a basis for conclusion document should be prepared for this project?
11. Does the committee have any additional suggestions for nonauthoritative guidance?

Summary of comments for question i: Do you agree that the effective date provides adequate time to implement the proposals? If you disagree, please explain why.

All commenters agree the proposal should be effective for periods beginning on or after December 15, 2024, with early adoption allowed, as this aligns with the effective date of the IESBA revised definitions of PIE and PTE. However, several commenters recommended a two-pronged approach (CL 3, CL 4 and CL 11) similar to the approach used by accounting standard setters to permit different effective dates based on entity type, such as public versus private companies.

Some PIEs under the current definition in the AICPA code will no longer be considered PIEs under the proposed revised definition. Such entities may temporarily be required to comply with the new IESBA pre-concurrence and fee disclosure requirements, effective starting in 2023, until such requirements are no longer applicable on the effective date for the AICPA's revised PIE definition. Such disclosure being made for only a short period of time and then being subsequently removed may create confusion for the public and stakeholders.

Although early adoption of the revised definition may be permitted, it may not be feasible for a firm to early adopt all categories of the revised definition since sufficient time will be needed to implement the requirements for entities not previously considered PIEs, such as non-publicly traded insurance companies, that will become PIEs under the revised definition.

A recommended approach could be as follows:

- For current PIE entities, the effective date would be immediately upon publication.
- For new PIE entities, the effective date would be for periods beginning on or after December 15, 2024, with early adoption allowed.

Task force recommendations

The task force discussed the issues identified by certain commenters regarding concerns related to entities being considered a PIE under the current definition and then would no longer be a PIE once the revised definition is adopted. This is an issue that will be encountered by the firms who are members of the Forum of Firms. Insurance separate accounts, employee benefit plans that file a Form 11-K, and banks that are more than $500 million in total net assets but less than $1 billion were discussed as potential entities having this issue. Certain new IESBA pre-concurrence and fee disclosure requirements, effective starting in 2023 will be required for these specific entities until the AICPA effective date of December 15, 2024.

Early adoption is allowed so the firms that are affected can early adopt but the task force believes they would not be able to "piecemeal" their adoption. For instance, a firm would have to early adopt for these specific entities noted above and then adopt at the effective date (December 15, 2024) for private insurance entities. The firms who are impacted believe they will need more time to sufficiently implement the requirements for entities not previously considered PIEs.

The task force believes a phased approach is reasonable to avoid confusion in the marketplace and with stakeholders.

The task force recommends:

> The proposed revisions are effective for periods beginning on or after December 15, 2024 for new PIEs covered under the revised definition, with early adoption allowed. For

entities no longer considered to be PIEs under the revised definition, the effective date is the date published in the *Journal of Accountancy*.

Question for the committee
12. Does the committee agree with the recommended modifications to the effective date?

Additional discussion of proposal

After the issuance of their standard, IESBA clarified that their definitions do cover audit and review engagements for PIEs. The task force also incorporated into the proposed revised definition that a member would need to comply with independence requirements of the applicable regulators identified in the definition when they are performing a financial statement audit or review.

The task force is not aware of any regulator identified in the proposal that requires a review engagement of an entity that would be considered a PIE when an audit is also not already performed for that entity. The committee's approach is more akin to an "engagement approach" versus an "entity approach" as adopted by IESBA.

To avoid confusion and unintended consequences, the task force recommends removing the requirement in the definition to apply the definition when a member performs a review engagement. It was noted that if the regulator requires a review engagement, the member would need to comply with "Governmental Bodies, Commissions, or Other Regulatory Agencies" interpretation [1.400.050] of the "Acts Discreditable Rule" [1.400.001].

Action needed

The committee is asked to adopt the proposed new and revised definitions as amended and that they be effective for periods beginning on or after December 15, 2024 for new PIEs covered by the revised definition, with early implementation allowed. For entities no longer considered to be PIEs under the revised definition, the effective date would be upon publication in the *Journal of Accountancy*.

Materials presented

- Agenda item 1B: Comment letter summary
- Agenda item 1C: Text of new definition *publicly traded entity* and revised definition *public interest entity*
- Agenda item 1D: Comment letters

Comment letter summary

Proposed new definition of *publicly traded entity* and revised definition of *public interest entity* (ET sec. 0.400)

Exposure draft dated June 15, 2023

Commenters that support, support with comments, or do not support the convergence needs related to the International Ethics Standards Board for Accountants (IESBA) Revisions to the Definitions of Listing Entity and Public Interest Entity in the Code:		
Support: 14 (several commenters had suggestions or comments as detailed herein) Do not support: 0		
CL 1	RSM US LLP	**Support**
CL 2	PricewaterhouseCoopers LLP (PWC)	**Support**
CL 3	Ernst & Young LLP (EY)	**Support** They are supportive of PEEC's efforts to converge the AICPA's Code of Professional Conduct definitions of publicly traded entity and public interest entity with ethics standards promulgated by IESBA. Overall, they believe that the proposal better aligns the classification of entities as PIEs.

220 Leigh Farm Road, Durham, NC, 27707-8110
T: +1.919.402.4500
aicpaglobal.com | cimaglobal.com | aicpa.org | cgma.org

CL 4	KPMG LLP	**Support**
CL 5	NASBA	**Support** They are supportive of convergence with other standard setters as making standards uniform wherever possible helps to avoid confusion and potential misapplication by the CPA and aids in enforcement from a regulatory perspective. They especially liked the references to SEC rules or other rules in the proposed revisions instead of repeating the language. Consistency among standards setters is in the public interest.
CL 6	Crowe LLP	**Support**
CL 7	Grant Thornton LLP	**Support**
CL 8	AICPA PCPS Technical Issues Committee (TIC)	**Support** They believe that the types of entities discussed in the ED are strongly regulated in the U.S. and regulators are best able to set appropriate independence requirements. Additionally, they believe additional guidance for firms that voluntarily join the IFAC Form of Firms is needed given these Firms have committed to comply with the Form of Firms Constitution and, as a condition of their membership, should consider the IESBA PIE requirements applicable to financial statement audit and review engagements performed for a PIE.
CL 9	CliftonLarsonAllen LLP	**Support**
CL 10	BDO USA LLP	**Support**

CL 11	Deloitte LLP	**Support**
CL 12	Baker Tilly US, LLP	**Support**
CL 13	Pennsylvania Institute of CPAs (PICPA)	**Support**
CL 14	New York State Society of CPAs (NYSSCPA)	**Support** They support the efforts of PEEC to provide needed guidance with respect to the critical issues facing accounting professionals. The PEEC's continuing effort to converge with the International Ethics Standards Board for Accountants (IESBA), however, often seems to place the goal of convergence ahead of the need for clear, meaningful and appropriate standards for professionals in the United States. A more appropriate goal would seem to be eliminating the differences between standards promulgated by the AICPA and the various regulatory bodies which may apply. The exposure draft in certain instances distinguishes entities based on size, for example financial institutions that have more than $1 billion of assets. This distinction may be important to a regulator, but not necessarily to a depositor who has been relying on the institution's financial statements. Another example is excluding insurers that do not meet or exceed $500 million in direct and assumed premiums. In both these situations the smaller entities may more likely need the oversight that would follow not being excluded. Also, how not-for-profit entities will be affected is not clear, nor is it clear how much consideration has been given to such entities, which often raise money from the general public but in many cases are very small with few assets. The explanation of the proposed new and revised definitions is in many instances difficult to understand, even after several readings. This in part may be the result of trying to arm wrestle definitions to converge with the IESBA approach. More helpful would be an approach that deals with the US multiplicity of regulatory authorities with varying rules, and the US professional's continuing effort to meet all these requirements.

Question a: Do you agree with the decision to defer to the relevant regulators for purposes of the specific independence requirements applicable to each PIE category? If not, please explain why.		
Yes: 12 No: 0 No response: 2		
CL 1	RSM US LLP	**Yes**
CL 2	PricewaterhouseCoopers LLP (PWC)	**No response**
CL 3	Ernst & Young LLP (EY)	**Yes**
CL 4	KPMG LLP	**Yes**
CL 5	NASBA	**Yes** They generally agree with the decision to defer to the relevant regulators for the purposes of the specific independence requirements applicable to each PIE category. They are concerned that while certain regulators do consider auditor independence as part of their oversight others do not. Guidance should be provided to address those situations where an entity is deemed to be a PIE however their oversight entities do not address auditor independence.
CL 6	Crowe LLP	**Yes**
CL 7	Grant Thornton LLP	**Yes**
CL 8	AICPA PCPS Technical Issues Committee (TIC)	**Yes**

CL 9	CliftonLarsonAllen LLP	**Yes**
CL 10	BDO USA LLP	**Yes** All the entities included in the proposed PIE categories are regulated entities where the relevant regulators have established robust independence requirements. Therefore, they agree with the decision to defer to the relevant regulators for purposes of the specific independence requirements applicable to each PIE category.
CL 11	Deloitte LLP	**Yes** They agree with the proposed approach of deferring to the independence requirements of the relevant regulators applicable to each proposed public interest entity (“PIE”) category. While they have concerns as noted in their comments, they believe the proposed approach best protects the public interest and properly refines the IESBA baseline categories in alignment with IESBA’s expectations of local bodies and the IESBA PIE framework, while minimizing the amount of additional complexity in the AICPA Code.
CL 12	Baker Tilly US, LLP	**Yes** They agree with the decision to defer to the relevant regulators for purposes of the specific independence requirements applicable to each PIE category. They believe each relevant regulator noted in the Exposure Draft has robust independence requirements for the entities they oversee. Further, deferring to said regulators avoids adding additional independence requirements to the Code, which could create unnecessary complexity.
CL 13	Pennsylvania Institute of CPAs (PICPA)	**Yes** They support the PEEC’s decision to converge with the International Ethics Standards Board for Accountants’ (IESBA) guidance on PIEs by factoring in the

		impact of regulatory oversight for each category included in the IESBA's PIE guidance.
CL 14	New York State Society of CPAs (NYSSCPA)	It is not clear what other option exists.
Question b: Do you agree with the refinement to the "publicly traded entity" category to include only those entities whose auditors are subject to Regulation S-X, SEC Rule 2-01? If not, please explain why.		
Yes: 11 No: 3 No response: 0		
CL 1	RSM US LLP	**No** They agree with the stated intention in paragraph 12 of the Exposure Draft to limit the publicly traded entity category of public interest entities to entities whose auditors are subject to the SEC "issuer independence rules." However, they are concerned that there may be some *publicly traded entities* whose auditors are subject to Rule 2-01 of SEC Regulation S-X that are not subject to the "issuer" rules within Rule 2-01. To avoid confusion, they suggest this category be revised to specifically limit the category to publicly traded entities that are "issuers" rather than referencing Rule 2-01 of SEC Regulation S-X which applies to many entities other than issuers, some of which could, potentially, be publicly traded entities. They suggest the following revision to the definition. A publicly traded entity that is an 'issuer' (as defined in Section 3 of the Securities Exchange Act of 1934), the securities of which are registered under Section 12 of that Act or that is required to file reports under Section 15(d) of that Act (excluding Stock Purchase, Savings and Similar Plans), or that files or has filed a registration statement that has not yet become

		effective under the Securities Act of 1933, and that it has not withdrawn.
CL 2	PricewaterhouseCoopers LLP (PWC)	**No** PEEC's proposed revised PIE definition refers to "a publicly traded entity whose auditor is subject to Regulation S-X Rule 2-01, 'Qualifications of Accountants'" ("SEC Rue 201"). However, paragraph 12 of the explanatory memorandum in the exposure draft states that the IESBA Code's category of a PTE has been refined in the Committee's proposal to extend only to those entities whose auditors are subject to the SEC issuer independence rules. Paragraph 12 also provides examples of SEC Rule 2-01 provisions that apply to both issuer and nonissuer audits as well as examples of provisions that apply to issuer audits only. The refinement in paragraph 12 regarding the PTE category only extending to auditors subject to the SEC issuer independence rules is not reflected in prong (a) of the proposed revised PIE definition. Therefore, as written, prong (a) appears to scope a broader population of entities into the PIE definition (i.e., any PTE whose auditor is subject to SEC rule 2-01) rather than what is described in paragraph 12 (i.e., issuers only). They requested that the committee clarify prong (a) of the proposed revised PIE definition to reflect the refinement in paragraph 12 that a PIE is a PTE whose auditor is subject to SEC issuer independence rules. If prong (a) is not clarified, we believe the committee should, at a minimum, issue application guidance that incorporates the guidance contained in paragraph 12 and any other relevant paragraphs of the explanatory memorandum.
CL 3	Ernst & Young LLP (EY)	**Yes**
CL 4	KPMG LLP	**Yes**

CL 5	NASBA	**Yes**
CL 6	Crowe LLP	**Yes**
CL 7	Grant Thornton LLP	**Yes**
CL 8	AICPA PCPS Technical Issues Committee (TIC)	**Yes** They agree with the refinement to the "publicly traded entity" category in so far as the refinement extends only to those entities whose auditors are subject to the SEC issuer independence rules as the rules that apply to issuer audits are similar to IESBA independence requirements for PIEs. Their understanding is that the refinement to the publicly traded entity category only includes "issuer" entities.
CL 9	CliftonLarsonAllen LLP	**Yes**
CL 10	BDO USA LLP	**Yes** They agree with the refinement to the "publicly traded entity" category to include only those entities whose auditors are subject to Regulation S-X, SEC Rule 2-01. They believe the additional independence requirements applicable to a PIE should only apply to those entities where the SEC has already determined that "SEC issuer" rules should apply.
CL 11	Deloitte LLP	**Yes**
CL 12	Baker Tilly US, LLP	**Yes** They agree with the refinement to the "publicly traded entity" category to include only those entities whose auditors are subject to Regulation S-X, SEC Rule 2-01. They believe that those publicly traded entities not subject to the SEC's independence rules for auditors of issuers, such as governmental bonds and certain entities traded on the OTC, are appropriately excluded from the PIE definition. They

		believe the SEC's independence rules appropriately address heightened expectations regarding the independence of auditors for this PIE category.
CL 13	Pennsylvania Institute of CPAs (PICPA)	**Yes**
CL 14	New York State Society of CPAs (NYSSCPA)	**No** It is not clear which entities in this category would have auditors not subject to this rule? A clarification would be helpful in understanding the excluded entities.

Question c: Do you agree with the refinement to the "deposits from the public" category to include only those entities that have consolidated total assets of $1 billion or more and meet the annual audit requirement imposed by Part 363 of FDIC regulations (12 CFR 363 – "Annual Independent Audits and Reporting Requirements")? If not, please explain why.		
Yes: 10 No: 3 No response: 1		
CL 1	RSM US LLP	**Yes**
CL 2	PricewaterhouseCoopers LLP (PWC)	**No response**
CL 3	Ernst & Young LLP (EY)	**Yes**
CL 4	KPMG LLP	**Yes**
CL 5	NASBA	**Yes** They generally agree with the refinement to the "deposits from the public" category; however they suggest the PEEC consider if the $1 billion or more threshold should be increased to a higher number. A bank with $1 billion in deposits from the public

		may generate $25 - $40 million in annual revenue which is significantly lower than the threshold applied to those entities providing insurance to the public.
CL 6	Crowe LLP	**No** They agree the refinement should be aligned with the FDIC Part 363 regulations since those regulations impose restrictive independence requirements that are substantially aligned with IESBA independence requirements for PIEs. However, we do not believe the category should be limited to financial institutions that have total assets of more than $1 billion. While we understand the PEEC's reasoning for trying to apply this category to larger institutions which have heightened FDIC restrictions, we noted the FDIC's heightened restrictions did not include more restrictive independence requirements. Accordingly, we believe it is more consistent with the FDIC's independence regulations to remove the limitation to financial institutions with total assets of more than $1 billion. Another consideration for not limiting the "deposits from the public" category to entities with total assets of $1 billion or more is financial institutions under $1 billion may issue brokered certificates of deposit and fall within a category that meets the definition of publicly traded entity. For financial institutions that have total assets of more than $500 million and meet the definition of publicly traded entity due to the issuance of brokered certificates of deposit, the financial institution will be considered a PIE because their auditor is subject to SEC independence. However, member might inappropriately apply 0.400.43(b) to that situation believing the financial institution is not a PIE because the financial institution has total assets below $1 billion.
CL 7	Grant Thornton LLP	**Yes**
CL 8	AICPA PCPS Technical Issues Committee (TIC)	**Yes**

CL 9	CliftonLarsonAllen LLP	**No** They believe that the "deposits from the public" category should include those entities that have consolidated total assets of $500 million or more (and not $1 billion or more), which is consistent with the FDIC regulations. The AICPA contends and they agree that the FDIC already adequately regulates financial institutions' "deposits from the public." From an independence standpoint, they do not believe that there is a reason to increase the consolidated total assets from $500 million to $1 billion. The "IESBA code prohibits members from providing non-assurance – or nonattest – services to a PIE audit or review client if such services might create a self-review threat," and the FDIC regulations also have the same rules regarding providing non-assurance or nonattest services to the financial institutions whether the financial institution has consolidated total assets of $400 million or more or $1 billion or more, so the AICPA should align with the extant FDIC threshold.
CL 10	BDO USA LLP	**Yes** They agree with the refinement to the "deposits from the public" category to include only those entities that have consolidated total assets of $1 billion or more and meet the annual audit requirement imposed by Part 363 of FDIC regulations (12 CFR 363 – "Annual Independent Audits and Reporting Requirements"). They agree with PEEC's reasoning that this is the level at which the FDIC recognized a heightened risk and the level at which they determined additional requirements such as the establishment of an audit committee, and reporting on internal control over financial reporting would also apply.
CL 11	Deloitte LLP	**Yes**
CL 12	Baker Tilly US, LLP	**Yes** They agree with the refinement to the "deposits from the public" category to include only those entities that have consolidated total assets of $1 billion or more and meet the annual requirements imposed by Part 363 of FDIC regulations. They believe it is

		appropriate to align the PIE definition with the FDIC's "heightened risk" threshold of $1 billion.
CL 13	Pennsylvania Institute of CPAs (PICPA)	**Yes**
CL 14	New York State Society of CPAs (NYSSCPA)	**No** It is not clear why a lower threshold than $1 billion in consolidated total assets should not apply. A consistent standard would seem appropriate.

Question d: Do you agree with the refinement to the "insurance to the public" category to include only those entities that are subject to the NAIC Model Audit Rule that meet or exceed $500 million in annual direct written and assumed premiums? If not, please explain why.		
Yes: 9 No: 3 No response: 1		
CL 1	RSM US LLP	**Yes**
CL 2	PricewaterhouseCoopers LLP (PWC)	**No response**
CL 3	Ernst & Young LLP (EY)	**Yes**
CL 4	KPMG LLP	**No** They generally agree with the AICPA's refinement to the "insurance to the public" category. Paragraph 28 of the explanatory materials identifies certain entities that are not included in the AICPA's refined insurance category because of inconsistent application of the Model Audit Rule or varied state regulations among them. They believe that if PEEC's intention is to exempt these entities from the definition of PIE,

		it should be explicitly stated in the interpretation.
CL 5	NASBA	**Yes**
CL 6	Crowe LLP	**No** They agree the refinement should be aligned with the NAICA Model Audit Rule since those regulations impose restrictive independence requirements that are substantially aligned with IESBA independence requirements for PIEs. However, they do not believe the category should be limited to entities that meet or exceed $500 million in annual direct written and assumed premiums. While they understand the PEEC's reasoning for trying to apply this category to larger insurers which have heightened NAICA restrictions, they noted the NAIC's heightened restrictions did not include more restrictive independence requirements. Accordingly, they believe it is more consistent with the NAIC's independence regulations to remove the limitation to entities that meet or exceed $500 million in annual direct written and assumed premiums.
CL 7	Grant Thornton LLP	**Yes**
CL 8	AICPA PCPS Technical Issues Committee (TIC)	**Yes**
CL 9	CliftonLarsonAllen LLP	**Yes**
CL 10	BDO USA LLP	**Yes** They agree with the refinement to the "insurance to the public" category to include only those entities that are subject to the NAIC Model Audit Rule that meet or exceed $500 million in annual direct written and assumed premiums. They agree with PEEC's reasoning that this is the level at which the NAIC recognized a heightened risk and the level at which they determined additional requirements such as the establishment of an audit committee, and reporting on internal control over

		financial reporting would also apply.
CL 11	Deloitte LLP	**Yes** They agree with the refinement to the “insurance to the public” category to include only those entities subject to the NAIC Model Audit Rule that meet or exceed $500 million in annual direct written and assumed premiums. As written, the category includes any insurance company which is subject to MAR and exceeds the $500 million threshold, with no specific exceptions for certain types of insurance entities. In contrast, paragraphs 28-29 of the exposure draft explanatory material specifically exclude other insurance entities due to the lack of uniform application of MAR. They agree with providing exceptions and recommend PEEC consider such exceptions in the definition itself rather than solely in nonauthoritative guidance or basis for conclusions documents.
CL 12	Baker Tilley US, LLP	**Yes** They agree with the refinement to the “insurance to the public” category to include only those entities that are subject to the NAIC Model Audit Rule and exceed $500 million in annual direct written and assumed premiums.
CL 13	Pennsylvania Institute of CPAs (PICPA)	**Yes**
CL !4	New York State Society of CPAs (NYSSCPA)	**No** Same response as question c. It is not clear why a lower threshold should not apply. A consistent standard would seem appropriate.

Question e: Do you agree with the “investment company” category PEEC proposes to include in the PIE definition? If not, please explain why.

Yes: 9 No: 4 No response: 1		
CL 1	RSM US LLP	**No** They agree with the category of investment companies that PEEC proposes to include in the PIE definition. However, they believe the category should be expanded to include investment companies that file or have filed a registration statement that has not yet become effective under the Securities Act of 1940, and that it has not withdrawn. They suggest the following revision to the definition. An investment company, other than an insurance company product, that is registered with the SEC pursuant to the Investment Company Act of 1940 or that files or has filed a registration statement that has not yet become effective under the Securities Act of 1940, and that it has not withdrawn.
CL 2	PricewaterhouseCoopers LLP (PWC)	**No response**
CL 3	Ernst & Young LLP (EY)	**No** They agree with PEEC's statement in paragraph 15 of the exposure draft's explanatory memo that publicly available mutual funds are considered PIEs if their auditors are subject to SEC issuer independence rules. However, they believe that paragraph 32 contradicts paragraph 15, as not all funds that are solely registered with the SEC pursuant to the Investment Company Act of 1940 (1940 Act) are offered to the public and therefore are not all publicly available or have significant public interest. They recommend that PEEC revise the proposed investment company category as follows: An investment company, other than an insurance company product, that is registered with the SEC pursuant to the Investment Company Act of 1940 and the Securities Act of 1933.

		They believe this change would provide further clarifications that entities such as nontraded and private business development companies (BDCs), in addition to nontraded real estate investment trusts (REITs) and insurance separate accounts, as identified in paragraphs 32 and 33, respectively, of the exposure draft's explanatory memo, would not be considered PIEs. They also believe nonauthoritative guidance summarizing the US entity types that are excluded from the new and revised definitions, such as those noted above, as well as others identified in the exposure draft's explanatory mem, including credit unions and 11-k filers, as identified in paragraphs 22 and 34, respectively, would be beneficial.
CL 4	KPMG LLP	**No** They agree that it is appropriate to treat investment companies that have significant public interest as PIEs. The explanatory materials indicate that entities such as nontraded real estate investment trusts (REITs) would not be included within this category and therefore should not be considered PIEs. They believe that similar non-traded investment companies that are registered under the Investment Company Act of 1940 but not the Securities Act of 1933 should also be excluded from the definition of PIE because there is no publicly accessible market mechanism on which these investment companies can trade. As such, these entities do not represent broad public interest that triggers the incremental PIE independence requirements. They recommend that PEEC refine category (d) to make this distinction and enable consistent application. They suggest the following edit for PEEC's consideration (change shown in bold): An investment company, other than an insurance company product, that is registered with the SEC pursuant to the Investment Company Act of 1940 **and the Securities Act of 1933**.
CL 5	NASBA	**Yes**

CL 6	Crowe LLP	**Yes**
CL 7	Grant Thornton LLP	**Yes**
CL 8	AICPA PCPS Technical Issues Committee (TIC)	**Yes**
CL 9	CliftonLarsonAllen LLP	**Yes**
CL 10	BDO USA LLP	**Yes** They agree with the "investment company" category PEEC proposes to include in the PIE definition. They believe these entities fall within the definition of publicly traded entity and it is in the public interest to apply more restrictive independence requirements to these entities.
CL 11	Deloitte LLP	**No** They agree with the "investment company" category proposed by PEEC and support the intended exclusions as stated in the exposure draft explanation. However, in addition to the 1940 Investment Company Act ("the 1940 Act"), PEEC should consider citing the Securities Act of 1933 ("1933 Act"). Adding the 1933 Act would clarify that entities not registered under both acts, such as nontraded real estate investment trusts (REITs) and nontraded business development companies (BDCs), are not significant to the public interest and thus are not PIEs under the revised definition. We are not aware of any entity types that PEEC would inappropriately exclude from the definition by adding a reference to the 1933 Act. They suggest revising the category as show below (additions are in bold italic): An investment company, other than an insurance company product, that is registered with the SEC pursuant to the Investment Company Act of 1940 **and the Securities Act of 1933**.

CL 12	Baker Tilley US, LLP	**Yes**
CL 13	Pennsylvania Institute of CPAs (PICPA)	**Yes**
CL 14	New York State Society of CPAs (NYSSCPA)	**Yes** They agree with the proposal, which should include a definition that investment companies comprise mutual funds, closed-ed funds and unit investment trusts, and similar vehicles.

Question f: Do you believe other entities, such as credit unions, should be included as PIEs and thus subject to the more restrictive independence requirements consistent with those for IESBA PIEs? i. If so, which entities and why? ii. If so, should the AICPA code incorporate a second set of more restrictive independence standards (that is, consistent with IESBA PIEs), applicable to these other entities? If not, please explain an alternative approach.		
Yes: 1 No: 10 No response: 3		
CL 1	RSM US LLP	**No** For the reasons set forth in paragraphs 22–23 and 34–50, they agree with PEEC's conclusion not to include credit unions, pension plans (including those required to file form 11-K with the SEC), other employee benefit plans required to have an annual financial statement audit under the Employee Retirement Income Security Act of 1974, non-issuer broker-dealers, private funds advised by an SEC-registered investment adviser that choose to rely on the audit exception under the custody rule, and not-for-profit and governmental entities within the definition of public interest entities. Although not specifically addressed in the Exposure Draft, they also agree with excluding non-issuer futures commission merchants from the definition of public

		interest entities.
CL 2	PricewaterhouseCoopers LLP (PWC)	**No response**
CL 3	Ernst & Young LLP (EY)	**No** They do not believe other entities, such as credit unions, should be included as PIEs. The three mandatory categories covered by the new IESBA PIE definition are heavily regulated in the United States. As noted in paragraph 22 of the exposure draft's explanatory memo, the regulator for credit unions, National Credit Union Administration (NCUA), has determined that the independence requirements of the current AICPA code, are the appropriate independence standards for auditors of credit unions. NCUA previously considered the FDIC's independence requirement for auditors of large banks and solicited public comment (71 FR 9278 (February 23, 2006)) on whether to require auditors of credit unions to meet the SEC independence requirements, but it ultimately determined not to implement such a requirement.
CL 4	KPMG LLP	**No response**
CL 5	NASBA	**Yes** They believe that credits unions should be included as a PIE and thus subject to more restrictive independence requirements consistent with those for IESBA PIEs. Credit unions have grown significantly both organically and through acquisitions including acquisitions of non-credit union financial institutions. The Navy Federal Credit Union with $144 billion in assets and 12 million members is the largest credit union in the United States. It is larger than many other regional and national banks. The largest 250 credit unions in the United States all have over $1.5 billion in assets. From a public interest perspective, credit unions are comparable to banks in both substance and form and should be considered as PIEs and thus subject to

		more restrictive independence requirements. They believe that the AICPA code should incorporate a second set of more restrictive independence standards (that is, consistent with IESBA PIEs) for credit unions. Consistent with their comment in (c) above, PEEC should consider whether a $1 billion threshold is appropriate for these entities.
CL 6	Crowe LLP	**No** Other than their recommendations above for changes to the deposit and insurance categories, they do not believe there are other entities that should be included as PIEs as they believe the PEEC's definitions sufficiently capture entities that currently have more restrictive independence requirements.
CL 7	Grant Thornton LLP	**No** They do not believe other entities, such as credit unions, should be included as PIEs. They agree with PEEC's rationale and decision to exclude credit unions from the PIE definition as discussed in the Exposure Draft, since this would allow members the ability to consider regulators' input and that the regulator overseeing the credit unions allows auditors to apply AICPA independence. They do not have any further comment regarding other entities to be included in the PIE definition.
CL 8	AICPA PCPS Technical Issues Committee (TIC)	**No** Because other entities, such as credit unions, are strongly regulated in the U.S. (e.g., National Credit Union Administration (NCUA)), they believe that regulators are best able to determine which independence standards are appropriate for auditors of their regulated entities to follow.
CL 9	CliftonLarsonAllen LLP	**No** They do not believe that credit unions should be included in the PIE definition. Credit unions already have oversight from the National Credit Union Administration

		(NCUA).
CL 10	BDO USA LLP	**No** They do not believe other entities, such as credit unions, should be included as PIEs. Specifically, regarding credit unions, in addition to considering the characteristics of credit unions that distinguish them from banks (e.g., being member owned and controlled), they agree with PEEC's reasoning that credit unions are regulated by the National Credit Union Administration (NCUA), which has determined that the AICPA independence standards are the appropriate independence standards auditors of credit unions should follow.
CL 11	Deloitte LLP	**No** They are not aware of other entities, such as credit unions, which PEEC should include as PIEs at this time. If IESBA revises its PIE definition in the future to mandate additional categories or consideration of other specific categories, PEEC should consider those revisions for convergence as they occur.
CL 12	Baker Tilley US, LLP	No - They do not believe other entities should be included as PIEs. They believe the proposed definition of a PIE appropriately includes those entities of significant public interest. Entities such as credit unions are already subject to regulatory oversight by the National Credit Union Administration that protects the interests of the public.
CL 13	Pennsylvania Institute of CPAs (PICPA)	**No** They do not believe that the entities included in the PIE definition should be expanded to credit unios or other similar entities.
CL 14	New York State Society of CPAs (NYSSCPA)	**No response**

Question g: Is the definition of publicly traded entity clear? If not, please explain how it should be clarified.		
Yes: 11 No: 2 No response: 1		
CL 1	RSM US LLP	**Yes**
CL 2	PricewaterhouseCoopers LLP (PWC)	**No response**
CL 3	Ernst & Young LLP (EY)	**Yes**
CL 4	KPMG LLP	**Yes**
CL 5	NASBA	**No** They do not believe the definition of publicly traded entity is clear. Paragraph .13 of the Explanation Section states that a publicly traded entity includes financial instruments of certain non-issuers such as government bonds. However, the definition of publicly traded entity (0.400 Definition .45) refers only to “an entity”. Misinterpretation of the definition by a member could lead to the application of greater restrictions than required. At a minimum, they suggest that the explanation be wholly consistent with the definition.
CL 6	Crowe LLP	**Yes**
CL 7	Grant Thornton LLP	**Yes**
CL 8	AICPA PCPS Technical Issues Committee (TIC)	**Yes**
CL 9	CliftonLarsonAllen LLP	**Yes**

CL 10	BDO USA LLP	**Yes**
CL 11	Deloitte LLP	**Yes** They believe the proposed definition of publicly traded entity is clear and properly refined based on the IESBA baseline definition of the same term.
CL 12	Baker Tilley US, LLP	**Yes**
CL 13	Pennsylvania Institute of CPAs (PICPA)	**Yes**
CL 14	New York State Society of CPAs (NYSSCPA)	**No** The proposed new definition includes “traded through a publicly accessible market mechanism.” That phrase needs to be expanded, with illustrations provided. The proliferation of new types of entities and means of communication requires more complete and clear guidance.

Question h: If an entity does not otherwise meet the definition of a PIE, are you aware of situations in which a member would treat an entity as a PIE when an engagement is subject to AICPA Statements on Auditing Standards, Statements on Standards for Accounting and Review Services, or Statements on Standards for Attestation Engagements?

i. If so, describe such situations and which independence standards are typically applied.

ii. Do you believe it would be helpful to have guidance related to such situations? If so, should that guidance be authoritative (that is, included in the AICPA code) or nonauthoritative (for example, a Q&A or practice aid)?

iii. Do you believe that in such situations the member should be required to disclose that the independence requirements for PIEs have been applied? If so, how do you believe such disclosure should be achieved when the regulator’s transparency requirement is not applicable?

Yes: 8 No: 4 No response: 2		
CL 1	RSM US LLP	**Yes** They are aware of situations in which, due to regulatory requirements, members perform audit engagements in accordance with both AICPA Statements on Auditing Standards and PCAOB Auditing Standards ("dual standards engagements"). In those cases, the independence rules of the SEC and the PCAOB must be complied with. They believe auditors who agree to conduct dual-standards engagements understand the independence standards and rules applicable to such engagements and do not need additional guidance to apply them. Further, they believe disclosure of those standards is unnecessary because it is inherent in the disclosure of the auditing standards applied.
CL 2	PricewaterhouseCoopers LLP (PWC)	**Yes** The PEEC's proposed PIE definition does not include language from the IESBA application guidance, which lists factors for firms to consider in evaluating whether to treat additional entities as PIEs. PEEC's view for not including the factors is explained in paragraph 53 of the exposure draft's explanatory memorandum, which states, in part, that the Code of Conduct, with or without the list of factors from the IESBA Code's application guidance, allows a member to apply enhanced independence requirements and to treat a client as a PIE, when appropriate. They agree that, with or without the factors listed in the Code of Conduct, members can apply the enhanced independence requirements and treat a client as a PIE. As a result, they support PEEC not including the application guidance and do not believe any additional guidance is necessary.
CL 3	Ernst & Young LLP (EY)	**No** They are not aware of any such situations and do not believe additional guidance (authoritative or nonauthoritative) is necessary.

		If the intent of the disclosure is to indicate a level of audit quality, they do not believe such disclosure is warranted. PIE classification should not be the trigger for a different level of audit quality, and the audit report already discloses the audit or attest standards being applied. If the intent of the disclosure is to enhance the confidence in the independence of the audit firm and/or engagement team providing the service, they believe such objective is met via a firm's Transparency Report, website or other disclosures regarding its system of effective quality management.
CL 4	KPMG LLP	**No response**
CL 5	NASBA	**Yes** They believe there are situations in which a member would treat an entity as a PIE when an engagement is subject to AICPA Statements on Auditing Standards, Statements on Standards for Accounting and Review Services, or Statements on Standards for Attestation Engagements. Entities that are about to go public, about to be purchased by a publicly traded entity, or if the member knows the financial statements will be included in a U.S. Securities & Exchange Commission filing are situations where a member should treat the entity as a PIE when an engagement is subject to AICPA Statements on Auditing Standards. They believe that the guidance related to such situations could be nonauthoritative either in a Q&A or practice aid. They believe that in such situations the member should be required to disclose that the independence requirements for PIEs have been applied. In these situations, the disclosure should be achieved through inclusion in the engagement letter and the letter to those charged with governance.
CL 6	Crowe LLP	**Yes** They are aware of situations where members may voluntarily apply more restrictive

		independence requirements to an entity and treat as a PIE, typically in advance of a company becoming a public company. However, they do not believe this category needs to be included in the AICPA's definition of PIE as members have independence rules they can apply in those situations and do not need for these to be included in the AICPA's definition.
CL 7	Grant Thornton LLP	**No** They are not aware of situations in which a member would treat an entity as a PIE when an engagement is not subject to AICPA Statements on Auditing Standards, Statements on Standards for Accounting and Review Services, or Statements on Standards for Attestation Engagements and where the entity does not meet the PIE definition as proposed in the Exposure Draft. However, if there are other situations for members to consider, they believe PEEC should consider providing nonauthoritative guidance providing examples and explanations related to such situations in the format of a frequently asked questions (FAQs) document or practice aid. Further, they agree with PEEC's decision to not incorporate the transparency requirement, such that members would not be required to disclose that the independence requirements for PIEs have been applied to the attest engagement as this requirement would be achieved through the issuance of the auditor's opinion on the financial statements, as discussed in the Exposure Draft.
CL 8	AICPA PCPS Technical Issues Committee (TIC)	**Yes** They believe the primary example of a situation in which a member would treat an entity as a PIE, when the entity does not otherwise meet the definition of a PIE, is when the entity is expecting to file an initial public offering. They do not believe that there would be any situations under the Statements on Standards for Accounting and Review Services. They believe it would be helpful to have guidance related to such situations and believe such guidance would be sufficiently addressed in the form of a Q&A or

		practice aid. In situations that the member is not required to treat an entity as a PIE, they do not believe the member should be required to disclose that the independence requirements for PIEs have been applied.
CL 9	CliftonLarsonAllen LLP	**Yes** An entity is planning to go public within three years, then on might treat the entity as a PIE. They believe it would be helpful for the AICPA to provide nonauthoritative guidance by providing examples. They do not believe it is necessary to disclose that PIE independence rules have been applied.
CL 10	BDO USA LLP	**No** They are no aware of any situations in which a member would treat an entity as a PIE when an engagement is subject to AICPA Statements on Auditing Standards, Statements on Standards for Accounting and Review Services, or Statements on Standards for Attestation Engagements. If such situations were to arise, they do not believe it would be necessary to disclose that the independence requirements for PIEs have been applied. They believe any requirements related to disclosure of the independence standards should be determined by the applicable regulator.
CL 11	Deloitte LLP	**Yes** They agree there may be rare situations where an entity is not a PIE as defined by the AICPA Code while the entity's financial position is nevertheless significant to the public interest. They believe the baseline PIE factors presented at 400.9 supplemented by 400.19 A1 of the IESBA Code are appropriate as a base for any

		AICPA guidance for these scenarios. They believe nonauthoritative guidance could be helpful in addressing situations where a member concludes it is appropriate to treat an entity as a PIE although the entity is not a PIE as defined by the AICPA Code. This approach would align with 400.19 A1 of the IESBA Code. They understand the intent of transparency is to provide the investor community with information that could aid in decision-making and improve trust, however when members apply the PIE independence requirements voluntarily, we do not believe PEEC should require members to disclose such application for the following reasons: • Where the entity is already subject to a regulator's independence requirements and the regulator has taken public interest into consideration when promulgating its independence requirements, it is unlikely that a transparency requirement would offer any incremental benefit to the public interest. • If the application of PIE independence requirements is voluntary, members should take the same approach to the related transparency requirement. PEEC could encourage firms to consider transparency but allow the client to make the ultimate decision. Just as a non-PIE client can choose to be treated as a PIE, it is reasonable to allow the same ability to use judgement when considering transparency. • Any mandated transparency in such situations is likely to raise costs for clients and firms with limited incremental benefit, which is counter to the public interest. This might create unintended consequences, such as inadvertently discouraging clients and firms from applying the PIE requirements voluntarily. While they do not support the inclusion of a transparency requirement in the AICPA Code for these situations, if PEEC includes a transparency requirement in the final

		revisions, we suggest PEEC coordinate and consult with the Audit Standards Board (ASB) regarding the most appropriate methods and mechanisms for disclosures, if any, in this context to clarify the implementation of the transparency requirements when a regulator's transparency requirement is not applicable. These discussions should further consider the appropriateness of disclosures related to reports restricted in use or otherwise not made publicly available.
CL 12	Baker Tilley US, LLP	**No**
CL 13	Pennsylvania Institute of CPAs (PICPA)	**Yes** If the practitioner is serving as a component auditor of a subsidiary subject to international standards and the parent is a PIE, then a practitioner could be subject to the international ethics standards. They do not believe that additional guidance is necessary. They do not support separate disclosures in such situations.
CL 14	New York State Society of CPAs (NYSSCPA)	**No response.**

Question i: Do you agree that the effective date provides adequate time to implement the proposals? If you disagree, please explain why.		
Yes: 13 No: 0 No response: 1		
CL 1	RSM US LLP	**Yes**
CL 2	PricewaterhouseCoopers LLP (PWC)	**No response**

CL 3	Ernst & Young LLP (EY)	**Yes** They agree with the alignment of the effective date for both the AICPA and IESBA definitions, and believe such date provides sufficient time for implementation. However, some that are PIEs under the current definition in the AICPA code will no longer be considered PIEs under the proposed revised definition. Such entities may temporarily be required to comply with the new IESBA pre-concurrence and fee disclosure requirements, effective starting in 2023, until such requirements are no longer applicable on the effective date for the AICPA's revised PIE definition. Such disclosure being made for only a short period of time and then being subsequently removed may create confusion for the public and stakeholders. Although early adoption of the revised definition may be permitted, it may not be feasible for a firm to early adopt all categories of the revised definition since sufficient time will be needed to implement the requirements for entities not previously considered PIEs, such as non-publicly traded insurance companies, that will become PIEs under the revised definition paragraph 43.c. PEEC might consider the approach used by accounting standard setters to permit different effective dates based on entity type, such as public versus private companies. A possible approach may be staggering the effective date as follows: For all entities that are treated as Public Interest Entities (PIEs) as defined on the date prior to publication of these revisions, the new and revised definitions are effective immediately. For all other entities, the new and revised definitions will be effective for periods beginning on or after December 15, 2024, with early implementation allowed.
CL 4	KPMG LLP	**Yes** They propose a two-pronged approach for the effective date to allow entities that will no longer be PIEs under the new definition to be treated as non-PIEs as of the date of adoption by PEEC. IESBA's effective date for its revised definitions of listed

		entities and PIEs creates incongruity with the IESBA *Revisions to the Non-Assurance Services Provisions of the Code and Revisions to the Fee-Related Provisions of the Code*, both of which were effective for periods beginning on or after December 15, 2022. For example, entities that will be non-PIEs under the AICPA revised definition (i.e., benefit plans filing Form 11-K, banking institutions that meet the annual audit requirement imposed by Part 363 of the FDIC's regulations that have between $500 million and $1 billion in consolidated total assets, and insurance company separate accounts) will be required to apply PIE requirements for the periods between December 15, 2022 and December 15, 2024. Due to the timing difference amongst the standards, for members of firms that fully apply all IESBA standards, these entities will be required to apply PIE requirements that go beyond the US regulatory standards, such as public fee disclosures, for only one or two periods, creating an operational burden for entities that will be non-PIEs under the new definition. They propose that the effective date for existing PIE entities (i.e., those that will be non-PIEs under the revised definition) be as of the adoption date, and for all other entities, for periods beginning on or after December 15, 2024.
CL 5	NASBA	**Yes**
CL 6	Crowe LLP	**Yes** they believe the effective date, with early implementation allowed, provides sufficient time and flexibility for firms to develop policies or modify existing policies and provide training as necessary to implement the proposal.
CL 7	Grant Thornton LLP	**Yes**
CL 8	AICPA PCPS Technical Issues Committee (TIC)	**Yes**
CL 9	CliftonLarsonAllen LLP	**Yes**

CL 10	BDO USA LLP	**Yes**
CL 11	Deloitte LLP	**Yes** Notwithstanding their additional comments, they agree the proposal should be effective for periods beginning on or after December 15, 2024, with early adoption allowed, as this aligns with the effective date of the IESBA revised definitions of PIE and Publicly Traded Entity. However, similar to FASB's "two-bucket" approach that staggers the effective dates for new major accounting standards, they strongly recommend PEEC consider staggered effective dates for the revised PIE definition as follows: • For current PIE entities, the effective date would be immediately upon publication. • For new PIE entities, the effective date would be for periods beginning on or after December 15, 2024, with early adoption allowed. Using a two-bucket approach will provide more consistency and continuity to better support the public interest while balancing the costs of implementation.
CL 12	Baker Tilley US, LLP	**Yes**
CL 13	Pennsylvania Institute of CPAs (PICPA)	**Yes** They support the proposed effective date as the impact is expected to be minimal.
CL 14	New York State Society of CPAs (NYSSCPA)	**Yes** The proposed effective date appears reasonable.

Additions to the proposed new definition since the exposure draft are highlighted in yellow.

Terms defined in the AICPA Code of Professional Conduct are italicized in this document. If you'd like to see the definitions, you can find them in "Definitions" (ET sec. 0.400).

Text of new definition *publicly traded entity* and revised definition *public interest entity*

0.400 Definitions

.45 Publicly traded entity. An entity that issues financial instruments that are transferable and traded through a publicly accessible market mechanism, including through listing on a stock exchange. ***Where an entity is required to file a registration statement with the SEC, it will be considered a publicly traded entity when the registration statement becomes effective.***

.43 Public interest *entity* ~~entities~~. ***An entity is a public interest entity when it falls within any one of the*** ~~All of the~~ following ***categories***:

a. ~~All listed entities, including entities that are outside the United States whose shares, stock, or debt are quoted or listed on a recognized stock exchange or marketed under the regulations of a recognized stock exchange or other equivalent body.~~ ***A publicly traded entity whose auditor is subject to provisions of Regulation S-X, SEC Rule 2-01, "Qualifications of Accountants" that are applicable to auditors of issuers***

b. ***An entity one of whose main functions is to take deposits from the public***

i. ***that meets the annual audit requirement imposed by Part 363 of the FDIC's regulations (12 CFR 363,*** **Annual Independent Audits and Reporting Requirements*) and***

ii. ***that has consolidated total assets of $1 billion or more as of the beginning of the fiscal year.***

c. ***An entity one of whose main functions is to provide insurance to the public***

i. that is subject to the National Association of Insurance Commissioners Annual Financial Reporting Model Regulation (Model Audit Rule), and

ii. that has $500 million or more in annual direct written and assumed premiums.

d. ***An investment company, other than an insurance company product, that is registered with the SEC pursuant to the Investment Company Act of 1940 and the Securities Act of 1933***

~~*b.* Any entity for which an audit is required by regulation or legislation to be conducted in compliance with the same *independence* requirements that apply to an audit of listed entities (for example, requirements of the SEC, the PCAOB, or other similar regulators or standard setters).~~

~~Members may wish to consider whether additional entities should also be treated as public interest entities because they have a large number and wide range of stakeholders. Factors to be considered may include~~

- ~~the nature of the business, such as the holding of assets in a fiduciary capacity for a large number of stakeholders;~~
- ~~size; and~~
- ~~number of employees~~.

When a member performs a financial statement audit ~~or review~~ subject to the regulatory requirements described in (*a*)–(*d*), a member ~~*Members*~~ should **comply with the applicable independence requirements as required by the "Governmental Bodies, Commissions, or Other Regulatory Agencies" interpretation [1.400.050] of the "Acts Discreditable Rule" [1.400.001]** ~~refer to the *independence* regulations of applicable authoritative regulatory bodies when a *member* performs attest services and is required to be independent of the *attest client* under such regulations~~. [Prior reference: paragraph .20 of ET section 100-1]

Comment letters



RSM US LLP

August 21, 2023

Professional Ethics Division
American Institute of Certified Public Accountants
1211 Avenue of the Americas, 19th Floor
New York, NY 10036

Via email to ethics-exposuredraft@aicpa.org

Re: Exposure Draft, *Proposed new definition of publicly traded entity and revised definition of public interest entity*, AICPA Professional Ethics Division – June 15, 2023

RSM US LLP (RSM) appreciates the opportunity to comment on the American Institute of Certified Public Accountants (AICPA) Professional Ethics Division's June 15, 2023, Exposure Draft, *Proposed new definition of publicly traded entity and revised definition of public interest entity* (the Exposure Draft). RSM is a leading provider of audit, tax and consulting services focused on the middle market.

As requested, we are providing the following responses to the questions on the specific aspects of the proposed interpretations and revisions upon which PEEC is seeking feedback:

a. *Do you agree with the decision to defer to the relevant regulators for purposes of the specific independence requirements applicable to each PIE category? If not, please explain why.*

   We agree with the decision to defer to the relevant regulators for purposes of the specific independence requirements applicable to each PIE category.

b. *Do you agree with the refinement to the "publicly traded entity" category to include only those entities whose auditors are subject to Regulation S-X, SEC Rule 2-01? If not, please explain why.*

   We agree with the stated intention in paragraph 12 of the Exposure Draft to limit the *publicly traded entity* category of *public interest entities* to entities whose auditors are subject to the SEC "*issuer*" independence rules. However, we are concerned that there may be some *publicly traded entities* whose auditors are subject to Rule 2-01 of SEC Regulation S-X that are not subject to the "issuer' rules within Rule 2-01. See our comment on how category a. of the definition of *public interest entity* could be revised to make it clear that only *publicly traded entities* that are "issuers" are included in this category of PIEs.

c. *Do you agree with the refinement to the "deposits from the public" category to include only those entities that have consolidated total assets of $1 billion or more and meet the annual audit requirement imposed by Part 363 of FDIC regulations (12 CFR 363 – "Annual Independent Audits and Reporting Requirements")? If not, please explain why.*

   We agree with this refinement.

THE POWER OF BEING UNDERSTOOD
AUDIT | TAX | CONSULTING

RSM US LLP is the U.S. member firm of RSM International, a global network of independent audit, tax, and consulting firms. Visit rsmus.com/aboutus for more information regarding RSM US LLP and RSM International.

d. *Do you agree with the refinement to the "insurance to the public" category to include only those entities that are subject to the NAIC Model Audit Rule that meet or exceed $500 million in annual direct written and assumed premiums? If not, please explain why.*

We agree with this refinement.

e. *Do you agree with the "investment company" category PEEC proposes to include in the PIE definition? If not, please explain why.*

We agree with the category of Investment companies that PEEC proposes to include in the PIE definition. However, we believe it should be expanded to include investment companies that file or have filed a registration statement that has not yet become effective under the Securities Act of 1940, and that it has not withdrawn. See our comment on how category d. of the definition of *public interest entity* could be revised to incorporate investment companies filing initial registration statements.

f. *Do you believe other entities, such as credit unions, should be included as PIEs and thus subject to the more restrictive independence requirements consistent with those for IESBA PIEs?*
   i. *If so, which entities and why?*
   ii. *If so, should the AICPA code incorporate a second set of more restrictive independence standards (that is, consistent with IESBA PIEs), applicable to these other entities? If not, please explain an alternative approach.*

For the reasons set forth in paragraphs 22–23 and 34–50, we agree with PEEC's conclusion not to include credit unions, pension plans (including those required to file form 11-K with the SEC), other employee benefit plans required to have an annual financial statement audit under the Employee Retirement Income Security Act of 1974, non-issuer broker-dealers, private funds advised by an SEC-registered investment adviser that choose to rely on the audit exception under the custody rule, and not-for-profit and governmental entities within the definition of *public interest entities*. Although not specifically addressed in the Exposure Draft, we also agree with excluding non-issuer futures commission merchants from the definition of *public interest entities*.

g. *Is the definition of "publicly traded entity" clear? If not, please explain how it should be clarified.*

We believe the definition of *publicly traded entity* is clear.

h. *If an entity does not otherwise meet the definition of a PIE, are you aware of situations in which a member would treat an entity as a PIE when an engagement is subject to AICPA Statements on Auditing Standards, Statements on Standards for Accounting and Review Services, or Statements on Standards for Attestation Engagements?*
   i. *If so, describe such situations and which independence standards are typically applied.*
   ii. *Do you believe it would be helpful to have guidance related to such situations? If so, should*

that guidance be authoritative (that is, included in the AICPA code) or nonauthoritative (for example, a Q&A or practice aid)?

iii. *Do you believe that in such situations the member should be required to disclose that the independence requirements for PIEs have been applied? If so, how do you believe such disclosure should be achieved when the regulator's transparency requirement is not applicable?*

We are aware of situations in which, due to regulatory requirements, members perform audit engagements in accordance with both AICPA Statements on Auditing Standards and PCAOB Auditing Standards ("dual standards engagements"). In those cases, the independence rules of the SEC and the PCAOB must be complied with. We believe auditors who agree to conduct dual-standards engagements understand the independence standards and rules applicable to such engagements and do not need additional guidance to apply them. Further, we believe disclosure of those standards is unnecessary because it is inherent in the disclosure of the auditing standards applied.

i. *Do you agree that the effective date provides adequate time to implement the proposals? If you disagree, please explain why.*

Because PEEC proposes to defer to the relevant regulators for the specific independence requirements applicable to each PIE category, we agree that the proposed effective date provides adequate time to implement the proposals.

We also offer the following comments on categories a. and d. of the proposed definition of *Public interest entity* (ET Section 400.43):

Category a.

To avoid confusion, we suggest this category be revised to specifically limit the category to publicly traded entities that are "issuers" rather than referencing Rule 2-01 of SEC Regulation S-X which applies to many entities other than issuers, some of which could, potentially, be publicly traded entities. We suggest revising the definition as follows:

"A publicly traded entity that is an 'issuer' (as defined in Section 3 of the Securities Exchange Act of 1934), the securities of which are registered under Section 12 of that Act or that is required to file reports under Section 15(d) of that Act (excluding Stock Purchase, Savings and Similar Plans), or that files or has filed a registration statement that has not yet become effective under the Securities Act of 1933, and that it has not withdrawn."

Category d.

Since investment companies file registration statements under the Investment Company Act of 1940, we suggest revising this definition as follows:

"An investment company, other than an insurance company product, that is registered with the SEC pursuant to the Investment Company Act of 1940 or that files or has filed a registration statement that has not yet become effective under the Securities Act of 1940, and that it has not withdrawn."

We appreciate this opportunity to provide feedback on the Exposure Draft and would be pleased to



September 14, 2023

Ms. Toni Lee-Andrews
Director, Professional Ethics Division
AICPA Professional Ethics Executive Committee
1345 Avenue of the Americas, 27th Floor
New York, NY 10105

Re: AICPA Professional Ethics Executive Committee proposed new definition of publicly traded entity and revised definition of public interest entity

Dear Ms. Lee-Andrews:

PricewaterhouseCoopers LLP appreciates the opportunity to provide comments on the proposal of the AICPA Professional Ethics Executive Committee (the "PEEC" or the "Committee") to adopt a new definition of "publicly traded entity" and revised definition of "public interest entity" (the "proposed revisions") under ET sec. 0.400 ("Definitions") of the AICPA *Code of Professional Conduct* (the "Code of Conduct").

We agree with the new definition of a publicly traded entity (PTE) and revised definition of a public interest entity (PIE), as proposed. We also agree with the proposed revisions to align with the provisions adopted by the International Ethics Standards Board for Accountants (IESBA) *International Code of Ethics for Professional Accountants (including International Independence Standards)* (the "IESBA Code") with one suggestion for clarification.

Prong (a) of the PEEC's proposed revised PIE definition refers to "a publicly traded entity whose auditor is subject to Regulation S-X, SEC Rule 2-01, 'Qualifications of Accountants'" ("SEC Rule 2-01"). However, paragraph 12 of the explanatory memorandum in the exposure draft states that the IESBA Code's category of a PTE has been refined in the Committee's proposal to extend only to those entities whose auditors are subject to the SEC ***issuer*** independence rules. Paragraph 12 also provides examples of SEC Rule 2-01 provisions that apply to both issuer and nonissuer audits as well as examples of provisions that apply to issuer audits only. The refinement in paragraph 12 regarding the PTE category only extending to auditors subject to the SEC issuer independence rules is not reflected in prong (a) of the proposed revised PIE definition. Therefore, as written, prong (a) appears to scope a broader population of entities into the PIE definition (i.e., any PTE whose auditor is subject to SEC Rule 2-01) rather than what is described in paragraph 12 (i.e., issuers only). We request that the Committee clarify prong (a) of the proposed revised PIE definition to reflect the refinement in paragraph 12 that a PIE is a PTE whose auditor is subject to SEC issuer independence rules. If prong (a) is not clarified, we believe the Committee should, at a minimum, issue application guidance that incorporates the guidance contained in paragraph 12 and any other relevant paragraphs of the explanatory memorandum.

PricewaterhouseCoopers LLP, 300 Madison Ave, New York, NY 10017
T: (646) 471 3000, F: (646) 471 8320, www.pwc.com



Finally, the PEEC's proposed PIE definition does not include language from the IESBA application guidance, which lists factors for firms to consider in evaluating whether to treat additional entities as PIEs. PEEC's view for not including the factors is explained in paragraph 53 of the exposure draft's explanatory memorandum, which states, in part, that the Code of Conduct, with or without the list of factors from the IESBA Code's application guidance, allows a member to apply enhanced independence requirements and to treat a client as a PIE, when appropriate. We agree that, with or without the factors listed in the Code of Conduct, members can apply the enhanced independence requirements and treat a client as a PIE. As a result, we support PEEC not including the application guidance and do not believe any additional guidance is necessary.

* * * * *

We would be pleased to discuss our comments and to answer any questions that you or the PEEC may have. If you have any questions regarding this submission, please contact Marc Panucci at marc.panucci@pwc.com or Anika Heard at anika.heard@pwc.com.

Sincerely,

PricewaterhouseCoopers LLP

PricewaterhouseCoopers LLP

Ernst & Young LLP
One Manhattan West
New York, NY 10001-8604

Tel: +1 212 773 3000
ey.com

CL 3

Building a better working world

Ms. Toni Lee-Andrews, Director - Professional Ethics Division
American Institute of Certified Public Accountants
1345 Avenue of the Americas, 27th Floor
New York, NY 10105

September 14, 2023

Mail to: ethics-exposuredraft@aicpa.org

Proposed new definition of publicly traded entity and revised definition of public interest entity

Dear Ms. Lee-Andrews:

Ernst & Young LLP ("EY US") is pleased to provide comments on the American Institute of Certified Public Accountants ("AICPA") Professional Ethics Executive Committee's ("PEEC") June 2023 Exposure Draft, *Proposed new definition of publicly traded entity and revised definition of public interest entity* (the "proposed changes" or "proposal").

We are supportive of PEEC's efforts to converge the AICPA's Code of Professional Conduct (the "Code") definitions of publicly traded entity ("PTE") and public interest entity ("PIE") with ethics standards promulgated by the International Ethics Standards Board for Accountants ("IESBA"). Overall, we believe that the proposal better aligns the classification of entities as PIEs.

We agree with the view that adding a separate set of independence standards for PIEs would introduce significant complexity to the AICPA code and potential inconsistencies with the rules of U.S. regulators. We agree with the refinement to the PIE category for PTEs to include only those publicly traded entities whose auditors are subject to the Securities and Exchange Commission ("SEC") Regulation S-X, Rule 2-01 as the SEC independence rules for issuers are substantially similar to the IESBA requirements for PIEs. We also agree with the trigger and thresholds to be applied to entities whose main functions are to take deposits from or provide insurance to the public. Finally, we agree with alignment of the effective date with IESBA for both definitions and believe that such date provides sufficient time for implementation.

Overall, we support the proposed changes; however, as more fully explained in our comments attached, there are certain proposed changes that we believe warrant further consideration by PEEC, and we hope our comments will aid PEEC in its efforts.

We would be pleased to discuss our comments with you. If you have any questions regarding this submission, please contact Karen Moncrieff at karen.moncrieff@ey.com.

Yours sincerely,

Ernst & Young LLP

A member firm of Ernst & Young Global Limited



We are not including responses to questions a., b., c., d., and g. below because we agree with the proposal and the reasoning as outlined in the exposure draft's explanatory memo.

e. *Do you agree with the "investment company" category PEEC proposes to include in the PIE definition? If not, please explain why.*

Response:

We agree with PEEC's statement in paragraph 15 of the exposure draft's explanatory memo that publicly available mutual funds are considered PIEs if their auditors are subject to SEC issuer independence rules. However, we believe that paragraph 32 contradicts paragraph 15, as not all funds that are solely registered with the SEC pursuant to the Investment Company Act of 1940 (1940 Act) are offered to the public and therefore are not all publicly available or have significant public interest. We recommend that PEEC revise the proposed investment company category as follows:

> *d. An investment company, other than an insurance company product, that is registered with the SEC pursuant to the Investment Company Act of 1940 and the Securities Act of 1933.*

We believe this change would provide further clarification that entities such as nontraded and private business development companies (BDCs), in addition to nontraded real estate investment trusts (REITs) and insurance separate accounts, as identified in paragraphs 32 and 33, respectively, of the exposure draft's explanatory memo, would not be considered PIEs.

We also believe nonauthoritative guidance summarizing the US entity types that are excluded from the new and revised definitions, such as those noted above, as well as others identified in the exposure draft's explanatory memo, including credit unions and 11-K filers, as identified in paragraphs 22 and 34, respectively, would be beneficial.

f. *Do you believe other entities, such as credit unions, should be included as PIEs and thus subject to the more restrictive independence requirements consistent with those for IESBA PIEs?*

   i. *If so, which entities and why?*
   ii. *If so, should the AICPA code incorporate a second set of more restrictive independence standards (that is, consistent with IESBA PIEs), applicable to these other entities? If not, please explain an alternative approach.*

A member firm of Ernst & Young Global Limited

Response:

We do not believe other entities, such as credit unions, should be included as PIEs. The three mandatory categories covered by the new IESBA PIE definition are heavily regulated in the United States. As noted in paragraph 22 of the exposure draft's explanatory memo, the regulator for credit unions, National Credit Union Administration (NCUA), has determined that the independence requirements of the current AICPA code, are the appropriate independence standards for auditors of credit unions. NCUA previously considered the FDIC's independence requirement for auditors of large banks and solicited public comment (71 FR 9278 (February 23, 2006)) on whether to require auditors of credit unions to meet the SEC independence requirements, but it ultimately determined not to implement such a requirement.

h. *If an entity does not otherwise meet the definition of a PIE, are you aware of situations in which a member would treat an entity as a PIE when an engagement is subject to AICPA Statements on Auditing Standards, Statements on Standards for Accounting and Review Services, or Statements on Standards for Attestation Engagements?*

   i. *If so, describe such situations and which independence standards are typically applied.*

   Response:

   We are not aware of any such situations.

   ii. *Do you believe it would be helpful to have guidance related to such situations? If so, should that guidance be authoritative (that is, included in the AICPA code) or nonauthoritative (for example, a Q&A or practice aid)?*

   Response:

   As we are not aware of any such situations, we do not believe additional guidance (authoritative or nonauthoritative) is necessary.

   iii. *Do you believe that in such situations the member should be required to disclose that the independence requirements for PIEs have been applied? If so, how do you believe such disclosure should be achieved when the regulator's transparency requirement is not applicable?*

   Response:

   If the intent of the disclosure is to indicate a level of audit quality, we do not believe such disclosure is warranted. PIE classification should not be the trigger

A member firm of Ernst & Young Global Limited

for a different level of audit quality, and the audit report already discloses the audit or attest standards being applied.

If the intent of the disclosure is to enhance the confidence in the independence of the audit firm and/or engagement team providing the service, we believe such objective is met via a firm's Transparency Report, website or other disclosures regarding its system of effective quality management.

i. Do you agree that the effective date provides adequate time to implement the proposals? If you disagree, please explain why.

Response:

We agree with alignment of the effective date for both the AICPA and IESBA definitions, and believe such date provides sufficient time for implementation.

However, some that are PIEs under the current definition in the AICPA Code will no longer be considered PIEs under the proposed revised definition. Such entities may temporarily be required to comply with the new IESBA pre-concurrence and fee disclosure requirements, effective starting in 2023, until such requirements are no longer applicable on the effective date for the AICPA's revised PIE definition. Such disclosure being made for only a short period of time and then being subsequently removed may create confusion for the public and stakeholders.

Although early adoption of the revised definition may be permitted, it may not be feasible for a firm to early adopt all categories of the revised definition since sufficient time will be needed to implement the requirements for entities not previously considered PIEs, such as non-publicly traded insurance companies, that will become PIEs under the revised definition paragraph 43. c.

PEEC might consider the approach used by accounting standard setters to permit different effective dates based on entity type, such as public versus private companies. A possible approach may be staggering the effective date as follows:

> *For all entities that are treated as* ***Public Interest Entities (****PIEs) as defined on the date prior to publication of these revisions, the* ***new and revised definitions are*** *effective immediately.*
>
> *For all other entities, the* ***new and revised definitions will be effective for periods beginning on or after December 15, 2024, with early implementation allowed.***

A member firm of Ernst & Young Global Limited

KPMG LLP
345 Park Avenue
New York, NY 10154-0102

September 15, 2023

Ms. Toni Lee Andrews
Director of the AICPA Professional Ethics Division
American Institute of Certified Public Accountants
220 Leigh Farm Road
Durham, North Carolina 27707

RE: AICPA Professional Ethics Executive Committee Exposure Draft: Proposed New Definition of *Publicly Traded Entity* and Revised Definition of *Public Interest Entity*

Dear Ms. Lee-Andrews,

KPMG LLP ("KPMG," "our," or "we") is pleased to respond to the request for public comment on the American Institute of Certified Public Accountants (AICPA) Professional Ethics Executive Committee's (PEEC) Exposure Draft, *Proposed New Definition of Publicly Traded Entity and Revised Definition of Public Interest Entity*.

Overall, we are supportive of PEEC's proposed new and revised definitions as part of its convergence efforts with ethics standards promulgated by the International Ethics Standards Board for Accountants (IESBA). Unless otherwise noted in this letter, we concur with PEEC's position regarding the questions presented for specific comment, so we did not respond to each question individually.

(d) Do you agree with the refinement to the "insurance to the public" category to include only those entities that are subject to the NAIC Model Audit Rule that meet or exceed $500 million in annual direct written and assumed premiums? If not, please explain why.

We generally agree with the AICPA's refinement to the "insurance to the public" category. Paragraph 28 of the explanatory materials identifies certain entities that are not included in the AICPA's refined insurance category because of inconsistent application of the Model Audit Rule or varied state regulations among them. We believe that if PEEC's intention is to exempt these entities from the definition of PIE, it should be explicitly stated in the interpretation.

(e) Do you agree with the "investment company" category PEEC proposes to include in the PIE definition? If not, please explain why.

We agree that it is appropriate to treat investment companies that have significant public interest as PIEs. The explanatory materials indicate that entities such as nontraded real estate investment trusts (REITs) would not be included within this category and therefore should not be considered PIEs. We believe that similar non-traded investment companies that are registered under the Investment Company Act of 1940 but not the Securities Act of 1933 should also be excluded from the definition of PIE because there is no publicly accessible market mechanism on which these investment companies can trade. As such, these entities do not represent broad public interest that triggers the incremental PIE independence requirements. We recommend that PEEC refine category (d) to make this distinction and enable consistent application. We suggest the following edit for PEEC's consideration (change shown in bold):

> An investment company, other than an insurance company product, that is registered with the SEC pursuant to the Investment Company Act of 1940 **and the Securities Act of 1933**.

KPMG LLP, a Delaware limited liability partnership and a member firm of the KPMG global organization of independent member firms affiliated with KPMG International Limited, a private English company limited by guarantee.

(i) Do you agree that the effective date provides adequate time to implement the proposals? If you disagree, please explain why.

We propose a two-pronged approach for the effective date to allow entities that will no longer be PIEs under the new definition to be treated as non-PIEs as of the date of adoption by PEEC. IESBA's effective date for its revised definitions of listed entities and PIEs creates incongruity with the IESBA *Revisions to the Non-Assurance Services Provisions of the Code* and *Revisions to the Fee-Related Provisions of the Code*, both of which were effective for periods beginning on or after December 15, 2022. For example, entities that will be non-PIEs under the AICPA revised definition (i.e., benefit plans filing Form 11-K, banking institutions that meet the annual audit requirement imposed by Part 363 of the FDIC's regulations that have between $500 million and $1 billion in consolidated total assets, and insurance company separate accounts) will be required to apply PIE requirements for the periods between December 15, 2022 and December 15, 2024. Due to the timing difference amongst the standards, for members of firms that fully apply all IESBA standards, these entities will be required to apply PIE requirements that go beyond the US regulatory standards, such as public fee disclosures, for only one or two periods, creating an operational burden for entities that will be non-PIEs under the new definition. We propose that the effective date for existing PIE entities (i.e., those that will be non-PIEs under the revised definition) be as of the adoption date, and for all other entities, for periods beginning on or after December 15, 2024.

* * * * * * *

We appreciate PEEC's consideration of our feedback. If you have any questions regarding our comments included in this letter, please do not hesitate to contact Nancy Miller at nancymiller@kpmg.com.

Very truly yours,

KPMG LLP

CC: Anna Dourdourekas, Chair
Professional Ethics Executive Committee

NASBA
National Association of State Boards of Accountancy

150 Fourth Avenue North ♦ Suite 700 ♦ Nashville, TN 37219-2417 ♦ Tel 615/880-4200 ♦ Fax 615/880-4290 ♦ Web www.nasba.org

September 11, 2023

Professional Ethics Executive Committee
American Institute of Certified Public Accountants
1345 Avenue of the Americas
New York, NY 10105

Via e-mail: ethics-exposuredraft@aicpa.org

Re: **Exposure Draft: Proposed New Definition of Publicly Traded Entity and Revised Definition of Public Interest Entity (ET Sec. 0.400)**

Dear Members and Staff of the AICPA Professional Ethics Executive Committee (PEEC):

The National Association of State Boards of Accountancy (NASBA) appreciates the opportunity to comment on the above-referenced Exposure Draft, ***Proposed New Definition of Publicly Traded Entity and Revised Definition of Public Interest Entity (ET Sec. 0.400)*** (the Exposure Draft). NASBA's mission is to enhance the effectiveness and advance the common interests of State Boards of Accountancy (State Boards) that regulate all Certified Public Accountants (CPAs) and their firms in the United States and its territories, which includes all audit, attest and other services provided by CPAs. State Boards are charged by law with protecting the public.

In furtherance of that objective, NASBA supports the PEEC in this initiative. We have reviewed the Exposure Draft and have the following suggestions for improving the understandability and applicability of the proposals.

General Comments

NASBA is supportive of convergence with other standard setters as making standards uniform wherever possible helps to avoid confusion and potential misapplication by the CPA and aids in enforcement from a regulatory perspective. We especially liked the references to SEC rules or other rules in the proposed revisions instead of repeating the language. Consistency among standard setters is in the public interest.

We are concerned about whether PEEC fully considered how the definitions may impact smaller issuers and small/medium-sized accounting firms. The definitions extend to all entities that issue debt that can be traded. This would include special taxing districts, private water utilities, private universities and developers that create planned unit developments and issue property tax funded bonds. Many of these issuers are located in small and/or underserved communities in rural areas. These bonds are traded through market makers and, as written, the definition leaves open the

fact that there are many types of financial instruments that are traded, but not necessarily on the NASDAQ or NYSE.

Given the population of entities that could be considered to be PIEs and the varied facts and circumstances which could result in an entity being considered to be a PIE, we are concerned that there may be situations where an entity could be determined to be a PIE yet does not fit within any of the categories in the proposed definitions. Additional application guidance should be provided including the factors that the IESBA identified for voluntarily designating an entity as a PIE for independence purposes.

The term "publicly accessible market mechanism" is utilized as a key element of the new definition of the term "publicly traded entity". There does not appear to be any definition of the term "publicly accessible market mechanism" within the Exposure Draft. A definition of the term should be provided to allow practitioners to better comply with the proposal if adopted.

Comments on Specific Questions

a. Do you agree with the decision to defer to the relevant regulators for purposes of the specific independence requirements applicable to each PIE category? If not, please explain why.

NASBA generally agrees with the decision to defer to the relevant regulators for the purposes of the specific independence requirements applicable to each PIE category. We are concerned that while certain regulators do consider auditor independence as part of their oversight others do not. Guidance should be provided to address those situations where an entity is deemed to be a PIE however their oversight entities do not address auditor independence.

b. Do you agree with the refinement to the "publicly traded entity" category to include only those entities whose auditors are subject to Regulation S-X, SEC Rule 2-01? If not, please explain why.

NASBA agrees with the refinement to the "publicly traded entity" category to include only those entities whose auditors are subject to Regulation S-X, SEC Rule 2-01.

c. Do you agree with the refinement to the "deposits from the public" category to include only those entities that have consolidated total assets of $1 billion or more and meet the annual audit requirement imposed by Part 363 of FDIC regulations (12 CFR 363 – "Annual Independent Audits and Reporting Requirements")? If not, please explain why.

NASBA generally agrees with the refinement to the "deposits from the public" category; however, NASBA suggests the PEEC consider if the $1 billion or more threshold should be increased to a higher number. A bank with $1 billion in deposits from the public may generate $25-$40 million in

annual revenue which is significantly lower than the threshold applied to those entities providing insurance to the public.

d. Do you agree with the refinement to the "insurance to the public" category to include only those entities that are subject to the NAIC Model Audit Rule that meet or exceed $500 million in annual direct written and assumed premiums? If not, please explain why.

NASBA agrees with the refinement to the "insurance to the public" category to include only those entities that are subject to the NAIC Model Audit Rule that meet or exceed $500 million in annual direct written and assumed premiums.

e. Do you agree with the "investment company" category PEEC proposes to include in the PIE definition? If not, please explain why.

NASBA agrees with the "investment company" category PEEC proposes to include on the PIE definition.

f. Do you believe other entities, such as credit unions, should be included as PIEs and thus subject to the more restrictive independence requirements consistent with those for IESBA PIEs?

NASBA believes that credit unions should be included as a PIE and thus subject to more restrictive independence requirements consistent with those for IESBA PIEs.

i. If so, which entities and why?

Credit unions have grown significantly both organically and through acquisitions including acquisitions of non-credit union financial institutions. The Navy Federal Credit Union with $144 billion in assets and 12 million members is the largest credit union in the United States. It is larger than many other regional and national banks. The largest 250 credit unions in the United States all have over $1.5 billion in assets. From a public interest perspective, credit unions are comparable to banks in both substance and form and should be considered as PIEs and thus subject to more restrictive independence requirements.

ii. If so, should the AICPA code incorporate a second set of more restrictive independence standards (that is, consistent with IESBA PIEs), applicable to these other entities? If not, please explain an alternative approach.

NASBA believes that the AICPA code should incorporate a second set of more restrictive independence standards (that is, consistent with IESBA PIEs) for credit unions. Consistent with our comment in (c) above, PEEC should consider whether a $1 billion threshold is appropriate for these entities.

g. Is the definition of publicly traded entity clear? If not, please explain how it should be clarified.

NASBA does not believe the definition of publicly traded entity is clear. Paragraph .13 of the Explanation Section states that a publicly traded entity includes financial instruments of certain non-issuers such as government bonds. However, the definition of publicly traded entity (0.400 Definition .45) refers only to "an entity". Misinterpretation of the definition by a member could lead to the application of greater restrictions than required. At a minimum, NASBA suggests that the explanation be wholly consistent with the definition.

h. If an entity does not otherwise meet the definition of a PIE, are you aware of situations in which a member would treat an entity as a PIE when an engagement is subject to AICPA Statements on Auditing Standards, Statements on Standards for Accounting and Review Services, or Statements on Standards for Attestation Engagements?

NASBA believes that there are situations in which a member would treat an entity as a PIE when an engagement is subject to AICPA Statements on Auditing Standards, Statements on Standards for Accounting and Review Services, or Statements on Standards for Attestation Engagements.

i. If so, describe such situations and which independence standards are typically applied.

Entities that are about to go public, about to be purchased by a publicly traded entity, or if the member knows the financial statements will be included in a U.S. Securities & Exchange Commission filing are situations where a member should treat the entity as a PIE when an engagement is subject to AICPA Statements on Auditing Standards.

ii. Do you believe it would be helpful to have guidance related to such situations? If so, should that guidance be authoritative (that is, included in the AICPA code) or nonauthoritative (for example, a Q&A or practice aid)?

NASBA believes that the guidance related to such situations could be nonauthoritative either in a Q&A or practice aid.

iii. Do you believe that in such situations the member should be required to disclose that the independence requirements for PIEs have been applied? If so, how do you believe such disclosure should be achieved when the regulator's transparency requirement is not applicable?

NASBA believes that in such situations the member should be required to disclose that the independence requirements for PIEs have been applied. In these situations, the disclosure should be achieved through inclusion in the engagement letter and the letter to those charged with governance.

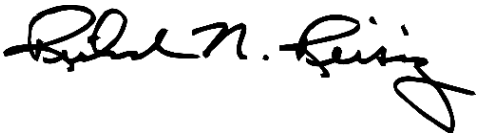
iv. Do you agree that the effective date provides adequate time to implement the proposals? If you disagree, please explain why.

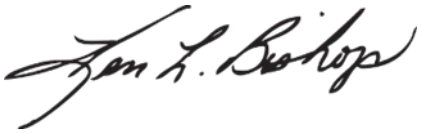
NASBA agrees that the effective date provides adequate time to implement the proposals.

* * * * * *

We appreciate the opportunity to comment on the Exposure Draft.

Very truly yours,





Richard N. Reisig, CPA
NASBA Chair

Ken L. Bishop
NASBA President and CEO

Crowe LLP
Independent Member Crowe Global

September 15, 2023

Professional Ethics Executive Committee
Professional Ethics Division
American Institute of Certified Public Accountants
1211 Avenue of the Americas, 19th Floor
New York, NY 10036

Via e-mail: Ethics-ExposureDraft@aicpa.org

Re: Comments on Exposure Draft, *Proposed New Definition of Publicly Traded Entity and Revised Definition of Public Interest Entity,* AICPA Professional Ethics Division dated June 15, 2023

Dear Committee Members:

Crowe LLP appreciates the opportunity to comment on the American Institute of Certified Public Accountants ("AICPA") Professional Ethics Executive Committee's ("PEEC") June 2023 Exposure Draft, *Proposed New Definition of Publicly Traded Entity and Revised Definition of Public Interest Entity* (Exposure Draft) which provides a new definition and a revised definition for members in public practice.

We support the PEEC's efforts to converge the AICPA code with the International Ethics Standards Board for Accountants (IESBA). Answers to the specific questions in the Exposure Draft are included in our response.

Response to Request for Specific Comment

1. Do you agree with the decision to defer to the relevant regulators for purposes of the specific independence requirements applicable to each public interest entity (PIE) category? If not, please explain why.

We agree with the PEEC's decision to align the three mandatory categories with existing regulations in the United States related to independence requirements. We believe these requirements are sufficiently robust and aligned to cover the greatest threats to independence.

2. Do you agree with the refinement to the "publicly traded entity" category to include only those entities whose auditors are subject to Regulation S-X, SEC Rule 2-01? If not, please explain why.

We agree with the refinement to the "publicly traded entity" category to only include entities whose auditors are subject to Regulation S-X, SEC Rule 2-01. We agree with the PEEC's assessment that SEC independence applicable to publicly traded entities are substantially similar to IESBA independence requirements for PIEs.

3. Do you agree with the refinement to the "deposits from the public" category to include only those entities that have consolidated total assets of $1 billion or more and meet the annual audit requirements imposed by Part 363 of FDIC regulations (12 CFR 363 – "Annual Independent Audits and Reporting Requirements")? If not, please explain why.

We agree the refinement should be aligned with the FDIC Part 363 regulations since those regulations impose restrictive independence requirements that are substantially aligned with IESBA independence

requirements for PIEs. However, we do not believe the category should be limited to financial institutions that have total assets of more than $1 billion. While we understand the PEEC's reasoning for trying to apply this category to larger institutions which have heightened FDIC restrictions, we noted the FDIC's heightened restrictions did not include more restrictive independence requirements. Accordingly, we believe it is more consistent with the FDIC's independence regulations to remove the limitation to financial institutions with total assets of more than $1 billion.

Another consideration for not limiting the "deposits from the public" category to entities with total assets of $1 billion or more is financial institutions under $1 billion may issue brokered certificates of deposit and fall within a category that meets the definition of publicly traded entity. For financial institutions that have total assets of more than $500 million and meet the definition of publicly traded entity due to the issuance of brokered certificates of deposit, the financial institution will be considered a PIE because their auditor is subject to SEC independence. However, members might inappropriately apply 0.400.43(b) to that situation believing the financial institution is not a PIE because the financial institution has total assets below $1 billion.

4. Do you agree with the refinement to the "insurance to the public" category to include only those entities that are subject to the NAIC Model Audit Rule that meet or exceed $500 million in annual direct written and assumed premiums? If not, please explain why.

We agree the refinement should be aligned with the NAIC Model Audit Rule since those regulations impose restrictive independence requirements that are substantially aligned with IESBA independence requirements for PIEs. However, we do not believe the category should be limited to entities that meet or exceed $500 million in annual direct written and assumed premiums. While we understand the PEEC's reasoning for trying to apply this category to larger insurers which have heightened NAIC restrictions, we noted the NAIC's heightened restrictions did not include more restrictive independence requirements. Accordingly, we believe it is more consistent with the NAIC's independence regulations to remove the limitation to entities that meet or exceed $500 million in annual direct written and assumed premiums.

5. Do you agree with the "investment company" category PEEC proposes to include in the PIE definition? If not, please explain why.

We agree with the investment category as this aligns with the SEC independence requirements, which are substantially similar to IESBA independence requirements for PIEs.

6. Do you believe other entities, such as credit unions, should be included as PIEs and thus subject to the more restrictive independence requirements consistent with those for IESBA PIEs?

Other than our recommendations above for changes to the deposit and insurance categories, we do not believe there are other entities that should be included as PIEs as we believe the PEEC's definitions sufficiently capture entities that currently have more restrictive independence requirements.

7. Is the definition of publicly traded entity clear? If not, please explain how it should be clarified.

Yes, we believe the definition is sufficiently clear.

8. If any entity does not otherwise meet the definition of a PIE, are you aware of situations in which a member would treat an entity as a PIE when an engagement is subject to AICPA Statements on Auditing Standards, Statements on Standards for Accounting and Review Services, or Statements on Standards for Attestation Engagements?

We are aware of situations where members may voluntarily apply more restrictive independence requirements to an entity and treat as a PIE, typically in advance of a company becoming a public company. However, we do not believe this category needs to be included in the AICPA's definition of PIE

as members have independence rules they can apply in those situations and do not need for those to be included in the AICPA's definition.

9. Do you agree that the effective date provides adequate time to implement the proposals? If you disagree, please explain why.

We believe the effective date, with early implementation allowed, provides sufficient time and flexibility for firms to develop policies or modify existing policies and provide training as necessary to implement the proposal.

Crowe LLP appreciates the PEEC's efforts in providing the new and revised definition. We would be pleased to respond to any questions regarding our responses. Should you have any questions please contact Jennifer Kary or Andy Gripp.

Cordially,

Crowe LLP

Crowe LLP

cc: Matthew Schell, Crowe LLP

GRANT THORNTON LLP
Grant Thornton Tower
171 N. Clark Street, Suite 200
Chicago, IL 60601-3370

D +1 312 856 0200
S linkd.in/grantthorntonus
twitter.com/grantthorntonus

September 15, 2023

Professional Ethics Executive Committee
Professional Ethics Division
American Institute of Certified Public Accountants
1211 Avenue of the Americas, 19th Floor
New York, NY 10036

Via Email to ethics-exposuredraft@aicpa.org

Re: Comments on Exposure Draft, Proposed new definition of publicly traded entity and revised definition of public interest entity

Dear Committee Members:

Grant Thornton LLP appreciates the opportunity to comment on the American Institute of Certified Public Accountants ("AICPA") Professional Ethics Executive Committee's ("PEEC") June 2023 Exposure Draft ("Exposure Draft") proposing a new definition of publicly traded entity and a revised definition of public interest entity (ET sec. 0.400) as part of PEEC's project to converge with ethics standards promulgated by the International Ethics Standards Board for Accountants ("IEBSA").

Grant Thornton supports PEEC's proposal for a new definition of publicly traded entity and a revised definition of public interest entity ("PIE") to substantially converge with the related IESBA revisions. We agree the proposed revisions and additions provide members with additional guidance to identify publicly traded entities and public interest entities and will assist in the consistent application of the independence requirements for these entities by members in practice.

While Grant Thornton supports the new and revised definitions set forth in the Exposure Draft, we have provided the following comments for PEEC's consideration.

Grant Thornton

Specific comments on Exposure Draft

Below are Grant Thornton's specific comments as requested in the Exposure Draft.

Grant Thornton agrees with items a. through e. as well as i., as listed in the Exposure Draft specific request for comments, and has no other comments in response to these questions.

In response to item f., we do not believe other entities, such as credit unions, should be included as PIEs. We agree with PEEC's rationale and decision to exclude credit unions from the PIE definition as discussed in the Exposure Draft, since this would allow members the ability to consider regulators' input and that the regulator overseeing credit unions allows auditors to apply AICPA independence. We do not have any further comment regarding other entities to be included in the PIE definition.

In response to item g., we believe the definition of *publicly traded entity* as proposed in the Exposure Draft is clear.

In response to item h., we are not aware of situations in which a member would treat an entity as a PIE when an engagement is subject to AICPA Statements on Auditing Standards, Statements on Standards for Accounting and Review Services, or Statements on Standards for Attestation Engagements and where the entity does not meet the PIE definition as proposed in the Exposure Draft. However, if there are other situations for members to consider, we believe PEEC should consider providing nonauthoritative guidance providing examples and explanations related to such situations in the format of a frequently asked questions (FAQs) document or practice aid. Further, we agree with PEEC's decision to not incorporate the transparency requirement, such that members would not be required to disclose that the independence requirements for PIEs have been applied to the attest engagement as this requirement would be achieved through the issuance of the auditor's opinion on the financial statements, as discussed in the Exposure Draft.

Other specific comments

Grant Thornton has no other specific comments for PEEC's consideration.

****

We would be pleased to discuss our comments with you. If you have any questions, please contact Anna Dourdourekas, National Partner in Charge, Ethical Standards, at Anna.Dourdourekas@us.gt.com or (630) 873-2633.

Sincerely,

/s/ Grant Thornton LLP



Private Companies Practice Section

September 15, 2023

Ms. Toni Lee-Andrews
Director of the AICPA Professional Ethics Division
AICPA
220 Leigh Farm Road
Durham, North Carolina 27707

Re: PEEC proposed new definition of *publicly traded entity* and revised definition of *public interest entity*

Dear Ms. Lee-Andrews:

One of the objectives that the Council of the American Institute of Certified Public Accountants (AICPA) established for the PCPS Executive Committee is to speak on behalf of local and regional firms and represent those firms' interests on professional issues in keeping with the public interest, primarily through the Technical Issues Committee (TIC). This communication is in accordance with that objective.

TIC appreciates the effort of the Professional Ethics Executive Committee (PEEC) in converging the AICPA Code of Professional Conduct (AICPA code) with that of the International Ethics Standards Board for Accountants (IESBA). TIC's detailed comments in response to the questions posed in the Exposure Draft (ED) are provided as follows.

Overall, TIC believes that the types of entities discussed in the ED are strongly regulated in the U.S. and regulators are best able to set appropriate independence requirements. Additionally, TIC believes additional guidance for firms that voluntarily join the IFAC Forum of Firms is needed given these Firms have committed to comply with the Forum of Firms Constitution and, as a condition of their membership, should consider the IESBA PIE requirements applicable to financial statement audit and review engagements performed for a PIE.

Proposed new definition of *publicly traded entity* and revised definition of *public interest* entity (ET sec. 0.400).

a. **Do you agree with the decision to defer to the relevant regulators for purposes of the specific independence requirements applicable to each PIE category? If not, please explain why.**

TIC agrees with the decision to defer to the relevant regulators for purposes of the specific independence requirements applicable to each PIE category as the three mandatory categories covered by the new IESBA definition are already heavily regulated in the United States by the SEC, PCAOB, FDIC, and the National Association of Insurance Commissioners (NAIC) whereby these regulators have established appropriate independence requirements for the entities they oversee.

b. Do you agree with the refinement to the "publicly traded entity" category to include only those entities whose auditors are subject to Regulation S-X, SEC Rule 2-01? If not, please explain why.

TIC agrees with the refinement to the "publicly traded entity" category in so far as the refinement extends only to those entities whose auditors are subject to the SEC ***issuer*** independence rules as the rules that apply to issuer audits are similar to IESBA independence requirements for PIEs. TIC's understanding is that the refinement to the publicly traded entity category only includes "issuer" entities.

c. Do you agree with the refinement to the "deposits from the public" category to include only those entities that have consolidated total assets of $1 billion or more and meet the annual audit requirement imposed by Part 363 of FDIC regulations (12CFR 363 – "Annual Independent Audits and Reporting Requirements")? If not, please explain why.

TIC agrees with the refinement to the "deposits from the public" category to include only those entities that have consolidated total assets of $1 billion or more and meet the annual audit requirement imposed by Part 363 of FDIC regulations given the heightened risk for financial institutions with assets of more than $1 billion.

d. **Do you agree with the refinement to the "insurance to the public" category to include only those entities that are subject to the NAIC Model Audit Rule that meet or exceed $500 million in annual direct written and assumed premiums? If not, please explain why**.

TIC agrees with the refinement to the "insurance to the public" category to include only those entities that are subject to the NAIC Model Audit Rule that meet or exceed $500 million in annual direct written and assumed premiums given the heightened risk for insurers with direct and assumed premiums over $500 million.

e. Do you agree with the "investment company" category PEEC proposes to include in the PIE definition? If not, please explain why.

TIC agrees with "investment company" category PEEC proposes to include in the PIE definition as these entities (i.e. those registered with the SEC pursuant to the Investment Company Act of 1940, except those that are insurance company products) have a significant public interest.

f. Do you believe other entities, such as credit unions, should be included as PIEs and thus subject to the more restrictive independence requirements consistent with those for IESBA PIEs?

Because other entities, such as credit unions, are strongly regulated in the U.S. (e.g., National Credit Union Administration (NCUA)), TIC believes that regulators are best able to determine which independence standards are appropriate for auditors of their regulated entities to follow.

i. If so, which entities and why? N/A
ii. If so, should the AICPA code incorporate a second set of more restrictive independence standards (that is, consistent with IESBA PIEs), applicable to these other entities? If not, please explain an alternative approach. N/A

g. Is the definition of *publicly traded entity* clear? If not, please explain how it should be clarified.

TIC believes the definition of publicly traded entity is clear.

h. If an entity does not otherwise meet the definition of a PIE, are you aware of situations in which a member would treat an entity as a PIE when an engagement is subject to AICPA Statements on Auditing Standards, Statements on Standards for Accounting and Review Services, or Statements on Standards for Attestation Engagements?

i. If so, describe such situations and which independence standards are typically applied.

TIC believes the primary example of a situation in which a member would treat an entity as a PIE, when the entity does not otherwise meet the definition of a PIE, is when the entity is expecting to file an initial public offering. TIC does not believe that there would be any situations under the Statements on Standards for Accounting and Review Services.

ii. Do you believe it would be helpful to have guidance related to such situations? If so, should that guidance be authoritative (that is, included in the AICPA code) or nonauthoritative (for example, a Q&A or practice aid)?

TIC believes it would be helpful to have guidance related to such situations and believes such guidance would be sufficiently addressed in the form of a Q&A or practice aid.

iii. Do you believe that in such situations the member should be required to disclose that the independence requirements for PIEs have been applied? If so, how do you believe such disclosure should be achieved when the regulator's transparency requirement is not applicable?

In situations that the member is not required to treat an entity as a PIE, TIC does not believe the member should be required to disclose that the independence requirements for PIEs have been applied.

i. Do you agree that the effective date provides adequate time to implement the proposals? If you disagree, please explain why.

TIC believes that the effective date provides adequate time to implement the proposals.

TIC appreciates the opportunity to present these comments on behalf of PCPS Member firms. We would be pleased to discuss our comments with you at your convenience.

Sincerely,

Bryan Bodnar

Chair, On Behalf of the PCPS Technical Issues Committee

CliftonLarsonAllen LLP
220 South Sixth Street, Suite 300
Minneapolis, MN 55402-1436

phone 612-376-4500 **fax** 612-376-4850
CLAconnect.com

September 18, 2023

Professional Ethics Executive Committee
American Institute of Certified Public Accountants (AICPA)
220 Leigh Farm Road
Durham, NC 27707

Via email: Ethics-ExposureDraft@aicpa.org

Re: Comments on Exposure Draft, "Proposed new definition of *publicly traded entity* and revised definition of *public interest entity* (ET sec. 0.400)," AICPA Professional Ethics Division, June 15, 2023

Dear Committee Members:

CliftonLarsonAllen LLP (CLA) appreciates the opportunity to comment on the June 15, 2023 AICPA Professional Ethics Executive Committee (PEEC) Exposure Draft (ED), which proposes a new definition for "public traded entity" and a revised definition for "public interest entity" (PIE). We understand that the new and revised definitions are the result of the International Ethics Standards Board for Accountants (IESBA) revised definition for "public interest entity" and the AICPA's convergence with that revised definition. CLA agrees that:

- any entities that meet the AICPA definition of PIE already have extant regulators in the US,
- those regulators have sufficient oversight such that the AICPA can defer to those regulators, and
- the PEEC does not need to create a section of the AICPA Code to address PIE entities.

General Comments

CLA overall supports the proposal.

Request for Specific Comments

If the PEEC proceeds with the proposed new and revised definitions, we offer the following responses to the request for specific comments requested in the ED:

Request for Comment

a. Do you agree with the decision to defer to the relevant regulators for purposes of the specific independence requirements applicable to each PIE category? If you disagree, please explain why.

Response: CLA agrees with the decision to defer to the relevant regulators for purposes of the specific independence requirements applicable to each PIE category.

CLA (CliftonLarsonAllen LLP) is an independent network member of CLA Global. See CLAglobal.com/disclaimer.

Request for Comment

b. Do you agree with the refinement to the "publicly traded entity" category to include only those entities whose auditors are subject to Regulation S-X, SEC Rule 2-01? If you disagree, please explain why.

Response: CLA agrees with the refinement to the "publicly traded entity" category to include only those entities whose auditors are subject to Regulation S-X, SEC Rule 2-01.

Request for Comment

c. Do you agree with the refinement to the "deposits from the public" category to include only those entities that have consolidated total assets of $1 billion or more and meet the annual audit requirement imposed by Part 363 of FDIC regulations (12 CFR 363 – "Annual Independent Audits and Reporting Requirements")? If not, please explain why.

Response: CLA believes that the "deposits from the public" category should include those entities that have consolidated total assets of $500 million or more (and not $1 billion or more), which is consistent with the FDIC regulations. The AICPA contends and CLA agrees that the FDIC already adequately regulates financial institutions' "deposits from the public." From an independence standpoint, CLA does not believe that there is a reason to increase the consolidated total assets from $500 million to $1 billion. The "IESBA code prohibits members from providing non-assurance — or nonattest — services to a PIE audit or review client if such services might create a self-review threat," and the FDIC regulations also have the same rules regarding providing non-assurance or nonattest services to the financial institutions whether the financial institution has consolidated total assets of $500 million or more or $1 billion or more, so the AICPA should align with the extant FDIC threshold.

Request for Comment

d. Do you agree with refinement to the "insurance to the public" category to include only those entities that are subject to the NAIC Model Audit Rule that meet or exceed $500 million in annual direct written and assumed premiums? If not, please explain why.

Response: CLA agrees with the refinement to the "insurance to the public" category.

Request for Comment

e. Do you agree with the "investment company" category PEEC proposes to include in the PIE definition? If not, please explain why.

Response: CLA agrees with the investment company category as these entities are already subject to SEC rules.

Request for Comment

f. Do you believe other entities, such as credit unions, should be included in PIEs and thus subject to the more restrictive independence requirements consistent with those for IESBA PIEs?

i. If so, which entities and why?

ii. If so, should the AICPA code incorporate a second set of more restrictive independence standards (that is, consistent with IESBA PIEs), applicable to these other entities? If not, please explain an alternative approach.

Response: CLA does not believe that credit unions should be included in the PIE definition. Credit unions already have oversight from the National Credit Union Administration (NCUA).

Request for Comment

g. Is the definition of publicly traded entity clear? If not, please explain how it should be clarified.

Response: CLA believes the definition of publicly traded entity is clear as written. This definition mirrors IESBA definition of publicly traded entity.

Request for Comment

h. If an entity does not otherwise meet the definition of a PIE, are you aware of situations in which a member would treat an entity as a PIE when an engagement is subject to AICPA Statements on Auditing Standards, or Statements on Standard for Attestation Engagements?

i. If so, describe such situation and which independence standards are typically applied.

ii. Do you believe it would be helpful to have guidance related to such situations? If so, should that guidance be authoritative? (that is, included in the AICPA code) or nonauthoritative (for example, a Q&A or practice aid)?

iii. Do you believe that in such situations the member should be required to disclose that the independence requirements for PIEs have been applied? If so, how do you believe such disclosure should be achieved when the regulator's transparency requirement is not applicable?

Response: CLA is aware of a situation where an entity would be treated as a PIE prior to one becoming a PIE.

i. An entity is planning to go public within three years, then one might treat the entity as a PIE.

ii. CLA believes it would be helpful for the AICPA to provide nonauthoritative guidance by providing examples.

iii. CLA does not believe it is necessary to disclose that PIE independence rules have been applied.

Request for Comment

i. Do you agree that the effective date provides adequate time to implement the proposals? If you disagree, please explain why.

Response: CLA agrees with the effective date provides adequate time to implement based on the proposed revisions.

* * *

CLA appreciates the opportunity to review and offer our comments on the proposed new and revised interpretations. We would be pleased to discuss any questions that you or your staff may have regarding our comments.

Respectfully submitted,

CliftonLarsonAllen LLP

CliftonLarsonAllen LLP

Tel: 732-750-0900
Fax: 732-750-1222
www.bdo.com

90 Woodbridge Center Dr., 4th Floor
Woodbridge, NJ 07095

September 19, 2023

By email: ethics-exposuredraft@aicpa.org

Professional Ethics Executive Committee
Professional Ethics Division
American Institute of Certified Public Accountants
220 Leigh Farm Road
Durham, NC 27707

Re: Proposed new definition of publicly traded entity and revised definition of public interest entity

Dear Professional Ethics Executive Committee:

BDO USA, P.C. appreciates the opportunity to respond to the Professional Ethics Executive Committee's (PEEC) proposed revisions to the Code of Professional Conduct (the "Code"), "*Proposed new definition of publicly traded entity and revised definition of public interest entity*" (proposed definitions). Our comments on the proposed definitions follow.

We support the PEEC's endeavor in setting high-quality and robust independence and ethics standards for the accounting profession in the United States.

Request for Specific Comments

a. **Do you agree with the decision to defer to the relevant regulators for purposes of the specific independence requirements applicable to each PIE category? If not, please explain why.**

   All of the entities included in the proposed PIE categories are regulated entities where the relevant regulators have established robust independence requirements. Therefore, we agree with the decision to defer to the relevant regulators for purposes of the specific independence requirements applicable to each PIE category.

b. **Do you agree with the refinement to the "publicly traded entity" category to include only those entities whose auditors are subject to Regulation S-X, SEC Rule 2-01? If not, please explain why.**

BDO USA refers to BDO USA, P.C., a Virginia professional corporation, also doing business in certain jurisdictions with an alternative identifying abbreviation, such as Corp. or P.S.C.

BDO USA, P.C. is the U.S. member of BDO International Limited, a UK company limited by guarantee, and forms part of the international BDO network of independent member firms.

BDO is the brand name for the BDO network and for each of the BDO Member Firms.

Yes, we agree with the refinement to the "publicly traded entity" category to include only those entities whose auditors are subject to Regulation S-X, SEC Rule 2-01. We believe the additional independence requirements applicable to a PIE should only apply to those entities where the SEC has already determined that "SEC issuer" rules should apply.

c. **Do you agree with the refinement to the "deposits from the public" category to include only those entities that have consolidated total assets of $1 billion or more and meet the annual audit requirement imposed by Part 363 of FDIC regulations (12 CFR 363 – "Annual Independent Audits and Reporting Requirements")? If not, please explain why.**

Yes, we agree with the refinement to the "deposits from the public" category to include only those entities that have consolidated total assets of $1 billion or more and meet the annual audit requirement imposed by Part 363 of FDIC regulations (12 CFR 363 – "Annual Independent Audits and Reporting Requirements"). We agree with PEEC's reasoning that this is the level at which the FDIC recognized a heightened risk and the level at which they determined additional requirements such as the establishment of an audit committee, and reporting on internal control over financial reporting would also apply.

d. **Do you agree with the refinement to the "insurance to the public" category to include only those entities that are subject to the NAIC Model Audit Rule that meet or exceed $500 million in annual direct written and assumed premiums? If not, please explain why.**

Yes, we agree with the refinement to the "insurance to the public" category to include only those entities that are subject to the NAIC Model Audit Rule that meet or exceed $500 million in annual direct written and assumed premiums. We agree with PEEC's reasoning that this is the level at which the NAIC recognized a heightened risk and the level at which they determined additional requirements such as the establishment of an audit committee, and reporting on internal control over financial reporting would also apply.

e. **Do you agree with the "investment company" category PEEC proposes to include in the PIE definition? If not, please explain why.**

Yes, we agree with the "investment company" category PEEC proposes to include in the PIE definition. We believe these entities fall within the definition of publicly traded entity and it is in the public interest to apply more restrictive independence requirements to these entities.

f. **Do you believe other entities, such as credit unions, should be included as PIEs and thus subject to the more restrictive independence requirements consistent with those for IESBA PIEs?**

I. **If so, which entities and why?**
II. **If so, should the AICPA code incorporate a second set of more restrictive independence standards (that is, consistent with IESBA PIEs), applicable to these other entities? If not, please explain an alternative approach.**

No, we do not believe other entities, such as credit unions, should be included as PIEs. Specifically, regarding credit unions, in addition to considering the characteristics of credit unions that distinguish them from banks (e.g., being member owned and controlled), we agree with PEEC's reasoning that credit unions are regulated by the National Credit Union Administration (NCUA), which has determined that the AICPA independence standards are the appropriate independence standards auditors of credit unions should follow.

g. **Is the definition of publicly traded entity clear? If not, please explain how it should be clarified.**

Yes, we believe the definition of publicly traded entity is clear.

h. **If an entity does not otherwise meet the definition of a PIE, are you aware of situations in which a member would treat an entity as a PIE when an engagement is subject to AICPA Statements on Auditing Standards, Statements on Standards for Accounting and Review Services, or Statements on Standards for Attestation Engagements?**
   I. **If so, describe such situations and which independence standards are typically applied.**
   II. **Do you believe it would be helpful to have guidance related to such situations? If so, should that guidance be authoritative (that is, included in the AICPA code) or nonauthoritative (for example, a Q&A or practice aid)?**

We are not aware of any situations in which a member would treat an entity as a PIE when an engagement is subject to AICPA Statements on Auditing Standards, Statements on Standards for Accounting and Review Services, or Statements on Standards for Attestation Engagements.

i. **Do you believe that in such situations the member should be required to disclose that the independence requirements for PIEs have been applied? If so, how do you believe such disclosure should be achieved when the regulator's transparency requirement is not applicable?**

If such situations were to arise, we do not believe it would be necessary to disclose that the independence requirements for PIEs have been applied. We believe any requirements related to disclosure of the independence standards should be determined by the applicable regulator.

j. **Do you agree that the effective date provides adequate time to implement the proposals? If you disagree, please explain why.**

   Yes, we agree the effective date provides adequate time to implement the proposals.

We appreciate your consideration of our comments and suggestions and would be pleased to discuss them with you at your convenience. Please direct any questions to Lisa Snyder, National Managing Partner – Independence at lsnyder@bdo.com.

Very truly yours,

BDO USA, P.C.

BDO USA, P.C.

Deloitte LLP
695 E. Main Street
Stamford, CT
USA 06901-2150

Tel: +1 203 761 3000
Fax: +1 203 761 3013
www.deloitte.com

September 15, 2023

Ms. Anna Dourdourekas, Chair - Professional Ethics Executive Committee
Ms. Toni Lee-Andrews, Director - Professional Ethics Division
American Institute of Certified Public Accountants
1345 Avenue of the Americas, 27th Floor
New York, NY 10105

Mail to: Ethics-ExposureDraft@aicpa-cima.com

Re: June 15, 2023 Exposure Draft – Proposed New Definition of *Publicly Traded Entity* and Revised Definition of *Public Interest Entity* (ET sec. 0.400)

Dear Ms. Dourdourekas and Ms. Lee-Andrews:

Deloitte LLP ("Deloitte," "our," or "we") is pleased to respond to the exposure draft issued by the Professional Ethics Executive Committee ("PEEC") of the American Institute of Certified Public Accountants' ("AICPA") of *Proposed New Definition of Publicly Traded Entity and Revised Definition of Public Interest Entity* (the "proposal"). We appreciate the opportunity to comment on the proposal and commend the PEEC for its ongoing efforts to align with the International Ethics Standards Board for Accountants ("IESBA"). We have included comments and recommendations on specific requested matters for consideration by the PEEC. We appreciate PEEC's consideration of our responses to the request for comments, and we have noted our suggestions below.

Responses to Specific Requests for Comments

a. Do you agree with the decision to defer to the relevant regulators for purposes of the specific independence requirements applicable to each PIE category? If not, please explain why.

We agree with the proposed approach of deferring to the independence requirements of the relevant regulators applicable to each proposed public interest entity ("PIE") category. While we have concerns as noted in our comments below, we believe the proposed approach best protects the public interest and properly refines the IESBA baseline categories in alignment with IESBA's expectations of local bodies and the IESBA PIE framework, while minimizing the amount of additional complexity in the AICPA Code.

b. Do you agree with the refinement to the "publicly traded entity" category to include only those entities whose auditors are subject to Regulation S-X, SEC Rule 2-01? If not, please explain why.

We agree with the refinement to the "publicly traded entity" category to include only those whose auditors are subject to SEC Rule 2-01.

c. Do you agree with the refinement to the "deposits from the public" category to include only those entities that have consolidated total assets of $1 billion or more and meet the annual

audit requirement imposed by Part 363 of FDIC regulations (12 CFR 363 – "Annual Independent Audits and Reporting Requirements")? If not, please explain why.

We agree with the refinement to the "deposits from the public" category to include only those entities that have consolidated total assets of $1 billion or more and meet the annual audit requirement in Part 363 of the FDIC regulations.

d. Do you agree with the refinement to the "insurance to the public" category to include only those entities that are subject to the NAIC Model Audit Rule ("MAR") that meet or exceed $500 million in annual direct written and assumed premiums? If not, please explain why.

Notwithstanding our comment below, we agree with the refinement to the "insurance to the public" category to include only those entities subject to the NAIC Model Audit Rule that meet or exceed $500 million in annual direct written and assumed premiums.

As written, the category includes any insurance company which is subject to MAR and exceeds the $500 million threshold, with no specific exceptions for certain types of insurance entities. In contrast, paragraphs 28-29 of the exposure draft explanatory material specifically exclude other insurance entities due to the lack of uniform application of MAR. We agree with providing exceptions and recommend PEEC consider such exceptions in the definition itself rather than solely in nonauthoritative guidance or basis for conclusions documents.

e. Do you agree with the "investment company" category PEEC proposes to include in the PIE definition? If not, please explain why.

We agree with the "investment company" category proposed by PEEC and support the intended exclusions as stated in the exposure draft explanation. However, in addition to the 1940 Investment Company Act ("the 1940 Act"), PEEC should also consider citing the Securities Act of 1933 ("1933 Act"). Adding the 1933 Act would clarify that entities not registered under both acts, such as nontraded real estate investment trusts (REITs) and nontraded business development companies (BDCs), are not significant to the public interest and thus are not PIEs under the revised definition. We are not aware of any entity types that PEEC would inappropriately exclude from the definition by adding a reference to the 1933 Act. We suggest revising the category as shown below (additions are in bold italic):

> d. An investment company, other than an insurance company product, that is registered with the SEC pursuant to the Investment Company Act of 1940 ***and the Securities Act of 1933***.

f. Do you believe other entities, such as credit unions, should be included as PIEs and thus subject to the more restrictive independence requirements consistent with those for IESBA PIEs?

i. If so, which entities and why?

ii. If so, should the AICPA code incorporate a second set of more restrictive independence standards (that is, consistent with IESBA PIEs), applicable to these other entities? If not, please explain an alternative approach.

We are not aware of other entities, such as credit unions, which PEEC should include as PIEs at this time. If IESBA revises its PIE definition in the future to mandate additional categories or consideration of other specific categories, PEEC should consider those revisions for convergence as they occur.

g. Is the definition of publicly traded entity clear? If not, please explain how it should be clarified.

We believe the proposed definition of publicly traded entity is clear and properly refined based on the IESBA baseline definition of the same term.

h. If an entity does not otherwise meet the definition of a PIE, are you aware of situations in which a member would treat an entity as a PIE when an engagement is subject to AICPA Statements on Auditing Standards, Statements on Standards for Accounting and Review Services, or Statements on Standards for Attestation Engagements?

i. If so, describe such situations and which independence standards are typically applied.

We agree there may be rare situations where an entity is not a PIE as defined by the AICPA Code while the entity's financial position is nevertheless significant to the public interest. We believe the baseline PIE factors presented at 400.9 supplemented by 400.19 A1 of the IESBA Code are appropriate as a base for any AICPA guidance for these scenarios.

ii. Do you believe it would be helpful to have guidance related to such situations? If so, should that guidance be authoritative (that is, included in the AICPA code) or nonauthoritative (for example, a Q&A or practice aid)?

We believe nonauthoritative guidance could be helpful in addressing situations where a member concludes it is appropriate to treat an entity as a PIE although the entity is not a PIE as defined by the AICPA Code. This approach would align with 400.19 A1 of the IESBA Code.

iii. Do you believe that in such situations the member should be required to disclose that the independence requirements for PIEs have been applied? If so, how do you believe such disclosure should be achieved when the regulator's transparency requirement is not applicable?

We understand the intent of transparency is to provide the investor community with information that could aid in decision-making and improve trust, however when members apply the PIE independence requirements voluntarily, we do not believe PEEC should require members to disclose such application for the following reasons:

- Where the entity is already subject to a regulator's independence requirements and the regulator has taken public interest into consideration when promulgating its independence requirements, it is unlikely that a transparency requirement would offer any incremental benefit to the public interest.

- If the application of PIE independence requirements is voluntary, members should take the same approach to the related transparency requirement. PEEC could encourage firms to consider transparency but allow the client to make the ultimate decision. Just as a non-PIE client can choose to be treated as a PIE, it is reasonable to allow the same ability to use judgement when considering transparency.

- Any mandated transparency in such situations is likely to raise costs for clients and firms with limited incremental benefit, which is counter to the public interest. This might create unintended consequences, such as inadvertently discouraging clients and firms from applying the PIE requirements voluntarily.

While we do not support the inclusion of a transparency requirement in the AICPA Code for these situations, if PEEC includes a transparency requirement in the final revisions, we suggest PEEC coordinate and consult with the Audit Standards Board (ASB) regarding the most appropriate methods and mechanisms for disclosures, if any, in this context to clarify the implementation of the transparency requirements when a regulator's transparency requirement is not applicable. These discussions should further consider the appropriateness of disclosures related to reports restricted in use or otherwise not made publicly available.

i. Do you agree that the effective date provides adequate time to implement the proposals? If you disagree, please explain why.

Notwithstanding our comments below, we agree the proposal should be effective for periods beginning on or after December 15, 2024, with early adoption allowed, as this aligns with the effective date of the IESBA revised definitions of PIE and Publicly Traded Entity. However, similar to FASB's "two-bucket" approach that staggers the effective dates for new major accounting standards, we strongly recommend PEEC consider staggered effective dates for the revised PIE definition as follows:

- For current PIE entities, the effective date would be immediately upon publication.
- For new PIE entities, the effective date would be for periods beginning on or after December 15, 2024, with early adoption allowed.

Using a two-bucket approach will provide more consistency and continuity to better support the public interest while balancing the costs of implementation.

******

We would be pleased to discuss our comments with you at your convenience. If you wish to do so, please contact Kathy Savage at ksavage@deloitte.com or +1.615.313.4371 or Brandon Mercer at bmercer@deloitte.com or +1.919.218.0610.

Sincerely,

Deloitte & Touche LLP

Baker Tilly US, LLP
205 N Michigan Ave, 28th Fl
Chicago, IL 60601-5927
United States of America

T: +1 (312) 729 8000
F: +1 (312) 729 8199

bakertilly.com

September 12, 2023

Professional Ethics Executive Committee
Professional Ethics Division
American Institute of Certified Public Accountants
220 Leigh Farm Road
Durham, NC 27707

Via Email: Ethics-ExposureDraft@aicpa.org

Re: Exposure draft*: Proposed new definition of "publicly traded entity" and revised definition of "public interest entity"*

Dear Committee Members:

We appreciate the opportunity to comment on the American Institute of Certified Public Accountants (AICPA) Professional Ethics Executive Committee's (PEEC) June 2023 Exposure Draft referenced above. Our comments will be in the form of responses to specific questions included in the Exposure Draft as well as other comments.

General Comments

We support the PEEC's ongoing efforts to converge the AICPA's Code of Professional Conduct (the Code) with that of the International Ethics Standards Board for Accountants (IESBA). Furthermore, we support and understand the need for more robust independence requirements for certain entities to meet stakeholders' heightened expectations regarding the independence of public interest entity (PIE) auditors because of the significance of the public interest in the financial condition of PIEs. Overall, we agree with the PEEC's approach of deferring to relevant regulators in the United States for independence requirements for PIEs, lest newly created AICPA independence standards conflict with that of a regulator.

Please see our responses to your request for comments below.

Question 1: Do you agree with the decision to defer to the relevant regulators for purposes of the specific independence requirements applicable to each PIE category? If not, please explain why.

Yes, we agree with the decision to defer to the relevant regulators for purposes of the specific independence requirements applicable to each PIE category. We believe each relevant regulator noted in the Exposure Draft has robust independence requirements for the entities they oversee. Further, deferring to said regulators avoids adding additional independence requirements to the Code, which could create unnecessary complexity.

Question 2: Do you agree with the refinement to the "publicly traded entity" category to include only those entities whose auditors are subject to Regulation S-X, SEC Rule 2-01? If not, please explain why.

Yes, we agree with the refinement to the "publicly traded entity" category to include only those entities whose auditors are subject to Regulation S-X, SEC Rule 2-01. We believe that those publicly traded entities not subject to the SEC's independence rules for auditors of issuers, such as governmental bonds and certain entities traded on the OTC, are appropriately excluded from the PIE definition. We believe the SEC's independence rules appropriately address heightened expectations regarding the independence of auditors for this PIE category.

Baker Tilly US, LLP, trading as Baker Tilly, is a member of the global network of Baker Tilly International Ltd., the members of which are separate and independent legal entities. ©2020 Baker Tilly US, LLP

Question 3: Do you agree with the refinement to the "deposits from the public" category to include only those entities that have consolidate total assets of $1 billion or more and meet the annual audit requirement imposed by Part 363 of FDIC regulations (12 CFR 363 – "Annual Independent Audits and Reporting Requirements")? If not, please explain why.

Yes, we do agree with the refinement to the "deposits from the public" category to include only those entities that have consolidated total assets of $1 billion or more and meet the annual requirements imposed by Part 363 of FDIC regulations. We believe it is appropriate to align the PIE definition with the FDIC's "heightened risk" threshold of $1 billion.

Question 4: Do you agree with the refinement to the "insurance to the public" category to include only those entities that are subject to the NAIC Model Audit Rule and exceed $500 million in annual direct written and assumed premiums? If not, please explain why.

Yes, we do agree with the refinement to the "insurance to the public" category to include only those entities that are subject to the NAIC Model Audit Rule and exceed $500 million in annual direct written and assumed premiums.

Question 5: Do you agree with the "investment company" category PEEC proposes to include in the PIE definition? If not, please explain why.

Yes, we do agree with the "investment company" category PEEC proposes to include in the PIE definition.

Question 6: Do you believe other entities, such as credit unions, should be included as PIEs and thus subject to the more restrictive independence requirements consistent with those for IESBA PIEs? If not, please explain why.

No, we do not believe other entities should be included as PIEs. We believe the proposed definition of a PIE appropriately includes those entities of significant public interest. Entities such as credit unions are already subject to regulatory oversight by the National Credit Union Administration that protects the interests of the public.

Question 7: Is the definition of *publicly traded entity* clear? If not, please explain how it should be clarified.

Yes, the definition of "publicly traded entity" is clear.

Question 8: If an entity does not otherwise meet the definition of a PIE, are you aware of situations in which a member would treat an entity as a PIE when and engagement is subject to AICPA Statements on Auditing Standards, Statements on Standards for Accounting and Review Services, or Statements on Standards for Attestation Engagements?

No, we are not aware of situations in which a member would treat an entity as a PIE when an engagement is subject to AICPA Statements on Auditing Standards, Statements on Standards for Accounting and Review Services, or Statements on Standards for Attestation Engagements other than those already included in the Exposure Draft.

Question 9: Do you agree that the effective date provides adequate time to implement the proposals? If you disagree, please explain why.

Yes, we do agree that the recommended effective date provides firms with adequate time to implement policies and procedures to adhere to the proposals in the Exposure Draft.

We appreciate the opportunity to provide the above comments and are available for further discussion with the PEEC if that would be useful to the process. Should you wish to discuss any of these comments, please contact Jason Evans, Partner, Professional Practice Group - Independence, at Jason.Evans@bakertilly.com.

Sincerely,

Baker Tilly US, LLP

BAKER TILLY US, LLP

Pennsylvania Institute of Certified Public Accountants

Sept. 13, 2023

Anna Dourdourekas, Chair
Professional Ethics Executive Committee
AICPA Professional Ethics Division
220 Leigh Farm Road
Durham, North Carolina 27707-8110
ethics-exposuredraft@aicpa.org

Re: AICPA Professional Ethics Executive Committee Exposure Document - Proposed new definition of publicly traded entity and revised definition of public interest entity (ET Sec. 0.400)

Dear Ms. Dourdourekas:

The Professional Ethics Committee (the committee) of the Pennsylvania Institute of Certified Public Accountants (PICPA) appreciates the opportunity to provide comments to the AICPA Professional Ethics Executive Committee (PEEC) regarding the proposed new definition of publicly traded entity and revised definition of public interest entity (ET Sec. 0.400). The PICPA is an association of more than 18,000 members working to improve the profession and better serve the public interest. Founded in 1897, the PICPA is the second-oldest CPA organization in the United States. Membership includes practitioners in public accounting, education, government, and industry. The committee is a cross-section of our membership, with practitioners from large, regional, and small public accounting firms, members serving in business and industry, and accounting educators.

The committee's specific comments are included below.

1. *Do you agree with the decision to defer to the relevant regulators for purposes of the specific independence requirements applicable to each public interest entity (PIE) category? If not, please explain why.*

   The committee supports the PEEC's decision to converge with the International Ethics Standards Board for Accountants' (IESBA) guidance on PIEs by factoring in the impact of regulatory oversight for each category included in the IESBA's PIE guidance.

2. *Do you agree with the refinement to the "publicly traded entity" category to include only those entities whose auditors are subject to Regulation S-X, SEC Rule 2-01? If not, please explain why.*

Headquarters
Two Commerce Square
2001 Market Street, Suite 950
Philadelphia, PA 19103
t: (215) 496-9272

Government Relations
500 N. Third Street, Suite 600A
Harrisburg, PA 17101
t: (717) 232-1821

www.picpa.org
info@picpa.org

Toll Free
(888) 272-2001

The committee agrees with this approach.

3. *Do you agree with the refinement to the "deposits from the public" category to include only those entities that have consolidated total assets of $1 billion or more and meet the annual audit requirement imposed by Part 363 of FDIC regulations (12 CFR 363 – "Annual Independent Audits and Reporting Requirements")? If not, please explain why.*

   The committee agrees with this decision.

4. *Do you agree with the refinement to the "insurance to the public" category to include only those entities that are subject to the NAIC Model Audit Rule that meet or exceed $500 million in annual direct written and assumed premiums? If not, please explain why.*

   The committee supports this decision.

5. *Do you agree with the "investment company" category PEEC proposes to include in the PIE definition? If not, please explain why.*

   The committee agrees with the "investment company" category proposed to be included in the PIE definition.

6. *Do you believe other entities, such as credit unions, should be included as PIEs and thus subject to the more restrictive independence requirements consistent with those for IESBA PIEs?*

   No, the committee does not believe that the entities included in the PIE definition should be expanded to credit unions or other similar entities.

7. *Is the definition of "publicly traded entity" clear? If not, please explain how it should be clarified.*

   The committee believes that the definition of publicly traded entity is clear.

8. *If an entity does not otherwise meet the definition of a PIE, are you aware of situations in which a member would treat an entity as a PIE when an engagement is subject to AICPA Statements on Auditing Standards, Statements on Standards for Accounting and Review Services, or Statements on Standards for Attestation Engagements?*

   i. *If so, describe such situations and which independence standards are typically applied.*

If the practitioner is serving as a component auditor of a subsidiary subject to international standards and the parent is a PIE, then a practitioner could be subject to the international ethics standards.

ii. *Do you believe it would be helpful to have guidance related to such situations? If so, should that guidance be authoritative (that is, included in the AICPA code) or nonauthoritative (for example, a Q&A or practice aid)?*

The committee does not believe that additional guidance is necessary.

iii. *Do you believe that in such situations the member should be required to disclose that the independence requirements for PIEs have been applied? If so, how do you believe such disclosure should be achieved when the regulator's transparency requirement is not applicable?*

The committee does not support separate disclosures in such situations.

9. *Do you agree that the effective date provides adequate time to implement the proposals? If you disagree, please explain why.*

As the impact is expected to be minimal, the committee supports the proposed effective date.

We appreciate your consideration of our comments. We are available to discuss them with you at your convenience.

Sincerely,



Nicole Hinkle
Chair, PICPA Professional Ethics Committee

cc: Allison Henry, CPA, Vice President – Professional & Technical Standards, PICPA Staff Liaison

NEW YORK STATE SOCIETY OF CERTIFIED PUBLIC ACCOUNTANTS

COMMENTS ON

AICPA PROFESSIONAL ETHICS DIVISION EXPOSURE DRAFT: *PROPOSED NEW DEFINITION OF* PUBLICLY TRADED ENTITY *AND REVISED DEFINITION OF* PUBLIC INTEREST ENTITY

SEPTEMBER 15, 2023

Principal Drafters

Renee Cassidy
Elliot L. Hendler
Kelly Kennedy-Ryu
Steven J. Leifer
Brian K. Pearson

New York State Society of Certified Public Accountants

Comments On

AICPA Professional Ethics Division Exposure Draft: *Proposed New Definition of Publicly Traded Entity and Revised Definition of Public Interest Entity*

The New York State Society of Certified Public Accountants (NYSSCPA) appreciates the opportunity to provide comments on the AICPA's Professional Ethics Executive Committee (PEEC) Exposure Draft, Proposed New Definition of Publicly Traded Entity (PTE) and Revised Definition of Public Interest Entity (PIE). We offer our general comments and our responses to the specific questions of the Exposure Draft as follows:

General comments

We support the efforts of PEEC to provide needed guidance with respect to the critical issues facing accounting professionals. The PEEC's continuing effort to converge with the International Ethics Standards Board for Accountants (IESBA), however, often seems to place the goal of convergence ahead of the need for clear, meaningful and appropriate standards for professionals in the United States. A more appropriate goal would seem to be eliminating the differences between standards promulgated by the AICPA and the various regulatory bodies which may apply.

The Exposure Draft in certain instances distinguishes entities based on size, for example financial institutions that have more than $1 billion of assets. This distinction may be important to a regulator, but not necessarily to a depositor who has been relying on the institution's financial statements. Another example is excluding insurers that do not meet or exceed $500 million in direct and assumed premiums.

In both these situations the smaller entities may more likely need the oversight that would follow not being excluded.

Also, how not-for-profit entities will be affected is not clear, nor is it clear how much consideration has been given to such entities, which often raise money from the general public but in many cases are very small with few assets.

The explanation of the proposed new and revised definitions is in many instances difficult to understand, even after several readings. This in part may be the result of trying to arm wrestle definitions to converge with the IESBA approach. More helpful would be an approach that deals with the US multiplicity of regulatory authorities with varying rules, and the US professional's continuing effort to meet all these requirements.

Responses to requested feedback on specific aspects of the proposal

a. Do you agree with the decision to defer to the relevant regulators for purposes of the specific independence requirements applicable to each PIE category? If not, please explain why.

It is not clear what other option exists.

b. Do you agree with the refinement to the "publicly traded entity" category to include only those entities whose auditors are subject to Regulation S-X, SEC Rule 2-01? If not, please explain why.

It is not clear which entities in this category would have auditors not subject to this rule? A clarification would be helpful in understanding the excluded entities.

c. Do you agree with the refinement to the "deposits from the public" category to include only those entities that have consolidated total assets of $1 billion or more and meet the annual audit requirement imposed by Part 363 of FDIC regulations (12 CFR 363 – "Annual Independent Audits and Reporting Requirements")? If not, please explain why.

It is not clear why a lower threshold than $1 billion in consolidated total assets should not apply. A consistent standard would seem appropriate.

d. Do you agree with the refinement to the "insurance to the public" category to include only those entities that are subject to the NAIC Model Audit Rule that meet or exceed $500 million in annual direct written and assumed premiums? If not, please explain why.

Same as the answer to c above.

e. Do you agree with the "investment company" category PEEC proposes to include in the PIE definition? If not, please explain why.

We agree with the proposal, which should include a definition that investment companies comprise mutual funds, closed-end funds and unit investment trusts, and similar vehicles.

f. Do you believe other entities, such as credit unions, should be included as PIEs and thus subject to the more restrictive independence requirements consistent with those for IESBA PIEs?

i. If so, which entities and why?

No comment.

ii. If so, should the AICPA code incorporate a second set of more restrictive independence standards (that is, consistent with IESBA PIEs), applicable to these other entities? If not, please explain an alternative approach.

g. Is the definition of publicly traded entity clear? If not, please explain how it should be clarified.

The proposed new definition includes "traded through a publicly accessible market mechanism." That phrase needs to be expanded, with illustrations provided. The proliferation of new types of entities and means of communication requires more complete and clear guidance.

h. If an entity does not otherwise meet the definition of a PIE, are you aware of situations in which a member would treat an entity as a PIE when an engagement is subject to AICPA Statements on Auditing Standards, Statements on Standards for Accounting and Review Services, or Statements on Standards for Attestation Engagements?

i. If so, describe such situations and which independence standards are typically applied.

ii. Do you believe it would be helpful to have guidance related to such situations? If so, should that guidance be authoritative (that is, included in the AICPA code) or nonauthoritative (for example, a Q&A or practice aid)?

iii. Do you believe that in such situations the member should be required to disclose that the independence requirements for PIEs have been applied? If so, how do you believe such disclosure should be achieved when the regulator's transparency requirement is not applicable?

No comment.

i. Do you agree that the effective date provides adequate time to implement the proposals? If you disagree, please explain why.

The proposed effective date appears reasonable.

IESBA Convergence: Quality management-related conforming amendments to the code

Task force members

Anna Dourdourekas (chair), Catherine Allen, Nancy Miller, Katherine Savage, Lisa Synder

Observers

Myra Boelscher, Brandon Mercer

AICPA staff

Summer Young

Task force charge

To review the International Ethics Standards Board for Accountants' (IESBA) final pronouncement on *Quality Management-related Conforming Amendments to the Code* and determine what changes, if any, are needed to the AICPA Code of Professional Conduct (code).

Reason for agenda item

To seek approval of the proposed conforming changes to the code.

Background

As a result of the finalization of the International Auditing and Assurance Standards Board's (IAASB's) suite of quality management standards, IESBA considered it necessary to make certain conforming amendments to their code.

Also due to IAASB's updates, the AICPA Auditing Standards Board issued SAS 146 *Quality Management for an Engagement Conducted in Accordance With Generally Accepted Auditing Standards* and the Accounting and Review Services Committee issued SSARS 26 *Quality Management for an Engagement Conducted in Accordance With Statements on Standards for Accounting and Review Services.*

Task force activities

PEEC's IFAC Convergence and Monitoring Task Force reviewed these new standards and identified various conforming changes to the code (agenda item 2B). The task force is recommending terminology changes only, which is consistent with IESBA's updates as well.

These are the primary terminology changes:

- Replacing "quality control" with "system of quality management"
- Replacing "responsible individual" with "individuals with operational responsibility for compliance with independence requirements

The task force also consulted with legal counsel regarding changes to the code. Legal counsel advised that terminology changes can be approved by committee without an exposure draft.

In addition to these conforming changes, the task force notes that the "Scope and Nature of Services" principle (agenda item 2C) and appendix A (agenda item 2D) use the concept of "quality control" rather than the new concept "quality management."

Legal counsel advised the task force that any changes to "Principles of Professional Conduct" (ET sec. 0.300) will require a member ballot and any changes to appendix A will require a Council resolution. The task force recommends a member ballot and Council resolution not be requested as the extant code section "Principles of Professional Conduct" and appendix A are substantially converged without the identified terminology updates.

Questions for the committee

1. Does the committee agree with the recommended conforming changes in agenda item 2B?
2. Does the committee agree the code is substantially converged at ET sec. 0.300.070, paragraph .04*a* and a member ballot is not needed?
3. Does the committee agree the code is substantially converged in sections *Public Company Accounting Oversight Board* and *Auditing Standards Board* of appendix A and a Council resolution is not needed?

Action needed

The committee is asked to adopt the conforming changes with an effective date as soon as notice appears in the *Journal of Accountancy*.

Materials presented

- Agenda item 2B: Conforming changes
- Agenda item 2C: Principles of Professional Conduct – Scope and Nature of Services (applicable extant terminology is highlighted)
- Agenda item 2D: Appendix A, Council Resolution Designating Bodies to Promulgate Technical Standards (applicable extant terminology is highlighted)

Conforming changes

Additions appear in ***boldface italic***. Deletions appear in ~~strikethrough~~.

Terms defined in the AICPA Code of Professional Conduct are italicized in this document. If you'd like to see the definitions, you can find them in "Definitions" (ET sec. 0.400)

0.400 Definitions

[See Revision History Table.]

.25 **Individual in a position to influence the attest engagement.** One who

a. evaluates the performance or recommends the compensation of the *attest engagement partner*;

b. directly supervises or manages the *attest engagement partner*, including all successively senior levels above that individual through the *firm's* chief executive;

c. consults with the *attest engagement team* regarding technical or industry-related issues specific to the *attest engagement*; or

d. participates in or oversees, at all successively senior levels, ***the firm's system of*** quality ***management*** ~~control activities, including internal monitoring,~~ with respect to the specific *attest engagement*.

[Prior reference: paragraph .14 of ET section 92]

.36 **Network.** For purposes of the "Network and Network Firms" interpretation [1.220.010] of the "Independence Rule" [1.200.001], a network is an association of entities that includes one or more *firms* that (*a*) cooperate for the purpose of enhancing the *firms'* capabilities to provide *professional services* and (*b*) share one or more of the following characteristics:

a. The use of a common brand name, including common initials, as part of the *firm* name

b. Common *control* among the *firms* through ownership, management, or other means

c. Profits or costs, excluding costs of operating the association; costs of developing audit methodologies, manuals, and training courses; and other costs that are immaterial to the *firm*

d. A common business strategy that involves ongoing collaboration amongst the *firms* whereby the *firms* are responsible for implementing the association's strategy and are held accountable for performance pursuant to that strategy

e. A significant part of professional resources

f. Common ***system of*** quality ***management*** ~~control policies and procedures~~ that *firms* are required to implement and that are monitored by the association

A network may comprise a subset of entities within an association only if that subset of entities cooperates and shares one or more of the characteristics set forth in the preceding list. [Prior reference: paragraph .23 of ET section 92]

.40 **Partner equivalent.** A professional employee who is not a *partner* of the *firm* but who either

a. has the ultimate responsibility for the conduct of an *attest engagement*, including the authority to sign or affix the *firm's* name to an attest report or issue, or authorize others to issue, an attest report on behalf of the *firm* without *partner* approval; or

b. has the authority to bind the *firm* to conduct an *attest engagement* without partner approval. For example, the professional employee has the authority to sign or affix the *firm's* name to an *attest engagement* letter or contract to conduct an *attest engagement* without *partner* approval.

Firms may use different titles to refer to professional employees with this authority, although title is not determinative of a partner equivalent. For purposes of this definition, *partner* approval does not include any partner approvals that are part of the *firm's* normal approval and ***engagement*** quality ~~control~~ review procedures applicable to a partner.

This definition is solely for the purpose of applying the "Independence Rule" [1.200.001] and its *interpretations* and should not be used or relied upon in any other context, including the determination of whether the partner equivalent is an owner of the *firm*. [Prior reference: paragraph .28 of ET section 92.]

1.000.010 Conceptual Framework for Members in Public Practice

[Paragraphs .01 through .16 remain unchanged]

Safeguards

.17 *Safeguards* may partially or completely eliminate a *threat* or diminish the potential influence of a *threat*. The nature and extent of the *safeguards* applied will depend on many factors. To be effective, *safeguards* should eliminate the *threat* or reduce it to an *acceptable level*.

[.18, .19 and .20]

.21 The following are examples of *safeguards* created by the profession, legislation, or regulation:

a. Education and training requirements on *independence* and ethics rules

b. Continuing education requirements on *independence* and ethics

c. Professional standards and the threat of discipline

d. External review of a *firm's* ***system of*** quality ***management*** ~~control system~~

e. Legislation establishing prohibitions and requirements for a *firm* or a *firm's* professional employees

f. Competency and experience requirements for professional licensure

g. Professional resources, such as hotlines, for consultation on ethical issues

[.22]

.23 The following are examples of *safeguards* implemented by the *firm*:

a. *Firm* leadership that stresses the importance of complying with the rules and the expectation that engagement teams will act in the public interest.

b. ***Design, implement and operate a system of quality management to provide reasonable assurance of compliance with applicable standards*** ~~Policies and procedures that are designed to implement and monitor engagement quality control~~.

c. Documented policies regarding the identification of *threats* to compliance with the rules, the evaluation of the significance of those *threats*, and the identification and application of *safeguards* that can eliminate identified *threats* or reduce them to an *acceptable level*.

d. Internal policies and procedures that are designed to monitor compliance with the *firm's* policies and procedures.

e. Policies and procedures that are designed to identify interests or relationships between the *firm* or its *partners* and professional staff and the *firm's clients*.

f. The use of different *partners*, *partner equivalents*, and engagement teams from different offices or that report to different supervisors.

g. Training on, and timely communication of, a *firm's* policies and procedures and any changes to them for all *partners* and professional staff.

h. Policies and procedures that are designed to monitor the *firm's*, *partner's*, or *partner equivalent's* reliance on revenue from a single *client* and that, if necessary, trigger action to address excessive reliance.

i. Designation of ***an appropriate member of*** ~~someone from~~ senior management as the person responsible for overseeing the adequate functioning of the *firm's* ***system of*** quality ***management*** ~~control system~~.

j. A means for informing *partners* and professional staff of *attest clients* and related entities from which they must be independent.

k. A disciplinary mechanism that is designed to promote compliance with policies and procedures.

l. Policies and procedures that are designed to empower staff to communicate to senior members of the *firm* any engagement issues that concern them without fear of retribution.

m. Policies and procedures relating to *independence* and ethics communications with audit committees or others charged with *client* governance.

n. Discussion of *independence* and ethics issues with the audit committee or others responsible for the *client's* governance.

o. Disclosures to the audit committee or others responsible for the *client's* governance regarding the nature of the services that are or will be provided and

the extent of the fees charged or to be charged.

p. The involvement of another professional accountant who (*a*) reviews the work that is done for a *client* or (*b*) otherwise advises the engagement team. This individual could be someone from outside the *firm* or someone from within the *firm* who is not otherwise associated with the engagement.

q. Consultation on engagement issues with an interested third party, such as a committee of independent directors, a professional regulatory body, or another professional accountant.

r. Rotation of senior personnel who are part of the engagement team.

s. Policies and procedures that are designed to ensure that members of the engagement team do not make or assume responsibility for management decisions for the *client*.

t. The involvement of another *firm* to perform part of the engagement.

u. Having another *firm* to reperform a nonattest service to the extent necessary for it to take responsibility for that service.

v. The removal of an individual from an *attest engagement team* when that individual's *financial interests* or relationships pose a *threat* to *independence* or objectivity.

w. A consultation function that is staffed with experts in accounting, auditing, *independence*, ethics, and reporting matters who can help engagement teams

i. assess issues when guidance is unclear or when the issues are highly technical or require a great deal of judgment; and

ii. resist undue pressure from a *client* when the engagement team disagrees with the *client* about such issues.

x. *Client* acceptance and continuation policies that are designed to prevent association with *clients* that pose a *threat* that is not at an *acceptable level* to the *member's* compliance with the rules.

y. Policies that preclude audit *partners* or *partner equivalents* from being directly compensated for selling nonattest services to the *attest client*.

z. Policies and procedures addressing ethical conduct and compliance with laws

and regulations. [No prior reference: new content]

1.220.010 Network and Network Firms

[Paragraphs .01 through .17 remain unchanged]

.18 *Sharing **a** common **system of** quality **management*** ~~*control policies and procedures*~~*.* This characteristic exists when entities within the association are required to follow common quality control policies and procedures that the association monitors. Monitoring is the ongoing consideration and evaluation of the *firms'* systems of quality ***management*** ~~control~~, which enables the association to obtain reasonable assurance that the *firms'* systems of quality ***management*** ~~control~~ are designed appropriately and operating effectively.

[.19]

1.220.040 Firm Mergers and Acquisitions

.01 When (1) a *member's firm* merges with or acquires another firm or entity or all or part of the business thereof (acquired firm) or (2) a *member's firm*, or all or part of the business thereof, is merged with or acquired by another *firm* (acquiring firm), *threats* to compliance with the "Independence Rule" [1.200.001] may exist as a result of employment or association with, or the provision of nonattest services to, an *attest client* of the acquired or acquiring firm.

.02 When determining which *firm* is the acquirer, *members* should consider the guidance contained in paragraphs 11–15 of FASB ASC 805-10-55, among other sources.

Employment or Association With an Attest Client

.03 If a *partner* or professional employee was formerly employed by or associated with an entity as a director, officer, employee, promoter, underwriter, voting trustee, trustee of any pension or profit-sharing trust of the entity, or in any capacity equivalent to that of a member of management and that entity becomes an *attest client* through a merger or acquisition, then *threats* will be at an *acceptable level* and *independence* will not be *impaired* provided all of the following *safeguards* are met:

a. The *partner* or professional employee terminates the relationship with the *attest client* (for example, resigns as a director) prior to the closing date of the merger or acquisition.

b. The *partner* or professional employee does not participate on the *attest engagement team* and is not an *individual in a position to influence the attest engagement* for the *attest client* when the *attest engagement* covers any period that includes his or her former employment or association with that *attest client*.

c. The applicable disassociation *safeguards* in paragraph .04 of the "Former Employment or Association With an Attest Client" interpretation [1.277.010] are implemented prior to the closing date of the merger or acquisition.

d. As soon as practicable under the circumstances but before issuing the attest report, a***n*** ~~responsible~~ individual***(s) with operational responsibility for compliance with independence requirements*** within the *firm* assesses the prior relationship of the *partner* or professional employee with the *attest client*, as well as the position he or she holds at the *firm*, to determine if *threats* are created that are not at an *acceptable level*. If the ~~responsible~~ individual***(s) with operational responsibility for compliance with independence requirements*** determines that *threats* are not at an *acceptable level*, he or she should be satisfied that *safeguards* are applied to eliminate or reduce the *threats* to an *acceptable level*. *Threats* will not be at an *acceptable level* if

i. the *partner* or professional employee will have interaction with members of the *attest engagement team* regarding the *attest client* or

ii. the *attest engagement team* is placed in a position of evaluating the *partner* or professional employee's representations and work while he or she was employed or associated with the *attest client*.

In such situations, an individual within the *firm* with the appropriate stature, expertise, and objectivity should review the subsequent *attest engagement* prior to issuing the attest report to determine whether the *attest engagement team* maintained integrity; objectivity; and, as appropriate, professional skepticism.

e. As soon as practicable under the circumstances but before issuing the attest report, the nature of the relationship and any *safeguards* that were applied are discussed with *those charged with governance*. Documentation of the substance of the discussion with *those charged with governance* is encouraged.

[.04 - .14]

1.224.010 Client Affiliates

[Paragraphs .01 through .06 remain unchanged]

An Existing Financial Statement Attest Client or Its Affiliate Is Involved in an Acquisition or Other Transaction and the Member or Member's Firm Expects to Continue Providing Financial Statement Attest Services to Such Client

.07 When an acquisition or other transaction creates a new *affiliate* of a *financial statement attest client* during the *period of the professional engagement* and the *member* or *member's firm* expects to continue providing *financial statement* attest services to the *financial statement attest client* after the effective date of the acquisition or other transaction, the following conditions should be met:

a. The *member* or *member's firm* should identify and evaluate previous and current interests in and relationships with the new *affiliate*, including actions taken to address the *threat* to *independence*, that might affect *independence* and therefore the *member's* or *member's firm's* ability to continue the *financial statement attest engagement* after the effective date of the acquisition or other transaction.

b. Except as provided for in paragraph .08, the *member* or *member's firm* should take steps to end any interests in or relationships with the new *affiliate* that would *impair independence* by the effective date of the acquisition or other transaction.

.08 As an exception to paragraph .07*b*, if the interest in or relationship with the new *affiliate* cannot reasonably be ended by the effective date of the acquisition or other transaction (for example, the new *affiliate* is not able to transition a nonattest service in an orderly manner to another service provider by that date), the *member* or *member's firm* should do the following:

a. Evaluate the *threat* to *independence* that is created by the interest or relationship. Factors that are relevant in evaluating the significance of a *threat* when there are interests and relationships with a new *affiliate* that cannot reasonably be ended could include these:

i. The nature and significance of the interest or relationship

ii. The nature and significance of the *affiliate* relationship (for example, whether the *affiliate* is a subsidiary, parent, or sister entity)

iii. The length of time until the interest or relationship can reasonably be ended

b. Discuss with *those charged with governance* the evaluation of the significance of *threat* and the reasons that the interest or relationship cannot reasonably be ended by the effective date of the acquisition or other transaction.

.09 Following the discussion in paragraph .08*b*, if *those charged with governance* request the *member* or *member's firm* to continue to provide *financial statement* attest services to the *financial statement attest client*, the *member* or *member's firm* should do so only under the following circumstances:

a. The interest in or relationship with the new *affiliate* that would *impair independence* will end as soon as reasonably possible but no later than six months after the effective date of the acquisition or other transaction.

b. Any individual who has such an interest in or relationship with the new *affiliate*, including one that has arisen through performing a nonattest service that would *impair independence* under the "Nonattest Services" subtopic [1.295] of the "Independence Rule" [1.200.001], will not be a member of the *attest engagement team* or an individual responsible for the engagement quality ~~control~~ review.

c. *Safeguards* will be applied, as necessary, and discussed with *those charged with governance*.

[.10 - .14]

1.275.025 Individual in a Campaign Treasurer or Similar Financial Position

.01 For purposes of this interpretation, a campaign treasurer would also include individuals with similar financial responsibilities as a campaign treasurer. While other campaign positions may result in *threats* to compliance with the "Independence Rule" [1.200.001], such positions are not covered by this interpretation. Accordingly, *members* should consult the Conceptual Framework for Independence [1.210.010] if *partners* or professional employees serve in campaign positions not specifically addressed by this interpretation.

Campaign Organization Is Attest Client

.02 If during the *period of the professional engagement* or during the period covered by the *financial statements*, a *partner* or professional employee of a *member's firm* serves as a campaign treasurer and the campaign organization is an *attest client*, the management participation *threat* to the *member's* compliance with the "Independence Rule"

[1.200.001] would not be at an *acceptable level* and could not be reduced to an *acceptable level* by the application of *safeguards*. Accordingly, *independence* would be *impaired*.

Candidate Running for Election of a Governmental Entity That Is an Attest Client

.03 If, during the *period of the professional engagement* or during the period covered by the *financial statements*, a *partner* or professional employee serves as a campaign treasurer for either (*a*) an elected official of a governmental entity that is an *attest client*, or (*b*) for a candidate who is running for election but is not yet an elected official of such *attest client*, then advocacy, adverse interest, and familiarity *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*. Accordingly, *independence* would be *impaired*.

Political Party Is Attest Client

.04 If during the *period of the professional engagement* or during the period covered by the *financial statements* a *partner* or professional employee serves as a campaign treasurer for a candidate and the political party for which the candidate is a member is an *attest client*, advocacy and familiarity *threats* may exist. Accordingly, a***n*** ~~responsible~~ individual***(s) with operational responsibility for compliance with independence requirements*** within the *firm* should evaluate the significance of the *threats* to determine if the *threats* are at an *acceptable level*. If the ~~responsible~~ individual***(s) with operational responsibility for compliance with independence requirements*** within the *firm* determines that *threats* are not at an *acceptable level*, he or she should apply *safeguards* to eliminate or reduce the *threats* to an *acceptable level*. However, *threats* 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 candidate is a member of one of the political party's governing bodies.

[.05 and .06]

1.298.010 Breach of an Independence Interpretation

Introduction

.01 AICPA bylaws require *members* to comply with the "Independence Rule" [1.200.001]. This interpretation provides guidance to assist *members* in evaluating and addressing the consequences of a breach of an *independence interpretation* and the effect on the *attest engagement team's* integrity, objectivity, and professional skepticism so the *member* or *member's firm* can determine if the consequences of a breach can be satisfactorily addressed. This interpretation also provides specific steps and actions the

member should take when the *member* becomes aware that a breach of an *independence interpretation* has occurred. However, a *member's* determination that the consequences of a breach of an *independence interpretation* have been satisfactorily addressed will not preclude an investigation or enforcement action. In any case, the *member* should be prepared to justify such determination.

Required Policies and Procedures Established by the Firm

.02 In order for the consequences of an *independence* breach to be addressed by a *member* or the *member's firm* pursuant to the provisions of this interpretation, the *firm* must be compliant with ***SQMS No. 1, A Firm's System of Quality Management*** ~~QC section 10, *A Firm's System of Quality Control* ~~(AICPA, *Professional Standards*), which requires the *member's firm* to have established policies and procedures designed to provide it with reasonable assurance that the *firm*, its personnel, and, when applicable, others subject to *independence* requirements, maintain *independence* when required. The policies and procedures should enable the *firm* to communicate its *independence* requirements to its personnel and, when applicable, others subject to them; to identify and evaluate circumstances and relationships that create *threats* to *independence*; and to take appropriate action to eliminate those *threats* or reduce them to an *acceptable level* by applying *safeguards* or, if effective *safeguards* cannot be applied, withdrawing from the engagement. These policies and procedures should be designed to provide the *firm* with reasonable assurance that it is notified of breaches of *independence* requirements and to enable it to take appropriate actions to resolve such situations.

Breaches Resulting in Significant Threats

.03 In situations in which a *partner* or professional employee of the *firm* breaches an *independence interpretation* and the *threat* to *independence* resulting from the breach is significant such that the *attest engagement team's* integrity, objectivity, and professional skepticism are compromised, the provisions of this interpretation could not address the consequences of the breach as no actions could be taken to satisfactorily address the consequences of the breach.

.04 In situations in which the lead *attest engagement* partner or an *individual in a position to influence the attest engagement* either (1) committed the breach or (2) knows of a breach and fails to ensure the breach is promptly communicated to or known by an appropriate individual within the firm as described in this interpretation, there is a rebuttable presumption the provisions of this interpretation would not be able to address the breach as the *threats* to the *attest engagement team's* integrity, objectivity, and professional skepticism and the threats to the appearance of *independence* would be considered so significant that no actions could be taken to satisfactorily address the consequences of the breach.

Identifying and Communicating a Breach

.05 When a breach is identified, the *member* should, in accordance with his or her *firm's* policies and procedures, promptly communicate the breach to an appropriate individual within the *firm*, for example, an individual or individuals with responsibility for the policies and procedures relating to *independence*, or the *attest engagement partner* (the ~~responsible~~ individual***(s) with operational responsibility for compliance with independence requirements***).

.06 The ~~responsible~~ individual***(s) with operational responsibility for compliance with independence requirements*** should report the breach to those who need to take appropriate action and, when appropriate, should report the breach to relevant *network firms*. The ~~responsible~~ individual***(s) with operational responsibility for compliance with independence requirements*** should be satisfied that the interest or relationship that caused the breach has been terminated, suspended, or eliminated and should address the consequences of the breach. A consequence of a breach may be that termination of the *attest engagement* is necessary.

Evaluating the Significance of a Breach

.07 The ~~responsible~~ individual***(s) with operational responsibility for compliance with independence requirements*** should evaluate the significance of the breach and its effect on the *attest engagement team's* integrity, objectivity, and professional skepticism and the ability to issue an attest report. The significance of the breach will depend on factors such as the following:

a. The nature and duration of the breach

b. The number and nature of any previous breaches with respect to the current *attest engagement*

c. Whether a *member* of the *attest engagement team* had knowledge of the interest or relationship that caused the breach

d. Whether the individual who caused the breach is a *member* of the *attest engagement team* or another individual for whom there are *independence* requirements

e. The role of the individual if the breach relates to a *member* of the *attest engagement team*

f. The effect of the service, if any, on the accounting records or the *attest client's financial statements* if the breach was caused by the provision of a *professional service*

g. Whether a *partner* or *partner equivalent* of the *firm* had knowledge of the breach and failed to ensure that the breach was promptly communicated to an appropriate individual within the *firm*

h. Whether the breach involved solely an *affiliate* of a *financial statement attest client* and if so, the nature of the *affiliate* relationship

i. The extent of the self-interest, advocacy, undue influence, or other *threats* created by the breach

Addressing the Consequences of a Breach

.08 Depending upon the significance of the breach, it may be necessary to terminate the *attest engagement* or it may be possible to take action that satisfactorily addresses the consequences of the breach. Certain breaches described in this interpretation cannot be addressed by the provisions of this interpretation. For all other breaches, the ~~responsible~~ individual***(s) with operational responsibility for compliance with independence requirements*** should determine whether satisfactory action can be taken and is appropriate in the circumstances. In making this determination, the ~~responsible~~ individual***(s) with operational responsibility for compliance with independence requirements*** should exercise professional judgment and take into account whether a reasonable and informed third party, weighing the significance of the breach, the action to be taken, and all the specific facts and circumstances available to the *member* at that time, would likely conclude that the *attest engagement team's* integrity, objectivity, and professional skepticism would be compromised and therefore whether *independence* is *impaired*.

.09 Examples of actions that the ~~responsible~~ individual***(s) with operational responsibility for compliance with independence requirements*** may consider include the following:

a. Removing the relevant individual from the *attest engagement team*

b. Conducting an additional review of the affected attest work or re-performing that work to the extent necessary; in either case, using different personnel

c. Recommending that the *attest client* engage another *firm* to review or re-perform the affected attest work to the extent necessary

d. Engaging another *firm* to evaluate the results of the nonattest service or having another firm re-perform the nonattest service to the extent necessary to enable it to take responsibility for the service if the breach relates to a nonattest service that affects the accounting records or an amount that is recorded in the *financial statements*

Communicating With Those Charged With Governance at the Attest Client

.10 If the ~~responsible~~ individual***(s) with operational responsibility for compliance with independence requirements*** determines that action cannot be taken to satisfactorily address the consequences of the breach, the ~~responsible~~ individual***(s) with operational responsibility for compliance with independence requirements*** should inform *those charged with governance* as soon as practicable and take the steps necessary to terminate the *attest engagement* in compliance with any applicable legal or regulatory requirements relevant to terminating the *attest engagement*. Where termination is not permitted by law or regulation, the ~~responsible~~ individual***(s) with operational responsibility for compliance with independence requirements*** should comply with any reporting or disclosure requirements.

.11 If the ~~responsible~~ individual***(s) with operational responsibility for compliance with independence requirements*** determines that action can be taken to satisfactorily address the consequences of the breach, the ~~responsible~~ individual***(s) with operational responsibility for compliance with independence requirements*** should discuss the breach and the action taken or proposed to be taken with *those charged with governance* as soon as practicable, unless *those charged with governance* have specified an alternative timing for reporting less significant breaches. The matters to be discussed should include the following:

a. The significance of the breach, including its nature and duration

b. How the breach occurred and how it was identified

c. The action taken or proposed to be taken and the ~~responsible~~ individual***(s) with operational responsibility for compliance with independence requirements'*** rationale for how the action will satisfactorily address the consequences of the breach and enable the *firm* to issue the attest report

d. The conclusion that, in the ~~responsible~~ individual***(s) with operational responsibility for compliance with independence requirements'*** professional judgment, the integrity, objectivity, and professional skepticism of the *attest engagement team* has not been compromised and the rationale for that conclusion

e. Any steps that the ~~responsible~~ individual***(s) with operational responsibility for compliance with independence requirements*** has taken or proposes to take to reduce or avoid the risk of further breaches occurring

.12 The ~~responsible~~ individual***(s) with operational responsibility for compliance with independence requirements*** should communicate in writing with *those charged with*

governance all matters discussed in accordance with the paragraph above and obtain the concurrence of *those charged with governance* that action can be, or has been, taken to satisfactorily address the consequences of the breach. The communication shall include a description of the *firm's* policies and procedures relevant to the breach designed to provide it with reasonable assurance that *independence* is maintained and any steps that the *firm* has taken, or proposes to take, to reduce or avoid the risk of further breaches occurring. If *those charged with governance* do not concur that the action satisfactorily addresses the consequences of the breach, the ~~responsible~~ individual***(s) with operational responsibility for compliance with independence requirements*** should take the steps necessary to terminate the *attest engagement*, where permitted by law or regulation, in compliance with any applicable legal or regulatory requirements relevant to terminating the *attest engagement*. Where termination is not permitted by law or regulation, the ~~responsible~~ individual***(s) with operational responsibility for compliance with independence requirements*** should comply with any reporting or disclosure requirements.

Breaches Relating to Previously Issued Reports

.13 If the breach occurred prior to the issuance of the previous attest report, the ~~responsible~~ individual***(s) with operational responsibility for compliance with independence requirements*** should comply with this section in evaluating the significance of the breach and its effect on the *attest engagement team's* objectivity, integrity, and professional skepticism and its ability to issue an attest report in the current period. The ~~responsible~~ individual***(s) with operational responsibility for compliance with independence requirements*** should also consider the effect of the breach, if any, on the *attest engagement team's* integrity, objectivity, and professional skepticism in relation to any previously issued attest reports, and the possibility of withdrawing such attest reports in accordance with professional standards, and discuss the matter with *those charged with governance*.

Documentation

.14 The ~~responsible~~ individual***(s) with operational responsibility for compliance with independence requirements*** should document the breach, the action taken, key decisions made and all the matters discussed with *those charged with governance* and any discussions with a professional body, relevant regulator, or oversight authority. When the *firm* continues with the *attest engagement*, the matters to be documented should also include the conclusion that, in the ~~responsible~~ individual***(s) with operational responsibility for compliance with independence requirements'*** professional judgment, the integrity, objectivity, and professional skepticism of the *attest engagement team* have not been compromised and the rationale for why the action taken satisfactorily addressed the consequences of the breach such that the *firm* could issue an attest report. Failure to prepare the required documentation does not *impair*

independence provided the *member* can demonstrate the *member* satisfactorily addressed the consequences of the breach and discussed the breach, the action taken, and key decisions made with *those charged with governance*, and as applicable, a professional body, relevant regulator, or oversight authority. However, failure to prepare the required documentation would be considered a violation of the "Compliance With Standards Rule" [1.310.001].

.15 Refer to the "Unsolicited Financial Interests" interpretation [1.240.020] of the "Independence Rule" [1.200.001] for guidance on unsolicited financial interests.

Effective Date

.16 This interpretation is effective March 31, 2016. Early implementation is allowed.

1.820.040 Use of a Common Brand Name in Firm Name

.01 *Firms* within a *network* sometimes share the use of a common brand or share common initials as part of the *firm* name. The sharing of a common brand name or common initials of a *network* as part of the *member's firm* name would not be considered misleading, provided the *firm* is a *network firm.*

.02 The sharing of a common brand name or common initials of a *network* as the entire name of the *member's firm* would not be considered misleading, if the *firm* is a *network firm* and shares one or more of the following characteristics with other *firms* in the *network*:

a. Common *control* among the firms through ownership, management, or other means

b. Profits or costs, excluding costs of operating the *network*; costs of developing audit methodologies, manuals, and training courses; and other costs that are immaterial to the *firm*

c. Common business strategy that involves ongoing collaboration amongst the *firms* whereby the *firms* are responsible for implementing the *network's* strategy and are held accountable for performance pursuant to that strategy

d. Significant part of professional resources

e. Common ***system of*** quality ***management*** ~~control policies and procedures~~ that *firms* are required to implement and that are monitored by the *network*

.03 Refer to the "Network and Network Firms" interpretation [1.220.010] of the "Independence Rule" [1.200.001] for additional guidance. [Prior reference: paragraph .06 of ET section 505]

0.300.070 Scope and Nature of Services

[See Revision History Table.]

.01 *Scope and nature of services principle.* A *member* in public practice should observe the Principles of the Code of Professional Conduct in determining the scope and nature of services to be provided.

.02 The public interest aspect of *members'* services requires that such services be consistent with acceptable professional behavior for *members*. Integrity requires that service and the public trust not be subordinated to personal gain and advantage. Objectivity and *independence* require that *members* be free from conflicts of interest in discharging professional responsibilities. Due care requires that services be provided with competence and diligence.

.03 Each of these Principles should be considered by *members* in determining whether or not to provide specific services in individual circumstances. In some instances, they may represent an overall constraint on the nonaudit services that might be offered to a specific *client*. No hard-and-fast rules can be developed to help members reach these judgments, but they must be satisfied that they are meeting the spirit of the Principles in this regard.

.04 In order to accomplish this, *members* should

a. Practice in *firms* that have in place internal quality control procedures to ensure that services are competently delivered and adequately supervised.

b. Determine, in their individual judgments, whether the scope and nature of other services provided to an audit *client* would create a conflict of interest in the performance of the audit function for the *client*.

c. Assess, in their individual judgments, whether an activity is consistent with their role as professionals. [Prior reference: ET section 57]

Appendix A

Council Resolution Designating Bodies to Promulgate Technical Standards

[As amended January 12, 1988; Revised April 1992, October 1999, May 2004, October 2007, May 2008, October 2012, May 2013, and May 20, 2018.]

Federal Accounting Standards Advisory Board

RESOLVED: That the Federal Accounting Standards Advisory Board, with respect to its statements of federal accounting standards and concepts adopted and issued in March of 1993 and subsequently, in accordance with its rules of procedure, the memorandum of understanding, and public notice designating FASAB's standards and concepts as having substantial authoritative support, be, and hereby is, designated by the Council of the American Institute of Certified Public Accountants as the body to establish financial accounting principles for federal governmental entities pursuant to the "Accounting Principles Rule" (AICPA, *Professional Standards*, ET sec. 1.320.001 and 2.320.001) of the Code. [fn 1]

[Added by *Council* October 1999.]

Financial Accounting Standards Board

WHEREAS: In 1959 the *Council* designated the Accounting Principles Board to establish accounting principles, and

WHEREAS: The *Council* is advised that the Financial Accounting Standards Board (FASB) has become operational, it is

RESOLVED: That as of the date hereof the FASB, in respect of statements of financial accounting standards finally adopted by such board in accordance with its rules of procedure and the bylaws of the Financial Accounting Foundation, be, and hereby is, designated by this *Council* as the body to establish accounting principles pursuant to the "Accounting Principles Rule," (AICPA, *Professional Standards*, ET sec. 1.320.001 and 2.320.001) and standards on disclosure of financial information for such entities outside *financial statements* in published financial reports containing *financial statements* under

[fn 1] The changes to this appendix as of December 15, 2014, are administrative changes that were made to conform to the reformatted Code of Professional Conduct.

the "Compliance With Standards Rule" (AICPA, *Professional Standards*, ET sec. 1.310.001 and 2.310.001) of the Code of Professional Conduct of the American Institute of Certified Public Accountants provided, however, any accounting research bulletins, or opinions of the accounting principles board issued or approved for exposure by the accounting principles board prior to April 1, 1973, and finally adopted by such board on or before June 30, 1973, shall constitute statements of accounting principles promulgated by a body designated by *Council* as contemplated in the "Accounting Principles Rule" (AICPA, *Professional Standards*, ET sec. 1.320.001 and 2.320.001) of the Code unless and until such time as they are expressly superseded by action of the FASB. [fn 1]

Governmental Accounting Standards Board

WHEREAS: The Governmental Accounting Standards Board (GASB) has been established by the board of trustees of the Financial Accounting Foundation (FAF) to issue standards of financial accounting and reporting with respect to activities and transactions of state and local governmental entities, and

WHEREAS: The American Institute of Certified Public Accountants is a signatory to the agreement creating the GASB as an arm of the FAF and has supported the GASB professionally and financially, it is

RESOLVED: That as of the date hereof, the GASB, with respect to statements of governmental accounting standards adopted and issued in July 1984 and subsequently, in accordance with its rules of procedure and the bylaws of the FAF, be, and hereby is, designated by the Council of the American Institute of Certified Public Accountants as the body to establish financial accounting principles for state and local governmental entities, pursuant to the "Accounting Principles Rule" (AICPA, *Professional Standards*, ET sec. 1.320.001 and 2.320.001) of the Code of Professional Conduct, and standards on disclosure of financial information for such entities outside *financial statements* in published financial reports containing *financial statements* under the "Compliance With Standards Rule" (AICPA, *Professional Standards*, ET sec. 1.310.001 and 2.310.001) of the Code of Professional Conduct. [fn 1]

Public Company Accounting Oversight Board

WHEREAS: The Public Company Accounting Oversight Board (PCAOB) has been established pursuant to the Sarbanes-Oxley Act of 2002 (the Act), and

WHEREAS: The PCAOB has authority under the Act to establish or adopt, or both, by PCAOB rule, auditing and related attestation standards, quality control, ethics, *independence* and other standards relating to the preparation and issuance of audit reports for issuers as defined in the Act.

RESOLVED: That the PCAOB be, and hereby is, designated by the Council of the American Institute of Certified Public Accountants as the body to establish standards relating to the preparation and issuance of audit reports for entities within its jurisdiction as defined by the Act pursuant to the "General Standards Rule" (AICPA, *Professional Standards*, ET sec. 1.300.001) and the "Compliance With Standards Rule" (AICPA, *Professional Standards*, ET sec. 1.310.001) of the Code of Professional Conduct. [fn 1]

[Added by *Council* May 2004.]

International Accounting Standards Board

WHEREAS, At its Spring, 2008 meeting, the *Council* resolved that the International Accounting Standards Board (IASB) be designated as the body which is authorized to establish professional standards with regard to international accounting and reporting principles under the "Compliance With Standards Rule" (ET sec. 1.310.001 and 2.310.001) and the "Accounting Principles Rule" (ET sec. 1.320.001 and 2.320.001) of the AICPA Code of Professional Conduct, with the proviso that Council would, three to five years after such designation, reassess whether continued recognition of the IASB for such purposes is appropriate, and readopted that resolution in May 2013, and

[Added by Council May 19, 2013, amended May 20, 2018.]

WHEREAS, The Council supports the IASB and believes recognition of the IASB as the body authorized to establish professional standards with regard to international accounting and reporting principles under the "Compliance With Standards Rule" (ET sec. 1.310.001 and 2.310.001) and the "Accounting Principles Rule" (ET sec. 1.320.001 and 2.320.001) of the AICPA Code of Professional Conduct should continue; and

[Added by Council May 19, 2013; readopted by Council, May 20, 2018.]

WHEREAS, The Council also believes it should again reassess such recognition three to five years after the effective date of this resolution; now

[Added by Council May 19, 2013; readopted by Council, May 20, 2018.]

BE IT RESOLVED, That the Council hereby readopts the resolutions related to the IASB set out in Appendix A to the Code of Professional Conduct as set out below.

[Added by Council May 19 2013; readopted by Council, May 20, 2018.]

RESOLVED: That the International Accounting Standards Board (IASB) is hereby designated as the body to establish professional standards with respect to international financial accounting and reporting principles pursuant to the "Compliance With Standards Rule" (ET sec. 1.310.001 and 2.310.001) and the "Accounting Principles

Rule" (ET sec. 1.320.001 and 2.320.001) of the Code of Professional Conduct; and

BE IT FURTHER RESOLVED: That the Council shall reassess, no sooner than three years but no later than five years after the effective date of this resolution, whether continued recognition of the IASB as the body designated to establish professional standards with respect to international financial accounting and reporting principles under the "Compliance With Standards Rule" (ET sec. 1.310.001 and 2.310.001) and the "Accounting Principles Rule" (ET sec. 1.320.001 and 2.320.001) of the Code of Professional Conduct is appropriate. [fn 1]

[Added by Council May 18, 2008; readopted by Council, May 19, 2013 and May 20, 2018.]

AICPA COMMITTEES AND BOARDS

WHEREAS: The membership of the *Institute* has adopted the "General Standards Rule" (AICPA, *Professional Standards*, ET sec. 1.300.001 and 2.300.001) of the Code of Professional Conduct, which authorizes the Council to designate bodies to promulgate technical standards with which members must comply, and therefore it is [fn 1]

Accounting and Review Services Committee

RESOLVED: That the AICPA accounting and review services committee is hereby designated to promulgate standards under the "General Standards Rule" (AICPA, *Professional Standards*, ET sec. 1.300.001) and the "Compliance With Standards Rule" (AICPA, *Professional Standards*, ET sec. 1.310.001) of the Code of Professional Conduct with respect to unaudited *financial statements* or other unaudited financial information of an entity that is not required to file *financial statements* with a regulatory agency in connection with the sale or trading of its securities in a public market. [fn 1]

Auditing Standards Board

RESOLVED: That, with respect to standards relating to the preparation and issuance of audit reports not included within the resolution on the Public Company Accounting Oversight Board, the AICPA auditing standards board is hereby designated as the body authorized under the "General Standards Rule" (AICPA, *Professional Standards*, ET sec. 1.300.001) and the "Compliance With Standards Rule" (AICPA, *Professional Standards*, ET sec. 1.310.001) of the Code of Professional Conduct to promulgate auditing, attestation, and quality control standards and procedures.

RESOLVED: That the auditing standards board shall establish under statements on auditing standards, the responsibilities of *members* with respect to standards for disclosure of financial information outside of the *financial statements* in published financial reports containing *financial statements*. [fn 1]

[Revised May 2004.]

Management Consulting Services Executive Committee

RESOLVED: That the AICPA management consulting services executive committee is hereby designated to promulgate standards under the "General Standards Rule" (AICPA, *Professional Standards*, ET sec. 1.300.001 and 2.300.001) and the "Compliance With Standards Rule" (AICPA, *Professional Standards*, ET sec. 1.310.001 and 2.310.001) of the Code of Professional Conduct with respect to the offering of management consulting services, provided, however, that such standards do not deal with the broad question of what, if any, services should be proscribed.

AND FURTHER RESOLVED: That any *Institute* committee or board now or in the future authorized by the *Council* to issue enforceable standards under the "General Standards Rule" (AICPA, *Professional Standards*, ET sec. 1.300.001 and 2.300.001) and the "Compliance With Standards Rule" (AICPA, *Professional Standards*, ET sec. 1.310.001 and 2.310.001) of the Code of Professional Conduct must observe an exposure process seeking comment from other affected committees and boards, as well as the general membership. [fn 1]

[Revised April 1992.]

Attestation Standards

RESOLVED: That the AICPA accounting and review services committee, auditing standards board, and management consulting services executive committee are hereby designated as bodies authorized under the "General Standards Rule" (AICPA, *Professional Standards*, ET sec. 1.300.001) and the "Compliance With Standards Rule" (AICPA, *Professional Standards*, ET sec. 1.310.001) of the Code of Professional Conduct to promulgate attestation standards in their respective areas of responsibility. [fn 1]

[Added by *Council*, May 1988; revised April 1992.]

Tax Executive Committee

RESOLVED: That the Tax Executive Committee is hereby designated as the body authorized under the "General Standards Rule" (AICPA, *Professional Standards*, ET sec. 1.300.001 and 2.300.001) and the "Compliance With Standards Rule" (AICPA, *Professional Standards*, ET sec. 1.310.001 and 2.310.001) of the Code of Professional Conduct to promulgate professional practice standards with respect to tax services. [fn 1]

[Added by *Council*, October 1999.]

Forensic and Valuation Services Executive Committee

RESOLVED: That the Forensic and Valuation Services Executive Committee is hereby

designated as the body to promulgate professional standards with respect to forensic and valuation services under the "General Standards Rule" (AICPA, *Professional Standards*, ET sec. 1.300.001 and 2.300.001) and the "Compliance With Standards Rule" (AICPA, *Professional Standards*, ET sec. 1.310.001 and 2.310.001) of the Code of Professional Conduct. [fn 1]

[Added by *Council*, October 2007.]

Personal Financial Planning Executive Committee

RESOLVED: That the Personal Financial Planning Executive Committee is hereby designated as the body to promulgate professional standards with respect to personal financial planning services under the "General Standards Rule" (AICPA, *Professional Standards*, ET sec. 1.300.001 and 2.310.001) and the "Compliance With Standards Rule" (AICPA, *Professional Standards*, ET sec. 1.310.001 and 2.310.001) of the Code of Professional Conduct. [fn 1]

[Added by *Council*, October 2012.]

Simultaneous employment or association with an attest client

Task force members

Cathy Allen (chair), Andy Bonner, Jason Evans, Jeff Lewis, Nancy Miller, Dan Vuckovich

Observers

Jim Dalkin, Robin Donaldson, Nicole Anderson McLean, Brandon Mercer, Bella Rivshin

AICPA staff

Jennifer Kappler

Task force charge

To consider whether to add an exception to the "Simultaneous Employment or Association With an Attest Client" interpretation (ET sec. 1.275.005) for individuals employed by the armed services and whether other modifications to the subtopic "Current Employment or Association with an Attest Client" (ET sec. 1.275) are warranted.

Reason for agenda item

To seek input on the task force's recommended revisions to the "Definitions" and "Simultaneous Employment or Association With an Attest Client" interpretations.

Background

At the August 2023 PEEC meeting, the committee approved the following framework as a foundation for potential revisions to the interpretation:

- A covered member would be prohibited from employment at an attest client
- A partner or professional employee would be prohibited from being employed in a key position at the attest client

Other than specifically identified exceptions, all other situations would require application of the "Conceptual Framework for Independence" (ET sec. 1.2710.010).

Task force activities

Agenda items 3B and 3C reflect the task force's preliminary revisions and additions to the current interpretations.

Questions for the committee

1. Does the committee agree with the approach of separating the definition of "simultaneously employed or associated" from the "Simultaneous Employment or Association With an Attest Client" interpretation?
2. Should the task force (1) address activities that would be performed by a promoter or legal counsel (for example) in the interpretation or (2) address these and similar roles in the proposed definition of "simultaneously employed or associated"?
3. The current interpretation refers to simultaneous employment or association during the period of professional engagement and the period covered by the financial statements. Does the committee agree that it is appropriate to remove "the period covered by the financial statements" from the proposed definition?
4. Who should be responsible for applying the conceptual framework when required? For example, should it be the partner or professional being offered employment, the attest engagement partner, or the appropriate individual in the firm to whom the information was given as currently proposed in the task force's recommendation?
5. Does the committee believe that the threats and safeguards outlined in paragraphs. .03–.05 are appropriate?
6. The current exception in the interpretation provides that a partner or professional serving as adjunct faculty at an attest client should not participate in the client's employee benefit plans unless participation is required. How does the committee believe benefit plan participation should be handled in terms of other simultaneous employment situations?

Materials presented

Agenda item 3B: 0.400 Definitions

Agenda item 3C: 1.275.005 Simultaneous Employment or Association With an Attest Client

0.400 Definitions

.48 ***Simultaneously employed or associated. When a*** **partner** ***or professional employee of the*** **member's firm** ***serves as a director, officer, employee (whether in a volunteer or paid position), promoter, underwriter, voting trustee, or trustee for any pension or profit-sharing trust of the*** **attest client** ***during the*** **period of the professional engagement.**

DRAFT

1.275.005 Simultaneous Employment or Association With an Attest Client

.01 *Except as noted in paragraph .07,* 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 *when:*

a. *a* covered member *is* simultaneously employed or associated *with the* attest client*; or*

b. *a* partner *or professional employee who is not a* covered member *is* simultaneously employed or associated *in a* key position *with the* attest client.

.02 *When a* partner *or professional employee receives an offer to become* simultaneously employed or associated *with an* attest client *in a position that would not be covered by paragraph .01 of this interpretation,*

a. *they should promptly report the offer to an appropriate person in the firm, and*

b. *the appropriate person should apply the "Conceptual Framework for Independence" interpretation [1.210.010], to evaluate whether the familiarity, management participation, advocacy, self-interest, and self-review threats are at an* acceptable level*.*

.03 *Examples of factors to consider when evaluating whether* threats *are at an* acceptable level *include the following:*

a. *The individual's position and role in the firm.*

b. *The individual's position and role in the* attest client*.*

c. *Whether the position is full- or part-time.*

d. *Whether the position will be short-term (temporary or seasonal),*

DRAFT

longer-term, or permanent.

e. Whether the compensation to be paid to the member*, if any, is significant to the* member*'s net worth.*

f. Whether the position provides fringe benefits that are significant to the individual.

g. Whether the position would involve duties that impact the client's financial statements *or internal controls over financial reporting and if so, the magnitude of such impact.*

h. Whether the individual would perform duties that the firm would not be permitted to perform under ET sec. 1.295 (Nonattest Services).

i. Whether the individual would perform any management responsibilities for the attest client*.*

j. Whether the position is highly visible to the public.

k. Whether the position involves marketing or other promotional work.

l. Whether the position is with the attest client *or an* affiliate *of the* attest client*.*

m. The nature of the attest engagement*.*

n. The size and structure of the firm*.*

o. The size and structure of the attest client*.*

.04 If threats *are not at an* acceptable level*,* safeguards *should be applied to eliminate the* threats *or reduce them to an* acceptable level*. Application of more than one* safeguard *may be necessary. If* threats *cannot be eliminated or reduced to an* acceptable level*,* independence *would be* impaired*. [Prior reference: paragraph .02C of ET section 101]*

.05 Examples of actions that might be safeguards *include the following:*

a. An appropriate reviewer who has not provided services to the attest client *reviews the attest work performed.*

b. The firm *employs policies and procedures that are designed to identify, evaluate, and monitor members' employment with* attest

DRAFT

clients.

c. *The* firm *actively monitors compliance with the* firm's independence *policies and procedures related to* members' *employment with* attest clients.

d. *The* firm *conducts periodic training and provides periodic communications on the* firm's independence *policies and procedures related to* members' *employment with* attest clients.

.06 *Communication with those charged with governance regarding evaluation of the* threats *to* independence *and the* safeguards *applied is not a sufficient s*afeguard *when applied alone; however, it may be considered a* safeguard *when supplemented by other* safeguards, *such as those noted in paragraph .06.*

.07 Threats *will be at an* acceptable level *and* independence *would not be* impaired *when any of the following situations exist:*

a. *A* partner *or professional employee of the* member's firm *serves as an adjunct faculty member of an educational institution that is an* attest client *of the* firm *and the* partner *or professional employee meets all the following safeguards:*

i. *Does not hold a* key position *at the educational institution.*

ii. *Does not participate on the* attest engagement team.

iii. *Is not an* individual in a position to influence the attest engagement.

iv. *Does not participate in any employee benefit plans sponsored by the educational institution unless participation is required.*

b. *A* member *in a government audit organization performs an* attest engagement *with respect to the government entity and the head of the government audit organization meets at least one of the following:*

i. *Is directly elected by voters of the government entity with respect to which* attest engagements *are performed.*

ii. *Is appointed by a legislative body and is subject to removal by a*

DRAFT

legislative body.

iii. *Is appointed by someone other than the legislative body, as long as the appointment is confirmed by the legislative body and removal is subject to oversight or approval by the legislative body.*

c. *A* **partner** *or professional employee of the* **member's firm** *is employed by the* **attest client** *in accordance with a relevant federal, state, local law or regulation and the* **partner** *or professional employee meets all of the following* **safeguards***:*

i. *Is not in a* **key position** *with the* **attest client***.*

ii. *Does not participate on the* **attest engagement team.**

iii. *Is not an* **individual in a position to influence the attest engagement.**

.08 *Upon termination of employment or association with the* **attest client***, the* **partner** *or professional employee should comply with the requirements of the "Former Employment or Association With an Attest Client" interpretation [1.277.010] of the "Independence Rule" [1.200.001]. [Prior reference: paragraph .21 of ET section 101]*

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

DRAFT

Agenda item 4A

Reporting of an independence breach to an affiliate that is also an attest client

Task Force Members

Jennifer Kary (Chair), Andy Bonner, Rebecca McCray, Debbie Ng, Shelly VanDyne, Lori West

Other Project Members

Judith Sherinsky, Brian Wilson

Observers

Alina Kalachnyuk, Brandon Mercer, Samina Tahir

AICPA staff

Ellen Goria, Kelly Mullins, Michael Schertzinger

Task force charge

To consider whether nonauthoritative guidance is needed for the "Breach of Independence Interpretation" (ET sec. 1.298.010) when there is an independence breach at an attest client that has affiliates that are also attest clients.

Reason for agenda item

To seek the committee's input on the nonauthoritative questions and answers (Q&As) in agenda item 4B.

Background

Comments received on this topic from the November 2019 Strategy and Work Plan suggested that consistency in practice is needed. The committee agreed to consider guidance that would help members.

Task force activities

Nonauthoritative Q&As will provide members with needed guidance to determine when an independence breach at an attest client needs to be communicated to affiliates that are also attest clients.

Questions for the committee

1. Does the committee have any suggested revisions to the nonauthoritative Q&As?
2. Does the committee agree to adding a link to the Q&As after paragraph .12 of the "Breach of an Independence Interpretation" interpretation (ET sec. 1.298.010)?

Materials presented

Agenda item 4B: Proposed Q&A section 320, Breach of an Independence Interpretation

Proposed Q&A

Terms defined in the AICPA Code of Professional Conduct are italicized the first time they appear in this document. If you'd like to see the definitions, you can find them in "Definitions" (ET sec. 0.400)

Q&A section 320, Breach of an Independence Interpretation

.01 Communication of an independence breach to affiliates of an attest client that are also attest clients

Inquiry — Is it necessary to communicate an independence breach to *affiliates* of an *attest client* that are also *attest clients* of the *member* or member's firm?

Reply — It depends. If an independence breach at an *attest client* results in a breach at an attest client affiliate, communication of the breach to *those charged with governance* at the affiliate is necessary, as explained in the "Breach of an Independence Interpretation" interpretation (ET sec. 1.298.010).

If those charged with governance are not the same across all affected entities, members should refer to Q&A .03 in this section, "Communication and confidentiality after an independence breach."

.02 Communication to affiliates that are not affected by an independence breach at an attest client

Inquiry — Is communication necessary to affiliates that are also attest clients if they are not affected by an independence breach at an attest client (that is, if the breach has not resulted in a breach at an affiliate)?

Reply — Communication to these affiliates is not necessary when the breach at an attest client does not affect the entities, even if those charged with governance are the same.

The focus is on providing information relevant to entities affected by the breach.

To avoid violating the "Confidential Client Information Rule," members may direct affiliates to seek information from the affected main entity, without revealing any confidential client information.

.03 Communication and confidentiality after an independence breach

Inquiry — Does communicating an independence breach to affiliates that are also attest clients violate the "Confidential Client Information Rule" (ET sec. 1.700.001)?

Reply — It depends on whether those charged with governance are the same for the entity and its affiliates:

- If they are the same, communicating an independence breach to affiliates that are also attest clients will not violate the "Confidential Client Information Rule."

- If they are different, a member is required to comply with the “Breach of an Independence interpretation” (ET sec. 1.298.010) and disclose the breach to those charged with governance of the affected entities. However, members should also apply the "Confidential Client Information Rule" and ensure communication does not include confidential information.

  If an affiliate requests more details than the member believes is appropriate to provide, the member or member’s firm could direct the affiliate to those charged with governance at the main entity where the breach occurred or to an upstream entity that controls both.

.04 Manner of communication after an independence breach

Inquiry — What type of communication should those charged with governance of affiliates that are also attest clients receive if they are affected by an independence breach?

Reply — Communication should be in writing to those charged with governance at each affected entity. “Affected” means the breach has resulted in a breach at an affiliate.

A single comprehensive letter may suffice if those charged with governance are the same across the entities. If a single letter is provided, each of the entities should be listed in the letter to ensure that those charged with governance clearly understand the consequences of the independence breach. The choice between a single comprehensive letter or separate letters to those charged with governance depends on the member’s judgment and circumstances of the situation.

Private equity investment in firms

Task force members

Anna Dourdourekas (co-chair), Lisa Snyder (co-chair), Catherine Allen, Peter Bible, Andreea Danel, Bob Denham, Jennifer Elder, Kelly Hnatt, Paul Meyer, Randy Milligan, Bisi Tairu, Joe Turkewitz, Paula Young

AICPA staff

Jim Brackens, Joan Farris, Ellen Goria, Toni Lee-Andrews

Task force charge

To determine whether the increase in private equity investments in public accounting firms creates a need to revise the code or issue nonauthoritative guidance. The task force will evaluate the current provisions in the code including the "Alternative Practice Structures" (APS) interpretations (ET sec. 1.220.020 and 1.810.050) under the "Independence Rule" and the "Form of Organization Rule," respectively, to determine if they are appropriate and sufficient.

Reason for agenda item

To provide the committee with an update, outline next steps, and request input.

Task force activities

Scope 1: Evaluate the current "Alternative Practice Structure" interpretation under the "Independence Rule" for applicability to private equity structures.

The task force developed key assumptions for a scenario where the private equity (PE) firm has significant influence but not a controlling investment in the nonattest firm in order to identify individuals and entities in the structure that may need to be evaluated under the "Independence Rule." The task force then performed an exercise based on the assumptions in the same scenario to compare the results of (1) applying the current APS interpretation (ET sec. 1.220.020) with (2) applying a covered member approach followed by the application of the "Conceptual Framework for Independence" interpretation (ET sec. 1.210.010).

Noncontrolling investment scenario

Based on the results of the exercise, the task force is moving in the direction of a conceptual framework approach for individuals and entities in a noncontrolling investment scenario that are beyond the scope of covered member and who may create threats to independence.

Observations

The task force made the following observations regarding the results of the exercise performed for the noncontrolling investment scenario.

1. All individuals identified as direct superiors[1], who are required to comply with the Independence Rule, through the APS interpretation were identified as covered members. These individuals include

    a. CEO of the attest firm and[2]

    b. attest firm senior leadership, executive committee, and board.[2] [3]

2. The APS interpretation includes with direct superiors, "entities over which such individuals have significant influence." The task force is considering whether this needs to extend to entities within the APS over which covered members can exercise significant influence since covered member criterion *f.* includes "an entity whose operating, financial, or accounting policies can be controlled by any of the individuals or entities described in items *a*-*e* or two or more such individuals or entities if they act together."

3. Certain individuals identified as indirect superiors[4] through the APS interpretation were identified as covered members. These individuals include:

    a. Nonattest firm senior leadership/executive committee.[2] This is because all partners and employees of the attest firm are employees of the nonattest firm. As such, the executive committee (or similar) of the nonattest firm would be included

---

[1] Direct superiors include those persons so closely associated with a *partner* or *manager* who is a covered member that such persons can directly control the *partner's* or *manager's* activities. For this purpose, a person who can directly control is the immediate superior of the *partner* or *manager* who has the power to direct the activities of that person so as to be able to directly or indirectly (for example, through another entity over which the direct superior can exercise significant influence) derive a benefit from that person's activities. An example is the person who has day-to-day responsibility for the activities of the *partner* or *manager* and is in a position to recommend promotions and compensation levels. This group of persons is so closely aligned through direct reporting relationships that their interests seem to be inseparable.

[2] Covered member criterion b. in a position to influence the attest engagement criterion b. directly supervises or manages the attest engagement partner, including all successively senior levels above that individual through the firm's chief executive

[3] Covered member criterion b. in a position to influence the attest engagement criterion a. evaluates the performance or recommends the compensation of the attest engagement partner

[4] Indirect superiors are not connected with *partners* and *managers* who are covered members through direct reporting relationships; rather, they are one or more levels above direct superiors of covered members (that is, there always is a level in between). Generally, this starts with persons in an organization structure to whom direct superiors report and go up the line from there. Indirect superiors also include the *immediate family* of indirect superiors.

as “successively senior levels.”

b. CEO of the nonattest firm.[2] This is because all partners and employees of the attest firm are employees of the nonattest firm; as such, the CEO of the nonattest firm would be included in “successively senior levels.”

4. Certain individuals identified as indirect superiors through the APS interpretation were identified *potentially* as covered members. These individuals include nonattest firm board members if board members meet any criteria of a covered member.

   An example would be if the board member is involved in compensation decisions affecting the attest partners on an individual basis, that individual would meet covered member criterion b. in a position to influence the attest engagement, criterion a. evaluates the performance or recommends the compensation of the attest engagement partner.

   a. The distinction regarding whether an individual would be considered a covered member lies with his or her authority over the compensation of attest firm partners; if an individual has the ultimate authority to affect an attest partner’s compensation, whether exercised or not, that individual would meet the criteria above.

   b. If the board member is only involved in approving compensation at a pooled level with no allocation to individual attest partners, they would not meet covered member criterion b. above.

5. Certain individuals and entities were not identified through the APS interpretation but were identified as *potentially* creating a threat to independence. These include the following:

   a. Registered investment advisor (RIA), investment manager, investment management company. This is because the RIA is typically separate from the PE structure; however, a representative of the RIA may have influence over the general partner.

   b. Limited partners. This is because typically, these entities have a minority interest with no significant influence and no voting rights; however, representatives from the limited partnerships may have influence over the general partner.

   c. Others who perform activities at the direction of the PE firm. This is because these are individuals (for example, independent contractors, employees, independent consultants) who work at the direction of and are directly compensated by the PE firm and may perform activities relating to the attest firm

or nonattest firm.

Preliminary conclusions

The task force made the following conclusions based on discussions and the results of the exercise performed for the noncontrolling investment scenario.

1. Network firms.

    a. The attest and nonattest firms are network firms per the "Network and Network Firms" interpretation (ET sec. 1.220.010) due to cooperating for the purpose of enhancing the firms' capabilities to provide professional services, and meeting one of the following criteria: sharing a common brand name, sharing common control, sharing profits or costs, sharing a common business strategy, sharing significant professional resources, or sharing common quality control policies and procedures.

    b. The PE firm and its portfolio companies would generally not be considered network firms of the attest and nonattest firms because they are not cooperating with the attest or nonattest firm to enhance their capabilities to provide professional services. The same would apply when the nonattest firm is controlled by the PE firm.

2. Covered Members. The following individuals in or associated with the nonattest firm could be considered covered members and each should be evaluated based on the covered member definition.

    a. Nonattest firm partners

        i. When evaluating whether a nonattest firm partner meets one of the covered member criteria, consider that the attest partners are also employees of the nonattest firm, and therefore a nonattest firm partner could be in the chain of command.

        ii. If determined not to be covered members, nonattest firm partners would be subject to the interpretations under the Independence Rule that pertain to "partners and professional employees" of the firm, which includes a network firm.

    b. Nonattest firm professional employees

        i. When evaluating whether a nonattest firm professional employee meets one of the covered member criteria, consider that professional employees of the nonattest firm are leased to the attest firm; as such, a nonattest firm

professional employee could be on the attest engagement team or provide more than 10 hours of nonattest services to the attest client.

ii. If nonattest firm professional employees do not meet any criteria of a covered member, they would be subject to the interpretations under the Independence Rule that pertain to “partners and professional employees” of the firm which includes a network firm.

c. Nonattest firm CEO. The CEO of the nonattest firm would be a covered member due to meeting covered member criterion b. in a position to influence the attest engagement and criterion b. directly supervises or manages the attest engagement partner, including all successively senior levels above that individual through the firm’s chief executive.

d. Nonattest firm senior leadership and executive committee. The nonattest firm senior leadership team (executive committee, etc.) would be covered members due to meeting covered member criterion b. in a position to influence the attest engagement and criterion b. directly supervises or manages the attest engagement partner, including all successively senior levels above that individual through the firm's chief executive.

e. Nonattest firm board members. Nonattest firm board members who make decisions regarding the compensation of attest partners and have ultimate authority over such compensation at an individual level, whether exercised or not, would be covered members.

3. Individuals and entities not identified as covered members within the PE structure who may create threats to independence and potential safeguards.

a. Nonattest firm board members.

Safeguards

1. Nonattest board members who are not covered members should not be in a key position at an attest client of the attest firm because of the threat to the appearance of independence.

2. Nonattest board members who are not covered members should not have a material financial interest in an attest client because of the threat to the appearance of independence.

b. The general partner of the fund that holds the investment in the nonattest firm

Safeguards

1. General partner representatives who are not covered members should not have a material financial interest in an attest client because of the threat to the appearance of independence.

2. General partner representatives who are not covered members should not be in a key position at an attest client of the attest firm because of the threat to the appearance of independence.

c. Registered Investment Advisor (RIA), investment manager, investment management company

Safeguards

1. The RIA or investment management company for the fund that holds the investment in the nonattest firm could not be an attest client of the attest firm.

2. The RIA or investment management company for a fund other than the fund that holds the investment in the nonattest firm could potentially be an attest client and should be evaluated through the conceptual framework.

d. Others who perform activities at the direction of the PE firm. The task force is still discussing the threats created by these individuals including a potential threat caused by the of the receipt of a fee for referring an attest client to the attest firm.

e. Portfolio companies in same fund as nonattest firm

Safeguard. The attest firm could not provide attest services to portfolio companies that are in the same fund as the nonattest firm.

Safeguard when portfolio company is providing prohibited nonattest services to attest clients of the attest firm. The nonattest firm board members could not be on the board of any portfolio company providing prohibited nonattest services.

4. Individuals and entities not identified as covered members within the PE structure who do NOT create threats to independence.

a. Limited Partners. Limited partners who are not associated with the nonattest firm would not be subject to independence requirements.

b. Portfolio companies not in the same fund as the nonattest firm

i. The attest firm could potentially provide attest services to portfolio companies in a different fund than that of the nonattest firm and would need to apply the conceptual framework to evaluate.

ii. Portfolio companies in different funds than that of the nonattest firm could provide prohibited nonattest services to attest clients of the attest firm.

Controlling investment scenario

The task force is currently reviewing the key assumptions and amending them for the scenario where the PE firm has a controlling investment in the nonattest firm. The task force will then perform the same exercise and compare the results with those obtained in the noncontrolling investment scenario.

Questions for the committee

1. Does the committee agree with the direction of the task force?
2. Does the committee have any questions regarding the observations and conclusions of the task force based on the exercise performed on the noncontrolling investment scenario?

IESBA Convergence NAS – Legal services

Task force members

Dan Vuckovich (chair), Tom Campbell, Vincent DiBlanda, Karen Moncrieff

Observers

Wendy Garrett, Brandon Mercer

AICPA staff

Liese Faircloth

Task force charge

To consider the Final Pronouncement: Revisions to the Non-Assurance Service Provisions of the International Ethics Standards Board for Accountants (IESBA) code related to legal services and determine what changes, if any, are needed to the AICPA Code of Professional Conduct.

Reason for agenda item

To request approval of the task force's conclusion related to convergence.

Background

IESBA addresses legal services in subsection 608 of their code. IESBA has this subsection because unlike the United States where the practice of law must be performed by someone with the appropriate qualifications (education and admission to the bar), other countries permit accounting firms to provide legal services.

Because the United States restricts the practice of law to those with requisite qualifications and most states' bar associations have requirements prohibiting a law firm from sharing legal fees with a non-lawyer, the AICPA code does not have an interpretation in its "Nonattest Services" subtopic dedicated to legal services. Accordingly, the Conceptual Framework for Independence (ET sec. 1.210.010) helps members evaluate these types of services.

Task force activities

The task force has discussed possible approaches to convergence between the AICPA and IESBA codes regarding legal services. Discussion included the definition of legal services as well as the observation that each of the 52 U.S. jurisdictions has a definition of "legal services." These definitions are varied and some are more specific than others about what constitutes legal services. Due to the many varied definitions, the task force decided not to add a definition of legal services to the AICPA code.

The task force also discussed how legal services have historically been addressed in the AICPA code. Ethics Ruling 51, Member Providing Legal Services, was deleted in May 1999 after being

revised in 1990. Both versions of this ruling are included in agenda item 6C: Ethics Ruling 51.

The IESBA code provides examples of services that may create self-review and advocacy threats to independence. Many of these examples are also in the AICPA code, including estimating a potential loss arising from a lawsuit.

This type of estimate falls under the "Appraisal, Valuation, and Actuarial Services" interpretation (ET sec. 1.295.110). The interpretation states that "threats … would not be at an acceptable level and could not be reduced to an acceptable level … when the (*a*) services involve a significant degree of subjectivity and (*b*) the results of the service ... are material to the attest client's financial statements." Additionally, the valuation document would be considered as a source document for inclusion in the financial statements and preparing source documents is considered a management responsibility.

Negotiating on behalf of a client is another example in the IESBA code. This creates an advocacy threat, and the AICPA code allows a member to act only in an advisory role during negotiations. The member is not permitted to commit the attest client to the terms of a transaction or consummate a transaction on behalf of an attest client and doing so impairs independence as indicated in the "Corporate Finance Consulting" interpretation (ET sec. 1.295.130).

Currently, there are two prohibitions and two explicitly allowed services listed in the AICPA code related to legal services:

- Paragraph .02*h* of the "Management Responsibilities" interpretation (ET sec. 1.295.030) prohibits a member from acting as the general counsel for an attest client.
- Paragraph .07 of the "Tax Services" interpretation (ET sec 1.295.160) prohibits a member from "representing an attest client in court to resolve a tax dispute."
- Paragraph .05 of the "Tax Services" interpretation allows a member to act "as the attest client's authorized representative in administrative proceedings before a taxing authority."
- Paragraph .06 allows a member to have power of attorney for an attest client as long as it is limited to tax matters and the member does not bind the attest client to any agreement with a taxing or regulatory agency.

Paragraph 608.2 A1 of the IESBA code provides a description of legal services allowing provision of those services by individuals who have the required legal training to practice law. In the United States, practicing law without having been admitted to the bar is unauthorized practice of law, which is not allowed. Additionally, even a member who is admitted to the bar and is also an employee of a CPA firm may not provide legal services directly to a client of the

CPA firm.

The AICPA code is more restrictive than the IESBA code regarding legal services and, therefore, the AICPA code meets convergence requirements.

> Question for the committee
>
> Does the committee agree that the AICPA code is substantially converged with the IESBA code with respect to legal services?

Materials presented

- Agenda item 6B: IESBA Subsection 608 – Legal Services
- Agenda item 6C: Ethics Ruling 51

IESBA Subsection 608 – Legal services

Introduction

608.1 In addition to the specific requirements and application material in this subsection, the requirements and application material in paragraphs 600.1 to 600.27 A1 are relevant to applying the conceptual framework when providing a legal service to an audit client.

Requirements and Application Material

Description of Service

608.2 A1 Legal services are defined as any services for which the individual providing the services must either:

a. Have the required legal training to practice law; or

b. Be admitted to practice law before the courts of the jurisdiction in which such services are to be provided.

608.2 A2 This subsection deals specifically with:

- Providing legal advice.
- Acting as general counsel.
- Acting in an advocacy role.

Potential Threats Arising from Providing Legal Services

All Audit Clients

608.3 A1 Providing legal services to an audit client might create a self-review threat when there is a risk that the results of the services will affect the accounting records or the financial statements on which the firm will express an opinion. Such services might also create an advocacy threat.

A. Providing Legal Advice

Description of Service

608.4 A1 Depending on the jurisdiction, providing legal advice might include a wide and diversified range of service areas including both corporate and commercial services to audit clients, such as:

- Contract support.

- Supporting an audit client in executing a transaction.
- Mergers and acquisitions.
- Supporting and assisting an audit client’s internal legal department.
- Legal due diligence and restructuring.

Potential Threats Arising from Providing Legal Services

All Audit Clients

608.5 A1 Factors that are relevant in identifying self-review or advocacy threats created by providing legal advice to an audit client, and evaluating the level of such threats include:

- The materiality of the specific matter in relation to the client’s financial statements.
- The complexity of the legal matter and the degree of judgment necessary to provide the service.

When a self-review threat for an audit client that is a public interest entity has been identified, paragraph R608.7 applies.

608.5 A2 Examples of legal advice that might create a self-review threat include:

- Estimating a potential loss arising from a lawsuit for the purpose of recording a provision in the client’s financial statements.
- Interpreting provisions in contracts that might give rise to liabilities reflected in the client's financial statements.

608.5 A3 Negotiating on behalf of an audit client might create an advocacy threat or might result in the firm or network firm assuming a management responsibility.

Audit Client that are Not Public Interest Entities

608.6 A1 Examples of actions that might be safeguards to address self-review or advocacy threats created by providing legal advice to an audit client that is not a public interest entity include:

- Using professionals who are not audit team members to perform the service might address a self-review or advocacy threat.
- Having an appropriate reviewer who was not involved in providing the service review the audit work or the service performed might address a self-review threat.

Audit clients that are Public Interest Entities

Self-review threat

R608.7 A firm or a network firm shall not provide legal advice to an audit client that is a public interest entity if the provision of such a service might create a self-review threat. (Ref: Para. R600.14 and R600.16).

Advocacy Threats

608.8 A1 The considerations in paragraphs 608.5 A1 and 608.5 A3 to 608.6 A1 are also relevant to evaluating and addressing advocacy threats that might be created by providing legal advice to an audit client that is a public interest entity.

B. Acting as General Counsel

All Audit Clients

R608.9 A partner or employee of the firm or the network firm shall not serve as General Counsel of an audit client.

608.9 A1 The position of General Counsel is usually a senior management position with broad responsibility for the legal affairs of a company.

C. Acting in an Advocacy Role

Potential Threats Arising from Acting in an Advisory Role Before a Tribunal or Court

Audit Clients that are Not Public Interest Entities

R608.10 A firm or a network firm shall not act in an advocacy role for an audit client that is not a public interest entity in resolving a dispute or litigation before a tribunal or court when the amounts involved are material to the financial statements on which the firm will express an opinion.

608.10 A1 Examples of actions that might be safeguards to address a self-review or advocacy threat created when acting in an advocacy role for an audit client that is not a public interest entity include:

- Using professionals who are not audit team members to perform the service.
- Having an appropriate reviewer who was not involved in providing the service review the audit work or the service performed.

Audit Clients that are Public Interest Entities

R608.11 A firm or a network firm shall not act in an advocacy role for an audit client that is a public interest entity in resolving a dispute or litigation before a tribunal or court.

Ethics Ruling 51

Original

Member Providing Legal Services

.101 Question – A member in public practice who is also an attorney has been asked to provide legal services to a client for whom he also serves as an auditor. Would independence of the member be considered to be impaired with respect to the client?

.102 Answer – Rule of Conduct 101 and related pronouncements prohibit a member from expression an opinion on the financial statements of a client the member also serves in any capacity having the appearance of being equivalent to any management function. The rule thus prohibits an auditor from serving as an officer, director or employee regardless of the actual responsibility of those positions. Independence of the member would be considered to be impaired if the legal services rendered result in undue identification with the management of the client or involvement with a client's affairs to such a degree as to place him virtually in the position of being an employee. Further, since the designation "general Council" would appear to describe an ongoing state of such prohibited management equivalency to an objective observer, a member identified as "general council' cannot be considered independent.

Revised

Member Providing Legal Services

.101 Question – A member who is an attorney services as general counsel or its equivalent for a client. Would the independence of the member be considered impaired with respect to the client?

.102 Answer - The member would not be considered to be independent with respect to the client because servicing as general counsel or its equivalent would be acting in a management capacity.

[Revised, effective June 30, 1990, by the PEEC.]

IESBA Monitoring - Sustainability

Project description

IESBA's sustainability project has two goals:

- To develop ethics and independence standards for use by all sustainability assurance practitioners, which includes professional accountants and non-professional accountants (that is, assurance practitioners who are not professional accountants)
- To revise the IESBA code to address ethics issues related to sustainability reporting

Work will be performed in two workstreams, which are outlined in sub-sections under the "Project update" section of this agenda item:

- Workstream 1: Independence in sustainability assurance engagements
- Workstream 2: Ethics in sustainability reporting and assurance

IESBA coordination

In addition to coordinating its work internally with the Use of Experts Task Force, IESBA is coordinating development of these standards with the International Auditing and Assurance Standards Board (IAASB) and the International Sustainability Standards Board (ISSB). The International Organization of Securities Commissions (IOSCO) March 2023 *Report on International Work to Develop a Global Assurance Framework for Sustainability-related Corporate Reporting* acknowledges being actively engaged with IESBA and the IAASB.

At its March 2023 meeting, IESBA also supported establishing a reference group of stakeholders outside the accounting profession to be a sounding board for informing development of "profession-agnostic" ethics and independence standards for sustainability assurance engagements. The members of the workstreams will continue using this reference group as work on the proposed revisions continue.

Status

At the September 2023 meeting, IESBA members did a first read of the proposed revisions and provided their feedback. Meeting materials can be found here.

IESBA confirmed that it plans to approve the exposure draft at the December meeting.

Another draft of the revisions is expected to be sent to IESBA for review ahead of the public posting of the December 2023 agenda papers.

Given the pace in which the AICPA Professional Ethics Division expects these revisions to happen, two monitoring groups will assist PEEC and AICPA staff:

- PEEC members or those designated by PEEC members
- Other stakeholders, internal and external to the Association, that have experience and/or interest in sustainability reporting and assurance

In addition to the monitoring groups, PEEC's Engagements Subject to the SSAEs Task Force (or SSAE task force) is also charged with monitoring this project.

Project update

Workstream 1: Independence in sustainability assurance engagements

IESBA's proposed standard will provide independence requirements for professional accountants and other practitioners who are not professional accountants. Workstream 1 will consider the following:

- Which independence standards are applicable based on specific scenarios such as the following:
  - Assurance is provided on sustainability information that is integrated with the financial information
  - Assurance is provided on sustainability information that is prepared in accordance with a general-purpose framework, such as International Sustainability Standards Board (ISSB) standards and
  - Assurance is provided on sustainability information that is not prepared in accordance with a general-purpose framework
- What constitutes management responsibility and whether there is a need for examples of management responsibilities for sustainability-related activities
- Whether certain activities or services should be permissible rather than prohibited in a sustainability assurance engagement
- New terminology and revisions to existing terminology to ensure sustainability engagements are addressed appropriately
- How the revised International Standard on Quality Management (ISQM) standards are dealt with in International Standard on Sustainability Assurance (ISSA) 5000 and whether there are implications for the code
- New examples of factors for evaluating the extent of public interest in the sustainability aspect of an entity

- The appropriate independence period for sustainability-related information
- How ISSA 5000 addresses group sustainability engagements

As a reminder, the IESBA code has two sets of independence provisions:

- 4A provisions apply to financial statement audits and reviews and have significantly more requirements than 4B. The provisions are more consistent with the AICPA Code of Professional Conduct for these engagements in many aspects.
- 4B provisions apply to other assurance engagements. Sustainability engagements currently fall under part 4B. The AICPA Code of Professional Conduct is currently more restrictive for these engagements.

Due to the public interest nature of sustainability reports, IESBA believes that the independence requirements in part 4A should apply to certain sustainability assurance engagements that meet certain requirements as outlined in the next paragraph. These proposed requirements are being drafted for all sustainability assurance practitioners regardless of whether the practitioner is a professional accountant and will appear in a new part 5 to the IESBA code.

The proposed independence revisions in new part 5 are set forth as being applicable to sustainability assurance engagements where the sustainability information on which the sustainability assurance practitioner expresses an opinion

a. is reported in accordance with a general-purpose framework; and

b. i. is required to be provided in accordance with law or regulation, or

ii. is publicly disclosed to support decision-making by investors or other stakeholders.

For any sustainability assurance engagements not meeting these criteria, part 4B will continue to apply.

The workstream members also clarified that the independence provisions for part 5 will not apply to direct engagements, engagements for which the assurance report is restricted in use and distribution, or sustainability assurance provided on sustainability information developed in accordance with a special-purpose framework or entity-developed criteria.

In drafting the independence revisions, workstream members lifted part 4A and tailored those section requirements to sustainability assurance engagements to include in the new part 5 of the code (see more on the approach to the revisions under the “Project output” section below). These proposed revisions are tailoring the same requirements and application guidance that are

applicable to audit and review engagements to sustainability assurance engagements, which includes replacing certain terminology with proposed new definitions. The following includes examples of the revisions being proposed in part 5 related to the changes in terminology:

- Replace “professional accountant” with “sustainability assurance practitioner.”
- Replace “audit or review engagement” with “sustainability assurance engagement.”
- Replace “audit or review client” with “sustainability assurance client.”
- Replace “audit team” with “sustainability assurance team.”
- Replace “engagement partner” with “engagement leader.”

IESBA provided feedback on each section of the proposed independence revisions within part 5, but more substantial discussion was related to the following topics (most of which were discussed at the June IESBA meeting as well):

- *How the revisions will apply to entities that are considered Public Interest Entities (PIEs)*. If the entity meets the definition of PIE for the purposes of the financial statement audit or if the specific jurisdiction determines that the entity is a PIE in the context of the sustainability assurance engagement, the proposed requirements for PIEs in part 5, which are consistent with part 4A, will be applicable. Also refer to the Public interest entities section of this document.
- *Independence with respect to value chain entities.* A sustainability reporting framework may require that sustainability information from a value chain entity (for example a supplier or other entity outside the reporting entity’s organizational boundary) be included in the reporting entity’s sustainability information that is subject to the sustainability assurance engagement. With respect to these value chain entities, the proposal indicates that the firm and sustainability assurance team members use the “reason to believe principle” to identify threats, and then evaluate and address those threats identified using the conceptual framework. This principle is applicable to financial interests, loans and guarantees, business relationships, and non-assurance services. This guidance was introduced in the August 8th version of the proposal and first discussed at the September meeting. Also refer to the Sustainability assurance practitioner's independence with value chain entities section of this document.

- *Group assurance and another practitioner*. In performing the sustainability assurance engagement, the practitioner may be able to perform procedures similar to those applicable to group audits or may need to consider using the work of another practitioner. When the assurance practitioner plans to be sufficiently involved in the sustainability assurance engagement of a component of the sustainability assurance client and can direct, supervise, and review that assurance work, the practitioner would use the proposed revisions related to group assurance engagements. When the assurance practitioner is not able to direct, supervise and review a component's or value chain's assurance engagement, the practitioner would use the guidance for another practitioner to determine whether they can use the work of the other practitioner in their assurance engagement. The "another practitioner" guidance was introduced in the August 8th version of the proposal and first discussed at the September meeting. Also refer to the Group assurance and another practitioner section of this document.

- *Revisions related to proportion of fees evaluation*. Workstream members proposed that when a professional accountant performs the financial statement audit and the sustainability assurance engagement, and there are separate fee arrangements for each engagement, the professional accountant should consider the fees from the sustainability assurance engagement as an "other fee" to compare to the audit fee for the proportion of fee evaluation. When reporting is integrated and under one fee arrangement, the fees from both engagements are evaluated together and compared to "other fees" in accordance with the fee provisions. Also refer to the Proportion of fees section of this document.

- *Non-assurance services subsections.* All equivalent subsections in the new part 5 were revised and tailored to be applicable to a sustainability assurance engagement. The most significant proposal relates to the equivalent subsections 601 and 603. Subsection 601 changed from "Accounting and Bookkeeping Services" to "Sustainability Data and Information Services," and requirements and application guidance were tailored or expanded to be relevant to sustainability assurance engagements. Subsection 603 was expanded to also include forecasting and similar services in addition to valuation services.

  The following graphic was copied from the workstream members presentation.



Workstream 2: Ethics in sustainability reporting and assurance

IESBA's proposed standard under this workstream will provide ethics requirements related to sustainability reporting and assurance. Because sustainability information tends to involve less quantitative factors (for example, human rights and other social factors), this may require different skills and mindsets from professional accountants and IESBA will consider whether the fundamental principles, the conceptual framework, and mindset requirements in the IESBA code are still appropriate for the various services that could be provided related to sustainability.

As outlined in the project proposal, this consideration will involve providing guidance to address threats that may arise when undertaking sustainability-related tasks and activities, and appropriate safeguards. Such guidance may include addressing

- the potential for misleading sustainability information (that is, greenwashing).
- risks that a professional accountant will accept information without performing appropriate procedures when the information is prepared by a sustainability expert or using sustainability-related technology.
- pressures to act unethically when faced with unrealistic goals or targets.
- identification and mitigation of conflicts of interest issues.
- guidance to assist preparers of sustainability information in exercising discretion and professional judgement, especially when a general-purpose framework is not available.

Workstream 2 will also include review of requirements in part 2 of the IESBA code that are not

in part 3, and whether they apply to sustainability reporting. This consideration will include

- whether ethics responsibilities should vary based on the role and seniority of a professional accountant in business.
- whether a new section should be added to part 3 to provide guidance for professional accountants that are engaged to assist their clients in sustainability-related tasks and activities.
- how to address situations when the preparation of sustainability information is carried out by other practitioners who are not professional accountants.

During IESBA's March 2023 meeting, workstream members recommended that the scope of its work focus on ethics requirements for sustainability assurance practitioners (professional accountants and other practitioners who are not professional accountants) in part 5, and ethics requirements for sustainability reporting for professional accountants only in parts 1, 2, and 3. Workstream members reaffirmed this recommendation during the June 2023 meeting and in September 2023, presented revisions in line with this objective for IESBA's first read.

IESBA reviewed each section of the proposed revisions from this workstream, but more substantial discussion related to the following topics:

- Noncompliance with laws and regulations (NOCLAR)
- Proposed definition of "sustainability information"
- Proposed revisions to the definition of "professional activity"

Other IESBA projects will also affect proposed revisions for sustainability. IESBA plans to adopt the revisions related to the tax planning and other services in December and similar revisions will be proposed in the new part 5. Also, IESBA's Use of Experts Task Force is drafting revisions to be included in the new part 5.

Part 5 ethics (other than independence) proposal

The proposed ethics, other than independence, revisions for new part 5 are applicable to all sustainability assurance engagements (not just those engagements meeting the proposed criteria for the independence requirements in part 5). Extant requirements in parts 1 and 3 that are for professional accountants are focused on the profession, which includes all services provided by the profession; however, the scope of the revisions in part 5 focuses on a particular service (sustainability assurance engagements) and other services performed for the sustainability assurance client.

The scope recommendation is based on the premise that unethical behavior in other

engagements for a sustainability assurance client may have a direct effect on credibility and public trust underpinning sustainability assurance. IESBA believes that revisions that would address all services performed by sustainability assurance practitioners would be too broad for those that are not professional accountants and is outside the scope of the project; however, workstream members plan to include language encouraging compliance with the ethical requirements in all services performed by sustainability assurance practitioners who are not professional accountants.

Similar to the drafting approach for the proposed revisions in workstream 1, the workstream 2 approach started with the requirements in part 1, section 270 (Breaches) of part 2, and part 3 (except section 321, *Second Opinions*) and tailored those requirements to sustainability assurance engagements and other engagements performed for the same client.

As it relates to the NOCLAR requirements within part 5, a more comprehensive summary is included in the NOCLAR section of this document.

Extant parts 1, 2, and 3 proposal

As it relates to proposed revisions for extant parts 1, 2, and 3, IESBA supported the recommendation to propose revisions to these parts for professional accountants only and will encourage compliance with the requirements by those preparers who are not professional accountants.

Minimal revisions are being proposed for extant part 1 (*Complying with the Code, Fundamental Principles and Conceptual Framework*), including revisions to add non-financial reporting to the activities performed by professional accountants and to add references to part 5.

Most of the revisions being proposed for part 2 (*Professional Accountants in Business*) include additions to the application guidance to add examples that support the requirements related to non-financial reporting and reporting sustainability information.

There is one proposed revision to a requirement in part 2, which expands the NOCLAR requirement for professional accountants in business. See the NOCLAR section of this document.

Part 3 (*Professional Accountants in Public Practice*) revisions primarily include additions to the application guidance to support the existing requirements from the perspective of a professional accountant in public practice performing sustainability reporting/preparing sustainability information. The proposal for this part does not include revisions from a sustainability assurance provider perspective because those revisions are included in the new part 5 proposal.

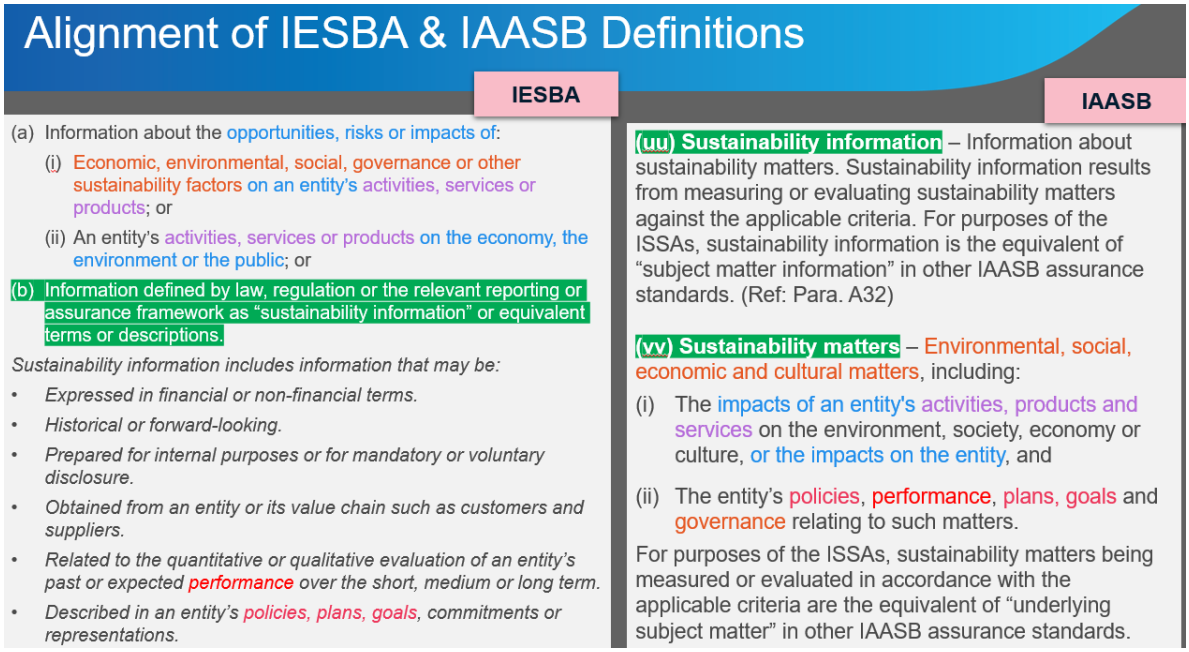
There is one additional requirement and related application guidance being proposed in part 3, and that is for the auditor to consider whether to communicate the known or suspected

NOCLAR to the sustainability assurance practitioner performing a sustainability assurance engagement that meets the independence criteria proposed in part 5. See the NOCLAR section of this document.

Definitions

IESBA had substantial discussion on two key definitions being proposed as part of workstream 2.

One is the new definition being proposed for "sustainability information." IAASB is proposing definitions for "sustainability information" and "sustainability matters" and IESBA and IAASB are not aligned in these proposed definitions at this time. Workstream members explained that the proposed definition encompasses both terms being proposed by IAASB and that there is justification for the inconsistencies due to the technical application proposed in ISSA 5000. The following slide was included in the presentation to show the differences and how IESBA's definition of "sustainability information" is similar to IAASB's definition of "sustainability matters."



Workstream members are also proposing revisions to the definition of "professional activity" as demonstrated below.

An activity requiring professional ~~accountancy or related~~ skills undertaken by a professional accountant or a sustainability assurance practitioner, including accounting, auditing, sustainability reporting, sustainability assurance, tax, ~~management~~ consulting, and financial management.

Project output

At its March 2023 meeting, IESBA considered a few possible approaches to making the revisions being developed in workstreams 1 and 2. At its June 2023 meeting, IESBA agreed with the proposal to develop a new part 5 of the IESBA code. At its September 2023, IESBA modified the scope of the part 5 requirements slightly[1] and currently, the part 5 proposal includes

- ethics, other than independence, requirements for all sustainability assurance practitioners (professional accountants and those that are not professional accountants)
- independence requirements for all sustainability assurance practitioners (professional accountants and those that are not professional accountants) who perform sustainability assurance engagements that meet the criteria being proposed (see discussion of that criteria in the workstream 1 section above).

To recap the proposals for part 5, the proposed revisions will include the following:

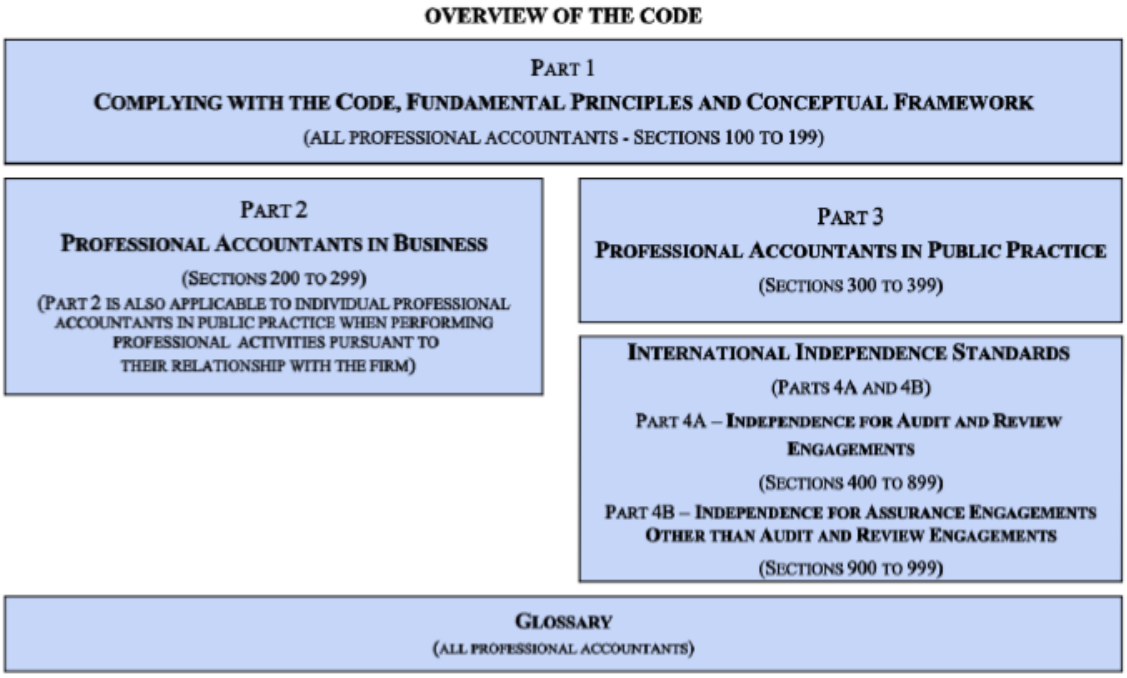
- Equivalent requirements from parts 1 and 3 (exception section 321 (*Second Opinions*) of the extant code
- Equivalent requirements from Section 270 (*Breaches*) of part 2 of the extant code
- Equivalent requirements from part 4A of the extant code

Outside of the new part 5, extant parts 1, 2, and 3 are being revised to be applicable to sustainability reporting/preparing sustainability information for professional accountants only.

Members of workstream 1 and 2 have not yet proposed an effective date to IESBA for these proposed revisions.

To aid with understanding the complex scope proposed, AICPA staff will request that the “Guide to the Code” and the following "Overview of the Code" visual aid in the "Appendix to the Guide to the Code" be updated.

[1] At its June meeting, the Part 5 ethics proposal was to apply to sustainability practitioners performing those engagements that met the criteria proposed for the independence requirements. After the June meeting, the workstream members determined that the ethics, other than independence requirements, should apply to any sustainability assurance practitioner, not only those performing sustainability assurance engagements that meet certain criteria.



In addition to the revisions to the code, the following guidance is planned:

- Nonauthoritative guidance to assist practitioners who are not professional accountants implement part 5 requirements
- Nonauthoritative guidance that companies can use to adopt internal policies or codes of conduct that will apply to practitioners who are preparing sustainability information and who are not professional accountants

Timeline

The workstreams are moving at an accelerated pace so the project outputs will be available at the same time as the new sustainability-related standards the IAASB and the ISSB are developing.

The current project timeline is as follows:

December 2023	IESBA considers approval of exposure draft.
January 2024	IESBA releases exposure draft, including explanatory memorandum.

April 2024	Comment period for exposure draft ends (assuming a 90-day comment period).
June 2024	Update IESBA on comments for the project, including an overview of key comments from exposure draft respondents.
September 2024	IESBA reviews exposure draft responses and does first read of revisions.
December 2024	IESBA approves final revisions.

Discussion of specific topics and request for committee feedback

Public interest entities

In the project's proposed revisions, when a client is a PIE for the purposes of the financial statement audit, the client must be considered a PIE in the sustainability assurance engagement, and the practitioner should apply all PIE requirements.

There are additional independence requirements for PIEs in various aspects within the proposed new part 5, which are equivalent to the PIE requirements for financial statement audits in part 4A. PEEC's current proposal to converge with IESBA's PIE requirements in part 4A includes defining a PIE and requiring compliance with the regulator's independence requirements for financial statement audit and reviews.

If adopted, the committee will need to consider how to converge with the PIE-related requirements in the IESBA code with respect to these engagements.

AICPA staff previously provided the following comment to workstream members ahead of the September IESBA meeting:

> Public interest in the financial condition of PIE entities is important because of the potential impact of a PIE entity's financial well-being on stakeholders. I want work through that the sustainability information being reported on for a PIE entity in an engagement that meets the "Part 5 criteria" will always have a significant impact on that entity's financial well-being. I am concerned that there could be circumstances where the information does not have significant impact on the entity's financial well-being. If there are situations where that could occur, then concerned that additional independence requirements will result in unnecessary increased cost to the entity and its stakeholders.

Workstream members provided the following response to this comment:

Given the public interest in the financial condition of these entities, their sustainability information, which impacts the financial statements most of the time, is also relevant to stakeholders.

There might be other entities whose sustainability information has public interest relevance; however, as a first step, workstream1 proposes that IESBA leave it for regulators to add to the list of PIEs in the case of sustainability assurance engagements in their own jurisdictions.

Question for the committee

1. Does the committee have any feedback for staff to share with workstream members on the PIE provisions for sustainability assurance engagements?

Definitions and independence with respect to related entities

IESBA's proposed definition of "sustainability assurance client" used in part 5 aligns with the definition of "audit client" used in part 4A as demonstrated in the following table. Part 4B is applicable to these engagements under the extant IESBA code, and this part uses "assurance client" to identify the client in which the practitioner should apply independence requirements. The following table is for comparison purposes.

Part 4B: Uses "Assurance client"	**Part 4A: Uses "Audit client"**	**New part 5: Proposal for "Sustainability Assurance Client"**
The responsible party and also, in an attestation engagement, the party taking responsibility for the subject matter information (who might be the same as the responsible party).	An entity in respect of which a firm conducts an audit engagement. When the client is a publicly traded entity, in accordance with paragraphs R400.22 and R400.23, audit client will always include its related entities. When the audit client is not a publicly traded entity, audit client includes those related entities over which the client has direct or	An entity in respect of which a firm conducts a sustainability assurance engagement. When the client is a publicly traded entity, in accordance with paragraphs [R400.22] and [R400.23], sustainability assurance client will always include its related entities. When the sustainability assurance client is not a publicly traded entity, sustainability assurance client

	indirect control. (See also paragraph R400.22.) In Part 4A, the term "audit client" applies equally to "review client. In the case of a group audit, see the definition of group audit client.	includes those related entities over which the client has direct or indirect control. (See also paragraph [R400.22].)

The monitoring group and the SSAE task force noted and discussed the following related to how “sustainability assurance client” is defined for the new part 5:

- The engagements that meet the criteria in the new part 5 will also have to apply the independence requirements to certain “related entities” depending on whether or not the entity is a publicly traded entity under the proposed standards. For publicly traded entities, independence is required with respect to all related entities, and for entities other than publicly traded entities, independence is required with respect to those entities in which the client has direct or indirect control (entity described in item (c) of the definition of related entity provided below).

- The definition of “assurance client” for part 4B is similar to the AICPA code in that it requires independence with respect to the responsible party in an engagement subject to the SSAEs. Sustainability assurance engagements that do not meet the new part 5 independence criteria will continue to identify the responsible party when applying the independence requirements in Part 4B and are only required to apply the “reason to believe” principle[2] to related entities.

The IESBA code defines “related entity” and it is comparable to the definition of “affiliates” in the AICPA code. The IESBA code’s definition of “related entity” is as follows:

An entity that has any of the following relationships with the client:

(a) An entity that has direct or indirect control over the client if the client is material to

[2] If the assurance team knows or has reason to believe that a relationship or circumstance involved a related entity of the assurance client is relevant to the evaluation of the firm’s independence from the client, the team is required to include that related entity when identifying, evaluating, and addressing threats to independence under the conceptual framework.

such entity;

(b) An entity with a direct financial interest in the client if that entity has significant influence over the client and the interest in the client is material to such entity;

(c) An entity over which the client has direct or indirect control;

(d) An entity in which the client, or an entity related to the client under (c) above, has a direct financial interest that gives it significant influence over such entity and the interest is material to the client and its related entity in (c); and

(e) An entity which is under common control with the client (a "sister entity") if the sister entity and the client are both material to the entity that controls both the client and sister entity

If an affiliate under the AICPA code does not include information that is part of the underlying subject matter in the SSAE engagement, it would not be identified as a responsible party and independence would not be required with respect to this entity. The affiliates requirements in the AICPA code apply only to financial statement attest clients and do not apply to responsible parties identified in the SSAE engagement.

After discussions with the monitoring group and SSAE task force, AICPA staff is providing comments to workstream members requesting that further explanation be provided for why it's necessary and what threats are being mitigated to extend independence requirements to a related entity when that entity does not include sustainability information that is subject to the sustainability assurance engagement. Workstream members have explained that from a public interest perspective, the requirements for sustainability assurance engagements should be the same as those for financial statement audits; however, conceptually it is not apparent how the requirements are appropriate in these types of assurance engagements when that entity does not include information subject to the assurance procedures.

Question for the committee

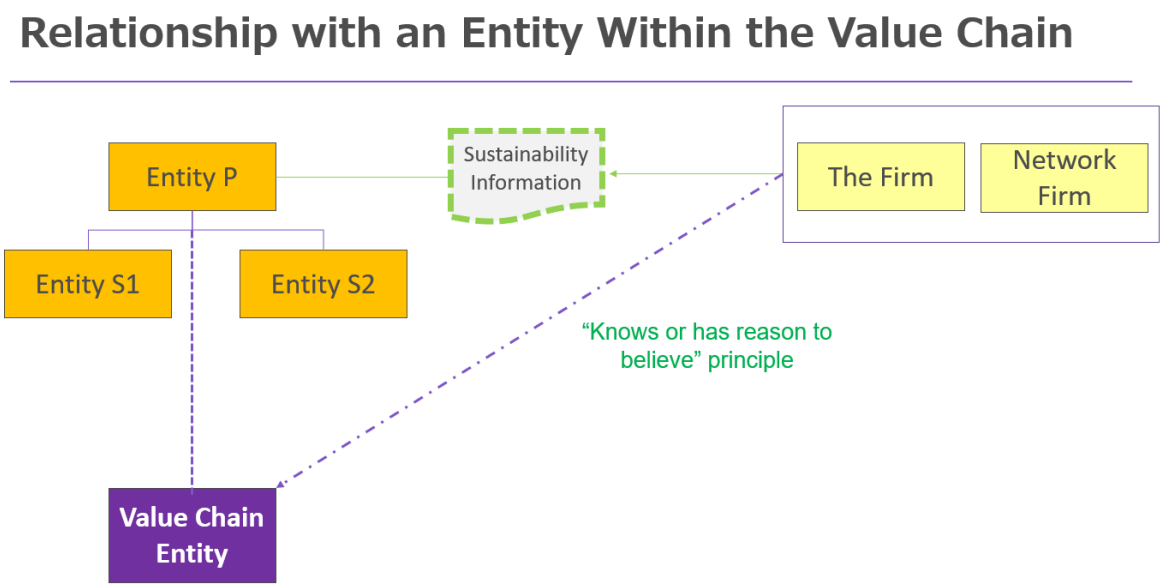
2. Does the committee have any additional feedback for staff to share with the workstream on the definition of "sustainability assurance client" or application of the independence requirements to a related entity?

Sustainability assurance practitioner's independence with value chain entities

Since there may be sustainability information from a value chain entity (e.g., supplier) included in the information subject to the sustainability assurance engagement, the workstream is proposing that the sustainability assurance practitioner use the "knows or has reason to believe"

principle for certain relationships and interests with the value chain entity that could compromise their independence.

The following graphic included in the workstream's presentation to IESBA demonstrates this requirement. In this graphic, Entity P is The Firm's sustainability assurance client, and sustainability information from the Value Chain Entity is being reported by Entity P. The Firm would use the "knows or has reason to believe" principle with respect to the Value Chain Entity.



This principle is applicable to financial interests, loans and guarantees, business relationships, and non-assurance services.

As an example, the following is the revisions proposed in Section 510, Financial Interests, to add the "reason to believe" guidance for value chain entities:

Financial Interest in an Entity Within the Reporting Boundary

510.9a A1 A self-interest threat might be created if a firm or a sustainability assurance team member knows or has a reason to believe that the firm, a network firm or a member of the sustainability assurance team, as applicable, holds a material financial interest in an entity outside the sustainability assurance client but within the client's reporting boundary, and the sustainability information on which the firm expresses an opinion includes sustainability information relating to that entity.

510.9a A2 Examples of actions that might eliminate such a self-interest threat include:

- Removing the sustainability assurance team member with the financial interest from the sustainability assurance team.
- Having an appropriate reviewer review the relevant assurance work.

After discussions with the monitoring group and SSAE task force, AICPA staff is requesting that the workstream specifically explain how they expect the "knows or reason to believe" principle to be applied to ensure that this concept is applied consistently. In the explanatory material, the workstream's intention is for firms not to be required to monitor such relationships or interests, but when aware, use the conceptual framework to evaluate and address the threat. The guidance in the proposed revisions only describes what a threat may be and how to eliminate the threat, so AICPA staff is specifically asking that the workstream consider adding a description of factors that are relevant in evaluating the level of such threats and whether there are examples of actions that may address the threat (when not eliminated) in the proposed revisions.

For example, there may be numerous value chain entities reporting information within the client's reporting boundary, and a relationship or interest with one of those value chains that includes a small proportion of information in comparison to others may not cause a significant threat to the practitioner's independence with respect to the sustainability assurance engagement.

Also, if a member holds a material financial interested in an entity outside the client but within the client's reporting boundary for example, staff will also ask the workstream to consider additional actions to eliminate or otherwise address the threat, such as, in this example, selling the interest or reducing the amount of the interest to an amount that is not material.

Question for the committee

3. Does the committee have any additional feedback for staff to share with the workstream on the independence guidance for sustainability assurance practitioners with respect to value chain entities?

Group assurance and another practitioner

The sustainability information that is subject to the sustainability assurance engagement may include information from entities within the client's organizational boundary and information from entities outside the client's organizational boundary (or value chain entities as previously described).

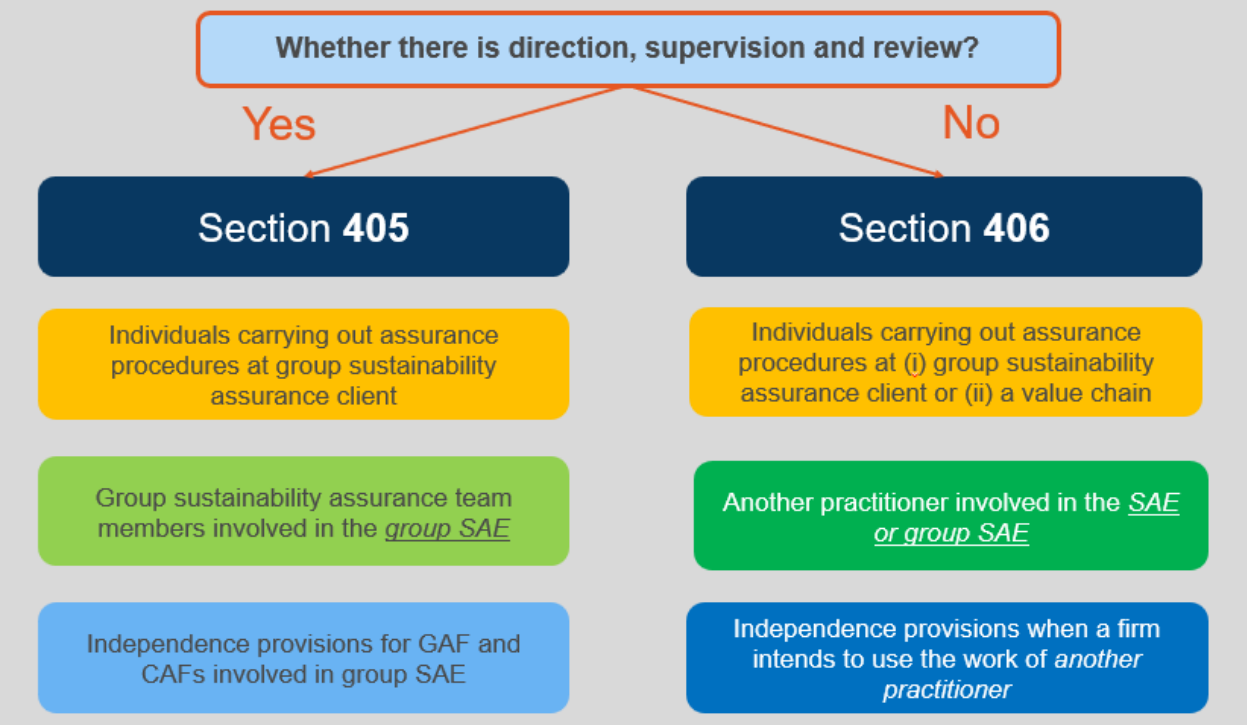
The workstream members explain in their agenda materials that ISSA 5000 indicates that a firm ordinarily plans to be sufficiently involved in the assurance work carried out for the sustainability assurance engagement when able to do so. When this occurs, the other practitioner is part of the engagement team (group engagement team) and the proposed part 5 independence requirements are applicable to that engagement team with respect to the sustainability assurance client, including related entities (depending on whether or not the client is publicly traded entity). The proposed requirements in ISSA 5000 do not currently include requirements for group assurance engagements.

When the sustainability assurance practitioner is unable to direct, supervise, and review the work of the other practitioner, the other practitioner would not be considered part of the engagement team, but the sustainability assurance practitioner may consider using the work of the other practitioner. In considering whether they can use the work of another practitioner, the sustainability assurance practitioner will be required by ISSA 5000 (as currently proposed) to evaluate whether the other practitioner is independent and has the necessary competence and capabilities for the practitioner's purposes, and inquire of the other practitioner about threats to compliance with relevant ethical requirements, including those related to independence.

The workstream provided the following examples of when the practitioner may not be able to direct, supervise and review the work of another practitioner:

- When the work relates to an entity in the supply chain, and neither the client nor the practitioner have any rights of access to that work.
- When the assurance work has already been performed for another purpose.

The following graphic, created by the workstream members, demonstrates which section of the new part 5 requirements a practitioner would look to when considering the appropriate independence requirements.



Section 405 – Group assurance

As it relates to the group assurance requirements being proposed in the new part 5, the workstream and IESBA have been cautioned on moving forward with these requirements without an assurance standard being proposed by IAASB to support the understandability of the independence requirements. AICPA staff also provided comments expressing such concern to the workstream ahead of the September meeting. However, IESBA believes that the requirements are necessary since the EU CSRD includes requirements for consolidated reporting.

Within the proposed revisions, certain group assurance requirements are being proposed by IESBA because there is no assurance standard to refer to as was the case with group audit requirements. The following is an example of a proposed requirement for the new part 5. The mark ups demonstrate how the workstream edited the part 4A requirements to apply to sustainability assurance engagement in part 5. Since there are not assurance requirements to refer to, the workstream members are proposing that the requirement exist in the IESBA code.

Communication Between a Group ~~Auditor~~ Sustainability Assurance Firm and a Component ~~Auditor~~ Sustainability Assurance Firm

R405.3 ~~ISA 600 (Revised) requires t~~The group engagement leader ~~partner to~~ shall take responsibility to make a component ~~auditor~~ sustainability assurance firm aware of the relevant requirements and application material in this ~~ethical requirements~~ Part that are applicable given the nature and the circumstances of the group ~~audit~~ sustainability assurance engagement. When making the component ~~auditor~~ sustainability assurance firm aware of the relevant ethical requirements, the group ~~auditor~~ sustainability assurance firm shall communicate at appropriate times the necessary information to enable the component ~~auditor~~ sustainability assurance firm to meet its responsibilities under this section.

After discussions with the monitoring group and SSAE task force, AICPA staff will also express concerns with the workstream about IESBA setting professional standards that are typically set by IAASB and the risk associated with proposing requirements that may not be appropriate in a sustainability assurance engagement.

Another point made during the monitoring group and SSAE task force calls was that IESBA's goal in this project has been to develop requirements that could be applied when IAASB assurance standards are being used or another assurance standard (e.g., standards developed by AccountAbility); however, the group audit terminology and requirements are specific to IAASB's auditing standards. AICPA staff will provide this comment to the workstream to further support our position that creating the requirements without a full set of assurance standards could have unintended consequences and limit the understandability of the independence requirements.

The group audit requirements part 4A were approved by IESBA in February 2023. AICPA staff is currently working with the IFAC Convergence and Monitoring task force to develop recommendations on how to converge. For this reason, AICPA staff has not evaluated the group assurance requirements in part 5 for a sustainability assurance engagement.

Section 406 – Another practitioner

The independence requirements being proposed within section 406 requires the sustainability assurance practitioner to communicate with "another practitioner" and obtain confirmation on whether the other practitioner and its firm have complied with the part 5 requirements as it relates to its assurance work on the entity in which the other practitioner expressed an opinion. The sustainability assurance practitioner would also have to ask the other practitioner to use the "reason to believe" principle and notify them of any relationships with the sustainability assurance client that could create a threat to the other practitioner's independence for the purpose of the sustainability assurance engagement.

Again, the monitoring group and SSAE task force believes that certain requirements being proposed within this section should reside in the assurance standard as due diligence

procedures in considering whether to use the other practitioner's work rather than the IESBA code.

Question for the committee

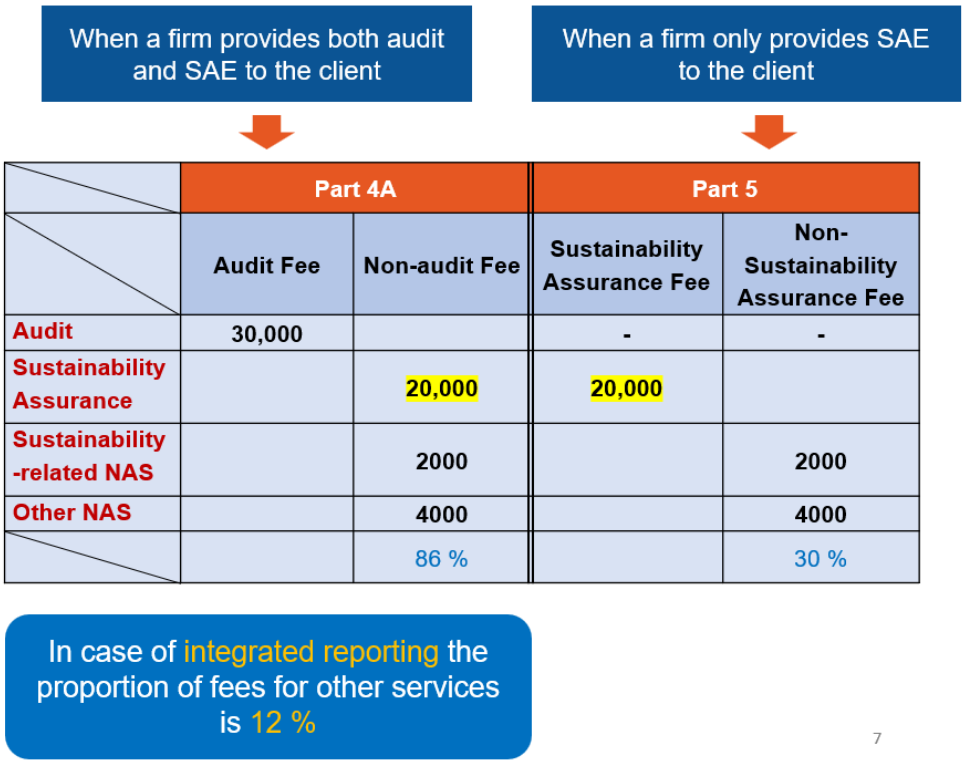
4. Does the committee have any additional feedback for staff to share with workstream members as it relates to the group assurance and another practitioner guidance?

Proportion of fees

In the proposed requirements for part 5, the proportion of fees considerations from part 4A were copied over and tailored to apply to sustainability assurance engagement.

Under part 4A, in considering whether a significant self-interest threat exists, practitioners should consider the amount of fees from services other than the audit in relation to the fees from the audit. In applying the same requirement in part 5, workstream members proposed that when a professional accountant performs the financial statement audit and the sustainability assurance engagement, and there are separate fee arrangements for each engagement, the professional accountant should consider the fees from the sustainability assurance engagement as an "other than audit fee." This is inconsistent with their proposal that the fees remain combined when the reporting is integrated, and the audit and sustainability assurance engagement is under one fee arrangement.

The following graphic was presented to IESBA by workstream members to demonstrate the guidance proposed for the consideration of proportion of fees when both the financial statement audit and sustainability assurance engagement is performed for the same client.



Many IESBA members shared their opinion during the September meeting that all assurance services should be compared to all nonassurance fees rather comparing audit fees to all other fees as proposed. The monitoring group and SSAE task force agree with those IESBA members, and this concept would be consistent with the revision adopted by PEEC in August where a large portion of fees generated from nonattest services of an attest client is now an example of an undue influence threat in the “Conceptual Framework for Independence” interpretation (ET sec. 1.210.010).

After discussions with the monitoring group and SSAE task force, AICPA staff will comment by explaining that given that independence requirements for sustainability assurance engagements are equivalent to those for financial statement audits as proposed, it seems that considering the audit fees together with the sustainability assurance fees (regardless of whether the reporting is integrated) in relation to all other fees in order to identify and evaluate threats would be more appropriate. In other words, when a practitioner complies with all other independence requirements with respect to each engagement, it is not clear as to what additional threats need to be addressed by comparing the engagement fees of each against each other.

Question for the committee

5. Does the committee have any additional feedback for staff to share with the workstream as it relates to the proportion of fees considerations?

NOCLAR

The NOCLAR related proposed revisions will affect extant parts 2 and 3, and the new part 5. All proposed revisions are based on elevating the requirements for those sustainability assurance engagements that meet the independence scope criteria in part 5 so that they are equivalent to those requirements for financial statement audits.

The NOCLAR requirements for professional accountants in business in part 2 were expanded so that the professional accountant not only determines whether disclosure of a known or suspected NOCLAR should be made to the external auditor, but also determines whether disclosure should be made to the sustainability assurance practitioner performing a sustainability assurance engagement that meets the independence scope criteria in part 5.

As it relates to part 3, an additional requirement is being proposed for the financial statement auditor to consider whether to communicate the known or suspected NOCLAR to the sustainability assurance practitioner preforming a sustainability assurance engagement that meets the independence criteria proposed in part 5.

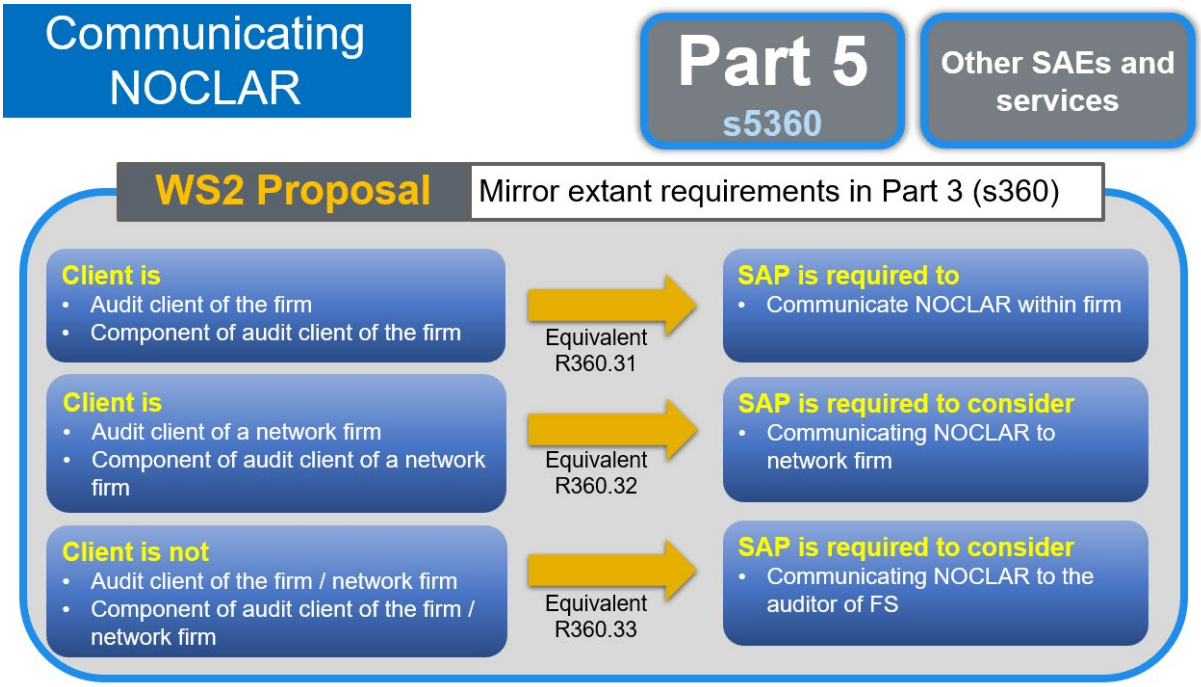
No revisions are being proposed to the extant requirements in part 3 for sustainability assurance engagement that are applicable when performing services other than the audit. These requirements describe the professional accountant's responsibility to communicate the known or suspected NOCLAR with the financial statement auditor depending on whether the client is an audit client of the firm (required to communicate), the client is an audit client or component audit client of a network firm (required to consider communicating), or the entity is not a client of the firm or network firm (required to consider communicating)[3].

Within the new part 5, the same requirements in extant part 3 for financial statement audits are being proposed for those sustainability assurance engagements that meet the scope criteria for the independence requirements in part 5. In addition to those extant requirements and consistent with the additional requirement being proposed for the auditor in the part 3 revisions, workstream members are also proposing a requirement for the sustainability assurance practitioner performing a sustainability assurance engagement that meets the independence

[3] As a reminder, the committee was not able to converge with IESBA's extant requirements for members to consider communicating known or suspected NOCLAR to the firm that performs the audit when the member or member's firm is not the auditor as this is not permitted under the "Confidential Client Information Rule" (ET sec. 1.700.001), except where communication is required by law or regulation.

scope criteria in part 5 to consider whether to communicate the known or suspected NOCLAR to the external auditor.

When performing a sustainability assurance engagement that does not meet the criteria for the independence requirements in part 5 or providing other services to a sustainability assurance client, requirements are being proposed in the new part 5 that are equivalent to those in extant part 3 that are applicable when performing services other than financial statement audits. These requirements are to communicate or consider communicating to the auditor and are reflected in the following graphic that the workstream provided to IESBA.



If these proposed revisions are adopted by IESBA, the committee will need to consider whether to add guidance to the AICPA code requiring the auditor to communicate or consider communicating known or suspected NOCLAR to certain sustainability assurance providers that are within the firm or network firm.

Under current AICPA guidance for those members performing services other than audits or reviews, the member that performs the sustainability assurance engagement is required to communicate known or suspected NOCLAR to the auditor when the member's firm also performs the financial statement audit or review, and is required to consider communicating to the auditor when a network firm performs the financial statement audit or review. The committee will need to consider whether to add a requirement for the member performing these other services to also be required to communicate or consider communicating the known or suspected NOCLAR to certain sustainability assurance providers when that provider is within the firm or within a network firm.

Based on discussions with the monitoring group, there are similar concerns with the committee's ability to converge as existed when converging with IESBA's extant NOCLAR requirements since members are not allowed to share or consider sharing confidential client information with an auditor or sustainability assurance practitioner when they are not within the firm or a network firm or not required by law or regulation.

Question for the committee

6. Does the committee have any feedback for staff to share with the workstream as it relates to the NOCLAR proposal?

IESBA monitoring – Use of experts

Project description

IESBA initiated this project to develop revisions to the IESBA code that will address the ethics and independence issues that can arise when experts work alongside professional accountants in business (PAIBs) and professional accountants in public practice (PAPPs). The following ethics and independence considerations are included:

- Use of an external expert in audit and assurance engagements (ethics and independence)
- Involvement of an expert (both internal or external to the employing organization or firm) in the preparation and presentation of financial and nonfinancial information, including sustainability information, and other activities (ethics)
- Involvement of an expert in the provision of other services, such as tax planning and technology-related activities (ethics)

Project update

The task force developed a first read draft of new sections of the code (section 390 for professional accountants in public practice (PAPP), section 290 for professional accountants in business (PAIB), and part 5 for sustainability assurance practitioners (SAP) and presented them to IESBA at the September meeting. These drafts considered the stakeholder feedback received in June and July 2023 from the IESBA National Standard-Setters Liaison Group, Forum of Firms, and IAASB staff.

Proposed scope

The proposed new sections apply to all experts (other than management's experts), regardless of their fields of expertise, and whether engaged or employed by an employing organization or firm.

Proposed definitions

Expert. An individual or organization possessing expertise that is outside the professional accountant's or sustainability assurance practitioner's competence. This excludes internal auditors employed or engaged by an employing organization or client.

Expertise. Knowledge and skills in a particular field

External expert. In the context of parts 2 and 3, an expert engaged by a professional accountant's employing organization or firm.

In the context of audit engagements, an expert (who is not a partner or a member of the

professional staff, including temporary staff, of the firm or a network firm) possessing expertise in a field other than accounting, auditing, or assurance, whose work in that field is used to assist the professional accountant in obtaining sufficient appropriate evidence.

In the context of assurance engagements, including sustainability assurance engagements, an expert (who is not a partner or a member of the professional staff, including temporary staff, of the firm or a network firm) possessing expertise in a field other than assurance, whose work in that field is used to assist the sustainability assurance practitioner in obtaining sufficient appropriate evidence.

External experts are not members of the engagement team, audit team, review team. assurance team, or sustainability assurance team.

Management's expert. An individual or organization possessing expertise in a field other than accounting, auditing, or assurance whose work in that field is used by the entity to assist the entity in preparing the financial or non-financial information.

Competence, capabilities, and objectivity

The proposed new sections of the code require PAPPs, PAIBs, or other practitioners to evaluate an expert's competence, capabilities, and objectivity (CCO). For external experts used in an audit or other assurance engagement, the proposed standards require that objectivity must be evaluated for all individuals on a team that an expert uses to perform the work. The task force felt that the direct threat to the expert's objectivity generally arises from the interests and relationships with the entity at which the expert is performing work.

Experts who are on the engagement team or audit or assurance team are already subject to the code's ethics and independence provisions and would not need to be evaluated for objectivity. Experts would be on the engagement team if they perform audit or assurance procedures. They would be on the audit or assurance team if they provide consultation on technical or industry-specific issues, transactions, or events for the engagement.

Under the proposed standards, if the practitioner cannot obtain the information necessary to conclude on the expert's CCO, or the expert does not have CCO, the practitioner shall not use the expert's work.

Additional requirements for external experts in audit or assurance engagements

There was support from IESBA and other stakeholders for a principles-based approach in determining whether the external expert is objective, as the facts and circumstances will differ from one case to another. The proposed standards require the practitioner to request the external expert to disclose information about the following:

a. Any direct financial interest or material indirect financial interest held by the external expert or their immediate family in the entity;

b. Any loan, or guarantee of a loan, made to the entity by the external expert or their immediate family, unless the loan or guarantee is immaterial to both the expert and the entity;

c. Any loan, or a guarantee of a loan, accepted by the external expert or their immediate family from the entity if it is a bank or similar institution, unless the loan or guarantee is made under normal lending procedures, terms and conditions;

d. Any loan, or a guarantee of a loan, accepted by the external expert or their immediate family from the entity if it is not a bank or similar institution, unless the loan or guarantee is immaterial to both the expert and the entity;

e. Any close business relationship between the external expert or their immediate family and the entity or its management, unless any financial interest is immaterial and the business relationship is insignificant to the expert and the entity or its management;

f. Any long association between the external expert and the entity;

g. Any previous public statements by the external expert which advocate for the entity;

h. Any position as a director or officer of the entity, or an employee in a position to exert significant influence over the preparation of the entity's financial or non-financial information, or the records underlying such information:

i. Held by the external expert or their immediate family; or

ii. Previously held by the external expert before the period covered by the audit or assurance report;

i. Any material fee or contingent fee or dependency on fees or other types of remuneration due to or received by the external expert from the entity;

j. Any conflict of interest in relation to the work the external expert is performing at the entity; and

k. If the external expert is an organization, the nature and extent of interests and relationships between the controlling owner of the external expert and the entity.

This approach was taken by the task force to recognize stakeholders' heightened expectations of independence in relation to external experts used in audit or other assurance engagements, given the public interest importance of the audit or assurance report as it is relied upon by stakeholders for decision-making. Additionally, the approach is aligned with the applicability of the part 4 independence provisions to all audit or assurance team members. IESBA generally supported the task force's proposal to take an objectivity approach since (i) there are no systems of quality management in place for external experts who are not under the direction, supervision and review of the firm, and (ii) it is the presumptive responsibility of the PA or practitioner to ensure that if they intend to use the work of an external expert, such external expert is objective. If the PA or practitioner concludes that an external expert is not objective based on the evaluation of such independence attributes, the PA cannot use the work of the

external expert.

Action needed

The committee's input on IESBA's approach is requested. In addition, staff would appreciate the committee's input on the following:

1. IESBA's proposed framework indicates that using the work of an expert might create threats to compliance with the fundamental principles, particularly the principles of integrity, objectivity and professional competence and due care. When a professional accountant uses an expert who is employed at their firm or at their employing organization (internal expert) are there controls in place, other than CCO evaluation, that can be relied upon to address the threats?

2. If the expert is required to be independent (such as when the services being performed by the expert are under the direct supervision and control of the engagement partner so that they are on the engagement team), should the professional accountant have to evaluate their CCO? Would your conclusion change if the expert was internal or external to the firm?

3. Does the committee believe that the framework proposed by IESBA compliments the performance standards[1] that address using the work of experts?

Timeline

IESBA is prioritizing this project and the current timeline is as follows:

December 2023	IESBA considers approval of exposure draft.
January 2024	IESBA releases exposure draft, including explanatory memorandum.
April 2024	Comment period for exposure draft ends (assuming a 90-day comment period).
June 2024	Update IESBA on comments for the project, including an overview of key comments from exposure draft respondents.
September 2024	IESBA reviews exposure draft responses and does first read of revisions.

[1] For example, the following performance standards address this topic U.S. AU-C 620, PCAOB AS 1210, Circular 230 – Section 10.22, SSTS section 2.3, paragraphs 24, 45-47 of SSPFPS No. 1, and paragraphs .20, .65, .70 and .74 of SSVS.

December 2024	IESBA approves final revisions.

Materials presented

- Agenda item 8B: Part 3: Proposed revisions and new section 390
- Agenda item 8C: Part 2: Proposed revisions and new section 290
- Agenda item 8D: Part 5 Equivalent of part 3 for Sustainability Assurance

Part 3: Proposed Revisions and New Section 390

IESBA Meeting Materials – September

SECTION 320
PROFESSIONAL APPOINTMENTS

…

Requirements and Application Material

…

~~**Using the Work of an Expert**~~

~~**R320.10** When a professional accountant intends to use the work of an expert in the course of undertaking a professional activity, the accountant shall determine whether the use is appropriate for the intended purpose.~~

~~320.10 A1 Factors to consider when a professional accountant intends to use the work of an expert include:~~

- ~~The reputation and expertise of, and the resources available to, the expert.~~
- ~~Whether the expert is subject to applicable professional and ethics standards.~~

~~Such information might be gained from prior association with, or from consulting others about, the expert.~~

…

Other Considerations

320.1~~1~~2 A1 When a professional accountant is considering using the ~~work of experts or the~~ output of technology, a consideration is whether the accountant is in a position within the firm to obtain information in relation to the factors necessary to determine whether such use is appropriate.

320.11 A2 When a professional accountant intends to use the work of an expert, the requirements and application material set out in Section 390 apply.

…

PROPOSED NEW SECTION 390
USING THE WORK OF AN EXPERT

Introduction

390.1 Professional accountants are required to comply with the fundamental principles and apply the conceptual framework set out in Section 120 to identify, evaluate and address threats.

390.2 Using the work of an expert might create threats to compliance with the fundamental principles, particularly the principles of integrity, objectivity and professional competence and due care.

390.3 This section sets out requirements and application material relevant to applying the conceptual framework in relation to using the work of an expert.

Requirements and Application Material

Circumstances Where an Expert Might Be Used

390.4 A1 An expert might be used to undertake specific work to support a professional service provided by a professional accountant. Such work can be in a field that is well-established or that is emerging. Examples of such work include:

- The valuation of complex financial instruments, land and buildings, plant and machinery, jewelry, works of art, antiques, intangible assets, assets acquired and liabilities assumed in business combinations, and assets that may have been impaired.
- The actuarial calculation of liabilities associated with insurance contracts or employee benefit plans.
- The estimation of oil and gas reserves.
- The valuation of environmental liabilities, and site clean-up costs.
- The interpretation of contracts, laws and regulations, including tax laws and regulations, tax treaties and bilateral agreements.
- The accounting for specific matters, including applying methods of accounting for deferred income tax or financial instruments.
- The calculation of greenhouse gas emissions.
- The definition and measurement of pollutants emitted to air, water and soil.
- The valuation of products and materials designed along principles for a sustainable circular economy, including durability, reusability, repairability, disassembly, remanufacturing, and recycling.
- Assessment and evaluation of cybersecurity systems.

390.4 A2 Individuals or organizations that provide datasets for general purpose are not experts. Such individuals or organizations include, for example, those that provide industry or other benchmarking data or studies, such as information about real estate prices that is suitable for use by a broad range of users, or mortality tables for general use.

R390.5 If a professional accountant determines that expertise outside the accountant's knowledge and skills is needed to assist the accountant in performing a professional service, the accountant shall identify an expert for this purpose.

390.5 A1 A self-interest threat to compliance with the principles of integrity and professional competence and due care is created if a professional accountant has insufficient expertise to perform a professional service.

Agreeing the Work to be Performed by an Expert

All Professional Services

R390.6 If the professional accountant has identified an expert to use for a professional service, the accountant shall agree the terms of engagement with the expert, including the nature and scope of the work to be performed by the expert.

390.6 A1 In agreeing the terms of engagement, matters that the professional accountant might discuss with the expert include:

- The purpose, intended use and timing of the expert's work.
- The general approach to the expert's work.
- The expected format and content of the expert's completed work, including any assumptions made and limitations to that work.
- Expectations regarding the expert's objectivity, including information needed from the expert to facilitate the accountant's evaluation of that objectivity.
- Expectations regarding confidentiality of the expert's work and its inputs.

Evaluating Whether to Use the Work of the Expert

All Professional Services

R390.7 In determining whether it is appropriate to use the work of the expert, the professional accountant shall evaluate the expert's competence, capabilities and objectivity.

390.7 A1 An expert whose work is used to assist a professional accountant in performing a professional service might be:

(a) An external expert; or

(b) An expert employed by the accountant's firm.

390.7 A2 If in the course of performing a professional service, the professional accountant uses the work of a management's expert, such work is deemed to be information provided by management for the purposes of this section.

390.7 A3 In the context of an audit or other assurance engagement, depending on their role, an expert is:

(a) An engagement team member if the expert performs audit or other assurance procedures for the engagement;

(b) An audit or assurance team member if the expert provides consultation on the audit or other assurance engagement which can directly influence the outcome of the engagement;

(c) An external expert if the expert is engaged by the professional accountant's firm and the expert's work is used to assist the accountant in obtaining sufficient appropriate evidence; or

(d) A management's expert if the expert is employed or engaged by the audit or assurance client and the expert's work is used to assist the entity in preparing the financial or non-financial information.

390.7 A4 A self-interest or advocacy threat to compliance with the fundamental principles of integrity, objectivity and professional competence and due care might be created if a professional accountant uses an expert that does not have the competence, capabilities or objectivity to deliver the expert work needed for the particular professional service.

390.7 A5 Factors that are relevant in evaluating the competence of the expert include:

- Whether the expert's credentials, education, training, experience and reputation are relevant to, or consistent with, the nature of the work to be performed.
- Whether the expert belongs to a professional body and, if so, whether the expert is in good standing.
- Whether the expert's work is subject to professional standards issued by a recognized body, or follows generally accepted principles or practices, in the expert's field or area of expertise.
- Whether the expert has a track record of performing similar work for the professional accountant's firm or other clients.
- Where the expert is employed by the accountant's firm, whether their expertise has been validated by an accreditation or similar process established by the firm.

390.7 A6 Factors that are relevant in evaluating the capabilities of the expert include:

- The resources available to the expert.
- Whether the expert has adequate time to perform the work.

390.7 A7 Factors that are relevant in evaluating the objectivity of the expert include:

- Whether the expert is subject to ethics standards issued by a professional body in the expert's field or area of expertise.
- Whether the expert has a conflict of interest in relation to the work the expert is performing at the entity.
- Whether there is any known potential bias that might affect the exercise of the expert's professional judgment.
- Whether the expert will evaluate or rely on any previous judgments made or activities performed by the expert in undertaking the work.
- Where the expert is employed by the professional accountant's firm, whether the expert is subject to the firm's system of quality management addressing threats to compliance with the principle of objectivity.

Paragraphs R390.10 to R390.13 set out required further actions in evaluating the objectivity of an expert in an audit or other assurance engagement.

390.7 A8 Examples of previous judgments made or activities performed by an expert that might create a threat to the expert's objectivity include:

- Advising the entity on the matter for which the expert is performing the work.
- Producing data or other information for the entity which is then used by the expert in performing the work or is the subject of that work.

390.7 A9 Information about an expert's competence, capabilities and objectivity might be obtained from various sources, including:

- Personal association or experience with previous work undertaken by the expert.
- Consulting with others within or outside the professional accountant's firm who are familiar with the expert's work.
- Discussion with the expert about their background, including their field of expertise and business activities.
- Making inquiries of the expert's professional body or industry association.
- Published papers or books written by the expert.
- External recognition or accolades.
- Published records, such as legal proceedings involving the expert.
- Inquiry with the client and, if different, the entity at which the expert is performing the work regarding any interests and relationships between the expert and the client or the entity.

Experts in Emerging Fields or Areas

390.8 A1 Expertise in emerging fields or areas might evolve depending on how laws, regulations and generally accepted practices develop. There might therefore be limited availability of experts in emerging fields or areas.

390.8 A2 Some of the factors relevant to evaluating the competence of an expert in paragraph 390.7 A5 might not be applicable if expertise in an emerging field or area is nascent. For example, there might not be public recognition of the expert, professional standards might not have been developed, or professional bodies might not have been established in the emerging field. In such circumstances, a factor that might assist the professional accountant in evaluating an expert's competence is the expert's experience in a similar field as the emerging field, or in an established field, that provides a reasonable basis for the expert's work in the emerging field.

Inherent Limitations in Evaluating an Expert's Competence, Capabilities or Objectivity

390.9 A1 Paragraph R113.3 sets out communication responsibilities for the professional accountant with respect to limitations inherent in the accountant's professional services. When using the work of an expert, such communication might be especially relevant when there is a lack of information to evaluate the expert's competence, capabilities or objectivity, and there is no available alternative to that expert.

Further Actions in Evaluating the Objectivity of an External Expert in an Audit or Other Assurance Engagement

R390.10 In evaluating the objectivity of an external expert in an audit or other assurance engagement pursuant to paragraph R390.7, the professional accountant shall request the external expert to disclose, in relation to the entity at which the expert is performing the work and with respect to the period covered by the audit or assurance report and the engagement period, information about:

(a) Any direct financial interest or material indirect financial interest held by the external expert or their immediate family in the entity;

(b) Any loan, or guarantee of a loan, made to the entity by the external expert or their immediate family, unless the loan or guarantee is immaterial to both the expert and the entity;

(c) Any loan, or a guarantee of a loan, accepted by the external expert or their immediate family from the entity if it is a bank or similar institution, unless the loan or guarantee is made under normal lending procedures, terms and conditions;

(d) Any loan, or a guarantee of a loan, accepted by the external expert or their immediate family from the entity if it is not a bank or similar institution, unless the loan or guarantee is immaterial to both the expert and the entity;

(e) Any close business relationship between the external expert or their immediate family and the entity or its management, unless any financial interest is immaterial and the business relationship is insignificant to the expert and the entity or its management;

(f) Any long association between the external expert and the entity;

(g) Any previous public statements by the external expert which advocate for the entity;

(h) Any position as a director or officer of the entity, or an employee in a position to exert significant influence over the preparation of the entity's financial or non-financial information, or the records underlying such information:

(i) Held by the external expert or their immediate family; or

(ii) Previously held by the external expert before the period covered by the audit or assurance report;

(i) Any material fee or contingent fee or dependency on fees or other types of remuneration due to or received by the external expert from the entity;

(j) Any conflict of interest in relation to the work the external expert is performing at the entity; and

(k) If the external expert is an organization, the nature and extent of interests and relationships between the controlling owner of the external expert and the entity.

390.10 A1 Where the external expert uses a team to carry out the expert's work, paragraph R390.10 applies equally to all members of the team.

R390.11 A professional accountant shall request the external expert to communicate any changes in facts or circumstances regarding the matters set out in paragraph R390.10 that might arise during the period covered by the audit or assurance report or the engagement period.

R390.12 A professional accountant shall request each of the external expert and the client to notify the accountant about any other interest, relationship or circumstance of which they are aware between:

(a) The expert and the client; and

(b) The expert and the entity at which the expert is performing the work, if different from the client.

R390.13 When the professional accountant is notified of an interest, relationship or circumstance pursuant to paragraph R390.12, the accountant shall include it when identifying and evaluating threats to the external expert's objectivity.

390.13 A1 Examples of interests, relationships or circumstances that might be included in the evaluation of the external expert's objectivity include, in relation to the client or, if different, the entity at which the expert is performing the work:

- Any direct financial interest or material indirect financial interest in the client held by the expert or their immediate family.
- Close family members or other close relationships of the expert who are in a position to exert significant influence over the preparation of the financial or non-financial information of the entity, or the records underlying such information.
- Any interests or relationships with the client and those entities over which it has direct or indirect control.

Concluding on Using the Work of the Expert

All Professional Services

R390.14 The professional accountant shall conclude, based on the evaluation of the expert's competence and capabilities, and any identified threats to the expert's objectivity, whether the expert is competent, has the capabilities, and is objective.

R390.15 If the professional accountant concludes that the expert is not competent, capable or objective, the accountant shall not use the expert's work.

390.15 A1 Where an expert is employed by the professional accountant's firm, that individual is bound by the same ethical and, if applicable, independence requirements that apply to the accountant. Accordingly, compliance with those requirements will satisfy the objectivity requirement for the expert under paragraphs R390.7 and R390.14.

Potential Threats Arising from Using the Work of an Expert

All Professional Services

R390.16 Where a professional accountant is using the work of an expert, the accountant shall identify, evaluate, and address any threats to compliance with the fundamental principles.

Identifying Threats

390.17 A1 Examples of facts and circumstances that might create threats for a professional accountant when using an expert's work include:

(a) Self-interest threats

- A professional accountant has insufficient understanding of the expert's work to explain the expert's conclusions and findings.
- A professional accountant has undue influence from, or undue reliance on, an expert or multiple experts when performing a professional service.

(b) Familiarity threats

- A professional accountant has used the work of the same expert for a long period of time or in multiple professional services.

(c) Intimidation threats

- A professional accountant feels pressure to defer to the expert's opinion due to the expert's perceived authority.

Evaluating Threats

390.18 A1 Factors that are relevant in evaluating the level of such threats include:

- The scope and purpose of the work of the expert.
- The materiality of the subject matter of the expert's work to the information being reported.
- The nature of the engagement in which the expert's work is intended to be used.
- The degree of reliance by the professional accountant on the work of the expert.
- The professional accountant's oversight relating to the use of the expert and the expert's work.
- Whether there are multiple experts involved.
- The complexity and subjectivity of the expert work.
- The source and reliability of the underlying data and other inputs used by the expert.
- The expert's ability to explain the inputs, assumptions, methodologies and conclusions of the expert's work.
- The reasonableness of and transparency over the data, assumptions and other inputs and methods used by the expert and whether the expert has mitigated any bias.
- Whether the work of the expert is subject to technical performance standards or other professional or industry generally accepted practices, or law or regulation, such that the work, if performed by two or more parties, is not likely to be materially different.
- The reasonableness of the expert's findings or conclusions and the accountant's ability to understand and explain the expert's work and its appropriateness for the intended purpose.
- The consistency of the expert's work, including the expert's conclusions or findings, with other information.
- The availability of academic research or other evidence to support the expert's approach.
- Whether there is pressure being exerted by the firm to accept the expert's conclusions or findings due to the time or cost spent by the expert in performing the work.

Using the Work of Multiple Experts

R390.19 When a professional accountant uses the work of more than one expert in the performance of a professional service, the accountant shall consider whether, in addition to the threats that might be created by using each expert individually, the combined effect of using the work of the experts might create or impact the level of threats.

390.19 A1 Factors that are relevant in evaluating the level of threats created by using the work of multiple experts include:

- How the combined effect of using multiple experts impacts the complexity of exercising professional judgment.

- Whether the combined work of the experts forms a material part of the information assessed or used for purposes of the engagement.

Addressing Threats

390.20 A1 An example of an action that might eliminate such threats is identifying a different expert to use.

390.20 A2 Examples of actions that might be safeguards to address such threats include:

- Consulting with qualified personnel who have the necessary knowledge, skills and experience to evaluate the expert's work, obtain additional input, or challenge the appropriateness of the expert's work for the intended purpose.
- Obtaining a second opinion on the expert's work.

Communicating with Management and Those Charged with Governance When Using the Work of an Expert

390.21 A1 The professional accountant is encouraged to communicate with management, and where appropriate, those charged with governance:

- The purpose of using an expert and the scope of the expert's work.
- The respective roles and responsibilities of the accountant and the expert in the performance of the professional service.
- Any threats to the accountant's compliance with the fundamental principles created by using the work of the expert and how they have been addressed.

Documentation

390.22 A1 The professional accountant is encouraged to document:

- The steps taken by the accountant to evaluate the expert's competence, capabilities and objectivity, and the resulting conclusions.
- Any significant threats identified by the accountant in using the expert's work and the actions taken to address the threats.
- The results of any discussions with the expert.

Part 2: Proposed Revisions and New Section 290

IESBA Meeting Materials – September

SECTION 220

PREPARATION AND PRESENTATION OF INFORMATION

…

Requirements and Application Material

General

…

Using the Work of Others

R220.7 A professional accountant who intends to use the work of others, whether internal or external to the employing organization, or other organizations, shall exercise professional judgment to determine the appropriate steps to take, if any, in order to fulfill the responsibilities set out in paragraph R220.4. The work of others excludes the work of experts. When a professional accountant intends to use the work of experts, the requirements and application material set out in Section 290 apply.

220.7 A1 Factors to consider when a professional accountant intends to use the work of others include:

- The reputation and ~~expertise~~ competence of, and resources available to, the other individual or organization.
- Whether the other individual is subject to applicable professional and ethics standards.

Such information might be gained from prior association with, or from consulting others about, the other individual or organization.

…

PROPOSED NEW SECTION 290
USING THE WORK OF AN EXPERT

Introduction

290.1 Professional accountants are required to comply with the fundamental principles and apply the conceptual framework set out in Section 120 to identify, evaluate and address threats.

290.2 Using the work of an expert might create threats to compliance with the fundamental principles, particularly the principles of integrity, objectivity and professional competence and due care.

290.3 This section sets out requirements and application material relevant to applying the conceptual framework in relation to using the work of an expert.

Requirements and Application Material

Circumstances Where an Expert Might Be Used

290.4 A1 An expert might be used to undertake specific work to support a professional ~~service~~ activity ~~provided~~ performed by a professional accountant. Such work can be in a field that is well-established or that is emerging. Examples of such work include:

- The valuation of complex financial instruments, land and buildings, plant and machinery, jewelry, works of art, antiques, intangible assets, assets acquired and liabilities assumed in business combinations, and assets that may have been impaired.
- The actuarial calculation of liabilities associated with insurance contracts or employee benefit plans.
- The estimation of oil and gas reserves.
- The valuation of environmental liabilities, and site clean-up costs.
- The interpretation of contracts, laws and regulations, including tax laws and regulations, tax treaties and bilateral agreements.
- The accounting for specific matters, including applying methods of accounting for deferred income tax or financial instruments.
- The calculation of greenhouse gas emissions.
- The definition and measurement of pollutants emitted to air, water and soil.
- The valuation of products and materials designed along principles for a sustainable circular economy, including durability, reusability, repairability, disassembly, remanufacturing, and recycling.
- Assessment and evaluation of cybersecurity systems.

290.4 A2 Individuals or organizations that provide datasets for general purpose are not experts. Such individuals or organizations include, for example, those that provide industry or other benchmarking data or studies, such as information about real estate prices that is suitable for use by a broad range of users, or mortality tables for general use.

R290.5 If a professional accountant determines that expertise outside the accountant's knowledge and skills is needed to assist the accountant in performing a professional ~~service~~ activity, the accountant shall identify an expert for this purpose.

290.5 A1 A self-interest threat to compliance with the fundamental principles of integrity and professional competence and due care is created if a professional accountant has insufficient expertise to perform a professional ~~service~~ activity.

Agreeing the Work to be Performed by an Expert

~~*All Professional Services*~~

R290.6 If the professional accountant has identified an expert to use for a professional ~~service~~ activity, the accountant shall agree the terms of engagement with the expert, including the nature and scope of the work to be performed by the expert.

290.6 A1 In agreeing the terms of engagement, matters that the professional accountant might discuss with the expert include:

- The purpose, intended use and timing of the expert's work.
- The general approach to the expert's work.
- The expected format and content of the expert's completed work, including any assumptions made and limitations to that work.
- ~~Expectations regarding the expert's objectivity, including information needed from the expert to facilitate the accountant's evaluation of that objectivity.~~
- Expectations regarding confidentiality of the expert's work and its inputs.

Evaluating Whether to Use the Work of the Expert

~~*All Professional Services*~~

R290.7 In determining whether it is appropriate to use the work of the expert, the professional accountant shall evaluate the expert's competence, capabilities and objectivity.

290.7 A1 An expert whose work is used to assist a professional accountant in performing a professional ~~service~~ activity might be:

(a) An external expert; or

(b) An expert employed by the accountant's ~~firm~~ employing organization.

~~390.7 A2 If in the course of performing a professional service, the professional accountant uses the work of a management's expert, such work is deemed to be information provided by management for the purposes of this section.~~

~~390.7 A3 In the context of an audit or other assurance engagement, depending on their role, an expert is:~~

~~(a) An engagement team member if the expert performs audit or other assurance procedures for the engagement;~~

~~(b) An audit or assurance team member if the expert provides consultation on the audit or other assurance engagement which can directly influence the outcome of the engagement;~~

~~(c)~~

~~(d) A management's expert if the expert is employed or engaged by the audit or assurance client and the expert's work is used to assist the entity in preparing the financial or non-financial information.~~

290.7 A24 A self-interest or advocacy threat to compliance with the principles of integrity, objectivity and professional competence and due care might be created if a professional accountant uses an expert that does not have the competence, capabilities or objectivity to deliver the expert work needed for the particular professional ~~service~~ activity.

290.7 A35 Factors that are relevant in evaluating the competence of the expert include:

- Whether the expert's credentials, education, training, experience and reputation are relevant to, or consistent with, the nature of the work to be performed.
- Whether the expert belongs to a professional body and, if so, whether the expert is in good standing.
- Whether the expert's work is subject to professional standards issued by a recognized body, or follows generally accepted principles or practices, in the expert's field or area of expertise.
- Whether the expert has a track record of performing similar work for the professional accountant's ~~firm~~ employing organization or other clients.
- Where the expert is employed by the accountant's ~~firm~~ employing organization, whether their expertise has been validated by an accreditation or similar process established by the ~~firm~~ employing organization.

290.7 A46 Factors that are relevant in evaluating the capabilities of the expert include:

- The resources available to the expert.
- Whether the expert has adequate time to perform the work.

290.7 A57 Factors that are relevant in evaluating the objectivity of the expert include:

- Whether the expert is subject to ethics standards issued by a professional body in the expert's field or area of expertise.
- Whether the expert has a conflict of interest or other interests in relation to the work the expert is performing at the entity.
- Whether there is any known potential bias that might affect the exercise of the expert's professional judgment.
- Whether the expert will evaluate or rely on any previous judgments made or activities performed by the expert in undertaking the work.
- ~~Where the expert is employed by the professional accountant's firm, whether the expert is subject to the firm's system of quality management addressing threats to compliance with the principle of objectivity.~~

~~Paragraphs R390.10 to R390.13 set out required further actions in evaluating the objectivity of an expert in an audit or other assurance engagement.~~

290.7 A6 Other interests that might impact the level of threat to a proposed expert's objectivity include significant financial interests such as those arising from compensation, fees or incentive arrangements linked to financial and non-financial information and decision making.

290.7 A78 Examples of previous judgments made or activities performed by an expert that might create a threat to the expert's objectivity include:

- Advising the entity on the matter for which the expert is performing the work.
- Producing data or other information for the entity which is then used by the expert in performing the work or is the subject of that work.

290.7 A89 Information about an expert's competence, capabilities and objectivity might be obtained from various sources, including:

- Personal association or experience with previous work undertaken by the expert.
- Consulting with others within or outside the professional accountant's ~~firm~~ employing organization who are familiar with the expert's work.
- Discussion with the expert about their background, including their field of expertise and business activities.
- Making inquiries of the expert's professional body or industry association.
- Published papers or books written by the expert.
- External recognition or accolades.
- Published records, such as legal proceedings involving the expert.
- Inquiry with the management of the employing organization~~client~~ and, if different, the entity at which the expert is performing the work regarding any interests and relationships between the expert and the ~~client~~ employing organization or the entity.

Experts in Emerging Fields or Areas

290.8 A1 Expertise in emerging fields or areas might evolve depending on how laws, regulations and generally accepted practices develop. There might therefore be limited availability of experts in emerging fields or areas.

290.8 A2 Some of the factors relevant to evaluating the competence of an expert in paragraph 290.7 A35 might not be applicable if expertise in an emerging field or area is nascent. For example, there might not be public recognition of the expert, professional standards might not have been developed, or professional bodies might not have been established in the emerging field. In such circumstances, a factor that might assist the professional accountant in evaluating an expert's competence is the expert's experience in a similar field as the emerging field, or in an established field, that provides a reasonable basis for the expert's work in the emerging field.

Inherent Limitations in Evaluating an Expert's Competence, Capabilities or Objectivity

290.9 A1 Paragraph R113.3 sets out communication responsibilities for the professional accountant with respect to limitations inherent in the accountant's professional ~~services~~ activities. When using the work of an expert, such communication might be especially relevant when there is a lack of information to evaluate the expert's competence, capabilities or objectivity, and there is no available alternative to that expert.

~~**Further Actions in Evaluating the Objectivity of an External Expert in an Audit or Other Assurance Engagement**~~

~~**R390.10** In evaluating the objectivity of an external expert in an audit or other assurance engagement pursuant to paragraph R390.7, the professional accountant shall request the external expert to disclose, in relation to the entity at which the expert is performing the work and with respect to the period covered by the audit or assurance report and the engagement period, information about:~~

~~(a) Any direct financial interest or material indirect financial interest held by the external expert or their immediate family in the entity;~~

~~(b) Any loan, or guarantee of a loan, made to the entity by the external expert or their immediate family, unless the loan or guarantee is immaterial to both the expert and the entity;~~

~~(c) Any loan, or a guarantee of a loan, accepted by the external expert or their immediate family from the entity if it is a bank or similar institution, unless the loan or guarantee is made under normal lending procedures, terms and conditions;~~

~~(d) Any loan, or a guarantee of a loan, accepted by the external expert or their immediate family from the entity if it is not a bank or similar institution, unless the loan or guarantee is immaterial to both the expert and the entity;~~

~~(e) Any close business relationship between the external expert or their immediate family and the entity or its management, unless any financial interest is immaterial and the business relationship is insignificant to the expert and the entity or its management;~~

~~(f) Any long association between the external expert and the entity;~~

(g) Any previous public statements by the external expert which advocate for the entity;

(h) Any position as a director or officer of the entity, or an employee in a position to exert significant influence over the preparation of the entity's financial or non-financial information, or the records underlying such information:

(i) Held by the external expert or their immediate family; or

(ii) Previously held by the external expert before the period covered by the audit or assurance report;

(i) Any material fee or contingent fee or dependency on fees or other types of remuneration due to or received by the external expert from the entity;

(j) Any conflict of interest in relation to the work the external expert is performing at the entity; and

(k) If the external expert is an organization, the nature and extent of interests and relationships between the controlling owner of the external expert and the entity.

390.10 A1 Where the external expert uses a team to carry out the expert's work, paragraph R390.10 applies equally to all members of the team.

R390.11 A professional accountant shall request the external expert to communicate any changes in facts or circumstances regarding the matters set out in paragraph R390.10 that might arise during the period covered by the audit or assurance report or the engagement period.

R390.12 A professional accountant shall request each of the external expert and the client to notify the accountant about any other interest, relationship or circumstance of which they are aware between:

(a) The expert and the client; and

(b) The expert and the entity at which the expert is performing the work, if different from the client.

R390.13 When the professional accountant knows or has reason to believe that an interest, relationship or circumstance identified pursuant to paragraph R390.12 is relevant to the evaluation of the objectivity of the external expert, the accountant shall include it when identifying and evaluating threats to the external expert's objectivity.

390.13 A1 Examples of interests, relationships or circumstances that might be included in the evaluation of the external expert's objectivity include, in relation to the client or, if different, the entity at which the expert is performing the work:

- Any direct financial interest or material indirect financial interest in the client or the entity held by any other individuals in the external expert's organization or their immediate family.
- Close family members or other close relationships of the external expert who are in a position to exert significant influence over the preparation of the financial or non-financial information of the entity, or the records underlying such information.
- Any interests or relationships with related entities of the client other than the entity.

Concluding on Using the Work of the Expert

~~*All Professional Services*~~

R290.10~~4~~ The professional accountant shall conclude, based on the evaluation of the expert's competence and capabilities, and any identified threats to the expert's objectivity, whether the expert is competent, has the capabilities, and is objective.

R290.11~~5~~ If the professional accountant concludes that the expert is not competent, capable or objective, the accountant shall not use the expert's work.

~~390.15 A1 Where an expert is employed by the professional accountant's firm, that individual is bound by the same ethical and, if applicable, independence requirements that apply to the accountant. Accordingly, compliance with those requirements will satisfy the objectivity requirement for the expert under paragraphs R390.7 and R390.14.~~

Potential Threats Arising from Using the Work of an Expert

~~*All Professional Services*~~

R290.12~~6~~ Where a professional accountant is using the work of an expert, the accountant shall identify, evaluate, and address any threats to compliance with the fundamental principles.

Identifying Threats

290.13~~7~~ A1 Examples of facts and circumstances that might create threats for a professional accountant when using an expert's work include:

(a) Self-interest threats

- A professional accountant has insufficient understanding of the expert's work to explain the expert's conclusions and findings.
- A professional accountant has undue influence from, or undue reliance on, an expert or multiple experts when performing a professional ~~service~~ activity.

(c) Familiarity threats

- A professional accountant has used the work of the same expert for a long period of time or in multiple professional ~~services~~ activities.

(d) Intimidation threats

- A professional accountant feels pressure to defer to the expert's opinion due to the expert's perceived authority.

Evaluating Threats

290.1~~4~~8 A1 Factors that are relevant in evaluating the level of such threats include:

- The scope and purpose of the work of the expert.
- The materiality of the subject matter of the expert's work to the information being reported.
- The nature of the engagement in which the expert's work is intended to be used.
- The degree of reliance by the professional accountant on the work of the expert.
- The ~~firm~~ employing organization's oversight relating to the use of the expert and the expert's work.
- Whether there are multiple experts involved.
- The complexity and subjectivity of the expert work.
- The source and reliability of the underlying data and other inputs used by the expert.
- The expert's ability to explain the inputs, assumptions, methodologies and conclusions of the expert's work.
- The reasonableness of and transparency over the data, assumptions and other inputs and methods used by the expert and whether the expert has mitigated any bias.
- Whether the work of the expert is subject to technical performance standards or other professional or industry generally accepted practices, or law or regulation, such that the work, if performed by two or more parties, is not likely to be materially different.
- The reasonableness of the expert's findings or conclusions and the accountant's ability to understand and explain the expert's work and its appropriateness for the intended purpose.
- The consistency of the expert's work, including the expert's conclusions or findings, with other information.
- The availability of academic research or other evidence to support the expert's approach.
- Whether there is pressure being exerted by the ~~firm~~ employing organization to accept the expert's conclusions or findings due to the time or cost spent by the expert in performing the work.

Using the Work of Multiple Experts

R290.1~~5~~9 When a professional accountant uses the work of more than one expert in the performance of a professional ~~service~~ activity, the accountant shall consider whether, in addition to the threats that might be created by using each expert individually, the combined effect of using the work of the experts might create or impact the level of threats.

290.1~~5~~9 A1 Factors that are relevant in evaluating the level of threats created by using the work of multiple experts include:

- How the combined effect of using multiple experts impacts the complexity of exercising professional judgment.
- Whether the combined work of the experts forms a material part of the information assessed or used for purposes of the engagement.

Addressing Threats

290.16~~20~~ A1 An example of an action that might eliminate such threats is identifying a different expert to use.

290.16~~20~~ A2 Examples of actions that might be safeguards to address such threats include:

- Consulting with qualified personnel within the employing organization who have the necessary knowledge, skills and experience to evaluate the expert's work, obtain additional input, or challenge the appropriateness of the expert's work for the intended purpose.
- Obtaining a second opinion on the expert's work.

Communicating with Management and Those Charged with Governance When Using the Work of an Expert

290.17~~21~~ A1 The professional accountant is encouraged to communicate with management, and where appropriate, those charged with governance:

- The purpose of using an expert and the scope of the expert's work.
- The respective roles and responsibilities of the accountant and the expert in the performance of the professional ~~service~~ activity.
- Any threats to the accountant's compliance with the fundamental principles created by using the work of the expert and how they have been addressed.

Documentation

290.18~~22~~ A1 The professional accountant is encouraged to document:

- The steps taken by the accountant to evaluate the expert's competence, capabilities and objectivity, and the resulting conclusions.
- Any significant threats identified by the accountant in using the expert's work and the actions taken to address the threats.
- The results of any discussions with the expert.

Part 5 Equivalent of Part 3 for Sustainability Assurance

IESBA Meeting Materials – September

The paragraph and section numbering in Part 5 will be discussed at the September 2023 meeting during the Sustainability Workstream 1 and 2 sessions.

For the purposes of this document, the paragraph numbering mirrors that of the equivalent:

- Section 320 in the extant Code; and
- Proposed new Section 390 in Agenda Item 7-C.

Note to IESBA:

Mark-Up of Draft Part 5 Ethics Standards Circulated by Sustainability Workstream 2 on August 3, 2023

SECTION 320

PROFESSIONAL APPOINTMENTS

…

Requirements and Application Material

…

~~**Using the Work of an Expert**~~

~~**R320.10** When a sustainability assurance practitioner intends to use the work of an expert in the course of performing an engagement for a sustainability assurance client, the practitioner shall determine whether the use is appropriate for the intended purpose.~~

~~320.10 A1 Factors to consider when a sustainability assurance practitioner intends to use the work of an expert include:~~

- ~~The reputation and expertise of, and the resources available, to the expert.~~
- ~~Whether the expert is subject to applicable professional and ethics standards.~~

~~Such information might be gained from prior association with, or from consulting others about, the expert.~~

…

Other Considerations

320.11~~2~~ A1 When a sustainability assurance practitioner is considering using ~~the work of experts or~~ the output of technology, a consideration is whether the practitioner is in a position within the firm to obtain information in relation to the factors necessary to determine whether such use is appropriate.

320.11 A2 When a sustainability assurance practitioner intends to use the work of an expert, the requirements and application material set out in Section 390 apply.

…

Note to IESBA:

Mark-Up of Proposed New Section 390 in Agenda Item 7-C

Following the IESBA's September meeting and input, the relevant sustainability examples in the draft text will be shared with the Sustainability Reference Group (SRG) for comment. As appropriate, the draft text will also be shared with the SRG to ensure it is sufficiently professional-neutral.

PROPOSED NEW SECTION 390
USING THE WORK OF AN EXPERT

Introduction

390.1 ~~Professional accountant~~Sustainability assurance practitioners are required to comply with the fundamental principles and apply the conceptual framework set out in Section 120 to identify, evaluate and address threats.

390.2 Using the work of an expert might create threats to compliance with the fundamental principles, particularly the principles of integrity, objectivity and professional competence and due care.

390.3 This section sets out requirements and application material relevant to applying the conceptual framework in relation to using the work of an expert.

Requirements and Application Material

Circumstances Where an Expert Might Be Used

390.4 A1 An expert might be used to undertake specific work to support an ~~professional service~~engagement ~~provided~~ performed by a ~~professional accountant~~sustainability assurance practitioner. Such work can be in a field that is well-established or that is emerging. Examples of such work include:

- ~~The valuation of complex financial instruments, land and buildings, plant and machinery, jewelry, works of art, antiques, intangible assets, assets acquired and liabilities assumed in business combinations, and assets that may have been impaired.~~
- ~~The actuarial calculation of liabilities associated with insurance contracts or employee benefit plans.~~
- ~~The estimation of oil and gas reserves.~~
- The valuation of environmental liabilities, and site clean-up costs.
- The interpretation of contracts, laws and regulations, including tax laws and regulations, tax treaties and bilateral agreements.

- The accounting for specific matters~~, including applying methods of accounting for deferred income tax or financial instruments~~.
- The calculation of greenhouse gas emissions.
- The definition and measurement of pollutants emitted to air, water and soil.
- The valuation of products and materials designed along principles for a sustainable circular economy, including durability, reusability, repairability, disassembly, remanufacturing, and recycling.
- Assessment and evaluation of cybersecurity systems.

390.4 A2 Individuals or organizations that provide datasets for general purpose are not experts. Such individuals or organizations include, for example, those that provide industry or other benchmarking data or studies, such as information about [employment statistics (for instance, hours worked and compensation per week by geographical area),] ~~real estate prices~~ that is suitable for use by a broad range of users, or [carbon emissions by vehicle type] ~~mortality tables~~ for general use.

R390.5 If a ~~professional accountant~~ sustainability assurance practitioner determines that expertise outside the ~~accountant~~ practitioner's knowledge and skills is needed to assist the ~~accountant~~ practitioner in performing an ~~professional service~~engagement for a sustainability assurance client, the ~~accountant~~practitioner shall identify an expert for this purpose.

390.5 A1 A self-interest threat to compliance with the fundamental principles of integrity and professional competence and due care is created if a ~~professional accountant~~ sustainability assurance practitioner has insufficient expertise to perform an ~~professional service~~engagement for a sustainability assurance client.

Agreeing the Work to be Performed by an Expert

All Engagements Performed for a Sustainability Assurance Client~~Professional Services~~

R390.6 If the ~~professional accountant~~ sustainability assurance practitioner has identified an expert to use for an ~~professional service~~engagement, the ~~accountant~~ practitioner shall agree the terms of engagement with the expert, including the nature and scope of the work to be performed by the expert.

390.6 A1 In agreeing the terms of engagement, matters that the ~~professional accountant~~ sustainability assurance practitioner might discuss with the expert include:

- The purpose, intended use and timing of the expert's work.
- The general approach to the expert's work.
- The expected format and content of the expert's completed work, including any assumptions made and limitations to that work.
- Expectations regarding the expert's objectivity, including information needed from the expert to facilitate the ~~accountant~~ practitioner's evaluation of that objectivity.
- Expectations regarding confidentiality of the expert's work and its inputs.

Evaluating Whether to Use the Work of the Expert

All Engagements Performed for a Sustainability Assurance Client~~Professional Services~~

R390.7 In determining whether it is appropriate to use the work of the expert, the ~~professional accountant~~ sustainability assurance practitioner shall evaluate the expert's competence, capabilities and objectivity.

390.7 A1 An expert whose work is used to assist a ~~professional accountant~~ sustainability assurance practitioner in performing an ~~professional service~~engagement might be:

(a) An external expert; or

(b) An expert employed by the ~~accountant~~practitioner~~'s firm~~.

390.7 A2 If in the course of performing an ~~professional service~~ engagement, the ~~professional accountant~~ sustainability assurance practitioner uses the work of a management's expert, such work is deemed to be information provided by management for the purposes of this section.

390.7 A3 In the context of a~~n audit or other~~ sustainability assurance engagement, depending on their role, an expert is:

(a) An engagement team member if the expert performs ~~audit or other~~ assurance procedures for the engagement;

(b) A sustainability ~~n audit or~~ assurance team member if the expert provides consultation on the ~~audit or other~~ sustainability assurance engagement which can directly influence the outcome of the engagement;

(c) An external expert if the expert is engaged by the ~~professional accountant~~ sustainability assurance practitioner~~'s firm~~ and the expert's work is used to assist the ~~accountant~~ practitioner in obtaining sufficient appropriate evidence; or

(d) A management's expert if the expert is employed or engaged by the ~~audit or~~ sustainability assurance client and the expert's work is used to assist the entity in preparing the financial or non-financial information.

390.7 A4 A self-interest or advocacy threat to compliance with the principles of integrity, objectivity and professional competence and due care might be created if a ~~professional accountant~~ sustainability assurance practitioner uses an expert that does not have the competence, capabilities or objectivity to deliver the expert work needed for the particular ~~professional service~~ engagement.

390.7 A5 Factors that are relevant in evaluating the competence of the expert include:

- Whether the expert's credentials, education, training, experience and reputation are relevant to, or consistent with, the nature of the work to be performed.
- Whether the expert belongs to a professional body and, if so, whether the expert is in good standing.
- Whether the expert's work is subject to professional standards issued by a recognized body, or follows generally accepted principles or practices, in the expert's field or area of expertise.

- Whether the expert has a track record of performing similar work for the ~~professional accountant~~ sustainability assurance practitioner~~'s firm~~ or other clients.
- Where the expert is employed by the ~~accountant~~ practitioner~~'s firm~~, whether their expertise has been validated by an accreditation or similar process established by the practitioner ~~firm~~.

390.7 A6 Factors that are relevant in evaluating the capabilities of the expert include:

- The resources available to the expert.
- Whether the expert has adequate time to perform the work.

390.7 A7 Factors that are relevant in evaluating the objectivity of the expert include:

- Whether the expert is subject to ethics standards issued by a ~~recognized~~ professional body in the expert's field or area of expertise.
- Whether the expert has a conflict of interest in relation to the work the expert is performing at the entity.
- Whether there is any known potential bias that might affect the exercise of the expert's professional judgment.
- Whether the expert will evaluate or rely on any previous judgments made or activities performed by the expert in undertaking the work.
- Where the expert is employed by the ~~professional accountant~~ sustainability assurance practitioner~~'s firm~~, whether the expert is subject to the ~~firm's~~ practitioner's system of quality management addressing threats to compliance with the principle of objectivity.

Paragraphs R390.10 to R390.13 set out required further actions in evaluating the objectivity of an expert in a~~n audit or other~~ sustainability assurance engagement.

390.7 A8 Examples of previous judgments made or activities performed by an expert that might create a threat to the expert's objectivity include:

- Advising the entity on the matter for which the expert is performing the work.
- Producing data or other information for the entity which is then used by the expert in performing the work or is the subject of that work.

390.7 A9 Information about an expert's competence, capabilities and objectivity might be obtained from various sources, including:

- Personal association or experience with previous work undertaken by the expert.
- Consulting with others within or outside the ~~professional accountant~~ sustainability assurance practitioner~~'s firm~~ who are familiar with the expert's work.
- Discussion with the expert about their background, including their field of expertise and business activities.
- Making inquiries of the expert's professional body or industry association.
- Published papers or books written by the expert.

- External recognition or accolades.
- Published records, such as legal proceedings involving the expert.
- Inquiry with the sustainability assurance client and, if different, the entity at which the expert is performing the work regarding any interests and relationships between the expert and the client or the entity.

Experts in Emerging Fields or Areas

390.8 A1 Expertise in emerging fields or areas might evolve depending on how laws, regulations and generally accepted practices develop. There might therefore be limited availability of experts in emerging fields or areas.

390.8 A2 Some of the factors relevant to evaluating the competence of an expert in paragraph 390.7 A5 might not be applicable if expertise in an emerging field or area is nascent. For example, there might not be public recognition of the expert, professional standards might not have been developed, or professional bodies might not have been established in the emerging field. In such circumstances, a factor that might assist the ~~professional accountant~~ sustainability assurance practitioner in evaluating an expert's competence is the expert's experience in a similar field as the emerging field, or in an established field, that provides a reasonable basis for the expert's work in the emerging field.

Inherent Limitations in Evaluating an Expert's Competence, Capabilities or Objectivity

390.9 A1 Paragraph R113.3 sets out communication responsibilities for the ~~professional accountant~~ sustainability assurance practitioner with respect to limitations inherent in the ~~accountant~~ practitioner's ~~professional service~~ engagements. When using the work of an expert, such communication might be especially relevant when there is a lack of information to evaluate the expert's competence, capabilities or objectivity, and there is no available alternative to that expert.

Further Actions in Evaluating the Objectivity of an External Expert in a Sustainability ~~n Audit or Other~~ Assurance Engagement

R390.10 In evaluating the objectivity of an external expert in a sustainability ~~n audit or other~~ assurance engagement pursuant to paragraph R390.7, the ~~professional accountant~~ sustainability assurance practitioner shall request the external expert to disclose, in relation to the entity at which the expert is performing the work and with respect to the period covered by the ~~audit or~~ assurance report and the engagement period, information about:

(a) Any direct financial interest or material indirect financial interest held by the external expert or their immediate family in the entity;

(b) Any loan, or guarantee of a loan, made to the entity by the external expert or their immediate family, unless the loan or guarantee is immaterial to both the expert and the entity;

(c) Any loan, or a guarantee of a loan, accepted by the external expert or their immediate family from the entity if it is a bank or similar institution, unless the loan or guarantee is made under normal lending procedures, terms and conditions;

(d) Any loan, or a guarantee of a loan, accepted by the external expert or their immediate family from the entity if it is not a bank or similar institution, unless the loan or guarantee is immaterial to both the expert and the entity;

(e) Any close business relationship between the external expert or their immediate family and the entity or its management, unless any financial interest is immaterial and the business relationship is insignificant to the expert and the entity or its management;

(f) Any long association between the external expert and the entity;

(g) Any previous public statements by the external expert which advocate for the entity;

(h) Any position as a director or officer of the entity, or an employee in a position to exert significant influence over the preparation of the entity's financial or non-financial information, or the records underlying such information:

(i) Held by the external expert or their immediate family; or

(ii) Previously held by the external expert before the period covered by the ~~audit or~~ assurance report;

(i) Any material fee or contingent fee or dependency on fees or other types of remuneration due to or received by the external expert from the entity;

(j) Any conflict of interest in relation to the work the external expert is performing at the entity; and

(k) If the external expert is an organization, the nature and extent of interests and relationships between the controlling owner of the external expert and the entity.

390.10 A1 Where the external expert uses a team to carry out the expert's work, paragraph R390.10 applies equally to all members of the team.

R390.11 A ~~professional accountant~~ sustainability assurance practitioner shall request the external expert to communicate any changes in facts or circumstances regarding the matters set out in paragraph R390.10 that might arise during the period covered by the ~~audit or~~ assurance report or the engagement period.

R390.12 A ~~professional accountant~~ sustainability assurance practitioner shall request each of the external expert and the sustainability assurance client to notify the ~~accountant~~ practitioner about any other interest, relationship or circumstance of which they are aware between:

(a) The expert and the sustainability assurance client; and

(b) The expert and the entity at which the expert is performing the work, if different from the client.

R390.13 When the ~~professional accountant~~ sustainability assurance practitioner is notified of an interest, relationship or circumstance pursuant to paragraph R390.12, the ~~accountant~~ practitioner shall include it when identifying and evaluating threats to the external expert's objectivity.

390.13 A1 Examples of interests, relationships or circumstances that might be included in the evaluation of the external expert's objectivity include, in relation to the sustainability assurance client or, if different, the entity at which the expert is performing the work:

- Any direct financial interest or material indirect financial interest in the client held by the expert or their immediate family.
- Close family members or other close relationships of the expert who are in a position to exert significant influence over the preparation of the financial or non-financial information of the entity, or the records underlying such information.
- Any interests or relationships with the client and those entities over which it has direct or indirect control.

Concluding on Using the Work of the Expert

All Engagements Performed for a Sustainability Assurance Client~~Professional Services~~

R390.14 The ~~professional accountant~~ sustainability assurance practitioner shall conclude, based on the evaluation of the expert's competence and capabilities, and any identified threats to the expert's objectivity, whether the expert is competent, has the capabilities, and is objective.

R390.15 If the ~~professional accountant~~ sustainability assurance practitioner concludes that the expert is not competent, capable or objective, the ~~accountant~~ practitioner shall not use the expert's work.

390.15 A1 Where an expert is employed by the ~~professional accountant~~ sustainability assurance practitioner's ~~firm~~ and~~,~~ that ~~individual~~ expert is bound by the same ethical and, if applicable, independence requirements that apply to the ~~accountant~~ individual practitioner~~. Accordingly~~, compliance with those requirements will satisfy the objectivity requirement for the expert under paragraphs R390.7 and R390.14.

Potential Threats Arising from Using the Work of an Expert

All Engagements Performed for a Sustainability Assurance Client~~Professional Services~~

R390.16 Where a ~~professional accountant~~ sustainability assurance practitioner is using the work of an expert, the ~~professional accountant~~ practitioner shall identify, evaluate, and address any threats to compliance with the fundamental principles.

Identifying Threats

390.17 A1 Examples of facts and circumstances that might create threats for a ~~professional accountant~~ sustainability assurance practitioner when using an expert's work include:

(a) Self-interest threats

- A ~~professional accountant~~ sustainability assurance practitioner has insufficient understanding of the expert's work to explain the expert's conclusions and findings.
- A ~~professional accountant~~ sustainability assurance practitioner has undue influence from, or undue reliance on, an expert or multiple experts when performing a ~~professional service~~ engagement.

(b) Familiarity threats

- A ~~professional accountant~~ sustainability assurance practitioner has used the work of the same expert for a long period of time or in multiple ~~professional service~~engagements.

(c) Intimidation threats

- A ~~professional accountant~~ sustainability assurance practitioner feels pressure to defer to the expert's opinion due to the expert's perceived authority.

Evaluating Threats

390.18 A1 Factors that are relevant in evaluating the level of such threats include:

- The scope and purpose of the work of the expert.
- The materiality of the subject matter of the expert's work to the sustainability information being reported.
- The nature of the engagement in which the expert's work is intended to be used.
- The degree of reliance by the ~~professional accountant~~ sustainability assurance practitioner on the work of the expert.
- The sustainability assurance practitioner's ~~firm's~~ oversight relating to the use of the expert and the expert's work.
- Whether there are multiple experts involved.
- The complexity and subjectivity of the expert work.
- The source and reliability of the underlying data and other inputs used by the expert.
- The expert's ability to explain the inputs, assumptions, methodologies and conclusions of the expert's work.
- The reasonableness of and transparency over the data, assumptions and other inputs and methods used by the expert and whether the expert has mitigated any bias.
- Whether the work of the expert is subject to technical performance standards or other professional or industry generally accepted practices, or law or regulation, such that the work, if performed by two or more parties, is not likely to be materially different.
- The reasonableness of the expert's findings or conclusions and the ~~accountant~~ practitioner's ability to understand and explain the expert's work and its appropriateness for the intended purpose.
- The consistency of the expert's work, including the expert's conclusions or findings, with other information.
- The availability of academic research or other evidence to support the expert's approach.
- Whether there is pressure being exerted by the individual practitioner's firm to accept the expert's conclusions or findings due to the time or cost spent by the expert in performing the work.

Using the Work of Multiple Experts

R390.19 When a ~~professional accountant~~ sustainability assurance practitioner uses the work of more than one expert in the performance of an ~~professional service~~ engagement, the ~~accountant~~ practitioner shall consider whether, in addition to the threats that might be created by using

each expert individually, the combined effect of using the work of the experts might create or impact the level of threats.

390.19 A1 Factors that are relevant in evaluating the level of threats created by using the work of multiple experts include:

- How the combined effect of using multiple experts impacts the complexity of exercising professional judgment.
- Whether the combined work of the experts forms a material part of the information assessed or used for purposes of the engagement.

Addressing Threats

390.20 A1 An example of an action that might eliminate such threats is identifying a different expert to use.

390.20 A2 Examples of actions that might be safeguards to address such threats include:

- Consulting with qualified personnel who have the necessary knowledge, skills and experience to evaluate the expert's work, obtain additional input, or challenge the appropriateness of the expert's work for the intended purpose.
- Obtaining a second opinion on the expert's work.

Communicating with Management and Those Charged with Governance When Using the Work of an Expert

390.21 A1 The ~~professional accountant~~ sustainability assurance practitioner is encouraged to communicate with management, and where appropriate, those charged with governance:

- The purpose of using an expert and the scope of the expert's work.
- The respective roles and responsibilities of the ~~accountant~~ practitioner and the expert in the performance of the ~~professional service~~ engagement.
- Any threats to the ~~accountant~~ practitioner's compliance with the fundamental principles created by using the work of the expert and how they have been addressed.

Documentation

390.22 A1 The ~~professional accountant~~ sustainability assurance practitioner is encouraged to document:

- The steps taken by the ~~accountant~~ practitioner to evaluate the expert's competence, capabilities and objectivity, and the resulting conclusions.
- Any significant threats identified by the ~~accountant~~ practitioner in using the expert's work and the actions taken to address the threats.
- The results of any discussions with the expert.

IESBA update

Reason for agenda item

To provide project summaries for IESBA's key projects and task forces. IESBA's projects on sustainability and use of experts are in agenda items 7 and 8.

The September 2023 meeting highlights and decisions was issued by IESBA.

Division staff welcomes input on any of the projects.

Materials presented

- Agenda item 9B: IESBA strategy and work plan
- Agenda item 9C: Tax planning and related services
- Agenda item 9D: Technology

IESBA strategy and work plan

Project description

To seek stakeholder input on what key trends, developments, or issues IESBA should consider as it develops its Strategy and Work Plan 2024–2027 (SWP).

Status

In April 2023, IESBA released its proposed IESBA Strategy and Work Plan 2024-2027, and the comment period closed on July 7, 2023. IESBA received a total of 44 comment letters to its SWP.

Project update

During its September 2023 meeting, IESBA considered significant comments raised by respondents to the SWP and the planning committee's responses.

Proposed update to strategic drivers

The planning committee proposed that the SWP highlight a strategic direction of revising the full code to be profession-agnostic. Some board members supported the expansion of the code beyond professional accountants, and others indicated that the focus should be on strengthening the code. IESBA also discussed how to approach this matter during the next strategy period and noted the need for further stakeholder engagement on the topic.

Ms. Dourdourekas and Ms. Lee-Andrews will represent PEEC and the AICPA at IESBA's National Standard Setters meeting in November. Division staff sent a survey to gather the committee's input on important topics.

Proposed update to potential projects

The planning committee proposed to add a work stream on the topic of firm culture and governance. This proposal is a result of recent high-profile ethical breaches.

The potential projects and priority are as follows:

Projects	Priority
Role of CFOs and other senior professional accountant in business	High
Business relationships	High
Audit firms – Audit client relationships	High
Definitions and descriptions of terms	High

Firm culture and governance	High
Custody of data	Low
Communication with those charged with governance	Low

Some board members expressed concerns regarding the priority and the number of potential projects, considering the ongoing and pre-committed projects as well as the potential expansion of the code.

Ongoing and pre-committed projects

IESBA focused on the proposed projects as well as the change to the scope of the code. There was no significant discussion about ongoing and pre-committed projects.

Ongoing projects:

- Sustainability
- Use of experts
- Collective investment vehicles/Pension funds/Investment company complexes
- Post-implementation reviews (PIR) – NOCLAR

Pre-committed projects:

- PIR – Long association phase 2
- PIR – Restructured code
- PIR – Nonattest services and fees
- PIR – Definitions of public interest entities

Timeline

The current timeline for this project is as follows:

IESBA approval of SWP	December 2023
Public Interest Oversight Board approval	April 2024
Release of SWP 2024-2027	April 2024

Tax planning and related services

Project description

To develop a principles-based framework, leveraging the fundamental principles and the conceptual framework, to guide professional accountants' ethical conduct when providing tax planning (TP) and related services to employing organizations and clients, thereby maintaining the IESBA code's robustness and relevance as a cornerstone of public trust in the global accountancy profession.

Status

The Tax Planning and Related Services exposure draft (ED) was issued in February 2023. PEEC and the Tax Executive Committee (TEC) sent a joint comment letter on May 22, 2023. IESBA has received 50 comment letters. The task force gave IESBA a high-level overview of significant comments raised in the comment letters at the board's June 2023 meeting.

Project update

The task force considered all comments from respondents during three meetings in July and August, discussed the way forward, and developed revisions to the proposals in the ED in response to the comment letters. At its September meeting, IESBA reviewed revisions to proposed section 380 and proposed section 280. The Summary of Significant Comments on Exposure and Task Force Proposals distributed to the board can be found here.

The task force discussed the revisions to the proposed sections, many of which were included in the AICPA joint comment letter. In particular, the descriptions of tax planning services and related services were amended to clarify that financial services in which tax planning was an ancillary service would not be within the scope of the new code sections.

The task force addressed AICPA comments regarding tax planning products or arrangements developed by a third-party by clarifying that where the professional accountant only recommends or refers a client to a third-party provider of tax planning services, the provisions of the proposed code would not apply.

The task force received many comments regarding the requirement to consider the reputational, commercial, and wider economic consequences that stakeholders might view the tax planning arrangement, also referred to as the "stand-back test." Though many respondents, including the AICPA, recommended elimination of the stand-back test the task force included the requirement. The task force acknowledged the concern of respondents that the test would lead PAs to conduct extensive research to understand the full impact of the TP arrangement on the wider economy of relevant jurisdictions. The task force noted that the requirement explicitly calls for the PA to exercise professional judgment in applying the test. Thus, the more complex the TP arrangement, the greater the consideration will be. Conversely, if the TP arrangement is

relatively simple, there may be little to no consideration needed. Nevertheless, to further emphasize that the consideration of the wider economic consequences is not intended to be more than the application of a general understanding of the current economic environment, the task force proposed the revised language to the application guidance for this requirement:

> An awareness of the wider economic consequences might take into account the professional accountant's ***general*** understanding of the ***current economic environment and the*** impact of the tax planning arrangement on the tax base of the jurisdiction or the relative impacts of the arrangement on the tax bases of multiple jurisdictions, where the client operates.

The AICPA also expressed concerns with the requirements in proposed paragraphs R380.13 and R280.13 to explain to management and, if appropriate, those charged with governance why a tax planning arrangement did not pass the stand-back test, as well as the requirements in proposed paragraphs R380.19 and R280.20 for the PA to disclose the basis of the PAs assessment when the PA disagrees with a client regarding whether a tax planning arrangement has credible basis. This was due to the concerns of PAs having limited protections regarding communications with taxpayers in the United States. Providing the proposed level of detail could expose the client to unintended consequences. The proposed revisions did not include any changes to the respective sections.

AICPA staff is continuing to monitor the task force's activities and is starting to look at the proposed revised code sections in the context of convergence. An ongoing concern is IESBA's introduction of additional performance standards, as opposed to ethical standards, in the proposed code sections whereas the United States has well-established tax performance standards in place with the AICPA Statements on Standards for Tax Services (SSTS) as well as through federal and state governmental regulatory structures.

Timeline

The current timeline for this project is as follows:

October-November 2023	Task force reviews board comments and conducts outreach activities to key stakeholders.
December 2023	IESBA reviews second draft with a goal of approving final standard.

Technology

Project description

To closely monitor the transformative effects of technology and to identify any new ethical issues that might be created.

Project update

In July 2023, the technology working group (TWG) and the technology experts group (TEG) met to discuss the TEG's progress on stress-testing the new technology-related revisions released in April 2023.

During its September 2023 meeting, the TWG presented the board with the highlights of the aforementioned meeting:

- The preliminary stress-testing results indicate that the provisions are robust and prevail to deliver an appropriate ethical conclusion, although some situations might be difficult to navigate.
- Given the inherent complexity of technology, it is unclear whether there are additional requirements, or IESBA simply highlights that situations involving technology are harder to navigate (120.5 A8).
- Regarding close business relationships, the TEG suggested that IESBA explore the development of a case study illustrating a firm's provision of technology solutions to a nonaudit client, where there may be indirect services rendered to an audit client in the background.
- The TEG also suggested that IESBA explore developing a case study highlighting what an appropriate level of knowledge is, so that a professional accountant could illustrate enough competence and due care in a technology space.
- The TWG and the TEG also discussed threats and challenges associated with artificial intelligence, blockchain, contract readers, smart contracts that use external data sources, and client and engagement acceptance dilemmas.

The TWC and the TEG plan to further discuss the aforementioned subjects and consider what, if any, non-authoritative guidance is warranted.

A TEG member provided an educational session on navigating the evolving landscape of business risks and fraud in the technological era.

IESBA Convergence: NAS – General

Task force members

Andy Bonner (chair), Anna Dourdourekas, Kenneth Omoruyi, Lisa Snyder

Observers

Vincent DiBlanda, Brandon Mercer

AICPA staff

Liese Faircloth, Ellen Goria

Task force charge

To consider the Final Pronouncement: Revisions to the Non-Assurance Service Provisions of the International Ethics Standards Board for Accountants (IESBA) code specifically related to recruiting and corporate finance services and for evaluating the self-review threat before performing nonattest services (IESBA NAS) and determine what changes, if any, are needed to the AICPA Code of Professional Conduct.

Reason for agenda item

To update the committee on recent task force activities and seek input on the direction of the task force.

Task force activities

The task force reviewed the gap analysis prepared by staff and noted the following topics were absent from or not consistent with the AICPA code:

- Self-review threat
- Administrative services
- Corporate Finance service
- Recruiting services

The task force's analysis and recommendations for these topics follow.

Self-review threat

In paragraph R600.14, the IESBA code requires the professional accountant to evaluate the self-review threat before performing a nonattest service to determine whether there is a risk of the following:

a. The results of the services will form part of or affect the accounting records, the 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 on which the firm will express an opinion, the audit team will evaluate or rely on any judgements made or activities performed by the firm or network firm when providing the service

The ”Scope and applicability of nonattest services” interpretation (ET sec. 1.295.010) of the AICPA code provides that a self-review threat may exist when nonattest services are performed. A self-review threat is described in the Conceptual Framework for Independence (ET sec. 1.210.010) as “The threat that a member will not appropriately evaluate the results of a previous judgment made, or service performed or supervised by the member or an individual in the member’s firm and that the member will rely on that service in forming a judgment as part of an attest engagement.”

Although the requirement to evaluate the level of the self-review threat is not included in “Nonattest services” subtopic (ET sec. 1.295), the AICPA code does identity the self-review threat as a possibility in multiple interpretations including these:

- Advisory Services
- Appraisal, Valuation, and Actuarial Services
- Bookkeeping, Payroll and Other Disbursements
- Corporate Finance Consulting
- Forensic Accounting
- Information Systems Services
- Internal Audit
- Investment Advisory or Management
- Tax Services

Thus, when the self-review threat is identified when providing nonattest services, the member would look to the applicable guidance to determine what services can and cannot be performed or put another way, whether the specific service would impair independence.

If the service is not specifically addressed, then the member would use the conceptual framework which requires the evaluation of the self-review threat.

The task force has concluded that the AICPA code is substantively converged with the IESBA

code as the self-review threat is addressed in the AICPA code by virtue of the "Management Responsibilities" interpretation (ET sec. 1.295.030) and the "General Requirements for Performing Nonattest Services" interpretation (ET sec. 1.295.040).

Question for the committee

1. Does the committee agree that the IESBA and AICPA codes are converged with respect to the self-review threat?

Administrative services

Subsection 602 of IESBA's code addresses administrative services as being clerical in nature and requiring little or no professional judgement, such as the following:

- Word processing or document formatting
- Preparing administrative or statutory forms for client approval
- Submitting such forms as instructed by the client
- Monitoring statutory filing dates and advising an audit client of those dates

IESBA concludes that, so long as individuals within the firm do not assume a management responsibility, these services generally do not create a threat to the firm's independence.

The AICPA code does not have a specific interpretation that addresses administrative services.

The task force noted that it was unclear whether these services would be permitted or prohibited under the AICPA code. The task force believes that although it is not a direct correlation, guidance in the "Tax Services" interpretation (ET sec. 1.295.140) would be applicable as it relates to the preparation of forms and returns for management's approval and the submission of such forms when authorized by management.

The task force determined that nonauthoritative guidance related to routine activities would be sufficient to address these types of administrative services and to substantially converge IESBA and AICPA guidance.

Questions for the committee

2. Does the committee believe nonauthoritative guidance that addresses administrative

services would be sufficient to converge IESBA and AICPA guidance?

3. If so, would Q&As and a discussion in the *Plain English Guide to Independence* be sufficient nonauthoritative guidance?

Corporate finance services

IESBA addresses corporate finance services in subsection 610.

Paragraph R610.5 prohibits a firm or a network firm from providing corporate finance services that involve promoting, dealing in, or underwriting the shares, debt or other financial instruments issued by the audit client or providing advice on investment in such shares, debt or other financial instruments.

IESBA's Basis for Conclusion document clarified that the prohibition in paragraph R610.5 specifically applies to the providing of advice on investment in such shares, debt or other financial instruments issued by the audit client. Furthermore, due to the degree of subjectivity involved in determining the appropriate treatment for the outcome or consequence of such advice in the financial statements, the service is prohibited by the IESBA code given the self-review threat.

The "Corporate Finance Consulting" interpretation (ET sec. 1,295.130) is similar to IESBA in that it also prohibits a member from acting as a promoter, an underwriter, a broker-dealer, or a guarantor of an attest client's securities or as a distributor of private placement memoranda or offering documents.[1] The task force agreed that this AICPA prohibition could be akin to IESBA's "providing advice on investment in such shares, debt or other financial instruments" to third parties.

Although not expressly prohibited, the "Conflicts of Interest for Members in Public Practice" interpretation (ET sec. 1.110.010 par. 04) states that a conflict of interest may arise when "providing corporate finance services to a client seeking to acquire an audit client of the firm, when the firm has obtained confidential information during the course of the audit that may be relevant to the transaction." Thus, the task force agreed that providing advice to a third party seeking to invest in a member's attest client, in essence be considered as promoting that attest client.

[1] A similar situation is included as an example of when the advocacy threat exists under item a in paragraph .13 of the Conceptual Framework for Independence "A member promotes the attest client's securities as part of an initial public offering".

Although not a direct correlation, the "Appraisal, Valuation and Actuarial Services" interpretation (ET sec. 1.295.110) does prohibit a member from providing services to an attest client when

- the services involve a significant degree of subjectivity, and
- the results of the service, individually or when combined with other valuation, appraisal, or actuarial services, are material to the attest client's financial statements.

Examples of valuations that generally involve a significant degree of subjectivity include ESOPs, business combinations, or appraisals of assets or liabilities. Accordingly, if these services produce results that are material to the attest client's financial statements independence would be impaired.

The task force concluded that the AICPA code is converged with paragraph R610.5 as recommending an investment in an attest client would be acting in an advocacy role for an attest client and would impair the member's integrity and objectivity, but noted that some examples added to the conceptual framework could be helpful for members.

Paragraph R610.6 prohibits a firm or network firm from providing advice in relation to corporate finance services to an audit client where

a. the effectiveness of such advice depends on a particular accounting treatment or presentation in the financial statements on which the firm will express an opinion and

b. the audit team has doubt as to the appropriateness of the related accounting treatment or presentation under the relevant financial reporting framework.

This situation might be encountered when a firm is engaged to provide consulting services to an attest client. There would be two separate teams providing services to the client and the results of the consulting engagement would be subject to audit by the attest engagement team and the attest team has doubt about the accounting treatment provided by the nonattest team.

Providing advice on the effectiveness where there is doubt about the appropriateness the advice has on an accounting treatment or presentation in the financial statements is not just an independence issue. Paragraphs .03 and .04 of the "Client Advocacy" interpretation (ET sec. 1.140.010) provide that "Some professional services involving client advocacy may stretch the bounds of performance standards, go beyond sound and reasonable professional practice, or compromise credibility, thereby creating threats to the member's compliance with the rules and damaging the reputation of the member and the member's firm. If such circumstances exist, the member and *member's firm* should determine whether it is appropriate to perform the professional services. When performing professional services requiring independence, a member shall also comply with the "Independence Rule."

The task force discussed this issue at length and concluded that this is more of a business risk because the two teams disagree over the advice being provided to the client. Some questions the task force explored include these:

- If the nonattest team consulted with the accounting principal's group to develop the advice, who would the attest engagement team consult with? Would they consult with the same group or a different group?
- What does the client think if six months after the nonattest services is concluded, the attest engagement team questions the conclusions of the service?
- Does the firm have quality control systems in place to ensure this situation won't occur?

The task force believes that the IESBA code is encouraging the two teams to communicate while the corporate finance services are being provided, but the communication would increase the self-review threat or the audit team wouldn't spend the time to review the results of the nonattest service.

The task force discussed adding an example to the conceptual framework explaining that providing advice on investments in clients to third parties is not permitted as the member would be acting as an advocate for the client.

The task force has not reached a conclusion on how to address this within the code.

Question for the committee
4. Does the committee have any observations for the task force's consideration?

Recruiting services

IESBA addresses recruiting services in subsection 609. Paragraph R609.6 prohibits a firm or a network firm from providing recruiting service to an audit client if the service relates to any of the following:

a. Searching for or seeking out candidates

b. Undertaking reference checks of prospective candidates

c. Recommending ***the person*** to be appointed

d. Advising on the terms of employment, remuneration or related benefits of a ***particular candidate***, with respect to the following positions

i. A director or officer of the entity or

ii. A member of senior management in a position to exert significant influence over the preparation of the client's accounting records or the financial statements on which the firm will express an opinion.

IESBA's Basis for Conclusion document provides that item (*d*) above "focuses on the provision of advice in relation to the arrangements for the employment of a particular candidate. It does not preclude the provision of general information to assist clients to determine the arrangements to be offered."

The "Executive or Employee Recruiting" interpretation (ET. sec. 1.295.135) provides that if the "General Requirements for Performing Nonattest Services" are met a member may

- recommend a position description or candidate specifications.
- solicit and screen candidates identified by the client based on criteria approved by the attest client, such as required education, skills, or experience.
- recommend qualified candidates to the attest client for their consideration based on criteria approved by the attest client.
- participate in employee hiring or compensation discussions in an advisory capacity.

However, the member is prohibited from

- committing the attest client to employee compensation or benefit arrangements.
- hiring or terminating attest client's employees.

The task force concluded that there are differences in the IESBA and AICPA codes related to providing recruiting services for officers, directors, or senior management in "key positions."

The AICPA code could be viewed as more restrictive because the prohibited services cannot be provided to any positions at the attest client, not just positions for director, officer or an individual in a position to influence the financial statements. If the permitted services under the AICPA code are viewed as conflicting with the IESBA prohibitions, the AICPA code could be viewed as less restrictive than the IESBA code since the permitted services could be provided to an attest client for a director, officer or member of senior management in a position to influence the financial statements positions.

There was considerable discussion about the difference between "searching for or seeking out" as used in the IESBA code and "solicit" as used in the AICPA code. It was suggested that this point could be converged either by taking out "solicit" from the AICPA code or by developing a

Q&A to differentiate between the two codes.

The IESBA code also prohibits the undertaking of reference checks. While this is not specifically addressed in the AICPA code, the task force believes that this is a management responsibility and as such is prohibited by the AICPA code. A Q&A could be developed to point out the prohibition.

Questions for the committee

5. Does the committee agree that the IESBA code and AICPA code differ in the phrases “searching for or seeking out” vs “solicit[ing]” candidates?

6. If so, does the committee prefer to removing “solicit” from the AICPA code or developing a Q&A to differentiate between the two sets of terminology?

7. Does the committee agree that performing reference checks is a management responsibility and as such is prohibited under the AICPA code?

8. If so, does the committee believe that development of a Q&A to explain this would be helpful to members?

IESBA Monitoring - Technology Task Force

IFAC Convergence and Monitoring Task Force members

Anna Dourdourekas (chair), Cathy Allen, Nancy Miller, Katherine Savage, Lisa Snyder

Observers

Brandon Mercer

AICPA staff

Ellen Goria, Iryna Klepcha

Task force charge

The IFAC Convergence and Monitoring Task Force is charged with identifying projects that need to be undertaken due to inconsistencies between the AICPA and IFAC codes.

Reason for agenda item

To seek approval to form separate task forces to address confidential client information and using the output of technology. The goal of the task forces is to determine convergence needs for the technology-related revisions to the IESBA code issued in April 2023.

In November 2021, PEEC approved expansion of the charge of the existing Confidential Client Information and Data Security Task Force to include monitoring IESBA's revisions to the code related to data security. The IESBA code explicitly requires members to take reasonable steps to secure confidential information in the course of the entire data governance cycle. The Confidential Client Information and Data Security Task Force is considering convergence on this matter.

Task force activities

The IFAC Convergence and Monitoring Task Force discussed the AICPA and the IESBA codes on this topic; there are enough differences to warrant, among other things, appointing two new task forces to determine the necessary convergence steps related to the technology-related revisions. The IESBA code has the following requirements or addresses services that are absent from or not consistent with the AICPA code.

Confidentiality

The IESBA code prohibits disclosing confidential information to other individuals within a member's own firm or employing organization. Further, the IESBA code prohibits disclosing information, which was confidential when acquired in the course of a professional or business relationship and that subsequently becomes publicly available, whether properly or improperly.

The IFAC Convergence and Monitoring Task Force recommends appointing a task force to

determine the necessary convergence steps related to the confidentiality of client information and consider whether the current definition of confidential client information needs revision.

Using the output of technology

Members in business

The IESBA code requires professional accountants in business who intend to use the output of technology to determine the appropriate steps to take to fulfill the requirements related to preparation and presentation of information.

The IFAC Convergence and Monitoring Task Force recommends appointing a task force to consider whether and if so, how the AICPA code should address members' in business use of the output of technology.

Members in public practice

The IESBA code requires professional accountants in public practice who intend to use the output of technology to determine whether the use is appropriate for the intended purposes. The IFAC Convergence and Monitoring Task Force recommends staff perform further research to determine if guidance for members in public practice is lacking. Research will include outreach to AICPA committees and boards (for example, attestation standards, tax executive committee, forensic and valuation services executive committee) to determine how their professional standards address this matter.

Providing, selling, reselling or licensing technology

IESBA added additional examples of a close business relationship to its code:

- Arrangements under which the firm sells, resells the client's technology or when the client sells or resells the firm's technology
- Arrangements under which the firm or a network firm develops jointly with the client, products or solutions which one or both parties sell or license to third parties

The IFAC Convergence and Monitoring Task Force recommends the Business Relationships Task Force determine the necessary convergence steps related to the arrangement that may result in close business relationship.

IESBA's provision of nonassurance services to an audit client applies when firms have developed software for nonaudit clients who use such software to provide services that constitute a nonassurance service for its end users (that is., the nonaudit client's own customers) and where such end users are also audit clients of the firm. The IFAC Convergence and Monitoring Task Force also discussed a scenario in which a firm develops or is involved in developing technology that could affect financial reporting and then sells the technology to a third party that sells technology to others, potentially including audit clients of the firm.

The IFAC Convergence and Monitoring Task Force recommends staff develop nonauthoritative material clarifying when and how members should apply the information systems services interpretation in such circumstances. Consultation with former Information Systems Services Task Force members is recommended.

Independence for assurance engagements other than audit and review engagements

The independence requirements of the IESBA code do not apply to the agreed-upon procedures (AUP) engagements. The AICPA code is more restrictive because it includes independence requirements for the AUPs engagements.

IESBA's independence guidance requires that a firm should not assume a management responsibility related to the underlying subject matter in engagements performed in accordance with Statement on Standards for Attestation Engagements (SSAEs), other than AUPs. For such engagements, the AICPA code requires compliance with the general requirements, meaning that a member cannot assume a management responsibility at all. Therefore, the AICPA code is more restrictive.

Because the AICPA code is more restrictive on this topic, the IFAC Convergence and Monitoring Task Force believes convergence requirements are met. However, the Engagements Subject to the SSAEs Task Force discussed the difference in the codes and will update PEEC.

Threats associated with the use of technology

The IESBA code provides examples of threats associated with the use of technology (self-review and self-interest threats) and factors that could affect the level of the threats. The IFAC Convergence and Monitoring Task Force recommends the Artificial Intelligence Task Force consider IESBA's guidance when it develops nonauthoritative material.

Prohibition of assuming management responsibilities

The IESBA code explicitly prohibits assuming management responsibilities even if technology is used in performing a professional activity. Nonauthoritative material might be helpful to address situations in which tools make management decisions. Therefore, the IFAC Convergence and Monitoring Task Force recommends the Artificial Intelligence Task Force consider the IESBA's guidance when it develops nonauthoritative material.

Routine activities

Paragraph .02 of the "General Requirements for Performing Nonattest Services" interpretation (ET sec. 1.295.040) indicates that the safeguards in paragraph .01 of that interpretation and the "Documentation Requirements When Providing Nonattest Services" interpretation (ET. sec. 1.295.050) do not apply to certain routine activities performed by the member, such as providing advice and responding to the attest client's questions as part of the attest client-member relationship. Paragraph .01 Routine Activities of Q&A section 200 provides examples of such

routine activities, including educating the attest client on matters within the technical expertise of the member and responding to an attest client's questions on tax matters.

The word "routine" is used in paragraph .21 of the "Information Systems Services" interpretation (ET. sec. 1.295.145) and paragraphs .06,–.07 of the "Internal Audit" interpretation (ET. sec. 1.295.150) to describe prohibited activities.

Using the word "routine" to describe both prohibited and permitted activities might create confusion. The IFAC Convergence and Monitoring Task Force recommends staff explore how the guidance could be updated to address that.

Action needed

The committee is asked to appoint two new task forces and provide input on the timing of the projects given the committee's current project timetable:

- Confidential Client Information Task Force– Determine the necessary convergence steps related to the confidentiality of client information and consider whether the current definition of confidential client information is relevant.
- Using the Output of Technology Task Force– Consider if and how the use of the output of technology should be addressed by the AICPA code.

The committee is asked to provide feedback on other IFAC Convergence and Monitoring Task Force's recommendations:

Topic	Task force/Staff
Using the output of technology (members in public practice)	Staff (research) Using the Output of Technology Task Force
Providing, selling, reselling or licensing technology	The Business Relationships Task Force Staff with consultation of former Information Systems Services Task Force members
Independence for assurance engagements other than audit and review engagements	The Engagements Subject to the SSAEs Task Force
Threats associated with the use of technology Prohibition of assuming management	Artificial Intelligence Task Force

responsibilities	
Routine activities	Staff

IESBA convergence: NAS – Tax services

Task force members
Jimmy Williams (chair), Vince DiBlanda, John Ford, Dan Vuckovich

Observers
Lisa Darnell, Brandon Mercer, Lori West

AICPA staff
Liese Faircloth, Ellen Goria, Henry Grzes, John Wiley

Task force charge
To consider the Final Pronouncement Non-Assurance Services provisions of the International Ethics Standards Board for Accountants (IESBA) code related to tax services and to monitor the Statements on Standards for Tax Services (SSTSs) and IESBA Tax Planning and Related Services project to determine what guidance may be necessary.

Reason for agenda item
To request approval of the task force charge.

Background
IESBA's Tax Services Subsection 604 provides guidance in the following areas:

- Tax services in general
- Tax return preparation
- Tax calculations for the purpose of preparing accounting entries
- Tax advisory services and tax planning services
- Tax services involving valuations
- Assistance in the resolution of tax disputes

Task force activities
The task force has discussed possible approaches to convergence between the AICPA code and the IESBA code regarding tax services for the areas in the list above.

Tax services in general
IESBA addresses tax services in subsection 604 of the revised code. R604.4 provides a new general tax services prohibition on a firm or a network firm providing a tax service or recommending 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 treatment has a basis in applicable tax law or regulation that is likely to prevail.

IESBA's "Basis for Conclusions" document stated that respondents generally supported the proposed revisions to the tax services section of the code. However, many respondents commented on the use of the term "likely to prevail," noting that in their view it was subjective and unclear. Those respondents suggested, among other things, replacing the term with "more likely than not" because of its use in accounting literature and in the analogous PCAOB Rule 3522. IESBA decided to retain the "likely to prevail" term, noting that the Public Interest Oversight Board (PIOB) had expressed the view that the term "more likely than not" is perceived as being too low a threshold. Therefore, the "likely the prevail" terminology is used throughout the revised tax services subsection.

IESBA's new general standard requirement for all tax services for audit clients reads as follows:

> **R604.4** 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 treatment has a basis in applicable tax law or regulation that is ***likely to prevail***.
>
> 604.4 A1 Unless the tax treatment has a basis in applicable tax law or regulation that the firm is confident is likely to prevail, providing the non-assurance service described in paragraph R604.4 creates self-interest, self-review and advocacy threats that cannot be eliminated and safeguards are not capable of being applied to reduce such threats to an acceptable level.

PCAOB standard

The task force noted that Rule 3522 Tax Transactions in the PCAOB standards states that a registered public accounting firm is not independent of its audit client if the firm, or any affiliate of the firm, during the audit and professional engagement period, provides any nonaudit service to the audit client related to marketing, planning, or opining in favor of the tax treatment of, a transaction ─

a. Confidential Transactions - that is a confidential transaction; or

b. Aggressive Tax Position Transactions - that was initially recommended, directly or indirectly, by the registered public accounting firm and a significant purpose of which is tax avoidance, unless the proposed tax treatment is at least ***more likely than not*** to be allowable under applicable tax laws.

Task force's preliminary view

The task force plans to further study the threshold issue to determine whether additional protections provided for in the U.S. environment would allow the conclusion that there is substantial convergence with IESBA on this topic. Planned research incudes reviewing accounting and auditing standards, SSTSs, and IRS standards.

Questions for the committee

1. Does the committee have any other suggestions on standards or practices the task force should consider?

2. Are there protections provided for in the U.S. environment that the committee recommends the task force consider?

Tax advisory services and tax planning services

Paragraph 604.11 A1 states tax advisory services and tax planning services comprise a broad range of services, such as advising the audit client how to structure its affairs in a tax efficient manner or advising on the application of a tax law or regulation. Paragraph 604.12 A1 states providing tax advisory and tax planning services to an audit client might create a self-review threat when there is a risk that the results of the services will affect the accounting records or the financial statements on which the firm will express an opinion. Such services might also create an advocacy threat.

Paragraph 604.12 A2 states providing tax advisory and tax planning services will not create a self-review threat if such services:

a. Are supported by a tax authority or other precedent;

b. Are based on an established practice (being a practice that has been commonly used and has not been challenged by the relevant tax authority); or

c. Have a basis in tax law that the firm is confident is likely to prevail.

Paragraph 604.12 A3 states in addition to paragraph 604.3 A2, factors that are relevant in identifying self-review or advocacy threats created by providing tax advisory services and tax planning services to audit clients, and evaluating the level of such threats include:

- The degree of subjectivity involved in determining the appropriate treatment for the tax advice in the financial statements

- Whether the tax treatment is supported by a ruling or has otherwise been cleared by the tax authority before the preparation of the financial statements

- The extent to which the outcome of the tax advice might have a material effect on the financial statements

Paragraph R604.13 states a firm or a network firm shall not provide tax advisory services and tax planning services to an audit client when:

a. the effectiveness of the tax advice depends on a particular accounting treatment or presentation in the financial statements; and

b. the audit team has doubt as to the appropriateness of the related accounting treatment or presentation under the relevant financial reporting framework.

Paragraph 604.14 A1 states examples of actions that might be safeguards to address self-review or advocacy threats created by providing tax advisory and tax planning services to an audit client that is not a public interest entity include these:

- Using professionals who are not audit team members to perform the service might address self-review or advocacy threats.

- Having an appropriate reviewer, who was not involved in providing the service, review the audit work or service performed might address a self-review threat.

- Obtaining pre-clearance from the tax authorities might address self-review or advocacy threats.

The task force notes that the current "Tax Services" interpretation (ET sec. 1.295.160) in the nonattest services subtopic does not specifically address tax advisory services and tax planning services from independence perspective. The current "Advisory Services" interpretation (ET sec 1.295.105 par. .02) in the nonattest services subtopic permits the member to

a. provide advice, research materials, and recommendations to assist management in performing its functions and making decisions.

b. attend board meetings as a nonvoting advisor.

c. interpret financial statements, forecasts, or other analyses.

d. provide management with advice regarding its potential plans, strategies, or relationships.

It could be helpful to provide additional guidance that highlights the advocacy threat. The task force will use the research related to the more likely than not and likely to prevail thresholds to

inform its recommendation on how to address this.

Questions for the committee

3. Does the committee agree with the task force's recommendation to highlight the advocacy threat?

4. Since the Tax Services interpretation doesn't specifically address the impact on independence when providing tax advisory services and tax planning services to an attest client, does the committee have any concerns with the task force exploring authoritative revisions?

Substantial convergence areas

The task force believes there is substantial convergence on the following topics and issues and does not believe additional guidance is needed.

Tax return preparation

Paragraph 604.5 A1 states that tax return preparation services include the following:

- Assisting clients with their tax reporting obligations by drafting and compiling information, including the amount of tax due (usually on standardized forms) required to be submitted to the applicable tax authorities
- Advising on the tax return treatment of past transactions
- Responding on behalf of the audit client to the tax authorities' requests for additional information and analysis (for example, providing explanations of and technical support for the approach being taken)

Paragraph 604.6 A1 states providing tax return preparation services does not usually create a threat because

a. tax return preparation services are based on historical information and principally involve analysis and presentation of such historical information under existing tax law, including precedents and established practice and

b. tax returns are subject to whatever review or approval process the tax authority considers appropriate.

The current "Tax Services" interpretation in the nonattest services subtopic permits the member to prepare tax returns, transmit a tax return and payment, sign and file a tax return, have power of attorney limited strictly to tax matters, and represent an attest client in administrative proceedings before a taxing authority as long as the member complies with the "General

Requirements for Performing Nonattest Services" interpretation (ET sec. 1.295.040) an has appropriate authorization from the client.

The task force believes the IESBA provisions relating to tax return preparation are already addressed in the extant code.

Questions for the committee

5. Does the committee agree with the task force's assessment that the AICPA code is substantially converged with IESBA's provisions for tax return preparation?

6. If the committee believes that the AICPA code is not substantially converged with IESBA's provisions for tax return preparation, what recommendations does the committee have to achieve convergence?

Tax calculations for the purpose of preparing accounting entries

Paragraph 604.8 A1 states that preparing tax calculations of current and deferred tax liabilities (or assets) for an audit client for the purpose of preparing accounting entries that support such balances creates a self-review threat. Paragraph 604.9 A1 states in addition to the factors in paragraph 604.3 A2, a factor that is relevant in evaluating the level of self-review threat created when preparing such calculations for an audit client is whether the calculation might have a material effect on the financial statements on which the firm will express an opinion. Paragraph 604.9 A2 gives examples of actions that might be safeguards to address such a self-review threat when the audit client is not a public interest entity. These include the following:

- Using professionals who are not audit team members to perform the service
- Having an appropriate reviewer who was not involved in providing the service review the audit work or service performed

The task force notes that the current "Bookkeeping, Payroll, and Other Disbursements" interpretation (ET sec. 1.295.120 par. .02*b*) in the nonattest services subtopic permits the member to propose standard, adjusting, or correcting journal entries or other changes affecting the financial statements to the attest client. Prior to the member posting these journal entries or changes, the member should be satisfied that management has reviewed the entries and understands the nature of the proposed entries and the effect the entries will have on the attest client's financial statements. The member must ensure the "General Requirements for Performing Nonattest Services" interpretation are met.

Nonauthoritative "Ethics Questions and Answers, section 230" paragraph .05 "Proposing Adjusting Entries" specifically discusses adjusting entries to correct the client's tax provision and

deferred tax account.

> *Inquiry* — During the course of performing an attest engagement, the member proposes adjustments to the financial statement to the client management. For example, the member might propose adjusting entries to correct the client's tax provision, deferred tax account, or depreciation and amortization account. Client management reviews the proposed entries and related supporting documentation, understands the impact on its *financial statements*, and records the adjustments identified by the *member*. Would the proposal of such entries constitute a nonattest bookkeeping service subject to the interpretations of the "Nonattest Services" subtopic (ET sec. 1.295)?
>
> *Reply* — No. According to paragraph .04 of the "Scope and Applicability of Nonattest Services" interpretation under the "Independence Rule" (ET sec. 1.295.010), proposing entries as a result of the *member's attest engagement* is a normal part of those engagements and would not constitute performing a nonattest bookkeeping service subject to the interpretations of the "Nonattest Services" subtopic.

Nonauthoritative "Ethics Questions and Answers, section 280" paragraph .03 "Tax Services Related to FASB ASC 740-10-50, Income Taxes" specifically discusses services of identifying potential uncertain tax positions, advising the *attest client* whether those tax positions meet the more-likely-than-not (MLTN) threshold, and calculating the related unrecognized tax benefits.

> *Inquiry* — Would providing nonattest services to an attest client in the client's application of FASB *Accounting Standards Codification* (ASC) 740-10-50, *Income Taxes*, such as identifying potential uncertain tax positions, advising the *attest client* whether those tax positions meet the more-likely-than-not (MLTN) threshold, and calculating the related unrecognized tax benefits, impair independence?
>
> *Reply* — The provision of such nonattest services would not *impair independence* provided the individual designated by the *attest client* can make an informed judgment on the results of the member's services and the other requirements of the "General Requirements for Performing Nonattest Services" interpretation are met. In meeting the requirements of this interpretation, the member may assist the *attest client* in understanding why the tax positions do or do not meet the MLTN threshold and the basis for any unrecognized tax benefit so that the *attest client* can accept responsibility for the amounts reported and disclosed in the financial statements.

Tax calculations for the purpose of preparing and adjusting accounting entries are not directly addressed in the extant code but are addressed in the nonauthoritative Ethics Questions and Answers. The Q&A uses the more-likely-than-not threshold so the task force will monitor the evaluation of IESBA's "likely to prevail" threshold.

Questions for the committee

7. Does the committee agree with the task force's assessment that the AICPA code is substantially converged with IESBA's provisions for tax calculations for the purpose of preparing accounting entries?

8. If the committee believes that the AICPA code is not substantially converged with IESBA's provisions for tax calculations for the purpose of preparing accounting entries, what recommendations does the committee have to achieve convergence?

Tax services involving valuations.

Paragraph 604.16 A1 states the provision of tax services involving valuations might arise in a range of circumstances including these:

- Merger and acquisition transactions
- Group restructurings and corporate reorganizations
- Transfer pricing studies
- Stock-based compensation arrangements

Paragraph 604.17 A1 states providing a valuation for tax purposes to an audit client might create a self-review threat when there is a risk that the results of the service will affect the accounting records or the financial statements on which the firm will express an opinion. Such a service might also create an advocacy threat.

Paragraph 604.17 A2 states when a firm or a network firm performs a valuation for tax purposes to assist an audit client with its tax reporting obligations or for tax planning purposes, the result of the valuation might

a. have no effect on the accounting records or the financial statements other than through accounting entries related to tax. In such situations, the requirements and application material set out in this subsection apply.

b. affect the accounting records or the financial statements in ways not limited to accounting entries related to tax, for example, if the valuation leads to a revaluation of assets. In such situations, the requirements and application material set out in subsection 603 relating to valuation services apply.

Paragraph 604.17 A3 states performing a valuation for tax purposes for an audit client will not create a self-review threat if

a. the underlying assumptions are either established by law or regulation, or are widely accepted; or

b. the techniques and methodologies to be used are based on generally accepted standards or prescribed by law or regulation, and the valuation is subject to external review by a tax authority or similar regulatory authority.

Paragraph 604.18 A1 states a firm or a network firm might perform a valuation for tax purposes for an audit client that is not a public interest entity where the result of the valuation only affects the accounting records or the financial statements through accounting entries related to tax. This would not usually create threats if the effect on the financial statements is immaterial or the valuation, as incorporated in a tax return or other filing, is subject to external review by a tax authority or similar regulatory authority.

Paragraph 604.18 A2 states if the valuation that is performed for tax purposes is not subject to an external review and the effect is material to the financial statements, in addition to paragraph 604.3 A2, the following factors are relevant in identifying self-review or advocacy threats created by providing those services to an audit client that is not a public interest entity, and evaluating the level of such threats:

- The extent to which the valuation methodology is supported by tax law or regulation, other precedent or established practice
- The degree of subjectivity inherent in the valuation
- The reliability and extent of the underlying data

Paragraph 604.18 A3 states examples of actions that might be safeguards to address such threats for an audit client that is not a public interest entity include these:

- Using professionals who are not audit team members to perform the service might address self-review or advocacy threats.
- Having an appropriate reviewer who was not involved in providing the service review the audit work or service performed might address a self-review threat.
- Obtaining pre-clearance from the tax authorities might address self-review or advocacy threats.

Paragraph .02 of the current "Appraisal, Valuation, and Actuarial Services" interpretation (ET sec. 1.295.110) in the nonattest services subtopic states threats to compliance with the "Independence Rule" (ET sec. 1.200.001) will not be at an acceptable level and cannot be reduced to an acceptable level by the application of safeguards if the member performs an appraisal, a valuation, or an actuarial service for an attest client when (a) the services involve a

significant degree of subjectivity and (b) the results of the service, individually or when combined with other valuation, appraisal, or actuarial services, are material to the attest client's financial statements. Accordingly, independence would be impaired under these circumstances.

Paragraph .06 of the interpretation states that threats would be at an acceptable level if a member provided appraisal, valuation, or actuarial services solely for nonfinancial statement purposes. Some examples are appraisal, valuation, and actuarial services performed for tax planning or tax compliance, estate and gift taxation, and divorce proceedings. Accordingly, independence would not be impaired.

IESBA's provisions relating to tax services involving valuations are already addressed in the extant code and the AICPA is more restrictive in this area.

Questions for the committee

9. Does the committee agree with the task force's assessment that the AICPA code is substantially converged with IESBA's provisions for tax services involving valuations?

10. If the committee believes that the AICPA code is not substantially converged with IESBA's provisions for tax services involving valuations, what recommendations does the committee have to achieve convergence?

Assistance in the resolution of tax disputes

Paragraph 604.20 A1 states a non-assurance service to provide assistance to an audit client in the resolution of tax disputes might arise from a tax authority's consideration of tax calculations and treatments. Such a service might include, for example, providing assistance when the tax authorities have notified the client that arguments on a particular issue have been rejected and either the tax authority or the client refers the matter for determination in a formal proceeding before a tribunal or court.

Paragraph 604.21 A1 states providing assistance in the resolution of a tax dispute to an audit client might create a self- review threat when there is a risk that the results of the service will affect the accounting records or the financial statements on which the firm will express an opinion. Such a service might also create an advocacy threat.

Paragraph 604.22 A1 states in addition to those identified in paragraph 604.3 A2, factors that are relevant in identifying self-review or advocacy threats created by assisting an audit client in the resolution of tax disputes, and evaluating the level of such threats include the following:

- The role management plays in the resolution of the dispute
- The extent to which the outcome of the dispute will have a material effect on the financial statements on which the firm will express an opinion
- Whether the firm or network firm provided the advice that is the subject of the tax dispute
- The extent to which the matter is supported by tax law or regulation, other precedent, or established practice
- Whether the proceedings are conducted in public

When a self-review threat for an audit client that is a public interest entity has been identified, paragraph R604.24 applies.

Paragraph 604.23 A1 states examples of actions that might be safeguards to address self-review or advocacy threats created by assisting an audit client that is not a public interest entity in the resolution of tax disputes include these:

- Using professionals who are not audit team members to perform the service might address self-review or advocacy threats.
- Having an appropriate reviewer who was not involved in providing the service review the audit work or the service performed might address a self-review threat.

Paragraph R604.25 states a firm or a network firm shall not provide tax services that involve assisting in the resolution of tax disputes to an audit client that is not a public interest entity if

a. the services involve acting as an advocate for the audit client before a tribunal or court in the resolution of a tax matter; and

b. the amounts involved are material to the financial statements on which the firm will express an opinion.

The current "Tax Services" interpretation in the nonattest subtopic states threats to compliance with the "Independence Rule" would not be at an acceptable level, and could not be reduced to an acceptable level through the application of safeguards, and independence would be impaired if a member represents an attest client in court to resolve a tax dispute. For purposes of this interpretation, court encompasses a tax, district, or federal court of claims and the equivalent state, local, or foreign forums.

The IESBA provisions relating to tax services involving valuations are already addressed in the extant code and the AICPA is more restrictive in this area.

Questions for the committee

11. Does the committee agree with the task force's assessment that the AICPA code is substantially converged with IESBA's provisions for assistance in the resolution of tax disputes?

12. If the committee believes that the AICPA code is not substantially converged with IESBA's provisions for assistance in the resolution of tax disputes, what recommendations does the committee have to achieve convergence?

Digital Assets

Task force members

Anna Dourdourekas (Chair), Danielle Cheek, Faith Kim, Colleen Kipfstuhl, Bella Rivshin, Jay Schulman

Other project members

Jennifer Alzona, Diana Krupica

Observers

Colin Callander, Carey Carpenter, Mary Grace Davenport, Vincent DiBlanda, Scott Graham, Erica Hanson, Ethan King, Francisco Alvarez Olmedo, Kristen Schrader, Lynn Valdes

AICPA staff

Ellen Goria, Toni Lee-Andrews, Michael Schertzinger

Reason for agenda item

To request approval of the task force charge and to seek the committee's input on the nonauthoritative question and answer (Q&A) in agenda item 13B.

Proposed task force charge

To consider the potential impacts on a member's independence related to digital assets and whether changes to the AICPA Code of Professional Conduct, or nonauthoritative guidance, or if a combination of both is required.

Background

The task force has discussed the different areas of digital assets to address. The task force is still in the discovery phase of determining whether the topics will require changes to the AICPA Code of Professional Conduct (code), nonauthoritative guidance, or both.

The AICPA Digital Asset Working Group[1] has been exploring ways that members can access information on a blockchain to determine proper existence, rights, and obligations for an attest client. One of the ways is to operate node software on the specific blockchain. This raises the question of whether operating node software on a blockchain can impair a member's

[1] The AICPA formed the Digital Assets Working Group as a joint working group under the Financial Reporting Executive Committee (FinREC) and the Assurance Services Executive Committee (ASEC), with the objective of developing nonauthoritative guidance for financial statement preparers and auditors on how to account for and audit digital assets under U.S. generally accepted accounting principles (GAAP) for nongovernmental entities and generally accepted auditing standards (GAAS), respectively. The working group is split into two subgroups, one focusing on accounting topics and one focusing on auditing topics.

independence.

Task force activities

Since the August PEEC meeting, the task force has met to discuss this topic and the Q&A staff drafted. An overview of the discussions follow.

Different types of node software operate on different blockchains. Some node software can perform a variety of actions on the blockchain from obtaining information to acting as form of governance. For public blockchains, such as Bitcoin, the node software mainly validates the transactions (makes sure the transaction is true), broadcasts the transaction to other node software on that blockchain, and may be paid a fee for validating the transaction.

Users that operate a majority of the node software on the blockchain may have the ability to influence the validity of the transactions and how the blockchain operates. To determine whether independence will be impaired, members need to assess whether running node software on a blockchain can influence the validity of the transactions and how the blockchain operates.

A nonauthoritative Q&A will help members consider whether operating node software on a blockchain will impair their independence. The task force will continue work on this and other complex topics and will determine whether additional Q&As should be added.

Questions for the committee

1. Does the committee approve the task force charge?
2. Does the committee have any suggested revisions to the Q&A?
3. Does the committee believe that the term “inconsequential” would indicate to members that their ability to influence the blockchain is something smaller than minimal? If no, what alternative term does the committee think should be used?

   Note: The term “inconsequential” is not something that is only being used in this instance. The term “inconsequential” is included in various places in the code and in Q&As in order to explain a very low threshold.

Materials presented

Agenda item 13B: Proposed Q&A section xxx, Digital Assets

Proposed Q&A

Terms defined in the AICPA Code of Professional Conduct are italicized the first time they appear in this document. If you'd like to see the definitions, you can find them in "Definitions" (ET sec. 0.400)

Q&A section xxx, Digital Assets

.01 Operating node software on a blockchain

Inquiry — If you operate one node software out of thousands of node software on a public blockchain for the purpose of obtaining information for an *attest engagement*, would the *threats* to *independence* be at an *acceptable leve*l?

Reply — Yes, provided the node software has an inconsequential ability to influence the validity of transactions and how the blockchain operates.

If your facts and circumstances are different, use the "Conceptual Framework for Independence" to evaluate whether *threats* can be reduced to an *acceptable level* by applying appropriate safeguards. If *threats* cannot be eliminated or reduced to an *acceptable level*, *independence* will be impaired.

If you are unsure how to apply the "Conceptual Framework for Independence" interpretation, the AICPA Professional Ethics Division has developed a toolkit to help you.

The AICPA has developed some resources on digital assets such as a practice aid and glossary to help you.