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Ethics Interpretation No. 501-8, “Failure to Follow Requirements of Governmental Bodies, Commissions, or Other Regulatory Agencies on Indemnification and Limitation of Liability Provisions in Connection With Audit and Other Attest Services”(AICPA, *Professional Standards*, vol. 2, ET sec. 501 par. .09)

Ethics interpretations and rulings are promulgated by the executive committee of the professional ethics division to provide guidelines as to the scope and application of the rules but are not intended to limit such scope or application. Publication of an interpretation or ethics ruling in the Journal of Accountancy constitutes notice to members. A member who departs from interpretations or rulings shall have the burden of justifying such departure in any disciplinary hearing.

(The Professional Ethics Executive Committee has adopted a new Interpretation No. 501-8, “Failure to Follow Requirements of Governmental Bodies, Commissions, or Other Regulatory Agencies on Indemnification and Limitation of Liability Provisions in Connection With Audit and Other Attest Services [AICPA, Professional Standards, vol. 2, ET sec. 501 par. .09])

.09 501-8—Failure to Follow Requirements of Governmental Bodies, Commissions, or Other Regulatory Agencies on Indemnification and Limitation of Liability Provisions in Connection With Audit and Other Attest Services

Certain governmental bodies, commissions, or other regulatory agencies (collectively, *regulators*) have established requirements through laws, regulations, or published interpretations that prohibit entities subject to their regulation (*regulated entity*) from including certain types of indemnification and limitation of liability provisions in agreements for the performance of audit or other attest services that are required by such regulators or that provide that the existence of such provisions causes a member to be disqualified from providing such services to these entities. For example, federal banking regulators, state insurance commissions, and the Securities and Exchange Commission have established such requirements.

If a member enters into, or directs or knowingly permits another individual to enter into, a contract for the performance of audit or other attest services that are subject to the requirements of these regulators, the member should not include, or knowingly permit or direct another individual to include, an indemnification or limitation of liability provision that would cause the regulated entity or a member to be in violation of such requirements

or that would cause a member to be disqualified from providing such services to the regulated entity. A member who enters into, or directs or knowingly permits another individual to enter into, such an agreement for the performance of audit or other attest services that would cause the regulated entity or a member to be in violation of such requirements, or that would cause a member to be disqualified from providing such services to the regulated entity, would be considered to have committed an act discreditable to the profession.

Members should also consult Ethics Ruling No. 94, “Indemnification Clause in Engagement Letters,” of ET section 191, *Ethics Rulings on Independence, Integrity, and Objectivity* (AICPA, *Professional Standards*, vol. 2, ET sec. 191 par. .188–.189) under Rule 101, *Independence* and Ethics Ruling No. 102, “Indemnification of a Client,” of ET section 191, *Ethics Rulings on Independence, Integrity, and Objectivity* (AICPA, *Professional Standards*, vol. 2, ET sec. 191 par. .204–.205) under Rule 101, *Independence*, for guidance related to use of indemnification clauses in engagement letters and the impact on a member’s independence.