AMERICAN INSTITUTE OF CERTIFIED PUBLIC ACCOUNTANTS
DIVISION OF PROFESSIONAL ETHICS
PROFESSIONAL ETHICS EXECUTIVE COMMITTEE
OPEN MEETING MINUTES
JULY 20-21, 2015
SEATTLE, WASHINGTON

The Professional Ethics Executive Committee (Committee) held a duly called meeting on July 20-21, 2015. The meeting convened on the 20th at 8:31 a.m. and concluded at 5:00 p.m. The meeting reconvened on the 21st at 8:00 a.m. and concluded at 9:00 a.m.

Attendance:	
Samuel L. Burke, Chair	Linda J. McAninch
Carlos Barrera	Andrew Mintzer
Tom Campbell	Jarold Mittleider
Richard David	Steven Reed*
Robert E. Denham	Ray Roberts
Jana Dupree	Michael Schmitz
Greg Guin	Edward Schultz
Raymond Johnson (July 20th only)	Lawrence I. Shapiro
Brian S. Lynch	Laurie Tish
John Malahoski	Shelly Van Dyne
Staff:	
Lisa Snyder, Director	Jason Evans, Sr. Technical Manager
James Brackens, VP - Ethics & Practice Quality	Liese Faircloth, Technical Manager
Michael Buddendeck, General Counsel	Michele Craig, Technical Manager*
Ellen Goria, Sr. Manager	Brandon Mercer, Technical Manager*
	April Sherman, Technical Manager*
Guests:	
Al Pruskowski, Chair, Independence/Behavioral Standards Subcommittee	
Ian Benjamin, Chair, Technical Standards Subcommittee	
Dan Dustin, VP State Board Relations, NASBA	
Nancy Miller, KPMG	
Anna Dourkourekas, GT	
Vincent DiBlanda, DT	
Sonja Araujo, PwC	
Catherine Allen, PwC	
Mary Ann Hardy, GAO	
George Dietz, PwC*	
Edith Yaffe, E&Y*	
Joan Sterling, BDO*	
Elaine Cahoon, KPMG* (July 21st only)	
*Via Phone	

1. **Merged Firms**
   Ms. Goria explained that one commenter to the exposure draft asked if the term "professional employee" included "contract professionals". She explained that this term is used in a number of places throughout the Independence topic of the AICPA Code and so a decision to define this term would have implications beyond the merged firm topic. Ms. Goria explained that

although the Committee has discussed defining the term “professional employees” previously, it has decided not to pursue such a project and instead allow members to use their professional judgement in assessing the facts and circumstances of each situation. Although it was noted that it could potentially be confusing to members whether these contractors should be considered employees, the Committee did not believe this was an issue that needed to be addressed at this time.

Ms. Snyder explained that three commenters believed clarification is needed regarding whether the phrase “effective date of the merger” means the “closing date of the merger” or something else. She explained that the Task Force believes the “closing date” would be clearer so recommends that the provisions in the interpretation that refer to “prior to the effective date of the merger or acquisition” be revised to state “prior to the closing date of the merger or acquisition. The Committee agreed with the Task Force’s recommendation and noted that since it is unlikely that these transactions could have retroactive effective dates, it would not be necessary to acknowledge this in the interpretation.

Ms. Snyder explained that two comments were received related to the requirement that when a former partner or professional employee leaves the firm and joins the attest client in a key position as a result of the merger, “an individual with appropriate stature, expertise and objectivity, should review the subsequent engagement prior to issuing an attest report to determine whether the attest engagement team maintained appropriate integrity, objectivity, and as appropriate, professional scepticism.” One commenter recommended that clarification be provided regarding who this person would be since it would seem appropriate for the engagement partner to perform this review. The other commenter was uncertain as to the Committee’s rationale for imposing an additional requirement to assess prior relationships and questioned the meaning of the phrase “In such situations”. Ms. Snyder explained that this notion of an individual with “appropriate stature, expertise and objectivity“ review an engagement is used elsewhere in the Code and that the Task Force believed the phrase “In such situations” was clearly referring to only situations where threats are not at an acceptable level. Given this, she explained that the Task Force does not recommend any clarifications. The Committee did not disagree with the Task Force’s recommendation.

Ms. Snyder explained that the Task Force does not recommend clarifying what is meant by “will have interaction with” in the provision that if a former partner or professional employee leaves the firm and is employed at an attest client in a key position, that threats would be significant if that partner or professional employee will have interaction with members of the attest engagement team regarding the attest client. Ms. Snyder also explained that the Task Force did not believe that the acquiring firm should have to wait to have discussions with those charged with governance until the engagement was “assigned” to the acquiring firm. The Committee did not disagree with either of these recommendations.

Ms. Snyder explained that four commenters noted that they preferred a single set of evaluation criteria when prohibited nonattest services were performed and provided the Committee with an overview of the four perspectives. She explained that the Task Force believes that clarification was needed, in that if the acquiring firm provided prohibited nonattest services but those services were provided in a period that would pre-date the financial statement period that would be covered by the attest report (that is assuming the acquiring firm was engaged), that independence would not be impaired. She further explained that to address this concern the Task Force recommends that the phrase “period of the professional engagement” be removed from new paragraph .06 and that a new paragraph .05 be added that would state:

.05 ***If the acquiring firm provided prohibited nonattest services to an attest client of the acquired firm prior to the financial statement period covered by the acquiring firm's next attest report, the acquiring firm's independence would not be impaired****.*

The Committee agreed that the phrase "period of the professional engagement" should be removed but that a new paragraph .05 was not needed.

A member asked the Committee how it envisioned the standard should be applied when there is a "merger of equals." Another member noted that since GAAP requires one firm to be the acquiring firm there could not technically be a merger of "equals" as one firm will always be designated as the acquirer.

Ms. Snyder explained that the Task Force does not believe that the comments provided relating to the conclusions reached when the prohibited nonattest services are performed by the acquired firm provide a compelling reason for any changes. While at least one member noted that he continues to believe that consistent treatment should be provided for both the acquired and acquiring firm, after deliberating this issue further, the Committee agreed with its initial position and did not propose any revisions.

Ms. Snyder explained that because of the number of comments received in the area of the evaluation of threats on the basis of attribution, the Task Force proposes that two nonauthorative FAQs be developed to provide guidance to members. One FAQ would provide an example of when the services would be considered attributable to a firm while the other would demonstrate when services would not be attributable to a firm. The Committee was agreeable to this proposal.

One member noted that since the Committee seemed to be amenable to allowing an evaluation of threats to be performed when the acquired firm provided the prohibited nonattest services, he recommended that the individuals that provided the prohibited nonattest services should not be permitted to be on the attest engagement nor be in a positon to influence the attest engagement. The Committee was supportive of this recommendation but noted that currently this safeguard existed as just a possible safeguard that could be applied when a member's evaluation identified that threats are not at an acceptable level. As such, the Committee agreed to make this safeguard one of the required safeguards by moving it from paragraph .10 and into paragraph .07.

The Committee agreed with the Task Force's recommendation that it did not seem necessary to stipulate who within the firm had to discuss the matter with those charged with governance, rather, what was important was that the conversation occurred. As such, the Committee revised paragraph .11 to make this clear.

Ms. Snyder noted that some feedback was received that additional examples of relationships or circumstance should be added to this interpretation. However, she explained that the Task Force believes paragraph .12 adequately addresses this concern and so does not recommend any additions. The Committee did not disagree.

Ms. Snyder explained that Comment Letter 3 points out that while the proposal references acquisitions of all or parts of a business, it is unclear whether this would include situations

where a firm takes on only certain professionals and clients of another firm but there is no formal transaction to acquire all or part of a firm. She further explained that this commenter believes that an evaluation of threats to independence and the application of safeguards would be appropriate in these situations similar to more formal merger and acquisition transactions and recommends that the Committee consider whether the substance of such arrangements are covered by the existing language in the proposal, or whether the Interpretation should be expanded or clarified to include specific reference to these types of arrangements. Ms. Snyder explained that the Task Force does not believe the intent of the guidance was to scope in informal situations such as when a firm hires an individual from another firm who was the lead partner on a nonattest engagement but that the interpretation would cover situations where one firm merges with or acquires only part of another firm or entity such as when the firm acquires a "book of business" of another firm. Ms. Snyder explained that the Task Force does not believe any revisions are necessary.

Ms. Snyder explained that the Task Force believes it is appropriate to address relationships that exist within network firms and so does not believe an exception for network firms, as recommended by one commenter, is warranted. She also explained that the Task Force recommends deleting the FAQ dealing with "letters of intent" as it was no longer necessary. The Committee did not disagree with either of these recommendations.

Ms. Snyder explained that most commenters believed some period of transition is necessary with two commenters noting that mergers and acquisitions that are underway or pending be provided some relief. One commenter also believed members should be allowed to implement the guidance early. She explained that the Task Force recommends that some relief be provided for mergers or acquisitions that close within three months of the effective date of the interpretation so that firms that don't have similar safeguards built into its merger and acquisition process will have some additional time to identify the potential employment and nonattest services that require the implementation of the new safeguards. She further explained that since some firms may already have similar safeguards built into its merger and acquisition process, the Task Force recommends that members be allowed to implement the interpretation early. There was some discussion that perhaps a slightly longer period was necessary but it was agreed to accept the recommendation of the Task Force.

A motion was made and seconded to adopt the interpretation as revised by the Committee. During the discussion of this motion, a member asked the Committee to again consider consistent treatment between the acquired firm and acquiring firm with regard to the provision of nonattest services. A straw poll was taken to gauge how many might be in favor of a hybrid approach. Only six members indicated they would be in favor of an approach where neither firm could provide attest services if either the acquired firm or acquiring firm provided prohibited nonattest services whereby there was no support for both firms to apply safeguards to eliminate the threats. Given the results of the straw poll, a vote was taken on the original motion and was passed by a vote of 19 to 1.

2. <u>IESBA Update</u>

Ms. Snyder provided an update on the activities of the IESBA noting that the IESBA deliberated three main projects at its meeting in June 2015: Long Association, Structure of the Code and Non-Compliance with Laws and Regulations (NOCLAR).

Long Association

Ms. Snyder reviewed the current rotation proposals being considered by the IESBA, noting the original proposal included in the exposure draft required seven years rotation with five years cooling off for the lead engagement partner on audits of public interest entities (PIEs). It was further noted that most respondents to the exposure draft were in favor of the provisions applying to all PIES as opposed to applying only to listed entities.

Ms. Snyder noted that the IESBA Consultative Advisory Group (CAG) expressed support in applying the same rotation requirements for both the engagement quality control review (EQCR) partner and the lead audit partner. Most small firms reacted negatively to this proposal noting a lack of client contact by EQCR partners and therefore, a decreased risk of threats to the fundamental principles.

The Long Association Task Force's most recent considerations include a rotation period of seven years and a cooling off period of five years for lead engagement partners for all PIEs. EQCR partners would be required to rotate from a listed PIE after seven years while cooling off for five years, with the cooling off period decreasing to two years for nonlisted PIEs. All other key audit partners would be required to rotate off a PIE after seven years while cooling off for two years.

Ms. Snyder noted that since the rotation proposals affect PIEs only, it will most likely have minimal to no effect concerning the AICPA Code. According to the Code, only listed entities and entities subject to SEC independence rules are considered PIEs, thus the SEC would have jurisdiction and its partner rotation rules would apply.

The IESBA staff have not concluded whether any proposed changes to the rotation requirements in the exposure draft would require re-exposure. Ms. Snyder noted that AICPA staff will continue to monitor the progress of the Long Association Task Force of the IESBA.

Structure of the IESBA Code
Mr. Evans provided an update on the progress of the IESBA's Structure of the IESBA Code Task Force. Mr. Evans noted that the Task Force had presented draft material to the IESBA at the June 2015 meeting. Mr. Evans further noted that the Task Force will continue to redraft the Code and present the remainder of the Code to the Board at its September 2015 meeting. He stated that the Task Force is making significant progress and anticipates approval for exposure in December of 2015.

NOCLAR
Mr. Evans briefed the PEEC as to how the proposed NOCLAR guidance affects professional accountants in public practice. He explained the differences in the requirements between auditors and other professional accountants in public practice noting that auditors were held to a higher standard in terms of addressing and reporting a suspected illegal act. Ms. Snyder stated that the guidance's fundamental objective is to encourage management to address a suspected NOCLAR as opposed to placing primary responsibility on the professional accountant in public practice. Ms. Snyder added that the guidance states that disclosure of a NOCLAR cannot be made if such disclosure would violate local laws. Thus, a state board law prohibiting such disclosure would preclude the proposed guidance from being applied. The PEEC generally agreed with the four categories of professional accountants identified by the guidance and the specific requirements for each.

Ms. Snyder noted that the AICPA's Business and Industry Executive Committee was generally supportive of the proposed guidance pertaining to professional accountants in business (PAIBs). Ms. Snyder reviewed the proposed guidance with the Committee detailing the specific steps senior PAIBs must take when discovering a suspected NOCLAR noting specifically that senior PAIBs have a greater level of responsibility than other PAIBs in addressing a NOCLAR.

Ms. Snyder explained that the proposed guidance encourages senior PAIBs to document suspected NOCLARs while professional accountants in public practice who are auditors are required to document. This is consistent with the International Standards on Auditing.

Ms. Snyder stated that the AICPA Code has exceptions to the Confidential Client Information Rule when disclosure is required by law or regulation. However, the Code would not permit disclosure in accordance with the proposed NOCLAR guidance. Thus, the Rule would need to be revised if such guidance were to be adopted.

A member of the Committee noted that the current draft is more favorable than that of the original exposure draft. He further noted that the guidance did not note that it would be inappropriate for a professional accountant in public practice to receive a monetary reward for the disclosure of a NOCLAR.

Another member noted that a professional accountant may be hired to investigate a NOCLAR, such as in a forensic engagement, and thus, under the proposed guidance, may be permitted to disclose said NOCLAR. Ms. Snyder noted that this was a concern that would be raised in the comment letter. It was noted that if a professional accountant is hired by an attorney rather than the client, the disclosure would not be required under the proposal due to legal privilege.

Ms. Snyder stated that Staff would work with the IESBA Convergence Task Force to comment on the proposal and will continue to monitor the deliberations of the IESBA concerning the proposed guidance.

3. <u>Client Affiliate</u>

Mr. Lynch explained that overall the feedback on the proposal was positive and the Task Force was only recommending one clarifying revision and the addition of a nonauthoritative text box.

Mr. Lynch explained that although the Task Force does believe that a change of position is necessary with respect to how significant influence is achieved over a multiemployer plan, the Task Force believes the proposal, as exposed, was drafted broadly enough to accommodate this change of positon. He explained that after further discussion, the Task Force believes that if a member comes across a situation where he or she believes significant influence was achieved when there is no participation on a multiemployer employee benefit plan's governing board, that the definition should not preclude the member from concluding as such. He also noted that the Task Force also believes that the proposed changes to FAQ 3c were also drafted broadly enough to accommodate for this change of position. The Committee did not object to this change of position.

Mr. Lynch explained that the affiliate definition acknowledges that with regard to multiple employer employee benefit plans, differing treatment is appropriate depending upon whether

the member is providing financial statement attest services to the plan or to a participating employer. He recapped that when the plan is the financial statement attest client, only that participating employer that is the plan's administrator should be considered an affiliate. Alternatively, when the financial statement attest client is the participating sponsor, any multiple employer plan that it sponsors should be considered an affiliate even if another entity is the plan's administrator. Mr. Lynch explained that one commenter believes that this differing position is not appropriate and instead members should consider the plan an affiliate only if the participating employer is the sponsoring association or if it demonstrates significant influence either through its involvement in plan administration (or board representation if a board or equivalent committee exists) or because it is a material participant in the plan. Mr. Lynch explained that the Task Force does not recommend a revision and the Committee did not object. However, it was noted that the second sentence (A financial statement attest client that sponsors an employee benefit plan includes, but is not limited to, all participating employers of a multiple employer.) in item "j" could be revised to make it clearer that all participating employers of a multiple employer employee benefit plan are considered sponsors of the plan and so any multiple employer plans that they sponsor should be considered affiliates when that employer is the financial statement attest client. The Committee agreed to revise this sentence to read as follows "All participating employers of a multiple employer employee benefit plan are considered sponsors of the plan."

Mr. Lynch further explained that a commenter noted that in some multiple employer employee benefit plans, the plan administrator can be an entity that is not a participating employer and as such, recommended that item "i" be revised so that any entity that is the plan's administrator should be considered an affiliate of the plan when the member is providing financial statement attest services to the plan. Mr. Lynch explained that the Task Force does not recommend a revision be made at this time. The Committee did not object.

Mr. Lynch also noted that the Task Force recommends that a nonauthoritative text box be added to the end of the affiliate definition that will point members to the FAQ document. The Committee did not object to this addition.

It was moved, seconded and unanimously approved to adopt the proposal as revised by the Committee during the meeting with no delayed effective date.

4. <u>Transfer and Return of Client Files</u>

Mr. Barrera reported that the Task Force has drafted guidance in the form of a proposed revision to the *Disclosing Client Information in Connection With a Review of the Member's Practice* Interpretation and a proposed new interpretation, *Transfer and Return of Client Files*. He explained that the Task Force is proposing that a new paragraph be added to the *Disclosing Client Information in Connection With a Review of the Member's Practice* Interpretation that would require client confidentiality when a member obtains client files as the result of acquiring a member's practice and therefore, not limit the guidance to only the review of a practice. The Committee was in support of the proposed revision and did not offer any further edits.

Mr. Barrera next discussed the proposed *Transfer and Return of Client Files* interpretation. He explained that for a member who sells or transfers their practice, the member would be required to expend best efforts to contact each client and either obtain their consent to transfer the files or make arrangements to return any client records that would be required to be returned under the *Records Requests Interpretation*. The member would be able to presume

that the client consents to the transfer of files if the client does not take any action within ninety days of sending the notice. With regard to a member who discontinues his or her practice, Mr. Barrera explained that the Task Force believes the member should expend best efforts to notify each client and make arrangements to return any records that the member is required to provide under the *Records Requests Interpretation*. In cases where the member is unable to contact the client, he noted that the Task Force believes the appropriate requirement for retention of client files should be the longer of the firm's record retention policy or applicable legal or regulatory requirements.

Mr. Barrera further explained that with respect to a member who acquires a practice, the Task Force believes the member should be satisfied that all clients of the predecessor firm have been notified of the acquisition and have consented to the member's continuation of professional services and retention of client files. In cases where a client has not provided their consent, the guidance would require the member to expend best efforts to contact the client.

Finally, Mr. Barrera noted that it was recently brought to the Task Force's attention that Internal Revenue Code Rule 7261 may have more restrictive requirements for tax preparers regarding the transfer of client files and therefore recommends that a reference be included in the proposal to address that the IRS rules may be more restrictive.

Some Committee members believed that the guidance was unclear with regard to who has responsibility to notify the client that the transfer or sale will take place. Committee members generally agreed that the member acquiring the practice should not be required to take any action if they do not intend on taking any client files. The Committee further agreed that the obligation to notify and obtain consent from the client should rest with the member selling or transferring the practice and the member acquiring the practice should not accept any client files unless they are aware that the client has provided consent to the seller or transferor (or did not object 90 days after being notified). At least one committee member believed that in cases where the member was deceased or incapacitated, the estate, spouse, etc., should still be obliged to obtain consent from clients prior to transferring client files to another firm.

The Committee agreed that it was reasonable for client consent to be presumed after ninety days has passed. It also supported a reference to be included in the Interpretation noting that IRS regulations may be more restrictive with respect to the transfer of client files.

Some members of the Committee believed that the member should be required to notify the client in writing of the sale, transfer or discontinuation of the practice. While the Committee did not reach consensus as to whether notification to the client should be written, it was agreed that the question should be asked in the exposure draft.

Various edits were made to the proposed Interpretation based on the Committee's feedback but due to time constraints, it was agreed to have the Task Force continue to work on the interpretation and make any additional edits it deemed necessary for presentation to PEEC in October.

5. <u>Definition of Client</u>

Mr. Mintzer explained that the Task Force continues to believe that the definition of client should only include the entity that engages the member and not the entity that services are performed on ("target entity") if different from the engaging entity. He further explained that in

past Committee meetings concern was expressed that members should owe some level of confidentiality to the target entity when it is not also the engaging entity. However, upon further reflection, the Task Force believes this issue is addressed by the *Use of Confidential Information form Nonclient Sources* interpretation [1.400.240]. Specifically, this interpretation explains that if a member discloses confidential information from a prospective client or a nonclient without consent, the member will be in violation of the *Acts Discreditable* Rule. Mr. Mintzer explained that since this interpretation was only recently recalled, the Task Force believes it would be helpful to add an interpretation to the confidential client information topic that would direct the readers to the interpretation under the *Acts Discreditable* Rule. It was noted that a similar cross reference to the interpretation was included in the *Fees and Other Types of Remuneration* topic. The Committee did not object to this addition.

Mr. Mintzer explained that the Task Force believes that there is another unintended consequence to changing the definition of client to exclude the target entity when it is not the same entity that engages the member. Specifically, the Task Force believes that members should have a duty to return the target company's original records, akin to that imposed upon members for clients in the *Records Request* interpretation under the *Acts Discreditable* Rule. The Committee agreed but suggested the Task Force use wording that is consistent or in line with, that which is used in the *Records Request* interpretation (e.g., accounting or other records, including hardcopy and electronic reproductions of such records, belonging to the prospective client or the nonclient that were provided to the member by, or on behalf of, the prospective client or the nonclient).

Mr. Mintzer went on to explain that the Task Force recommends adding an example to the Conflicts of Interest interpretation that presents a situation where a retaining entity and target company are involved. The Committee did not believe adding an example was necessary.

Mr. Mintzer concluded his presentation noting that at the May 2015 meeting, the Committee agreed that the definition of an "attest client" should only include the person or entity that the member is performing the attest engagement on (i.e., target entity) so that it is not a subset of the "client" definition. He explained that the Task Force proposed some minor edits to the "attest client" definition to make it clear that it is not a subset. He noted that the Task Force also recommends that the "government auditor provision" be moved from the client definition to the attest client definition since it was added to the Code initially so that government auditors could be in compliance with the AICPA's independence rules. The Committee did not object to these revisions.

6. <u>IESBA Suspected Noncompliance with Laws and Regulations Exposure Draft</u>
See the IESBA Update.

7. <u>Entities Included in State and Local Government Financial Statements</u>
Ms. Miller explained that when a member is auditing the primary government, the Task Force believes that there are some situations where immateriality may be an appropriate factor in determining if the member needs to remain independent of an entity that is included in the primary government's financial statements but depends upon the type of entity. In an effort to assist with the Committee's understanding of the Task Force's preliminary conclusions, Ms. Miller provided the Committee with an overview of some of the terms used (i.e., funds (major vs. nonmajor) and component units (blended vs. discretely presented)).

Ms. Miller explained that the Task Force believes that materiality should *not* be a factor in determining whether the member must be independent of a major fund. She explained that the Task Force believes that since each major fund is reported separately and since the member issues a separate opinion for each major fund, it is not appropriate for materiality to be a factor since presumably each would be material to itself. One member of the Committee expressed concurrence with this preliminary conclusion.

Alternately, she explained that the Task Force believes that materiality may be a factor in determining whether the member must be independent of a discretely presented component unit (DPCU) or a nonmajor fund. Ms. Miller explained that the Task Force believes that since each of these entities are aggregated into a single opinion unit and the member issues an opinion on the aggregate, materiality should be a factor when an individual DPCU or non-major fund is immaterial to the opinion unit it is part of (i.e., aggregate DPCU or aggregate non-major funds). She noted that when one of these entities are immaterial, the Task Force believes that it is unlikely that the member will perform any attest procedures on the "entity". However, notwithstanding this preliminary conclusion, Ms. Miller explained that the Task Force believes that there could be situations where significant threats exist and when that is the case, the member should be required to assess the situation using the conceptual framework. One member of the Committee noted that it would be helpful to understand why the GASB environment is different from the FASB environment since in the FASB environment materiality is not a factor with regard to subsidiaries.

Ms. Miller also noted that the Task Force plans to discuss if members should be required to perform a conceptual framework assessment when relationships or circumstances that would create significant threats are identified with respect to an entity even if the member is relying on another auditor's report for that entity. The Committee agreed that the Task Force could seek the feedback of the State and Local Government Expert Panel before bringing its recommendations to the PEEC if the timing worked.

8. <u>Maintaining or Hosting Client Data</u>

Ms. VanDyne explained that the Task Force believes that when hosting services involve the member hosting an attest client's data or records for the purpose of maintaining the data or records on the attest client's behalf as the authoritative source or acting as the client's repository for those data or records, then the member effectively not only has custody or control of the attest client's assets but will have also accepted responsibility for maintaining internal control over those assets. She explained that in these situations, the Task Force believes independence would be impaired. The Task Force was directed to further discuss the phrase "authoritative source" to see if it could come up with a clearer term or some descriptive language to assist with understanding what is envisioned.

Ms. VanDyne then described the examples that the Task Force had developed as a way to provide insight into situations that it believes would impair independence. With respect to the example that "The client houses the production version of its system on the member's servers (even if it is a nonfinancial system)," the Task Force was asked to see if it could provide some descriptive language that would help the reader understand the phrase "production version".

Ms. VanDyne explained that the Task Force believes that when the hosting services involve the member having temporary custody of original data or records or non-temporary custody of copies of the data or records, which allow the member to provide a permitted nonattest service, the member would not be considered to have custody or control of the attest client's

assets on the attest client's behalf as its authoritative source or repository and so independence should not be impaired. The Committee believed that the scope of this conclusion was not broad enough and members should be able to take custody of this information as part of an attest engagement as well. As such, the Task Force was asked to consider expanding its conclusion to cover situations where members are providing any professional services.

Ms. VanDyne further explained that the Task Force has not reached a consensus concerning independence when the member has temporary custody of original data or records or non-temporary custody of copies of the data or records when the member contracts with a client for it to use a technology solution that the member owns or licenses. She explained that in this situation the member would not be using the data or records to perform the service, rather the service is embedded in the solution and the client would be entering its data or records into the technology solution and generate the output itself. While the Committee did not reach a consensus, there was some agreement that whether the data or records were original or copies might not be critical to the decision. Other views expressed by Committee members were that (1) maybe a mitigating factor could be whether the data or records are significant or material to the client; (2) the technology solution does not provide a service that would impair independence if the member provided the service and (3) if the data or records were easily replaceable then there might not be much in the way of management reliance.

Ms. VanDyne next explained that the Task Force recommends that any guidance issued concerning cloud based bookkeeping services should clarify that such services either not involve hosting a client's data or records or does not run afoul of the guidance that the Committee eventually issues related to hosting services. For that reason, the Task Force believes it would be premature to issue guidance (authoritative or otherwise) concerning cloud based bookkeeping services before the Committee has had an opportunity to deliberate the relevant issues and issue new interpretive guidance on hosting services. In addition, she explained that the Task Force believes new guidance on cloud services should be authoritative and not limited to bookkeeping services as many types of nonattest services can be provided through a cloud based solution (e.g., data analytics, cyber security).

Finally, Ms. VanDyne explained that the Task Force believes that all changes that require exposure should be done in one exposure draft so the Task Force's plan is not to issue items that the Committee concludes on in a piecemeal fashion.

9. AICPA Codification/State Board Rules Review Task Force

Mr. Johnson provided an update to the PEEC concerning the activities of the Task Force. The Task Force distributed questionnaires to state boards that have differing client record request rules than that of the AICPA Code or are silent on the issue of unpaid fees. Mr. Johnson noted that once the information was collected, the Task Force would analyze and report the results and recommend a way forward to the PEEC.

10. Electronic Records

Ms. Goria explained that Staff drafted three frequently asked questions and answers in response to an inquiry regarding whether various documents that are part of a tax engagement, such as the tax data file, should be considered the member's working papers or a member prepared record as defined in the *Records Requests* interpretation.

The Committee noted that it believed the answers to the second and third FAQs should stipulate that the member-prepared records do not need to be provided if there are unpaid fees connected with the engagement. In addition, the Committee noted a couple of typographical errors and directed Staff to work with Messrs. Roberts, David and Campbell in finalizing the document.

11. Commissions and Contingent Fees Task Force

Ms. Tish explained that the Task Force recommends that the project scope consist of three main components. First, the Task Force believes it should consider the need to revise the Code to expand the prohibition of acceptance of commissions or contingent fees for all attest clients given that the UAA's definition of attest was recently broadened. In response to a question, she noted that the Task Force did not intend to delve into the guidance on contingent fees in tax matters.

Ms. Tish further explained that the Task Force recommends that it also consider the continued appropriateness of the duration of the prohibition period which is an issue identified by a prior task force.

Finally, she explained that the Task Force also recommends it determine whether any additional safeguards are needed for circumstances in which commissions and contingent fees are permitted. To do this, Ms. Tish explained that the Task Force would consider how the state board's rules differ from the AICPA's rules. She noted that one safeguard that the Task Force would consider is if disclosure of permitted commissions should be in writing.

The Committee agreed to the following Task Force charge: "This Task Force will consider the need to revise the Code to expand the prohibition of acceptance of commissions or contingent fees for all attest engagements. Consider the continued appropriateness of the duration of the prohibition and whether any additional safeguards are needed for circumstances in which commissions and contingent fees are permitted."

12. Minutes of the Professional Ethics Executive Committee Open Meeting

It was moved, seconded and unanimously agreed to approve the minutes of the May open meeting.