

Known Audit and Attest Engagements Where SEC Independence Rules May Apply¹

The content in this table is still in process of being developed and may be subject to change.

Disclaimer: The table was compiled by AICPA staff. The content has not been considered or acted upon by the SEC, the CFTC, or its staff.

This table has been compiled to assist public accounting firms and peer reviewers in identifying circumstances where audit or attest engagements may be subject to SEC Independence Rules. These are some examples of when various independence standards are applicable and is not an all-inclusive list. The purpose of the table is to generate discussion on independence and bring awareness to potential independence issues.

#	Entity Type	Nature of Services Performed and Report Issued	Regulatory Body with which the Entity is Registered	Auditing or Attestation Standards	Independence Standards	PCAOB permanent inspection	In scope of Peer Review	Peer Review Must Select Engagements	Other Information
1	Public Issuers – Form 10-K	Audit	SEC	PCAOB	SEC and PCAOB	Yes	No	N/A	
2	Form 11-K Filers	Audit	SEC	PCAOB standards for report filed with SEC; GAAS standards for report filed with DOL	SEC, PCAOB, DOL, and AICPA	Yes	No	N/A	
3	Depository Institutions (over \$500 million in total assets) ²	Audit	FRB, FDIC, the OCC, or an individual state ³	AICPA and sections 36 and 37 of the Federal Deposit Insurance Act ³	AICPA, PCAOB, and SEC	No ³	Yes ³	Yes ³	Audit and attest services for insured Depository Institutions subject to Part 363 of the FDIC Rules and Regulations

¹ Included within this table there are certain dual registrants. Dual registrants can mean entities registered with two different regulatory bodies (i.e. SEC and CFTC) or can mean dual registered with the same regulatory body in two different capacities (i.e. Non-carrying Broker-Dealer and Investment Adviser).

² Includes banks, savings institutions, savings and loan holding companies, etc. Any entity that is insured by the FDIC and under the Federal Deposit Insurance Corporation Act (FDICIA).

³ The entity may or may not be registered with the SEC but would still be subject to SEC and PCAOB independence requirements due to FDICIA. If registered with the SEC, then subject to PCAOB auditing or attestation standards, subject to PCAOB permanent inspection, and outside the scope of peer review.

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4	Depository Institutions (under \$500 million in total assets) ^{2,4,5}	Audit and Various forms and reports (see Part 304 of the FDIC Rules and Regulations) ⁴	FRB, FDIC, the OCC, or an individual state	AICPA and sections 36 and 37 of the Federal Deposit Insurance Act ⁴	AICPA	No	Yes	No	This is for non-issuer Depository Institutions
5	Investment Adviser	Audit ⁶ (may be balance sheet only) ⁷	SEC ⁶ and/or state	AICPA, SEC issuers - PCAOB	Independence Standards vary depending on Regulatory Body ⁸	No, Yes if SEC issuer	Yes, No if SEC issuer	No	Can be registered with SEC and/or with state security agency in home state. Some states require compliance with the Custody Rules or with all SEC rules and regulations for Investment Advisers (CA, CO, TX, there may be others too)

⁴ Section 36 of the Federal Deposit Insurance Act has an exemption for insured depository institutions with less than \$150 million assets at the beginning of their fiscal year.

⁵ Audit requirements for savings associations, state savings associations, and savings and loan holding companies (SLHCs) are set forth in 12 CFR 162.4 (OCC), 12 CFR 238.5 (Federal Reserve), and 12 CFR 390.322 (FDIC). In general, the OCC, the Federal Reserve, and the FDIC may require an independent audit in accordance with the independence requirements of the AICPA and the SEC of any such entity that they supervise when needed for any identified safety and soundness reason. However, audits for safety and soundness are required as follows:

- Savings associations supervised by the OCC, regardless of size, with a composite safety and soundness CAMELS rating of 3, 4, or 5
- SLHCs supervised by the Federal Reserve, which control savings association subsidiary(ies) with aggregate consolidated assets of \$500 million or more
- State savings associations supervised by the FDIC, regardless of size, with a composite safety and soundness CAMELS rating of 3, 4, or 5

⁶ Some Investment Advisers are only registered with a specific state. In those cases, see the specific state requirements for nature of services, auditing standards, and independence standards. Not all Investment Advisers require an audit. When an audit is required, it may be only a balance sheet for compliance with the applicable regulator. Investment Advisers that are not SEC issuers would be included in the scope of peer review.

⁷ SEC rules specific to Investment Advisers can be found at <https://www.sec.gov/rules/interp/2009/ia-2969.pdf>. See footnote 11 for the link to the SEC Custody Rule.

⁸ Investment Advisers with over \$100 million in assets must register with the SEC. This includes both SEC issuers and non-issuers. There are three different scenarios: 1) Non-issuer and registered with a state – state determines independence standards, AICPA at a minimum; 2) Non-issuer and required to file the balance sheet with the SEC for the most recent fiscal year [the adviser has custody or possession of client funds or securities, or if the adviser require prepayment of more than \$500 in fees per client, six months or more in advance] – AICPA and SEC independence standards; 3) SEC issuers – PCAOB and SEC Independence standards.

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6	Investment Adviser	Surprise examination (Form ADV-E) ⁷	SEC	AICPA	SEC	No	Yes	No	Some states require compliance with the Custody Rules or with all SEC rules and regulations for Investment Advisers (CA, CO, TX, there may be others too)
7	Investment Adviser that has self-custody or custody by a related person ^{9,17}	Internal Control Report ⁷	SEC	AICPA	SEC	No ¹⁰	Yes	No	Adviser must obtain or receive from the related person an internal control report that addresses the safekeeping of the client assets at the qualified custodian. Some states require compliance with the Custody Rules (CA, CO, TX)

⁹ Self-custody means that the Investment Adviser also serves as the qualified custodian for its clients.

¹⁰ The public accountant performing the audit must be registered with and subject to regular inspection by the PCAOB but the internal control report is not subject to permanent inspection.

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8	Pooled Investment Vehicles (PIV) (when PIV's SEC-Registered Investment Adviser (RIA) relies on audit provision) ¹¹	Audit	Investment Adviser is registered with the SEC, not the PIV itself	AICPA	AICPA and SEC	No	Yes	No	This is for non-issuer PIVs. PIVs can also be subject to CFTC requirements for Commodity Pool Operators (CPOs) if registered with CFTC as CPOs, regardless of whether the Investment Adviser is SEC-registered.
9	Investment Companies ^{12,13}	Audit ¹⁴	SEC	PCAOB	SEC and PCAOB	Yes	No	No	Investment Companies include mutual funds and closed end funds registered with the Investment Company Act of 1940.

¹¹ SEC's [custody rule](http://www.sec.gov/rules/final/2009/ia-2968fr.pdf) (at <http://www.sec.gov/rules/final/2009/ia-2968fr.pdf>), applicable to SEC RIAs, contains an "audit provision" entitling advisers to PIVs to an exemption from a surprise examination requirement if the PIV has its financial statements audited by an independent public accountant registered with, and subject to regular inspection by, the PCAOB but the PIV is not subject to permanent inspection. The requirements in this row ONLY apply when the RIA relies on this provision. SEC RIA notes this on the Form ADV-E filed with the SEC.

¹² Generally, an Investment Company is required to register with the SEC under the Investment Company Act of 1940 if one of the following is true:

- a) Its outstanding securities, other than short-term paper, are beneficially owned by more than 100 persons (including the number of beneficial security holders of a company owning 10 percent or more of the voting securities of the investment company).
- b) It is offering or proposing to offer its securities to the public.

¹³ Investment Companies may also be dual registered with the CFTC as CPOs. Generally, the CFTC will accept the SEC's disclosure, reporting, and recordkeeping regime as substituted compliance for substantially all of Part 4 of the CFTC's rules, as long as they comply with comparable requirements under the SEC's statutory and regulatory compliance regime. Essentially, the final rule allows dually registered entities to meet certain CFTC regulatory requirements for CPOs by complying with SEC rules to which they are already subject. Rule 4.5 under the Commodity Exchange Act generally excludes registered Investment Companies and other otherwise regulated persons, including state-regulated insurance companies, banks, and trust companies, in connection with their operation of collective investment vehicles. Rule 4.13 under the Commodity Exchange Act also provides for exemption from registration with the CFTC. If these exclusions are not applicable, an Investment Company that trades commodities is subject to regulation by the CFTC as a Commodity Pool Operator, and may also be subject to regulation by the SEC under the Securities Act of 1933.

¹⁴ SEC resources on investment companies can be found at <https://www.sec.gov/answers/mfinvco.htm>.

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10	Investment Companies ¹²	Audit	Non-registered (or may be regulated by a banking regulator or CFTC)	AICPA	AICPA ¹⁵	No	Yes	No	
11	Carrying Broker-Dealers ^{16,17,18}	Annual report – Audit and examination of compliance report	SEC	PCAOB	SEC and PCAOB ¹⁹	Yes if SEC issuer; otherwise no, currently part of interim inspection program	No if SEC issuer; Yes	Yes	Typically, this type of firm is also a clearing firm for those introducing firms.

¹⁵ SEC independence rules would apply to a non-registered fund if the Investment Adviser of the non-registered fund is using the audit of the fund to satisfy its custody requirements and notes this on the Form ADV filed with the SEC. This is illustrated in the PIV row above and is excluded from this row.

¹⁶ SEC rules specific to Securities Broker-Dealers can be found at <https://www.sec.gov/rules/final/2013/34-70073.pdf>.

¹⁷ Carrying Broker-Dealers may also be registered with the SEC as Investment Advisers. A Carrying Broker-Dealer and Investment Adviser can use the examination of compliance report to satisfy internal control requirements (for SEC-registered advisers to comply with the Custody Rule). Other services performed and reports issued should be evaluated with legal counsel to ensure that all SEC requirements are met and to determine the appropriate auditing and independence standards.

¹⁸ There may be Carrying Broker-Dealers or Non-carrying Broker-Dealers under the Peer Review Program Definition (see below the table for the definition included in the Peer Review Program Manual) that are only registered with the CFTC. Some examples are included within this table, i.e. Introducing Brokers. The CFTC requirements may vary depending on the type of entity so please see the CFTC requirements for the nature of services performed, the auditing standards, and the independence standards. These entities would be included within the scope of peer review and are not must select engagements; reviewers should consider Interpretation 59-1 when selecting engagements to be reviewed.

¹⁹ Refer to joint [AICPA/CAQ alert](http://www.aicpa.org/InterestAreas/FRC/IndustryInsights/DownloadableDocuments/BRD/BRD_Independence_Alert.pdf) “SEC/PCAOB Independence Rules for Non-Issuer Audit and Attestation Engagements” for more information (http://www.aicpa.org/InterestAreas/FRC/IndustryInsights/DownloadableDocuments/BRD/BRD_Independence_Alert.pdf).

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12	Non-carrying Broker-Dealers ^{16, 18,20}	Annual report – Audit and review of exemption report	SEC	PCAOB	SEC and PCAOB ¹⁹	Yes if SEC issuer; otherwise no, currently part of interim inspection program	No if SEC issuer; Yes	No	
13	Future Commission Merchants (FCMs) ^{21,22}	Audit, including schedules in Form 1-FR-FCM, supplemental report on internal controls aka Material Inadequacies Letter	CFTC	AICPA and PCAOB	AICPA, PCAOB ²³ , and SEC ¹⁹	No	Yes	No	

²⁰ Non-carrying Broker-Dealers may also be registered with the SEC as Investment Advisers. The nature of services performed and the reports issued should be evaluated with legal counsel to ensure that all SEC requirements are met and to determine the appropriate auditing and independence standards.

²¹ Until further CFTC rulemaking, FCMs will file an internal control report per CFTC Rule 1.16 with CFTC prepared under AICPA attestation standards as adopted by PCAOB. Also see CFTC [customer protections rule \(http://www.cftc.gov/idc/groups/public/@Irfederalregister/documents/file/2013-26665a.pdf\)](http://www.cftc.gov/idc/groups/public/@Irfederalregister/documents/file/2013-26665a.pdf).

²² For non-issuers only. Dodd-Frank gave the PCAOB full oversight authority over audits of BDs registered with the SEC. However, per ACIPA Council Resolution, audit and attestation engagements of entities *other than issuers or SEC-registered BDs* continue to be subject to AICPA standards, even though regulators may require audits of such entities to be conducted under PCAOB standards. The AICPA Auditing Standards Board issued [SAS No. 131 \(http://www.aicpa.org/Research/Standards/AuditAttest/DownloadableDocuments/SAS_131_Summary.pdf\)](http://www.aicpa.org/Research/Standards/AuditAttest/DownloadableDocuments/SAS_131_Summary.pdf), *Amendment to Statement on Auditing Standards No. 122 Section 700*, which clarifies the format of the auditor's report that should be used when an audit is conducted in accordance with the PCAOB's standards but is not under the PCAOB's jurisdiction. The amendments take effect for audits of financial statements for periods ending on or after June 15, 2016. Early application is permitted.

²³ See March 28, 2014, CFTC's Division of Swap Dealer and Intermediary Oversight (DSIO) interpretive letter ([release PR6897-14 at http://www.cftc.gov/PressRoom/PressReleases/pr6897-14](http://www.cftc.gov/PressRoom/PressReleases/pr6897-14)) and AICPA [article](http://www.aicpa.org/interestareas/frc/industryinsights/pages/fcmaudit.aspx) (at <http://www.aicpa.org/interestareas/frc/industryinsights/pages/fcmaudit.aspx>) on this topic.

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14	FCMs ^{21,22} and Securities Carrying Broker-Dealers ^{16,24}	Annual report ²⁵	CFTC and SEC	PCAOB	AICPA, PCAOB ^{19,23} and SEC	Yes if SEC issuer; otherwise no, audits of SEC Broker-Dealer filings currently part of interim inspection program	No if SEC issuer; Yes	Yes	
15	(Retail) Foreign Exchange (FX) Dealers	Audit ²⁶	CFTC	AICPA	AICPA	No	Yes	No	
16	FX Dealer and FCM ^{21,22}	Audit ²⁶	CFTC	AICPA and PCAOB	AICPA, PCAOB ²³ , and SEC	No	Yes	No	
17	Introducing Brokers (IBs) ²⁷	Audit ²⁶	CFTC	AICPA	AICPA	No	Yes	No	Introducing Brokers considered Non-carrying Broker-Dealers for peer review purposes.

²⁴ There may also be FCMs that are Securities Non-Carrying Broker-Dealers. These entities would be duly registered with the CFTC and SEC and would be subject to SEC and PCAOB independence rules.

²⁵ Annual report includes an audit and may include the SEC Form X-17A-5 (FOCUS Report) and applicable supplemental schedules, examination of compliance report, and/or other internal control requirements as well as CFTC regulatory requirements. See specific regulatory requirements depending on specific nature of business.

²⁶ See CFTC requirements for all of the services performed and reports issued as specific schedules and supplemental reports may be required (for example Form 1-FR-FCM, Form 1-FR-IB, supplemental reports on internal controls, etc.).

²⁷ Until further CFTC rulemaking, IBs will file an internal control report per CFTC Rule 1.16 with CFTC prepared per AICPA audit standards (AU-C §265).

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18	Introducing Brokers ²⁷ and Non-carrying Broker-Dealers ¹⁶	Annual report ²⁸	CFTC and SEC	AICPA and PCAOB	AICPA, SEC and PCAOB ¹⁹	Yes if SEC issuer; otherwise no, SEC filings currently part of interim inspection program	No if SEC issuer; Yes	No	There are also Introducing Brokers and Carrying Broker-Dealers, see both individual rows for requirements.
19	Government Securities Dealers	Annual Report ²⁹	SEC	PCAOB	AICPA, SEC and PCAOB	Yes if SEC issuer; otherwise no, SEC filings currently part of interim inspection program	Yes		These are considered Non-carrying Broker-Dealers for peer review purposes.
20	Security-Based Swap Data Repository (SDR) ³⁰	Annual Report/Audit for Form SDR	SEC	AICPA and PCAOB	AICPA, PCAOB, and SEC	No	Yes	No	There are also Commodities SDRs which are registered with the CFTC.

²⁸ Annual report includes an audit and applicable supplemental schedules from SEC Form X-17A-5 (FOCUS Report), exemption report and and/or other internal control requirements (i.e. Material Inadequacies Letter with the CFTC). See SEC and CFTC regulations for specific requirements.

²⁹ Under Regulation 405.2, Annual report includes an audit and applicable supplemental schedules from SEC Form X-17A-5 (FOCUS Report), including Computation of Liquid Capital pursuant to SEC Rule 15c3-1 and Regulation 402.2 of the Treasury and the Computation for Determination of PAB Reserve Requirements under SEC Rule 15c3-3.

³⁰ For non-issuer SDRs only. Dodd-Frank gave the PCAOB full oversight authority over audits of BDs registered with the SEC. However, per ACIPA Council Resolution, audit and attestation engagements of entities *other than issuers or SEC-registered BDs* continue to be subject to AICPA standards, even though regulators may require audits of such entities to be conducted under PCAOB standards.

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21	Clearing Agencies ²²	Audit	SEC	AICPA and PCAOB	AICPA, PCAOB, and SEC	No	Yes	No	
22	Issuers Exempt under Regulation A+ - Tier 1 (offerings up to \$20 million in a 12-month period; not more than \$6 million in offers by affiliates)	Annual Report/Audit ³¹		AICPA and PCAOB ³²	AICPA and SEC ³³	No	Yes	No	Offering statement-unaudited financial statements ³¹ However, if financial statements that have been audited ³² by an independent ³³ auditor ³⁴ are available, these must be provided instead.
23	Issuers Exempt under Regulation	Audit ³¹		AICPA and PCAOB ³²	SEC ³³	No	Yes	No	Offering statement-financial statements

³¹ Financial statements should include a balance sheet, statements of income, cash flows, and stockholders equity. Financial statements are required to be prepared in accordance with U.S. Generally Accepted Accounting Principles (GAAP) for issuers domiciled in the United States. For issuers domiciled in Canada may prepare financial statements in accordance with either U.S. GAAP or International Financial Reporting Standards (IFRS) as issued by the International Accounting Standards Board (IASB). Issuers are ineligible to rely on any alternative accounting or reporting standards for non-public business entities. Financial statements are to cover the shorter of the two most recently completed fiscal years or the period since the issuer's inception and must be formatted in Hypertext Markup Language (HTML) or American Standard Code for Information Interchange (ASCII).

³² Audited in accordance with either the auditing standards of the AICPA (U.S. Generally Accepted Auditing Standards or GAAS) or the standards of the PCAOB. However, if audited in accordance with PCAOB standards, the audit must also be in accordance with U.S. GAAS.

³³ Independence for auditors of Tier 1 issuers requires public accountants to comply with either the (1) SEC's independence rules, Rule 2-01 of Regulation S-X, or (2) the AICPA's independence.

³⁴ Auditors in this row need not be PCAOB registered.

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	A+ - Tier 2 (offerings up to \$50 million in a 12-month period; not more than \$15 million in offers by affiliates)								audited ³² by an SEC-independent ³⁵ auditor ³⁴ .
24	Issuers under Regulation	Financial statements ³⁷		AICPA or PCAOB ³²	AICPA or SEC ³⁹	No	Yes	No	

³⁵ Independence for auditors of Tier 2 issuers requires compliance with the SECs independence rules, which are set forth in Rule 2-01 of Regulation S-X.

³⁷ Financial statements in this row refer to a complete set of financial statements; which includes balance sheets, statements of comprehensive income, statements of cash flows, statements of changes in stockholders' equity, and notes to the financial statements; prepared in accordance with U.S. GAAP. Financial statements are to cover the

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	Crowdfunding ³⁶ with initial aggregate offering amounts up to \$100k	certified by principal executive officer to be true and complete in all material respects. However, if financial statements ³⁷ either reviewed ³⁸ or audited ³² by an independent ³⁹ public accountant ⁴⁰ are available, these must be provided instead.							
25	Issuers under Regulation Crowdfunding ³⁶ with initial aggregate offering	Financial statements ³⁷ reviewed ³⁸ by an independent ³⁹ public		AICPA or PCAOB ³²	AICPA or SEC ³⁹	No	Yes	No	

shorter of the two most recently completed fiscal years or the period since the issuer's inception. Issuers are ineligible to rely on any alternative accounting or reporting standards for non-public business entities. The issuer must notify the public accountant of the issuer's intended use of the report in the offering.

³⁶ An auditor or accountant may not know when perform engagement that it is an Issuer under Regulation Crowdfunding; such determination could be made by the issuer up to a year after engagement performed.

³⁸ Reviewed in this row means reviewed in accordance with the SSARS issued by the AICPA.

³⁹ Independence in this row requires accountants to either (1) SEC independence rules in Rule 2-01 of Regulation S-X or AICPA independence standards.

⁴⁰ Public accountant in this row must either be duly registered and in good standing as a certified public accountant or is in good standing and entitled to practice as a public accountant under the laws of the place of his residence or principal office.

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	amounts from \$100k – 500k	accountant ⁴⁰ . However if financial statements ³⁷ audited ³² by an independent ³⁹ public accountant ⁴⁰ are available, these must be provided instead.							
26	Issuers under Regulation Crowdfunding ³⁶ with initial aggregate offering amounts from \$500k – 1 million	For issuers that have previously issued under Regulation Crowdfunding, financial statements ³⁷ audited ³² by an independent ³⁹ public accountant ⁴⁰ .		AICPA or PCAOB ³²	AICPA or SEC ³⁹	No	Yes	No	For issuers under Regulation Crowdfunding for the first time, Financial statements ³⁷ reviewed ³⁸ by an independent ³⁹ public accountant ⁴⁰ . However if financial statements ³⁷ audited ³² by an independent ³⁹ public accountant ⁴⁰ are available, these must be provided instead.
27	Issuers under Regulation Crowdfunding	Annual report that includes financial statements ³⁷ certified by the principal executive officer to be true and complete in all		AICPA or PCAOB ³²	AICPA or SEC ³⁹	No	Yes	No	

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	Post-issuance, ongoing ⁴¹	material respects. However if financial statements ³⁷ audited ³² by an independent ³⁹ public accountant ⁴⁰ are available, these must be provided instead.							
28	Transfer Agent	Form TA-2 ⁴²	SEC (under Section	AICPA (may be PCAOB if	SEC (may be PCAOB	No	Yes	No	

⁴¹ Required until certain conditions are met, for example, the issuer has filed at least one annual report and has fewer than 300 holders of record or the issuer has filed at least three annual reports and has total assets that do not exceed \$10 million.

⁴² May be subject to annual study and evaluation of internal controls to be filed with the SEC pursuant to Rule 17AD-13 of 1934 Act which would be performed in accordance with AICPA standards. If registered with a different ARA, then nature of services performed and report issued will vary. Furthermore, the securities exchanges for which the transfer agent services also have their own requirements (may include audited financial statements), i.e. transfer agents for the New York Stock Exchange (NYSE) listed securities are subject to NYSE requirements.

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			17A of SEC act of 1934) or Appropriate Regulatory Agency (ARA) as defined by Section 3(a)(34) of the SEC act	ARA requires)	or SEC if ARA requires)				

NOTE: This list is not intended to be an all-inclusive list of entities subject to SEC independence rules.

NOTE 2: There may be other entities that perform Servicer Compliance Attestation Reports under Regulation AB which are to be filed with the SEC, thereby requiring compliance with certain SEC and PCAOB independence rules.

NOTE 3: Financial Statement Independent Auditor Reports of non-issuers (Issuers are defined in the Sarbanes-Oxley Act of 2002 Section 2(a)) may include a reference to “the standards of the Public Accounting Oversight Board (United States)”. If the reference does not specific auditing standards, this reference includes multiple standards, including PCAOB independence standards (see the PCAOB Staff Q&A from June 30, 2004 on Audits of Financial Statements of Non-Issuers Performed Pursuant to PCAOB Standards at <https://pcaobus.org/Standards/QandA/06-30-2004.pdf>).

NOTE 4: The CFTC also has regulations concerning independence. Entities registered with the CFTC should ensure that they meet the CFTC Regulations. CFTC regulations concerning independence are found in Rule 1.16 which is located at http://www.ecfr.gov/cgi-bin/text-idx?SID=dea1eb0003b4d173e9448287c2b73526&mc=true&node=se17.1.1_116&rgn=div8 on the U.S. Government Publishing Office website.

Other Resources:

Here are some links to documents that compare the various independence standards as well as links to the independence standards themselves to assist with understanding what the different requirements are.

ACIPA Independence Rules/Code of Professional Conduct - [Online Code of Professional Conduct \(http://pub.aicpa.org/codeofconduct/Ethics.aspx\)](http://pub.aicpa.org/codeofconduct/Ethics.aspx)

AICPA Auditor Independence Resource Center - [DOL and AICPA Independence Rule Comparison](http://www.aicpa.org/InterestAreas/EmployeeBenefitPlanAuditQuality/Resources/AccountingandAuditingResourceCenters/AuditorIndependence/DownloadableDocuments/DOL_AICPA_Independence_Rule_Comparison.pdf)
(http://www.aicpa.org/InterestAreas/EmployeeBenefitPlanAuditQuality/Resources/AccountingandAuditingResourceCenters/AuditorIndependence/DownloadableDocuments/DOL_AICPA_Independence_Rule_Comparison.pdf)

DOL Independence Rules - [DOL Interpretive Bulletin 75-9 \(29 CFR 2509.75-9\)](https://www.gpo.gov/fdsys/pkg/CFR-2011-title29-vol9/pdf/CFR-2011-title29-vol9-sec2509-75-9.pdf) (<https://www.gpo.gov/fdsys/pkg/CFR-2011-title29-vol9/pdf/CFR-2011-title29-vol9-sec2509-75-9.pdf>)

AICPA Governmental Audit Quality Center - [AICPA – Yellow Book \(GAGAS\) Independence Rules Comparison](http://www.aicpa.org/InterestAreas/ProfessionalEthics/Resources/Tools/DownloadableDocuments/2015JuneComparisonofGAO-AICPA.pdf)
(<http://www.aicpa.org/InterestAreas/ProfessionalEthics/Resources/Tools/DownloadableDocuments/2015JuneComparisonofGAO-AICPA.pdf>)

GAGAS/Yellow Book Independence Standards - [Government Auditing Standards, December 2011 Revision](http://www.gao.gov/assets/590/587281.pdf) (<http://www.gao.gov/assets/590/587281.pdf>)

AICPA Auditor Independence Resource Center - [AICPA and SEC Independence Rule Comparison](http://www.aicpa.org/InterestAreas/EmployeeBenefitPlanAuditQuality/Resources/AccountingandAuditingResourceCenters/AuditorIndependence/DownloadableDocuments/11_2003_AICPA_SEC_IndependenceRulesComparison.pdf)
(http://www.aicpa.org/InterestAreas/EmployeeBenefitPlanAuditQuality/Resources/AccountingandAuditingResourceCenters/AuditorIndependence/DownloadableDocuments/11_2003_AICPA_SEC_IndependenceRulesComparison.pdf)

SEC - [Auditor Independence](https://www.sec.gov/hot/auditor.htm) (<https://www.sec.gov/hot/auditor.htm>)

SEC - [Independence Reference Materials](https://www.sec.gov/info/accountants/independref.shtml) (<https://www.sec.gov/info/accountants/independref.shtml>)

SEC - [Strengthening the Commission's Requirements Regarding Auditor Independence](https://www.sec.gov/rules/final/33-8183.htm) (<https://www.sec.gov/rules/final/33-8183.htm>)

PCAOB - [Ethics and Independence Rules](https://pcaobus.org/Standards/EI/Pages/default.aspx) (<https://pcaobus.org/Standards/EI/Pages/default.aspx>)

Inquiries on application of AICPA Code of Professional Conduct - Ethics Hotline (888) 777-7077 menu option #5, followed by menu option #2

Peer Review Program Manual Interpretation 63-2

Question — For purposes of the AICPA Peer Review Program, what is the difference between a carrying and non-carrying broker-dealer?

Interpretation—Carrying broker-dealers include all broker-dealers that clear customer transactions, carry customer accounts or hold custody of customer cash or securities. Examples of carrying broker-dealers include (a) clearing broker-dealers who receive and execute customer instructions, prepare trade confirmations, settle the money related to customer trades and arrange for the book entry (or physical movement) of the securities and (b) carrying broker-dealers that hold customer accounts or clear customer trades for introducing broker-dealers. Non-carrying broker-dealers are those broker-dealers that do not clear customer transactions, carry customer accounts, or hold custody of customer cash or securities. Examples of non-carrying broker-dealers are (a) introducing broker-dealers that introduce transactions and accounts of customers or other broker-dealers to another registered broker-dealer that carries such accounts on a fully disclosed basis and does not receive or hold customer or other broker-dealers securities and (b) a broker-dealer whose business does not involve customer accounts, such as proprietary trading firms, investment banking firms, and firms that sell interest in mutual funds or insurance products.

Acronyms Included in the Table Above

AICPA – American Institute of Certified Public Accountants

CFTC – U.S. Commodity Futures Trading Commission

DOL – U.S. Department of Labor

FDIC – U.S. Federal Deposit Insurance Corporation

FRB – Federal Reserve Bank

GAAS – Generally Accepted Auditing Standards

GAO – U.S. Government Accountability Office

OCC – Office of Comptroller of the Currency
PCAOB – Public Company Accounting Oversight Board
SEC – Securities Exchange Commission

Glossary

Carrying Broker-Dealer – as defined by the AICPA’s Broker and Dealers in Securities Guide; A carrying broker is a broker-dealer that holds customer accounts for introducing broker-dealers. Typically, this type of firm is also a clearing firm for those introducing firms. A carrying broker-dealer is responsible for performing the customer reserve computation and possession and control requirements of SEC Rule 15c3-3. A carrying broker-dealer may carry customer accounts on an omnibus or a fully-disclosed basis.

Commodity Pool Operator (CPO) - as defined by the CFTC; 7 USC 1a(11) (A) In general The term commodity pool operator means any person - (i) engaged in a business that is of the nature of a commodity pool, investment trust, syndicate, or similar form of enterprise, and who, in connection therewith, solicits, accepts, or receives from others, funds, securities, or property, either directly or through capital contributions, the sale of stock or other forms of securities, or otherwise, for the purpose of trading in commodity interests, including any (I) commodity for future delivery, security futures product, or swap; (II) agreement, contract, or transaction described in section 2(c)(2)(C)(i) of this title or section 2(c)(2)(D)(i) of this title; (III) commodity option authorized under section 6c of this title; or (IV) leverage transaction authorized under section 23 of this title; or (ii) who is registered with the Commission as a commodity pool operator. (B) Further definition The Commission, by rule or regulation, may include within, or exclude from, the term commodity pool operator any person engaged in a business that is of the nature of a commodity pool, investment trust, syndicate, or similar form of enterprise if the Commission determines that the rule or regulation will effectuate the purposes of this chapter.

Futures Commission Merchant (FCM) – as defined by the CFTC; (A) In general The term “futures commission merchant” means an individual, association, partnership, corporation, or trust— (i) that— (I) is— (aa) engaged in soliciting or in accepting orders for— (AA) the purchase or sale of a commodity for future delivery; (BB) a security futures product; (CC) a swap; (DD) any agreement, contract, or transaction described in section 2(c)(2)(C)(i) of this title or section 2(c)(2)(D)(i) of this title; (EE) any commodity option authorized under section 6c of this title; or (FF) any leverage transaction authorized under section 23 of this title; or (bb) acting as a counterparty in any agreement, contract, or transaction described in section 2(c)(2)(C)(i) of this title or section 2(c)(2)(D)(i) of this title; and (II) in or in connection with the activities described in items (aa) or (bb) of subclause (I), accepts any money, securities, or property (or extends credit in lieu thereof) to margin, guarantee, or secure any trades or contracts that result or may result therefrom; or (ii) that is registered with the Commission as a futures commission merchant. (B) Further definition The Commission, by rule or regulation, may include within, or exclude from, the term “futures commission merchant” any person who engages in soliciting or accepting orders for, or acting as a counterparty in, any agreement, contract, or transaction subject to this chapter, and who accepts any money, securities, or property (or extends credit in lieu thereof) to margin, guarantee, or secure any trades or contracts that result or may result therefrom, if the Commission determines that the rule or regulation will effectuate the purposes of this chapter.

Introducing Broker (IB) - as defined by the CFTC; (A) In general The term “introducing broker” means any person (except an individual who elects to be and is registered as an associated person of a futures commission merchant)— (i) who— (I) is engaged in soliciting or in accepting orders for— (aa) the purchase or sale of any commodity for future delivery, security futures product, or swap; (bb) any agreement, contract, or transaction described in section 2(c)(2)(C)(i) of this title or section 2(c)(2)(D)(i) of this title; (cc) any commodity option authorized under section 6c of this title; or (dd) any leverage transaction authorized under section 23 of this title; and (II) does not accept any money, securities, or property (or extend credit in lieu thereof) to margin, guarantee, or secure any trades or contracts that result or may result therefrom; or (ii) who is registered with the Commission as an introducing broker. (B) Further definition The Commission, by rule or regulation, may include within, or exclude from, the term “introducing broker” any person who engages in soliciting or accepting

orders for any agreement, contract, or transaction subject to this chapter, and who does not accept any money, securities, or property (or extend credit in lieu thereof) to margin, guarantee, or secure any trades or contracts that result or may result therefrom, if the Commission determines that the rule or regulation will effectuate the purposes of this chapter.

Investment Adviser – as defined by the SEC; Subject to certain limited exclusions discussed below, Section 202(a)(11) of the Advisers Act generally defines an "investment adviser" as any person or firm that: (1) for compensation; (2) is engaged in the business of; (3) providing advice, making recommendations, issuing reports, or furnishing analyses on securities, either directly or through publications. A person or firm must satisfy all three elements to be regulated under the Advisers Act. The Division construes these elements broadly. For example, with respect to "compensation," the receipt of any economic benefit suffices. To be deemed compensation, a fee need not be separate from other fees charged, it need not be designated as an advisory fee, and it need not be received directly from a client. With respect to the "business" element, an investment advisory business need not be the person's or firm's sole or principal business activity. Rather, this element is satisfied under any of the following circumstances: the person or firm holds himself or itself out as an investment adviser or as providing investment advice; the person or firm receives separate or additional compensation for providing advice about securities; or the person or firm typically provides advice about specific securities or specific categories of securities. Finally, a person or firm satisfies the "advice about securities" element if the advice or reports relate to securities. The Division has stated that providing one or more of the following also could satisfy this element: advice about market trends; advice in the form of statistical or historical data (unless the data is no more than an objective report of facts on a non-selective basis); advice about the selection of an investment adviser; advice concerning the advantages of investing in securities instead of other types of investments; and a list of securities from which a client can choose, even if the adviser does not make specific recommendations from the list. An employee of an SEC-registered investment adviser does not need to register separately, so long as all of the employee's investment advisory activities are within the scope of his employment.

Investment Company – as defined by the AICPA Investment Companies Guide; An entity must have the following fundamental characteristics: a) It is an entity that does both of the following: i) Obtains funds from one or more investors and provides the investor(s) with investment management services; ii) Commits to its investor(s) that its business purpose and only substantive activities are investing the funds solely for returns from capital appreciation, investment income, or both; b) The entity or its affiliates do not obtain or have the objective of obtaining returns or benefits from an investee or its affiliates that are not normally attributable to ownership interests or that are other than capital appreciation or investment income.

Pooled Investment Vehicle (PIV) – as defined by SEC; any investment company as defined in section 3(a) of the Investment Company Act of 1940 (15 U.S.C. 80a-3(a)) or any company that would be an investment company under section 3(a) of that Act but for the exclusion provided from that definition by either section 3(c)(1) or section 3(c)(7) of that Act (15 U.S.C. 80a-3(c)(1) or (7)). Investment company means any issuer which—(A) is or holds itself out as being engaged primarily, or proposes to engage primarily, in the business of investing, reinvesting, or trading in securities; (B) is engaged or proposes to engage in the business of issuing face-amount certificates of the installment type, or has been engaged in such business and has any such certificate outstanding; or (C) is engaged or proposes to engage in the business of investing, reinvesting, owning, holding, or trading in securities, and owns or proposes to acquire investment securities having a value exceeding 40 per centum of the value of such issuer's total assets (exclusive of Government securities and cash items) on an unconsolidated basis.

Registered Investment Adviser (RIA) – as defined by the SEC; A) An "investment adviser" under Section 202(a)(11) of the Advisers Act; B) Not excerpted from the definition of investment adviser by Section 202(a)(11)(A) through (E) of the Advisers Act; C) not exempt from Commission registration under Section 203(b) of the Advisers Act; and D) not prohibited from Commission registration by Section 203A of the Advisers Act.

SEC Issuer – as defined by Section 2(4) of the Securities Act of 1933; The term "issuer" means every person who issues or proposes to issue any security; except that with respect to certificates of deposit, voting-trust certificates, or collateral-trust certificates, or with respect to certificates of interest or shares in an unincorporated investment trust not having a board of directors (or persons performing similar functions) or of the fixed, restricted management, or unit type, the term "issuer" means the person or persons performing the acts and assuming the duties of depositor or manager pursuant to the provisions of the trust or other agreement or instrument under which such securities are issued; except that in the case of an unincorporated association which provides by its articles for limited liability of any or all of its members, or in the case of a trust, committee, or other legal entity, the trustees or members thereof shall not be individually liable as issuers of any security issued by the association, trust, committee, or other legal entity; except that with respect to equipment-trust certificates or like securities, the term "issuer" means the person by whom the equipment or property is or is to be used; and except that with respect to fractional undivided interests in oil, gas, or other mineral rights, the term "issuer" means the owner of any such right or of any interest in such right (whether whole or fractional) who creates fractional interests therein for the purpose of public offering. Securities Act of 1933, § 2(a)(4), 15 U.S.C. § 77B(a)(4).

Swap data repository – as defined by the CFTC; The term “swap data repository” means any person that collects and maintains information or records with respect to transactions or positions in, or the terms and conditions of, swaps entered into by third parties for the purpose of providing a centralized recordkeeping facility for swaps.

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