From: Dan [mailto:DRS@COScpas.com]

Sent: Tuesday, January 21, 2014 12:05 PM

To: Snyder, Lisa

Cc: Joanne Yoo; Costello, William; Mercer, Brandon

Subject: PEEC ED 11.26.13

Lisa Snyder,

This represents my personal response to the exposure draft (ED) issued November 26, 2013 related to the proposed revisions to Interpretation 102-2. With comments due by January 27, 2014, I haven't had the time to give such an important topic a more thorough consideration but did have a few initial observations / recommendations for consideration by PEEC. I appreciate having this opportunity to convey my thoughts.

My observations / recommendations follow:

- I see that considerable effort has been made to conform w/ the IESBA Code though there are some differences. For example, the discussion on evaluating an identified conflict of interest seems largely in line w/ the IESBA Code and something that would seem helpful to CPA's in public practice. One difference, however, appears to be where the international standards provide for circumstances where disclosure and consent can be bypassed – namely when specific disclosure is considered necessary to obtain explicit consent and such disclosure would result in a breach of client confidentiality. Under such circumstances, it seems the IESBA Code provides that if certain criteria are met, specific disclosure and explicit consent can be bypassed. One of these criteria is to give consideration to what a reasonable and informed third party would likely conclude as to the appropriateness for the firm to accept such an engagement.

Alternatively, it does not appear that the ED provides for this circumstance where disclosure and consent can be bypassed due to concerns over confidentiality. Rather, the ED simply refers to Rule 301. I would suggest consideration be given to providing a little more guidance around those circumstances where a breach of confidentiality is considered possible (e.g., if such a breach is considered possible, there are no amount of safeguards that would overcome the need to not breach client confidences and, accordingly, the CPA should decline the engagement).

- And this brings me to my second observation / recommendation. Although the ED does not appear to provide for those circumstances where "specific disclosure and specific consent" (a term that

seems to be in substance the same as IESBA Code's "specific disclosure and explicit consent") can be bypassed, the ED does contain the notion of giving consideration to what a third party would conclude as reasonable. Specifically, the first paragraph of ED notes that the CPA should take into account "whether a reasonable and informed third party who is aware of the relevant information would conclude that a conflict of interest exists." It strikes me that this is inconsistent w/ the definition of objectivity under Section 55 – Article IV (Principle). In other words, this ED contains the notion of considering what a "third party" may perceive as being a conflict of interest (i.e., a threat to / impairment of objectivity) whereas the Principle does not have this notion. This consideration of what a third party may conclude is basically an appearance notion which, I thought, was limited to issues of independence (objectivity is limited to issues of actual impairment and not issues of what a third party may perceive as being an impairment). The reason why it may make sense, I believe, for the IESBA Code to have a consideration of what a third party may consider is due to the difference noted above – allowing for the special circumstance where specific disclosure and explicit consent is bypassed – which is a concept not explicitly allowed under the ED. I suggest careful consideration be given to keeping a reference to what is essentially an appearance notion in an interpretation of the objectivity rule.

- My third observation / recommendation is for PEEC to resolve the inconsistency between the underlying Principle and Rule 102 and this interpretation (which existed before the ED). Specifically, the Principle and Rule 102 both state that the CPA is to be free of [all] conflicts of interest while this interpretation provides the means by which the CPA is permitted to accept engagements for which conflicts exist. The IESBA Code does not seem to share this inconsistency – maybe it is time to revise the Principle and Rule 102?

- I think a more natural placement for the examples of when conflicts of interest may arise would be after the second paragraph under the section titled Identification of a Conflict of Interest.

- My final recommendation is for PEEC to consider adding an additional example of when a conflict of interest may arise (I realize the intent was to use the same examples as those used by the IESBA Code). Specifically, it is not unusual for the CPA to provide professional services to both the company and one or more of its officers. And while officers have a fiduciary duty to the company, the courts are littered w/ cases where this fiduciary duty has allegedly been breached (e.g., such allegations are apparently not uncommon in claims involving deepening insolvency of the company). After my initial time w/ one of the Big Eight CPA firms, I have spent most of my career w/ small CPA firms. Without a doubt, these small firms tend to develop very close relationships w/ their clients and I think at times the distinction between the person and the company can be blurred, particularly if it is this person who makes the hiring and fee payment decisions. However, when you consider the recent tax shelter fiascos involving KPMG and E&Y, this type of relationship is by no means limited to small firms. In fact, I believe it was this very concern that precipitated the prohibition by PCAOB of CPA firms providing tax

services to persons in key financial reporting roles in the company's for which the same firm performs a financial statement audit.

Thank you. I appreciate all the AICPA does for our profession. I encourage the PEEC to remain focused on developing strong rules and interpretations that further the public interest and enhance the credibility of the CPA.

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