October 11, 2018

Ms. Sherry Hazel
Audit and Attest Standards Team
American Institute of Certified Public Accountants (AICPA)

By e-mail to: shazel@aicpa-cima.com.org

Re: Proposed Statement on Standards for Attestation Engagements, Revisions to Statement on Standards for Attestation Engagements No. 18, Attestation Standards: Clarification and Recodification

Dear Ms. Hazel:

We are pleased to have the opportunity to respond to the Exposure Draft (the ED or the Proposal) issued July 11, 2018, by the AICPA’s Auditing Standards Board (the Board), Proposed Statement on Standards for Attestation Engagements, Revisions to Statement on Standards for Attestation Engagements No. 18, Attestation Standards: Clarification and Recodification.

In general, as we have often stated in our previous comment letters to the Board on earlier Proposals, we do not support the Board’s stated overall objective to converge its standards with those of the International Auditing and Assurance Standards Board (IAASB) merely for the sake of convergence since the practice environment (and the tendency to litigate) is fundamentally different in the U.S. compared to other countries. We do not see this project as “an opportunity for the ASB to more closely align the examination and review sections of the attestation standards with ISAE 3000,” as asserted on p. 7 of the ED. We question what is to be gained by U.S. practitioners and users by availing themselves of such an “opportunity.” We also take note that the proposed revisions to AT-C section 215 described below under the caption, “Our Principal Concerns,” are obviously not motivated by a desire for convergence since the international standards do not cover agreed-upon procedures engagements as are performed in the U.S.

In addition to the matters discussed below with respect to proposed revisions to AT-C section 215, we are particularly concerned that the Board, the Accounting and Review Services Committee (ARSC) and the Attestation Task Force (the Task Force) has apparently spent an inordinate amount of time and resources developing this unwieldy, 425-page Proposal (especially with regard to proposed revisions to AT-C section 215) that is difficult to navigate and that appears to fit neatly, into the category of a “make work” project that is well-described by the common expression, “If it ain’t broke, don’t fix it.”

**Our Principal Concerns**

Most of our objections lie with the proposed revisions to AT-C section 215 for agreed-upon procedures engagements. Our objections relate primarily to features of such proposed revisions introduced in the September 2017 proposal by the ARSC entitled Selected Procedures that was developed jointly with the ASB. That proposal was not withdrawn but, instead, has been swept into this broader Proposal for re-exposure. However, unlike other proposals that historically have been
exposed for comment more than once, the Board did not include in the second ED its evaluation and disposition of the comments contained in the 28 letters received in response to the earlier draft.

Although there were, in fact, several comment letters received that were generally in support of the earlier ARSC proposal, the many objections of commentators contained in other letters apparently were not addressed in developing the current ED. Some of the comments we made in our letter (designated as no.13) dated November 30, 2017, issued in response to the ARSC proposal, remain equally applicable to the current Proposal, are repeated below.

We view the proposed expansion of the scope of available services embedded in the proposed revisions to AT-C section 215 to be motivated largely by a desire for practitioner revenue enhancement rather than to serve any legitimate and discernible market demand or public interest, which is inconsistent with and unsupported by our body of experience and observations. Perhaps this belief in “market demand” would better be characterized as a belief in the popular expression that “if we build it, they will come.”

We are particularly apprehensive that the so-called “flexibility” sought and to be afforded by these changes that would result from alleviating the protective safeguards and constraints on the performance of agreed-upon procedures engagements that are embedded in the extant standard (i.e., the requirements (1) to obtain user acceptance of responsibility for the adequacy of the procedures for their purposes, (2) to obtain a written assertion from the responsible party, and (3) to place a restriction on distribution of the report to such users) may likely lead to a proliferation of requests for CPA attestations to unsupported or virtually unsupportable marketing claims of clients that would be dangerously cited or distributed for public reliance and be misleading to users in many ways.

We support the view of some commentators to the earlier ARSC proposal who have suggested that the extant standards for consulting engagements would easily meet the objectives of the proposed selected procedures engagement. If a CPA’s service and related report is not intended to lend credibility to an assertion of a responsible party (other than the practitioner), the engagement is not, and should not be characterized as, an attest service but rather should be conducted under the extant consulting standards. To those who would counter that the consulting standards are not sufficiently robust to assure the desired level of professional quality, we would respond by recommending that those standards be strengthened rather than adopting the current Proposal.

A summary of additional comments not mentioned above that were made by our Firm in response to the earlier ARSC proposal in our November 31, 2017, letter that continue to apply to the current Proposal follows:

• Inclusion of services such as these among the assortment of attest products available from CPAs “will serve to diminish the overall image of CPAs and value assigned by society to their work in general,”

• The Proposal is “conspicuously devoid of any persuasive language to support the explicit assertion that there is either a need or demand for such an expansion of a practitioner’s available work product, or that any report consistent with the Proposal would in any meaningful way serve a public interest,

• Having the engaging party merely acknowledge its awareness of the selected procedures, without accepting responsibility, would be “meaningless and, therefore, of no value” and that “articulating the absence of such responsibility: and “objectionable to both the engaging party and the users of the CPA’s report.”

Dissenting Views of Board Members:

We fully support views expressed by four of the five dissenting Board members (i.e., Brodish, Burzenski, Cascio, and Kassman) principally in relation to proposed changes in AT-C section 215, as set forth on pages 16–21 of the ED and summarized in the following bulleted paragraphs:
• **Mr. Brodish:** (1) “the proposed changes to AT-C section 215, *Agreed-Upon Procedures Engagements*, go beyond what is necessary to alleviate the practical challenges and could cause confusion among practitioners and users of AUP report” and (2) “the proposed amendments are too extensive and eliminate a number of important elements that are still relevant to practitioners’ considerations of whether and how to undertake an AUP engagement,”

• **Ms. Burzenski:** (1) “the changes proposed no longer explicitly support the long-standing principles underlying attestation engagements, which have been the basis for attestation engagements for many years and are widely known and understood by users,” (2) “proposed changes to AT-C section 215 result in a weakening of the principles that underlie a frequently used and well-known engagement, to the detriment of all,” and (3) “the types of services being envisioned by the proposed standard and the independence required of the practitioner necessary to perform such … may pose threats to the appearance of independence,”

• **Mr. Cascio:** (1) “the Task Force has not presented compelling reasons to support the proposed changes at this time,” (2) “direct engagements and the removal of certain required written representations from the responsible party potentially increases the attestation risk for practitioners,” and (3) “questions raised … about independence considerations related to direct engagements, are matters that should have been more thoroughly vetted prior to approving the proposed amendments for exposure,” and

• **Ms. Kassman:** (1) “the extent of changes to eliminate reference to specific roles, including changes to requirements such as obtaining representations from the responsible party, have diluted the concept of a responsible party.” and (2) “for the responsible party to not provide a written representation … fundamentally seems to contradict the importance of identifying a “responsible party,” even more so as it is a fundamental principle of independence.”

Although we have appended in the attachment on the following pages our responses to the Board’s specific requests for comment contained in the ED, we are not commenting on understandability or on the proposed implementation guidance since, in our view, the basic concepts supporting the proposed revisions are almost wholly unsatisfactory. Accordingly, we have omitted such questions from the quoted requests for comment below.

A former colleague and consultant to our Firm, Julian Jacoby, contributed to this letter.

Questions about these comments may be addressed to Howard Levy at hlevy@pbtk.com or communicated by telephone at 702/384-1120 or 702/279-5389.

Very truly yours,

Howard B. Levy, CPA, Principal and Director, Technical Services

Julian Jacoby, MBA, CPA (retired)
Our responses to the Board's seven specific requests for comment in the ED follow:

Request for Comment 1: Please provide your views on the proposed changes discussed in the ... section [entitled “Proposed Changes That Affect All Attestation Engagements”].

Response to Request for Comment 1: We believe that deleting a requirement to obtain a written assertion, substantially substituting a representation by the engaging party(s) as to the sufficiency of the procedures the practitioner employed in the engagement, would significantly dilute the efficacy of the attestation service. In fact, the very concept and commonly understood definition of attestation becomes convoluted and incomprehensible if not in reference to attesting, with the objective of adding credibility to, an assertion (or assertions) of a responsible party other than the attester. Whether characterized as an assertion or not, whatever one is attesting to must be the assertion of another. The notion of “reporting directly on the subject matter” is not attesting; it is asserting. We believe it should be unimaginable for a practitioner to report “directly” on the credibility of an assertion of another without requesting the asserter to accept responsibility for the assertion in writing. To do so would give rise to independence concerns of advocacy and integrity and objectivity (as the practitioner would be seen as acting in the role of management).

We concur with the proposed requirement for the practitioner to determine whether management has a reasonable basis for its assertion.

We believe that the inclusion of a statement by the practitioner in the report stating that the firm is adhering to the relevant ethical standards for the engagement would be appropriate and would follow the audit requirements. That said, as suggested in the second preceding paragraph, we doubt if the current independence standards would be met in a “direct reporting” situation without a written assertion by the responsible party. Accordingly, we believe the AICPA’s Professional Ethics Executive Committee (PEEC) should be formally asked to weigh in on the effect of the proposed changes on the existing ethical requirements before a final standard is issued.

We note that the circumstances underlying attestation engagements may differ from the usual relationship between auditors and their clients, since many attestation engagements are of short duration, may involve the use of an accounting firm that does not provide other services to the client and who may not provide other services subsequent to the engagement. This service environment was recognized by the PEEC rule requiring independence of the engagement team and certain others in the servicing office (in certain circumstances), (rather than the firm) since the previously extant ethical standards were deemed unworkable.

Request for Comment 2: Please provide your views on the proposed changes discussed in the ... section [entitled “Proposed Changes That Affect Examination and Review Engagements”].

Response to Request for Comment 2: Notwithstanding our objections set forth in response to comment 1, we would not be opposed if the standards were to be revised to allow for practitioners to report directly but only under circumstances when (a) such a report is mandated by law or regulation (and it so states), and (b) the appropriate responsible party is unable for a credible reason to undertake its own evaluation to meet the objectives of the report.

We have no objections to the proposed provisions of AT-C 205.A81 and 210.A68 that would enable a report that expands on or supplements the minimum required report elements to include information or explanations that are not intended to, and do not appear to, affect the practitioner’s opinion or conclusion but that may address information needs of the intended users, providing such additional information is not misleading or unsupported.
**Request for Comment 3:** Please provide your views on the proposed changes to AT-C section 205 as discussed in the ... section [entitled “Proposed Changes That Affect Examination Engagements”].

**Response to Request for Comment 3:** When a client representation is requested, but none is forthcoming, we believe the effect on the engagement and the practitioners’ report should be dependent on whether the engaging and/or responsible party has the knowledge or the ability to provide such representations. We would support a provision enabling a practitioner to use professional judgment to evaluate the sufficiency and reliability of evidence supporting matters significant to the responsible party’s assertion but only when, for a credible reason, the responsible party is unable to make a requested representation.

But when it appears that the responsible party is able but merely chooses not to make the requested representation, we believe that should be treated ordinarily as a scope limitation and call for a disclaimer of assurance and consideration of other issues (such as client integrity and acceptance or retention). In such circumstances, we are adamantly opposed to relying solely upon available evidence when the responsible party refused to provide an appropriate written representation. We believe, in fact, that in addition to a report modification in such circumstances, the final standard should suggest consideration of withdrawing from the engagement if the matter cannot be resolved satisfactorily.

**Request for Comment 4:** Please provide your views on the proposed changes to AT-C section 210 as discussed in the ... section [entitled “Proposed Changes That Affect Review Engagements”]. What are the potential benefits or implications of requiring the practitioner to include a description of the procedures performed in a limited assurance engagement? Also, please provide your views regarding whether an adverse conclusion is appropriate in a limited assurance engagement.

**Response to Request for Comment 4:** We understand that historically, the term, “limited assurance,” has commonly been used to describe the conclusion that is derived from performing a review level service, but we are not persuaded there is any valid reason for, or benefit to be obtained from, a change in the name of the service or the resultant report from “review” to “limited assurance,” as proposed in the first bullet on page 10 of the ED. In that regard, we see no need for greater clarity in differentiating between engagements to obtain limited assurance performed in accordance with SSARS, and those performed in accordance with attestation standards.

In fact, we believe the use of the term, “limited assurance,” in reference to a review conclusion is misleading in that, by contrast, it suggests inappropriately that a higher level must be unlimited assurance. We would prefer that the standards discontinue use of that term and consistently describe a review conclusion more precisely and consistently as “negative assurance” while describing an opinion consistently as “positive assurance.”

We are receptive to the ED’s position allowing practitioners to enhance their reports by providing users with a better understanding of the nature and extent of the engagement work. But we object, however, to the inclusion of language in a review (or limited assurance) engagement report describing what might be characterized as “examination-type” procedures to a degree that might tend to cause users to place an undue level of reliance beyond what is inherently warranted in such an engagement. Our concerns are that differentiation of the attest service levels are necessarily based on the nature and extent of procedures involved and that as more procedures are performed (and disclosed), the different levels of service become blurred resulting in potential user confusion. For example, we believe that litigation risks present in the U.S. might increase when examination-type procedures are applied in services provided at lower levels (we reference the famous Court of Appeals of the State of New York case of 1972, 1136 Tenants’ Corp. v. Max Rothenberg & Co.), particularly when fraud or other significant matters surface after reports are issued. We think that from a litigation risk perspective, practitioners should be encouraged by the
standard to keep the focus of reviews (or “limited assurance” engagements) principally on inquiries and analytical procedures.

We further believe that an adverse report should be warranted in a limited assurance attest engagement in circumstances involving a material exception similar to reporting a GAAP departure in a financial statement review. As is our experience with adverse opinions in audit reports, we think such a circumstance would likely be quite rare, i.e., that practicality would generally preclude such an action since the client would probably ask the practitioner not to issue a report.

Request for Comment 5: Please provide your views on the proposed changes to AT-C section 215 as discussed in the …section [entitled “Proposed Changes That Affect Agreed-upon Procedures Engagements”]. Further, please specifically consider the following questions in your response:

1. Is the proposed expansion of the practitioner’s ability to perform procedures and report in a procedures-and-findings format beyond that provided by AT-C section 215 needed and in the public interest?

2. Do the proposed revisions to AT-C section 215 appropriately address the objective of providing increased flexibility to the practitioner in performing and reporting on an agreed-upon procedures engagement while retaining the practitioner’s ability to perform an agreed-upon procedures engagement as contemplated in extant AT-C section 215?

3. Do you agree with the proposed revision to AT-C section 215, whereby no party would be required to accept responsibility for the sufficiency of the procedures and, instead, the practitioner would be required to obtain the engaging party’s acknowledgment that the procedures performed are appropriate for the intended purpose of the engagement?

Response to Request for Comment 5:

1. We refer readers to our view that is set forth in considerable detail among our principal concerns in the main body of this letter that very few, if any, changes to AT-C 215 are needed at this time.

2. We do not see any need for additional flexibility beyond that afforded under extant standards.

3. We support retaining the status quo in which the procedures applied in agreed-upon procedures engagements are selected or approved by specified parties and performed by the practitioner. The engaging party’s lack of qualifying experience to select appropriate procedures is not an obstacle as the practitioner is not precluded from recommending suitable procedures for approval and acceptance of responsibility by the engaging party and the procedures intended users. The proposed revisions would expand the range of parties able to select the procedures and determine their nature, timing and extent to include the practitioner, the engaging party or any other party. We see no reason to support this expansion.

The revised standard would allow for general use reports where only restricted reports are currently acceptable. Under the Proposal, restricted use reports would be permitted in any case but required only in limited circumstances. We believe that, for the most part, restricted reports will likely be issued by cautious and prudent practitioners in practice most of the time even if the Proposal is adopted intact in this respect. Nevertheless, we believe the reports should be required to be restricted in all cases as they are now to manage the risk of undue user reliance and exposure to litigation.

Request for Comment 6: Should AT-C section 210 of this proposed SSAE continue to prohibit the practitioner from performing a limited assurance engagement on (a) prospective financial information; (b) internal control; or (c) compliance with requirements of specified laws, regulations, rules, contracts, or grants? Please explain the rationale for your response.
Response to Request for Comment 6: We agree with the proposed prohibition on providing limited assurance on prospective financial information, internal control, or compliance with laws and regulations, rules contracts or grants because these engagements generally consist of a combination of inquiries and analytical procedures and because the subject matter would not lend itself to benchmarking. We are also doubtful of the potential utility of such reports since users would likely want more than limited (or negative) assurance.

Request for Comment 7: Are respondents supportive of the proposed effective date, specifically the prohibition on early implementation? Please provide reasons for your response.

Response to Request for Comment 7: Although we ordinarily would support early adoption of any new reporting standard, for reasons set forth in the ED, we agree with the Proposal to prohibit early implementation and set an effective date no sooner than May 1, 2020.