



August 2, 2017

AICPA
Sherry Hazel via email
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Re: Proposed Statement on Auditing Standards - *Forming An Opinion And Reporting On Financial Statements Of Employee Benefit Plans Subject To ERISA*

To whom it may concern:

The Accounting and Auditing Standards Interest Group (the Group) of the New Jersey Society of Certified Public Accountants (NJCPA) is pleased to offer its feedback and comments on the above referenced exposure draft (ED). The NJCPA represents over 14,000 certified public accountants and prospective CPAs. The comments herein represent those of some of the individuals of our Accounting and Auditing Standards Interest Group only and do not necessarily reflect the views of all members of the NJCPA.

We appreciate the opportunity to comment on the AICPA's proposed audit standard relating to the auditors' reporting models for audits of employee benefit plans subject to ERISA. We support the AICPA's efforts to address ERISA audit quality and reduce diversity in practice. Accordingly, we are generally in favor of most elements of the proposal. However, most of our Group was not in favor of the proposed reporting on compliance with specific plan provisions. We also have several suggestions regarding the elements that we are in favor of. Our responses to the issues in the ED are discussed below.

Issue 1: *Required procedures when an ERISA-permitted audit scope limitation is imposed*

We believe that the procedures and guidance outlined in the ED will improve the execution and consistency in audit procedures related to limited scope audits, particularly because current practice varies, resulting in inconsistent audit quality. Over the years, our Group has frequently discussed the diversity in ERISA audit practices. Our members often become aware of this when they are reviewing a predecessor's workpapers, when a member has been appointed as a successor auditor. Our members have also experienced this when they are proposing on an ERISA audit. Our members believe that ERISA audit quality has either diminished or not substantially improved over the years at least in part because some Plan sponsors view an ERISA audit as a commodity, rather than a valuable service. Those Plan sponsors typically engage the cheapest firm because they don't value a high quality audit. Often, low pricing precedes a decline in audit quality. Some CPA firms that provide ERISA audit services also share this perspective, and accordingly, drive down their pricing and perform lower quality audits in order to achieve profitability.

We do not believe that the required procedures outlined in the ED are missing anything.



Issue 2: *The form and content of the auditor’s report on ERISA plan financial statements with the ERISA-permitted audit scope limitation.*

You asked for our specific feedback on the following:

- A. *Does the ED provide improved transparency with respect to reporting on an audit of ERISA plan financial statements when an ERISA-permitted audit scope limitation exists, and if not, how could it be revised.*

Generally, we believe that it does. We recommend that the final form of the ED addresses situations where not all of the investment information is covered by the certification.

- B. *Will the ED improve the auditor’s understanding of his or her responsibilities in a limited scope audit resulting in potential improvements in audit quality, and if not, why.*

We believe that the ED is moving in the right direction. Accordingly, we agree that it will improve the auditor’s understanding of his or her responsibilities in a limited scope audit resulting in potential improvements in audit quality. However, meaningful improvements in ERISA audit quality will come about from a coordinated response including:

- CPE (including consideration of required minimum CPE for all ERISA auditors, not just Audit Quality Center members)
- Educating management and other users about the value of a quality ERISA audit, including how to identify high-quality ERISA auditors (including consideration of offering free training to management, third party recordkeepers, and certifying institutions)
- Enhancing consistency in the peer review process for ERISA audits, peer reviewers examining ERISA audits, and related peer review reports
- Enhanced efforts by the AICPA to educate the public about the value of a quality audit, and how to evaluate prospective auditors

- C. *Does the ED better describe management’s responsibilities for the financial statements, and if not, why.*

Generally, we believe that it does. We recommend that the paragraph describing management’s responsibilities is enhanced with the following underlined language:

“Management is also responsible for maintaining a current plan instrument including all plan amendments, administering the plan and determining that the plan’s transactions that are presented and disclosed in the financial statements are in conformity with the plan’s provisions, including maintaining sufficient records with respect to each of the participants, in accordance with sections 107 and 209 of the Employee Retirement Income Security Act of 1974, to determine, as applicable, eligibility, contributions, allocation of Plan earnings, distributions, and the benefits due or which may become due to such participants.”

- D. *Does the ED provide sufficient clarity to users with respect to the auditor’s responsibilities and matters reported, and if not, why.*

Generally, we believe that it does. We are supportive of the proposed changes regarding the auditor’s responsibility for the certified investment information.



Issue 3: Modifications to the opinion in the independent auditor's report

You asked for our specific feedback on the following:

Whether the guidance in paragraphs 31 and 34 of the proposed SAS (a) is clear with respect to the auditor's responsibilities for addressing the circumstances described previously, and (b) achieves the objective of providing transparent reporting to the users, and if not, suggested revisions.

Generally, we believe that it does. We have noted confusion and diversity in current practice regarding how to address potential modifications to a limited scope opinion (i.e., a limitation on a scope limitation).

- A. *The form and content of the example reports (nos. 5–7) illustrating qualified and disclaimers of opinion regarding the application of the guidance in paragraphs 31 and 34.*
Generally, we believe that it does. We believe that the examples will reduce confusion and diversity in current practice.

Issue 4: Required emphasis-of-matter paragraphs

We noted that the ED requires an emphasis of matter paragraph for the following. There are currently no such requirements.

- A. Significant plan amendments
- B. Minimum funding waivers were granted by the IRS, or if a request for waiver is pending before the IRS, that are disclosed in the notes
- C. Significant changes in the nature of the plan, for example, a plan merger or spin-off that are disclosed in the notes

We are in agreement with the above list. We recommend that the ED include sample language for Item A above, significant plan amendments. We also recommend that an emphasis of matter paragraph should be required for prohibited transactions and certain operational defects, and sample language provided for both.

Issue 5: Reporting internal control deficiencies

You asked for our specific feedback on the following:

- A. *The current reporting of internal control deficiencies to those charged with governance is sufficient;*
We believe that the current reporting is sufficient.
- B. *and/or there are other reporting considerations the ASB should evaluate.*
We do not believe that there are any other reporting considerations the ASB should evaluate. We generally do not believe that this should be communicated in a separate section of the auditors' report, however, please refer to our response to Issue 6.2E, below.

Issue 6: Certain requirements for audits of ERISA plan financial statements and related required report on specific plan provisions relating to the financial statements

You asked for our specific feedback on the following: 1. *With respect to the required procedures in paragraphs 15–16*



Issue 6, continued

A. Will these requirements enhance the consistency and quality of the audit work performed relating to matters that could have a direct effect on the financial statements, including related disclosures, and if not, why?

Generally, we agree with the proposed requirements in paragraphs 15–16. Many in our Group felt that these were already widespread and best practices. However, some in our Group were concerned that these requirements will increase audit costs as it requires audit procedures to be performed irrespective of the risk of material misstatement (please refer to our concerns expressed in our response to Issue 1).

B. Does the proposed SAS provide appropriate guidance on achieving these requirements, including

- i. which provisions of the plan instrument should be tested; and*
- ii. to what extent testing should be performed?*

We believe that it does with respect to Bi, but not Bii. We note that these procedures have already been widespread and best practices, as required by the AICPA's *Audit and Accounting Guide for Employee Benefit Plans* and several well-known and high quality audit methodologies. This exposure draft will move that guidance into GAAS. Our overall impression of these proposals is, if a proper ERISA audit is currently performed, this exposure draft would not have a significant impact. We recommend that paragraph 15e is expanded to list what the prohibited transactions and parties in interest are; specifically, the testing of the timeliness of contributions in a defined contribution plan. We also recommend that examples of audit tests should be provided, and Bii is addressed in greater detail.

C. What procedures related to other plan provisions or specific areas of the financial statements should be included in the required testing to enhance the usefulness of the proposed reporting of the findings?

We did not note any additional procedures.

2. With respect to reporting on the findings resulting from performing procedures related to the areas in paragraphs 119–124, whether there are opportunities to enhance the proposed requirements and guidance including whether:

A. Including the list of individual areas tested is appropriate and if so whether there are other items that should also be included (if not, why not).

We believe that the list is appropriate and no other items should be included, however please refer to our response to Issue 6.2E, below, as many members were not supportive of the requirements proposed in paragraphs 119 -124.

B. The requirement to exclude findings that are “clearly inconsequential” is appropriate, and if so is there guidance the ASB can consider to drive consistency in application in practice?

Those members that were supportive of the proposed requirements in paragraphs 119-124 believe that excluding findings that are clearly inconsequential is appropriate, and audit documentation should support that conclusion accordingly, including that the occurrence does not lead to a reportable internal control deficiency. Those members recommend that examples of “clearly inconsequential” should be provided. Many members were not supportive of the requirements proposed in paragraphs 119 -124 - please refer to our response to Issue 6.2E, below.



Issue 6, continued

- C. *The findings should also include any matters identified by management or the plan administrator? [Note: As currently drafted, the proposed SAS requires the auditor to include findings that were noted as part of the auditor's work performed in relation to paragraphs 15–16.]*

Those members that were supportive of the proposed requirements in paragraphs 119-124 do not agree with this provision, as they did not see the benefit at the cost of increasing confusion amongst users and auditors' risk.

- D. *The reporting illustrations included in the Exhibits to the proposed SAS specific to reporting the findings are clear and result in sufficient information to the user of the report?*

The illustrated auditor's reports are clear and concise. However, we recommend that Illustration 4 should be expanded with example language for instances of non-compliance; and management's responsibilities for responding to such matters. Additionally, with respect to the proposed language in Paragraphs 123.e, we recommend that the phrase "... nothing came to our attention..." be used instead of "During our audit, we did not have any findings relating to....".

- E. *There may be unintended consequences from including the findings in the auditor's report, and if so, what those unintended consequences may be and how might they be mitigated?*

Our Group had a lively discussion on this point. A few were in favor of the proposed requirements in paragraphs 119-124. Most were strongly opposed to this proposed reporting, although being generally supportive of enhancing audit quality in ERISA audits. Those members opposed to paragraphs 119 -124 expressed that:

- This explicit reporting requirement will add costs and complexity to an ERISA audit that will be very difficult to bill clients for (refer to concerns expressed in our response to Issue 1). They recognize that these audit procedures are currently considered widespread and best practices, thus their concern extends only to the proposed reporting requirement. This comment also extends to instances when an auditor may choose to make this reporting separate from the audit opinion.
- The optional placement of it within the auditor's report unintentionally links its content with the auditor, in the eyes of many readers, and therefore raises the auditor's risk. Those members do not believe the average layman will be able to grasp the fine distinction in the language. Further, depending on the severity of the weakness(es) and the possible harsh tone of the language used, a consequence may be legal action against the auditor. Another consequence may be that the client may choose to employ other auditors.
- Given these concerns, instead of requiring explicit reporting on these matters, a few members of those opposed to paragraphs 119-124 felt that these should be required communications to those charged with governance, and a reference to that reporting should be included in the auditor's opinion. For example, "We have also reported to management on our findings that arose from our testing of compliance with Plan provisions in connection with obtaining reasonable assurance in our audit [, subject to the limitation on the scope of our audit described above,]. "These members believe that interested readers can thereby follow up with management on what the issues were.



Issue 6, continued

F. Are there alternatives to reporting the findings in the auditor's report that would achieve the objectives related to enhancing audit quality?

Most members of our group were opposed to this entire concept. A few suggested an alternative, please refer to our response in "E" above. A few others were of the opinion that this proposal as drafted is a good idea, as some audit clients ignore findings currently reported in our communications of internal control matters and to those charged with governance. Finally, a few of our Group suggested that the internal control communications be sent directly to the DOL. That document would not be available for public review.

3. Whether the required additional procedures and reporting of findings will result in additional costs, and if so, views as to the extent of those costs and whether they outweigh the potential benefits of enhanced audit quality?

Some members of our Group believed that it would - please refer to our responses in "E" and Issue 1, above. Others felt that although it may increase the cost, it would improve the overall quality of ERISA plan audits. Those members do not expect the incremental costs to outweigh the benefits.

Issue 7: Required procedures relating to the Form 5500

We agree with this provision; however, we recommend that it is expanded. We noted that the ED did not change existing requirements, but it did clarify responsibilities. We recommend that Paragraph 37 should be expanded to indicate that a) the auditor should obtain a high quality draft of the Form 5500 if the final copy is not available, and b) what the auditor should do if neither a draft nor final of the Form 5500 is available. We believe that the guidance should clearly require that the auditor must see either the final 5500 or a high quality draft before dating and releasing their audit opinion.

Issue 8: Proposed new reporting standard and amendments to other AU-C sections

You asked for our specific feedback on the following:

A. The proposed approach of creating a new reporting model for reporting on ERISA plan audits (AU-C section 703) will better describe management's and the auditor's responsibilities in these engagements;

We agree that, overall, the new reporting model better describes management's and the auditor's responsibilities. Our Group was, for the most part, not in favor of the compliance reporting described in paragraphs 119 -124; please refer to our above response to Issue 6.2E. Some members of our Group believed that additional outreach to management, and those charged with Plan governance, including consideration of CPE, will be needed to underscore management's and the auditor's responsibilities. This was discussed in our response to Issue 2B.

B. The proposed amendments to the other AU-C sections are appropriate;

We generally agree, however please refer to our comments and suggestions herein.

C. Whether there are other sections of AICPA Professional Standards that might need to reflect the provisions of this proposed SAS.

We did not note any.



Issue 9: Proposed effective date

We recommend that the proposed SAS should be effective for audits of financial statements for periods ending on or after December 15, 2019, not 2018, in order to provide ample time for implementation.

Other feedback

Most of the Group agreed that technical complexity in applying standards, 'the audit as a commodity' mentality in the marketplace, audit fee pressures (created by increasingly competitive bidding, thereby generally having the impact of driving down fees), information overload, client retention concerns and client's lack of knowledge of what an audit is/is not, are challenges and obstacles in exercising due care in all audits, but particularly in an ERISA audit. As stated earlier in our response to Issue 1, we are highly concerned about the diversity in current practice and audit quality in ERISA audits. Given these conditions, some members of the Group feel that, similar to existing Yellow Book work, restrictions or pre-qualifications (such as mandatory CPE for all ERISA auditors, not just Audit Quality Center members) should be put in place to restrict who can perform ERISA audits.

Thank you for the opportunity to comment. We are available to discuss our comments at your convenience.

Respectfully submitted,

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