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21 August 2017

Proposed Statement on Auditing Standards, *Forming an Opinion and Reporting on Financial Statements of Employee Benefit Plans Subject to ERISA*

Dear Ms. Hazel:

Ernst & Young LLP is pleased to submit this comment letter to the Auditing Standards Board (ASB) in response to the ASB's request for comment on its proposed Statement on Auditing Standards (SAS). We support the ASB's efforts to improve the quality of employee benefit plan (EBP) audits and the relevance of the auditor's report for users of the financial statements.

Overall observations

We recognize and appreciate the ASB's efforts to address concerns raised by the Department of Labor (DOL) with respect to EBP audits subject to the Employee Retirement Income Security Act of 1974 (ERISA). We believe many of the proposed requirements would improve the quality of ERISA plan audits, including those relating to the ERISA-permitted audit scope limitation and the auditor's considerations of the Form 5500, which ERISA plans use to file their audited financial statements with the DOL.

Testing specific plan provisions

While we support the proposed requirement for the auditor to perform procedures to test specific plan provisions, we do not believe the auditor should perform these procedures irrespective of the risk of material misstatement. We believe the auditor should test only plan provisions where noncompliance could result in a risk of material misstatement to the financial statement amounts or disclosures.

For example, if a plan's profit-sharing contribution is not material to the plan's financial statements, we believe the auditor should not be required to test the eligibility provisions related to the profit-sharing contribution. As discussed more fully in Attachment A, we recommend replacing paragraph 15 of the proposed SAS with more principles-based guidance using a risk-based audit approach. We believe our recommendation would result in consistent application with the *AICPA Audit & Accounting Guide for Employee Benefit Plans* (the Guide), which many auditors follow today.

Reporting findings resulting from testing specific plan provisions

We do not support the proposed requirement to report findings resulting from testing specific plan provisions in the auditor's report because this would result in the auditor reporting original information about the plan to regulators and plan participants. We believe the proposed requirement would blur the roles of management and the auditor and would undermine the role of management and those charged with governance (TCWG) as the primary source of information about the plan. We also believe the proposed requirement to report findings is inconsistent with the intent of the Employee Plans Compliance Resolution System (EPCRS), which is designed to encourage plan sponsors to voluntarily and timely correct operational errors for plans without notifying regulators of the errors in certain cases.

We are concerned that the proposed requirement could have a chilling effect on communications between the auditor and the plan sponsor because plan sponsors may be less likely to tell auditors about findings they identified on their own. We believe the cost of reporting findings in the auditor's report would outweigh any potential benefits of enhanced audit quality. We believe auditors (and in particular audit executives) would spend time reporting matters that are immaterial to the financial statements, which may distract them from other important aspects of the audit.

We believe failures to comply with plan provisions represent noncompliance with ERISA that would require auditors to follow the guidance in AU-C 250, *Consideration of Laws and Regulations in an Audit of Financial Statements*. We therefore recommend that the SAS require the auditor to communicate to TCWG findings identified by the auditor (including findings that were corrected during the audit) unless they are clearly inconsequential. We believe it is important for TCWG to be aware of these findings since findings that go uncorrected could result in the plan losing its tax-exempt status. However, we believe that auditors shouldn't be required to communicate to TCWG instances of noncompliance that are identified and corrected by management.

We also recommend expanding the auditor's responsibility section of the auditor's report to describe the auditor's responsibility to test the plan's compliance with certain plan provisions that could result in a material misstatement to the financial statements. We believe this language could improve audit quality by increasing the auditor's awareness of his or her responsibility to test certain plan provisions while at the same time providing greater transparency about the audit to users of the financial statements.

ERISA-permitted audit scope limitation

We support the proposed form and content of the auditor's report on ERISA plan financial statements when management imposes the ERISA-permitted audit scope limitation. We believe the increased transparency about the responsibilities of management and the auditor in the auditor's report would improve audit quality. However, we recommend changes to the proposed language of the report, including the language in the opinion paragraph, to make it clear that the auditor did not audit the certified investment information and performed only limited procedures.

In addition, we are concerned that certain procedures the auditor would be required to perform when management imposes the ERISA-permitted audit scope limitation could be misinterpreted by users of the financial statements as meaning that the auditor is providing some level of assurance over the certified investment information. Therefore, we are recommending changes to the auditor's procedures and responsibilities in the proposed SAS to make it clear that the auditor is not providing any assurance over the certified investment information.

In addition, because the auditor would no longer disclaim an opinion for these types of audits, we believe the certified investment information in the audited financial statements should be labeled "unaudited" to make it clear that the auditor did not audit such amounts or disclosures.

Emphasis-of-matter paragraphs and reporting on ERISA supplemental schedules

We do not support the proposed requirement to include certain emphasis-of-matter paragraphs in the auditor's report and the additional guidance for reporting on ERISA supplemental schedules. We believe the existing requirements in generally accepted auditing standards (GAAS) are sufficient.

* * * * *

Attachment A includes our comments related to the ASB's questions in the Explanatory Memorandum and additional recommendations for your consideration. Attachment B includes other editorial comments. Attachment C includes Illustrations 1 and 3 of the proposed SAS, marked for the edits that we recommended in Attachments A and B. We would be pleased to discuss our comments with members of the ASB or its staff.

Very truly yours,

Ernst & Young LLP

Attachment A

Comments related to questions in the Explanatory Memorandum

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

Overall, we support the procedures outlined in paragraph 20 of the proposed SAS and believe they would enhance the execution and consistency of audits when management imposes the ERISA-permitted audit scope limitation.

However, because the auditor is not auditing the certified investment information, we believe the use of the term "evaluate" in paragraphs 20b and 20d could be misinterpreted by users of the financial statements to mean that the auditor is providing some level of assurance over the certified investment information. We believe the SAS should make it clear that the auditor is not providing any assurance over the certified investment information. Therefore, we recommend the following edits to paragraphs 20b and 20d (with corresponding edits to paragraphs A8 (last sentence), 102b and 102d and to the language in the auditor's report) of the proposed SAS:

- Paragraph 20b — <u>Inquire of management how it assessed</u> ~~evaluate management's assessment of whether~~ that the entity issuing the certification is a qualified institution and that the certified investment information is complete and accurate ~~under DOL rules and regulations~~

- Paragraph 20d — Delete this requirement

  If the ASB decides to retain paragraph 20d, we recommend clarifying that the auditor is not responsible for evaluating the form and content of the financial statement disclosures. The auditor is required only to evaluate whether the financial statement disclosures comply with the requirements of the applicable financial reporting framework. Furthermore, the auditor's responsibilities should be limited to inquiries of management to understand the nature of the investments held and the related disclosures. The auditor should not be responsible for evaluating the financial statement disclosures or inspecting supporting documentation.

We recommend the following edits to paragraph 20c (with corresponding edits to the language in the auditor's report) to reference the supplemental schedules.

- Paragraph 20c — Comparing the certified investment information with the related information presented and disclosed in the financial statements <u>and supplemental schedules</u>

We also recommend the following edits to the application guidance for paragraph 20:

- Last sentence of paragraph A42 — Unlike other scope limitations, when the scope of the audit is limited as permitted by ERISA, the auditor is required to perform certain ~~audit~~ procedures on the certified investment information even though the scope of the audit is limited.

- Paragraph A45 — ~~Although the certification provides audit evidence, it does not provide sufficient appropriate audit evidence on its own. Rather, it~~ <u>The certification</u> is considered ~~part of audit evidence relating to the certified investment information~~ when determining whether the form of opinion required by paragraph 30 can be used.

- Paragraph A47 — Move the first sentence to application guidance for paragraph 20a and delete the second sentence.

- Paragraph A48 — Delete this application guidance since the auditor would not provide reasonable assurance on disclosures relating to the certified investment information.

In addition, because the auditor would no longer disclaim an opinion for these types of audits, we believe the certified investment information in the audited financial statements should be labeled "unaudited" to make it clear that the auditor did not audit such amounts or disclosures. We recommend that the ASB instruct the EBP Audit Guide Revisions Task Force to clarify this in the Guide.

Lastly, paragraph 21 provides guidance when the auditor becomes aware that the certified investment information is incomplete, inaccurate or otherwise unsatisfactory. We believe application guidance should be added to paragraph 21 to clarify that the ERISA-permitted audit scope limitation may no longer be appropriate unless management is able to obtain a revised or amended certification from a qualified institution. The ASB can look to the guidance in paragraphs 8.170–8.174 of the Guide.

Issue 2 — The form and content of the auditor's report on ERISA plan financial statements with the ERISA-permitted audit scope limitation

We support the proposed form and content of the auditor's report for ERISA plan audits when management imposes the ERISA-permitted audit scope limitation. We believe the proposed auditor's report would improve audit quality and provide greater transparency to the users of the financial statements about the responsibilities of management and the auditor.

We believe the expanded auditor's responsibilities section would improve audit quality because auditors would clearly understand that they need to perform audit procedures on amounts and disclosures other than the certified investment information. The proposed SAS also would clarify the auditor's responsibilities with respect to the certified investment information, which we believe could reduce inconsistency in practice (see Issue 1 for our comments on the proposed procedures).

However, we recommend the following changes to the proposed requirements for the form and content of the auditor's report:

- To make the auditor's report more understandable, in addition to "investment information," we recommend defining the following terms in the auditor's report and using them throughout the report: (1) ERISA, (2) ERISA-permitted audit scope limitation and (3) qualified institution.

- To make it clear that management instructed the auditor not to audit the certified investment information, we recommend the following edits to the auditor's report:

  Basis for the ERISA-Permitted Audit Scope Limitation ~~on the Scope of the Audit~~

  As permitted by 29 CFR 2520.103-8 of the Department of Labor's Rules and Regulations for Reporting and Disclosure under ~~the Employee Retirement Income Security Act of 1974~~ ERISA, management imposed a limitation on the scope of the audit (ERISA-permitted audit scope limitation). Under the authority of section 103(a)(3)(C) of ERISA ~~the Employee Retirement Income Security Act of 1974~~, the audit need not extend to information related to assets held for investment ~~of the plan~~ (investment information) prepared and certified by a bank or similar institution or insurance carrier which is regulated and supervised and subject to periodic examination by a State or Federal agency (qualified institution), provided that the investment information is ~~the statements or information regarding assets so held are~~ prepared and certified ~~to~~ by a qualified institution ~~the bank or insurance carrier~~ in accordance with 29 CFR 2520.103-5 ~~and 29 CFR 2520.103-8~~.

We have been informed by management that a qualified institution holds the investments and executes investment transactions. Management has obtained certifications from the qualified institution as of December 31, 20X2 and 20X1, and for the year ended December 31, 20X2, stating that the investment information, described in Note X to the financial statements, is complete and accurate and has instructed us not to audit the certified investment information.

- To make it clear that the auditor did not audit the certified investment information and performed only limited procedures, we recommend the following edits to the auditor's report:

~~Auditor's~~ Opinion ~~With~~ When Management Imposes the ERISA-Permitted Audit Scope Limitation ~~on the Financial Statements~~

In our opinion, based on our audit and ~~based on our use of the certification of~~ the certified investment information ~~that we were instructed not to audit~~, the financial statements referred to above present fairly, in all material respects, the net assets available for benefits of ABC 401(k) plan as of December 31, 20X2 and 20X1, and the changes in net assets available for benefits for the year ended December 31, 20X2, in accordance with accounting principles generally accepted in the United States of America. We did not audit the certified investment information. Rather we performed the limited procedures described in the *Auditor's Responsibility (Including Responsibility for the Certified Investment Information)* section.

Other Matter Relating to the Supplemental Schedules Required by ERISA

In our opinion, based on our audit and ~~based on our use of the certification of~~ the certified investment information ~~that we were instructed not to audit~~, the information in the accompanying schedules is fairly stated, in all material respects, in relation to the financial statements as a whole~~, and the form and content are presented in conformity with the Department of Labor's Rules and Regulations for Reporting and Disclosure under the Employee Retirement Income Security Act of 1974~~ [***refer to additional recommendations on page 10 related to reporting on ERISA supplemental schedules***]. We did not audit the certified investment information. Rather, we performed the limited procedures described in the *Auditor's Responsibility (Including Responsibility for the Certified Investment Information)* section.

- To eliminate redundancy and the risk of confusing users of the financial statements, we recommend deleting the following sentence in the auditor's responsibility section of the auditor's report:

~~Other than with respect to the certified investment information, our audit procedures were not limited for other amounts and disclosures in the financial statements~~.

We believe the proposed SAS should include transition guidance when comparative financial statements are presented and the auditor disclaimed an opinion on the prior year but would issue an opinion following the proposed auditor's report in the year the proposed SAS is effective. We believe any transition guidance should follow Chapter 11 of the Guide, which provides guidance on a similar situation.

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

We support the proposed guidance in paragraphs 31 and 34 of the proposed SAS. We believe the proposed guidance is consistent with current practice and would help clarify the reporting requirements when management imposes the ERISA-permitted audit scope limitation and other scope limitations exist. Common examples of other scope limitations include when (1) the auditor is engaged to audit a 403(b) plan and management did not maintain books and records prior to the initial audit of the 403(b) plan or (2) plans merge and one of the merging plans did not previously require an audit and historical books and records are not available.

We recommend deleting Illustration 5 because the circumstances that would require the auditor to qualify its opinion are rare and would not typically result from inadequate disclosures. We note that paragraph 11.56 of the Guide includes a similar example, which auditors could refer to if this situation arose in practice. Attachment B includes our editorial comments relating to Illustrations 6 and 7.

Issue 4 — Required emphasis-of-matter paragraphs

We do not support the proposed requirement to include an emphasis-of-matter paragraph in the auditor's report for any of the situations in paragraph 116. We do not believe the items listed in this paragraph are fundamental to the users' understanding of the financial statements for the following reasons:

- *Significant plan amendments that affect net assets* — Other than a plan merger or spin-off, we can't identify an example of a significant plan amendment that would affect net assets and would be required to be disclosed in the financial statements.

- *Minimum funding waivers* — Auditors typically consider unpaid minimum contributions in their assessment of a plan's ability to continue as a going concern under AU-C 570, *The Auditor's Consideration of an Entity's Ability to Continue as a Going Concern*. Because any minimum funding waivers would be considered in the going concern assessment under AU-C 570 and AU-C 570 requires an emphasis-of-matter paragraph if the auditor concludes that substantial doubt exists about the plan's ability to continue as a going concern for a reasonable period of time, it is unnecessary to require this in the proposed SAS. Furthermore, Form 5500 already requires the plan to identify any minimum funding waivers.

- *Significant changes in the nature of the plan (e.g., plan mergers, spin-offs)* — When the plan sponsor consummates a merger or spin-off, the auditor of the plan sponsor is not required to include an emphasis-of-matter paragraph in its auditor's report. Therefore, it's not clear to us why the auditor of the ERISA plan would need to include an emphasis-of-matter paragraph. Furthermore, Form 5500 currently requires the plan to identify transfers of assets to and from the plan in Part II of Schedule H so regulators can easily identify transfers.

We believe the requirements and application guidance in AU-C 706, *Emphasis-of-Matter Paragraphs and Other-Matter Paragraphs in the Independent Auditor's Report*, are sufficient for ERISA plan audits. We believe the auditor should apply professional judgment to determine whether a matter is of such importance to users' understanding of the financial statements that an emphasis-of-matter paragraph is necessary, as the auditor does for other GAAS audits.

We also believe that requiring emphasis-of-matter paragraphs for ERISA plans would create an unnecessary difference between the separate reports auditors provide under the Public Company Accounting Oversight Board (PCAOB) standards and GAAS for ERISA plans that are issuers.

Issue 5 — Reporting internal control deficiencies

We agree with the ASB's decision that the current requirement in AU-C 265, *Communicating Internal Control Related Matters Identified in an Audit,* to report internal control deficiencies to TCWG is sufficient. We do not believe the proposed auditor's report should include a description of any significant deficiencies or material weaknesses in internal control identified during the audit. Because this matter is not unique to ERISA plan audits, we believe the decisions reached by the ASB as part of its overall reporting project should be applied consistently for all audits performed in accordance with GAAS.

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

Refer to issues 6.1–6.3 below.

Issue 6.1 — Testing specific plan provisions

As discussed in our cover letter, while we support the proposed requirement for the auditor to perform procedures to test specific plan provisions, we believe the auditor should test only those plan provisions where noncompliance could result in a risk of material misstatement to the financial statement amounts or disclosures.

<u>Paragraph 15 of the proposed SAS:</u>

We recommend replacing paragraph 15 with more principles-based guidance. Based on risk assessment procedures, we believe the auditor should identify the classes of transactions, account balances and disclosures where the risk of misstatement could be material to the financial statements. For these classes of transactions, account balances and disclosures, we believe the auditor should test the following plan provisions, if applicable:

- Eligibility and participation provisions — The auditor would test whether participants meet the eligibility requirements based on the plan's provisions.

- Formula/calculation provisions — The auditor would test whether transaction amounts are determined in accordance with the plan's provisions, including vesting provisions and defined inputs such as the definition of compensation and years of service.

- Individual participant account provisions — The auditor would test whether transactions are recorded in the appropriate individual participant accounts based on the plan's provisions because errors in recording these transactions may materially affect benefit payments due to participants when they are eligible to receive distributions from the plan.

- The auditor would test other plan provisions for which noncompliance could result in material misstatement to the financial statements.

Furthermore, we believe the procedures to test the plan provisions could be substantive procedures, analytical procedures, tests of controls or a combination of the three, and the nature, timing and extent of procedures would be based on the risk assessment procedures.

To illustrate our proposed recommendation, assume the auditor determined that benefit payments are material to the financial statements of a defined contribution plan. The plan provisions specify when a participant is eligible to receive a benefit payment and specify that all employee and employer contributions vest immediately. Further, the plan provisions allow participants to elect to receive annuity payments. The plan also permits hardship withdrawals. In this example, the auditor would perform procedures to test the following plan provisions:

- Eligibility and participation provisions — The auditor would test whether participants who received a benefit payment were eligible based on the plan's provisions. Note that if hardship withdrawals were not material, the auditor would not need to test the eligibility provisions for these payments.

- Formula/calculation provisions — The auditor would test whether the benefit payment amount was determined based on the plan's provisions. Note that if the annuity payments were not material to the financial statements, the auditor would not need to test compliance with this plan provision.

- Individual participant account provisions — The auditor would test whether the benefit payments were recorded as distributions in the appropriate individual participant accounts based on the plan's provisions.

This example is intended to illustrate procedures to test certain plan provisions. It is not intended to describe all of the procedures auditors would perform to test benefit payments. If the auditor tested the plan provisions for benefit payments pursuant to paragraph 15 of the proposed SAS, the auditor would be required to test eligibility for hardship withdrawals and annuity provisions irrespective of the risk of material misstatement to the financial statements. We believe this would be inconsistent with the risk-based audit approach. Further, the extent of testing the auditor would perform over hardship withdrawals and annuity provisions is unclear.

We also believe our recommendation would result in consistent application with the Guide and would eliminate confusion for auditors who follow the Guide. Because the Guide includes accounts (e.g., participant loans, plan transfers, benefit obligations) that aren't included in the proposed SAS, auditors may be confused about whether to follow the guidance in the proposed SAS or the Guide. While paragraph 14 of the proposed SAS states that paragraphs 15–16 do not include all requirements necessary for the auditor to form an opinion and report on the ERISA plan financial statements, we believe some auditors may misinterpret this statement.

For example, if participant loans are material to the financial statements, auditors that follow paragraph 15 of the proposed SAS may determine that testing plan provisions for participant loans is not necessary (since paragraph 15 of the proposed SAS does not include participant loans), but auditors that follow the Guide may determine that such testing is necessary (since paragraph 5.231 of the Guide includes example procedures for testing that the participant loan is in accordance with the plan's provisions).

Our recommendations are consistent with generally accepted government auditing standards (GAGAS). When performing an audit of a government entity or an entity that receives government awards in accordance with GAGAS, auditors extend the AICPA's requirements about compliance with laws and regulations to compliance with provisions of contracts and grant agreements. Auditors apply materiality when determining the extent of testing for compliance with provisions of contracts or grant agreements.

If the ASB does not agree with our recommendation to replace paragraph 15, we recommend eliminating paragraphs 15e, 15g and 15h for the following reasons:

- Paragraph 15e — We believe auditors are already performing the procedure in paragraph 15e as required under AU-C 725, *Supplementary Information in Relation to the Financial Statements as a Whole*; therefore, it is unnecessary to include the procedure in the proposed SAS. Also, if this procedure were included in the SAS, we believe auditors may not realize that they need to comply with all of the requirements of AU-C 725. Furthermore, we believe paragraph 15e could create confusion for auditors since it may imply that auditors would only need to test the supplemental schedule of non-exempt transactions and not the other ERISA supplemental schedules.

- Paragraph 15g — We agree that auditors should perform procedures to test the reconciliation of individual participant accounts maintained by the record keeper to total net assets held by the trustee or custodian. However, determining that assets are fully allocated to the participant accounts is generally not a specific provision in a plan instrument; therefore, we recommend deleting this paragraph. Paragraph 5.210f of the Guide contains a similar procedure and does not make a reference to the plan's provisions so it is unclear to us why this particular procedure is included in the proposed SAS but other procedures in the Guide that are unrelated to plan provisions are not included in the proposal.

- Paragraph 15h — We recommend deleting this paragraph because forfeitures are typically immaterial to the financial statements.

<u>Paragraph 16 of the proposed SAS:</u>

We recommend removing paragraph 16a from the proposed SAS. We also recommend removing paragraph 16b if the ASB agrees with our recommendation to replace paragraph 15 with more principles-based guidance.

Paragraph 16a relates to relevant Internal Revenue Code (IRC) compliance tests that typically do not directly affect the financial statements. Even if compliance tests fail, the corrective actions are generally not material to the financial statements. Auditors typically limit procedures related to IRC compliance tests to inquiries with management or the entity engaged by management to perform the tests. We recommend including required written representations that the auditor obtains from management about whether the plan has performed and passed, corrected or intends to correct the relevant IRC compliance tests within the time period provided by the regulations. We believe a required written representation from management, along with the example procedures for auditing a plan's tax status in paragraph 9.28 of the Guide, would be sufficient.

The requirement in paragraph 16b to test whether investment income, expenses and fees have been recorded in the proper individual participant account is covered in our recommendation for replacing paragraph 15.

Issue 6.2 — Reporting findings resulting from testing specific plan provisions

As discussed in our cover letter, we do not support the proposed requirement to report findings from testing specific plan provisions in the auditor's report because this would result in the auditor providing original information about the plan to regulators and plan participants. In all situations, the auditor would be the source of original information because management is not required to report noncompliance with the plan's provisions in the financial statements or Form 5500.

We believe the proposed requirement would blur the roles of management and the auditor and would undermine the role of management and TCWG as the primary source of information about the plan. We are also concerned that the proposed requirement could have a chilling effect on communications between the auditor and the plan sponsor because plan sponsors may be less likely to tell the auditors about findings they identified on their own. Today, plan sponsors discuss findings they identify with their auditors and correct them to avoid losing the plan's tax-exempt status.

We also believe the proposed requirement to report findings is inconsistent with the intent of the EPCRS, which the Internal Revenue Service (IRS) created to encourage plan sponsors to voluntarily and timely correct plan operational errors that routinely occur in day-to-day plan administration. The EPCRS includes (1) the Self-Correction Program (SCP), which permits plan sponsors to correct plan errors, regardless of significance, with no requirements to report them to regulators and (2) the Voluntary Correction Program (VCP), which permits plan sponsors to pay a fee and receive IRS approval for the correction of plan errors (confidentially and in some cases anonymously).

In addition, we believe the proposed requirement to report findings could expose the auditor to the risk of litigation if the auditor discloses original information. Auditors are required to comply with professional obligations of confidentiality, state confidentiality laws and accountant-client privileges. Also, AU-C 250.A28 recognizes that "the auditor's professional duty to maintain the confidentiality of client information may preclude reporting identified or suspected noncompliance with laws and regulations to a party outside the entity." Therefore, if the auditor discloses original client information in the course of describing a finding, the auditor may be exposed to additional liability from its client for breaching these confidentiality obligations. Incorrectly reporting a finding may also subject the auditor to litigation.

We also believe reporting findings may expose the plan sponsor, service provider and/or ERISA plan to litigation risk and possibly penalties. Findings could be misinterpreted as acts of negligence on the part of the plan sponsor or service provider and could result in an investigation of the ERISA plan by a regulator. We recommend that before finalizing the standard, the ASB consider the feedback from plan sponsors and service providers and, if necessary, conduct outreach to understand their concerns about litigation risk.

We believe failures to comply with plan provisions represent noncompliance with ERISA that would require auditors to follow the guidance in AU-C 250. We therefore recommend that the SAS require the auditor to communicate to TCWG findings identified by the auditor (including findings that were corrected during the audit) unless they are clearly inconsequential. We believe it is important for TCWG to be aware of these findings since findings that go uncorrected could result in the plan losing its tax-exempt status.

However, we believe that auditors shouldn't be required to communicate to TCWG instances of noncompliance that are identified and corrected by management. In addition, we believe the auditor shouldn't be required to communicate findings if all of TCWG are involved in management of the plan and are aware of the findings.

Lastly, we believe that reporting findings would create an unnecessary difference between the separate reports auditors provide under the PCAOB standards and GAAS for ERISA plans that are issuers.

We also recommend the following edits to the auditor's responsibility section of the auditor's report to describe the auditor's responsibility to test the plan's compliance with certain plan provisions. We believe this language would provide greater transparency about the audit to users of the financial statements and may improve audit quality by increasing the auditor's awareness of its responsibility to test certain plan provisions.

> <u>As part of obtaining reasonable assurance about whether [name of ERISA plan]'s financial statements are free of material misstatement, we performed procedures to test the plan's compliance with certain plan provisions that could result in a material misstatement to the financial statements, but not for the purpose of expressing an opinion on compliance with those provisions. Accordingly, we express no such opinion</u>.

Issue 6.3 — Incremental costs from testing and reporting specific plan provisions

We believe the costs of reporting findings in the auditor's report would outweigh any potential benefits of enhanced audit quality. We believe the framework in the proposed SAS (to test specific plan provisions irrespective of the risk of material misstatement and to report findings unless they are clearly inconsequential) would result in auditors (and in particular audit executives) spending time reporting matters that are immaterial to the financial statements and may distract them from other important aspects of the audit.

Further, given the sensitive nature of reporting findings, we also believe that additional time would be incurred by the auditor, management and possibly the plan's ERISA counsel and service providers to investigate, describe and report any findings. We do not believe this additional effort would result in improved audit quality, and it could have the unintended consequence of misleading users of the financial statements due to the lack of context around the description of the findings in the auditor's report.

The amount of audit effort that would be required to test specific plan provisions would depend on various factors including whether the auditor currently performs procedures to test specific plan provisions and the complexity of the plan provisions. However, if the ASB follows our recommendations for the testing of and reporting on specific plan provisions, we would not expect auditors that follow the Guide to incur significant costs.

Issue 7 — Required procedures relating to the Form 5500

We support the proposed required procedures relating to Form 5500 and believe they would achieve the objective of increased consistency with respect to identifying information in Form 5500 that may be relevant to the audit of the ERISA plan financial statements. We note that many auditors perform these procedures today.

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

We support the ASB's proposed approach of creating a new reporting model for ERISA plan audits that would address the ERISA-permitted audit scope limitation and other unique requirements for ERISA plan audits.

Issue 9 — Proposed effective date

We do not believe the proposed effective date provides sufficient time for preparers, auditors and others to adopt the new standard and related conforming amendments.

Because the proposed SAS affects both performance and reporting requirements, we believe implementation of the proposed SAS may be time-consuming for audit firms and the AICPA. Audit firms would need sufficient time to discuss the requirements of the new standard with plan sponsors, develop training programs, develop internal risk management policies and update internal guidance.

Additionally, the AICPA would need sufficient time to update the Guide, create awareness, develop training programs and update applicable tools. We also believe that the proposed SAS may need to incorporate elements of the ASB's overall auditor reporting project and the effective date of that project should be considered. Therefore, we recommend that the effective date be at least two years after the issuance of the final standard.

Additional recommendations

Reporting on ERISA supplemental schedules

We recommend eliminating paragraph 118 and modifying the application guidance for paragraph 117 of the proposed SAS.

Paragraph 118 would replace the reporting elements of paragraph .09 of AU-C 725. We believe the reporting requirements of paragraph .09 of AU-C 725 are sufficient for an ERISA plan audit and therefore do not support the proposed incremental reporting requirements (regardless of the form of report), which include (1) opining on the form and content of the supplemental schedules, (2) stating that the auditor evaluated whether the supplemental schedules, including the form and content, are presented in conformity with the DOL's Rules and Regulations under ERISA and (3) stating that the auditor performed procedures to test the completeness and accuracy of the information presented in the supplemental schedules.

However, we recognize that auditors would need application guidance when management imposes the ERISA-permitted audit scope limitation and the supplemental schedules include certified investment information. Therefore, we propose moving paragraphs 118e and 118i to application guidance for paragraph 117.

Under the proposed SAS, because the auditor would no longer disclaim an opinion in these types of audits (assuming no other scope limitations exist), the auditor may express an opinion on whether the supplementary information is fairly stated, in all material respects, in relation to the financial statements as a whole. We believe the "in relation to opinion" already encompasses whether the form and content of the supplementary information are presented in conformity with the DOL's Rules and Regulations under ERISA because paragraph 7b of AU-C 725 requires the auditor to determine whether the form and content of the supplementary information complies with the applicable criteria (which in this case would be the DOL's Rules and Regulations under ERISA). Thus, we believe a separate opinion on the form and content of the supplementary information is redundant and unnecessary.

The other reporting requirements the proposed SAS would add in paragraph 118 are consistent with PCAOB AS 2701, *Auditing Supplemental Information Accompanying Audited Financial Statements*. For example, PCAOB AS 2701 requires auditors to report that they performed procedures to test the completeness and accuracy of the information presented in the supplemental schedules. We do not support including these reporting requirements until the ASB updates AU-C 725 to converge with PCAOB 2701 as part of its PCAOB convergence project.

For a full-scope audit, we recommend the following edits to the section *Other Matter Relating to the Supplemental Schedules Required by ERISA*:

> Our audits were conducted for the purpose of forming an opinion on the financial statements as a whole. The supplemental schedules of [*identify title of schedules and period covered*] are presented for purposes of additional analysis and are not a required part of the financial statements but are supplementary information required by the Department of Labor's Rules and Regulations for Reporting and Disclosure under the Employee Retirement Income Security Act of 1974. Such information is the responsibility of management and was derived from and relates directly to the underlying accounting and other records used to prepare the financial statements. The information has been subjected to the auditing procedures applied in the audits of the financial statements and certain additional procedures, including comparing and reconciling such information directly to the underlying accounting and other records used to prepare the financial statements or to the financial statements themselves, ~~performing procedures to test the completeness and accuracy of the information presented in the supplemental schedules,~~ and other additional procedures in accordance with auditing standards generally accepted in the United States of America.

In our opinion, the information in the accompanying schedules is fairly stated, in all material respects, in relation to the financial statements as a whole.

~~In forming our opinion on the supplemental schedules, we evaluated whether the supplementary information, including its form and content, is presented in conformity with the Department of Labor's Rules and Regulations for Reporting and Disclosure under the Employee Retirement Income Security Act of 1974.~~

~~In our opinion, the information in the accompanying schedules is fairly stated in all material respects in relation to the financial statements as a whole, and the form and content are presented in conformity with the Department of Labor's Rules and Regulations for Reporting and Disclosure under the Employee Retirement Income Security Act of 1974.~~

For an ERISA-permitted audit scope limitation, we recommend the following edits to the section *Other Matter Relating to the Supplemental Schedules Required by ERISA*:

Our audits were conducted for the purpose of forming an opinion on the financial statements as a whole. The supplemental schedules of [*identify title of schedules and period covered*] are presented for purposes of additional analysis and are not a required part of the financial statements but are supplementary information required by the Department of Labor's Rules and Regulations for Reporting and Disclosure under ERISA ~~the Employee Retirement Income Security Act of 1974~~. Such information is the responsibility of management and was derived from and relates directly to the underlying accounting and other records used to prepare the financial statements. The information, other than the certified investment information, has been subjected to the auditing procedures applied in the audits of the financial statements ~~and the use of the certification of the investment information, that we were instructed not to audit~~, and certain additional procedures, including comparing and reconciling such information directly to the underlying accounting and other records used to prepare the financial statements or to the financial statements themselves, ~~performing procedures to test the completeness and accuracy of the information presented in the supplemental schedules,~~ and other additional procedures in accordance with auditing standards generally accepted in the United States of America.

Our procedures with respect to the certified investment information ~~included in the supplemental schedules were limited to those procedures~~ are described in the *Auditor's Responsibility (Including Responsibility for the Certified Investment Information)* section.

~~In forming our opinion on the supplemental schedules, we evaluated whether the supplementary information, including its form and content, is presented in conformity with the Department of Labor's Rules and Regulations for Reporting and Disclosure under the Employee Retirement Income Security Act of 1974.~~

In our opinion, based on our audit and ~~based on our use of the certification of~~ the certified investment information ~~that we were instructed not to audit~~, the information in the accompanying schedules is fairly stated, in all material respects, in relation to the financial statements as a whole~~, and the form and content are presented in conformity with the Department of Labor's Rules and Regulations for Reporting and Disclosure under the Employee Retirement Income~~

~~Security Act of 1974~~. We did not audit the certified investment information. Rather we performed the limited procedures described in the *Auditor's Responsibility (Including Responsibility for the Certified Investment Information)* section.

Management's responsibility for maintaining sufficient records with respect to each of the participants

Paragraph 22 of the proposed SAS would require certain written representations from management, including a representation from management acknowledging its responsibility for maintaining sufficient records with respect to each of the participants, in accordance with ERISA sections 107 and 209, to determine the benefits due or which may become due to participants.

We believe determining what is considered "sufficient records" and how long the records should be maintained by management requires judgment. Further, compliance with ERISA section 209 is more challenging when plans merge and the supporting records (e.g., payroll reports) from the prior employer are not transferred to the successor plan. For example, the calculations of accrued benefits may be transferred to the successor plan but the supporting records may no longer be available. We recommend that before finalizing the standard, the ASB should consider the feedback from plan sponsors and, if necessary, conduct outreach with them to determine whether this representation is appropriate. If the ASB decides not to move ahead with this requirement, management's responsibilities in the auditor's report would also need to be revised.

Attachment B

Other editorial comments

Reference	Observation
Paragraph 35	We recommend that paragraph 35 and its related application guidance be included as application guidance to paragraph 34.
Paragraph A44	We recommend deleting this paragraph because it is repetitive of the requirements and application guidance in paragraphs 20 and A42–A43.

Illustration 1	▸ We recommend changing the title as follows: An Unmodified Auditor's Report on Financial Statements for an ERISA Defined Contribution Retirement Plan ~~Subject to ERISA~~
	▸ We recommend adding the following items to the circumstances section:
	  ▸ The auditor's report contains an unmodified opinion.
	  ▸ Supplementary information as required by the Department of Labor's Rules and Regulations for Reporting and Disclosure under ERISA accompanies the plan's financial statements. The report on the supplementary information is presented as an other-matter paragraph. The auditor has concluded that the supplementary information is fairly stated, in all material respects, in relation to the financial statements as a whole.
	▸ We recommend changing the management's responsibility heading as follows: Management's Responsibility for the ERISA Plan Financial Statements ~~of an Employee Benefit Plan Subject to ERISA~~

Illustration 2	▸ We recommend changing the title as follows: An Unmodified Auditor's Report on Financial Statements for an ERISA Defined Benefit Pension Plan ~~subject to ERISA~~
	▸ We recommend the following edits to the circumstances section:
	  ▸ The auditor's report contains an unmodified opinion.
	  ▸ Supplementary information as required by the Department of Labor's Rules and Regulations for Reporting and Disclosure under ERISA accompanies the plan's financial statements. The report on the supplementary information is presented as an other-matter paragraph. The auditor has concluded that the supplementary information is fairly stated, in all material respects, in relation to the financial statements as a whole.
	  ▸ The information regarding the actuarial present value of accumulated plan benefits and changes therein is presented in separate statements with the financial statements (refer to A90 for application guidance when the accumulated plan benefit information is presented in the notes to the financial statements).

Reference	Observation
	▶ We recommend changing the management's responsibility heading as follows: Management's Responsibility for the ERISA Plan Financial Statements ~~of an~~ ~~Employee Benefit Plan Subject to ERISA~~

Illustration 3	▶ We recommend also illustrating an auditor's report on financial statements for an ERISA defined benefit plan (with a beginning-of-the-year presentation of accumulated plan benefits) when management imposes the ERISA-permitted audit scope limitation.
	▶ We recommend changing the title as follows: An Auditor's Report on Financial Statements for an ERISA Defined Contribution Retirement Plan ~~Subject to ERISA~~ When Management Imposes ~~a Limitation of the Scope of the Audit as Permitted by ERISA~~ the ERISA-Permitted Audit Scope Limitation
	▶ We recommend adding or modifying the following items in the circumstances section:
	  ▶ Audit of a complete set of general purpose financial statements for an ERISA defined contribution plan (comparative statement of net assets available for benefits and a single-year statement of changes in net assets available for benefits).
	  ▶ Management imposed a limitation on the scope of the audit, as permitted by 29 CFR 2520.103-8 of the DOL's Rules and Regulations for Reporting and Disclosure under ERISA, with respect to the certified investment information ~~for a complete set of general purpose financial statements of a 401(k) plan~~. No other scope limitations were imposed and the financial statements are not materially misstated.
	  ▶ Supplementary information as required by the Department of Labor's Rules and Regulations for Reporting and Disclosure under ERISA accompanies the plan's financial statements. The report on the supplementary information is presented as an other-matter paragraph. The auditor has concluded that the supplementary information is fairly stated, in all material respects, in relation to the financial statements as a whole.
	▶ We recommend changing the management's responsibility heading as follows: Management's Responsibility for the ERISA Plan Financial Statements and the ERISA-Permitted Audit Scope Limitation ~~on the Scope of the Audit~~
	▶ We recommend the following edits to management's responsibilities:
	  ▶ Management is also responsible for determining whether the ERISA-permitted audit scope limitation ~~a limitation on the scope of the audit~~ is permissible ~~in~~ under the circumstances~~, in accordance with the Employee Retirement Income Security Act of 1974,~~ including evaluating whether…

Reference	Observation
	▸ The ERISA-permitted audit scope limitation ~~on the scope of the audit~~ does not affect management's responsibility for the financial statements. Management is responsible for determining whether the certified investment information is appropriately measured, presented and disclosed in accordance with accounting principles generally accepted in the United States of America. ▸ We recommend the following edits to auditor's responsibilities: ▸ We believe that the audit evidence we have obtained is sufficient and appropriate to provide a basis for our audit opinion ~~with~~ when management imposes the ERISA-permitted audit scope limitation ~~on the financial statements~~.
Illustration 6	▸ We recommend changing the title as follows: An Auditor's Report ~~Containing a Disclaimer of Opinion~~ on Financial Statements for an ERISA Defined Contribution Retirement Plan ~~Subject to ERISA~~ Containing a Disclaimer of Opinion Due to the Auditor's Inability to Obtain Sufficient Appropriate Audit Evidence ▸ We recommend the following edits to the circumstances section: ▸ The auditor was unable to obtain sufficient appropriate audit evidence ~~about the plans investments because the plan has not maintained sufficient accounting records and supporting documents~~ for certain participant account balances that merged into the plan in 20XX. The possible effects of this inability to obtain sufficient appropriate audit evidence are deemed to be both material and pervasive to the financial statements. Accordingly, the auditor's report ~~opinion~~ contains a disclaimer of opinion. ▸ Supplementary information as required by the Department of Labor's Rules and Regulations for Reporting and Disclosure under ERISA accompanies the plan's financial statements. In accordance with AU-C section 725, *Supplementary Information in Relation to the Financial Statements as a Whole*, ~~T~~the auditor is precluded from expressing an opinion on the supplemental schedules when the auditor issues a disclaimer of opinion on the financial statements ~~in accordance with AU-C section 725, *Supplementary Information in Relation to the Financial Statements as a Whole*~~. The auditor's report ~~communication~~ on the supplemental schedules has been revised accordingly. ▸ We recommend changing the management's responsibility heading as follows: Management's Responsibility for the ERISA Plan Financial Statements ~~of an Employee Benefit Plan Subject to ERISA~~

Reference	Observation
	▸ We recommend the following edit to the basis for disclaimer of opinion: ▸ ABC 401(k) Plan has not maintained sufficient accounting records and supporting documents related to certain participant account balances that merged into the Plan in 20XX. Accordingly, we were unable to apply auditing procedures sufficient to determine the extent to which the accompanying financial statements may have been affected by these conditions. ▸ We recommend the following edits to the other-matter paragraph relating to the supplemental schedules to conform to the illustrative example in AU-C 725: ▸ We were engaged for the purpose of forming an opinion on the ~~basic~~ financial statements as a whole. The supplemental schedules of [*identify title of schedules and period covered*] are presented for purposes of additional analysis and are not a required part of the financial statements but are supplementary information required by the Department of Labor's Rules and Regulations for Reporting and Disclosure under the Employee Retirement Income Security Act of 1974. Because of the significance of the matter described in the Basis for Disclaimer of Opinion paragraph, it is inappropriate to and we do not express an opinion on the ~~supplemental schedules~~ supplementary information referred to above.
Illustration 7	▸ We recommend changing the title as follows: An Auditor's Report on Financial Statements for an ERISA Defined Contribution Retirement Plan Containing a Disclaimer of Opinion Due to the Auditor's Inability to Obtain Sufficient Appropriate Audit Evidence ~~Because the Plan Has Not Maintained Sufficient Accounting Records, on Financial Statements of a Defined Contribution Retirement Plan Subject to ERISA~~ When Management Imposes ~~a Limitation on the Scope of the Audit as~~ the ERISA-Permitted Audit Scope Limitation ~~by ERISA~~ ▸ We recommend the following edits to the circumstances section: ▸ The auditor was unable to obtain sufficient appropriate audit evidence for certain participant account balances that merged into the plan in 20XX. The possible effects of this inability to obtain sufficient appropriate audit evidence are deemed to be both material and pervasive to the financial statements. Accordingly, the auditor's report contains a disclaimer of opinion. ~~The auditor was unable to obtain sufficient appropriate audit evidence because the plan has not maintained sufficient accounting records and supporting documents. The possible effects of this inability to obtain sufficient appropriate audit evidence are deemed to be both material and pervasive to the financial statements. In addition, the auditor also considers the effect of the ERISA-permitted audit scope limitation on the auditor's opinion because the opinion provided in paragraph 105 of this proposed SAS is not appropriate. Accordingly, the auditor's opinion contains a disclaimer of opinion.~~

Reference	Observation
	▸ Supplementary information as required by the Department of Labor's Rules and Regulations for Reporting and Disclosure under ERISA accompanies the plan's financial statements. In accordance with AU-C section 725, *Supplementary Information in Relation to the Financial Statements as a Whole*, ~~T~~the auditor is precluded from expressing an opinion on the supplemental schedules when the auditor issues a disclaimer of opinion on the financial statements ~~in accordance with AU-C section 725 *Supplementary Information in Relation to the Financial Statements as a Whole*~~. The auditor's report ~~communication~~ on the supplemental schedules has been revised accordingly. ▸ We recommend edits to management's responsibilities consistent with our recommendations to illustration 3. ▸ We recommend edits to the basis for disclaimer of opinion paragraphs as follows: ▸ ABC 401(k) Plan has not maintained sufficient accounting records and supporting documents related to certain participant account balances that merged into the Plan in 20XX. Accordingly, we were unable to apply auditing procedures sufficient to determine the extent to which the accompanying financial statements may have been affected by these conditions. ▸ As permitted by 29 CFR 2520.103-8 of the Department of Labor's Rules and Regulations for Reporting and Disclosure under ERISA ~~the Employee Retirement Income Security Act of 1974~~, management imposed a limitation on the scope of the audit (ERISA-permitted audit scope limitation). Under the authority of section 103(a)(3)(C) of ERISA ~~the Employee Retirement Income Security Act of 1974~~, the audit need not extend to information related to assets held for investment ~~of the plan~~ (investment information) prepared and certified by a bank or similar institution or insurance carrier which is regulated and supervised and subject to periodic examination by a State or Federal agency (qualified institution), provided that the investment information is prepared and certified by a qualified institution in accordance with 29 CFR 2520.103-5 ~~provided that the statements or information regarding assets so held are prepared and certified to by the bank or insurance carrier in accordance with 29 CFR 2520.103-5 and 29 CFR 2520.103-8~~. We have been informed by management that a qualified institution holds the investments and executes investment transactions. Management has obtained certifications from the qualified institution as of December 31, 20X2 and 20X1, and for the year ended December 31, 20X2, stating that the investment information, described in Note X to the financial statements, is complete and accurate and has instructed us not to audit the certified investment information.

Reference	Observation
	▸ We recommend the following edits to the other-matter paragraph relating to the supplemental schedules to conform with the example in AU-C 725: ▸ We were engaged for the purpose of forming an opinion on the ~~basic~~ financial statements as a whole. The supplemental schedules of [*identify title of schedules and period covered*] are presented for the purpose of additional analysis and are not a required part of the financial statements but are supplementary information required by the Department of Labor's Rules and Regulations for Reporting and Disclosure under the Employee Retirement Income Security Act of 1974. Because of the significance of the matters described in the Basis for Disclaimer of Opinion paragraphs, it is inappropriate to and we do not express an opinion on the supplementary information referred to above.

Attachment C

Marked illustrations of auditor's reports

Illustration 1 — An Unmodified Auditor's Report on Financial Statements for an ERISA Defined Contribution Retirement Plan ~~Subject to ERISA~~

Independent Auditor's Report

[Appropriate Addressee]

We have audited the accompanying financial statements of ABC 401(k) Plan, which comprise the statements of net assets available for benefits as of December 31, 20X2 and 20X1, and the related statement of changes in net assets available for benefits for the year ended December 31, 20X2, and the related notes to the financial statements.

Management's Responsibility for the ERISA Plan Financial Statements ~~of an Employee Benefit Plan Subject to ERISA~~

Management is responsible for the preparation and fair presentation of these financial statements in accordance with accounting principles generally accepted in the United States of America; this includes the design, implementation, and maintenance of internal control relevant to the preparation and fair presentation of financial statements that are free from material misstatement, whether due to fraud or error.

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 the benefits due or which may become due to such participants.

Auditor's Responsibility

Our responsibility is to express an opinion on these financial statements based on our audits. We conducted our audits in accordance with auditing standards generally accepted in the United States of America. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free from material misstatement.

An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the financial statements. The procedures selected depend on the auditor's judgment, including the assessment of the risks of material misstatement of the financial statements, whether due to fraud or error. In making those risk assessments, the auditor considers internal control relevant to the entity's preparation and fair presentation of the financial statements in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the entity's internal control. Accordingly, we express no such opinion. An audit also includes evaluating the appropriateness of accounting policies used and the reasonableness of significant accounting estimates made by management, as well as evaluating the overall presentation of the financial statements.

As part of obtaining reasonable assurance about whether ABC 401(k) Plan's financial statements are free of material misstatement, we performed procedures to test the plan's compliance with certain plan provisions that could result in a material misstatement to the financial statements, but not for the purpose of expressing an opinion on compliance with those provisions. Accordingly, we express no such opinion.

We believe that the audit evidence we have obtained is sufficient and appropriate to provide a basis for our audit opinion.

Opinion

In our opinion, the financial statements referred to above, present fairly, in all material respects, the net assets available for benefits of ABC 401(k) Plan as of December 31, 20X2 and 20X1, and the changes in its net assets available for benefits for the year ended December 31, 20X2, in accordance with accounting principles generally accepted in the United States of America.

~~***Emphasis of Matter Relating to Plan Merger***~~

~~As discussed in Note X to the financial statements, XYZ Plan was merged into ABC 401(k) Plan effective December 31, 20X2. Our opinion has not been modified with respect to this matter.~~

Other Matter Relating to the Supplemental Schedules Required by ERISA

Our audits were conducted for the purpose of forming an opinion on the financial statements as a whole. The supplemental schedules of [*identify title of schedules and period covered*] are presented for purposes of additional analysis and are not a required part of the financial statements but are supplementary information required by the Department of Labor's Rules and Regulations for Reporting and Disclosure under the Employee Retirement Income Security Act of 1974. Such information is the responsibility of management and was derived from and relates directly to the underlying accounting and other records used to prepare the financial statements. The information has been subjected to the auditing procedures applied in the audits of the financial statements and certain additional procedures, including comparing and reconciling such information directly to the underlying accounting and other records used to prepare the financial statements or to the financial statements themselves, ~~performing procedures to test the completeness and accuracy of the information presented in the supplemental schedules,~~ and other additional procedures in accordance with auditing standards generally accepted in the United States of America.

In our opinion, the information in the accompanying schedules is fairly stated in all material respects in relation to the financial statements as a whole.

~~In forming our opinion on the supplemental schedules, we evaluated whether the supplementary information, including its form and content, is presented in conformity with the Department of Labor's Rules and Regulations for Reporting and Disclosure under the Employee Retirement Income Security Act of 1974.~~

~~In our opinion, the information in the accompanying schedules is fairly stated in all material respects in relation to the financial statements as a whole, and the form and content are presented in conformity with the Department of Labor's Rules and Regulations for Reporting and Disclosure under the Employee Retirement Income Security Act of 1974.~~

~~Report on Specific Plan Provisions Relating to the Financial Statements~~

~~As part of obtaining reasonable assurance about whether ABC 401(k) Plan's financial statements are free from material misstatement, we are required to perform certain procedures to test whether the plan and plan transactions are in accordance with specific plan provisions. We performed procedures relating to participant eligibility, benefit payments, participant vesting provisions, employer and employee contributions, disclosure of prohibited transactions, Internal Revenue Code compliance tests, participant asset allocations, use of forfeitures, and recording of account activity for the year ended December 31, 20X2 as required by generally accepted auditing standards for audits of employee benefit plans subject to the Employee Retirement Income Security Act of 1974 as set forth in AU-C section 703,~~ *~~Forming an Opinion and Reporting on Financial Statements of Employee Benefit Plans Subject to ERISA~~*~~. However, these procedures were not performed for the purpose of providing an opinion on compliance with those provisions and, accordingly, we do not express such an opinion.~~

~~During our audit, we noted the following findings relating to whether the plan and plan transactions are in accordance with specific plan provisions. However, the audit was not designed to identify all instances when the plan and plan transactions are not in accordance with those specific plan provisions. Our opinion on the financial statements is not modified with respect to these findings.~~

- ~~We noted instances when vesting was not calculated in accordance with the plan instrument which resulted in the plan not paying the appropriate benefits.~~

~~Purpose of this Report~~

~~The purpose of this report on specific plan provisions relating to the financial statements is solely to describe the results of our procedures relating to specific plan provisions, and not to provide an opinion on the plan's compliance with ABC 401(k) Plan's provisions. This report on specific plan provisions relating to the financial statements is an integral part of an employee benefit plan audit performed in accordance with generally accepted auditing standards. Accordingly, this communication is not suitable for any other purpose.~~

[Auditor's signature]
[City and state report is issued]
[Date of the auditor's report]

Illustration 3 — An Auditor's Report on Financial Statements for an ERISA Defined Contribution Retirement Plan ~~Subject to ERISA~~ When Management Imposes ~~a Limitation on the Scope of the Audit as Permitted by ERISA~~ the ERISA-Permitted Audit Scope Limitation

Independent Auditor's Report

[Appropriate Addressee]

We have performed an audit of the accompanying financial statements of ABC 401(k) Plan, subject to the limitation on the scope of the audit imposed by management~~,~~ as permitted by the Employee Retirement Income Security Act of 1974 (ERISA). The financial statements comprise the statements of net assets available for benefits as of December 31, 20X2 and 20X1, and the related statement of changes in net assets available for benefits for the year ended December 31, 20X2, and the related notes to the financial statements.

Basis for the ERISA-Permitted Audit Scope Limitation ~~on the Scope of the Audit~~

As permitted by 29 CFR 2520.103-8 of the Department of Labor's Rules and Regulations for Reporting and Disclosure under ~~the Employee Retirement Income Security Act of 1974~~ ERISA, management imposed a limitation on the scope of the audit (ERISA-permitted audit scope limitation). Under the authority of section 103(a)(3)(C) of ERISA ~~the Employee Retirement Income Security Act of 1974~~, the audit need not extend to information related to assets held for investment ~~of the plan~~ (investment information) prepared and certified by a bank or similar institution or insurance carrier which is regulated and supervised and subject to periodic examination by a State or Federal agency (qualified institution), provided that the investment information is ~~the statements or information regarding assets so held are~~ prepared and certified ~~to~~ by a qualified institution ~~the bank or insurance carrier~~ in accordance with 29 CFR 2520.103-5 ~~and 29 CFR 2520.103-8~~.

We have been informed by management that a qualified institution holds the investments and executes investment transactions. Management has obtained certifications from the qualified institution as of December 31, 20X2 and 20X1, and for the year ended December 31, 20X2, stating that the investment information, described in Note X to the financial statements, is complete and accurate and has instructed us not to audit the certified investment information.

Management's Responsibility for the ERISA Plan Financial Statements and the ERISA-Permitted Audit Scope Limitation ~~on the Scope of the Audit~~

Management is responsible for the preparation and fair presentation of these financial statements in accordance with accounting principles generally accepted in the United States of America; this includes the design, implementation, and maintenance of internal control relevant to the preparation and fair presentation of financial statements that are free from material misstatement, whether due to fraud or error.

Management is also responsible for determining whether the ERISA-permitted audit scope limitation ~~a limitation on the scope of the audit~~ is permissible ~~in~~ under the circumstances, ~~in accordance with the Employee Retirement Income Security Act of 1974,~~ including evaluating whether

- the certification is prepared by a qualified institution, and
- the certified investment information is complete and accurate.

The ERISA-permitted audit scope limitation ~~on the scope of the audit~~ does not affect management's responsibility for the financial statements. Management is responsible for determining whether the certified investment information is appropriately measured, presented and disclosed in accordance with accounting principles generally accepted in the United States of America.

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 ERISA ~~the Employee Retirement Income Security Act of 1974~~, to determine the benefits due or which may become due to such participants.

Auditor's Responsibility (Including Responsibility for the Certified Investment Information)

Our responsibility is to express an opinion on these financial statements based on our audits. We conducted our audits in accordance with auditing standards generally accepted in the United States of America. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free from material misstatement.

An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the financial statements. The procedures selected depend on the auditor's judgment, including the assessment of the risks of material misstatement of the financial statements, whether due to fraud or error. In making those risk assessments, the auditor considers internal control relevant to the entity's preparation and fair presentation of the financial statements in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the entity's internal control. Accordingly, we express no such opinion. An audit also includes evaluating the appropriateness of accounting policies used and the reasonableness of significant accounting estimates made by management, as well as evaluating the overall presentation of the financial statements.

With respect to the certified investment information that management instructed us not to audit, we did not assess the risks of material misstatement nor did we consider internal control over the certified investment information. Our procedures were limited to the following:

(a) obtaining and reading the certification

(b) inquiring of management how it assessed ~~evaluating management's assessment of~~ ~~whether~~ that the entity issuing the certification is a qualified institution and that the certified investment information is complete and accurate ~~under the Employee Retirement Income Security Act of 1974~~

(c) comparing the certified investment information with the related information presented and disclosed in the financial statements and supplemental schedules

~~(d) evaluating whether the form and content of the certified investment information presented and disclosed in the financial statements are in accordance with accounting principles generally accepted in the United States of America~~

~~Other than with respect to the certified investment information, our audit procedures were not limited for other amounts and disclosures in the financial statements.~~

As part of obtaining reasonable assurance about whether ABC 401(k) Plan's financial statements are free of material misstatement, we performed procedures to test the plan's compliance with certain plan provisions that could result in a material misstatement to the financial statements, but not for the purpose of expressing an opinion on compliance with those provisions. Accordingly, we express no such opinion.

We believe that the audit evidence we have obtained is sufficient and appropriate to provide a basis for our audit opinion ~~with~~ when management imposes the ERISA-permitted audit scope limitation ~~on the financial statements~~.

~~Auditor's~~ Opinion ~~With~~ When Management Imposes the ERISA-Permitted Audit Scope Limitation ~~on the Financial Statements~~

In our opinion, based on our audit and ~~based on our use of the certification of~~ the certified investment information ~~that we were instructed not to audit~~, the financial statements referred to above present fairly, in all material respects, the net assets available for benefits of ABC 401(k) Plan as of December 31, 20X2 and 20X1, and the changes in net assets available for benefits for the year ended December 31, 20X2, in accordance with accounting principles generally accepted in the United States of America. We did not audit the certified investment information. Rather, we performed the limited procedures described in the *Auditor's Responsibility (Including Responsibility for the Certified Investment Information)* section.

Other Matter Relating to the Supplemental Schedules Required by ERISA

Our audits were conducted for the purpose of forming an opinion on the financial statements as a whole. The supplemental schedules of [*identify title of schedules and period covered*] are presented for purposes of additional analysis and are not a required part of the financial statements but are supplementary information required by the Department of Labor's Rules and Regulations for Reporting and Disclosure under ERISA ~~the Employee Retirement Income Security Act of 1974~~. Such information is the responsibility of management and was derived from and relates directly to the underlying accounting and other records used to prepare the financial statements. The information, other than the certified investment information, has been subjected to the auditing procedures applied in the audits of the financial statements ~~and the use of the certification of the investment information, that we were instructed not to audit,~~ and certain additional procedures, including comparing and reconciling such information directly to the underlying accounting and other records used to prepare the financial statements or to the financial statements themselves, ~~performing procedures to test the completeness and accuracy of the information presented in the supplemental schedules,~~ and other additional procedures in accordance with auditing standards generally accepted in the United States of America.

Our procedures with respect to the certified investment information ~~included in the supplemental schedules were limited to those procedures~~ are described in the *Auditor's Responsibility (Including Responsibility for the Certified Investment Information)* section.

~~In forming our opinion on the supplemental schedules, we evaluated whether the supplementary information, including its form and content, is presented in conformity with the Department of Labor's Rules and Regulations for Reporting and Disclosure under the Employee Retirement Income Security Act of 1974.~~

In our opinion, based on our audit and ~~based on our use of the certification of~~ the certified investment information ~~that we were instructed not to audi~~t, the information in the accompanying schedules is fairly stated in all material respects in relation to the financial statements as a whole~~, and the form and content are presented in conformity with the Department of Labor's Rules and Regulations for Reporting and Disclosure under the Employee Retirement Income Security Act of 1974~~. We did not audit the certified investment information. Rather we performed the limited procedures described in the *Auditor's Responsibility (Including Responsibility for the Certified Investment Information)* section.

~~**Report on Specific Plan Provisions Relating to the Financial Statements**~~

~~As part of obtaining reasonable assurance about whether ABC 401(k) Plan's financial statements are free from material misstatement, we are required to perform certain procedures to test whether the plan and plan transactions are in accordance with specific plan provisions. We performed procedures relating to participant eligibility, benefit payments, participant vesting provisions, employer and employee contributions, disclosure of prohibited transactions, Internal Revenue Code compliance tests, participant asset allocations, use of forfeitures, and recording of account activity for the year ended December 31, 20X2 as required by generally accepted auditing standards for audits of employee benefit plans subject to the Employee Retirement Income Security Act of 1974 as set forth in AU-C section 703, *Forming an Opinion and Reporting on Financial Statements of Employee Benefit Plans Subject to ERISA*. However, these procedures were not performed for the purpose of providing an opinion on compliance with those provisions and, accordingly, we do not express such an opinion.~~

~~During our audit, we noted the following findings relating to whether the plan and plan transactions are in accordance with specific plan provisions. However, the audit was not designed to identify all instances when the plan and plan transactions are not in accordance with those specific plan provisions. Our opinion with the ERISA-permitted audit scope limitation on the financial statements is not modified with respect to this finding.~~

- ~~We noted instances when vesting was not calculated in accordance with the plan document, which resulted in the plan not paying appropriate benefits.~~

~~*Purpose of this Report*~~

~~The purpose of this report on specific plan provisions relating to the financial statements is solely to describe the results of our procedures relating to the specific plan provisions, and not to provide an opinion on the plan's compliance with ABC 401(k) Plan's provisions. This report on specific plan provisions relating to the financial statements is an integral part of an employee benefit plan audit performed in accordance with generally accepted auditing standards. Accordingly, this communication is not suitable for any other purpose.~~

[Auditor's signature]
[City and state report is issued]
[Date of the auditor's report]