

August 25, 2017

American Institute of Certified Public Accountants
Auditing Standards Board
Attention: Sherry Hazel
Via Email: Sherry.Hazel@aicpa-cima.com

Re: Comment Letter on Proposed Statement on Auditing Standards ("Proposed SAS"): Forming an Opinion and Reporting on Financial Statements of Employee Benefit Plans Subject to ERISA

To whom it may concern:

Thank you for the opportunity to comment on the above noted Proposed SAS. EisnerAmper LLP has a dedicated team of employee benefit plan audit specialists and has invested significantly in the accounting profession, particularly in the area of employee benefit plans, through serving several terms on the Expert Panel, serving on the AICPA Employee Benefit Plan Audit Quality Center and numerous AICPA Task Forces, as well as designing sessions and instructing at AICPA Employee Benefit Plan Conferences. We take much pride in the quality of our work and our knowledge in the area of employee benefit plan audits and appreciate the excellent work and dedication of the AICPA staff.

We are happy to provide comments on certain of the Issues outlined in the Exposure Draft which we believe are the most concerning issues for the Accounting Standards Board to consider. Overall, we agree with the proposed requirements in paragraph 22 of the Proposed SAS that auditors obtain written management representations that management has provided the auditor with the most current plan instrument with all plan amendments and acknowledgement of management's responsibility for 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. Management's representation also includes that they will maintain 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 such participants. We have experienced situations where plan sponsors were initially unable to provide properly executed and current versions of plan documents and related plan amendments. Therefore, we request that the term "sufficient records" be formally defined since that term is not defined in the Employee Retirement Income Security Act ("ERISA") or U.S.

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Generally Accepted Auditing Standards. In addition, we agree with the proposed requirement that auditors obtain written management representations when management imposes an ERISA-permitted audit scope limitation to acknowledge that management is responsible for the financial statements and for determining whether a limitation on the scope of the audit is permissible in the circumstances. In accordance with ERISA, management will evaluate whether the certification is prepared by a qualified institution and evaluating whether the certified information is complete and accurate and determining whether the certified investment information is appropriately measured, presented and disclosed in accordance with the applicable financial reporting framework.

Issue 1 - Required Procedures When an ERISA-Permitted Audit Scope Limitation is Imposed

We believe that the intended benefits of the Proposed SAS are unlikely to be achieved as the requirements outlined in ERISA, which are over 40 years old, are flawed and any attempt to revise auditing standards without considering such flaws is ineffective. Specifically with regard to the limited scope reference to “holding investments and executing investment transactions”, imposing the requirements in the Proposed SAS without guidance to determine the institutions who actually perform such holding and executing, or if those terms are even accurate in the current financial industry, does not address the underlying issue of the outdated regulations of ERISA.

Paragraph 20 of the Proposed SAS requires auditors to evaluate management’s assessment of whether the entity issuing the certification is a qualified institution under Department of Labor (“DOL”) regulations. Without clarity from the DOL about what “holding investments and executing investment transactions” means in the current financial services environment, it is our belief that such evaluation, as contemplated, is not possible.

Issue 6 – Certain Requirements for Audits of ERISA Plan Financial Statements and Related Required Report on Specific Plan Provisions Relating to the Financial Statements

The Proposed SAS significantly revises the overall goal of the risk assessment standards as the revisions contemplated in the proposed SAS allow little or no auditor judgment which is inconsistent with AU-C 315, *Understanding the Entity and Its Environment and Assessing the Risks of Material Misstatement*. Specifically, paragraph 15 of the Proposed SAS states “Irrespective of the risks of material misstatement, the auditor should perform substantive procedures for the following”. Such statement “Irrespective of the risks of material misstatement”, is contrary to the profession’s overall audit design. In addition, paragraph 15 of

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the Proposed SAS refers to “substantive procedures”, however, effective audit methodology in the areas cited in paragraph 15 sections a-i, generally is not limited to substantive audit procedures.

The proposed reporting on findings relating to the specific plan provisions of the financial statements would require highlighting procedures that currently are not required by any regulations relative to employee benefit plans and we believe it is inappropriate for the AICPA to impose such requirement. The Internal Revenue Service (“IRS”) and DOL have established voluntary correction programs whereby plans can address many of the errors that would be reported as part of the findings and the programs are designed to encourage plan sponsors to correct such operational defects. Requiring auditor’s reports to contain such a level of detail is contrary to the correction program initiative and overrides the anonymity provided by the government’s self-correction alternatives. In addition, it is imperative that the term “clearly inconsequential” in paragraph 121 of the Proposed SAS be formally defined. With the IRS’s *Employee Plans Compliance Resolution System* correction programs available to rectify operational errors, much leeway could be taken and some may conclude that, although operational errors were found, significantly all operational errors are clearly inconsequential because they can be corrected in accordance with the government’s correction alternatives.

Paragraph 16 of the Proposed SAS is placing responsibilities imposed on plan sponsors by the government on plan auditors. An audit should not be intended to assure full compliance with government regulations as the plan sponsor is ultimately responsible to the government. Auditors are required to design the audit to identify material misstatement of the financial statements due to noncompliance with laws and regulations. However, auditors are not responsible for preventing noncompliance and cannot be expected to detect noncompliance with all laws and regulations as noted in AU-C section 250.

The complete disruption contemplated by the Proposed SAS will not serve to improve audit quality or protect plan participants. We believe it will increase the cost of providing the highest level of service. The unintended consequence of this we believe will continue to encourage plan sponsors to search for audit firms with the lowest fees whom are typically less knowledgeable in the area of employee benefit plan audits and less likely to report areas of noncompliance.

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Issue 9 – Proposed Effective Date

In the unfortunate event the Proposed SAS, as written, becomes effective, the effective date of periods ending on or after December 15, 2018 does not allow audit firms sufficient time to revise their audit approach, properly train audit staff, and revise audit tools and audit methodology. At least two or three audit years would be necessary to allow firms sufficient time to prepare.

In contemplating some beneficial changes to current employee benefit plan oversight, we offer the following for consideration:

- Although this could be implemented only by an act of Congress, replace the financial statement audit with an agreed-upon procedures engagement or eliminate the ERISA-permitted audit scope limitation.
- Update ERISA's regulations to be consistent with the current, highly automated, financial services industry.
- Through outreach programs, educate plan sponsors to enhance their understanding of plan provisions and how their plan is operated. The time and resources imposed on the audit profession are only valuable when plan sponsors have a true understanding of the risks and responsibilities that accompany sponsoring a tax-qualified employee benefit plan.

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

Sincerely,



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