



September 21, 2017

Ms. Sherry Hazel  
Audit and Attest Standards  
American Institute of Certified Public Accountants  
1211 Avenue of the Americas  
New York, NY 10036-8775

**RE: Proposed Statement on Auditing Standards, *Forming an Opinion and Reporting on Financial Statements of Employee Benefit Plans Subject to ERISA (the "proposed SAS")***

Dear Ms. Hazel:

M&T Bank appreciates the opportunity to respond to the Proposed Statement on Auditing Standards, "Forming an Opinion and Reporting on Financial Statements of Employee Benefit Plans Subject to ERISA". M&T is a financial holding company headquartered in Buffalo, New York. M&T's principal banking subsidiary, M&T Bank, operates banking offices in New York, Maryland, New Jersey, Pennsylvania, Delaware, Connecticut, Virginia, West Virginia and the District of Columbia. Trust-related services are provided by M&T's Wilmington Trust-affiliated companies and by M&T Bank.

M&T Bank understands the importance of a quality audit. It is particularly important in relation to employee benefit plans ("EBPs") given the potential impact on stakeholders if audit quality is not brought to bear. The regulatory framework set in place for audits of financial statements subject to the Employee Retirement Income Security Act of 1974 ("ERISA plan audits") takes this into account as well, with multiple agencies working together to promote accountability and transparency.

Through the proposed SAS, we believe the Auditing Standards Board ("ASB") would be establishing compliance requirements for plan administrators that do not exist under ERISA or current DOL or IRS regulations. This proposal would impose these new compliance requirements for plan administrators as a precondition to obtaining an audit beyond what is needed to meet the existing reporting requirements of ERISA. In addition, the proposal would fundamentally change the nature of an ERISA plan audit, by moving away from the risk-based approach that underpins financial statement audits and expanding the auditor's responsibilities to include reporting on compliance. The ASB's role should be to establish guidelines for auditing and reporting in circumstances when regulations require such reporting, not to establish incremental compliance requirements. Actions by the ASB should complement other changes targeted at management, including plan administrators (such as enforcement of existing fiduciary standards, new regulations or changes to Form 5500), but should not set out compliance requirements in the absence of regulations from the DOL or IRS.

Referencing Issue 5 – Internal Control Deficiencies, in our opinion, it would be inappropriate to require auditors to publicly report internal control deficiencies. Although we recognize the potential benefit of transparency about significant deficiencies and material weaknesses but, if this disclosure is considered necessary, we view that management should be required to provide it and suggest that the DOL continue to consider whether to establish requirements for reporting of these circumstances, for example on Form 5500 or through some other method.

With regard to Issue 6—Certain Requirements for Audits of ERISA Plan Financial Statements and Related Required Report on Specific Plan Provisions Relating to the Financial Statements, currently audits are designed and performed based on an assessment of the risk of material misstatement of a plan's financial statements. Efforts to explicitly report on compliance with the areas outlined in the proposal are likely to be incremental to what would be considered necessary to opine on the financial statements of the plan as a whole, especially if the audit approach relies on controls that are appropriately designed and operating effectively or if the. In addition, some of the matters on which instances of non-compliance were otherwise determined to be immaterial the auditor may be required to report may relate more to compliance with regulations rather to specific plan provisions, which may not be appropriate if considered to be outside of the auditor's expertise. I see the proposed SAS creating a potentially unwieldy process whereby the auditor, plan administrator and others may debate how the findings are to be presented in the auditor's report, in particular given a lack of consideration of the materiality of individual findings. I am concerned that users of the auditor's report may misinterpret the findings. Individual plan participants may request confirmation from the plan administrator that their particular accounts were not among those listed as exceptions.

Also, under the new reporting, only those compliance errors relating to the provisions specifically included in the proposed SAS would be included in the report. Thus, compliance errors relating to other areas not listed in the proposed SAS would not be included, which is likely to cause confusion.

The proposed SAS does not consider whether the plan has corrected issues under existing regulatory reporting mechanisms, including those offered by the Employee Plans Compliance Resolution System of the IRS (i.e., Self-Correction Program, Voluntary Correction Program, and Closing Agreement Program). In addition, the DOL has its Voluntary Fiduciary Correction Program for certain errors relating to fiduciary aspects of plans. Errors corrected under these programs do not currently require any form of public reporting.

In light of existing compliance requirements, including potential changes to Form 5500, and the fact that this proposal would impose these new compliance requirements on plan administrators as a precondition of obtaining the audit beyond what is needed to meet the existing reporting requirements of ERISA, I fail to see the value this additional testing would provide. I also envision significant increases in audit fees which have already risen significantly over the past several years.

From a plan administrator's perspective, we feel that ASB should reconsider the definition of findings by introducing a materiality threshold to address practical considerations arising from documenting all findings and reporting all findings other than those that are clearly inconsequential (but which may not

Joseph Rizzuto  
September 21, 2017  
Page 3

necessarily be material). For example, the Board could consider requiring auditors to only report findings that will not be corrected under existing programs. Also, provide more guidance or better explain how auditor judgment may influence how findings are documented and reported. Users of the auditor's report may not understand the findings, leading to questions to plan administrators about which plans and participants are affected.

As a suggestion, a sensible solution would be that compliance reporting be done akin to an agreed-upon procedures engagement, the findings of which could be restricted to the plan administrator and the DOL, rather than being made publicly available. This approach would enable the DOL to more clearly articulate their expectations on testing and reporting, taking into account changes being pursued to Form 5500 that may better place responsibilities for reporting on compliance first with management. While such an approach would likely require a regulatory change, following current DOL and IRS processes for contemplating such changes would enable wider feedback from affected stakeholders beyond those who would comment specifically on the proposed SAS.

As I'm sure you will agree, the proposed changes impact plan administrators, plan sponsors and service providers that would require a significant lead time. For these reasons, we do not support the proposed SAS becoming effective for ERISA plan audits of financial statements for periods ending on or after December 15, 2018. The ASB should reconsider the effective date as its discussions progress on this and other projects, and should align the effective date with any future regulatory reform, rather than moving ahead with auditor reporting changes in isolation.

Sincerely,



Joseph Rizzuto  
Administrative Vice President/  
Manager, Retirement Programs