



Agenda Item 3

EBP SAS — Conforming Changes: Cover Letter and Issue Paper

Objective

To discuss proposed conforming changes to the final balloted SAS *Forming an Opinion and Reporting on Financial Statements of Employee Benefit Plans Subject to ERISA*, to conform to the new auditor reporting standard, *Auditor Reporting and Amendments—Addressing Disclosures in the Audit of Financial Statements*, that was voted final at the January 2019 ASB meeting.

EBP Task Force

The Employee Benefit Plan Reporting Task Force (the EBP task force) members are:

- Darrel Schubert (Chair)
- Josie Hammond
- Tracy Harding
- Scot Philips (TIC representative)
- Marilyn Steffens
- Jerry Murray (resigned as of January 2018)
- Alice Wunderlich (retired as of May 2018)
- Michael Auerbach and Lynne McMennamin (DOL observers)

Background

At the July 2018 ASB meeting, the ASB voted to ballot as a final standard the proposed SAS, *Forming an Opinion and Reporting on Financial Statements of Employee Benefit Plans Subject to ERISA* (EBP SAS). The ASB voted to ballot this SAS, pending further amendments to align the reporting and effective date with that of the Auditor Reporting project. The final ballot draft of the EBP SAS is available for viewing on the AICPA's website at <https://www.aicpa.org/content/dam/aicpa/research/exposedrafts/accountingandauditing/downloadabledocuments/sas-13x-ballot-draft.pdf>

ASB Feedback from the January 2019 ASB Meeting

At the January 2019 ASB meeting the ASB discussed proposed conforming changes to the EBP SAS to conform to the new auditor reporting standards. The ASB directed the task force to fully conform both the standard ERISA auditor's report and the ERISA section 103(a)(3)(C) report with the new auditor reporting standards. The ASB recommended the following changes be made to the illustrative ERISA section 103(a)(3)(C) report:

- Conform the report to the new section 700 reporting model
- Rename the first section of the auditor’s report to “Scope and Nature of the ERISA Section 103(a)(3)(C) Audit” and include the heading “Opinion” before the opinion paragraph
- Move the statement about management obtaining a certification to “Responsibilities of Management for the Financial Statements” section of the report.
- Retain the placement of the other-matter paragraph relating to the supplemental schedules at the end of the report

Agenda Items Presented

- Item 3 — Cover Letter and Issue Paper
- Item 3A — SAS, *Forming an Opinion and Reporting on Financial Statements of Employee Benefit Plans Subject to ERISA* (ballot draft of EBP SAS marked to reflect conforming changes to align with new reporting standards)

[Note: The changes proposed in the EBP SAS will need to be updated for any changes made to the auditor reporting standards as part of the balloting process.]

Mr. Schubert will refer to the Agenda Item 3 in leading the discussion.

Agenda Item 3A contains the EBP SAS marked to reflect changes to align with the February 12, 2019 ballot draft *Auditor Reporting and Amendments—Addressing Disclosures in the Audit of Financial Statements*. The changes reflected in agenda item 3A align with fully conforming to the reporting standards and reflect the direction from the January ASB meeting. Mr. Schubert will not do a detailed walk through of the entire EBP SAS in Agenda Item 3A on the March 8th call, but rather the ASB is asked to raise any issues they believe need to be discussed on the call relating to the conforming amendments in agenda item 3A.

Issues for Discussion with the ASB

Required Procedures Relating to the Form 5500

[Paragraphs 47-59 and related application material in paragraphs A78-A85 (see the Appendix to this issue paper for an excerpt)]

The content in paragraphs 47-59 of the EBP SAS is taken from extant AU-C section 720, *Other Information in Documents Containing Audited Financial Statements*. At the January 2018 ASB meeting the ASB discussed that the exposure draft of proposed SAS *The Auditor’s Responsibilities Relating to Other Information Included in Annual Reports* (OI SAS) changed extant AU-C section 720 and discussed whether the EBP SAS should retain extant AU-C section 720 content or should be aligned with the terminology and performance requirements in the proposed OI SAS. At that time, the ASB supported aligning the content in the EBP SAS with that in the proposed OI SAS once the proposed OI SAS becomes final (see the [highlights](#) from the January 2018 ASB meeting).

At the May 2019 ASB meeting, the ASB will be asked to vote to ballot an exposure draft of conforming amendments to align the EBP SAS with the February 12, 2019 ballot draft *Auditor Reporting and Amendments—Addressing Disclosures in the Audit of Financial Statements*. The proposed exposure draft will not contain any amendments relating to the proposed OI SAS.

Considerations for Aligning the EBP SAS with the Proposed OI SAS

Based on the latest draft of the proposed OI SAS, the application material clarifies that the Form 5500 is not typically a part of the combination of documents that make up an annual report and therefore are not other information within the scope of the proposed OI SAS. Accordingly, it may not be appropriate for certain aspects of the proposed OI SAS to be aligned with the EBP SAS because the Form 5500 is not considered an annual report.

Terminology Differences

Based on the latest draft of the proposed OI SAS, the following highlights the differences in terminology:

EBP SAS

The EBP SAS uses the following terms:

- **Inconsistency** (information contained in the Form 5500 that conflicts with information contained in the audited ERISA plan financial statements (paragraph A79))
- **Misstatement of fact** (information contained in the Form 5500 unrelated to matters appearing in the audited ERISA plan financial statements that is incorrectly stated or presented (paragraph A78))

The terms “inconsistency” and “misstatement of fact” are included in extant AU-C glossary as they relate to other information in extant AU-C section 720. The task force recognized

that these terms may be eliminated from the AU-C glossary by the proposed OI SAS and therefore the EBP SAS contains application material to define these terms in relation to the Form 5500, as noted above.

Latest Draft of Proposed OI SAS

The latest draft of the proposed OI SAS uses the following terms:

- **Misstatement of the other information** (when the other information is incorrectly stated or otherwise misleading)
- **Other information** (financial or nonfinancial information included in the entity’s annual report)
- **Annual report**

Paragraph .A11 in the application material in the latest draft of the proposed OI SAS explains that a misstatement of the other information may be:

- **an inconsistency** (when other information conflicts with information contained in the audited financial statements);
- **a misstatement of fact** (when other information that is unrelated to matters appearing in the audited financial statements is incorrectly stated or presented); or
- **information that is otherwise misleading** (including because it omits or obscures information necessary for a proper understanding of a matter disclosed in the other information)

Once the proposed OI SAS is issued as a final SAS the terms “inconsistency” and “misstatement of fact” will be removed from the AU-C glossary. The descriptions of the terms “inconsistency” and “misstatement of fact” in the application material in the EBP SAS and OI SAS are consistent in their use and tailored to the specific SASs. Because the Form 5500 is not considered an annual report and therefore is not other information within the scope of the proposed OI SAS, we believe it would be inappropriate to use the term “misstatement of the other information” in the EBP SAS. Further, the use of the different terms better differentiates the Form 5500 work from that related to other information.

Action Requested of the ASB

The ASB is asked to provide their views about whether the terminology used in paragraphs 47-59 (and related application material in paragraphs A78-A85) in the EBP SAS appears consistent with that used in the latest draft of the OI SAS and therefore can be retained in the EBP SAS without concerns about the same terms in GAAS having different meanings.

Requirement Differences

The latest draft of the OI SAS contains additional procedures relating to the other information from that which is included in extant AU-C section 720 and the EBP SAS. We believe that the procedures included in the EBP SAS are appropriate as they relate to the Form 5500 and changing

those requirements to align with the proposed OI SAS may be misleading because the Form 5500 is not considered an annual report and would not need to include the same requirements as needed to evaluate the information in an annual report. Further, any changes would not be considered conforming changes but rather would entail more work on the part of the task force to determine whether the requirements would be relevant to the Form 5500.

The following are requirements included in the latest draft of the proposed OI SAS that are incremental to the requirements in the EBP SAS. *[This listing has not been discussed with the EBP Reporting Task Force and is based on preliminary information about the proposed OI SAS]*
The latest draft of the OI SAS requires the auditor to:

1. obtain written acknowledgement regarding which documents comprise the annual report and the entity's planned manner and timing of issuance. *[This would not be applicable for the EBP SAS because the Form 5500 is an established form.]*
2. obtain management's written acknowledgment that the audited financial statements and auditor's report thereon will be contained in, accompany, or be incorporated by reference in the version of the annual report provided to the auditor. *[The EBP audit is performed with the understanding that the audited financial statements will be part of the Form 5500 filing. As part of engagement acceptance, the EBP SAS requires the auditor to obtain the agreement of management or those charged with governance to provide to the auditor, prior to the dating of the auditor's report, a draft of Form 5500 that is substantially complete.]*
3. when some of the documents will not be available until after the date of the auditor's report, request written representation from management that the final version will be provided when available and prior to the issuance by the entity. *[The EBP SAS requires the auditor to obtain and read the draft Form 5500 prior to dating the auditor's report therefore this would not be applicable.]*
4. If the auditor becomes aware that the entity did not provide the auditor with the final version prior to issuance, take appropriate action *[This would not be applicable to the EBP SAS because the final version of the Form 5500 is not required to be obtained prior to issuance but rather the draft is required to be obtained prior to dating of the auditor's report. The ASB decided this was the best course of action for the Form 5500 due to timing issues and not wanting to hold up the issuance of the report for the final Form 5500.]*
5. evaluate consistency by comparing selected amounts or other items in the OI with such amounts or other items in the financial statements *[The EBP SAS requires the auditor read the draft Form 5500 in order to identify material inconsistencies, if any, with the audited ERISA plan financial statements.]*
6. that while reading the OI, remain alert for indications that
 - a. The OI is materially inconsistent with the auditor's knowledge obtained in the audit

- b. The OI not related to the financial statements appears to be materially misstated [*The EBP SAS requires the auditor to determine whether the ERISA plan financial statements or the Form 5500 need to be revised when, upon reading the draft Form 5500 for the purpose of identifying material inconsistencies between Form 5500 and the ERISA plan financial statements, the auditor becomes aware of an apparent material misstatement of fact in the draft Form 5500*]

The latest draft of the OI SAS also states that the auditor is not responsible for searching for omitted information or for the completeness of the OI; includes reporting requirements [*the ASB determined it would not be appropriate to report on the Form 5500 in the EBP auditor's report.*]; and includes documentation requirements for the auditor to document procedures performed under the proposed OI SAS and the final version of the OI on which the auditor performed the work. [*the task force did not believe the EBP SAS needed additional documentation requirements beyond those required by AU-C section 230.*]

Action Requested of the ASB

The ASB is asked to provide their views about whether paragraphs 47-59 (and related application material in paragraphs A78-A85) in the EBP SAS should be retained (retain the concepts from extant AU-C section 720) or whether further consideration should be given to aligning with the performance requirements of the proposed OI SAS once it is completed.

Appendix

Excerpt of paragraphs 47-59 (and related application material) of ballot draft of EBP SAS

Considerations Relating to Form 5500 Filing

Reading the Draft Form 5500

- 47.** The auditor should make appropriate arrangements with management to obtain the draft Form 5500. The auditor should obtain and read the draft Form 5500 prior to dating the auditor's report. (Ref: par. A78)
- 48.** The auditor should read the draft Form 5500 in order to identify material inconsistencies, if any, with the audited ERISA plan financial statements. (Ref: par. A79–A80)
- 49.** The auditor should communicate with those charged with governance the auditor's responsibility with respect to Form 5500, procedures performed relating to Form 5500, and the results of those procedures.

Material Inconsistencies With the Draft Form 5500

50. If, on reading the draft Form 5500, the auditor identifies a material inconsistency, the auditor should determine whether the audited ERISA plan financial statements or the draft Form 5500 needs to be revised.

Material Inconsistencies With the Draft Form 5500 Identified Prior to the Date of the Auditor's Report That Require Revision of the Audited ERISA Plan Financial Statements

51. When the auditor identifies a material inconsistency between the draft Form 5500 and the ERISA plan financial statements that requires revision of the audited ERISA plan financial statements prior to the date of the auditor's report, and management refuses to make the revision, the auditor should discuss the matter with those charged with governance (unless all those charged with governance are involved in managing the plan). If the revisions are not made, the auditor should determine whether it is necessary to modify the opinion in the auditor's report in accordance with AU-C section 705.

Material Inconsistencies With the Draft Form 5500 Identified After the Date of the Auditor's Report But Prior to the Report Release Date That Require Revision of the Audited ERISA Plan Financial Statements

52. When the auditor identifies a material inconsistency between the draft Form 5500 and the ERISA plan financial statements after the date of the auditor's report but prior to the report release date that requires revision of the audited ERISA plan financial statements, the auditor should apply the relevant requirements in AU-C section 560, *Subsequent Events and Subsequently Discovered Facts*.

Material Inconsistencies With the Draft Form 5500 Identified Prior to the Report Release Date That Require Revision of the Draft Form 5500

53. When the auditor identifies a material inconsistency prior to the report release date that requires revision of the information in the draft Form 5500, and management refuses to make the revision, the auditor should communicate this matter to those charged with governance and (Ref: par. A81)

- a. include in the auditor's report an other-matter paragraph describing the material inconsistency, in accordance with AU-C section 706,
- b. withhold the auditor's report, or
- c. when withdrawal is possible under applicable law or regulation, withdraw from the engagement.

Material Inconsistencies Identified Subsequent to the Report Release Date

54. When revision of the audited ERISA plan financial statements is necessary as a result of a material inconsistency with the information in Form 5500 and the auditor's report on the ERISA plan financial statements has already been released, the auditor should apply the relevant requirements in AU-C section 560.

55. When revision of Form 5500 is necessary after the report release date and management agrees to make the revision, the auditor should carry out the procedures necessary under the circumstances. (Ref: par. A82)

56. When revision of Form 5500 is necessary after the report release date but management refuses to make the revision, the auditor should notify those charged with governance of the auditor's concerns regarding Form 5500 and take any further appropriate action. (Ref: par. A83)

Material Misstatement of Fact

57. If, on reading the draft Form 5500 for the purpose of identifying material inconsistencies between Form 5500 and the ERISA plan financial statements, the auditor becomes aware of an apparent material misstatement of fact in the draft Form 5500, the auditor should discuss the matter with management. (Ref: par. A84)

58. When, following such discussions as described in paragraph 57, the auditor still considers that there is an apparent material misstatement of fact, the auditor should request management to consult with a qualified third party, such as the entity's legal counsel, and the auditor should consider the advice received by the entity in determining whether such matter is a material misstatement of fact.

59. When the auditor concludes that there is a material misstatement of fact that management refuses to correct, the auditor should notify those charged with governance of the auditor's concerns regarding the information in the draft Form 5500 and take any further appropriate action. (Ref: par. A85)

[*Application and Other Explanatory Material*]

Considerations Relating to Form 5500 Filing

Reading the Draft Form 5500 (Ref: par. 47–49)

A78. Paragraph 47 requires the auditor to obtain and read the draft Form 5500 prior to dating the auditor's report. Obtaining a draft Form 5500 prior to dating the auditor's report enables the auditor to resolve possible material inconsistencies and apparent material misstatements of facts with management on a timely basis. An agreement with management regarding when the Form 5500 will be filed may be helpful. A *misstatement of fact* is information contained in the Form 5500 unrelated to matters appearing in the audited ERISA plan financial statements that is incorrectly stated or presented. *Misstatements of fact* may be identified by the auditor upon reading the draft Form 5500 for the purpose of identifying material inconsistencies, as discussed in paragraph 57.

A79. Information in the draft Form 5500 may be relevant to an independent audit or the continuing propriety of the auditor's report. Information contained in the Form 5500 that conflicts with information contained in the audited ERISA plan financial statements is considered an inconsistency. A material inconsistency may raise doubt about the audit conclusions drawn from

audit evidence previously obtained and, possibly, about the basis for the auditor’s opinion on the ERISA plan financial statements.

A80. Certain differences may exist between the Form 5500 Schedule H, *Financial Information*, and the ERISA plan financial statements. DOL rules and regulations require the notes to the ERISA plan financial statements to include an explanation of differences, if any, between the information contained in the separate ERISA plan financial statements and the net assets, liabilities, income, expense, and changes in net assets as required to be reported on the Form 5500 Schedule H, *Financial Information*. There are some differences that are not considered inconsistencies with Form 5500, for example, differences resulting from accruals recorded in the ERISA plan financial statements that are not reported in Form 5500 when Form 5500 is on a cash basis or benefits payable required to be reported on Form 5500 but not recorded in the ERISA plan financial statements. In contrast, a difference in investment categories may be due to a misclassification that may require correction in either the ERISA plan financial statements or Form 5500.

Material Inconsistencies With the Draft Form 5500 Identified Prior to the Report Release Date That Require Revision of the Draft Form 5500 (Ref: par. 53)

A81. When management refuses to revise the information in the draft Form 5500, the auditor may base any decision on what further action to take on advice from the auditor’s legal counsel.

Material Inconsistencies Identified Subsequent to the Report Release Date (Ref: par. 54–56)

A82. When revision of the information in Form 5500 is necessary after the report release date and management agrees to make the revision, the auditor’s procedures may include reviewing the steps taken by management to ensure that individuals in receipt of the previously issued ERISA plan financial statements, the auditor’s report thereon, and Form 5500 are informed of the need for revision.

A83. When revision of information in the Form 5500 is necessary after the report release date but management refuses to make the revision, appropriate further actions by the auditor may include obtaining legal advice.

Material Misstatement of Fact (Ref: par. 57–59)

A84. When discussing an apparent material misstatement of fact in the draft Form 5500 with management, the auditor may not be able to evaluate the validity of some disclosures included within the draft Form 5500 and management’s responses to the auditor’s inquiries and may conclude that valid differences of judgment or opinion exist.

A85. When the auditor concludes that there is a material misstatement of fact that management refuses to correct, appropriate further actions by the auditor may include obtaining legal advice from the auditor’s legal counsel, withholding the auditor’s report if such report has not been released, or withdrawing from the engagement when withdrawal is possible under applicable law or regulation.