

FAILED REPORTS GUIDANCE

NASBA Compliance Assurance Committee (CAC)

Recommendations for Pass with Deficiencies and Fail Peer Review Reports

These guidelines are presented by the Compliance Assurance Committee (CAC) of the National Association of State Boards of Accountancy (NASBA). Currently, pass with deficiencies and fail peer review reports are being handled differently by each State Accountancy Board (Board). The CAC is recommending guidelines for Boards to consider when dealing with pass with deficiencies or fail reports, recognizing not every Board will be able to implement these recommendations due to their own rules and regulations or other constraints specific to each jurisdiction. Utilization of these guidelines by all Boards could increase consistency from state to state.

In the following discussion when it is suggested that the Board take action, it is intended to mean the Board, its staff, or another group designated by the Board.

The following are the recommended practices for each type of scenario:

1. INITIAL REVIEWS

Pass with Deficiencies

The Peer Review Oversight Committee (PROC), or its equivalent as designated by the Board, should review the firm's letter of response to the deficiencies and all required follow-up actions. A letter from the Board should be sent notifying the firm the Board has reviewed the information contained in the Peer Review Report and that a subsequent review of other than pass could result in disciplinary action (if regulations and rules permit). The Board should then monitor the firm's compliance with the follow-up actions and if they are not completed within the timelines established by the Administering Entity, the firm should be referred to the enforcement arm of the Board. The Board may want to take action based on the failure of the firm to remediate as required by the Administering Entity rather than conducting an investigation.

Fail

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2. CONSECUTIVE REVIEW AFTER A REVIEW WITH A PASS

Pass with Deficiencies

The PROC, or its equivalent as designated by the Board, should review the firm's letter of response to the deficiencies and all required follow-up actions. A letter from the Board should be sent notifying the firm the Board has reviewed the information contained in the Peer Review Report and that a subsequent review of other than pass could result in disciplinary action (if regulations and rules permit). The Board should then monitor the firm's compliance with the follow-up actions and if they are not completed within the timelines established by the Administering Entity of the Peer Review Program the firm should be referred to the enforcement arm of the Board. The Board may want to take action based on the failure of the firm to remediate as required by the Administering Entity rather than conducting an investigation.

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3. CONSECUTIVE REVIEW AFTER A REVIEW WITH PASS WITH DEFICIENCIES

Pass with Deficiencies

A second consecutive pass with deficiencies presents somewhat of a dilemma for the PROC (or its equivalent as designated by the Board). If the review of the past and current reports reflects that the previous deficiencies were all resolved and the pass with deficiencies is due to new systemic issues (on system reviews) or new engagement issues (on engagement reviews), since the firm corrected its previous issues, the PROC (or its equivalent as designated by the Board) could determine that the firm is cooperating. If appropriate follow-up action has been required, no further action other than a reminder letter and monitoring the firm's compliance with the new remedial actions to the firm of the significance of receiving two consecutive pass with deficiencies peer review reports may be needed. If any of the prior deficiencies have not been resolved and are deemed to be significant, the PROC should make a referral to the enforcement arm of the Board for its determination. Boards might not want to wait three years to make the determination that "all is well," especially if the review includes must-select engagements (ERISA, Yellow Book, Single Audit, FDICIA, Carrying Broker Dealers, and SOC).

Fail

In most instances when a firm receives a fail after a pass with deficiencies, the PROC (or its equivalent as designated by the Board) should refer the firm to the enforcement arm of the Board and let it make the determination as to whether any additional actions should be required, or if

immediate discipline is warranted. A case might be opened and an investigator assigned to determine the issues. In some cases a firm may be willing to stop performing the services which contributed to the fail report and may have entered into such an agreement with the Administering Entity of the Peer Review Program. If this is the case, the Board should require a similar signed acknowledgement from the firm for the enforcement record.

4. CONSECUTIVE REVIEW AFTER A REVIEW WITH FAIL

Pass with Deficiencies

In most instances where a firm receives a pass with deficiencies after a fail, the PROC (or its equivalent as designated by the Board) should carefully review the circumstances of the current pass with deficiencies. If there are any repeat deficiencies, the PROC (or its equivalent as designated by the Board) should refer the firm to the enforcement arm of the Board and let it make the determination as to whether any additional actions should be required. If all of the deficiencies are new, the PROC (or its equivalent as designated by the Board) should determine if it believes the firm has been responsive in its letter of response and that the follow-up actions will correct the issues. The Board should then monitor the firm's compliance with the follow-up actions and if they are not completed within the timelines established by the Administering Entity of the Peer Review Program the firm should be referred to the enforcement arm of the Board.

Fail

A firm receiving two consecutive fails should be sent to the Board's enforcement arm for review and determination if an enforcement file should be opened. If this is done, an investigation should ensue to determine whether there is sufficient evidence to bring charges against the firm. In some cases, a firm may be willing to stop performing the services which contributed to the fail report and may have entered into such an agreement with the Administering Entity of the Peer Review Program. If this is the case, the Board should require a similar signed acknowledgement from the firm for the enforcement record.

Consistency amongst all Boards addressing pass with deficiencies and fail reports could be increased by Boards implementing the best practices presented here in conjunction with complying with their own rules and regulations.