

EBSA Issues Report on EBP Auditors



The U.S. Department of Labor's Employee Benefits Security Administration (EBSA) released its anticipated report on "Assessing the Quality of Employee Benefit Plan Audits" on May 28. For the 2011 filing year, 81,162 audit

reports on employee benefit plans (EBP) were submitted to the EBSA by 7,330 different CPA firms. To study the quality of those reports, the EBSA reviewed a statistically valid sample of 400 plan audits performed by 232 firms. They found 61 percent of those audits fully complied with professional auditing standards or had only minor deficiencies. The other 39 percent contained major deficiencies with respect to one or more relevant GAAS requirements, which would lead to the rejection of a Form 5500 filing. The EBSA reports this put \$653 billion and 22,500,000 plan participants and beneficiaries at risk.

As EBSA studies conducted in 1988, 1997 and 2004 previously found, once again the smaller the firm's employee benefit plan audit practice, the greater the incidence of audit deficiencies. The current study found CPAs often failed to consider the audit areas unique to employee benefit plans. However, the EBSA notes, firms that were members of the AICPA's Employee Benefit Plan Audit Quality Center did tend to have fewer audits containing multiple GAAS deficiencies.

"NASBA representatives have been meeting with the Employee Benefits Security Administration's Chief Accountant, Ian Dingwall, and his staff, and we are pleased to see the recommendations contained in this report demonstrate the Department of Labor's desire to work more closely with the State Boards, to bring them into the information loop in a timely way when substandard work is submitted by the

Boards' licensed firms," NASBA Executive Vice President Colleen K. Conrad observed.

The report lists several recommendations involving State Boards for the ESBA to pursue:

1. "Work with the National Association of State Boards of Accountancy (NASBA) and the AICPA to improve the investigation and sanctioning process for those CPAs who perform significantly deficient audit work. Work with NASBA to get state boards of accountancy to accept the results of investigations performed by EBSA or the AICPA's Professional Ethics division, in order to use those results in disciplining CPAs (at the state licensing level)."
2. "Work with NASBA to encourage state boards of accountancy to require specific licensing requirements for CPAs who perform employee benefit plan audits. This would include specific training and experience in the audits of employee benefit plans."
3. "Communicate with each of the state boards of accountancy (licensing boards) regarding the results of the study and the need to ensure that only competent CPAs are performing employee benefit plan audits."

Other recommendations include: Amend the ERISA to allow the Secretary of Labor to establish accounting principles and audit standards, and set regulations concerning the qualification requirements for those accountants performing employee benefit plan audits; Work with the AICPA's Peer Review staff to make Peer Review more responsive in helping to improve employee benefit plan audit quality; Amend the ERISA to repeal the limited-scope audit exemption; And continue and expand ESBA's outreach activities.

The full report can be found at www.dol.gov/ebsa/pdf/2014AuditReport.pdf. The report will be discussed at NASBA's Regional Meetings this month. ♦

International NOCLAR Draft Released

A framework for "Responding to Non-Compliance with Laws and Regulations" (NOCLAR) has been released by the International Ethics Standards Board for Accountants (IESBA), with comments due by September 4, 2015. The IESBA has been working on this topic for several years, as the current proposals are based on responses to and roundtables on the IESBA's August 2012 exposure draft on "Responding to a Suspected Illegal Act." The proposals cover Sections 225 and 360 of the IESBA Code of Ethics for Professional Accountants and conforming amendments to other sections of that code. Since the AICPA is a member of the International Federation of Accountants (IFAC), its Code of Professional Conduct will likely be impacted by the IESBA's code once it is finalized. The IESBA explains the objectives of the two proposed sections are to: (1) "ensure that professional

(Continued on Page 2)

Contents

EBSA Issues Report on EBP Auditors.....	1
International NOCLAR Draft Released.....	1
ALEC's Impact Seen in States.....	2
CAC Produces Guide and Conference.....	2
President's Memo.....	3
The Uniform CPA Examination is Changing.....	4
NASBA Praises PCC's Performance.....	5
SEC Chief Accountant Reports on IFRS.....	6
Madoff's CPA Sentenced.....	6

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ALEC's Impact Seen in States

In monitoring the legislation introduced this past year, NASBA Director of Legislative and Governmental Affairs John Johnson has seen several states consider a version of the "Occupational Licensing Relief and Job Creation Act," initially proposed by the American Legislative Exchange Council (ALEC). The model legislation states:

"An individual has a right to engage in a lawful occupation free from any substantial burden in an occupational regulation unless the government demonstrates (1) It has a compelling interest in protecting against present and recognizable harm to the public health or safety, and (2) The occupational regulation is the least restrictive means of furthering that compelling interest." The ALEC model act goes on to state that an individual may assert the right to engage in a lawful occupation in any judicial or administrative proceeding brought by the government to enforce an occupational regulation that does not meet those two qualifications. Then a court can make its own findings of fact and conclusions of law.

Legislation reflecting ALEC's proposed model was introduced in Arkansas, Iowa, Minnesota, Nevada and Texas. It has not been passed in any state to date, and NASBA continues to work with those State Boards where legislation has been filed to provide talking points expressing the Accountancy Boards' regulatory concerns if such a bill were to pass, Mr. Johnson reported during a May conference call.

"A legislative policy definitely has momentum when you see it introduced in more than two states," Mr. Johnson observed. ALEC will be holding a conference in July which Mr. Johnson will be attending.

ALEC claims to be "the nation's largest nonpartisan, individual membership association of state legislators," with over 2,000 members including nearly 300 corporate and private foundation members. The organization says it "provides its public and private sector members with a unique opportunity to work together to develop policies and programs that effectively promote the Jeffersonian principles of free markets, limited government, federalism, and individual liberty."

Mr. Johnson encourages all State Boards to regularly check the legislative tracking that can be found on www.nasba.org for news of the status of bills being introduced around the country. ♦

CAC Produces Guide and Conference

Guidance on how a State Board should handle reports of failed peer reviews has been issued by the NASBA Compliance Assurance Committee.

"Failed Reports Guidance" recommends practices for eight scenarios:

- initial peer review that results in (a) "pass with deficiencies" or (b) "fail" report;
- consecutive review after a review with a pass receives (a) "pass with deficiencies" or (b) "fail" report;
- consecutive review after a review with "pass with deficiencies" receives (a) "pass with deficiencies" or (b) "fail" report;
- and consecutive review after a review with a "fail" receives (a) "pass with deficiencies" or (b) "fail".

The paper advises that a firm receiving two consecutive "fails" should be sent to the Board's enforcement arm. In most cases, when a "fail" occurs in a consecutive review after a "pass with deficiencies," the paper advises that firm should also be referred to the enforcement arm of the Board.

On July 10 the PROC (Peer Review Oversight Committee) Summit will be held at the Omni Nashville. Short-term and long-term changes to the Peer Review Program will be outlined by AICPA Vice President Jim Brackens, including how those changes may affect the State Boards' PROCs. Breakout sessions designed for those states that have established PROCs as well as those intending to form or just starting PROCs will be held. Common problems faced by PROCs and how to deal with peer reviewers will also be addressed. Among the speakers will be Jim Gero, Janice Gray, Mark Hobbs, Henry Krostich, Alan Long, Rick Reisig and Colonel Francis X. Ryan.

All PROC members, Board of Accountancy executive directors and staff are invited to attend this biennial one-day event free of charge. For Summit details and registration, check the Meetings page on www.nasba.org. ♦



NOCLAR Draft Released (Continued From Page 1)

accountants do not turn a blind eye to identified or suspected NOCLAR and that they do not, through their actions or inaction, bring the profession into disrepute"; (2) alert those charged with governance to rectify or mitigate the consequences of NOCLAR or suspected NOCLAR and prevent its recurrence; and (3) provide guidance on "factors to consider in determining what constitutes the public interest in the context of responding to identified or suspected NOCLAR."

In determining whether to disclose a matter to an appropriate authority, the exposure draft states: "If the auditor were to determine that disclosure to an appropriate authority would be the right course of action in the circumstances even though not required by law or regulation, the Code would allow them to do so under the general permission granted under Section 140 of the Code. Under that Section, professional accountants have a right to disclose confidential information to comply with ethics standards. For the avoidance of doubt, the Board proposes that the specific application of this general permission be made clear in paragraph 225.29, i.e.,

that such disclosure will not be considered a breach of the duty of confidentiality under the Code."

To set a threshold for determining when disclosing a matter to an appropriate authority is required, the IESBA looked at the approach taken by the U.S. Securities and Exchange Commission in its regulation governing the obligations of attorneys who learn of client misconduct. According to the SEC's *Standards of Professional Conduct for Attorneys Appearing and Practicing Before the Commission in the Representation of an Issuer*, confidential information can be revealed to the Commission: "To rectify the consequences of a material violation by the issuer that caused, or may cause, substantial injury to the financial interest or property of the issuer or investors in the furtherance of which the attorney's services were used." The IESBA decided to use "substantial injury" as their threshold as well.

The IESBA intends to finalize the NOCLAR proposals by the first half of 2016. NASBA will be submitting comments on the exposure draft by September 4. ♦

PRESIDENT'S MEMO

Top 10 Reasons for Attending NASBA Meetings

By the time you read this *Memo*, the 2015 NASBA Regional Meetings will be starting (June 17-19 Western and June 24-26 Eastern). From time to time, I have written about my concern that a few states are not able to attend NASBA meetings because of some bureaucratic resistance or outright prohibition of allowing State Board members and staff to travel. The rationale is typically not money, as State Boards are usually adequately funded, plus NASBA will provide scholarships to any state that does not have the ability to send a representative to our Regional and/or Annual Meetings. More frequently the travel ban results from the Board's inability to adequately describe the part the Meetings can play in contributing to their competence as regulators.

As I was watching a special on the recent retirement of late night talk show host David Letterman, with some of his "Top Ten" lists, I began to think of the important reasons why each State Board should attend NASBA meetings during these changing times. While Letterman's lists were meant to provoke laughter, the "Top Ten" I have compiled might provide talking points that could be used to persuade reluctant State officials to support attendance at these important meetings:



Ken L. Bishop
President & CEO

- Number 10: Allows State Boards to keep current with the stream of proposed and adopted changes in standards, regulations, and other accounting related requirements.
- Number 9: Keeps State Boards knowledgeable as to the present state of the Uniform CPA Examination, and aware of any proposed changes in content and delivery of the Exam.
- Number 8: Provides a means for State Boards to be aware of case law and court decisions that can impact disciplinary and regulatory processes in their State.
- Number 7: Gives State Boards insight into the development, maintenance and improvements in regulatory support systems such as the Accountancy Licensee Database (ALD), the Accountancy Licensing Library (ALL) and CPA Mobility.org.
- Number 6: Allows State Boards to be aware of activities, issues and opportunities regarding Federal, national and international regulatory bodies such as the IRS, SEC, PCAOB, FAF (FASB, GASB, and PCC), and the IASB.
- Number 5: Informs State Boards of accounting-related issues with Federal Agencies such as DOL, HUD and HEW.
- Number 4: Gives State Boards detailed analysis into proposed changes in processes and systems they rely upon, such as the AICPA Peer Review Program.
- Number 3: Educates State Boards as to changes and amendments being considered and developed for the Uniform Accountancy Act and provides an avenue for the State Boards' input.
- Number 2: Provides State Boards with details and analysis of specific complaints and violations, with insight into how they are investigated and prosecuted.



Now a drum roll as I point to the feature of the meetings that always draws the most positive comments from participants:

- Number 1: Allows State Boards to interact with and develop relationships with other Boards in their region and nationally, giving them a forum for exchanging ideas and responding to proposed regulatory changes.

NASBA meetings also include a social program that offers good food, entertainment and optional tours for guests, but these are all elements designed to have the total meeting promote relaxed, open discourse among regulators. A Letterman list might go for some laughs based on these lighter aspects of the meetings, but those are not part of my Top Ten. Everyone sees our meetings department does a great job of making sure my Top Ten are offered in a pleasant package.

As we become more successful in getting the vast majority of states attending and participating in NASBA meetings, the relevance, quality and importance of these meetings are continually increasing. This also places a bright light on the remaining states that are unable to attend. Hopefully the "Top Ten" list is a way to begin the conversation in those states, but remember, NASBA is always willing to step in and assist in discussions with a State Board's oversight department, executives or legislators.

I look forward to the day when every State Board is represented at NASBA meetings. In the meantime, I also look forward to seeing more State Boards' representatives at the upcoming NASBA Regional Meetings than I did last year.

Semper ad meliora (Always toward better things).


Ken L. Bishop
President & CEO

The Uniform CPA Examination is Changing

In 2013 the AICPA Board of Examiners (BOE) announced the launch of a new practice analysis in support of the Uniform CPA Examination. Completing a periodic practice analysis is essential to maintaining the legal defensibility of the Examination, which all 55 Boards of Accountancy use as part of the licensure process for new CPAs. The practice analysis ensures that the Examination continues to assess the knowledge and skills required of a newly licensed CPA, and is one of the three foundational “E”s of licensure; Education, Examination, and Experience.

Organization

The team conducting the practice analysis is organized into three groups; the BOE Sponsor Group, the BOE Sponsor Advisory Group, and the Project Team. The BOE Sponsor Group is charged with overall responsibility for the practice analysis and will make the final recommendations to the BOE on the form and content of the next version of the Examination, and is chaired by Rick Niswander (BOE Chair). The BOE Sponsor Advisory Group consists of 12 CPA Guest Advisors from around the country, including several actively involved in the regulatory community, who act as a sounding board for the BOE Sponsor Group as it identifies changes that may be made to the Examination. The Project Team plans and executes the specific tasks required to complete the practice analysis. Michael Decker, AICPA VP – Examinations, and Ed Barnicott, NASBA VP - Strategic Planning & Program Management, act as project sponsors for the project team, with Rich Gallagher, AICPA Director of Content, and Joe Maslott, AICPA Senior Technical Manager - Examinations Team, serving as project owners for the effort.

Timeline

Invitation to Comment – September 2014

An Invitation to Comment (ITC) was released in September 2014 to a wide range of stakeholders including the Boards of Accountancy. NASBA sent a response to the ITC that included input from the Regulatory Response, CBT Administration, Education and Executive Directors Committees, as well as feedback from a number of Boards. Several Boards provided their own direct response to the ITC. Other input was received from other regulatory bodies (PCAOB, SEC) as well as academics, firms, review course providers and a number of individuals. Responses to the ITC are being used as input for the BOE in their deliberations and will be reflected in the upcoming Exposure Draft.

Survey – December 2014 through January 2015

An extensive survey consisting of approximately 800 task statements was distributed to approximately 350,000 supervisors

PROJECT TEAM	BOE SPONSOR GROUP	BOE SPONSOR ADVISORY GROUP
MICHAEL DECKER, PROJECT SPONSOR (AICPA)	RICK NISWANDER, CHAIR (BOE CHAIR)	RUSSELL BATES MARTIN BAUMANN MICHAEL BECKER
ED BARNICOTT, PROJECT SPONSOR (NASBA)	JIMMY CORLEY MICHAEL DAGGETT MARI DEVRIES	LISA CINES BRIAN CROTEAU DAN DUSTIN
RICH GALLAGHER JOE MASLOTT, PROJECT OWNERS	JACKIE LEIGHTON WENDY PEREZ AMY SUTHERLAND	TROY JANES MATHEW LIEGEL RICK REISIG
LORI KELLY JOANNE LINDSTROM JOHN MATTAR		DOUG SKILES ART WINSTEAD JON ZAVISLAK

of newly licensed CPAs and newly licensed CPAs. This effort was supported by the State Boards with 35 Boards authorizing NASBA to provide contact information for the samples directly from the Accountancy Licensee Database (ALD). The AICPA member database was used to fill any gaps in sample coverage needed to ensure broad geographical representation. This unprecedented effort ensured that the survey respondents were from the broader licensee population and not only from the AICPA membership.

Exposure Draft – September 2015

Analysis of the ITC and the survey are combined to develop the blueprint for the next version of the Examination. The blueprint, if approved, will take the Examination to a new level in terms of specifying, not only the content of the Exam sections, but also the depth of knowledge and skills the candidate must demonstrate. This added dimension would allow the Examination to evaluate higher order skills as part of its basic design; a strong requirement identified through the ITC.

The blueprint combined with other elements of the next version of the Exam and potential changes to the test administration model will be combined in an Exposure Draft (ED) that will be released to all stakeholders in September of 2015. The comment period for the Exposure Draft will be 90 days, which makes it important that the Boards of Accountancy review and respond to the ED in a timely manner. NASBA will also submit a response using input provided through our committees and State Board outreach.

Exam Launch

Following the evaluation of the responses to the ED, the final form and content of the Exam will be set by the BOE, with the new

[\(Continued on Page 5\)](#)

INVITATION TO COMMENT
SEPT. 2014

SURVEY
DEC. 2014 - JAN. 2015

EXPOSURE DRAFT
SEPT. 2015

NEW BLUEPRINT RELEASED
2ND QUARTER 2016

TESTING BEGINS
2ND QUARTER 2017

All dates, as well as the possible changes, are subject to change and should be considered tentative until formally announced by the AICPA.

The Examination is Changing (Continued From Page 4)

blueprint expected to be announced in the second quarter of 2016. It is anticipated that the new blueprint will be in effect for testing in the second quarter of 2017.

During the period of the practice analysis, the AICPA is also developing new driver software; the software that controls the look and feel, and other technical and user experience aspects of the presentation of the Exam to the candidate in the test center. The new driver will be released to the test centers in 2016 and 2017 with little candidate impact. The complete version of the software presenting a new user experience to the candidate is expected to be launched in 2018.

Possible Changes

The results so far?

- **Content is still at the core of the Exam.** The four sections of the Exam, AUD, FAR, REG and BEC are currently anticipated to continue, though BEC may evolve to cover more in-depth testing of higher order skills. Higher order skills will likely be emphasized more in all sections. It is also expected that task-based simulations will be added to BEC.
- **At this time, there is little support for a “capstone” Exam section that would integrate all sections and be taken last.**

The notion of assessing integrated content was supported by ITC respondents and is currently being explored.

- **Excel is likely to replace the current spreadsheet in the Exam**, though it is anticipated to be available as a tool for candidates in 2018.
- **We can expect a modest increase in the per section cost of the Exam to candidates.**
- **Several changes to the test administration model may be proposed**, including a possible extension of the quarterly testing windows. As test administration falls under the purview of the State Boards of Accountancy, NASBA will be working closely with its CBT Administration Committee and seek input from State Boards regarding any possible test administration changes. If any such changes might necessitate State Board statute or rule changes, NASBA will work closely with the affected Boards to ensure they are alerted as soon as possible.

Importance of Board Input

It is critical that the Boards of Accountancy make their views heard regarding the next version of the Examination. Fulfilling the public protection mandate of the Boards requires that thoughtful consideration be given to the changes that will be communicated in the Exposure Draft. ♦

NASBA Praises PCC’s Performance

The accomplishments of the Private Company Council were given high marks in NASBA’s response to the Financial Accounting Foundation’s three-year review of the PCC. Besides recommending that the PCC continue being more than an advisory body to the Financial Accounting Standards Board (FASB), the letter from Chair Walter C. Davenport and President Ken L. Bishop recommended that the PCC should have the latitude to consider not just the FASB’s active agenda but also other private company-related alternatives to GAAP, following the existing endorsement process, and the PCC should maintain the ability to set its own agenda. NASBA’s letter to the FAF can be found on www.nasba.org in the Comment Letters under “Publications.”



“It is clear that the PCC’s work thus far has been successful. Private companies are adopting and already utilizing the alternatives proposed by the PCC and endorsed by the FASB. Simplified accounting alternatives for both goodwill and variable interest entities, as examples, have brought welcome financial reporting

relief to private companies,” the NASBA letter states.

Recommendations for possible improvements to the PCC made by NASBA included extending the terms of PCC members to five years on a rotating basis, which would mean their longevity on the PCC would be commensurate with the FASB’s members. NASBA also suggested that, based on the extensive responsibilities and time requirements of the PCC’s chair, that should be made a compensated position.

In a comment letter from AICPA Chair Tommye E. Barie and President Barry C. Melancon, the Institute agreed with NASBA that the PCC should not become only an advisory body. Their letter to the FAF states: “Consistent with how the PCC was established, FASB and PCC must be partners in deciding when differences in GAAP are appropriate.”

An update on the work of the PCC will be presented at the NASBA Regional Meetings by PCC Chair Billy Atkinson at the Western Regional Meeting and PCC Member George W. Beckwith at the Eastern Regional Meeting. ♦

NASBA Upcoming Meetings & Events

Western Regional Meeting

June 17-19
Coronado, CA

Eastern Regional Meeting

June 24-26
Baltimore, MD

Peer Review Oversight Committee Summit

July 10
Nashville, TN

National Registry Summit

September 9-11
Washington, D.C.

108th Annual Meeting

October 25-28
Dana Point, CA

For more information, visit nasba.org.

SEC Chief Accountant Reports on IFRS



James Schnurr

Since December the Securities and Exchange Commission's staff has been hearing from preparers, investors, auditors, regulators and standard-setters about SEC Chief Accountant James Schnurr's suggestion that domestic issuers be allowed to provide International Financial Report Standards (IFRS)- based information as a supplement to U.S. GAAP financial statements without requiring reconciliation. Speaking at the 2015 Baruch College Financial Reporting Conference in May, Mr. Schnurr reported the key themes the SEC staff heard from their discussions were:

- "There is virtually no support to have the SEC mandate IFRS for all registrants.
- "There is little support for the SEC to provide an option allowing domestic companies to prepare their financial statements under IFRS.
- "There is continued support for the objective of a single set of high-quality, globally accepted accounting standards."

Mr. Schnurr said that while there remain differences in the FASB's and IASB's standards, through their efforts at convergence, they have made significant contributions to the objective of a single set of standards.

It is critical that the FASB and IASB continue to work together, Mr. Schnurr maintains: "By working so closely over the past decade, both the FASB and the IASB understand each other's constituent

base much better. Through that understanding, the boards were able to successfully eliminate differences in many areas of the convergence projects...I believe that, for the foreseeable future, continued collaboration is the only realistic path to further the objective of a single set of high-quality, global accounting standards." ♦

Madoff's CPA Sentenced

David G. Friehling, the outside auditor for Bernard L. Madoff Investment Securities LLC, the Ponzi scheme that came to light in 2008, was sentenced in May by Judge Laura Taylor Swain, in the Federal District Court in New York, to two years of supervised release, including one year in home detention plus community service. He is also to pay a share of the symbolic \$130 billion joint forfeiture with other former Madoff employees. Mr. Friehling had pled guilty in 2009 to one count of securities fraud and three federal tax violations, and had cooperated in the prosecution of five Madoff employees. He told Judge Swain, "I did not question what I should have questioned." ♦



David Friehling