

August 13, 2013

Lisa A. Snyder  
Director of the Professional Ethics Division  
AICPA  
1211 Avenue of the Americas  
New York, NY 10036

By email: [lsnyder@aicpa.org](mailto:lsnyder@aicpa.org)

**Re: Exposure Draft, AICPA Professional Ethics Division  
Proposed Revised AICPA Code of Professional Conduct, April 15, 2013**

Dear Ms. Snyder:

The New York State Society of Certified Public Accountants (NYSSCPA), representing more than 29,000 CPAs in public practice, industry, government and education, welcomes the opportunity to comment on the above captioned exposure draft.

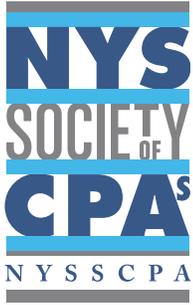
The NYSSCPA's Professional Ethics Committee deliberated the exposure draft and prepared the attached comments. If you would like additional discussion with us, please contact Jack M. Carr, Chair of the Professional Ethics Committee at (585) 272-9870, or Ernest J. Markezin, NYSSCPA staff, at (212) 719-8303.

Sincerely,

A handwritten signature in blue ink that reads "J. Michael Kirkland". The signature is written over a faint, semi-transparent version of the NYSSCPA logo.

J. Michael Kirkland  
President

Attachment



**NEW YORK STATE SOCIETY OF  
CERTIFIED PUBLIC ACCOUNTANTS**

**COMMENTS ON**

**EXPOSURE DRAFT, AICPA PROFESSIONAL ETHICS DIVISION PROPOSED  
REVISED AICPA CODE OF PROFESSIONAL CONDUCT, APRIL 15, 2013**

**August 13, 2013**

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## **New York State Society of Certified Public Accountants**

### **Comments on**

### **Exposure Draft, AICPA Professional Ethics Division Proposed Revised AICPA Code of Professional Conduct, April 15, 2013**

The New York State Society of Certified Public Accountants (NYSSCPA) appreciates the opportunity to provide comments on the Professional Ethics Executive Committee (PEEC) proposed revision to the American Institute of Certified Public Accountants (AICPA) Code of Professional Conduct (the Code).

The NYSSCPA generally concurs with the PEEC's proposal and commends it in its efforts to restructure and codify the Code. We request that the PEEC consider our comments on the proposed Code which have been organized into the following categories:

- Request for specific comments – this section includes our responses to the PEEC's specific questions included in the proposed Code.
- General comments – this section includes our comments for consideration that do not relate to a specific numeric citation in the proposed Code.
- Specific comments – this section includes our comments for consideration relating to specific numeric citations in the proposed Code.

#### **Request for Specific Comments**

In response to the PEEC's Question 1 on page 16, the NYSSCPA does not believe that the substance of any interpretation or ruling other than those indicated by the PEEC has significantly changed.

In response to the PEEC's Question 2 on page 16, the NYSSCPA recommends that the PEEC not provide a delayed effective date for the two broad conceptual frameworks and that the effective date of these conceptual frameworks be aligned with the effective date of the proposed Code. We believe that the PEEC should consider July 1, 2015, as the overall effective date for all of the proposed revisions to the Code and reflect this overall effective date throughout the proposed Code.

#### **General Comments**

To assist members in their research, we request that the PEEC consider including a topical index in the proposed Code.

We request that the PEEC consider providing a detailed description of the new structure of the proposed Code to assist members in understanding how the numeric citations used in the Code have been organized. For example:

The first digit of a numeric citation should identify the preface or a specific part of the Code as follows:

- Preface citations would start with 0.XXX.XXX
- Part 1: Members in Public Practice citations would start with 1.XXX.XXX
- Part 2: Members in Business would start with 2.XXX.XXX
- Part 3: Other Members would start with 3.XXX.XXX

The second series of digits used in a numeric citation of the Code should identify the following:

- A numeric citation that includes 2.000.XXX would identify the applicable conceptual framework.
- A numeric citation that includes 2.100.XXX would identify the applicable rule.
- A numeric citation that includes 2.200.XXX would identify an interpretation of the applicable rule.

**Specific Comments**

<b>Page Number</b>	<b>Numeric Citation</b>	<b>NYSSCPA suggests that the PEEC consider the following:</b>
29		Including a scope heading and language describing the applicability of the Preface to all members. We believe that without this language members may be unclear as to the applicability of the Preface. We suggest that this scope heading and language be placed after numeric citation 0.100 and before 0.100.010 instead of being included later on in numeric citation 0.200.010.
29	0.100.010	Including the following underlined term in the heading: “ <u>Principles and Rules of Conduct.</u> ”
29	0.100.010.01	Changing the second sentence to include the following underlined words: “The AICPA Code consists of principles, rules, <u>definitions and interpretations.</u> ”
29	0.100.020	Including the following underlined term in the heading: “ <u>Interpretations, Definitions, and Other Guidance.</u> ”
29	0.100.020.01	Considering, respectfully, to ask the PEEC if the following sentences are necessary, and if not, to request that they be removed: “A member who departs from the interpretations shall have the burden of justifying such departure in any disciplinary hearing. Interpretations that existed before the

		adoption of the AICPA Code on January 12, 1988, will remain in effect until further action is deemed necessary by the appropriate senior committee.”
30	.200.020.02	Explaining why the Code specifically states the following: “When used in the preface of the AICPA Code, the term member includes associate and affiliate members, as well as international associates of the AICPA.” Should not the term “member” be the same when applied to Parts 1, 2 and 3 of the proposed Code? The definition section of the Preface describes the applicability of the term “member” to the other Parts of the proposed Code, but the use of this language may imply that the defined term is sometimes different.
32	0.300.010.01	Changing the Principles of Professional Conduct Preamble to read: <p style="padding-left: 40px;">.01 Membership in the AICPA is voluntary, and a <i>member</i> assumes an obligation of self-discipline that requires full compliance with the applicable local, state, federal and international <del>may be in addition to the requirements</del> of laws, rules and regulations.</p>
33	0.300.040.04	Underlining the term “subordination of judgment” so that it too may be considered a term that is being defined.
35	0.300.070.03	Defining the term “nonaudit services” or consider replacing the term with another defined term such as “Nonattest Services.”
36	0.400	Relocating these definitions into a separate section to assist members better when researching the definition of a term in the Code.  Considering whether the language in the shaded box is necessary, and if so, having language in the shaded box indicate that it refers to “PEEC’s” authority.
38	0.400.09	Considering defining the term “Control” in the Code and not relying on the defined term of a designated accounting standard-setter. [The PEEC Code has defined the term “Control” as used in the Financial Accounting Standards

		Board (FASB) Accounting Standards Codification (ASC). We ask that the PEEC consider if it is appropriate to make reference only to a term defined by the FASB ASC when the AICPA recognizes more than one designated accounting standard-setter.]
42	0.400.28	Making a distinction between Regular Voting “Members” and nonvoting members of the AICPA. [Based upon our review of the AICPA memberships section, Associate, Affiliate, and International Associates are nonvoting members.]
42	0.400.29	Including the following underlined language in the first sentence: “A member <u>that</u> is...”
51	0.600.020.01	Changing the word “maybe” in the last sentence to “may be.”
52	0.600.020.01	Including the following underlined word, “...for engagements covering periods <u>beginning</u> on or after...” in the second bullet of the numeric citation.
63	1.000.010.21	Adding the word “rules” to sub-paragraphs b and c.
65	1.000.010.20& 23	Changing subparagraph z. to include a reference to “ <u>local, state, federal and international</u> ” laws “ <u>rules</u> ” and regulations.  Changing subparagraph a. to include reference to facts and circumstances, “ <u>local, state, federal and international rules,</u> ” laws or regulations.  Changing the effective date to July 15, 2015.
66	1.000.020.06	Providing non-authoritative questions and answers to assist members when dealing with unresolved ethics conflicts.
70	1.120.010.03	Changing the end of the sentence to include the words “ <u>local, state, federal and international</u> ” laws “ <u>rules</u> ” and regulations.

71	1.130.010	Changing the term “Knowing” to Known.
71	1.130.020	Revising the auditing reference to reflect the newly clarified Auditing Standards section’s AU-C reference.
79	1.220.010.03	Including the following underlined language in the second sentence, “ <u>Consideration of</u> whether an association is a network and whether an entity is a network firm should be applied consistently.” In the second sentence we suggest deleting the words “ <u>by all members of the association.</u> ”
82	1.220.020.02	Modifying the sentence to include the words “ <u>local, state, federal and international</u> ” laws “ <u>rules</u> ” and regulations...
97	1.250.010.01	Changing in subparagraph a. the phrase “by law or regulation” in the end of first sentence to the phrase “ <u>by either local, state, federal and international laws, rules or regulations.</u> ”
118	1.275.100.04ii	Adding the word “applicable” before the word “tax” in paragraph ii and changing the word “maybe” to “may be.”
125	1.290.010.08	Adding the word “applicable” before the word “securities” in paragraph .08.
128	1.295.030.02	Including the following underlined language in the second sentence, “Examples of activities that would be considered a management responsibility and would, therefore, impair independence if performed <u>for</u> an attest client include....”
138	1.295.140.04((c))	Including the following underlined language in the first sentence, “The advocacy threat would not be at <u>an</u> acceptable level and could not be reduced...”
149	1.300.030.01	Eliminating in the first sentence the words “or both” and including the following underlined language, “If a member prepares <u>and/or</u> submits...”

153	1.320.020.03	Including the following underlined language in the first sentence, "...thereof issued by FASB, GASB, FASAB, or IASB in determining whether a member has departed from an accounting principle established <u>by a designated accounting standard-setter.</u> " We suggest deleting the remaining portion of the sentence.
154	1.320.030.03c	Changing the reference "by law" to " <u>by either local, state, federal and international laws, rules, regulations.</u> "
155	1.400.010.01 & 1.400.030.01	Changing the reference to "rules and regulations" and "or international government," ... in paragraph 1.400.010.01  Changing the reference to read " <u>federal, state, local laws or international rules or regulations ...</u> "
163	1510.001.04	Re-considering by the PEEC as to whether the language in this numeric citation is necessary.
164	1.510.010.02 - .03	If it is the PEEC's intention to include these two paragraphs under a "Defined Terms" heading, considering providing specific terms requiring definition; else, deleting the "Defined Terms" heading.
180	1.810.050.01-.03	Changing the reference to reflect "local, state, federal and international law, <u>rules</u> or regulations" in paragraph .01 and adding the word "rules" in paragraph .02 and .03.
181	1.820.020.01	Including the following underlined language in the first sentence, "A CPA member who is in <u>a partnership...</u> "
183	2.000.010	Including the definition of a safeguard as defined in 0.400 and considering whether additional definitions should be included.
184	2.000.010.05	Including all the guidance described in 2.000.020.04 -.05 before the last sentence.
187	2.000.010.20a & b	Adding the word "rules" in sub-paragraphs b and c.
188	2.000.010.20g	Adding the word "rules" in sub-paragraphs g and m.

	& m & .21	Changing the effective date to July 15, 2015.
189	2.000.020.02	Considering the elimination of the word “may” in the first sentence; thereby requiring that a member take the applicable steps to best achieve compliance.
191	2.120.010.03	Including the following underlined changes, “...if the member offers or accepts gifts or entertainment to or from a customer or vendor of the member’s employer that the member knows or is reckless in not knowing <u>would cause them to be in violation with his or her employer’s customers, or vendor’s policies, or applicable rules, laws and regulations.</u> ”
193	2.130.020.01	Considering elimination re-writing the second sentence of the first complete paragraph to delete the words “may” and “that exist” (male plural responsibility) and to include the word “existing,” thusly, to read: “The member also should consider any <u>existing</u> responsibilities to communicate of the word “may” in the second sentence of the first complete paragraph in the numeric citation, and including the following underlined changes, “The member also should consider any <u>existing</u> responsibilities to communicate...”
194	2.300.010	Including the term “Professional” in the Competence heading.
195	2.300.010.03	Including the following underlined language in the first sentence, “The member may have the knowledge, <u>or gain the sufficient competence required,</u> to complete the services...”
195	2.300.030.01	Including the following underlined language in the first sentence, “When a member is a stockholder, a partner, a director, an officer, or an employee of an entity and, in this capacity, prepares <u>and/or</u> submits...” We suggest that the sentence eliminate the words “or both.”
198	2.320.020.03	Including the following underlined language in the first sentence, “...thereof issued by FASB, GASB, FASAB, or IASB in determining whether a member has departed from

		an accounting principle established <u>by a designated accounting standard-setter.</u> ” We suggest deleting the remaining portion of the sentence.
199	2.320.040.03(c)	<p>Replacing “other comprehensive basis of accounting” with the term “special purpose framework” to conform to language used in the clarified auditing standards.</p> <p>Modifying the phrase in subparagraph c. “by law” to the phrase “<u>by either local, state, federal and international laws, rules, regulations law</u>”... [or a U.S or foreign governmental regulatory body to whose jurisdiction the entity is subject.]</p>
200	2.400.010.01 & 2.400.030.01	<p>Modifying the paragraph to add the words “rules and regulations” and “ or relevant international government” as follows:</p> <p><b>Page 200 2.400.010 Discrimination and Harassment in Employment Practices</b></p> <p><b>.01</b> A final determination, no longer subject to appeal by a court or an administrative agency of competent jurisdiction, that a <i>member</i> has violated any antidiscrimination laws, rules and regulations of the United States, state, or municipality or relevant international government, including those related to sexual and other forms of harassment, would cause such <i>member</i> to be presumed to have committed an act discreditable to the profession, in violation of the —Acts Discreditable Rule.¶ [Prior reference: paragraph .03 of ET section 501]</p> <p>Modify the paragraph to add “or international rules” as follows:</p> <p><b>Page 200 2.400.030 Failure to File a Tax Return or Pay a Tax Liability</b></p> <p><b>.01</b> A <i>member</i> who fails to comply with applicable federal, state, <del>or</del> local laws or international rules or regulations regarding (a) the timely filing of the <i>member’s</i> personal tax returns or tax returns for the <i>member’s</i> employer that the <i>member</i> has the authority to timely file or (b) the timely</p>

		remittance of all payroll and other taxes collected on behalf of others may be considered to have committed an act discreditable to the profession, in violation of the —Acts Discreditable Rule.¶ [Prior reference: paragraph .08 of ET section 501]
206	3.400.010	<p>Modifying the paragraph to add the words “rules and regulations” and “or relevant international government” as indicated:</p> <p>Page 206 3.400.010 Discrimination and Harassment in Employment Practices</p> <p>.01 A final determination, no longer subject to appeal, by a court or an administrative agency of competent jurisdiction that a member has violated any antidiscrimination laws, rules and regulations of the United States, a state, or a municipality or relevant international government, including those related to sexual and other forms of harassment, would cause such <i>member</i> to be presumed to have committed an act discreditable to the profession, in violation of the —Acts Discreditable Rule.¶ [Prior reference: paragraph .03 of ET section 501]</p>
211		Considering adding the AICPA’s Financial Reporting Executive Committee (FinREC) to the list of AICPA Committees and Boards as the GASB still considers FinREC an accounting standard-setter.