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EthicallySpeaking

A Quarterly Publication of the AICPA Professional Ethics Division

Winter 2009

The [Professional Ethics Executive Committee](#) (the Committee or PEEC) is a senior technical committee of the [American Institute of Certified Public Accountants](#) (AICPA). The Committee helps the AICPA carry out key aspects of its overall mission, namely to promote public awareness and confidence in the integrity, objectivity, competence and professionalism of its members; establish professional ethics standards and other guidance for the profession in the [Code of Professional Conduct](#); assist members in continually improving their professional conduct and performance, and monitor such performance by enforcing current standards.

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For additional information about projects of the Professional Ethics Executive Committee, contact Ellen Goria at (212) 596-6096 or egoria@aicpa.org.

Standard-Setting Projects

Immediate Family Member's Participation in Retirement or Savings Plans (Staff Liaisons: Jason Evans and Ellen Goria; Task Force Chair: Linda McAninch)

The Committee is considering the impact on a member's independence when an immediate family member of a "covered member" participates in a retirement or savings plan sponsored by an attest client when such participation is the result of the family member's employment at the client.

At the PEEC's February 2009 meeting, the Task Force proposed that certain covered member's immediate family members in a permitted employment position with an attest client be permitted to participate in the client's Employee Stock Ownership Plan (ESOP) and in employee stock option plans, if certain safeguards are met. While the Committee was receptive to these overall proposals, the Task Force was requested to further study the appropriateness of the proposed safeguards.

The Task Force also proposed revisions to the subsections of Interpretation 101-1 entitled, *Application of the Independence Rules to Covered Members Formerly Employed by a Client or Otherwise Associated With a Client* and *Application of the Independence Rules to a Covered Member's Immediate Family* along with revisions to Ethics Ruling 60 – *Employee Benefit Plans – Member's Relationships With Participating Employer* and Ethics Ruling 107 – *Participation in Health and Welfare Plan Sponsored by Client*. A technical correction to Interpretation 101-15 – *Financial Relationships* was also proposed.

The Task Force will determine whether grandfathering or transition provisions are necessary for any of the proposals that result in more restrictive guidance. The Task Force anticipates asking the Committee to expose its proposals for comment at the May 2009 meeting.

Client Affiliates (Staff Liaison: Ellen Gorla and April Sherman; Task Force Chair: Brian Lynch)

This Task Force is charged with determining whether independence should be considered impaired when members have interests in, or relationships with, entities that are related to a client (i.e., client affiliates).

At the Committee's February 2009 meeting, the Task Force reported that it is using a phased approach whereby the first step is to develop a matrix that will document the existing affiliate guidance found in the AICPA, SEC/PCAOB, IFAC, GAO and DOL independence rules. The Task Force's goal is to use the matrix to not only identify the existing guidance but more importantly, to identify the "gaps" in the independence guidance and therefore, determine where additional guidance may be needed. The Task Force is expected to provide the Committee with an update at its May meeting.

Inadvertent Violations (Staff Liaison: Ellen Gorla and Brandon Mercer; Task Force Chair: Bryan Polster)

This Task Force is charged with determining whether a member's inadvertent violation of the rules (e.g., independence) should result in a violation of the AICPA Code of Professional Conduct if certain criteria are met. At the PEEC's February 2009 meeting, the Task Force recommended that the phrase "inadvertent violation" should be clearly defined and that while it was appropriate to develop an inadvertent violation provision for nonattest services, the provision should likely only extend to firms and not necessarily to individuals. The Committee asked the Task Force to further discuss whether the inadvertent provision should require members to report the violation to those charged with client governance. The Task Force is expected to provide the Committee with an update at its May meeting.

Other Projects

Task Forces also continue to work on projects related to providing clients with XBRL and IFRS related services and the impact such services would have on a member's independence. The Committee also commenced its Codification of the AICPA Code project.

Details about these as well as a complete list of the [Projects](#) the Committee plans to undertake during the next three years and a list of all PEEC [Exposure Drafts](#) are available on-line.

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International Highlights

The International Ethics Standards Board of Accountants (IESBA) continued its consideration of comments received on its July 2008 exposure draft which resulted from the Board's project to improve the drafting conventions of the *Code of Ethics for Professional Accountants*. ("the Code"). The IESBA intends to approve proposed changes to the Code at its April 27-29, 2009 meeting in New York, NY. The February 2009 [Agenda Materials](#) provide further details.

In addition, the IESBA discussed a draft possible structure for issuing non-authoritative guidance documents, and a framework for issuing rapid authoritative responses, aimed at enabling IFAC's standards-setting Public Interest Activity Committees to react to emerging or urgent issues. The IESBA intends to give further consideration to these matters at its future meetings. The [Agenda Materials](#) from the IESBA's February 2009 meeting provide further insight into these topics.

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Updates to Ethical Tax Standards

IRS regulations on the unauthorized disclosure of tax return information went into effect on January 1. Absent a specific, exception, Treas. Reg. section 301.7216 generally prohibits the disclosure or use of tax return information without the client's explicit, written consent. Under section 7216, a tax return preparer is subject to a criminal penalty for "knowingly or recklessly" disclosing or using tax return information. Each violation of section 7216 could result in a fine of up to \$1,000 or one year imprisonment, or both.

AICPA members who are engaged in tax return preparation and tax planning services need to become familiar with Treas. Reg. section 301.7216 and Revenue Procedure 2008-35, the authoritative guidance with respect to a preparer's disclosure or use of tax return information. In a [practice guide](#) for members, the Tax Section is providing several examples of consent forms which have been developed by CPA members for their discussions or consultations with individual clients.

In addition, the Tax Executive Committee (TEC) has issued an exposure draft clarifying certain of the enforceable tax practice standards known as the Statements on Standards for Tax Services (SSTS). Since the issuance of the original SSTSs, members have asked for clarification on certain matters, such as the duplication of language in SSTS No. 6, *Knowledge of an Error: Return Preparation* and No. 7, *Knowledge of an Error: Administrative Proceedings*. Also certain changes in federal and state laws have raised concerns regarding the need to revise SSTS No. 1, *Tax Return Positions* and No. 8, *Form and Content of Advice to Taxpayers*. Accordingly, the TEC issued an [Exposure Draft](#) to address these concerns. The comment period ends May 15, 2009

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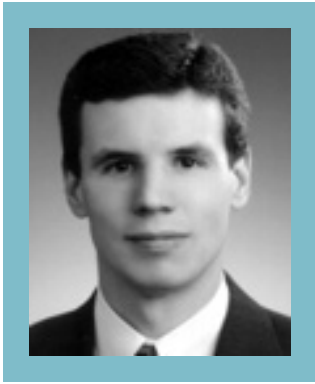
Ethics Hotline

The AICPA Ethics Hotline provides non-authoritative guidance to members on questions related to ethics including independence. Each year it responds to more than 4,000 inquiries. The Ethics Hotline, is open from 9 a.m. until 5 p.m. ET on weekdays and a staff member can be reached by dialing either (888) 777-7077, menu option #5, followed by menu option #2, or by e-mail at ethics@aicpa.org

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Faces of the PEEC

Brian S. Lynch



Mr. Lynch has been a member of the PEEC since 2007 and is a Partner at Ernst & Young in the Americas Independence Group. Mr. Lynch acts as a consultant on independence matters to E&Y professionals and is a designated subject matter expert on several topics, including AICPA independence rules, attestation engagement independence, sponsorships, and advisory services. Prior to joining Americas Independence in 2004, Brian was an audit partner in E&Y's New York Financial Services Office. He spent 15 years auditing principally financial services industry clients, including 4 years spent on an overseas assignment in Tokyo as a senior manager/partner.

Mr. Lynch is chairing the PEEC's Client Affiliate Task Force and is a member of the Committee's IFAC Convergence and Monitoring Task Force. Mr. Lynch is a member of the American Institute of Certified Public Accountants and the New York State Society of Certified Public Accountants and has an MBA degree in Management and Finance from Columbia Business School and a BSBA degree in Accounting from the University of Dayton.

Martin J Benison



Mr. Benison has been a public member of the PEEC since 2002 and has been the Comptroller of the Commonwealth of Massachusetts since 1999. While Comptroller, he has partnered with the CIO on multiple projects to improve the efficiency of Commonwealth operations including upgrading the enterprise financial management and HR payroll systems along with multiple projects to move citizens, vendors and employees from paper to web based interactions with the Commonwealth. He is currently co-chair the Intergovernmental Partnership. The Partnership, under the sponsorship of the Association of Government Accountants, is an attempt to bring

Federal, state, and local government officials together to identify opportunities to improve efficiency and operation across the levels of government. While a member of the PEEC, Mr. Benison has participated on several standard setting and enforcement/disciplinary related task forces. Mr. Benison is a past President of the National Association of State Comptrollers (NASC) and serves on the Executive Committee of the National Association of State Auditors, Comptrollers and Treasurers (NASACT). He also serves on Suffolk University's Accounting Business Advisory Board, and is the former chair of the Customer Advisory Board for the United State Treasury's ASAP payment system. He is a Certified Government Financial Manager, a member of the Government Finance Officers Association and the Association of Government Accountants. Mr. Benison holds a B.A. in Economics from Boston College and a Masters Degree in Public Administration from Harvard University's John F. Kennedy School of Government.

Frank Bochanski

Mr. Bochanski has been a member of the PEEC since 2005 and is a



partner with KPMG LLP (KPMG), where he is responsible for providing technical advisory support and assistance on matters of auditor independence and professional ethics to the US firm and its operating offices as well as to KPMG International and its 144 member firms around the globe. In addition to performing research and assisting with the development of the firm's policies and procedures for auditor independence he consults with firm partners and professionals on technical issues and interpretations, and develops and delivers training to firm personnel communicating the firm's policies, procedures and positions on technical matters. As part

of his PEEC membership, Mr. Bochanski has not only chaired numerous task forces for the PEEC but has been an active participant on numerous ethics projects. Mr. Bochanski is a member of the AICPA, PICPA and NJSCPA and has is the past been chairman of both the PICPA State Nominations Committee and Peer Review Board and a past member of the Executive Committee of the Greater Philadelphia Chapter of PICPA and of the Pennsylvania CPA Journal Editorial Board. Mr. Bochanski is also a past Treasurer and Member of the Board of Directors of the Philadelphia Boys Choir and Chorale, past member of the Advisory Board for Economic Development of Washington Township in New Jersey and past member Alumni Executive Committee of Saint Joseph's University. Mr. Bochanski received his BS Degree in accounting from Saint Joseph's University in Philadelphia, Pennsylvania.

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Other Resources

- ▶ The [Frequently Asked Questions \(FAQs\) related to Performance of Nonattest Services](#) provide staff's insight into numerous topics such as tax, IT, bookkeeping and controllership services.
- ▶ The [Plain English Guide to Independence](#) (Guide) was updated as of January 1, 2009. This Guide discusses in "plain English" the independence requirements of the AICPA and certain other rule-making and standard-setting bodies in the United States so you can understand and apply the requirements with greater confidence and ease.
- ▶ The [Independence and Ethics Developments Audit Risk Alert](#) informs you of recent developments in the area of independence and ethics and helps you understand your independence and ethics requirements under the AICPA Code of Professional Conduct and, if applicable, certain other rule-making and standard setting bodies.

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Future Meetings

May 7-8, 2009 – Portland, Oregon
July 30-31, 2009 – To Be Determined

Interested parties are encouraged to attend the open (public) meetings in person. Furthermore, the Division maintains an open phone line so that interested parties can observe the Committee's public meetings via telephone. Anyone interested in attending a meeting in-person or via conference call should contact Ellen Goria at egoria@aicpa.org

- ▶ [Agenda](#) materials for meetings are available online approximately one week before the meeting.
- ▶ [Minutes](#) of past meetings are available online.

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