Dear Ms. Snyder,

The American Accounting Association (AAA) convened a Task Force to respond to the American Institute of Certified Public Accountants (AICPA) Professional Ethics Executive Committee’s (PEEC) Exposure Draft, *Omnibus Proposal of Professional Ethics Division Interpretations and Rulings*. Our comments are limited to the proposed revision to Ethics Ruling No. 2, “Distribution of Client Information to Third Parties,” Sections .003, .004, and the proposed new definition in ET Section 92, “Confidential Client Information.”

We appreciate the opportunity to respond to this Exposure Draft and view it as a chance to engage in productive dialogue on the need for access to certain data held by auditors, for the purpose of scholarship that is in the public interest in promoting the quality of information supplied by companies to the financial markets. In this letter the Task Force suggests revisions to the PEEC’s proposed Ethics Ruling No. 2 of ET Section 391, and to the proposed addition to ET Section 92 (collectively, “Exposure Draft”). Our suggested revisions are based on the strongly held belief that the Exposure Draft, if adopted in its current form, will severely limit scholarly research that would enhance audit effectiveness and efficiency, thereby negatively impacting the profession and working against the public interest. This comment was developed by the Task Force and does not represent an official position of the American Accounting Association.

As exposed, the draft revisions would essentially limit scholarly audit research to studies based only on publicly available data. Many important questions cannot be addressed solely with those data. Publicly available data provides information on audit outcomes; i.e., audit opinions and engagement fees. Combining these indicators with other information available on public companies, researchers can make some limited inferences about the audit. While studies using only publicly available data are useful, auditing is a highly complex, risk-based process, which cannot be understood adequately with publicly available data alone. To improve the audit, information on individual component tasks is needed, as is information on the judged sources and magnitudes of risk that are of most concern to auditors (e.g., risk of material misstatement and fraud). When auditing researchers are provided with information on characteristics of unidentified clients that can address these issues, useful insights are obtained that shed light on the effectiveness and efficiency of individual component tasks of an audit. Findings from studies...
on individual component audit tasks and judgments potentially assist all audit firms, and insights provided by them positively impact the credibility of the audit process. Because audit quality is crucial to the functioning of financial markets, it is in the public interest to provide as much information and insight as possible without compromising client confidentiality. In an analogous fashion, despite the strong presumption of privacy of individual health information, federal regulations allow research using individual health information as long as patients are not and cannot be identified.

There are several reasons why it is important that research into these issues be conducted by auditing scholars, even when audit firms with sufficient resources can hire consultants to conduct the research or the firms can conduct the research themselves. First, academic auditing research is produced by independent scholars who do not have a vested interest in obtaining specific results (for example, supporting existing practice as opposed to alternative procedures). Second, academic journals use a peer-review process to ensure research quality. Third, auditing researchers are trained in the disciplines that provide theory that both generates questions and guides investigations, such as economics and psychology. Fourth, only the largest firms have the resources to commission research by their own personnel or paid consultants, and the findings of those studies are often not made public. In contrast, the findings of research by independent scholars are made broadly available to be used by all auditing professionals and other interested parties. Thus, while individual firms can and should continue to sponsor their own investigations, academic research enables the entire profession to benefit from the findings.

In addition to providing insight on ways that professionals can improve audit quality, scholarly research improves the flow of knowledge and ideas to future auditing professionals through the classroom environment. Limitations on data necessarily restrict the questions that can be studied. While, as noted previously, one could study the association of audit outcomes with company characteristics without looking inside the “black box” of the audit process, many critical research questions relating to audit effectiveness and efficiency cannot be addressed meaningfully without delving into the audit process. These studies provide the insights that we bring to the classroom. Without the opportunity to seek this type of new knowledge, the attractiveness of auditing as a target area of study for top faculty and students is greatly diminished. Given the current crisis with respect to the shortage of future educator/scholars in auditing (which has been recognized by the profession via the formation of, and investment in, the Accounting Doctoral Scholars program), it is counterproductive to close off avenues of research that otherwise could be available to auditing scholars.

The following tables outline our specific recommended revisions along with the supporting logic for such revisions. We first note, however, that ET Section 92, Definitions, does not include a definition of “client information,” but rather describes what is meant by the term “confidentiality.” In considering the definitions we found it valuable to distinguish four distinct types of data that third parties potentially may seek from members.
<table>
<thead>
<tr>
<th>Suggested Revisions to, “Proposed Addition to ET Section 92, Definitions: Confidential Client Information”</th>
<th>Rationale for Suggested Revision</th>
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<tr>
<td><strong>[New or revised wording in italics]</strong></td>
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<td><strong>Auditor information.</strong> Information produced by the auditor in the process of client acceptance and continuance and the process of planning and performing the audit to arrive at an audit opinion.</td>
<td>As noted earlier, to improve the effectiveness and efficiency of audit processes and to facilitate scholarly research in the area, information on individual audit tasks and judgments is needed. (Examples include: proposed audit adjustments, significant ICFR deficiency documentation, and budgeted/actual audit hours by rank and/or audit activity.) We believe a definition of auditor information should be added to ET 92 to distinguish auditor information from client information. In our suggested revision to Ethic Ruling No. 2 we clarify that auditor information is not “confidential client information” and should not be subject to the same limitations.</td>
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<td><strong>Client information.</strong> Proprietary information about a client’s trade practices, business operations and/or procedures. Proprietary information does not include auditor information as defined above.</td>
<td>We suggest that a definition of “client information” should be established before defining the subset of client information that members should consider confidential.</td>
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| **Confidential client information.** Confidential client information is any client information that is not known to be in the public domain or available to the public. Information in the public domain or available to the public includes, but is not limited to  
  - information in a book, periodical, newspaper, or similar publication;  
  - information obtained from commercially available databases;  
  - information in a client document that has been released by the client to the public or that has otherwise become a matter of public knowledge;  
  - information on client Web sites that is available to persons accessing that Web site without restrictions imposed by the client concerning use or access;  
  - information maintained by or filed with regulatory or governmental bodies that is available to the public without restriction; or | We support the PEEC’s efforts to clarify the nature of client information that should be considered confidential. We do not believe that the requirement to obtain a client’s permission before releasing confidential client information will result in a substantial reduction of auditing scholarship and related insights as long as “confidential client information” is defined as we have suggested.  

While we have maintained a separate definition for “confidential client information,” the PEEC may want to consider including the description of client information that is considered confidential within the definition of client information. |
- information maintained by or filed with regulatory or governmental bodies that is made available through freedom of information or similar requests filed with and approved by such bodies in accordance with their rules or regulations

Unless it is known that the particular client information is in the public domain or available to the public, such information should be considered confidential client information.

### Client information derivatives

**Information derived from client information that has been altered such that it no longer identifies an individual client** (e.g., financial accounting data that has been numerically transformed, qualitative data that has been aggregated).

We believe it is important to clarify that information derived from client data that has been altered so that an individual client cannot be identified is no longer confidential client information, or client information at all. This information could be made available to independent researchers.

The suggestion to specifically define derivative or byproduct client information is consistent with the protections on use of medical data in the HIPAA Privacy Rule. **Personal health data is not considered “Protected Health Information” if it has been de-identified. In that case, patient permission is not required for the data to be used in research, but controls around the use of the data are still important for medical providers.**
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<td><strong>.003</strong> Question—A member has received a request from a third party for auditor information, client information, confidential client information, or client information derivatives (for example, from a trade association or a professor conducting academic research) to disclose client information or the member intends to use such information for the member’s own purposes (for example, publication of benchmarking studies) in a manner that could result in the client’s information being disclosed or distributed to third parties, without the client being specifically identified. May the firm member comply with such a request or use of client information without violating Rule 301?</td>
<td>We recommend that the question include the four types of information provided in our revised definitions in ET 92 above. We believe that the phrase, ‘or a professor conducting academic research’ should be removed. Anyone other than a client or auditor is a third party so we see no reason to specifically identify academic researchers.</td>
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<td><strong>.004</strong> Answer—A member would be in violation of Rule 301 if the information provided or used is considered to be confidential client information, unless the member has the client’s specific permission for the distribution or use of such information. The distribution or use of client information already in the public domain or that is available to the public is not limited. Similarly, the distribution of auditor information (generally) or client information derivatives (to independent researchers) is not limited. However, unless the member knows that the particular client information to be distributed or used is in the public domain or available to the public, such information should be treated as confidential. The member should be cautious in the distribution or use of the information so as not to disclose confidential client information that may go beyond what is expressly included in the public domain or available to the public, or that the client has specifically agreed may be disclosed, even when the information is aggregated or redacted.</td>
<td>We recommend that the answer provided in .004 be modified to reflect the four types of information defined in our suggested revisions to the definitions in ET Section 92. The availability of information for purposes of benchmarking and facilitating research by qualified independent scholars should vary by information type and the limitation to obtain client permission should relate only to confidential client information, as specified in Rule 301 [ET sec. 301].</td>
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We hope that the PEEC will consider the alternative definitions we offer for ET 92 and our suggestions for changing question .003 and answer .004 in the revisions to Rule 301. We appreciate the opportunity to respond to the Exposure Draft. We look forward to future dialogue between the PEEC and the AAA and encourage the PEEC task force or AICPA to contact Nancy Bagranoff [757 683-5536] or Ira Solomon [217-333-2451] should additional questions arise.

Sincerely,

Nancy Bagranoff

Task Force Members –

- Nancy Bagranoff, Old Dominion University (President, American Accounting Association)
- Jean Bedard, Bentley University (Vice President, American Accounting Association)
- Don Finn, University of North Texas
- Steve Glover, Brigham Young University
- Bill Kinney, University of Texas
- Ira Solomon, University of Illinois (Vice President, American Accounting Association)
- Kevin Stocks, Brigham Young University (President-elect, American Accounting Association)