

FORENSIC SERVICES JOINS OTHER SPECIALIZED SKILLS AS AICPA ISSUES NEW STATEMENT ON PROFESSIONAL STANDARDS

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In the minds of many, the role of an accounting professional is limited to the preparation of tax returns or financial statements. But the profession has a long history of providing a broad array of services to individual clients and the business community at large. The variety of services is evident in the AICPA statements of professional conduct that govern member interaction with clients on engagements that extend far beyond the traditional roles accountants are thought to fill. The first of these was the Statement on Standards for Consulting Services No. 1 issued in 1991. The Statement on Standards for Valuation Services No. 1 followed in 2007.

Most recently, forensic services joined the list of specializations meriting a standard of professional conduct when AICPA's Forensic and Valuation Services Executive Committee issued Statement on Standards for Forensic Services No. 1 this past July. The standard is effective for engagements on or after Jan. 1, 2020.

The standard defines forensic accounting services as the

"application of specialized knowledge and investigative skills by a member to collect, analyze and evaluate certain evidential matter and to interpret and communicate findings." It further subdivides forensic services by the type of engagement, which is critical to understanding the professional rules of conduct.

Litigation: Forensic work that is performed for an actual or possible legal or regulatory proceeding before a trier of fact (i.e., judge, arbitrator, etc.). The forensic accountant could be serving in the role of an expert witness, consultant, a neutral party, or even as a mediator or arbitrator in connection with a dispute. Litigation does not necessarily mean a formal court proceeding, but could include alternative dispute resolution formats.

Investigation: Forensic services performed as a response to concerns of wrongdoing in which a member would engage in procedures to collect, analyze, evaluate or interpret certain evidential matter to assist stakeholders (i.e., client, board of directors, independent auditor, etc.)

in determining the merits of the concern.

The distinction between a litigation engagement and an investigation matter is not static. It is possible that a matter could initially be classified as an investigation engagement, such as when a client suspects fraud on the part of an employee, customer or supplier. The matter could subsequently progress to a litigation engagement if the concern proves justified and the client wishes to seek a remedy.

Further, the forensic services standard also clarifies that it takes precedent over the earlier cited consulting and valuation services standards when overlap might occur. For example, valuation of a business will be governed by this standard rather than the valuation services standard if it is performed as part of a larger litigation or investigation project. In addition, a member cannot serve as an expert witness for one party in a litigation engagement and perform the work under the Agreed-Upon Procedures standard. Rather, the Forensic Services standard will

apply. The AUP standard can apply if the work is performed for both sides of the dispute or the trier of fact.

The purpose of the work determines the applicable standard. For example, a data analytics project that might fall within consulting services could also be forensic services if performed as part of a litigation or investigation engagement. In the latter case, the forensic services standard would apply. It is incumbent upon the service provider to be cognizant of when a project might progress from its original scope and develop into a litigation or investigation engagement. The member must then clarify with the client an understanding of the work and its requirements.

Two specific restrictions regarding litigation engagements further reinforce the importance of being aware of the nature of a project as

scope enlarges or changes:

1. A member may not perform forensic services in a litigation engagement under a contingent fee arrangement unless specifically allowed by the "Contingent Fee Rules" (E.T. sec. 1.510.001).
2. Unless the member is the trier of fact, he/she must refrain from expressing an opinion that concludes on fraud. That responsibility rests solely with the trier of fact. The member can, however, express his/her expert opinion as to whether the evidence is consistent with certain elements of fraud.

A member is not governed by this standard if the forensic work is being performed as part of an attestation engagement, such as an audit, review or compilation. It is not unusual for work of a forensic

nature to be performed in the context of the attestation regarding the effectiveness of internal controls. Also, work performed internally is not governed by this standard. For example, a forensic accountant on the internal audit staff of a company is not under this standard if he/she is investigating possible fraud committed against his/her employer.

To uphold the reputation of the profession, it is important for accounting professionals to act with integrity when fulfilling client engagements and this standard provides a framework for professional conduct, but also makes it clear that there is not a substitute for professional judgment. These standards do establish boundaries within which professional judgment can be most effectively exercised and serve to remind us just how much variety is offered in the field of accounting today.



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