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1976

## Auditor's Report for ERISA

American Institute of Certified Public Accountants. Auditing Standards Division

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The Employee Retirement Income Security Act of 1974 (ERISA) requires, among other things, that, in certain instances, the administrator of an employee benefit plan engage an independent qualified public accountant to conduct an examination of the plan's financial statements and certain schedules in accordance with generally accepted auditing standards. The purpose of such examination is to enable the accountant to form an opinion as to whether the financial statements and schedules are presented fairly in conformity with generally accepted accounting principles.

Pursuant to pertinent regulations, the financial statements and schedules of a plan need not be presented in conformity with generally accepted accounting principles and/or the auditor need not examine and report on information prepared by a bank or similar institution or insurance carrier regulated and supervised and subject to periodic examination by a state or federal agency if such information is certified as complete and accurate by the bank, similar institution or insurance carrier. Thus, ERISA permits the plan administrator to restrict the auditor's examination of the assets held and transactions executed by such institutions.

Question -- What should be the form of the auditor's report if a plan administrator elects, as permitted by the Department of Labor rules and regulations, to restrict the auditor from performing auditing procedures on information prepared and certified by a bank or similar institution or insurance carrier and the auditor believes this is a significant limitation on the scope of his examination?

Answer -- An example of the appropriate form of reporting in these special circumstances is as follows:

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AUDITOR'S REPORT FOR ERISA

To XYZ Pension Plan

We have examined the financial statements and schedules of XYZ Pension Plan as of December 31, 19XX and for the year then ended, as listed in the accompanying index. Except as stated in the following paragraph, our examination was made in accordance with generally accepted auditing standards and, accordingly, included such tests of the accounting records and such other auditing procedures as we considered necessary in the circumstances.

The plan administrator has elected the method of compliance permitted by Section 2520.103-8 of the Department of Labor Rules and Regulations for Reporting and Disclosure under the Employee Retirement Income Security Act of 1974. Accordingly, as permitted under such election, the plan administrator instructed us not to perform, and we did not perform, any auditing procedures with respect to the information certified by the ABC Bank, the trustee of the Plan, except for comparing such information, which is summarized in Note X, to the related information included in the financial statements and schedules. We have been informed by the plan administrator that the trustee holds the Plan's investment assets and executes transactions therein. The plan administrator has obtained a certification from the trustee that the information provided to the plan administrator<sup>1</sup> by the trustee is complete and accurate.

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Certain data furnished and certified by a bank or similar institution or insurance carrier are based on information supplied by the plan administrator. Accordingly, the auditor should satisfy himself that the amounts reported by the trustee as being received from, and disbursed at the direction of, the plan administrator or other authorized party have been properly determined in accordance with the terms of the plan and that the information included in the financial statements and schedules have been presented in compliance with the Department of Labor Rules and Regulations for Reporting and Disclosure under the Employee Retirement Income Security Act of 1974.

If the auditor is precluded from performing these procedures, he should issue a disclaimer of opinion in accordance with SAS No. 1, section 516.

Because of the significance of the information that we did not audit, we are unable to, and do not, express an opinion on the accompanying financial statements and schedules taken as a whole. The form and content of the information included in the financial statements and schedules, other than that derived from the information certified by the trustee, has been examined by us and, in our opinion, is presented in compliance with the Department of Labor Rules and Regulations for Reporting and Disclosure under the Employee Retirement Income Security Act of 1974.<sup>2</sup>

Question--If the financial statements and schedules of a plan are not presented in conformity with generally accepted accounting principles, what modifications, if any, should be made in the auditor's report?

Answer--Department of Labor rules and regulations require that a note to the financial statements disclose departures from generally accepted accounting principles. If the auditor is satisfied that the financial statements include adequate disclosure of departures from generally accepted accounting principles, the form of report illustrated above may be issued without modification. The auditor would modify his report, however, if such departures are not adequately disclosed because of the lack of compliance with the Department of Labor rules and regulations.

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<sup>2</sup> Section 2520.103-1(b)(3) of the rules and regulations requires that the financial statements include a footnote describing the accounting principles and practices reflected in the financial statements, and, if applicable, variances from generally accepted accounting principles.

Question -- Can this type of auditor's report be distributed to third parties, such as plan participants?

Answer -- Yes, provided the financial statements and schedules referred to therein accompany the auditor's report.