

# EXPOSURE DRAFT

## PROPOSED REVISIONS TO

### AICPA/NASBA UNIFORM ACCOUNTANCY ACT and NASBA UNIFORM ACCOUNTANCY ACT RULES

#### SECTION 3 and Article 14

December 2010

#### 2009 – 2010 AICPA UAA Committee

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# INTRODUCTION

December 7, 2010

The AICPA/NASBA Uniform Accountancy Act (UAA) Committee has worked over the past year to consider guidelines as to what are and what are not misleading CPA firm names. The proposed changes to the Uniform Accountancy Act (UAA) and Uniform Accountancy Act Model Rules (Model Rules) in this exposure draft are the result of these efforts.

AICPA and NASBA began considering these firm name issues in August 2008 when the leadership of the two organizations called for the formation of a joint group to study CPA firm names. This study group was formed because of the lack of uniformity at the state level and the inconsistent guidance and practice surrounding the definition and use of permissible CPA firm names. The study group published a White Paper on CPA Firm Names in August 2009. In the conclusion, the White Paper urged the AICPA/NASBA UAA Committee to use the discussion and conclusions to help make appropriate conforming revisions to the UAA Statute and Model Rules.

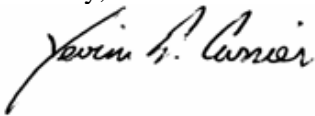
During deliberations, the UAA Committee sought guidance from AICPA's Professional Ethics Executive Committee (PEEC), and carefully considered definitions and concepts from PEEC's Interpretation 101-17 under Rule 101. This Interpretation was finalized in 2010 by the Professional Ethics Executive Committee and is effective for engagements after July 1, 2011. The Interpretation addresses when firms and entities in associations that share certain characteristics are considered to be a Network and therefore must be independent of certain attest clients of the other Network firms. Additionally, the UAA Committee also considered concepts in the AICPA Code of Professional Conduct Rule 505 "Form of Organization and Name," and PEEC's Ethics Ruling 179 "Practice of Public Accounting Under Name of Association or Group."

The discussion and conclusions noted in the White Paper on CPA Firm Names and the PEEC's Interpretations and Rules form the foundation of the proposed revisions to the UAA and the Model Rules. These proposed revisions are intended to provide the statutory and regulatory framework to CPA Firms and the State Boards of Accountancy who regulate them on acceptable CPA firm names configurations, Network or otherwise, and to provide public protections from CPA firm names which may be considered misleading.

If you need additional assistance or have questions, please contact Aaron Castelo at AICPA at 202-434-9261 or Louise Haberman at NASBA at 212-644-6469.

Thank you for your continued support and assistance.

Sincerely,



Kevin E. Currier, CPA  
AICPA UAA Committee Chair -2010



Laurie J. Tish, CPA  
NASBA UAA Committee Chair - 2010

## **SUMMARY OF PROPOSED REVISIONS**

The proposed changes add a definition of “Network” and “Network Firm” to the Uniform Accountancy Act.

A new Rule 14-1 is being proposed to provide guidance to State Boards and firms on CPA Firm names. The new rule provides specific criteria on which names should be considered misleading and which are permissible, and sets guidelines for the usage of Network Firm names.

New language is being recommended to the commentary of Rule 14-1 of the Uniform Accountancy Act Model Rules to recognize implications to mobility when considering CPA Firm names.

## TEXT OF PROPOSED STATUTE REVISIONS BY SECTION

Note: The material set out below is the proposed statutory text and commentary of the relevant UAA provisions. The proposed language to be added is underlined, and proposed deleted language is stricken-through.

### SECTION 3 DEFINITIONS

3 (n) “Network” means an association of two or more entities that includes at least one CPA firm that:

- (1) Cooperates pursuant to an agreement for the purpose of enhancing the firms’ capabilities to provide professional services, and;
- (2) Shares one or more of the following characteristics:
  - (a) The use of a common brand name, including common initials, as part of the firm name;
  - (b) Common control, as defined by generally accepted accounting principles in the United States, among the firms through ownership, management, or other means;
  - (c) Profits or costs, excluding costs of operating the association, costs of developing audit methodologies, manuals and training courses, and other costs that are immaterial to the firm;
  - (d) Common business strategy that involves ongoing collaboration amongst the firms whereby the firms are responsible for implementing the association’s strategy and are held accountable for performance pursuant to that strategy;
  - (e) Significant part of professional resources;
  - (f) Common quality control policies and procedures that participating firms are required to implement and that are monitored by the association.

**A Network may comprise a subset of entities within an association if only that subset of entities cooperates and shares one or more of the characteristics set forth in the previous list.**

**3 (o) “Network Firm” means a CPA Firm, as defined in Section 3 (g), that is part of a Network, as defined in Section 3(n).**

***COMMENT: For the purposes of subsection (2)(f), “monitored” means the process comprising an ongoing consideration and evaluation of the firm’s system of quality control, the objective of which is to enable the association to obtain reasonable assurance that the firm’s system of quality control is designed appropriately and operating effectively.***

## TEXT OF PROPOSED RULES REVISIONS BY ARTICLE

Note: The material set out below is the proposed rules text and commentary of the relevant UAA provisions. The proposed language to be added is underlined, and proposed deleted language is stricken-through.

### ARTICLE 14 UNLAWFUL ACTS

#### Rule 14-1 - ~~Misleading~~ CPA Firm names.

~~A CPA firm name is misleading within the meaning of Section 14(i) of the Act if, among other things:~~

- ~~(a) The CPA firm name implies the existence of a corporation when the firm is not a corporation;~~
- ~~(b) The CPA firm name implies existence of a partnership when there is not a partnership (as in “Smith & Jones, C.P.A.s”);~~
- ~~(c) The CPA firm name includes the name of a person who is neither a present nor a past partner, member or shareholder of the firm; or~~
- ~~(d) The CPA firm name includes the name of a person who is not a CPA if the title “CPAs” is included in the firm name.~~

(a) A misleading CPA Firm name is one which:

- (1) Contains any representation that would be likely to cause a reasonable person to misunderstand or be confused about the legal form of the firm, or about who are the owners or members of the firm, such as a reference to a type of organization or an abbreviation thereof which does not accurately reflect the form under which the firm is organized, for example:

- (A) Implies the existence of a corporation when the firm is not a corporation such as through the use of the words “corporation,”

**“incorporated”, “Ltd.”, “professional corporation”, or an abbreviation thereof as part of the firm name if the firm is not incorporated or is not a professional corporation;**

**(B) Implies the existence of a partnership when there is not a partnership such as by use of the term “partnership” or “limited liability partnership” or the abbreviation “L.L.P.” if the firm is not such an entity;**

**(C) Includes the name of an individual who is not a CPA if the title “CPAs” is included in the firm name;**

**(D) Includes information about or indicates an association with persons who are not members of the firm, except as permitted pursuant to Section 3(n) and 3(o) of the Act; or**

**(E) Includes the terms “& Company,” “& Associate,” or “Group,” but the firm does not include, in addition to the named partner, shareholder, owner, or member, at least one other unnamed partner, shareholder, owner, member, or staff employee.**

**(2) Contains any representation that would be likely to cause a reasonable person to have a false or unjustified expectation of favorable results or capabilities, through the use of a false or unjustified statement of fact as to any material matter;**

**(3) Claims or implies the ability to influence a regulatory body or official;**

**(4) Includes the name of an owner whose license has been revoked for disciplinary reasons by the Board, whereby the licensee has been prohibited from practicing public accountancy or prohibited from using the title CPA or holding himself out as a Certified Public Accountant.**

**(b) The following types of CPA Firm names are not in and of themselves misleading and are permissible so long as they do not violate the provisions of Rule 14-1(a):**

**(1) A firm name that includes the names of one or more former or**



present owners;

(2) A firm name that excludes the names of one or more former or present owners;

(3) A firm name that uses the CPA title as part of the firm name when all named individuals are owners of the firm who hold such title or are former owners who held such title at the time they ceased to be owners of the firm;

(4) A firm name that includes the name of a non-CPA owner if the CPA title is not a part of the firm name;

(c) The following types of Network Firm names are not in and of themselves misleading and are permissible so long as they do not violate the provisions of Rule 14-1(a), and when offering or rendering services that require independence under AICPA standards, a firm that is part of a Network and a Network Firm, as defined in Section 3(o) of the Act, shall be required to comply with AICPA independence standards applicable to Network Firms:

(1) A firm name that uses a common brand name, or shares common initials, as part of the firm name, provided the firm is a Network Firm as defined in Section 3(o) of the Act;

(2) A Network Firm, as defined in Section 3(o) of the Act, may use the Network name as the firm name, provided it also shares one or more of the characteristics described in Section 3(n)(2) (b) through 3(n)(2)(f) of the Act.

COMMENT: With regard to practice in this State under Section 7(a)(1)(c), 7(a)(2) or 7(a)(3) of the Act, in determining whether a CPA Firm name is misleading, the Board recognizes that it is the policy of this State to promote interstate mobility for CPAs and CPA firms which employ them, and shall also consider the basis for approval of the same CPA Firm name by another state's board of accountancy.

**Rule 14-2 -- Fictitious firm names.**

~~A fictitious CPA firm name (that is, one not consisting of the names or initials of one or more present or former partners, members or shareholders) may not be used by a CPA firm unless such name has been registered with and approved by the Board as not being false or misleading.~~

Note: Current UAA Rules 14-3 Safe Harbor Language will be re-numbered to Rule 14-2.