

AN FTI CONSULTING REPORT – PUBLISHED 07/29/2021

# Accountants' Liability Tool Kit

*All links contained in this report are publicly available or provided by FTI Consulting.  
Please right-click on the links to open them in new tabs or windows.*



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There is a myriad of information relevant to Accountants’ Liability matters. It can be time consuming and confusing finding the relevant authoritative guidance. FTI Consulting’s experts have extensive experience as consulting and testifying experts for audit and tax firms and their counsel. We have assembled the resources below to help you navigate through the relevant guidance in this topical area.



## Regulatory Regimes

The following entities have enforcement/disciplinary authority over independent auditors in the U.S. Links are provided below for more information and to help assess how prior enforcement actions have addressed issues similar to those that your client may be facing.

**The Public Company Accounting Oversight Board (PCAOB)** has authority, under Section 105 of the Sarbanes-Oxley Act, to conduct investigations, and impose disciplinary or remedial sanctions against firms and individuals associated with firms that have audited a public company, a broker or a dealer.

- [Read more](#) about the PCAOB’s enforcement program.
- FTI Consulting has compiled all “PCAOB Settled Disciplinary Orders” in a free searchable PDF file (current as of July 15, 2021): [Read More](#).
- FTI Consulting has compiled all “PCAOB Adjudicated Orders” in a free searchable PDF file (current as of July 15, 2021): [Read More](#).

**The Securities and Exchange Commission (SEC)** has federal statutory authority and responsibility for establishing the regulation of auditors. Its enforcement staff conducts investigations into possible violations of federal securities laws and litigates the Commission’s civil enforcement proceedings in federal courts and in administrative proceedings. Such proceedings can be against a variety of types of respondents. [Read more](#) about the SEC’s enforcement program and its [2020 Annual Report](#).

Enforcement actions against accountants are typically disclosed in Accounting and Auditing Enforcement Releases (AAERS) and/or Administrative Proceeding Orders and Notices. AAERS typically relate to financial reporting matters; Administrative Proceeding Orders and Notices include a wider variety of SEC enforcement actions.

- A listing of AAERS is available [here](#).
- A listing of Administrative Proceeding Orders and Notices is available [here](#).



**State Boards of Accountancy** issue and administer individual CPA and accounting firm licenses. The state boards can also revoke or suspend these licenses and most (if not all) state societies of CPAs have their own ethics committees that conduct investigations and administer disciplinary actions. State boards routinely correspond with the SEC and PCAOB enforcement divisions.

Based on FTI Consulting's analysis, assuming a two-year lag, 65% of PCAOB sanctions against individuals resulted in state board sanctions; whereas, 42% of PCAOB sanctions against firms resulted in state board sanctions (date of analysis – May 2020).

- [Read more](#) at the State Boards of Accountancy websites.

**The American Institute of Certified Public Accountants (AICPA)** and each state CPA society have respective codes of professional conduct. Because of similarities between these entities' codes of conduct, the AICPA and most state societies have joined together to create the Joint Ethics Enforcement Program (JEEP).

- [Read more](#) about the AICPA's enforcement program.
- [Read more](#) about disciplinary actions.

The AICPA's Statements on Standards for Tax Services (SSTs) are enforceable tax practice standards for members of the AICPA. The SSTs apply to all members regardless of the jurisdictions in which they practice and the types of taxes with respect to which they are providing services. The SSTs and interpretations delineate members' responsibilities to taxpayers, the public, the government, and the profession. They are intended to be part of an ongoing process of articulating standards of tax practice for members.

- [Read more](#) about the AICPA's SSTs.

**Internal Revenue Service** – Circular 230 is the common name given to the body of regulations promulgated under the enabling statute found at Title 31, United States Code § 330. This statute and the body of regulations are the source of the Office of Professional Responsibility (OPR) authority. Circular 230 defines “practice” and who may practice before the IRS; describes a tax professional's duties and obligations while practicing before the IRS; authorizes specific sanctions for violations of the duties and obligations; and, describes the procedures that apply to administrative proceedings for discipline.

- [Read more](#) about the Regulations Governing Practice before the Internal Revenue Service.

**The Federal Deposit Insurance Corporation (FDIC)** has authority to bring enforcement actions against banks and their officers, directors, employees, controlling shareholders, agents and certain other “institution-affiliated parties” for violations of laws, rules, or regulations. Auditors are considered institution-affiliated parties and are therefore subject to FDIC enforcement. However, the FDIC has not traditionally brought such actions – instead, it typically files civil complaints against auditors in its role as receiver of a failed bank.

- [Read more](#) about the FDIC's enforcement program.

## Auditing Standards

When assessing an auditor's conduct, it is critical to know which standards were applied – this will be explicitly described in the auditor's report. Links are provided below to the most common auditing standards. You can also reach out to one of the Key Contacts below for help finding the relevant auditing guidance.



**PCAOB Auditing Standards** are applicable for audits of U.S. public companies and broker dealers. These standards were reorganized effective December 31, 2016.

- [Read more](#) about the pre-reorganized standards in effect prior to December 31, 2016.
- [Read more](#) about the current standards and those relevant for other periods since December 31, 2016.

**PCAOB Rules** are distinct from PCAOB auditing standards but relevant for audits performed under these standards.

The following PCAOB rules are typically most relevant to Accountants' Liability matters

- [Read more](#) about the rules related to the enforcement program.
- [Read more](#) about the terms used in PCAOB standards to describe levels of responsibility.
- [Read more](#) about the ethics and independence rules.
- [Read more](#) about other defined terms.

[Read](#) the full list of PCAOB Rules.

**AICPA Auditing Standards** are also known as generally accepted auditing standards (GAAS) and are typically applicable for audits of U.S. private companies. These standards went through a clarification process, which was completed in February 2014.

- [Read more](#) about the pre-clarity standards.
- [Read more](#) about the current standards.
- [Read more](#) about the defined terms (paragraph .10) and the levels of responsibility imposed on practitioners (paragraph .19).

**International Standards on Auditing** are typically applicable for audits of foreign companies.

- The 2013 Handbook Volume I, which includes the auditing standards (the other volumes relate to topics such as quality control and interim review standards) is available [here](#).
- The 2015 Handbook is available [here](#).
- The 2016-17 Handbook is available [here](#).
- The 2018 Handbook is available [here](#).

**Cross-reference to Analogous PCAOB, AICPA and International Auditing Standards.** [Read more](#).

**Government Auditing Standards** are also known as generally accepted government auditing standards (GAGAS) or the Yellow Book. These standards are typically applicable for governmental agencies and certain entities that receive government awards.

- The 2011 version of the Yellow Book, which is effective for financial statement audits for periods ending on or after December 15, 2012, and for performance audits beginning on or after December 15, 2011 is available [here](#).
- The 2018 version of the Yellow Book, which superseded the 2011 Yellow Book, is effective for financial statement audits for periods ending on or after June 30, 2020, and for performance audits beginning on or after July 1, 2019 is available [here](#).
- A technical update to the 2018 version of the Yellow Book, published on April 14, 2021 and effective immediately upon issuance, is available [here](#).



## Accounting Standards

When assessing an auditor's conduct, it is important to know which accounting standards the client applied when preparing its financial statements subject to audit – this will be explicitly stated in the auditor's report. Links are provided below to the most frequently applied accounting standards. You can also reach out to one of the Key Contacts below for help finding the accounting guidance relevant to your fact pattern.

**Generally Accepted Accounting Principles (GAAP)** are promulgated by the Financial Accounting Standards Board (FASB) and published through a Codification (FASB Codification). GAAP is typically applied by U.S. public and private companies.

- Access the codification via a free “basic view” or a subscription-based “professional view” [here](#).

**SEC pronouncements** provide accounting and disclosure guidance applicable to U.S. public companies.

- While the FASB Codification included certain SEC guidance and selected Staff interpretations, it does not contain the entire population of SEC rules, regulations, interpretive releases and staff guidance.
- The SEC's Division of Corporation Finance Financial Reporting Manual provides informal SEC Staff interpretations. The version updated as of November 2020 is available [here](#).
- A codification of Staff Accounting Bulletins (SABs) is available [here](#).
- A listing of selected SABs by number is available [here](#).
- Additional links to SEC rules and regulations, including Regulation S-X, Regulation S-K and industry guides are available [here](#).

**International Financial Reporting Standards (IFRS)** are typically applied by foreign companies, even those that are listed on U.S. exchanges.

- Access (via Basic Registration) to the current consolidated IFRS Standards is available [here](#).

**Governmental Accounting Standards** are promulgated by the Governmental Accounting Standards Board (GASB) and are typically applied by U.S. state and local governments. [Read more](#) about GASB Pronouncements.

## Independence Rules

External auditors are required to be independent of their audit clients. The specific guidance regarding whether an auditor is independent differs depending, in large part, on the relevant auditing standards employed. You can also reach out to one of the Key Contacts below for help finding the relevant independence guidance.

**PCAOB Independence Requirements** are applicable for audits of U.S. public companies and broker dealers. PCAOB Ethics and Independence Rules provide certain guidance but most of the PCAOB's independence requirements are adopted from other agencies, including: the AICPA's independence guidance that was in existence on April 16, 2003, the SEC's auditor independence guidance and certain standards from the Independence Standards Board (ISB). Links are provided below for each of these agencies' guidance adopted by the PCAOB.

### PCAOB guidance

PCAOB Rule 3500T states “to the extent that a provision of the Commission's rule is more restrictive – or less restrictive – than the Board's Interim Independence Standards, a registered public accounting firm must comply with the more restrictive rule.”

- [Read more](#) about PCAOB Rules 3500T – 3526, which provide PCAOB issued guidance regarding auditor independence.
- PCAOB Staff Questions and Answers regarding independence are available [here](#).
- [Read more](#) about PCAOB Staff Guidance regarding Audit Committee communications concerning independence.
- In November 2020, the PCAOB amended its independence standards to align with the SEC's related October 2020 amendments. The PCAOB's amendments are available [here](#).





### AICPA guidance (as adopted by the PCAOB)

- [Read more](#) about the AICPA's Professional Conduct Rule 101 as it existed on April 16, 2003 (adoption date).
- [Read more](#) about the AICPA's Ethics Rulings regarding independence as it existed on April 16, 2003.

### SEC guidance

The SEC's independence rules are promulgated in Regulation S-X Rule 2-01(b) as well as related rule making releases. A copy of Rule 2-01 is available [here](#).

Additional SEC guidance is available in a series of releases issued since 2000:

- [Read more](#) about the Proposed Rule included in a June 2000 Release.
- [Read more](#) about the Final Rule included in a November 2000 Release.
- [Read more](#) about the Strengthened Rule included in a January 2003 Release.
- [Read more](#) about Corrections to the Strengthened Rule included in a March 2003 Release.
- [Read more](#) about SEC independence guidance, including FAQs issued in June 2019.
- [Read more](#) about Amendments to Independence Rules issued in October 2020.

FTI Consulting has compiled these SEC releases regarding independence in a free searchable PDF file [here](#).

### ISB guidance

- The PCAOB adopted three pieces of guidance issued by the ISB:
  - The Independence Standard No. 2 is available [here](#).
  - The Independence Standard No. 3 is available [here](#).
  - The ISB Interpretation 99-1 is available [here](#).

**AICPA Independence Requirements** are typically applicable for audits of U.S. private companies. In certain areas, the AICPA's guidance is less restrictive than the PCAOB's. The AICPA's guidance is found primarily in section 1.200 of its Code of Professional Conduct.

- The version updated through March 2021 is available [here](#).
- Older versions are available [here](#).

**Department of Labor (DOL) Independence Requirements** are applicable for audits of employee benefit plans.

- The DOL's independence guidance is codified in its Interpretive Bulletin 75-9 (29 CFR 2509.75-9). It is available [here](#).
- A comparison of AICPA and DOL independence guidance is available [here](#).

**Governmental Independence Requirements** are typically applicable for audits of governmental agencies and certain entities that receive government awards.

- Independence standards are in chapter three of the Yellow Book (see links in the Auditing Standards section above).
- A comparison of Yellow Book to AICPA standards (as of 2011) is available [here](#).

**International Independence Requirements** are typically applicable for audits of foreign companies and are found in the International Code of Ethics for Professional Accountants.

- The 2020 Handbook of the International Code of Ethics for Professional Accountants (independence guidance is in sections 4A and 4B and is effective for audits of financial statements for periods beginning on or after June 15, 2021 – early adoption is permitted) is available [here](#).
- The 2018 Handbook of the International Code of Ethics for Professional Accountants is available [here](#).
- The 2016 Handbook of the International Code of Ethics for Professional Accountants is available [here](#).



## FTI Consulting’s Service Offerings

We have extensive experience providing consulting and litigation support in matters related to accountants’ liability. Our professionals include former officials with the PCAOB, the SEC, the FASB and former partners and managers with major audit and tax firms. More information regarding our service offerings is available [here](#).

## Key Contacts



**Kelly Bossard** is a Senior Managing Director at FTI Consulting and is based in Washington, DC. Mr. Bossard is an accounting professional with more than 25 years of experience in auditing, accounting, litigation consulting, forensic accounting and as a regulator. Mr. Bossard spent five years as a staff member of the PCAOB’s Division of Enforcement and Investigations. Prior to and subsequent to his time at the PCAOB, Mr. Bossard has focused on accounting malpractice, litigation consulting, securities litigation and corporate investigative practice areas as a professional with FTI Consulting. Mr. Bossard has served as both a testifying and consulting expert and has extensive experience assessing compliance with applicable auditing standards. He has been retained by Big 4 (U.S. and foreign affiliates), mid-sized and small audit firms. [Read more.](#)



**Gary Goolsby** is a Senior Managing Director at FTI Consulting and is based in Houston. Mr. Goolsby has 46 years of experience in accounting and auditing, risk management, resolving auditor malpractice allegations, post-acquisition transaction disputes, investigations, governance, internal controls and business processes, board of directors and regulatory interactions, executive management, expert witness testimony and case consultancy and technical presentations. Mr. Goolsby has provided professional services to many industries including oil and gas exploration, development, services, refining; mining; financial institutions including brokerage, banks, savings and loans, mortgage banking, insurance; healthcare; construction and real estate. Mr. Goolsby has testified in federal and state courts and U.S. and international arbitrations and made presentations of investigation results to SEC Enforcement and Department of Justice. Click here for details on Mr. Goolsby’s experience. [Read more.](#)



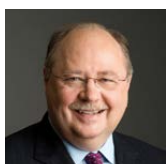
## Selected Additional FTI Consulting Experts (in Alphabetical Order)



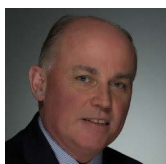
**Steven J. Hazel** is a Senior Managing Director at FTI Consulting and spends most of his time in Los Angeles, New York, and Denver. Mr. Hazel has combined his tax, accounting, business management, and finance backgrounds to assess compliance with tax standards and regulations, quantify damages, value assets/businesses in a variety of circumstances (e.g., adversarial proceedings and mergers and acquisitions), and for financial reporting and tax purposes. Mr. Hazel has served as an expert witness in State and Federal Courts, arbitrations, and administrative hearings. He has been retained by national, regional and boutique law firms on a variety of cases, including those involving lost profits, valuation, lost opportunities, fraud investigations, accounting, and tax related matters. [Read more.](#)



**Suren Kahouaty** is a Managing Director at FTI Consulting and is based in New York. Mr. Kahouaty has over 15 years of experience as an auditor and consultant. He provides advisory services including, auditor defense, accounting advisory services (under both US GAAP and IFRS), internal control implementation and remediation and operational consulting services related to changes in accounting processes. Prior to joining FTI Consulting, Mr. Suren was a Partner in Deloitte's Global Capital Markets Group in Mexico City. Most recently, he was a member of Deloitte's National Professional Practice Director Group, which is responsible for quality peer reviews for public and domestic conglomerates. While at Deloitte, Mr. Suren served as internal inspections leader for Deloitte Spanish-Latam and the audit global center of excellence, providing client coverage to non-US member firms that conducted audits in accordance with PCAOB standards. Mr. Suren is fluent in English, Armenian and Spanish and has served clients in the United States and many Latin and South American countries. [Read more.](#)



**Bob Kueppers** is a Senior Advisor to FTI Consulting and is based on Sarasota FL. Mr. Kueppers has 44 years of professional experience, most of which was as a partner with Deloitte LLP. His technical and business experience is significant having held senior positions in both client service and management roles, including Senior Technical Partner, Vice Chairman and Deputy CEO. Mr. Kueppers is a technical expert in accounting, auditing and financial reporting, as well as significant regulatory experience with the SEC, the PCAOB and Congressional matters. He is also an expert in Corporate Governance having led Deloitte's Corporate Governance Center for many years. His industry expertise is concentrated in manufacturing, retail and distribution. His SEC experience includes extensive dealings with the Division of Corporation Finance, the Office of the Chief Accountant, and the Division of Enforcement. [Read more.](#)



**Michael Malloy** is a Senior Managing Director at FTI Consulting and is based in New York. Mr. Malloy is an accounting professional with more than 30 years of experience in accounting and auditing, risk management, resolving auditor malpractice allegations, post-acquisition transaction disputes, investigations, governance, internal controls and business processes, board of directors and regulatory interactions, executive management, expert witness testimony and case consultancy and technical presentations. Mr. Malloy spent 27 years with the audit practice of Deloitte and 15 years as an audit partner. Mr. Malloy has provided professional services to many industries including: government, nonprofit (including hospitals, healthcare providers, and higher education); pharmaceutical, financial services, Japanese trading and manufacturing companies (particularly in the metals and plastic industries), private equity and venture capital companies, shipping companies, mining, and companies in the energy industry (oil and gas exploration, development, services, and refining). Mr. Malloy has served as both a testifying and consulting expert and has extensive experience assessing compliance with applicable auditing standards. Mr. Malloy has made presentations of investigation results to the SEC Enforcement Division and Department of Justice. [Read more.](#)



**Todd Rahn** is a Senior Managing Director at FTI Consulting and the Leader of our San Francisco Bay Area SEC & Accounting Advisory practice with 23 years of experience. Before joining FTI Consulting in 2019, Mr. Rahn was a partner at Deloitte responsible for the audit of companies ranging from start-ups to multinational SEC - registered clients. Mr. Rahn also served in Deloitte’s London office and separately as a national office clearing partner. His Clients regularly seek his help and guidance on U.S. GAAP, IFRS, complex transactions, cross-border matters, the structure and operations of the finance organization, internal controls, SEC regulations, accounting investigations, litigation and disputes, and responding to auditor requests. While he has a background in serving various industries, he has extensive expertise in technology, media & telecommunications, including in related energy sectors. [Read more.](#)



**Larry Smith** is a Senior Managing Director at FTI Consulting and is based in New York City. Mr. Smith has over 40 years of experience in accounting and auditing and related litigation consulting. While at FTI Consulting, Mr. Smith has served in consulting and testifying expert roles for major audit firms regarding the application of accounting and auditing standards. Prior to joining FTI Consulting, Mr. Smith spent 15 years at the Financial Accounting Standards Board (FASB), the last 10 as a member of the board which establishes accounting principles in the United States. Mr. Smith was also an audit partner with a Big 4 accounting firm, where he spent 25 years providing audit services to major clients of that firm in various industries. [Read more.](#)



**John Sullivan** is a Senior Managing Director at FTI Consulting and is based in Boston. Mr. Sullivan has over 30 years of accounting and auditing experience across a variety of industries, including government contracting, manufacturing, high-technology, biotech and professional services. He is an expert in the application of generally accepted accounting principles in the United States (“GAAP”) and generally accepted auditing standards in the US. (“GAAS”). He has been retained to lead numerous accounting investigations and has served as an expert in litigation matters involving the application of GAAP across a variety of issues including; business acquisition disputes, revenue recognition, long-term construction accounting, the restatement of previously issued financial statements, acquisition accounting, insurance and reinsurance matters, damages assessments, among others. He has also served as an expert on matters involving the audits of financial statements and the application of GAAS. [Read more.](#)



**Patricia Woodbury** is a Managing Director at FTI Consulting and is based in the Washington DC office. Ms. Woodbury has over 30 years of professional accounting and auditing experience across a variety of industries. Ms. Woodbury’s work at FTI Consulting includes accounting and SEC reporting advisory, and litigation support through expert work regarding auditor responsibilities, internal control and SEC reporting. Ms. Woodbury gained her experience prior to FTI Consulting in public accounting, corporate accounting, in the Division of Corporation Finance at the Securities and Exchange Commission as an Assistant Chief Accountant and in the Division of Enforcement and Investigations at the Public Company Oversight Board as an Associate Chief Accountant. Ms. Woodbury provides accounting, reporting, due diligence, and litigation support to SEC registrants, their advisors and auditors. [Read more.](#)

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