


RULES AND REGULATIONS

VIRGIN ISLANDS BOARD OF PUBLIC ACCOUNTANCY

TITLE 27 VIRGIN ISLANDS RULES AND REGULATIONS  
CHAPTER 5. Public Accounting

APPROVED:

 Day of October, 2015

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**WHEREAS**, the Virgin Islands Board of Public Accountancy is authorized pursuant to Title 27 of the Virgin Islands Code, section 250, to promulgate rules and regulations for the protection of consumers' interest and the benefit of commerce and industry;

**WHEREAS**, there has not been any previous rules and regulations governing the practice of public accountancy in the Virgin Islands; and

**WHEREAS**, it is timely and important that the Board of Public Accountancy promulgate Rules and Regulations to facilitate best practices for accountants throughout the Territory in the interest of maintaining quality standards and promoting consumer safety and protection; and

**WHEREAS**, the Virgin Islands Board of Public Accountancy has an obligation to bring the Virgin Islands Public Accountancy laws into compliance with the National Association of State Board of Accountancy in conjunction with the American Institute of Certified Public Accountants.

## **Statement of Authorization**

The Board of Public Accountancy receives its powers and authority from the Virgin Islands Code, Title 27, Chapter 5A. Title 27, §250a empowers the Board to adopt rules and regulations. The Board hereby establishes rules for conducting the business of the Board, including: 1) accepting applications and administering examinations for licensure of certified public accountants; and 2) regulating the practice of public accountancy in the Territory of the United States Virgin Islands in accordance with the provisions of Virgin Islands Code, Chapter 5A, Title 27, § 250b.

**THE COPY BELOW IS HEREBY CERTIFIED** to be a true and correct copy of rules and regulations adopted pursuant to the authority granted in Title 27, Chapter 5A, Section 250, et seq.



## **SECTION ONE - BOARD ORGANIZATION AND ADMINISTRATION**

### **1.1 DEFINITIONS**

For purposes of these Rules the following terms have the meanings indicated:

- (A) “Act” means the Public Accountancy Act of 2014, Title 27, Chapter 5A, Section 1, passed into law on May 16, 2014 with the passage of Bill No. 30-0279.
- (B) “Financial statements” means statements and footnotes related thereto that undertake to present an actual or anticipated financial position as of a point in time, or results of operations, cash flow, or changes in financial position for a period of time, in conformity with generally accepted accounting principles or another comprehensive basis of accounting. The term does not include incidental financial data included in management advisory service reports to support recommendations to a client; nor does it include tax returns and supporting schedules.
- (C) For purposes of the definition of “attest” as provided in Section 250(b) of the Act, the Board adopts and incorporates by reference the AICPA’s Statements on Auditing Standards (SAS).
- (D) “License” means a license to engage in or to conduct such business, occupation, profession or trade issued through the Department of Licensing and Consumer Affairs to conduct business in the Territory of the Virgin Islands as a CPA firm as set forth in Title 27, Chapter 9, subchapter I. section 301 of the Virgin Islands Code Annotated.
- (E) “Licensee” means the holder of a license defined in Rule 1.1(D).
- (F) An “agreed-upon procedures engagement” is one which is to be performed in accordance with applicable attestation standards and is one in which a permittee is engaged to issue a written finding(s) that (i) is based on specific procedures that the specified parties agree are sufficient for their purposes, (ii) is restricted to the specified parties, and (iii) does not provide an opinion or negative assurance.
- (G) “Audit” means the procedures performed in accordance with applicable auditing standards for the purpose of expressing or disclaiming an opinion on the fairness with which the historical financial information is presented in conformity with generally accepted accounting principles, another comprehensive basis of accounting, or basis of accounting described in the report.

- (H) "Professional engagement" means an agreement between a client and a permittee relative to the performance of professional services and the services performed under this agreement.

## **1.2 Board Meetings**

The Board shall meet at least once each year. The chair or a quorum of the Board shall have the authority to call meetings of the Board. The Board shall follow and apply the rules of procedure, pursuant to Section 250a(h)(1) of the Act, as regards to notice and conduct of meetings.

## **1.3 Election and Tenure of Officers**

The Board shall elect annually from among its members a president, a secretary, a treasurer, and such other officers as the Board may require. The officers shall assume the duties of their respective offices at the conclusion of the meeting at which they were elected. They shall serve a term of one year, but shall be eligible for reelection.

## **1.4 Duties of officers**

The president or, in the event of the president's absence or inability to act, the secretary, and in the absence of both the president and secretary, then the treasurer shall preside at all meetings of the Board. The Board shall determine other duties of the officers.

## **1.5 Fees**

The Board shall establish fees for services.

## **1.6 Obligation of licensees and permittees to notify the Board of changes of address and other information**

Each licensee and/or permittee shall notify the Board in writing within thirty (30) days of any change of address or, in the case of individual licensee or permittee, change of employment.

## **1.7 Communications**

A licensee/permittee or anyone using practice privileges pursuant to Sections 250f or 250h of the Act shall respond in writing to any registered or certified communication from the Board requesting a response. Unless otherwise specified in the Board's communication, the response shall be sent within thirty (30) days of the date of such communication.

## **SECTION TWO – EDUCATION REQUIREMENTS FOR EXAMINATION, GENERAL REQUIREMENTS AND PROHIBITED CONDUCT**

### **2.1 Education Requirements – Definitions**

- (A) “Semester credit hour” (SCH) means the conventional college semester credit hour. “Quarter credit hours” may be converted to semester credit hours by multiplying them by two-thirds; i.e., one quarter credit hour equals two-thirds of a semester credit hour.
- (B) “College(s) or university(s)” means board-recognized institution(s) of higher education accredited by generally recognized accrediting organizations.
- (C) “Accreditation” reflects the quality control of the education process provided by generally recognized regional and/or national accreditation organizations. The Board recognizes institutions accredited by one of the following accrediting agencies (or their successors):
  - 1. Middle States Association of Colleges and Schools;
  - 2. New England Association of Schools and Colleges;
  - 3. North Central Association of Colleges and Schools;
  - 4. Northwest Commission on Colleges and Universities;
  - 5. Southern Association of Colleges and Schools;
  - 6. Western Association of Schools and Colleges;
  - 7. Any institution accredited by an accrediting organization recognized by the Council on Higher Education Accreditation (CHEA) or its successor.
- (D) “Integration of subject matter” means a program of learning where certain subjects, which may be discrete courses in some colleges or universities, are integrated or embedded within related courses. Colleges or universities that use an integrated approach to cover such multiple course subjects should provide evidence of the required coverage pursuant to Rule 2.2(D). Acceptance of integration of any subject matter requires Board approval.
- (E) “Ethics” means a program of learning that provides students with a framework of ethical reasoning, professional values and attitudes for exercising professional skepticism and other behavior that is in the best interest of the public and profession. At a minimum, an ethics program should provide a foundation for ethical reasoning and the core values of integrity, objectivity and independence.

- (F) “Internship” means faculty approved and appropriately supervised short-term work experience, usually related to a student’s major field of study, for which the student earns academic credit.
- (G) “Independent study” means academic work selected or designed by the student with the approval of the appropriate department of a college or university under faculty supervision. This work typically occurs outside of the regular classroom structure.

## **2.2 Education Requirements - Determining Compliance of the Applicant’s Education**

- (A) These requirements are intended to provide a foundation in accounting and business course subjects. The program should:
  - (1) Develop the skills required to apply the knowledge attained (including skills in communications, research, judgment and analysis).
  - (2) Include and emphasize ethical behavior and professional responsibility.
  - (3) Provide the highest quality instruction in subjects that clearly contribute to the knowledge, skills and abilities necessary to meet the public’s expectations of a CPA.
- (B) For purposes of Section 250c, an applicant shall be deemed to have met the education requirement(s) if the Board has determined the applicant has met the requirements of Rule 2.2(C) and Rule 2.2(D), together with appropriate consideration of Rule 2.2(A).
- (C) Determining compliance of the applicant’s education shall be accomplished through the Board’s use of the following procedures:
  - (1) Reliance on accreditation, as defined in Rule 2.1(C).
  - (2) Reliance on other procedures and information where the degree and/or courses were obtained from a college or university(s) not meeting the accreditation requirements of Rule 2.2(C)(1). Accepting degrees or courses under Rule 2.2(D) should only be based on evidence of acceptable course content, instruction and quality as would be expected by accreditation and as approved by the Board.
  - (3) Reliance on other procedures and information where the requirements of Rule 2.2(D) are met by integration of subject matter. The requirements set forth in Rule 2.2(E) should be used to determine compliance.
- (D) An applicant shall be deemed to have satisfied the education requirements of section 250b of the act if the following conditions are met:

- (1) Earned a graduate degree and/or a baccalaureate degree at a college or university that is accredited, as described in Rule 2.1(C);
- (2) Obtaining an accounting concentration or equivalent requires obtaining at a minimum:
  - (a) 24 semester hours of accounting courses, including auditing and attestation, financial accounting and reporting, cost and management accounting, and taxation; and
  - (b) 24 semester hours of business courses, no more than six semester hours of which could be considered accounting courses.
  - (c) Principles or introductory accounting courses cannot be considered in determining whether a person has obtained the 48 minimum number of semester hours required for an accounting concentration or equivalent.
- (3) Earned a minimum of two SCH in research and analysis relevant to the course content described in 2.2(D)(2) through a discrete undergraduate and/or graduate accounting course, or two SCH integrated throughout the undergraduate and/or graduate accounting curriculum. Colleges or universities shall provide evidence of coverage under integration as specified in Rule 2.2(E). The SCH earned through a discrete course in research and analysis in accounting may fulfill two of the SCH of the accounting subject matter requirements in Rule 2.2(D)(2).
- (4) Earned a minimum of two SCH in communications in an undergraduate and/or a graduate course listed or cross-listed as an accounting or business course or two SCH integrated throughout the undergraduate or graduate accounting or business curriculum. Colleges or universities shall provide evidence of coverage under integration as specified in 2.2(E). The SCH earned through a discrete course in communications may fulfill two SCH of the subject matter requirements.
- (5) Earned a minimum of three SCH in an undergraduate and/or a graduate course listed or cross listed as an accounting or business course in ethics as defined in Rule 2.1(E). A discrete three SCH course in ethics may count towards meeting the accounting or business course requirements of Rule 2.2(D)(2). As an alternative, colleges or universities may choose to integrate the course throughout the undergraduate and/or graduate accounting or business curriculum. Universities shall provide evidence of coverage under integration as specified in Rule 2.2(E). Proof of coverage may be provided through specific evaluation by a national accrediting agency recognized by CHEA, such as AACSB or ACBSP, in which evidence is provided to assure the Board that the program of learning defined in Rule 2.1(E) has been adequately covered and at the equivalent of the three SCH minimum. Alternate methods for proof of ethics coverage may be determined and approved by the Board following careful scrutiny.

- (6) A maximum of six SCH for internships and independent study, as defined in Rule 2.1(F) and Rule 2.1(G), may count towards the subject matter requirements of Rule 2.2(D)(2). However, of the six SCH, a maximum of three SCH may apply to accounting courses under Rule 2.2(D).
- (E) Colleges or universities that use an integrated approach to meet the requirements of this section shall provide evidence that the respective subjects adequately cover the desired content, with acceptable instruction and quality to attain the objectives. Proof of coverage may be provided through specific evaluation by a national accrediting agency recognized by CHEA, such as AACSB or ACBSP. Alternate methods for proof of coverage may be determined and approved by the Board following careful scrutiny.

### **2.3 Applications for Examination**

- (A) Applications to take the Certified Public Accountant Examination shall be made on a form provided by the Board and filed with the Board by a due date specified by the Board in the application form.
- (B) An application shall not be considered filed until the application fee and examination fee required by these Rules and all required supporting documents have been received, including proof of identity as determined by the Board and specified on the application form, official transcripts and proof that the Candidate has satisfied the education requirement.
- (C) A Candidate who fails to appear for the examination shall forfeit all fees charged for both the application and the examination.
- (D) The Board or its designee shall forward notification of eligibility for the computer-based examination to NASBA's National Candidate Database.

### **2.4 Time and Place of Examination**

Eligible Candidates shall be notified of the time and place of the examination, or shall independently contact the Board, the Board's designee or a test center operator to schedule the time and place for the examination at an approved test site. Scheduling reexaminations shall be made in accordance with Rule 2.7(B) below.

### **2.5 Examination Content**

The examination required by Section 250b of the Act shall test the knowledge and skills required for performance as an entry-level certified public accountant. The examination shall include the subject areas of accounting and auditing and related knowledge and skills as the Board may require.



## **2.6 Determining and Reporting Examination Grades**

A Candidate shall be required to pass all Test Sections of the examination provided for in subsection 250b (e) of the Act in order to qualify for a certificate. Upon receipt of advisory grades from the examination provider, the Board shall review and may adopt the examination grades and shall report the official results to the Candidate. The Candidate shall attain the uniform passing grade established through a psychometrically acceptable standard-setting procedure and approved by the Board.

## **2.7 Retake and Granting of Credit Requirements**

- (A) Candidate shall be required to pass all sections of the examination provided for in Section 250b (e) of the Act in order to qualify for a certificate.
- (B) Candidate may take the required Test Sections individually. Credit for any Test Section(s) passed shall be valid for eighteen months from the actual date the Candidate took that Test Section, without having to attain a minimum score on any failed Test Section(s) and without regard to whether the Candidate has taken other Test Sections.
  - (1) Candidates shall pass all Test Sections of the Uniform CPA Examination within a rolling eighteen-month period, which begins on the date that the first Test Section(s) passed is taken.
  - (2) Candidates cannot retake a failed Test Section(s) in the same examination window. An examination window refers to a three-month period in which Candidates have an opportunity to take the CPA examination (comprised of two months in which the examination is available to be taken and one month in which the examination will not be offered while routine maintenance is performed and the item bank is refreshed). Thus, Candidates shall be able to test two out of the three months within an examination window.
  - (3) In the event all Test Sections of the Uniform CPA Examination are not passed within the rolling eighteen-month period, credit for any Test Section(s) passed outside the eighteen-month period shall expire and that Test Section(s) shall be retaken.
- (C) Candidate shall retain credit for any and all Test Sections of the examination passed as a candidate of another state if such credit would have been given under then applicable requirements in this Territory.
- (D) Candidate shall be deemed to have passed the Uniform CPA Examination once the Candidate holds at the same time valid credit for passing each of the Test Sections of the examination. For

purposes of this section, credit for passing a Test Section of the computer-based examination is valid from the actual date of the Testing Event for that Test Section, regardless of the date the Candidate actually receives notice of the passing grade.

- (E) Notwithstanding subsection (D) of this Rule, the Board may in particular cases extend the term of credit validity upon a showing that the credit was lost by reason of circumstances beyond the Candidate's control.

## **2.8 Candidate testing fee**

The Candidate shall, for each Test Section scheduled by the Candidate to the Board or its designee, pay a Candidate Testing Fee that includes the actual fees charged by the AICPA, NASBA, and the Test Delivery Service Provider, as well as reasonable application fees established by the State Board.

## **2.9 Cheating**

- (A) Cheating by a Candidate in applying for, taking or subsequent to the examination shall be deemed to invalidate any grade otherwise earned by a Candidate on any Test Section of the examination, and may warrant summary expulsion from the test site and disqualification from taking the examination for a specified period of time.
- (B) For purposes of this Rule, the following actions or attempted activities, among others, may be considered cheating:
  - (1) Falsifying or misrepresenting educational credentials or other information required for admission to the examination;
  - (2) Communication between Candidates inside or outside the test site or copying another Candidate's answers while the examination is in progress;
  - (3) Communication with others inside or outside the test site while the examination is in progress;
  - (4) Substitution of another person to sit in the test site in the stead of a Candidate;
  - (5) Reference to crib sheets, textbooks or other material or electronic media (other than that provided to the Candidate as part of the examination) inside or outside the test site while the examination is in progress;
  - (6) Violating the nondisclosure prohibitions of the examination or aiding or abetting another in doing so, or otherwise participating in the collection of Test Items for use, redistribution or sale;



- (7) Retaking or attempting to retake a Test Section by an individual holding a valid Certificate or by a Candidate who has unexpired credit for having already passed the same Test Section, unless the individual has been directed to retake a Test Section pursuant to Board order or unless the individual has been expressly authorized by the Board to participate in a “secret shopper” program.
- (C) In any case where it appears that cheating has occurred or is occurring, the Board or its representatives may either summarily expel the Candidate involved from the examination or move the Candidate to a position in the Test Center away from other examinees where the Candidate can be watched more closely.
- (D) In any case where the Board believes that it has evidence that a Candidate has cheated on the examination, including those cases where the Candidate has been expelled from the examination, the Board shall conduct an investigation and may conduct a hearing consistent with the requirements of the Territory’s Administrative Procedures Act following the examination session for the purpose of determining whether or not there was cheating, and if so what remedy should be applied. In such proceedings, the Board shall decide:
- (1) Whether the Candidate shall be given credit for any portion of the examination completed in that session; and
  - (2) Whether the Candidate shall be barred from taking the examination and if so, for what period of time.
- (E) In any case where the Board or its representative permits a Candidate to continue taking the examination, it may depending on the circumstances:
- (1) Admonish the Candidate;
  - (2) Seat the Candidate in a segregated location for the rest of the examination;
  - (3) Keep a record of the Candidate’s seat location and identifying information, and the names and identifying information of the Candidates in close proximity of the Candidate; and/or
  - (4) Notify the National Candidate Database and the AICPA and/or the Test Center of the circumstances, so that the Candidate may be more closely monitored in future examination sessions.
- (F) In any case in which a Candidate is refused credit for any Test Section of an examination taken, disqualified from taking any Test Section, or barred from taking the examination in the future, the Board shall provide to the Board of Accountancy of any other state to which the Candidate may apply for the examination information as to the Board’s findings and actions taken.

## **2.10 Security and Irregularities**

Notwithstanding any other provisions under these rules, the Board may postpone scheduled examinations, the release of grades, or the issuance of certificates due to a breach of examination security; unauthorized acquisition or disclosure of the contents of an examination; suspected or actual negligence, errors, omissions, or irregularities in conducting an examination; or for any other reasonable cause or unforeseen circumstance.

## **SECTION THREE - EXPERIENCE REQUIREMENTS FOR CERTIFICATION**

### **3.1 Applications**

- (A) Applications for initial certificates and for renewal of certificates and registrations pursuant to the Act shall be made on a form provided by the Board and, in the case of applications for renewal, shall be filed no later than 60 days prior to the expiration date set by these rules. Applications shall not be considered filed until the applicable fee prescribed by the Board is received. If an application for renewal is filed late, it shall also be accompanied by the delinquency fee prescribed by the Board.
- (B) Applications for renewal of certificates or registrations shall be accompanied by evidence satisfactory to the Board that the applicant has complied with the continuing professional education requirements under Section 250c(d) of the Act and of these Rules.

### **3.2 Experience Required for Initial Certificate**

The experience required to be demonstrated for issuance of an initial certificate pursuant to Section 250b (g) of the Act shall meet the requirements of this rule.

- (A) Experience may consist of providing any type of services or advice using accounting, attest, compilation, management advisory, financial advisory, tax or consulting skills.
- (B) The applicant shall have their experience verified to the Board by a permittee as defined in the Act or from another state. Acceptable experience shall include employment in industry, government, academia or public practice. The Board shall look at such factors as the complexity and diversity of the work.
- (C) One year of experience shall consist of full or part-time employment that extends over a period of no less than a year and no more than three years and includes no fewer than 2,000 hours of performance of services described in subsection (A) above.

### **3.3 Evidence of Applicant's Experience**

- (A) Any permittee who has been requested by an applicant to submit to the Board evidence of the applicant's experience and has refused to do so shall, upon request by the Board, explain in writing or in person the basis for such refusal.

- (B) The Board may require any permittee who has furnished evidence of an applicant's experience to substantiate the information.
- (C) Any applicant may be required to appear before the Board or its representative to supplement or verify evidence of experience.
- (D) The Board may inspect documentation relating to an applicant's claimed experience.

### **3.4 Continuing professional education requirements for renewal of Certificate or Permit**

The following requirements of continuing professional education apply to the renewal of certificates pursuant to Section 250c(d) of the Act.

- (A) An applicant seeking renewal of a certificate shall show that the applicant has completed no less than 120 hours of continuing professional education, including a minimum of four hours in ethics, complying with these Rules during the three-year period preceding renewal. A program in ethics includes topics such as ethical reasoning, state-specific statutes and rules, and standards of professional conduct, including those of other applicable regulatory bodies. A minimum of 20 CPE hours shall be completed each year. An applicant seeking renewal of a certificate or registration shall demonstrate participation in a program of learning meeting the standards set forth in the Statement on Standards for Continuing Professional Education (CPE) Programs jointly approved by NASBA and AICPA.
- (B) An applicant whose certificate or registration has lapsed shall complete no less than 120 hours of CPE complying with these rules during the three-year period preceding the date of reapplication. An applicant whose certificate or registration has lapsed shall be required to identify and complete a program of learning designed to demonstrate the permittee's competencies directly related to his or her area of service.
- (C) A permittee granted an exception from the competency requirement by the Board may discontinue use of the word "inactive" in association with their CPA or PA title upon showing that they have completed no less than 120 hours of continuing professional education complying with these Rules during the three-year period preceding their request to discontinue use of the word "inactive", with a minimum of 20 hours in each year.

### **3.5 Continuing professional education requirements for practice privileges**

Any individual using practice privileges in this Territory who complies with the CPE requirements applicable in the state where their principal place of business is located, shall be deemed to have complied with the CPE requirements of this Territory.

### **3.6 Programs qualifying for continuing professional education credit**

- (A) Standards -- A program qualifies as acceptable continuing professional education for purposes of Section 250c (d) of the Act and these Rules if it is a program of learning which contributes to the growth in the professional knowledge and professional competence of a permittee. The program shall meet the minimum standards of quality of development, presentation, measurement, and reporting of credits set forth in the Statement on Standards for Continuing Professional Education Programs jointly approved by NASBA and AICPA.
- (B) Subject Areas -- The Board shall accept programs meeting the standards set forth in the Statement on Standards for Continuing Professional Education Programs jointly approved by NASBA and AICPA.
- (C) A non-resident permittee seeking renewal of a certificate in this Territory shall be determined to have met the CPE requirement (including the requirements of Rule 3.4(A) of this rule by meeting the CPE requirements for renewal of a certificate in the state in which the permittee's principal place of business is located.
  - (1) Non-resident applicants for renewal shall demonstrate compliance with the CPE renewal requirements of the state in which the permittee's principal place of business is located by signing a notarized statement to that effect on the renewal application of this Territory.
  - (2) If a non-resident permittee's principal place of business state has no CPE requirements for renewal of a certificate, the non-resident permittee shall comply with all CPE requirements for renewal of a certificate in this Territory.

### **3.7 Continuing professional education records**

- (A) Applicants for renewal of certificates pursuant to the Act shall file with their applications a signed statement indicating they have met the requirements for participation in a program of continuous learning as contained in the Statement on Standards for Continuing Professional Education (CPE) Programs jointly approved by the NASBA and the AICPA. Responsibility for documenting the acceptability of the program and the validity of the credits rests with the applicant who should retain such documentation for a period of five years following completion of each learning activity.
- (B) The Board shall verify, on a test basis, information submitted by applicants for renewal of certificates. In cases where the Board determines that the requirement is not met, the Board may

grant an additional period of time not to exceed a period of one year or the next renewal period in which the deficiencies can be cured. Fraudulent reporting is a basis for disciplinary action.

### **3.8 Exceptions**

- (A) The Board may make an exception to the requirement set out in Rule 3.4(A) for a permittee who is retired or who does not perform or offer to perform for the public one or more kinds of services involving the use of accounting or auditing skills, including the issuance of reports on financial statements or other compilation communication, or of one or more kinds of management advisory, financial advisory or consulting services, or the preparation of tax returns or the furnishing of advice on tax matters.
- (B) The Board may in particular cases make exceptions to the requirements set out in Rule 3.4(A) for reasons of individual hardship including health, military service, foreign residence, or other good cause.
- (C) Permittees granted an exception by the Board shall place the word “inactive” adjacent to their CPA title or PA title on any business card, letterhead or any other document or device, with the exception of their CPA certificate or PA registration, on which their CPA or PA title appears.
- (D) Permittees granted an exception by the Board shall comply with a re-entry competency requirement defined by the Board as set out in Rule 3.4(C) before they may discontinue use of the word “inactive” in association with their CPA or PA title.

## **SECTION FOUR - FIRM REQUIREMENTS**

### **4.1 Applications**

- (A) Applications by firms for initial issuance and for renewal of permits pursuant to Section 250d of the Act shall be made on a form provided by the Board and, in the case of applications for renewal, shall be filed no earlier than two months and no later than one month prior to the expiration date. Applications shall not be considered filed until the applicable fee and all required documents prescribed in these Rules are received. If an application for permit renewal is filed late, it shall also be accompanied by the delinquency fee prescribed by the Board in conjunction with the Administrator of Boards at the Virgin Islands Department of Licensing.
- (B) A sole proprietor may apply simultaneously for a certificate or a renewal of a certificate and a firm permit.
- (C) Applications shall include the firm name, addresses and telephone numbers of the main office and of any branch offices of the firm in this Territory, the name of the person in charge of each



such branch office, and the names of the partners, shareholders, members, managers, directors and officers whose principal place of business is in this Territory.

#### **4.2 Notification of changes by firms**

- (A) A firm registered pursuant to Section 250d of the Act shall file with the Board a written notification of any of the following events concerning the practice of public accountancy within this Territory within thirty (30) days after its occurrence:
- (1) Formation of a new firm;
  - (2) Addition of a partner, member, manager or shareholder;
  - (3) Retirement, withdrawal or death of a partner, member, manager or shareholder;
  - (4) Any change in the name of the firm;
  - (5) Termination of the firm;
  - (6) Change in the management of any branch office in this Territory;
  - (7) Establishment of a new branch office or the closing or change of address of a branch office in this Territory; and
  - (8) Issuance of the firm's first attest or compilation reports; or
  - (9) The occurrence of any event or events which would cause such firm not to be in conformity with the provisions of the Act or these Rules.
- (B) In the event of any change in legal form of a firm, such new firm shall within thirty (30) days of the change file an application for an initial permit in accordance with these Rules and pay the fee required.

#### **4.3 Successful completion of peer review through an approved Peer Review Program as a condition for renewal of permit**

- (A) Effective May 16, 2016, in furtherance of its duty to protect the public regarding attest and compilation services, the Board requires all CPA firms or certificate holders that issue attest or compilation reports be enrolled in a peer review program approved by the Board and to comply with the applicable standards of that program.
- (B) The Board shall approve sponsoring organizations to perform peer reviews that are a professional society, or other organization responsible for the facilitation and administration of peer reviews through use of its peer review program and peer review standards.

- (1) Any Board approved peer review program and any peer reviewer performing a peer review under this section shall utilize standards for performing and reporting on peer reviews by a recognized national accountancy organization whose standards are generally accepted by other regulatory authorities in the United States and its territories and are acceptable to the Board, including but not limited to the AICPA *Standards for Performing and Reporting on Peer Reviews*.
  - (2) The Board adopts the American Institute of Certified Public Accountants (AICPA) as an approved Sponsoring Organization and its peer review program or its successor and other peer review programs administered by entities fully involved in the administration of the AICPA Peer Review Program. The Board may approve other peer review Sponsoring Organizations and programs.
  - (3) For an organization, not specifically identified in these Rules as Board-approved, to receive Board approval for its peer review program and standards, the organization shall submit evidence to the satisfaction of the Board that the overall program and standards are at least equivalent to those of the AICPA Peer Review Program. At a minimum, the evidence shall include the standards, procedures, guidelines, oversight process, training materials and related documents used to administer, perform, and accept peer reviews. The Board has the authority to request any other documents/information from an organization about its peer review program in determining whether to grant approval.
  - (4) For firms required to be registered with and inspected by the Public Company Accounting Oversight Board (PCAOB), the Board approves the PCAOB's inspection process for reviewing practices subject to its authority (which are not included in the scope of peer review programs). Firms receiving inspections under the PCAOB are also required to meet the peer review requirements under a Board approved peer review program that covers the portion of the firm's practice not subject to the PCAOB inspection process, should the firm have such a practice.
  - (5) The Board may terminate its approval of a Sponsoring Organization for cause following notice and opportunity for hearing. For purposes of this paragraph, "cause" includes but is not limited to failure to maintain an ongoing compliance with the requirements of the program.
- (C) On and after May 16, 2016, every firm and certificate holder is required to provide the Board the following information in writing with every application for permit and renewal of permit:
- (1) Confirm whether the firm is or is not required to participate in a peer review program in a notarized statement.
  - (2) Provide the name of the approved Sponsoring Organization's peer review program in which the firm is enrolled, and the period covered by the firm's most recently accepted peer review. If there is a change in the Sponsoring Organization, the firm should provide the name of the peer review program and the Sponsoring Organization in which the firm is currently enrolled, and the period covered by the firm's most recently accepted peer review.

- (3) Provide a copy of the firms most recently accepted peer review report and other documents as defined in Section 4.5 of these Rules.
- (4) Provide written notice to the Board before issuing a report if the firm previously reported that it is not subject to the peer review requirement and subsequently engages in the performance of attest or compilation services.

#### **4.4 Peer Review Oversight Committee**

- (A) A peer review oversight committee may be appointed by the Board to assess sponsoring organizations' compliance with the peer review standards and report to the Board that the peer review programs meet the requirements set out in the Act and these Rules. The peer review oversight committee may:
  - (1) only include active, permitted and Virgin Islands licensed individuals who are not members of the Board; No member of the oversight committee shall be current members of or perform any enforcement related work for regulatory or governmental bodies, professional organizations (including but not limited to an AICPA ethics committee, AICPA Joint Trial Board or state professional ethics committee) or similar groups or subgroups including consultants and other similar arrangements for the board, the members should have extensive experience in accounting and auditing and currently or recently be in the practice of public accountancy at the partner level or otherwise appropriate level as determined by the Board, and shall be members of the AICPA. The member's current or former firm shall have received a report with a rating of pass from its last peer review and be in good standing with all governing bodies including Boards of Accountancy; and may be removed or replaced by the Board in its discretion.
  - (2) have full access to the peer review process which is subject to oversight and shall be required to sign a confidentiality agreement indicating they shall not divulge any information to the Board that would identify any firm, permittee, or peer reviewer/reviewing firm other than the information in (3) below and the documents referred to in Rule 4.5(A);
  - (3) provide the Board with the names of those certificate holders and firms, if the firm is enrolled in a peer review program, the date of acceptance and period covered by its most recent peer review, and if the firm's enrollment has been dropped or terminated;
  - (4) establish, as directed by the Board, procedures designed to ensure confidentiality of documents furnished or generated in the course of the review.
- (B) The Board shall establish procedures and take all action necessary to ensure that the above materials remain privileged as to any third parties, except those materials subject to public disclosure as provided herein.

#### **4.5 Submission of peer review documents to the Board**

- (A) Firms are required to submit a copy of the results of its most recently accepted peer review to the Board which includes the following documents:
  - (1) Peer review report which has been accepted by the Sponsoring Organization.



- (2) The firm's letter of response (accepted by the Sponsoring Organization), if applicable;
  - (3) The acceptance letter from the Sponsoring Organization;
  - (4) Letter(s) accepting the documents signed by the firm with the understanding that the firm agrees to take any actions required by the Sponsoring Organization), if applicable; and
  - (5) Letter signed by the Sponsoring Organization notifying the firm that required actions have been appropriately completed, if applicable.
- (B) For firms whose peer reviews were scheduled before May 16, 2016, the firm shall submit the peer review documents in Rule 4.5(A) to the Board prior to its next firm license renewal via mail, facsimile or, if available, the AICPA Facilitated State Board Access (FSBA) secure website process.
- (C) For firms whose peer review is scheduled and accepted by the Sponsoring Organizations on or after May 16, 2016, the firm shall submit the peer review documents in Rule 4.5, paragraphs (A)(1) through (A)(3) above to the Board within 30 days of the Sponsoring Organization's acceptance, the documents in Rule 4.5 (A)(4) within 30 days from the date the letter is signed by the firm, or with submission of firm renewal application, whichever occurs first. The documents in Rule 4.5 paragraph (A)(5) above shall be submitted to the Board within 30 days of the date of the letter or with submission of firm renewal application, whichever occurs first. Firms may satisfy this document submission requirement by having the peer review documents submitted via mail, facsimile, or the AICPA Facilitated State Board Access (FSBA) secure website process.
- (D) Regarding any peer review documents required to be submitted to the Board pursuant to this rule, the reviewed firm shall retain, for a period of seven (7) years from the date of the letter in Rule 4.5(A)(3) or 4.5(A)(5). Upon request of the Board, the reviewed firm or individual shall timely submit such documentation to the Board;
- (E) The objective of this reporting rule is primarily to reinforce the Board's efforts to ensure that only appropriately qualified CPA firms are engaged in the offering and rendering of services subject to peer review. Based upon its review of the reports submitted pursuant to this rule, the Board may consider, pursuant to hearing or by consent, additional corrective actions such as probation, practice limits, additional continuing education, pre-issuance reviews, more frequent peer reviews, and other measures, including, in severe cases, discipline against the reviewed firm and any individual permittees employed or contracted by the reviewed firm.
- (F) For good cause shown the Board may, at its discretion, grant or renew applications for no more than one year pending completion of a peer review program and submission of required documents stated in Rules 4.5(A) to 4.5(C).

#### **4.6 Peer Review Program for certificate holders who do not practice in a permitted firm**

One year after the effective date of this Act, a certificate holder who issues compilation reports as defined in this Act other than through a CPA firm that holds a permit under Sections 250d or 250c (j) of this Act shall have undergone a peer review as required under Rules 4.3, 4.4, and 4.5.

#### **4.7 CPA firm names**

A CPA Firm name may not be used unless such name has been registered with and approved by the Board.

(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 "LLP" 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 250d (a) (3) 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 permittee 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 4.7(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) A Network firm as defined in the AICPA Code of Professional Conduct ("Code") may use a common brand name, or share common initials, as part of the firm name;
- (D) A Network firm as defined in the AICPA Code of Professional Conduct ("Code") may use the Network name as the firm's name, provided it also shares one or more of the following characteristics with other firms in the network:
- (1) Common control, as defined by generally accepted accounting principles in the United States, among the firms through ownership, management, or other means;
  - (2) 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;
  - (3) 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;
  - (4) Significant part of professional resources;
  - (5) Common quality control policies and procedures that participating firms are required to implement and that are monitored by the association.

## **SECTION FIVE – DISCIPLINARY ACTION**

### **5.1 Grounds for enforcement actions against permittees**

The grounds for revocation and suspension of certificates, registrations and permits, and other disciplinary action against permittees and individuals with privileges under Section 250q are set out in Section 250g of the Act in both specific and general terms. The general terms of that provision of the Act include the following particular grounds for such disciplinary action:

- (A) Any deferred prosecution agreement involving an admission of wrongdoing, or any criminal conviction, including conviction following a guilty plea or plea of *nolo contendere*, for any felony or any crime, an essential element of which is fraud, dishonesty, or deceit, or any other crime which evidences an unfitness of the applicant to practice public accountancy in a competent manner and consistent with public protection.
- (B) Active or stayed revocation or suspension of any occupational license or other privilege to practice any permitted and/licensed occupation by or before any state, federal, foreign or other licensing or regulatory authority, provided the grounds for the revocation or suspension include wrongful conduct such as fraud, dishonesty, or deceit or any other conduct which evidences any unfitness of the applicant to practice public accountancy.
- (C) Dishonesty, fraud, or deceit in obtaining a certificate, registration or permit, within the meaning of Section 250g (a)(1) of the Act, including the submission to the Board of any knowingly false or forged evidence in, or in support of, an application for a certificate, registration or permit, and cheating on an examination as defined in these Rules.
- (D) Dishonesty, fraud, deceit or gross negligence, within the meaning of Section 250g (a)(5) of the Act, including knowingly, or through gross negligence, making misleading, deceptive or untrue representations in the performance of services.
- (E) Violations of the Act or of Rules promulgated under the Act, within the meaning of Section 250g (a)(6) of the Act, including--
  - (1) Using the CPA title or providing attest or compilation services in this Territory without a certificate, registration or permit to practice issued under Sections 250c and 250d or without properly qualifying to practice across state lines under the substantial equivalency provision of the Act;
  - (2) Using or attempting to use a certificate, registration or permit which has been suspended or revoked;

- (3) Making any false, misleading, or deceptive statement, in support of an application for a license filed by another;
  - (4) Failure of a permittee to provide any explanation requested by the Board regarding evidence submitted by the permittee in support of an application filed by another, or regarding a failure or refusal to submit such evidence; and failure by a permittee to furnish for inspection upon request by the Board or its representative documentation relating to any evidence submitted by the permittee in support of such an application;
  - (5) Failure to satisfy the continuing professional education requirements set out in Section 250c (d) of the Act and/or failure to comply with the continuing education requirements of these Rules;
  - (6) Failure to comply with professional standards as to the attest and/or compilation competency requirements for those who supervise attest and/or compilation engagements and sign reports on financial statements or other compilation communications with respect to financial statements; or
  - (7) Failure to comply with the applicable peer review requirements set out in Section 250c (j) and Section 250d (h) of the Act and these Rules.
- (F) Conduct reflecting adversely upon the permittee's fitness to perform services, within the meaning of Section 250g (a)(10) of the Act, including:
- (1) Adjudication as mentally incompetent;
  - (2) Incompetence, including but not limited to:
    - (a) Gross negligence, recklessness, or repeated acts of negligence in the permittee's record of professional practice; or
    - (b) Any condition, whether physical or mental, that endangers the public by impairing skill and care in providing professional services.
  - (3) Presenting as one's own a license issued to another;
  - (4) Concealment of information regarding violations by other permittees of the Act or the Rules thereunder when questioned or requested by the Board; and

- (5) Willfully failing to file a report or record required by state or federal law; willfully impeding or obstructing the filing of such a report or record, or inducing another person to impede or obstruct such filing by another; and the making or filing of such a report or record which one knows to be false. A finding, adjudication, consent order or conviction by a federal or state court, agency or regulatory authority or the PCAOB that a permittee has willfully failed to file a required report or record shall be prima facie evidence of a violation of this rule.

## **5.2 Return of certificate, registration or permit to practice**

Any permittee whose certificate, registration or permit issued by the Board is subsequently suspended or revoked shall promptly return such certificate, registration, or permit to the Board.

## **5.3 Applicable standards**

A permittee shall follow the standards, as applicable under the circumstances and at the time of the services, set forth in this section in providing professional services. In addition to the applicable standards set forth below, a permittee shall follow standards issued by other professional or governmental bodies including international standards setting bodies with which a permittee is required by law, regulation or the terms of engagement to comply. A permittee shall comply with all applicable standards, including but not limited to the following:

- (A) A permittee shall not render services subject to the authority of the SEC or PCAOB unless the permittee has complied with the applicable standards and rules adopted and approved by the PCAOB and SEC.
- (B) A permittee shall not render auditing services unless the permittee has complied with the applicable generally accepted auditing standards.
- (C) A permittee shall not render accounting and review services unless the permittee has complied with the standards for accounting and review services issued by the AICPA, including subsequent amendments and editions.
- (D) A permittee shall not permit the permittee's name to be associated with governmental financial statements for a client unless the permittee has complied with the standards for governmental accounting issued by the GASB, including subsequent amendments and editions.
- (E) A permittee shall not render attestation services unless the permittee has complied with the Statements on Standards for Attestation Engagements issued by the AICPA, including subsequent amendments and editions.



- (F) A permittee shall not render management consulting services unless the permittee has complied with the standards for management consulting services (including the definition of such services) issued by the AICPA, including subsequent amendments and editions.
- (G) A permittee shall not render services in the area of taxation unless the permittee has complied with the standards for tax services issued by the AICPA, including subsequent amendments and editions.
- (H) A permittee shall not permit the permittee's name to be used in conjunction with any forecast of future transactions in a manner which may lead to the belief that the permittee vouches for the achievability of the forecast, and shall not render services associated with prospective financial statements unless the permittee has complied with the standards for accountants' services on prospective financial information issued by the AICPA, including subsequent amendments and editions.
- (I) A permittee shall not express an opinion on financial statements unless the permittee complies with the Statements of Financial Accounting Standards, together with those Accounting Research Bulletins and Accounting Principles Board Opinions which are not superseded by action of the FASB, including subsequent amendments and editions.

## **5.5 Applications for relief from disciplinary penalties**

- (A) A person whose certificate or registration has been revoked or suspended or an individual whose privileges under Section 250q of the Act have been revoked or limited, or a firm whose permit to practice has been revoked or suspended or a person or firm that has been put on probation pursuant to Section 250g of the Act may apply to the Board for modification of the suspension, revocation or probation after completion of all requirements contained in the Board's original order.
- (B) The application shall be in writing; shall set out and, as appropriate, substantiate the reasons constituting good cause for the relief sought, and shall be accompanied by at least two supporting recommendations, under oath, from permittees who have personal knowledge of the activities of the applicant since the suspension or revocation was imposed.

## **5.6 Action by the Board**

- (A) An application pursuant to Rule 5.5 shall ordinarily be processed by the Board upon the basis of the materials submitted in support thereof, supplemented by such additional

inquiries as the Board may require. At the Board's discretion a hearing may be held on an application, following procedures the Board may find suitable for the particular case.

- (B) The Board may impose appropriate terms and conditions for reinstatement of a certificate, registration, permit or privileges under Section 250i of the Act or modification of a suspension, revocation or probation.
- (C) In considering an application under Rule 5.5, the Board may consider all activities of the applicant since the disciplinary penalty from which relief is sought was imposed, the offense for which the applicant was disciplined, the applicant's activities during the time the certificate, registration, privileges under Section 250 of the Act or permit was in good standing, the applicant's rehabilitative efforts, restitution to damaged parties in the matter for which the penalty was imposed, and the applicant's general reputation for truth and professional probity.
- (D) No application for reinstatement shall be considered while the applicant is under sentence for any criminal offense, including any period during which the applicant is on court-imposed probation or parole.

#### **5.7 Participation in multistate enforcement compacts**

Notwithstanding any other provision of law or regulation to the contrary, the Board may participate in any enforcement agreement or compact with other state boards of accountancy to facilitate public protection through the enforcement of this act and cooperate with others in the enforcement of accountancy statutes and rules of this and other states.

## **SECTION SIX – RULES OF PROFESSIONAL CONDUCT**

### **6.1 Code of Conduct**

A permittee shall comply with the Code of Professional Conduct adopted by the American Institute of Certified Public Accountants. All changes in the Rules and Interpretations made by the American Institute of Certified Public Accountants (AICPA) shall automatically be made a part of these Rules and Regulations.

### **6.2 Good Moral Character**

- (A) Applicants have the burden of demonstrating good moral character as defined by Section 250b (b) of the Act in the manner specified by the Board in its application forms.
- (B) Prima facie evidence of a lack of good moral character includes, but is not limited to:



- (1) any deferred prosecution agreement involving an admission of wrongdoing, or any criminal conviction, including conviction following a guilty plea or plea of *nolo contendere*, for any felony or any crime, an essential element of which is fraud, dishonesty, deceit, or any other crime which evidences an unfitness of the applicant to practice public accountancy in a competent manner and consistent with public protection; or
  - (2) active or stayed revocation or suspension of any occupational license, privilege or other authority to practice any licensed and/or permitted occupation by or before any state, federal, foreign or other licensing or regulatory authority, provided the grounds for the revocation or suspension include wrongful conduct such as fraud, dishonesty, or deceit or any other conduct which evidences any unfitness of the applicant to practice public accountancy; or
  - (3) any act which would be grounds for revocation or suspension of a permit if committed by a permittee of the Board.
- (C) Factors which the Board may consider in determining rehabilitation of moral character include, but are not limited, to the following: Completion of criminal probation, restitution, community service, military or other public service, the passage of time without the commission of any further crime or act demonstrating a lack of moral character under subsection (B), the expungement of any conviction, or reduction of a conviction from a felony to misdemeanor.

### **6.3 Reporting Convictions, Judgments, and Administrative Proceedings**

- (A) Subject to Sections 250c (f) or 250d (f) of the Act, permittees shall notify the Board, on a form and in the manner prescribed by the Board, within thirty (30) days of:
- (1) Receipt of a peer review report pursuant to Rule 4.3(B)(3), or a PCAOB firm inspection report containing criticisms of or identifying potential defects in the quality control systems.
  - (2) Receipt of a second consecutive peer review report that is deficient pursuant to Rules 4.3(B)(2); or
  - (3) Imposition upon the permittee of discipline, including, but not limited to, censure, reprimand, sanction, probation, civil penalty, fine, consent decree or order, suspension, revocation, or modification of a license, certificate, permit or practice rights by:
    - (a) the Securities and Exchange Commission (SEC), PCAOB, Internal Revenue Service (IRS) (actions by the Director of Practice); or

- (b) another state board of accountancy for any cause other than failure to pay a professional license fee by the due date or failure to meet the continuing professional education requirements of another state board of accountancy; or
    - (c) any other federal or state agency regarding the permittee's conduct while rendering professional services; or
    - (d) any foreign authority or credentialing body that regulates the practice of accountancy.
  - (4) Occurrence of any matter reportable that shall be reported by the permittee to the PCAOB pursuant to Sarbanes-Oxley Section 102(b)(2)(f) and PCAOB Rules and forms adopted pursuant thereto;
  - (5) Notice of disciplinary charges filed by the SEC, PCAOB, IRS, or another state board of accountancy, or a federal or state taxing, insurance or securities regulatory authority, or foreign authority or credentialing body that regulates the practice of accountancy;
  - (6) Any judgment, award or settlement of a civil action or arbitration proceeding of \$150,000 or more in which the permittee was a party if the matter included allegations of gross negligence, violation of specific standards of practice, fraud, or misappropriation of funds in the practice of accounting; provided, however, permitted firms shall only notify the Board regarding civil judgments, settlements or arbitration awards directly involving the firm's practice of public accounting in this Territory; or
  - (7) Criminal charges, deferred prosecution or conviction or plea of no contest to which the permittee is a defendant if the crime is:
    - (a) any felony under the laws of the United States or of any state of the United States or any foreign jurisdiction; or
    - (b) a misdemeanor if an essential element of the offense is dishonesty, deceit, or fraud.
- (B) The permittee designated by each CPA firm pursuant to Section 250d (c)(2)(A) of the Act (as responsible for the proper registration of the firm) shall report any matter reportable under this rule to which a non-permittee owner with a principal place of business in this Territory is a party.

- (C) Reports of pending matters or reports of private litigation resolved by settlement or arbitration shall be deemed confidential records not subject to public disclosure (to the extent permitted by this Territory's law on Public Records) unless and until the pending matters are concluded or the Board commences a contested case proceeding based upon the subject matter of such reports.
- (D) During the pendency of a reported matter, the reporting permittee may submit a written explanatory statement to be included in the permittee's record. If reported charges or allegations are subsequently concluded in the permittee's favor or otherwise closed without disciplinary action by this Board, upon the reporting permittee's request, documents received pursuant to said report shall be expunged from the Board's records.

## **SECTION SEVEN – PRACTICE PRIVILEGE/MOBILITY**

### **7.1 Interstate Practice**

- (A) These regulations provide two distinct routes for an individual already licensed and/or permitted in another state to be authorized to practice in this Territory. The applicable route depends upon whether the individual shall establish a principal place of business in this Territory. Individuals establishing a principal place of business in this Territory may qualify for a reciprocal license as described in Section 250c (c) (2) of the Act (substantial equivalence) or as described in Section 250c (c) (1)) of the Act and Rule 7.1(B) below). Individuals with a principal place of business in another state may offer or render services in this Territory pursuant to substantial equivalence (see Section 250q (a)(1) or (a)(2) of the Act).
- (B) Regarding an individual establishing a principal place of business in this Territory, if the substantial equivalency standard set out in Section 250q of the Act is not applicable, the Board shall issue a reciprocal certificate to the holder of a certificate issued by another state provided that the applicant meets each of the following requirements:
  - (1) Has successfully completed the CPA examination. Successful completion of the examination means that the applicant passed the examination in accordance with the rules of the other state at the time it granted the applicant's initial certificate.
  - (2) Has satisfied the 4-in-10 experience requirement set out in Section 250c (c)(1)(B) of the Act.
  - (3) Has experience of the type required under the Act and these Rules for issuance of the initial certificate.
  - (4) Has met the CPE requirement pursuant to Section 250c (c)(1)(C) of the Act, if applicable.

## **7.2 International Reciprocity**

- (A) The Board may designate a professional accounting credential or professional registration issued in a foreign country as substantially equivalent to a CPA license.
- (1) The Board may rely on the International Qualifications Appraisal Board for evaluation of foreign credential equivalency and may presume that an applicant with a foreign accounting credential that is covered by a currently valid Mutual Recognition Agreement (MRA) is substantially equivalent (subject to other qualifying requirements as provided in the MRA).
  - (2) The Board may accept a foreign accounting credential in partial satisfaction of its domestic credentialing requirements if:
    - (a) the holder of the foreign accounting credential met the issuing body's education requirement and passed the issuing body's examination used to qualify its own domestic candidates; and
    - (b) the foreign credential is valid and in good standing at the time of application for a domestic credential.
- (B) The Board may satisfy itself through qualifying examination(s) that the holder of a foreign credential deemed by the Board to be substantially equivalent to a CPA certificate possesses adequate knowledge of U.S. practice standards [and the Board's regulations]. The Board may rely on the National Association of State Boards of Accountancy, the American Institute of Certified Public Accountants, or other professional bodies to develop, administer, and grade such qualifying examination(s). The Board shall specify the qualifying examination(s) and process by resolution.
- (C) An applicant for renewal of a CPA certificate originally issued in reliance on a foreign accounting credential shall:
- (1) Make application for renewal at the time and in the manner prescribed by the Board for all other certificate renewals;
  - (2) Pay such fees as are prescribed for all other certificate renewals;
  - (3) If the applicant has a foreign credential in effect at the time of the application for renewal of the CPA certification, present documentation from the foreign accounting credential issuing body that the applicant's foreign credential has not been suspended or revoked and the applicant is not the subject of a current investigation. If the applicant for renewal no longer has a foreign credential, the applicant shall present proof from the foreign credentialing body that the applicant for renewal was not the subject of any disciplinary proceedings or investigations at the time that the foreign credential lapsed; and

- (4) Either show completion of continuing professional education substantially equivalent to that required under Rule 3.4 within the three year period preceding renewal application, or petition the Board for complete or partial waiver of the CPE requirement based on the ratio of foreign practice to practice in this Territory.
- (D) The holder of a certificate or practice privilege issued or granted by this Board in reliance on a foreign accounting credential or license shall report any investigations undertaken, or sanctions imposed, by a foreign credentialing or licensing body against the CPA's foreign credential or license, or any discipline ordered by any other regulatory authority having jurisdiction over the holder's conduct in the practice of accountancy.
- (E) Suspension or revocation of, or refusal to renew, the CPA's foreign accounting credential by the foreign credentialing body may be evidence of conduct reflecting adversely upon the CPA's fitness to retain the certificate and may be a prima facie basis for Board action, subject to the following.
- (F) The Board may presume procedural due process and fairness if the foreign jurisdiction is a party to a current MRA that NASBA, the AICPA and this Territory have adopted.
- (G) Conviction of a felony or any crime involving dishonesty or fraud under the laws of a foreign country is evidence of conduct reflecting adversely on the CPA's fitness to retain the certificate and is a basis for Board action.
- (H) The Board shall notify the appropriate foreign credentialing authorities of any sanction imposed against a CPA.
- (I) The Board may participate in joint investigations with foreign credentialing bodies and may rely on evidence supplied by such bodies in disciplinary hearings.

### **7.3 Substantial Equivalency and Internet Practice**

An individual entering into an engagement to provide professional services via a Web site pursuant to Section 250q of this Act shall disclose, via any such Web site, the state of the individual's principal place of business, license number and an address as a means for regulators and the public to contact the individual regarding complaints, questions or regulatory compliance.

### **7.4 Practice in Other States through Substantial Equivalency**

As a pre-condition for the use of practice privileges in another jurisdiction, any permittee of this Board offering or rendering services in or to another jurisdiction pursuant to practice privileges based upon their certificate from this Board is deemed to have consented to the administrative jurisdiction of the other state board of accountancy, and is deemed to have consented to the



requirements of the Act. The failure by a permittee of this Board to cooperate in another state's board of accountancy's investigation shall be grounds for discipline by this Board.

### **7.5 Review of professional work product**

The Board may solicit and receive publicly available reports of permittees and individuals with privileges under Section 250h of this Act and related financial statements from clients, public agencies, banks, and other users of financial statements on a general and random basis without regard to whether an application for renewal of the particular permittee is then pending or whether there is any formal complaint or suspicion of impropriety on the part of any particular permittee or an individual with privileges under Section 250h of this Act; and it may review such reports and otherwise proceed with respect to the results of any such review in the fashion prescribed in Rule 4.3. For purposes of this Rule, such reports may include publicly available inspection reports prepared by the PCAOB.

### **7.6 Safe harbor language**

Non-permittees may use the following disclaimer language in connection with financial statements to not be in violation of the Act:

“I (we) have prepared the accompanying (financial statements) of (name of entity) as of (time period) for the (period) then ended. This presentation is limited to preparing in the form of financial statements information that is the representation of management (owners).

I (we) have not audited or reviewed the accompanying financial statements and accordingly do not express an opinion or any other form of assurance on them.”

### **7.7 Reporting moral character violations**

- (A) Any individual using practice privileges in this Territory, shall notify this Board within thirty (30) days of any occurrence described in Rules 5.1 (A) or 5.1 (B).
- (B) Any permittee of this Territory using practice privileges in another state shall notify this Board and the state board of any other state in which said permittee uses practice privileges within thirty (30) days of any occurrence described in Rules 5.1 (A) or 5.1 (B).

## **SEPARABILITY**

In the event that any court of competent jurisdiction declares that any part of these rules and regulations is null and void, such declaration shall not in any way affect the other parts of this regulation.

## **AMENDMENTS TO RULES & REGULATIONS**

These rules and regulations may be amended by the Board of Public Accountancy, in consultation with the Office of the Attorney General, and with the approval of the Governor, at any time in writing, provided that at least thirty (30) days' notice of the proposed amendment is made by publication or other dissemination reasonably calculated to alert the affected parties of the amendment prior to its effective date.

## **EFFECTIVE DATE**

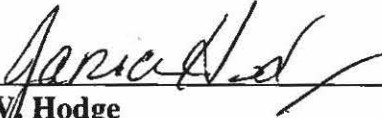
These rules and regulations shall have the force and effect of law immediately upon signing by the Governor.

THE COPY ABOVE IS HEREBY CERTIFIED to be a true and correct copy of and regulations adopted pursuant to the authority granted under Title 27, Chapter 5A, § 250.



\_\_\_\_\_  
**Devin Carrington**  
Commissioner  
Department of Licensing & Consumer Affairs

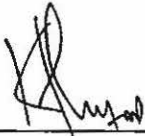
Date: 10-2-15



\_\_\_\_\_  
**Janice V. Hodge**  
President  
Virgin Islands Board of Public Accountancy

Date: 10/2/2015

Pursuant to the powers vested in me by section 11 of the Revised Organic Act of 1954, the above Rules and Regulations of the United States Virgin Islands Department of Licensing and Consumer Affairs are hereby approved.



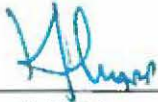
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**Kenneth E. Mapp,**  
Governor

Date: 10-06-15



**GOVERNOR'S CERTIFICATE**

Pursuant to the authority granted under Section 938 of Title 3, I Kenneth E. Mapp, Governor of the United States Virgin Islands, certify that because of compelling circumstances, including lengthy delay before publication, the public interest requires that these Rules and Regulations of the United States Virgin Islands Department of Licensing and Consumer Affairs become effective without delay or prior publication. These Rules and Regulations shall become effective upon this 6<sup>th</sup> day of October, 2015.



\_\_\_\_\_  
Kenneth E. Mapp  
Governor

Attest:



\_\_\_\_\_  
Osbert E. Potter  
Lieutenant Governor

Date: 11/16/15