

How CPAs Should Handle “Comfort Letter” Requests From Lenders and Mortgage Brokers

AICPA members have contacted the AICPA to clarify their professional ethical obligations when asked for “comfort letters” by lenders and mortgage brokers. Depending on how practitioners respond to such requests, they may be at risk for failing to comply with AICPA professional standards. In these situations, a number of CPAs may violate professional standards unknowingly; others may succumb to brokers’ threats to undermine the CPA-client relationship. CPAs can ethically and effectively address these situations if they are aware of, and stick to, their professional obligations.

The letter at issue is usually associated with stated income loans, which are mortgages that do not require borrowers to document their income. Such loans usually are sought by borrowers whose income sources are difficult to verify or fluctuate from year to year. Self-employed people and individuals with investment income or sales jobs of varying commissions often apply for stated income loans. Lenders, lacking documentation to support borrowers’ income claims, take on the risk that borrowers’ claims are inadequate. Because of the higher risk, lenders charge higher interest rates. To gain more comfort in extending loans, some lenders look to the borrowers’ CPA for assurance or comfort about certain information. The information requested often includes assurance about the client’s self-employed status, verification of income, profitability of the client’s business, and the affect on a client’s business if cash is withdrawn from the company.

In an effort to minimize their risk, brokers typically ask CPAs to vouch for their clients with a letter supporting clients’ claims. If they arise, these situations can place you at risk in two ways. First, your response must be in compliance with professional standards. Secondly, if you point out to the broker that reporting on solvency in this situation would be unethical or that a request requiring examining a personal balance sheet and earnings forecast would be expensive, the broker may exert pressure by threatening to suggest the client change CPAs.

You can protect yourself against the risks associated with these situations, but first you must understand what is and is not permissible. Interpretation No. 2, “Responding to Requests for Reports on Matters Relating to Solvency,” of AT section 101, *Attest Engagements* (AICPA, *Professional Standards*, vol. 1, AT sec. 9101 par. .23–.33), provides guidance to the practitioner when he or she receives requests asking the CPA to report on matters relating to solvency. Essentially, this interpretation states that CPAs should not provide any form of assurance relating to matters of solvency, but services may be performed. If a mortgage broker or lender wants an attest report from you, then you may audit, review, or compile the personal financial statements of the borrower; you may report on pro forma or prospective financial information of the borrower; or you may perform and provide to the client and lender an agreed-upon procedures report, as long as the agreed-upon procedures do not provide any assurance on matters relating to solvency. Brokers tend to ask for as much assurance as they can get without understanding or knowing the cost or consequences. However, once you explain to your client and the broker the cost entailed, they typically back off their request. Instead, the brokers may be satisfied with a simple letter from the CPA acknowledging that the income reported to the broker or lender is the amount that has been reported to the IRS on the tax return. Obviously, the client would need to agree to have the CPA send such a letter.

In these situations, you can avoid risk by sticking to your professional responsibilities, following professional standards, and not caving in to undue pressure. Also, many insurance providers are aware of this practice and, as a result, have developed sample letters or templates for CPAs to use in these situations. CPAs should contact their insurance providers and inquire whether they have any additional guidance or sample letters that could be used for these requests.