



October 9, 2018

VIA ELECTRONIC MAIL

The Honorable Jay Clayton
Chairman
Securities and Exchange Commission
100 F Street, N.W.
Washington, D.C. 20549
(ChairmanOffice@sec.gov)

Re: Release No. 34-83063; IA-4888; File No. S7-08-18; Restrictions on the use of Certain Names or Titles

Dear Chairman Clayton:

On behalf of The Investments & Wealth Institute ("The Institute") f/k/a the Investment Management Consultants Association, I wanted to thank you for meeting with us on September 20, 2018.

As discussed in that meeting, the Institute believes legitimate certifications that use in their titles "adviser" or "advisor" should be exempted from the proposed titling restriction rule. There are several ways the Commission could determine legitimacy, but third party accreditation bodies, such as the American National Standards Institute ("ANSI") and the other major accreditation body, the National Commission for Certifying Agencies ("NCCA"), could be the arbiters of legitimacy. Exemption of certifications from the titling restriction rule could be allowed for certifications accredited by ANSI or NCCA.

Enclosed please find a white paper about governmental agencies use of and reliance upon ANSI accreditation, which you might find useful in this endeavor.

Again, thank you for meeting with us and reviewing our submissions. If you have any questions or need any assistance, please feel free to contact me directly at [REDACTED] or [REDACTED].

Sincerely,

A handwritten signature in blue ink, appearing to read "Robert E. Frankel".

Robert E. Frankel, Esq.
General Counsel
Investments & Wealth Institute
f/k/a Investment Management Consultants Association

Enclosure

cc: Eric Diamond, Senior Advisor to the Chairman (diamonde@sec.gov)



Federal Agency Roles in Credentialing and Use of ANSI Accreditation

Federal agencies play differing roles in credentialing and have used ANSI accreditation in varying ways to satisfy their unique roles. Some federal agencies have their own credential programs and issue credentials either to their own employees or to the general public. These agencies may attain ANSI accreditation of their credential programs in order to ensure and demonstrate the quality and rigor of their programs. Other agencies may endorse, require, or pay for third party credentials for their employees or other stakeholders and may require that those credentials be ANSI accredited. Yet another approach is for a federal agency to develop a certification scheme based on ANSI accreditation standards, which is then licensed to third parties who are required to attain ANSI accreditation. This paper is intended to help federal agencies better understand credentialing and accreditation and their potential roles and responsibilities related to both.

Overview of Credentialing

Credentialing is an umbrella term that includes licensing, registration, accreditation, qualifications, certification, and certificates. Accreditation is used with reference to an organization and not with an individual. Accreditation denotes that an organization, institute or agency complies with a given standard. Licensure is a mandatory requirement to practice and is granted by a government agency after verifying that the individual has met the eligibility requirements and passed the examination. Certification is a process through which a nongovernmental entity grants a time-limited recognition to an individual after verifying that he or she has met established criteria for proficiency or competency, usually through an eligibility application and assessment (ASTM, 2009).

The focus of certification is on assessment based psychometric standards and demonstration of continued competence through recertification requirements. There is considerable confusion relating to the terms certificate and certification. A certification program evaluates whether a person possesses the required competencies to practice a profession, while a certificate program is an educational/training program that is awarded after a course of study has been completed (ASTM E 2659).

Elements of a Quality Credentialing Program

Irrespective of the type of credential that is offered (certificate, certification, degrees, and diplomas), there are certain core elements of a quality, and competency based credentialing process. A credential should be 'empirically based' and derived from the industry needs and should include a structured process to identify the knowledge, skills, and attributes for a specific job/function. Competencies both general and technical are the foundational building blocks in developing training and certification. All credentials must have a valid assessment process that measures an individual's competencies and demonstration that s/he has the knowledge and skills necessary for practice. The credential should be developed and operated in an overall quality framework with emphasis on continuous improvement. Quality credentials also require validation by an independent third party as evidence that the credentialing organization meets established standards.



Overview of OMB Circular A-119

OMB Circular A-119 Revised establishes policies on Federal use and development of voluntary consensus standards and on conformity assessment activities. Among other things, Circular A-119 directs agencies to use voluntary consensus standards in lieu of government-unique standards except where inconsistent with law or otherwise impractical. It also provides guidance for agencies participating in voluntary consensus standards bodies and describes procedures for satisfying the reliance by agencies on government-unique standards.

In the United States, responsibility for setting product and process standards rests primarily with the private sector. Government agencies rely heavily on American National Standards, which they often incorporate into regulatory and procurement requirements because of its technical expertise and requirements for openness, balance, consensus and other due process safeguards.

Overview of ANSI

The American National Standards Institute (ANSI) serves as the administrator and coordinator of the United States private sector voluntary standardization system. ANSI, founded in 1918 by three government agencies and five engineering societies, is a nonprofit membership organization supported by a diverse constituency of private and public sector organizations.

The Institute oversees the creation, promulgation and use of thousands of norms and guidelines that directly impact businesses in nearly every sector: from acoustical devices to construction equipment, from dairy and livestock production to energy distribution, and many more. ANSI is also actively engaged in accrediting programs that assess conformance to standards – including globally-recognized ISO/IEC 17024 (certification of persons) and ASTM 2659 (education and training) programs.

The Institute is the sole U.S. representative to the International Organization for Standardization (ISO), and, via the U.S. National Committee (USNC), the International Electrotechnical Commission (IEC). As a founding member of the ISO, ANSI plays a strong leadership role in its governing body while U.S. participation, via USNC, is equally strong in the IEC.

ANSI Personnel Credentialing Accreditation Programs

The American National Standards Institute (ANSI) currently administers accreditation programs for personnel certification bodies based on ISO/IEC 17024 and for training organizations based on ASTM 2659. (See Appendix for more information on credentialing program standards.) The ANSI accreditation process, based on an international standard (ISO/IEC 17011), is extremely rigorous and ensures that only those organizations that meet the stringent requirements under the standard are accredited. An independent third-party accreditation is an “accountability mechanism” to ensure the quality and legitimacy of organizations offering credentials. If a consumer sees the ANSI accreditation mark on a credentialing body’s certificate, he or she can be assured that the body has the structure and processes in place to offer a valid credential. It also signals to the employer that the credential holder has undergone a valid assessment to verify that s/he has the necessary competencies to practice. Currently,



ANSI has accredited 58 organizations for 181 certification programs and 37 training providers across a range of industry sectors involving more than 5 million workers.

Government Agency Approaches to Credentialing/Accreditation

As noted above, federal agencies play differing roles in credentialing and thus have varied interests in accreditation. What follows is a description of the three different approaches taken by federal agencies to credentialing and how selected agencies have used ANSI accreditation to help fulfill their differing roles.

Federal Agency Issues Credentials and Attains Accreditation for its Credential Program

Some federal agencies have developed their own credential programs in order to confirm that their employees have the requisite skills to fulfill their agency's specific mission. To ensure that their credentialing programs are developed in accordance with industry standards and truly attest to the competency and knowledge required for the designated job roles, many agencies have attained ANSI accreditation for their credentialing programs.

- **The US Army Combat Readiness/Safety Center (USACR/Safety Center)** has taken a lead in using the ASTM 2659 standard in delivering high quality training courses in several areas related to safety. This is an important initiative to enhance technical and managerial competencies for personnel working in explosive safety, ground safety, and aviation safety. Use of accredited training and certification also helps military service members demonstrate to civilian employers that training and skills attained in the military are on par with those gained through traditional civilian pathways. Thus, credentialing can also be an incentive for soldiers to stay in the military.
- **Federal Bureau of Investigation (FBI) for Undercover Safeguard Assessor Certificate Program and Undercover Safeguard Operational Counselor Certificate Program**
- **FBI Academy for National Behavioral Science Research Certificate Program**

Federal Agency Endorses, Requires, and/or Pays for Third Party Credential and Requires ANSI Accreditation

Federal agencies are increasingly relying on third party credentials to confirm that their employees or other stakeholders, such as contractors or grantees, are competent to perform their jobs. Agencies may:

- Require a specific certification in order to attain and maintain a position;
- Endorse certain certifications that employees can attain on a voluntary basis; and/or
- Pay for credentials that are required or in order to promote professional development.

To ensure that the credentials they promote meet industry and quality standards, agencies may rely on ANSI accreditation. The Department of Defense, for example, has a long history of reliance on non-government standards for products and processes, and today the DoD is a leader in using national and international standards for the credentialing of persons. In order to train and maintain a world-class cyber security workforce ready to take on the digital battlefield, the DoD developed Directive 8570.01-



M. The directive involves the credentialing and continuing education of all DoD employees (civilian and military) with privileged access to DoD information systems. Under this directive, these employees must attain DoD specified third party certifications offered by organizations, such as ISC², ISACA, CompTIA, and others. In order for the certification agency to be included as part of the 8570 initiative, the certification body must demonstrate compliance to ANSI/ISO/IEC 17024: General requirements for bodies operating certification of persons, an international standard that has also been adopted as an American National Standard (ANS).

[Federal Agency Promotes Development of Certification Scheme and Requires Accreditation](#)

A new approach to promoting credentialing and accreditation has been undertaken by the U.S. Department of Energy (DOE) and the National Institute of Building Sciences (NIBS) Commercial Workforce Credentialing Council (CWCC). These organizations in partnership with industry stakeholders have developed voluntary national guidelines to improve the quality and consistency of commercial building workforce credentials for five key energy-related jobs: Building Energy Auditor, Building Commissioning Professional, Building Operations Professional, Energy Manager, and Facility Manager (focus on Federal Buildings Personnel Training Act).

For each job title, the CWCC selected a committee of volunteer subject matter experts to develop a Job Task Analysis (JTA), outlining key duties, tasks, knowledge, skills, and abilities. On March 31, the Job Task Analysis was sent out for an industry-wide validation study where additional practitioners could comment. The original committee of subject matter experts reconvened to review the comments and produce the final JTA documents, which was published and made publically available in fall 2014.

Based on the final JTA documents, four new committees (comprised of some of the original SMES and some new SMEs) developed certification schemes for each of the four job titles. The certification schemes identified eligibility criteria and prerequisites, acceptable assessment mechanisms, continuing education requirements, recertification requirements, and other common elements of a high-quality workforce certification program.

Together, the JTA documents and the certification schemes constitute the “Better Buildings Workforce Guidelines.” The JTAs are public documents, whereas NIBS will maintain the certification schemes and will license them at no cost to industry certification bodies committed to meeting/implementing the Better Buildings Workforce Guidelines and demonstrating compliance with the ISO 17024 standard through third-party accreditation by ANSI.

Industry certification bodies can use these guidelines to modify their existing certification programs or to develop entirely new ones. Certification bodies will develop written and/or performance-based assessments (depending on what the certification scheme requires), write test questions, screen candidates, administer examinations, and confer a nationally-recognized professional certification built on a common JTA and certification scheme. DOE will recognize the certification programs that obtain ANSI accreditation to the ISO 17024 standard.



ANSI Inter-Agency Meetings Facilitate Discussion of Best Practices

ANSI has created a space for government agency representatives to have an open dialogue around best practices for developing and maintaining certification programs. The meetings began in 2011 and continue to involve federal agency representatives from at least seventeen different agencies including the U.S. Office of Personnel Management, U.S. Department of Education, U.S. Securities and Exchange Commission, U.S. Internal Revenue Service, U.S. Food and Drug Administration and the U.S. Department of Defense.



APPENDIX: OVERVIEW OF ANSI CREDENTIALING ACCREDITATION PROGRAM STANDARDS

ANSI administers certification and certificate accreditation programs in accordance with three different standards. An overview of each of these standards is provided below.

[ANSI/ISO/IEC 17024: General requirements for bodies operating certification of persons.](#) This international standard has also been adopted as an American National Standard (ANS). The standard was developed by the International Organization for Standardization (ISO) based on the need for public protection by establishing that individuals have the required competencies to perform their job. The standard has been recognized by several US federal agencies as a critical requirement for personnel certification bodies that offer certification in areas related to public health, environment, and national security. The standard originally published in 2003 and subsequently revised in 2012 has already impacted the delivery of quality certifications worldwide. The following are the key requirements under the standard.

- **Credibility:** The certification examination must be fair, valid, and reliable. A valid test correctly measures whether an individual has the necessary competencies for the job. Validity is an indicator to establish that the process measures what is intended to measure. Whereas exam reliability shows that the test measure's a person's abilities in a consistent manner. The standard not only requires assessment for initial certification but also assessment of continued competence through a recertification process.
- **Impartiality:** The certification body should have its structure, policies, and procedures to ensure impartiality and objectivity and manages conflict of interest arising from certification activities.
- **Independence:** The certification functions should be independent of training to ensure that confidentiality, information security, and impartiality are not compromised.
- **Transparency:** The certification body is required to have an active complaints process to resolve complaints against its activities as well as complaints against individuals that it has certified.
- **Accountability:** As per the standard, the certification body should have a due process for taking away the credential for unethical or incompetent behavior.
- **Balanced representation of stakeholders:** The standard requires that the certification body should involve key stakeholders in making certification related decisions. Additionally, subject matter experts (SMEs) should be involved in creating the certification scheme requirement based on a valid job or practice analysis.



- **Other requirements:** The standard is very comprehensive and covers all aspects of certification including test security, recertification, resource requirement, confidentiality, competence of personnel involved with the certification activities, financial requirements, and use of certificates and logo marks. Further, the certification body should develop a management system for continual improvement of its certification program

[American National Standard, ANSI/ASTM E2659-09, Standard Practice for Certificate Programs](#)

This standard was developed in response to growing concerns relating to the quality of training programs. The standard provides a framework to provide competency based high quality training and educational programs and requires the program meets predefined industry requirements for content, employs a criterion referenced examination, and includes a mechanism for constant feedback for quality improvement. The main provisions under the ASTM 2659 standard include the following requirements.

- **Validated Content:** Content of the training program must be based on industry accepted practices. An oversight group consists with subject matter experts ensure that the content is aligned with what employers are seeking.
- **Learning Process:** The instructional delivery must include appropriate instructional design, and must be flexible to the needs of the individual learner.
- **Learning outcomes assessment:** Assessment is the process of measuring an individual's competencies to perform a required job. The standard requires a criterion referenced examination to measure intended learning outcomes.
- **Continuous improvement process:** The standard requires the training provider to institutionalize an ongoing systematic process to ensure that the training curriculum is updated and remains market relevant as skill-set changes. Quality improvement processes should be embedded throughout the training program.

[Conference for Food Protection, Standards for Accreditation of Food Protection Manager Certification Programs](#)

This standard is intended for all legal entities that provide certification for the Food Protection Manager profession. The Standards incorporate Conference for Food Protection's research into certification programs and applies it specifically to the food protection industry.

- **Exam development and administration:** The Standards verify whether the exam is developed and administered in a manner that assures the integrity of the exam and the awarding of the certification. The exam should evaluate against knowledge, skills, and abilities that reflect current needs within the food protection industry. The entire exam administration process should minimize the number of successful attempts to compromise the exam. The standard



provides criteria for administering computer-based examinations.

- **Program development and administration:** The Standards provide a framework for the body responsible for issuing the certification. The requirements help to ensure the Program is viable and responsive to its industry.