

International Ethics Standards Board for
Accountants (IESBA)
Attn. Mr. K. Siong

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Submitted via the IESBA website and via email to
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Date	Re	Our ref	Attachment
7 april 2016	Exposure Draft Proposed Revisions Pertaining to Safeguards in the Code - Phase 1	FBB/JTD	

Direct dial nr
020-3010302

Dear Mr. Siong,

The NBA welcomes the opportunity to comment on the Exposure Draft "Proposed Revisions Pertaining to Safeguards in the Code - Phase 1". We read it with great interest. We are delighted to recognize several important similarities between the proposals and our national ethics and independence standards.

Royal Netherlands
Institute of Chartered
Accountants

In our response to the IESBA Consultation Paper "Improving the Structure of the Code of Ethics for Professional Accountants" we informed you about and presented to you our new ethical and independence standards (applicable since 1 January 2014). Both standards, taking national and European requirements in account, are closely based on the IESBA Code of Ethics for Professional Accountants ("the Code"). However, we introduced a few amendments, with the aim to emphasize the importance of the requirements 1) to comply with the fundamental principles, and 2) to apply the conceptual framework, including the third party test, in order to comply with the fundamental principles.

We are of the opinion that the proposals will improve the prominence and the clarity of the conceptual framework and the third party test. We also believe the proposed amendments will increase the appropriate use of the conceptual framework. That will support compliance with the fundamental principles by professional accountants.

We refer to the Annex for detailed comments to the specific questions. For further information on this letter, please contact Jan Thijs Drupsteen via email at j.th.drupsteen@nba.nl.

Yours sincerely,

NBA, the Royal Netherlands Institute of Chartered Accountants,

Signed by

Peter Eimers
Chair of the Dutch Assurance and Ethics
Standards Board

Annex

Request for Specific Comments

Proposed Revisions to the Conceptual Framework

1. Do respondents support the Board's proposed revisions to the extant Code pertaining to the conceptual framework, including the proposed requirements and application material related to:

- a) *Identifying threats;*
- b) *Evaluating threats;*
- c) *Addressing threats;*
- d) *Re-evaluating threats; and*
- e) *The overall assessment.*

If not, why not?

1. Yes, we do. The proposals clarify which steps the conceptual framework consists of. However, we believe requirements d) re-evaluating threats and e) the overall assessment are not new requirements, but are already an implicit part of the extant conceptual framework. Appropriate application of the extant conceptual framework brings along that a professional accountant (PA) should perform an overall assessment of all threats and all safeguards taken. A PA should already be constantly aware of changing or new facts and circumstances as well. We believe it is not correct to present these requirements as new ones, it should be made clear that existing implicit requirements will now become explicit.
2. We are pleased the proposals do not include any documentation requirements regarding the application of the conceptual framework. In the Dutch ethical standards (independence regulation excluded) a PA should only document when he identifies a threat and he takes safeguards against that threat, so as to enable him to comply with the fundamental principles. Documentation is not required if he decides to refuse or discontinue an engagement because of the threat identified. In guidance we however recommend to document in not-obliged situations as well. In our opinion this approach is sufficient.

Proposed Revised Descriptions of "Reasonable and Informed Third Party" and "Acceptable Level"

2. Do respondents support the proposed revisions aimed at clarifying the concepts of (a) "reasonable and informed third party;" and (b) "acceptable level" in the Code. If not, why not?

3. Yes, we support the proposed revisions aimed at clarifying the concept of a “reasonable and informed third party”. Although we have not experienced any interpretation and application issues with the extant concept ourselves, we believe that it will help the application and acceptance of the Code if this concept is clarified further. Especially in principle-based regulation it is very important that the “benchmark” is clear (what the third party [test] is and what the third party test is for). The outcome of the third party test (what a reasonable and informed third party expects a PA to do) depends on the jurisdiction a PA operates in (including the jurisdiction’s culture, legislation, etc.), his role and position at the time, the specific facts and circumstances of the case. The concept of the third party test fits perfectly well within the principle-based character of the Code. The description as proposed does not change this already existing concept.
4. The extant Code seems to relate the third party test only to the requirement to determine whether safeguards are necessary and possible. The proposal relates the third party test to every step of the conceptual framework, so including a) identifying threats and b) evaluating threats. We support this proposed amendment.
5. We can support the proposed amendment of the definition of “acceptable level”, although we recommend the IEASBA to depart from the concept of “acceptable level”. The proposed affirmative approach (“a level at which a reasonable and informed third party would likely conclude that the professional accountant complies with the fundamental principles”) fits better from a legislative and regulatory point of view. In our national ethical and independence standards we only use the concept of threat. A threat is “an unacceptable risk that the professional accountant does not comply with the fundamental principles due to self-interest, self-review, advocacy, familiarity, or intimidation”. Either there is a threat or not. Safeguards are only effective, when they eliminate a threat. We believe the result of our national approach is similar to the proposal but simpler.

Proposed Revised Description of Safeguards

3. Do respondents support the proposed description of “safeguards?”

and

4. Do respondents agree with the IESBA’s conclusions that “safeguards created by the profession or legislation,” “safeguards in the work environment,” and “safeguards implemented by the entity” in the extant Code:

- a) *Do not meet the proposed description of safeguards in this ED?*
- b) *Are better characterized as “conditions, policies and procedures that affect the professional accountant’s identification and potentially the evaluation of threats as discussed in paragraphs 26–28 of this Explanatory Memorandum?”*

If not, why not?

6. We support the clarification of the threats and safeguards approach in the proposals. However, we believe further clarification is needed with regard to threats and safeguards (‘conditions, policies and procedures’) that are created by others than the PA. It is not clear to us what the IESBA intends with the proposals mentioned in questions 3 and 4. It occurs to us that the proposal to qualify certain extant safeguards no longer as safeguards under the revised description, can be interpreted in different ways, each possibly having a differ-

ent impact on PAs. We wonder whether the proposals intend to result in a 'starting point' for the PA:

- where less threats remain to be addressed by the PA (actions taken by others - for instance the firm - do influence the existence and the weight of any threat) and the safeguards to be taken by the PA are only related to any residual risk, i.e. the risk remaining after the actions taken by others to eliminate the threat or reduce the level of the threat; or
- where the same threats remain regardless of any actions already taken by others; i.e. the PA has to identify threats independent of any actions already taken by others. In this situation it should be clarified how the actions taken by others impact the need to eliminate these threats or reduce them to an acceptable level.

In both cases it should be clarified whether the PA is expected to 'accept' the actions taken by others as a given? Or is he, what we would support, supposed to clarify how those actions affect the threat and ascertain that these actions have actually been taken? We believe it must be clear what the PA is required to do. And what the PA is supposed to document in respect of the actions taken by others?

The current proposals do not sufficiently make clear what the PA is expected to do (see also paragraph 7 hereunder) and should, in our opinion, be extended in the form of further requirements or application material. Without that, the proposals in this area will be open for more interpretation by PAs and others than we consider appropriate. A more robust approach is in our opinion required.

Proposals for Professional Accountants in Public Practice

5. Do respondents agree with the IESBA's approach to the revisions in proposed Section 300 for professional accountants in public practice? If not, why not and what suggestions for an alternative approach do respondents have that they believe would be more appropriate?

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7. We notice two possible inconsistencies in the proposals. In the application material to Section 100 is written that certain conditions, policies and procedures established by - here relevant - the firm can affect the PA's *identification* (120.5 A4) and potentially his evaluation of threats (120.6 A3). However, in the application material of Section 300, conditions, policies and procedures on the level of "the firm and its operating environment" are only mentioned regarding evaluating threats (300.2 A2, c, and 300.2 A6). Additionally we wonder whether the client and its operating environment might influence the awareness of threats and therefore affect the *identification* of threats as well. The client and its operating system are however only mentioned in relationship to evaluating threats (300.2 A2 and 300.2 A3 and 300.2 A4) and not in 120.5 A4. We encourage IESBA to take a look at this to ensure consistency.
 8. There is an inconsistency between R120.5 ("shall identify threats to compliance with the fundamental principles") and 300.1 ("encouraged to be alert for such facts and circumstances"). We strongly recommend to align these two paragraphs.

Request for General Comments

In addition to the request for specific comments above, the IESBA is also seeking comments on the matters set out below:

- a) *Small and Medium Practices (SMPs) – The IESBA invites comments regarding the impact of the proposed changes for SMPs.*
- b) *Developing Nations—Recognizing that many developing nations have adopted or are in the process of adopting the Code, the IESBA invites respondents from these nations to comment on the proposals, and in particular, on any foreseeable difficulties in applying them in their environment.*
- c) *Translations—Recognizing that many respondents may intend to translate the final pronouncement for adoption in their environments, the IESBA welcomes comment on potential translation issues respondents may note in reviewing the proposals.*

9. The NBA has nothing to report on these specific questions.