



Federation of European Accountants

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Sent by email:
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Subject: FEE comments on the IESBA Exposure Draft: *Improving the Structure of the Code of Ethics for Professional Accountants – Phase 1*

Dear Sir or Madam,

The Federation of European Accountants (The Federation) is pleased to provide you with its comments on the IESBA Exposure Draft: *Improving the Structure of the Code of Ethics for Professional Accountants – Phase 1* (the ED) proposing amendments to the IESBA Code of Ethics for Professional Accountants (the Code).

The Federation's responses to the questions set out in the ED can be found in the appendix to this letter.

General comments

As a first remark, these comments should be understood as preliminary as the Federation would like to assess Phase 2 of this project, as well as the outcome of other EDs currently under consultation, before expressing any final opinion on the overall impact of the proposed changes to the Code. Nevertheless, we welcome IESBA's initiative on restructuring the Code as this is key to the objective of enhancing its understandability and usability and therefore contributing to wide spread application by professional accountants.

That said, we believe that the proposed title is misleading as the intention is not to develop standards for all parts of the Code. Mixing the terms "Code" and "Standards" in the title is not the right approach. We believe that the fundamental principles (particularly integrity and objectivity) primarily address the mind-set and behaviour of the professional accountant. As such, these principles do not fit into a purely legalistic concept of compliance and enforcement. On the contrary, the concept of independence was developed as a proxy for objectivity and may well be subject to compliance and enforcement measures.

It is important to distinguish between the fundamental principles and those principles that may result in standards. The fundamental principles as currently set out in Part A of the Code primarily address the mind-set and require the professional accountant to apply a consequent behaviour and to exercise professional judgment. Standards, in our view, can be derived from such fundamental principles; but such standards should primarily be designed to provide organisations and individuals with a framework that allows them to demonstrate and document their compliance with the requirements (which, as a consequence, would also make the standards easier to enforce). As an example, independence can be seen as a concept derived from the fundamental principles that can be enforced. Without losing sight of the importance of enforceability, the main concern of the Code should remain to address the mind-set and behaviour of the professional accountant instead of promoting mere compliance with a set of provisions. On the other hand, compliance with each of the requirements does not necessarily mean compliance with the fundamental principles, and this aspect should be emphasised in this restructuring exercise.

We favour a 'building block' or a 'layered' approach that could be easily scalable – a core block for all professional accountants (including small- and medium-sized practices that do not deal with Public Interest Entities) and complementing blocks dealing with specific activities or circumstances. This can be easily implemented with a proper electronic tool that enables, among other features, the distinction between provisions applicable to Public Interest Entities (PIEs) and non-PIEs in the proposed Parts B and C of the Code. This approach would also help reduce the length of the Code that needs to be considered by most professional accountants.

Regarding the allocation of responsibilities between firms and individuals, we welcome the approach of maintaining the existing link between the Code, ISQC 1 and ISAs and are satisfied with the approach taken by IESBA in deferring further consideration on this matter until the outcome of the IAASB's project on ISQC 1. Although firms and professional accountants each have responsibilities to comply with independence requirements, the Code should stick to the principle that it addresses professional accountants in general (that include firms in the definition) and therefore should not include any specific requirements addressed to firms or network firms.

We appreciate the opportunity to provide input and hope that IESBA finds our comments helpful when amending the Code.

For further information on this FEE letter, please contact Noémi Robert on +32 2 893 33 80 or via email at noemi.robert@fee.be or Tiago Mateus on + 32 2 893 33 76 or via email at tiago.mateus@fee.be.

Kind regards,

On behalf of the Federation of European Accountants,



Petr Kriz
President



Olivier Boutellis-Taft
Chief Executive



Appendix

Refinements to the Code

1. Do you agree with the proposals, or do you have any suggestions for further improvement to the material in the ED, particularly with regard to:

(a) *Understandability, including the usefulness of the Guide to the Code?*

Having in mind that the primary objective of this restructuring exercise should be to make the Code clearer and more understandable, the Federation applauds the introduction of the Guide to the Code as it will certainly contribute to this purpose.

Nevertheless, the reference to “Additional Non-Authoritative Guidance” in point 13 could be misinterpreted to understand that it is also part of the Code. Providing guidance is always positive but we question the need to specifically refer to it in the Guide to the Code and labelling it as “Non-Authoritative”. This reference in paragraph 13 of the Guide could therefore be deleted.

(b) *The clarity of the relationship between requirements and application material?*

The separation and relationship between requirements and application material represents an area of improvement in the proposed Code. This will surely contribute to facilitate adoption and implementation of the Code across jurisdictions, following the Federations’ previous recommendations in this regard.

(c) *The clarity of the principles basis of the Code supported by specific requirements?*

Any standard should clearly derive from the fundamental principles enshrined in the Code and not the other way around. We refer to our general comments.

This restructuring may be seen as a shift towards a more rules-based code, with all the emphasis being put on standards. Sometimes the impression is given that professional accountants should firstly comply with the detailed and specific requirements and only afterwards focus on the underlying principle.

(d) *The clarity of the responsibility of individual accountants and firms for compliance with requirements of the Code in particular circumstances?*

As stated above, we welcome the approach of maintaining the existing link between the Code, ISQC 1, and ISAs. IESBA should defer further consideration on this matter until the outcome of the IAASB’s project on ISQC 1. Although firms and professional accountants each have responsibilities to comply with independence requirements, the Code should stick to the principle that it addresses professional accountants in general (that include firms in the definition) and therefore should not include any specific requirements addressed to firms or network firms.



Further initiatives on this matter should avoid introducing any additional complexity in terms of requirements or guidance applicable to firms and consider the impact on small- and medium-sized practices (SMPs) and sole practitioners. This approach will help ensure that the overall framework of the Code, ISQC 1, and the ISAs remains clear, understandable, and suitable for global application by individual professional accountants and firms of all sizes.

(e) The clarity of language?

The Federation supports IESBA's attempt to enhance clarity of language of the requirements stated in the Code, namely the use of simpler and shorter sentences and the increased use of the active voice. It is greatly achieved in a number of instances, but needs to be assessed more generally and with a thorough analysis that we have not yet performed. There are a few instances where conciseness could be considered further, for instance, in the Guide to the Code:

- paragraph 4: the explanation of the purpose of the Glossary could be shorter
- paragraph 5: could be clearer by stating that "the content of each section is: [...]"

(f) The navigability of the Code, including:

i. Numbering and layout of the sections;

The new numbering convention is confusing as there are three types of numbering according to the nature of the provision, namely for introduction, requirements, and application material. This numbering convention can also be an obstacle for a clear reference to a certain provision, therefore harming the objective of enhancing the usability of the Code.

Additionally, the link between the general independence requirement included in section 400 and the specific requirements included in section 410 and further need to be explained. It should be clear how the specific independence requirements all derive from the general rule to be independent.

ii. Suggestions for future electronic enhancements; and

There are certain jurisdictions in which it is necessary for a paper/pdf version of the Code to be published in the official journal of the relevant ministry. Therefore, any electronic version of the Code should always be accompanied by a usable paper/pdf version. Enhanced user-friendliness, although of vital importance, should not come at the expense of implementation.

As stated in the general comments, it would also be very useful to distinguish between provisions applicable to PIEs and non-PIEs in the proposed Parts B and C of the Code. This distinction could help make the provisions of the Code more understandable to SMPs and can be easily implemented with a proper electronic tool.

Despite the efforts made, there is still room for improvement to make clear to SMPs what provisions of the Code are applicable to them or not.



iii. *Suggestions for future tools?*

The Federation suggests that IESBA develop case studies or examples on how to use the restructured Code. Some guidance on the thought process that needs to take place in specific situations would also be very helpful for practitioners. This could be done via frequently asked questions, interactive training materials, webinars, etc.

(g) *The enforceability of the Code?*

As mentioned above, over time enforceability has become a benchmark to define a standard, sometimes leading standard-setters to override the actual content of the standard. It is important to distinguish between the fundamental principles and those principles that may result in standards. The fundamental principles as currently set out in Part A of the Code primarily address the mind-set and require the professional accountant to apply a consequent behaviour and to exercise professional judgment. Standards can be derived from such fundamental principles, but such standards should primarily be designed to provide organisations and individuals with a framework that allows them to demonstrate and document their compliance with the requirements (which would also make the standards easier to enforce). As an example, independence can be seen as a concept derived from the fundamental principles – that can be enforced.

Without losing sight of the importance of enforceability, we believe that the main concern of the Code should be to address the mind-set and behaviour of the professional accountant instead of promoting mere compliance with a set of provisions. On the other hand, compliance with each of the requirements does not necessarily mean compliance with the fundamental principles and this aspect should be emphasised in this restructuring exercise.

2. Do you believe the restructuring will enhance the adoption of the Code?

Introducing more clarity and understandability to the Code will surely enhance application by audit firms that are already using it, in most cases as a strong basis for their international ethics rules, and could have a positive impact on relationships with supervisory authorities.

The aim of the revised structure should be to enable users and stakeholders to better understand how the fundamental principles apply, the circumstances in which the threats-and-safeguards approach is applied, and (where relevant) what is required from professional accountants in specific situations. This exercise may then contribute to improving clarity and consistency, enhancing implementation.

However, it is doubtful that the restructuring of the Code as currently proposed will increase the likelihood of the Code being adopted and effectively implemented into laws and regulations. The legislative and regulatory frameworks used throughout the world are quite different, and even within certain countries several legislative and regulatory bodies may be responsible for different subjects addressed in the Code.

3. Do you believe that the restructuring has changed the meaning of the Code with respect to any particular provisions? If so, please explain why and suggest alternative wording.

For the sake of consistency, we think that the proposed 112.3.A1 and 112.3.A2 should not be mentioned under “objectivity” as independence only relates to audit, review, and other assurance engagements carried out by professional accountants in public practice.

Another example is the fundamental principle of professional behaviour. In the extant Code there is an inconsistency between subparagraph e) of 100.5 that stated “to comply with relevant laws and regulations and avoid **any action that discredits the profession**” and 150.1 which stated formerly “to comply with relevant laws and regulations and avoid **any action that the professional accountant knows or should know may discredit the profession**”. In the proposed Code, IESBA took this last definition, replacing “may” for “might”, making the principle more stringent in a way that the avoidance relates to any action that “the professional accountant knows or should know might discredit the profession”. We think that it is the definition in subparagraph e) of 100.5 that should be kept and urge IESBA to make it consistent in the Code.

Regarding R100.4, which corresponds to 100.10 of the extant Code, we question the move of this paragraph to the Introduction of Code. It should be included in section 110 as it is a requirement for professional accountants. In addition, this is a good opportunity to introduce a reference to actions to stop the breach. Today, the professional accountant is required to address the consequences of the breach and determine whether to report the breach, but no specific action must be taken to stop the activity that causes the breach.

Other Matters

4. Do you have any comments on the clarity and appropriateness of the term “audit” continuing to include “review” for the purposes of the independence standards?

It should be stated that independence equally applies to review engagements instead of mentioning that the audit engagement includes the review.

5. Do you have any comments on the clarity and appropriateness of the restructured material in the way that it distinguishes firms and network firms?

Regarding the reference to firms and network firms, the proposed restructured Code introduces a paradigm shift as it amends the previous general rule by clearly distinguishing between the two concepts.

The Federation believes that this amendment introduces some clarity and certainty regarding the addressees of the provisions, which contributes to the understandability of the Code.



As previously mentioned, the Code should stick to the principle that it addresses professional accountants in general (that include firms in the definition) and therefore should not include any specific requirements addressed to firms or network firms.

6. Is the proposed title for the restructured Code appropriate?

As stated in the general comments, the Federation believes that the proposed title is misleading as the intention is not to develop standards for all parts of the Code. Mixing the terms “Code” and “Standards” in the title is not the right approach. Please refer to our general comments.

The fundamental principles (particularly integrity and objectivity) primarily address the mind-set and behaviour of the professional accountant. As such, these principles do not fit into a purely legalistic concept of compliance and enforcement. On the contrary, the concept of independence was developed as a proxy for objectivity and may well be subject to compliance and enforcement measures.

That said, it is important to distinguish between the fundamental principles and those principles that may result in standards. The fundamental principles as currently set out in Part A of the Code primarily address mind-set and require the professional accountant to apply a consequent behaviour and to exercise personal judgment. Standards can be derived from such fundamental principles, but such standards should primarily be designed to provide organisations and individuals with a framework that allows them to demonstrate and document their compliance with the requirements (which would also make the standards easier to enforce).

For example, the fundamental principle of objectivity should remain in a Code of Ethics, whilst those provisions that can be regarded as derived from this fundamental principle – in particular the provisions related to independence in appearance – might be considered suitable for standards. On this basis, IESBA may wish to consider distinguishing between the content of the current sections 290 and 291 of the Code on independence for assurance engagements (e.g. as “independence standards”) and the rest of the Code. Such a distinction should nevertheless not result in a simplistic separation in order to adapt the overall conceptual framework approach of the current Part A of the Code appropriately.

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.*

The Federation believes that it would be very useful to distinguish between provisions applicable to PIEs and non-PIEs in the proposed Parts B and C of the Code. This distinction could help make the provisions of the Code more understandable to SMPs. There is still room for improvement to make clear to SMPs what provisions of the Code are applicable to them or not.



We favour a 'building block' or a 'layered' approach that could be easily scalable – a core block for all professional accountants (including SMPs that do not deal with PIEs) and complementing blocks dealing with specific activities or circumstances. This approach would also help reduce the length of the Code that needs to be considered by most professional accountants. This core block should contain the overarching matters such as the fundamental principles and further layers would contain more detailed requirements. We think that the electronic Code can help in this regard.

(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.

The Federation has no comment on this question.

(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.

For non-English-speaking countries and countries that have only recently translated the Code, the modification of the structure of the Code will likely be very costly in order to adapt their current provisions to the new structure of the Code.

On the other hand, changing the meaning of some provisions in the Code, as referred to in our response to question 3, may have an impact on the translation of the Code. This will need to be properly assessed.

As stated in the general comments, the Federation would like to assess Phase 2 of this project before expressing its final opinion on the overall impact of the proposed changes to the Code. A strong cost-benefit exercise will need to take place after consolidating Phase 1 and Phase 2 – not only from IESBA, but also from users and other stakeholders.