



International Organization of Securities Commissions
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8 June 2017

Technical Director
International Ethics Standards Board for Accountants
545 Fifth Avenue, 14th Floor
New York, NY 10017 U.S.A.

Our Ref: 2017/PK/C1/IESBA/36

Subject Line: IESBA's Exposure Draft, *Improving the Structure of the Code of Ethics for Professional Accountants—Phase 2*

Dear Sir

The International Organization of Securities Commissions' Committee on Issuer Accounting, Audit and Disclosure (Committee 1) appreciates the opportunity to comment on the International Ethics Standards Board for Accountants' (the IESBA or the Board) Exposure Draft, *Improving the Structure of the Code of Ethics for Professional Accountants—Phase 2* (the Paper). As an international organization of securities regulators representing the public interest, IOSCO is committed to enhancing the integrity of international markets through the promotion of high quality accounting, auditing and professional standards, and other pronouncements and statements.

Members of Committee 1 seek to further IOSCO's mission through thoughtful consideration of accounting, disclosure and auditing concerns, and pursuit of improved global financial reporting. Unless otherwise noted, the comments we have provided herein reflect a general consensus among the members of Committee 1. Our comments are not intended to include all of the comments that might be provided by individual securities regulator members on behalf of their respective jurisdictions.

Overall Comments

We commend and support the Board's restructuring of the Code in a "clarity" format and believe that the exposure draft provides a significant improvement over the extant Code. The proposed changes will provide greater certainty for practitioners and will facilitate enforceability of the Code.

In this letter, we have identified some instances where we believe the Code could be further enhanced in connection with the restructuring of the Code. In particular, the Board should ensure that requirements are appropriate and are supported by sufficient application material.

We have also included in this letter important comments from our submission on the exposure draft for Phase 1 of the Structure of the Code project that had not been addressed in the draft compiled Code that was released with the Phase 2 exposure draft. The matters covered in these comments were not referred to in the Basis for Agreement in Principle document dated January 2017. We believe that the Board should consider these comments in finalizing the revised Code.

This letter should be read in conjunction with our comments on the exposure draft for Phase 2 of the Safeguards project.

Scope of parts 4B and 4A

Paragraph 900.1 states that "part 4B applies to assurance engagements other than audit and review engagements". Given that there are no assurance engagements other than audit or review engagements Part 4B would have no application as currently written.

Consistent with the International Standards on Auditing, Part 4A should apply to audits or reviews of historical financial information. Part 4B should apply to all other assurance engagements.

Long associations

We refer to our letter dated 5 December 2014 on the IESBA's Exposure Draft *Proposed Changes to Certain Provisions of the Code Addressing the Long Association of Personnel with an Audit or Assurance Client*.

The long association requirements in the Structure of the Code Phase 2 exposure draft apply only to engagement partners, engagement quality control reviewers and key audit partners for public interest entity audits (paragraph R540.6). While recognizing that the exposure draft is about the structure of the code, consideration should be given to applying requirements to other members of the engagement team that have played a "significant role" in the audit of a public interest entity.

Consideration should also be given to elevating the text on restarting the count of years in the time-on period (paragraph 540.6 A1) to a requirement, with only the example remaining as guidance.

Close family

Having regard to the appearance of independence, the roles and interests in an audit client held by an engagement team member's *close family* should be treated in the same way as for *immediate family*. That is, it should not be possible to establish safeguards to address the threats created where an engagement team member's close family holds a material financial interest in, or is a director or officer of, the assurance client.

Modifications to Part 4B

We suggest amending paragraph R999.4 such that the modifications to part 4B are not available where the assurance engagement is required by law or regulation. This would be consistent with the approach in Part 4A (refer paragraph R800.4).

Comments on Structure of Code Phase 1

The Board should also consider following comments from our letter dated 13 May 2016 on the IESBA's Exposure Draft *Improving the Structure of the Code of Ethics for Professional Accountants – Phase 1*. These comments were not addressed in the draft compiled Code that was released with the Phase 2 exposure draft. For convenience, paragraph references are to the draft compiled Code.

(i) Exceptions to the Code requirements

Paragraphs 100.3 A2 and 110.3 A1 suggest that there are instances where an accountant would not be required to comply with the specific requirements in circumstances where they consider it appropriate not to do so, albeit after consultation with other parties. The Board should consider removing such exemptions as they undermine the specific requirements of the Code, may conflict with the general independence requirement, and may be inconsistent with the comment in paragraph 6 that the Code requires compliance with the fundamental principles of professional ethics.

The equivalent of the proposed paragraph 110.3 A2 is not located under the common sub-heading "Exceptional circumstances" in the extant Code. Relocating the paragraph may affect the interpretation of these provisions. In particular, paragraphs 100.3 A2 and 110.3 A2 read together imply that the accountant could decide not to apply specific provisions of the Code on the basis that compliance would be

disproportionate to the public interest under paragraph 100.3 A2. At present the equivalent to paragraph 100.3 A2 in the Code does not appear to allow the accountant to make a decision not to apply any of the specific provisions. Further paragraph 110.3 A2 would “encourage” rather than require the accountant to document the reasons for such a decision.

Further, the meaning of paragraph 110.3 A1 appears to have been changed. Extant paragraphs 100.19, 100.20, 100.21, 100.23 and 100.24 relate to “Ethical Conflict Resolution” and internal resolution processes. This is evident from the wording of those paragraphs and the context provided in extant paragraphs 100.17 and 100.18 preceding them under the heading “Conflicts of interest”. In contrast paragraph 110.3 A1 relates to circumstances where compliance with one principle of the Code is in conflict with compliance with another, increasing the discretion in applying the Code. If paragraph 110.3 A1 is to be retained, it should only apply in the context of conflicts of interest.

If the current proposals are retained, section 110.3 A2 should require rather than encourage documentation of the decisions made. Similarly, paragraphs 100.3 A2 and 110.3 A1 should require consultation rather than encourage consultation. The use of the softer wording “encourage” would not appear to be consistent with the approach of the current Board to strengthen the Code, provide greater clarity and avoid perceptions of undue influence from the profession.

(ii) Documentation

Paragraph R400.60 would require documentation evidencing “judgements when forming conclusions regarding compliance with independence requirements”. The documentation should be required to be of a standard that would enable another professional to understand the judgements made and the reasons. Guidance should be provided on the extent of documentation required in relation to matters such as the identification of risks, and evaluation of threats that were determined to be acceptable without safeguards.

Paragraph R400.60 A1 says that a lack of documentation does not determine whether a firm has considered a particular matter or whether it is independent. This paragraph is unnecessary and can undermine the documentation requirements and their enforceability. The paragraph should be removed.

(iii) Relationships and services

It is unclear why paragraph R400.31(a) is limited to financial or business relationships that exist during the period covered by financial statements prior to accepting the audit engagement and not to such relationships after accepting the audit engagement. Similarly, it is unclear why paragraph R400.31(b) applies to services prior to becoming auditor of an entity.

If subsequent relationships and services are considered to be covered by other parts of the proposed Code, this should be made clear and the provision should only apply to new audit clients. It should be stated that all prohibited relationships/services must be terminated prior to accepting the engagement and that other parts of the proposed Code address ongoing/continuing prohibited services to the audit client, if any.

(iv) Definitions

We suggest the following enhancements to definitions in the glossary:

- (a) *Engagement period* – the period should not be limited to the date that the audit report is issued as the auditor has further responsibilities, such as addressing the effect on the opinion of matters that come to the auditor’s attention after conclusion of the audit; and
- (b) *Financial interest* – the definition may need to be broadened to cover interests such as financial interests in a trust.

Thank you for the opportunity to comment on the exposure draft. If you have any questions or would like to further discuss these matters, please contact Doug Niven on ph. +61 2 9911-2079 (email: douglas.niven@asic.gov.au) or Nigel James at ph, + 1 202-551-5300 (email: jamesN@sec.gov).

Sincerely,



PK Nagpal
Chair, Committee on Issuer Accounting, Audit and Disclosure
International Organization of Securities Commission