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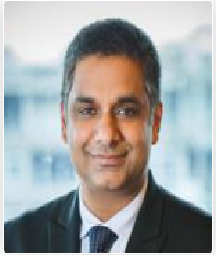
The Code of Ethics for Professional Accountants has been restructured. Are you ready?



Channa Wijesinghe *MBA, FCA, FCPA*

Channa has been with the APESB for 12 years and manages the implementation of the Board's strategy, national and international stakeholder engagement, operations and technical work program. He functions as the Chair of the Board's taskforces and has overseen the issue of APESB's suite of 21 pronouncements for the Australian accounting profession. Channa also represents APESB at the IESBA National Standards Setters Group.

APESB
Accounting Professional & Ethical Standards Board

Agenda

- Importance of Professional Ethics
- Restructured Code of Ethics
  - Conceptual Framework
  - Audit Partner Rotation (Long Association)
  - Non-assurance services
  - Inducements
  - NOCLAR & new Whistleblowing legislation
- Future projects

Importance of Professional Ethics

Auditor Independence

- **Carillion PLC** went into liquidation in January 2018:
  - Approx. **£ 7 Billion** in liabilities
  - **3,000** redundancies
  - **20%** increase in insolvencies of building firms in early 2018
  - Broader impact on public, suppliers, customers and employees – incl. pension schemes
- **KPMG**:
  - Auditor from 1999 (served **19 years**) with accum. Fees of **£ 29m** and issued **unqualified** audit opinions
  - **£ 845m** write-down of contracts 4 months after 2016 accounts published
- Criticisms raised about **Deloitte** (internal auditor), **EY** (turnaround advice) & **PwC** (conflicts of interests)

Auditor Independence

UK Enquiries

- Parliamentary enquiries into the roles of directors, regulators and the audit profession
- **Kingman Review** of FRC UK and creation of new regulator – **ARGA**
- **CMA Review** calls for accountability of audit committees, joint audits and operational separation
- **BEIS Review** calls for audit remit to be forward looking, enhanced shareholder engagement and reporting of audit fees
- Calls for **ban** on all but **essential audit-related services** for audit clients
  - **Mar 2019**, FRC UK commences consultation on this matter

Potential implications

- Calls for more regulation – removal of self regulation by profession
- Calls for Big 4 firms to be broken up between audit and consulting (non-assurance)

Professional ethics

Royal Commission into Misconduct in the Banking, Superannuation and Financial Services Industry:

- Reported many instances of misconduct:
  - Fees for no service - approx. **$3b**
  - Inappropriate advice provided to customers
  - Financial services entities **broke the law** and not held to account
  - **Primary responsibility** for Misconduct with Boards and Senior Management
- Final report contained **76** recommendations

Professional ethics

Impacts :

- Large remediation costs forecasted in excess of **$7 billion**:
  - AMP – $1.2b
  - CBA – $1.5b
  - NAB - $1.2b
  - ANZ – $1.5b
  - Westpac - $1.8b
- Grandfathered commissions to be banned

Potential implications

- Possible criminal breaches for entities and stricter enforcement from ASIC

Role of the auditor?

Importance of professional ethics (including auditor Independence)

- Protects **public interest**
- Maintain and increase **trust** in the audit profession
- Assists accountants to address professional and ethical issues
- If **adhered** to establishes robust standards of professional conduct

The restructured APES 110 Code of Ethics for Professional Accountants (including Independence Standards)

Global Adoption of Extant IESBA Code

- Adopted, used as basis for national ethical standards or codes in **120+** jurisdictions
- Adopted by the largest **27** international networks of firms (the Forum of Firms) for transnational audits
- Translated in about **40** languages, including all major UN languages

Global Adoption of IESBA Code - G20 Countries

Adopted / Based on (12)	
Australia	South Africa
Brazil	Saudi Arabia
China	South Korea
Italy	Mexico
Japan	Turkey
Russia	United Kingdom

Converged/Convergence path (4)
Canada
Indonesia
Germany
USA (Unlisted entities)

Committed to adopt (1)
India

Highlights of the Restructured Code

- New **user guide** and updated glossary
- Requirements now **separate** to guidance material
- Increased **focus** on compliance with the **fundamental principles** and **independence**
- **Enhanced** conceptual framework
- Auditor independence sections are now **Independence Standards**
- Audit Partner Rotation (Long Association) – effective **1 Jan 2019**
- Non-compliance with Laws and Regulations (NOCLAR) – effective **1 Jan 2018**

Highlights of the Restructured Code

- Strengthened provisions on **Non-assurance Services**
- New **Inducements** provisions
- Enhanced **PDF features** in APES 110:
  - Bookmarks and **pop-ups** of definitions
  - **Dynamic links** to sections and sub-sections
  - Increased **navigation** within the document and externally
- **Mapping table** of the new Code vs Extant Code on the APESB Website

New Structure of the Code – APES 110

SCOPE AND APPLICATION *(All Members)*

GLOSSARY *(All Members)*

PART 1 Complying with the Code, Fundamental Principles and Conceptual Framework

(Sections 100 to 199)

(All Members)

PART 2 Members in Business (including employment relationships of Members in Public Practice)

(Sections 200 to 299)

PART 3 Members in Public Practice

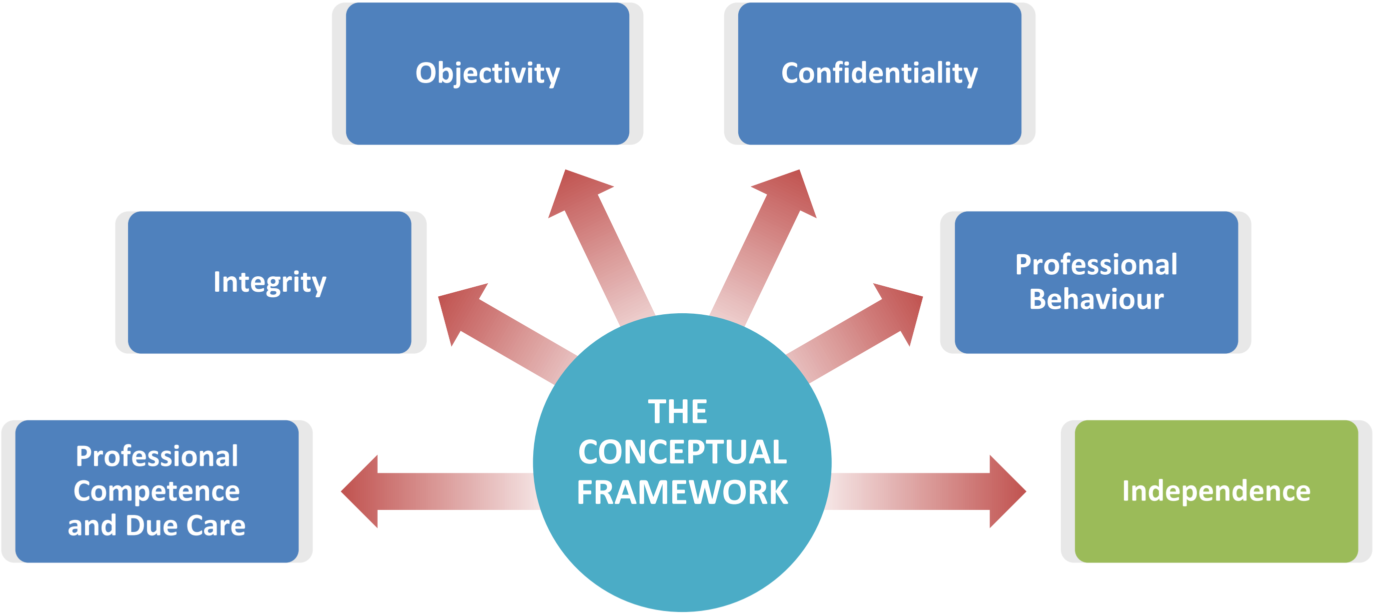
(Sections 300 to 399)

PARTS 4A & 4B Independence Standards

Part 4A—Independence for Audits & Reviews (Sections 400 to 899)

Part 4B—Independence for Assurance Engagements Other than Audit & Review Engagements (Sections 900 to 999)

Overarching requirements



Categories of threats

Self-interest

Self-review

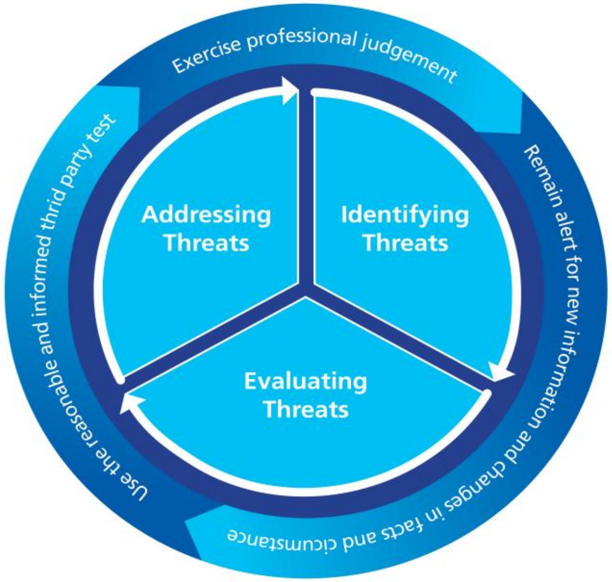
Advocacy

Familiarity

Intimidation

Enhanced Conceptual Framework

- No longer threats & safeguards approach - **not all** threats addressed by safeguards
- Identified threats that are **not** at Acceptable Level must be addressed in one of three ways:
  - **Eliminate** circumstances creating the threats;
  - **Apply** safeguards; or
  - **Decline** or **end** the specific professional activity/service
- **New requirements** –form an overall conclusion on effectiveness of actions, and remain alert to new information or changes in circumstances



Conceptual framework & Independence

Conceptual framework now **explicitly** addresses **Independence**.

New application material:

- Independence **required** for audits and other assurance engagements
- Independence **linked** to fundamental principles (e.g. objectivity and integrity)
- Conceptual framework **applies** to compliance with Independence requirements
- Independence Standards explain application of conceptual framework
- Categories of threats are **the same** for fundamental principles and Independence

Effective Date?

Question:
What is the effective date of the restructured APES 110?

Answer - Choose from following options:

(a) 1 January 2019
(b) 1 July 2019
(c) 1 January 2020
(d) 1 July 2020

Long Association – Key Matters

- General provisions apply to <u>all</u> audit engagements
- "**Jurisdictional provision**" for PIEs
  - Shorter cooling-off period specified in local laws of a jurisdiction, subject to a **floor of 3 years**
  - Jurisdictional provision available for audits beginning **prior** to **31 December 2023**
- Effective from calendar **2019** audits
- IESBA's commitment to review these provisions early **2021**

Long Association – Strengthened Requirements

- 5-year cooling-off for EP subject to jurisdictional provision
- Prohibition on acting as client relationship partner during cooling-off
- 3-year cooling-off for EQC reviewer
- Additional restrictions on permissible activities during cooling-off
- Technical consultations during cooling-off prohibited
- Strengthened general provisions

Restructured Long Association Provisions

- Consistent with the Amending Standard to extant Code (Issued **April 2018**)
- Impact for Listed/APRA entities post 2023:
  - **5 years time-on period/5 year cooling-off period**
- **Australian focused** Technical Staff Q&As (includes flowcharts)

Partner Rotation – Listed & APRA-Regulated Entities

Role	Current		Transition (1 Jan 2019 to pre 31 Dec 2023)		Full Provisions (from 31 Dec 2023)	
	Time on (yrs)	Cooling off (yrs)	Time on (yrs)	Cooling off (yrs)	Time on (yrs)	Cooling off (yrs)
Engagement Partner	5/7**	2	5/7**	3	5/7**	5
EQCR Partner	5/7**	2	5/7**	3	5/7**	3
Other Key Audit Partners	7	2	7	2	7	2

*** In accordance with applicable laws and regulations, Audit Engagement and EQCR Partners can serve in the same role for a maximum of five years, but may be extended by the Audit Client or a regulator in accordance with applicable laws and regulations.*

Partner Rotation – other Public Interest Entities (excludes Listed & APRA-Regulated Entities)

Role	Current		Full provisions (from 1 Jan 2019)	
	Time on (yrs)	Cooling off (yrs)	Time on (yrs)	Cooling off (yrs)
Engagement Partner	7	2	7	5
EQCR Partner	7	2	7	3
Other Key Audit Partners	7	2	7	2

Partner Rotation – Scenario 1

ABC Pty Ltd is a large proprietary company that is required to undergo an annual audit.

John has been the Engagement Partner for the audit of ABC for 5 years.

John is trying to figure out how the new auditor rotation rules affect his role.

After the 30 June 2019 audit, what are the implications for John?

- Option a) stay on for 2 more years and then cool-off for 2 years
- Option b) stay on for 2 more years and then cool-off for 3 years
- Option c) stay on for 2 more years and then cool-off for 5 years
- Option d) He can continue for more than 2 years as long as he complies with the general provisions of the Long Association provisions

Partner Rotation – Scenario 2

ABC Ltd is a large public utility that is required to undergo an annual audit. It is not a Listed Entity.

Dave has been the Engagement Partner for the audit of ABC for 6 years as at the 30 June 2019 audit. Dave is trying to figure out how the new auditor rotation rules affect his role.

After the 30 June 2019 audit, what are the implications for Dave?

Option a) stay on for 1 more year and then cool-off for 2 years
Option b) stay on for 1 more year and then cool-off for 5 years
Option c) stay on for 1 more year and then cool-off for 3 years
Option d) He can continue for more than 1 years as long as he complies with the Long Association general provisions

Partner Rotation – Scenario 3

During 2020, ABC Ltd (the company in Scenario 2) will undertake an IPO and become listed on the ASX.

Dave, the auditor, has served six years as the Engagement Partner (EP) for the audit of ABC Ltd at 30 June 2019. The management of ABC Ltd is keen to have Dave continue as the auditor for ABC Ltd during the IPO process in 2020.

As Dave would have served seven years as the EP by 30 June 2020, what is Dave's best option?

Option a)	Perform 30 June 2020 Audit as that is the 7th year and then cool-off
Option b)	Rotation clock resets when you become a listed entity so perform 2020-24 Audits
Option c)	Discuss engagement continuance with ABC Ltd and ASIC
Option d)	Decline to perform the June 2020 Audit

Partner Rotation – Scenario 4

Willet Ltd is a Listed Entity

Anna is the Engagement Partner (EP) for the audit of Willet Ltd. The audit for 31 December 2019 will be Anna's fourth consecutive year as the EP.

When is the last year Anna can perform the audit engagement for Willet Ltd before rotating off the engagement, and what would be the required cooling-off period?

Option a)	2020 (5 years on) with 3 years cooling-off
Option b)	2020 (5 years on) with 5 years cooling-off
Option c)	2022 (7 years on) with 3 years cooling-off
Option d)	2022 (7 years on) with 5 years cooling-off

Partner Rotation – Scenario 5

Ben has been newly appointed as the Engagement Partner (EP) for the audit of Segway Ltd, which is listed on the ASX.

Ben's firm is trying to determine the applicable time on and cooling-off periods that Ben will need to complete. Ben would have been the EP for five consecutive years by the 30 June 2023 financial year audit, and thereafter will need to complete a cooling-off period.

How long should Ben cool-off for before he can return to the audit of Segway Ltd?

Option a)	2 years
Option b)	3 years
Option c)	5 years
Option d)	Discuss option to continue with Segway Audit Committee and ASIC

Non-assurance Services (NAS)

- New and improved guidance to assist in proper application of CF for all types of NAS:
  - New factors for evaluating threats
  - Enhanced guidance on addressing threats, including revised safeguards provisions
- Clarity about when threats created by NAS cannot be addressed
- Key prohibition on assuming management responsibilities

Prohibition - Management responsibilities (NAS)

Management responsibilities include	
• Setting policies and strategic direction	• Hiring or dismissing employees
• Directing and taking responsibility for work of employees of the entity	• Authorising transactions
• Controlling or managing bank accounts and investments	• Deciding which recommendations of third parties to implement
• Reporting to TCWG on behalf of management	• The preparation and fair presentation of financial statements
• Internal control systems – design, implementation, monitoring & maintaining	

Revised Structure of NAS Subsections

Introduction

- Describes the type of NAS (if applicable)
- Indicates the type of threat created
- Refers to general provisions and emphasises need to comply with the fundamental principles and be independent when providing the specific NAS
- Signals when the subsection includes prohibitions

Revised Structure of NAS Subsections (continued)

- Requirements and application material
  - General Provisions
    - Relevant factors in evaluating level of threats
    - Examples of actions that might be safeguards
  - Prohibitions
    - Entities that are not PIEs
    - PIEs

Key Changes - Non-Assurance Services (NAS)

Prohibition on providing recruiting services for a **director**, **officer** or **a person** who may have **significant influence** over the accounting records or financial statements:

- now applies to all Audit Clients (para 609.7)
- Ban on Recruiting Services – Kim Gibson IESBA

New guidance on:

- **Materiality** in relation to financial statements (para 600.5 A3)
- The combined effect of **threats from multiple** NAS (para 600.5 A4)
- **Factors** to assist in **identifying threats** when providing Taxation Services, IT Systems Services or Litigation Support Services for an Audit or Assurance Client

NAS prohibitions for PIEs

The Code sets out **prohibitions** for specific Non-Assurance Services when auditing a PIE. The prohibitions include:

- performing Accounting & Bookkeeping services
- Serving as General Counsel
- Promoting, dealing in, or underwriting client's shares
- Negotiating for the client
- **Recruiting** directors/officers, or senior management who have significant influence over financial statements
- **Compensating** audit partner based upon sale of Non-assurance Services to their audit clients

NAS prohibitions based on materiality

Some NAS are prohibited if they would have a **material impact** on the financial statements. The prohibitions include:

- Valuation services
- Calculation of deferred & current taxes
- Tax or corporate finance advice dependant on treatment or presentation where reasonable doubt as to its appropriateness
- Acting as an advocate before a public tribunal or court to resolve a tax matter
- Acting as an advocate to resolve a dispute
- Internal audit services relating to financial reporting, financial accounting systems or financial statement disclosures and amounts
- Designing/implementing financial reporting IT systems

Safeguards & Non-Assurance Services

Examples of actions that might be **safeguards** generally include professionals who are **not** audit team members:

- performing the NAS
- reviewing the NAS performed by audit team members
- reviewing the audit work or result of the NAS
- reviewing the accounting treatment or presentation in the financial statements

Inducements

- Clarifies appropriate boundaries for **offering** and **accepting of inducements**
- Inducement can be **illegal** (e.g. bribery/ corruption)
- Even if not illegal, prohibition on offering or accepting inducements with ***intent*** to improperly influence behavior (even if trivial & inconsequential)
- If no improper intent, **apply** conceptual framework

Gifts	Hospitality	Entertainment
Political/charitable donations	Appeals to friendship & loyalty	Employment, commercial opportunities
	Preferential treatment	

Key elements of the Inducements Framework

- Follow applicable laws and regulations
- Determine if there is **actual** or **perceived intent** to improperly influence behaviour
- If no perceived intent, consider if the inducement is trivial or inconsequential
- Apply the conceptual framework, if necessary, to determine whether to offer or receive the Inducement

Assessing Intent – Relevant Considerations

- Nature, frequency, value, cumulative effect? (e.g. frequent expensive meals, lavish birthday gifts)
- Timing? (e.g. contract soon to be awarded)
- Made for right reason? (e.g. wedding)
- Ancillary to main business? (e.g. accepting lunch)
- No preferential treatment?
- Roles and positions of offeror/offeree?
- Made openly?
- Given freely?

NOCLAR

An act that causes substantial harm contrary to prevailing laws or regulations:

- Committed by a client, employer, TCWG, management or other individuals employed by the Client
- Involves serious **adverse consequences** to investors, creditors, employees, general public in **financial** or **non-financial terms**
- Has wide **public interest** implications

NOCLAR provisions set out a **thought process, relevant factors** to consider a **response framework**

Scope of NOCLAR

NOCLAR or suspected NOCLAR that can cause **substantial harm** relates to matters that:

- Have a **direct and material** effect on a client's or employer's **financial statements**
- Are **fundamental** to an entity's **business/operations** or to avoid **material penalties**

Excludes:

- Inconsequential matters
- Personal misconduct unrelated to business
- Non-compliance **not** committed by a client or employer

NOCLAR Framework

1. Obtain an understanding of the matter
2. Address the matter
3. Determine whether further action is needed
4. Determining whether to disclose the matter to an appropriate authority
5. Documentation

CA ANZ Information Sheet on Responding to Non-Compliance with Laws and Regulations

NOCLAR Framework - 4 variations

Framework specifies different but proportionate approach for each category of accountants:

- Recognises the remits of **four** categories of Accountants
- Members' spheres of influence
- Members' levels of authority, responsibility and decision making power
- Levels of **public expectations** on Members

NOCLAR Framework - 2 variations for Members in Public Practice

Auditors	Other Members in Public Practice
• Comply with requirements under Auditing and Assurance Standards • Communicate in the context of group audit: - Component Auditor to communicate with the Group Engagement Partner (EP) - Group EP to Communicate with component auditors • Documentation <u>required</u>	• Where the client is an audit client of the Firm or Network Firm, communicate the matter within the Firm/Network Firm and with the Audit Engagement Partner • Where the client is not an audit client of the Firm or Network Firm, consider communicating with the external auditor • Documentation is <u>encouraged</u> as per NOCLAR **but** note APES 320 *Quality Control for Firms*

Key considerations for disclosure

- **Disclosure** to an **appropriate authority** depends on various factors:
  - **Precluded** by law or regulation?
  - Credible **evidence** of **substantial harm** to entity, stakeholders and general public
  - Existence of an **appropriate authority**
  - Any legislative or regulatory **protection** for whistleblowing
  - Likelihood of **physical harm** to Member or other individuals
- In case of **imminent breach**, immediate disclosure to authorities is permitted

Existing Legal & Regulatory Mechanisms

RG 34 Auditor's obligations: Reporting to ASIC

- Suspected contraventions of the Corps Act (**Sec. 311** and Sec. 601HG)
- Contraventions/suspected contraventions by AFSL licensees (Sec. 990K) or Credit licensees (Sec. 104 of National Credit Act)

ASIC Information Sheet 52 *Guidance for Whistleblowers*

- Protection of whistleblowers for breaches in companies under the Corps Act (protected disclosures)

AUSTRAC – reporting of money laundering activities (under *AML-CTF Act 2006*)

APRA reporting for misconduct in APRA-regulated entities

Federal and **state public sector** whistleblower protections

New Whistleblower Protection Legislation

New **whistleblowing protection** legislation **expected** to be effective from 1 July 2019

- *Treasury Laws Amendment (Enhancing Whistleblower Protections) Bill 2019*
- Applies to **corporate and financial sectors**
- Not applicable to public sector – different legislation in place
- Provides protection for reporting of corruption, fraud, tax evasion or avoidance and misconduct
- Now **applies** to disclosure of **tax law** breaches and tax misconduct
- Penalties apply for breaches of the regimes.

Key provisions on whistleblowing

- Whistleblower definition is broader — includes **former relationships** with an entity
- Disclosures can be made to **eligible recipients, APRA, ASIC, ATO**.
- Disclosure to a politician or a journalist if in public interest or an emergency – but not for tax matters
- **Protections** include:
  - right to remain anonymous; and
  - provision of immunity so information cannot be used against them in a prosecution.
- Whistleblowers may be eligible for **compensation** if they suffer detriment
- Public companies & some proprietary companies **must have** whistleblower policies.

Other Key Obligations in the Code

Prohibition on being:

- Director/Officer (including management of Administration) for Audit Clients
- Company Secretary for Audit Clients

Requirement to:

- Consider multiple threats **in aggregate**
- Evaluate threats for **multiple client referrals** from one source
- Determine if an Audit or Assurance Client is a Public Interest Entity (PIE) (para AUST R400.8.1):
  - Guidance on entities who will generally be considered PIEs in Australia
  - **Private Health Insurers** regulated by APRA now included as example of PIEs

Future projects

What's on the agenda for APESB?

All APESB pronouncements require revision:

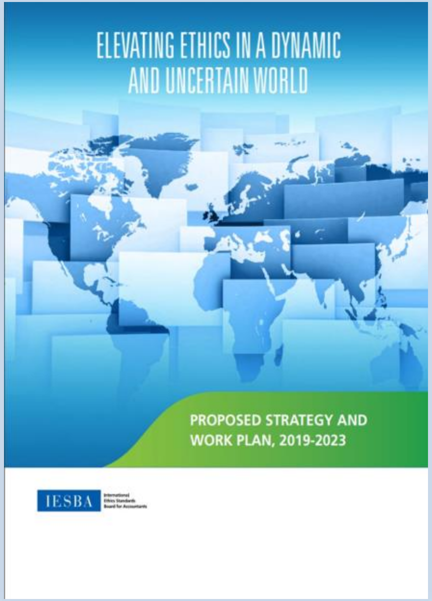
- cross-references to the restructured Code
- reviews of existing pronouncements, consideration of technology and its impact

Due Process

- Pronouncements batched into groups
- EDs released progressively from March to September 2019
- Effective date of the Code and all revised pronouncements **1 January 2020**

What's on the agenda for IESBA

- Current Projects:
  - Role and Mindset Expected of Professional Accountants (formerly Professional Scepticism)
  - Non-assurance services
  - Fees
  - Technology
  - Alignment of Part 4B with ISAE 3000 (Revised)



IESBA – Non-Assurance Services Project

Objective: increase confidence in the **independence** of audit firms.

Proposals include:

- **Prohibit** firms from providing NAS to audit clients that are PIEs if outcome of service might be included directly or indirectly in financial statements
- **Explicit** provisions for auditor communications with TCWG about NAS matters

IESBA – Fees Project

Objective: Review the provisions in the Code related to fees including those impacting perceived auditor independence

Provisions to be reviewed include those relating to:

- The level of **audit fees** for individual engagements
- **Fee dependency** at firm, office and partner level including considering specific thresholds for audit clients that are not PIEs
- **Safeguards** in the Code relevant to the project scope

Purpose & Disclaimers

This set of PowerPoint slides has been developed by APESB Technical Staff using some of the resources developed by the IESBA Technical Staff for National Standards Setters on the revised and restructured *International Code of Ethics for Professional Accountants (including International Independence Standards)*, which the IESBA issued in April 2018.

These slides provide only an *overview* of the new Code and do not purport to present all the detailed changes. The slides should be read in conjunction with the new Code, the text of which alone is authoritative. The slides do not form part of the Code.

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