

15 November 2019

Mr Ken Siong
Senior Technical Director
International Ethics Standards Board for Accountants (IESBA)
International Federation of Accountants (IFAC)
529 Fifth Avenue, 6th Floor
New York, New York 10017 USA

By email: kensiong@ethicsboard.org

Dear Mr Siong,

IESBA's Exposure Draft *Proposed Revisions to the Code to Promote the Role and Mindset Expected of Professional Accountants*

Accounting Professional & Ethical Standards Board Limited (APESB) welcomes the opportunity to make a submission on the IESBA's Exposure Draft *Proposed Revisions to the Code to Promote the Role and Mindset Expected of Professional Accountants* (Role and Mindset Revisions).

APESB is governed by an independent board of directors whose primary objective is to develop and issue, in the public interest, high-quality professional and ethical pronouncements. These pronouncements apply to the membership of the three major Australian professional accounting bodies (Chartered Accountants Australia and New Zealand, CPA Australia and the Institute of Public Accountants). In Australia, APESB issues APES 110 *Code of Ethics for Professional Accountants (including Independence Standards)* (APES 110) as well as a range of professional and ethical standards that address non-assurance services.

Overall comments

APESB is generally supportive of the IESBA's project to revise the IESBA's *International Code of Ethics for Professional Accountants (including International Independence Standards)* (the IESBA Code) to promote the role and mindset expected of Professional Accountants. We are of the view that the proposed amendments will assist stakeholders in understanding the role, mindset and behavioural characteristics expected of Professional Accountants and how these link to the fundamental principles and the conceptual framework of the Code.

APESB is concerned about the unintended consequences on the definition and interpretation of Independence (which incorporates professional scepticism) if it is unique to assurance engagements. We are of the view that the IESBA Code should remain relevant to all Professional Accountants. If the IESBA Code does not specifically indicate that a Professional Accountant can act Independently in respect of engagements other than assurance engagements, then there is a risk that stakeholders may infer that there are no other circumstances in which a Professional Accountant can be Independent.

APESB's suite of professional standards applies to a range of non-assurance services, and many include the definition of Independence. In Australia, Professional Accountants who act as liquidators, independent experts, and independent financial planners also must demonstrate their Independence, which includes performing their work with an appropriate degree of professional scepticism and in accordance with applicable APESB Pronouncements.

Accordingly, based on how the accounting profession operates in Australia, APESB is of the view that the concept of Independence, is not limited to assurance engagements. Further, it should be noted that professional scepticism is not a term that can be claimed by any one profession as any professional can exhibit the relevant characteristics when performing their work.

We are supportive of the concept of an inquiring mindset, which is appropriate as a base level across the profession, especially for accountants who do not need to be Independent for the professional activities they are undertaking. However, the amendments need to be appropriate across the complete range of professional activities provided by Professional Accountants, and potentially there is a continuum that ranges from an inquiring mind to professional scepticism. APESB is concerned that the current proposed amendments will create issues for services other than assurance engagements that require Independence. Further, it is in the profession's interest to maintain a consistent definition of Independence across the accounting profession and to have one overarching Code for the profession.

APESB is of the view that an additional paragraph should be included in the IESBA Code that states Independence is required in professional activities other than assurance engagements and that National Standard Setters may set standards covering these specific professional activities or services. This approach would help to eliminate any risk that stakeholders would infer that Independence is limited to assurance engagements.

This approach would also enable APESB to link relevant Australian pronouncements that use the definition of Independence to this provision of the IESBA Code. An appropriate place for such a paragraph could be immediately after proposed paragraph 120.5 A5 in the IESBA Code.

APESB's key recommendations are noted below. Appendix A provides APESB's responses to the IESBA's specific and general questions and other suggestions for the IESBA's consideration under Other Editorial Comments.

Recommendations

APESB's key recommendations in relation to the Role and Mindset Revisions for the IESBA's consideration are:

- include a paragraph in the IESBA Code that states Independence is required in professional activities other than assurance engagements and National Standard Setters may set standards covering these professional activities or services (after proposed paragraph 120.5 A5);
- referring to '*spirit of the Code*' rather than '*ethical values*' in section 100 of the IESBA Code;
- descriptive paragraphs on the roles of Professional Accountants and the importance of the Code (proposed paragraphs 100.1 A2 and A3) should be relocated from the main

body of the IESBA Code to introductory or guidance sections and remove proposed paragraph 100.2 A1;

- redraft proposed paragraph 111.1 A2 and relocate it to either section 110 or 120 of the IESBA Code as the concepts could be applied more broadly to other fundamental principles, not just integrity;
- include a reference to the public interest in the introductory sentence to paragraph 110.1 A1 of the IESBA Code;
- maintain '*remain alert for new information and to changes in facts and circumstances*' as a requirement (not application material) in section R120.5 of the IESBA Code; and
- due to potential translation issues, remove catchwords from the illustrative list of common forms of bias in the proposed paragraph 120.12 A2.

Concluding comments

We trust you find these comments useful in your final deliberations. Should you require additional information, please contact APESB's Chief Executive Officer, Mr. Channa Wijesinghe, at channa.wijesinghe@apesb.org.au.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Nancy Milne', written in a cursive style.

Nancy Milne OAM
Chairman

APPENDIX A

APESB's Specific Comments

APESB's responses to the specific matters raised by the IESBA on the Role and Mindset Revisions are as follows:

Role and Values of Professional Accountants

- 1. Do you support the proposals in Section 100 that explain the role and values of professional accountants as well as the relationship between compliance with the Code and professional accountants acting in the public interest? Are there other relevant matters that should be highlighted in these paragraphs?**

APESB supports the proposed additional application material in paragraph 100.1 A1 as it strengthens the understanding of the relationship between compliance with the IESBA Code and public interest. However, we are of the view that instead of using '*ethical values*' the paragraph should refer to the '*spirit of the Code*.'¹ APES 110 and APESB's suite of professional standards include *Scope and Application* paragraphs that refer Members to '*the spirit of this Code*.'

APESB does not support proposed paragraphs 100.1 A2 and A3 being included in the main body of the IESBA Code. These paragraphs describe the varied roles Professional Accountants undertake and the importance of the Code, and we are of the view that they are more akin to introductory information and could be either included in a new section titled '*Introduction to the Code*' or in the Guide to the Code.² Further, paragraph 100.1 A2(a) refers to '*ethical principles*,' which is terminology not used elsewhere in the IESBA Code. APESB is of the view that for consistency of terminology, the IESBA considers whether '*fundamental principles*' could be used as an alternative.

APESB supports the inclusion of proposed paragraphs 100.2 A2 and 100.2 A3 within the main body of the Code³ as they will assist stakeholders in understanding the Code's structure and the application of the conceptual framework. However, APESB is of the view that the words '*remainder of the*' should be deleted from proposed paragraph 100.2 A3. APESB is also of the view that as proposed paragraph 100.2 A1 repeats the wording from paragraph 100.1 A1, and that it is unnecessary.

Determination to Act Appropriately

- 2. Do you support the inclusion of the concept of determination to act appropriately in difficult situations and its position in Subsection 111?**

APESB supports the inclusion of having the determination to act appropriately when confronting dilemmas or difficult situations as we consider it to be an essential

¹ This issue is discussed in paragraphs 19 and 20 of the Explanatory Memorandum to the Role and Mindset Revisions.

² As contemplated by the IESBA in paragraphs 22 and 23 of the Explanatory Memorandum to the Role and Mindset Revisions.

³ Similar material is also included in the *Guide to the Code*.

characteristic of Professional Accountants to act ethically. However, APESB does not support the current form of the proposed application material in paragraph 111.1 A2, as we are of the view that the determination to act appropriately should:

- apply more broadly to other fundamental principles and not just integrity. For example, section 270 of the IESBA Code addresses situations where Professional Accountants are put under, or exert, pressure to breach the fundamental principles and highlights that pressure can create threats to objectivity and professional competence and due care;
- be broader than when facing pressure or challenging others as and when appropriate, with additional examples to explain the breadth of application; and
- not include the terminology '*standing one's ground*,' which is a colloquialism that could create translation problems (also relevant to paragraph 120.16 A2).

Based on the above, APESB is of the view that determination to act appropriately when confronting dilemmas or difficult situations may be better placed as an '*underpinning qualitative characteristic required of the professional accountant*'⁴ in section 110 of the IESBA Code or an enabler to the conceptual framework in section 120 of the IESBA Code.⁵ This approach would broaden the applicability of the concept beyond the fundamental principle of Integrity.

Further, APESB notes that there is potential discord between confronting dilemmas or difficult scenarios '*even when doing so creates potential adverse personal or organizational consequences*'⁶ and the determination whether or not to disclose matters under NOCLAR provisions '*whether there are actual or potential threats to the physical safety*'⁷ of the Professional Accountant.

Professional Behaviour

3. Do you support the proposal to require a professional accountant to behave in a manner that is consistent with the profession's responsibility to act in the public interest in paragraph 110.1 A1 (e) and R115.1?

APESB supports the proposals in paragraphs 110.1 A1(e) and R115.1(a) to require a Professional Accountant to behave in a manner that is consistent with the public interest. However, we are of the view that these paragraphs should not refer to the '*profession's responsibility*' as we consider that the requirement should be that of the individual Professional Accountant. As such, APESB is of the view that these paragraphs could be amended to (consistent with drafting in paragraph 100.1 A1), for example:

Behave in a manner that is consistent with the professional accountant's responsibility to act in the public interest.

APESB is also of the view that all fundamental principles in the IESBA Code are relevant to the Professional Accountant's responsibility to act in the public interest, not just professional behaviour. Therefore, we believe there is a risk that singling out professional behaviour could diminish the importance of the other fundamental principles when

⁴ Paragraph 110.2 AO of the Institute of Chartered Accountants of Scotland's *Code of Ethics (and International Independence Standards)* applicable from 1 January 2020.

⁵ As contemplated in paragraph 30 of the Explanatory Memorandum to the Role & Mindset Revisions.

⁶ Proposed paragraph 111.1 A2 of the Role and Mindset Revisions.

⁷ Paragraph 260.20 A3 and 360.25 A3 of the IESBA Code.

assessing public interest matters. To mitigate this risk, the IESBA could consider including a reference to the public interest in the introductory sentence to paragraph 110.1 A1, for example:

There are five fundamental principles of ethics for professional accountants which underpin the professional accountant's responsibility to act in the public interest:

Impact of Technology

- 4. Notwithstanding that the IESBA has a separate Working Group that is exploring the implications of developments in technology, are there any additional matters relating to the impact of technology beyond the proposals in paragraphs 110.1 A1(b)(iii) and 120.12 A2 that you consider should be addressed *specifically* as part of the Role and Mindset project?**

APESB is supportive of the proposed references to technology in proposed paragraphs 110.1 A1(b)(ii) and 120.12 A2. APESB agrees that it would be premature to add additional application material before the completion of the work being undertaken by IESBA's Technology Working Group.⁸

Inquiring Mind

- 5. Do you agree with the concept of an inquiring mind as set out in the proposals in Section 120?**

APESB is concerned about the unintended consequences on the definition and interpretation of Independence as there is a risk that stakeholders may infer that assurance engagements is the only instance that a Professional Accountant is required to be Independent. Based on how the profession operates in Australia, there are other instances that Professional Accountants need to be independent. Professional Accountants who act as liquidators, independent experts, and independent financial planners also must demonstrate their Independence, which includes performing their work with an appropriate degree of professional scepticism. APESB believes the concept of Independence, which incorporates professional scepticism, is not limited to assurance engagements.

APESB acknowledges that '*professional scepticism*' has historically been used in the assurance context. However, professional scepticism is used widely and is also not exclusive to the accounting profession, notwithstanding its use in the auditing literature. Many other professions also apply professional scepticism when exercising professional judgement to arrive at a conclusion or forming opinions, whether they are medical professionals, lawyers or engineers. It should not be a term that can be claimed by any one profession as any professional can exhibit the relevant characteristics when performing their work.

⁸ As discussed in paragraph 34 of the Explanatory Memorandum to the Role and Mindset Revisions.

The APESB's suite of professional standards applies to a range of non-assurance services, and many include the definition of Independence (incorporating professional scepticism), modified to reflect the parties providing the professional activities (for example, the Engagement Team).

Australian stakeholders have not raised any concerns with APESB over the past twelve years regarding the use of Independence in these standards. The definition of Independence is incorporated in the following APESB standards:

- [APES 215 Forensic Accounting Services](#)
- [APES 225 Valuation Services](#)
- [APES 230 Financial Planning Services](#)
- [APES 310 Client Monies](#)
- [APES 320 Quality Control for Firms](#)
- [APES 330 Insolvency Services](#)
- [APES 345 Reporting on Prospective Financial Information prepared in connection with a Public Document](#)
- [APES 350 Participation by Members in Public Practice in Due Diligence Committees in connection with a Public Document](#)

We agree that the concept of an inquiring role is appropriate across the profession, especially for accountants who do not need to be Independent for the professional activities they are undertaking. However, the amendments need to be appropriate across the range of **all** professional activities provided by Professional Accountants, and it is of critical importance to have one overarching Code for the profession.

APESB is concerned the current proposed amendments will create issues for services other than assurance engagements that require Independence.

APESB is of the view that a new paragraph should be included in the IESBA Code that states Independence is required in professional activities other than assurance engagements, and National Standard Setters may set standards covering these other professional activities (or services). This would help to eliminate any risk that stakeholders would infer that Independence is limited to assurance engagements. APESB would then be able to link relevant Australian pronouncements that use the definition of Independence to this provision in the IESBA Code. An appropriate place for this paragraph could be immediately after proposed paragraph 120.5 A5 in the IESBA Code.

APESB agrees with the concepts underpinning an '*inquiring mind*' as set out in the proposals. We agree that all Professional Accountants should be open and alert for situations and information requiring further investigation and the need to critically evaluate information obtained.⁹ Furthermore, potentially, there is a continuum that ranges from an inquiring mind to professional scepticism. One may argue that in the case of liquidations and certain forensic investigations, the level of professional scepticism is even higher than assurance engagements.

⁹ Proposed paragraph 120.5 A3 (a) & (b) of the Role and Mindset Revisions.

However, APESB does not support the proposal to remove the requirement to ‘*remain alert for new information and to changes in facts and circumstances*’ from paragraph R120.5. Although it is proposed to be included as application material¹⁰, we are of the view it should remain as a requirement (in addition to including an inquiring mind) as it is an essential component of applying the conceptual framework and is an additional concept to an inquiring mind.

Bias

6. Do you support the approach to addressing bias? If so, do you agree with the list of examples of bias set out in paragraph 120.12 A2? Should any examples be omitted or new ones added?

APESB supports the IESBA’s approach to increasing awareness of the risks of bias impacting professional judgement in the conceptual framework. We believe that unconscious bias is a potentially under-recognised threat to the fundamental principle of Objectivity and the exercise of professional judgement.

APESB is supportive of the inclusion of an illustrative list of common forms of bias in the IESBA Code.¹¹ However, APESB is concerned that the use of catchwords such as ‘*anchoring bias*’ and ‘*groupthink*’ could create translation issues and could be avoided, for example, if the paragraph was amended to:

Examples of bias to be aware of when exercising professional judgment include the tendency to:

- ~~*Anchoring bias, which is a tendency to use an initial piece of information as an anchor against which subsequent information is inadequately assessed.*~~
- ~~*Automation bias, which is a tendency to favor output generated from automated systems, even when human reasoning or contradictory information raises questions as to whether such output is reliable or fit for purpose.*~~
- ~~*Availability bias, which is a tendency to place more weight on events or experiences that immediately come to mind or are readily available than on those that are not.*~~
- ~~*Confirmation bias, which is a tendency to place more weight on information that corroborates an existing belief than information that contradicts or casts doubt on that belief.*~~
- ~~*Groupthink, which is a tendency to think or make decisions as a group that discourages creativity or individual responsibility.*~~
- ~~*Overconfidence bias, which is a tendency to overestimate one's own ability to make accurate assessments of risk or other judgments or decisions.*~~
- ~~*Representation bias, which is a tendency to base an understanding on a pattern of experiences, events or beliefs that is considered to be representative.*~~
- ~~*Selective perception, which is a tendency for a allow a person's expectations to influence how the person views a particular matter or person.*~~

¹⁰ Proposed paragraph 120.5 A4 of the Role and Mindset Revisions.

¹¹ Proposed paragraph 120.12 A2 in the Role and Mindset Revisions.

Also, APESB believes it is important to educate Professional Accountants about these issues in addition to the inclusion of application material in the Code. APESB encourages the IESBA to support IFAC member bodies educating Professional Accountants on the impact of bias (particularly unconscious bias).

Organisational Culture

7. Are there any other aspects about organisational culture in addition to the role of leadership that you consider should be addressed in the proposals?

APESB does not consider there to be any other aspects of organisational culture to be addressed in the proposals. However, as ISQM 1 remains a proposal and has been subject to significant global feedback, we are of the view that it may be premature to refer to this standard at this stage. From an Australian perspective, APES 320 *Quality Control for Firms* (based on extant ISQC 1) applies to all firms, regardless of the services provided, which will also impact the drafting of this paragraph for use in Australia.

APESB's General Comments

APESB's general comments on the Role and Mindset Revisions for the IESBA's consideration are as follows:

(a) Small- and Medium-Sized Entities (SMEs)

APESB has no general comments concerning SMEs.

(b) Regulators and Audit Oversight Bodies

APESB has no general comments with respect to regulators and audit oversight bodies.

(c) Developing Nations

Not applicable.

(d) Translation

As noted above, APESB has concerns about potential problems on translation in relation to the use of:

- the colloquialism "*standing one's ground*" in proposed paragraphs 111.1 A2 and paragraph 120.16 A2; and
- the catchwords in proposed paragraph 120.12 A2.

Other Editorial Comments

APESB notes in paragraph 120.16 A2 under Objectivity, '*undue*' needs to be included before '*reliance*.'