



Proposed Amendments to the Definition of Public Interest Entity in APES 110 Code of Ethics for Professional Accountants

Prepared and issued by **Accounting Professional & Ethical Standards Board Limited**

Commenting on this Exposure Draft

Comments on this Exposure Draft should be forwarded so as to arrive by **10 October 2011**.

Comments should be addressed to:

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A copy of all submissions will be placed on public record on the APESB website: www.apesb.org.au.

Obtaining a copy of this Exposure Draft

This Exposure Draft is available on the APESB website: www.apesb.org.au. Alternatively, any individual or organisation may obtain one printed copy of this exposure draft without charge until 10 October 2011 by contacting:

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Reasons for issuing Exposure Draft 03/11

Accounting Professional & Ethical Standards Board Limited (APESB) proposes to amend the definition of Public Interest Entity in APES 110 *Code of Ethics for Professional Accountants* (the Code). The current definition of Public Interest Entity contained in the Code is the same as IESBA's definition without any modifications.

APESB issued a Consultation Paper on the proposed amendments to the definition of Public Interest Entity of the Code in June 2011. APESB received 12 submissions from stakeholders including the Joint Accounting Bodies, Australian Securities and Investments Commission, Auditing and Assurance Standards Board, Australasian Council of Auditors-General and Firms. The respondents' comments were considered by APESB in the development of this proposed definition of Public Interest Entity in the Australian context.

Key requirements and guidance in ED 03/11

The Code imposes stricter auditor independence requirements such as partner rotation on Public Interest Entities.

The proposed amendments to the definition of Public Interest Entities in paragraphs 290.25 and 290.26 are:

- Expressing Public Interest Entity in paragraph 290.25 in the singular form similar to its definition in section 2;
- Amending paragraph 290.26 to mandate Firms to determine whether additional entities are Public Interest Entities;
- Removing "member bodies" from paragraph 290.26 as their inclusion is not applicable in the Australian context; and
- Inserting two AUST paragraphs which provide guidance on entities in Australia that are Public Interest Entities (AUST 290.25.1) and those that are likely to be Public Interest Entities (AUST 290.26.1).

Other sections of the Code that require amendments are:

- Transitional Provisions; and
- Conformity with International Pronouncements.

Proposed operative date

It is intended that the proposed amendments to the Code will be effective from 1 January 2013.

Request for comments

Comments are invited on this Exposure Draft to amend the Definition of Public Interest Entity in APES 110: *Code of Ethics for Professional Accountants* by **10 October 2011**.

APESB would prefer that respondents express a clear overall opinion on whether the proposed amendments to the Code, as a whole, are supported and that this opinion be supplemented by detailed comments, whether supportive or critical, on any matter. APESB regards both critical and supportive comments as essential to a balanced view of the proposed Standard.

Section 290 Independence – Audit and Review Engagements

[Paragraphs 290.1 – 290.24 of extant Section 290 remain unchanged.]

Public Interest Entities

290.25 Section 290 contains additional provisions that reflect the extent of public interest in certain entities. For the purpose of this section, ~~a~~ Public Interest Entity ~~ies is are~~:

- (a) ~~A All~~ Listed Entity ~~ies; or and~~
- (b) ~~An Any~~ entity (a) defined by regulation or legislation as a public interest entity; or (b) for which the audit is required by regulation or legislation to be conducted in compliance with the same Independence requirements that apply to the audit of Listed Entities. Such regulation may be promulgated by any relevant regulator, including an audit regulator.

AUST 290.25.1 The following entities in Australia satisfy the conditions in paragraph 290.25:

- Listed Entities as defined in Section 9 of the Corporations Act 2001;
- Authorized Deposit-taking Institutions that are subject to Prudential Standard APS 510 Governance issued by the Australian Prudential Regulatory Authority (APRA);
- General Insurance Companies that are subject to Prudential Standard GPS 510 Governance issued by APRA; and
- Life Insurance Companies that are subject to Prudential Standard LPS 510 Governance issued by APRA.

290.26 Firms ~~and member bodies shall be encouraged to~~ determine whether to treat additional entities, or certain categories of entities, as Public Interest Entities because they have a large number and wide range of stakeholders. Factors to be considered include:

- The nature of the business, such as the holding of assets in a fiduciary capacity for a large number of stakeholders. Examples may include financial institutions, such as banks and insurance companies and pension funds;
- Size; and
- Number of employees.

AUST 290.26.1 The following entities in Australia will generally satisfy the conditions in paragraph 290.26 as having a large number and wide range of stakeholders and thus are likely to be classified as Public Interest Entities. In each instance Firms shall consider the nature of the business, its size and the number of its employees.

- Disclosing Entities as defined in Section 111AC of the Corporations Act 2001;
- Regulated Superannuation Funds other than small APRA funds as defined by APRA Superannuation Circular No. III.E.1 Regulation of Small APRA Funds, December 2000; and
- Other issuers of debt and equity instruments to the public.

[Paragraph 290.27 – 290.514 remain unchanged.]

TRANSITIONAL PROVISIONS

The Code is subject to the following transitional provisions:

Public Interest Entities

1. Section 290 of the Code contains additional Independence provisions when the Audit or Review Client is a Public Interest Entity. The additional provisions that are applicable because of the new definition of a Public Interest Entity or the [guidance requirements](#) in paragraph 290.26 are effective on January 1, 201~~3~~². For partner rotation requirements, the transitional provisions contained in paragraphs 2 and 3 below apply.

Partner Rotation

2. For a partner who is subject to the rotation provisions in paragraph 290.151 because the partner meets the definition of the new term "Key Audit Partner," and the partner is neither the Engagement Partner nor the individual responsible for the Engagement Quality Control Review, the rotation provisions are effective for the Audits or Reviews of Financial Statements for years beginning on or after January 1, 201~~3~~². For example, in the case of an Audit Client with a calendar year-end, a Key Audit Partner, who is neither the Engagement Partner nor the individual responsible for the Engagement Quality Control Review, who had served as a Key Audit Partner for seven or more years (i.e., the audits of 200~~5~~³ – 201~~1~~⁰), would be required to rotate after serving for one more year as a Key Audit Partner (i.e., after completing the 201~~2~~⁴ audit).
3. For an Engagement Partner or an individual responsible for the Engagement Quality Control Review who immediately prior to assuming either of these roles served in another Key Audit Partner role for the client, and who, at the beginning of the first fiscal year beginning on or after January 01, 201~~2~~⁴, had served as the Engagement Partner or individual responsible for the Engagement Quality Control Review for six or fewer years, the rotation provisions are effective for the audits or reviews of Financial Statements for years beginning on or after January 01, 201~~3~~². For example, in the case of an Audit Client with a calendar year-end, a partner who had served the client in another Key Audit Partner role for four years (i.e., the audits of 2002-2005) and subsequently as the Engagement Partner for five years (i.e., the audits of 2006-2010) would be required to rotate after serving for one more year as the Engagement Partner (i.e., after completing the 2011 audit).

Non-assurance services

4. Paragraphs 290.156-290.219 address the provision of non-assurance services to an Audit or Review Client. If, at the effective date of the Code, services are being provided to an Audit or Review Client and the services were permissible under the June 2006 Code (revised February 2008) but are either prohibited or subject to restrictions under the revised Code, the Firm may continue providing such services only if they were contracted for and commenced prior to July 1, 2011, and are completed before January 1, 201~~3~~².

Fees – Relative Size

5. Paragraph 290.222 provides that, in respect of an Audit or Review Client that is a Public Interest Entity, when the total fees from that client and its related entities (subject to the considerations in paragraph 290.27) for two consecutive years represent more than 15% of the total fees of the Firm expressing the opinion on the Financial Statements, a pre- or post-issuance review (as described in paragraph 290.222) of the second year's audit shall be performed. This requirement is effective for Audits or Reviews of Financial Statements covering years that begin on or after January 01, 2013~~4~~. For example, in the case of an Audit Client with a calendar year end, if the total fees from the client exceeded the 15% threshold for 201~~2~~~~4~~ and 201~~3~~~~2~~, the pre- or post-issuance review would be applied with respect to the audit of the 201~~3~~~~2~~ Financial Statements.

Compensation and Evaluation Policies

6. Paragraph 290.229 provides that a Key Audit Partner shall not be evaluated or compensated based on that partner's success in selling non-assurance services to the partner's Audit Client. This requirement is effective on January 1, 201~~3~~~~2~~. A Key Audit Partner may, however, receive compensation after January 1, 201~~3~~~~2~~ based on an evaluation made prior to January 1, 201~~3~~~~2~~ of that partner's success in selling non-assurance services to the Audit Client.

CONFORMITY WITH INTERNATIONAL PRONOUNCEMENTS

APES 110 and the IESBA Code

APES 110 incorporates the *Code of Ethics for Professional Accountants* (IESBA Code) issued by the International Ethics Standards Board for Accountants (IESBA) in July 2009.

Compliance with the IESBA Code

The principles and requirements of APES 110 and the IESBA Code are consistent except for the following:

- The addition of a Scope and Application section in APES 110;
- The addition of paragraphs and definitions prefixed as AUST in APES 110. The additional definitions are of AASB, Administration, AuASB, AUASB, Auditing and Assurance Standards, Australian Accounting Standards and Member;
- APES 110 generally refers to Members whereas the IESBA Code refers to professional accountants;
- Defined terms are in title case in APES 110;
- APES 110 tailors the following IESBA defined terms to the Australian environment: Audit Engagement, Engagement Team, Financial Statements, Firm, Member in Public Practice, and Review Engagement;
- [Paragraph 290.25 of APES 110 expresses Public Interest Entity in the singular form consistent with its definition in section 2;](#)
- [Paragraph 290.26 in APES 110 mandates Firms to determine whether additional entities are Public Interest Entities and the reference to Member Bodies has been removed; and](#)
- Unless strict requirements are met, APES 110 prohibits Members in Public Practice from providing accounting and bookkeeping services and preparing tax calculations for Audit Clients which are Public Interest Entities, even in emergency situations (refer paragraphs 290.172 – 290.173 and 290.185).

Effective Date:

The revisions are effective from 1 January 2013.