Exposure Draft
August 2012
Comments due: December 15, 2012

International Ethics Standards Board for Accountants

Responding to a Suspected Illegal Act

International Ethics Standards Board for Accountants

This Exposure Draft was developed and approved by the International Ethics Standards Board for Accountants (IESBA).

The IESBA is an independent standard-setting board that develops and issues high-quality ethical standards and other pronouncements for professional accountants worldwide. Through its activities, the IESBA develops the *Code of Ethics for Professional Accountants*, which establishes ethical requirements for professional accountants.

The objective of the IESBA is to serve the public interest by setting high-quality ethical standards for professional accountants and by facilitating the convergence of international and national ethical standards, including auditor independence requirements, through the development of a robust, internationally appropriate code of ethics.

The structures and processes that support the operations of the IESBA are facilitated by the International Federation of Accountants (IFAC).

REQUEST FOR COMMENTS

This Exposure Draft, *Responding to a Suspected Illegal Act*, was developed and approved by the International Ethics Standards Board for Accountants (IESBA).

The proposals in this Exposure Draft may be modified in light of comments received before being issued in final form. **Comments are requested by December 15, 2012.**

Respondents are asked to submit their comments electronically through the IESBA website, using the "Submit a Comment" link. Please submit comments in both a PDF and Word file. Also, please note that first-time users must register to use this feature. All comments will be considered a matter of public record and will ultimately be posted on the website. Although IESBA prefers that comments are submitted via its website, comments can also be sent to Jan Munro, IESBA Deputy Director at janmunro@ethicsboard.org.

This publication may be downloaded free of charge from the IESBA website: www.ethicsboard.org. The approved text is published in the English language.

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EXPLANATORY MEMORANDUM

Introduction

This memorandum provides background for, and an explanation of, the proposed changes to the *Code of Ethics for Professional Accountants* (the Code) to address the circumstances where a professional accountant in public practice or business shall, or has a right to, override the fundamental principle of confidentiality and disclose a suspected illegal act to an appropriate external authority. The International Ethics Standards Board for Accountants (IESBA) approved these proposed changes for exposure in June 2012.

The IESBA welcomes all comments on the proposed changes. In addition to general comments, the IESBA welcomes comments on the specific questions that are contained at the end of this memorandum.

Background

Confidentiality is one of the five fundamental principles in the Code. The principle imposes an obligation on all professional accountants to refrain from disclosing outside their accounting firm or employing organization confidential information acquired as a result of professional and business relationships without proper and specific authority or unless there is a legal or professional right or duty to disclose. Section 140, *Confidentiality* identifies three circumstances where professional accountants are required, or may be required, to disclose confidential information:

- Disclosure is permitted by law and is authorized by the client or the employer;
- Disclosure is required by law; and
- There is a professional duty or right to disclosure when not prohibited by law.

In November 2010, the IESBA approved a project proposal to provide additional guidance for all professional accountants on how to respond when encountering a suspected fraud or illegal act. The project was to address two main elements, the process to be followed when a professional accountant encounters a suspected fraud or illegal act, and the circumstances in which a professional accountant would override the fundamental principle of confidentiality and disclose the matter to an appropriate authority.

The project proposal stated that the initial presumption of the project should be to restrict the matters to be addressed to suspected fraud and illegal acts (as defined by International Standards on Auditing [ISAs] as issued by the International Auditing and Assurance Standards Board [IAASB]). The project proposal, however, called for a consideration of whether the scope of the project should be wider to address, for example, personal misconduct and matters that are “unethical” or “improper.”

The IESBA recognizes that ISA 250, *Consideration of Laws and Regulations in an Audit of Financial Statements* states that the auditor’s professional duty to maintain confidentiality of client information may preclude reporting identified or suspected non-compliance with laws and regulations to a party outside of the entity. Subject to responses to the proposals on exposure, the IAASB will consider whether consequential changes to ISA 250 may be needed in light of changes to the Code. The IESBA will liaise with the IAASB in this regard.

Significant Matters

General Approach

The IESBA determined that a fraud is also an illegal act and, therefore, the proposal should address illegal acts and it was not necessary to also refer to frauds.

The proposed new sections address only suspected illegal acts. The IESBA is proposing some amendments to other sections of the Code to address the professional accountant's consideration for responding to unethical acts, that are not potentially illegal and not otherwise addressed in the Code. For such acts, the professional accountant is required to identify threats that are created by such acts, evaluate their significance, take steps to address them and, if appropriate, terminate the relationship or employment.

The proposal addresses *suspected* illegal acts because whether an act is illegal is ultimately a matter for legal determination by a court of law.

The proposal would require a professional accountant when encountering a suspected illegal act to take reasonable steps to confirm or dispel the suspicion and to discuss the matter with the appropriate level of management. If the response of those with whom the matter has been discussed is not appropriate, the professional accountant shall escalate the matter to higher levels of management and those charged with governance, as appropriate. In the case of a suspected illegal act at a subsidiary level in a group of companies, this escalation would normally include escalation to the parent level as the management at the parent level would be responsible for governance in subsidiaries. If the response is not appropriate and, in the judgment of the professional accountant, the suspected illegal act is of such consequence that disclosure would be in the public interest:

- a professional accountant providing professional services to an audit client would be required to disclose certain illegal acts to an appropriate authority; and
- a professional accountant providing non-audit services to a client that is not an audit client and a professional accountant in business would be required to disclose the matter to the entity's external auditor, if any, and, in certain circumstances, would have a right to disclose certain illegal acts to an appropriate authority and would be expected to exercise that right.

The proposals require a professional accountant to consider any applicable legal or regulatory requirements and to comply with the requirements. The proposals also require a professional accountant to consider whether it is appropriate to terminate the professional relationship with the client or resign from the employing organization. Termination or resignation is not a substitute for disclosure to an appropriate authority.

The proposals provide that in exceptional circumstances the professional accountant would not be required to disclose the matter or be expected to exercise the right to disclose the matter.

The proposals require documentation of the steps the professional accountant took to respond to suspected illegal acts.

Description of an Illegal Act

The proposal describes illegal acts as acts of omission or commission, intentional or unintentional, committed by a client, or by those charged with governance, management or employees of a client which are contrary to the prevailing laws or regulations. Personal misconduct unrelated to the business activities of the entity is excluded. This description is consistent with ISA 250, *Consideration of Laws and*

Regulations in an Audit of Financial Statements. The IESBA is of the view that it is appropriate to exclude personal misconduct unrelated to the business activities of the entity because if a professional accountant were to acquire information about such acts it would not be subject to the confidentiality requirements of the Code. Information about such acts would not be considered to be "acquired as a result of professional and business relationships." A professional accountant's rights and responsibilities with respect to disclosing such acts would be the same as for any other member of society.

Level of Suspicion

The proposal would require the professional accountant to take reasonable steps to confirm or dispel the suspicion that an illegal act has occurred and would require communication to management. Through escalating the matter, the professional accountant would obtain additional information about the suspected illegal act. This would mean that before reaching the stage where disclosure to an appropriate authority would be required or expected the professional accountant would have been able to reach a reasonable level of suspicion.

Appropriateness of Action Taken

The proposal requires the professional accountant to determine whether the response of the client or employing organization to the suspected illegal act is appropriate. The determination of whether the response is appropriate will require professional judgment and include a consideration of the nature and magnitude of the matter and factors such as whether:

- The matter has been adequately investigated;
- Remedial action has been taken to address the matter; and
- Appropriate steps have been taken to reduce the risk of re-occurrence, such as for example, additional controls or training.

Disclosure in the Public Interest

Public Interest

The proposal would require a professional accountant to determine whether certain suspected illegal acts are of such consequence that disclosure to an appropriate authority would be in the public interest. In making this determination, the professional accountant shall take into account whether a reasonable and informed third party, weighing all the specific facts and circumstances, would be likely to conclude that the suspected illegal act is of such consequence that disclosure would be in the public interest. The determination will require professional judgment and consideration of the nature and magnitude of the matter, including the number of people that could be affected by the suspected illegal act and the extent to which those people could be affected, irrespective of the size of the client or employing organization.

The IESBA is of the view that the reasonable and informed third party test is appropriate in determining whether disclosure would be in the public interest. The IESBA considered whether the proposal should contain additional factors that the professional accountant would consider in determining whether disclosure was in the public interest, including the significance of the act to financial reporting and the likelihood of re-occurrence. The IESBA concluded that including such factors was not appropriate in the context of the wide range of circumstances that could be encountered.

Types of Suspected Illegal Acts to be Disclosed

The IESBA considered the types of illegal acts that a professional accountant would be required, or have a right, to disclose to an appropriate authority. The IESBA is of the view that such acts are those that are related to the expertise and responsibilities of the professional accountant in his or her particular role:

- For a professional accountant in public practice providing services to an audit client:
  - Suspected illegal acts that directly or indirectly affect the client's financial reporting; and
  - Suspected illegal acts the subject matter of which falls within the expertise of the professional accountant;
- For a professional accountant in public practice providing services to a non-audit client:
  - Suspected illegal acts that relate to the subject matter of the professional services being provided by the professional accountant;
- For a professional accountant in business:
  - Suspected illegal acts that directly or indirectly affect the employing organization's financial reporting; and
  - Suspected illegal acts the subject matter of which falls within the expertise of the professional accountant.

For professional accountants in public practice providing services to an audit client, it is appropriate that the suspected illegal acts to be disclosed are those within the expertise of the professional accountant and suspected illegal acts that affect the client's financial reporting. The IESBA is of the view that this is a broad range of illegal acts and likely would include for example, non compliance with securities legislation.

For professional accountants in public practice providing services to a non-audit client, it is appropriate that the suspected illegal acts to be disclosed are only those related to the subject matter of the professional services. This recognizes the limited scope of such engagements.

For other categories of suspected illegal acts, a professional accountant would have the same rights and responsibilities as any other member of society.

Requirement or Right to Disclose

In considering whether a professional accountant should have a requirement or a right to disclose certain suspected illegal acts to an appropriate authority when reporting would be in the public interest, the IESBA considered various factors supporting each approach.

With respect to factors supporting a requirement, the IESBA considered the following:

- As noted in the first paragraph of the Code, a distinguishing mark of the accountancy profession is its acceptance of the responsibility to act in the public interest. It is, therefore, appropriate to require a professional accountant to disclose a suspected illegal act to an appropriate authority, if such disclosure would be in the public interest;
- Requiring disclosure will result in disclosure occurring more consistently in these situations than providing a right to disclose because there will be less discretion for the accountant to determine whether to disclose;

- The proposed approach requires the professional accountant to escalate the matter within the client or employing organization and recognizes that the client or employing organization has the primary responsibility for disclosure to an appropriate authority. Disclosure by the professional accountant would represent a last resort when the client or employing organization has not disclosed and the professional accountant determines that such disclosure is in the public interest.
- A requirement will result in disclosure of more suspected illegal acts than would a right to disclose, which may have a deterrent effect on the client or employing organization, thus potentially reducing the number of illegal acts being committed; and
- The ultimate determination of whether it is in the public interest to take action against those who committed the act should be made by an appropriate authority and not the professional accountant. It is therefore appropriate to require the accountant to disclose the matter to provide the authority with notification such that it can then investigate the matter further and determine whether action should be taken against those who committed the act.

With respect to factors supporting a right, the IESBA considered the following:

- Requirements to disclose illegal acts are normally established by law and are generally accompanied by regulations that afford protection from retaliation to those who make such disclosures. Such protective mechanisms can only be established by law and it is not possible for the IESBA to establish protective mechanisms for professional accountants who have to comply with the Code. It is disproportionate to establish a requirement to disclose without providing those who would be required to make the disclosures with any protective mechanisms.
- A requirement to disclose would be disproportionate in a country where there is uncertainty regarding the fairness of the judicial system. In such jurisdictions it would be more proportionate for the professional accountant to have the discretion to disclose rather than a requirement.
- Requiring all professional accountants to disclose suspected illegal acts would be disproportionate when compared with existing legislation in many countries. Requirements to disclose illegal acts under anti-money laundering legislation or securities laws generally apply only to professional accountants in public practice and not professional accountants in business or other employees. For such latter categories of individuals, legislation normally establishes a right to disclose, rather than a requirement, coupled with whistle-blowing protection mechanisms and, occasionally, incentives to disclose.
- What is deemed to be in the public interest will vary from person to person and it is unclear how the determination that a matter is in the public interest should be made. The subjective judgment required to make this determination could result in a wide range of conclusions and produce inconsistent results.
- The accountant may not have access to all the information needed to be able to confirm or dispel the suspicion that an illegal act was committed and a requirement may lead to an increase in disclosures of an erroneous nature.

After considering these factors, the IESBA concluded that a professional accountant in public practice providing professional services to an *audit client* of the firm, or a network firm, should be required to report certain suspected illegal acts to an appropriate authority, if the accountant determines that the suspected illegal act is of such consequence that reporting would be in the public interest and the entity has not self-reported.

The IESBA also concluded that professional accountants in public practice providing services to a *non-audit client* and professional accountants in business should have a requirement to disclose certain acts to the entity's external auditor and would then have a *right* to disclose such acts to an appropriate authority, if the accountant determines that the suspected illegal act is of such consequence that reporting would be in the public interest and the entity has not self-reported. The professional accountant would be expected to exercise this right in order to fulfill the accountant's responsibility to act in the public interest.

The IESBA is of the view that it is appropriate for an auditor to be required to disclose certain suspected illegal acts because of the auditor's role in safeguarding the public interest. The IESBA is of the view that imposing a requirement on other professional accountants in public practice and professional accountants in business would not be consistent with the role of such professional accountants which is more of a fiduciary nature towards the client and employer. In addition, a professional accountant providing services to a non-audit client may not have appropriate access to management or those charged with governance to adequately escalate the matter. A professional accountant in business also might not have this access. The IESBA proposes, therefore, that such accountants have a requirement to disclose the matter to the entity's external auditor. Having received the disclosure, the external auditor would then be required to follow the outlined process and ultimately the external auditor may be required to disclose the matter to an appropriate authority.

Entities with No External Auditor

The IESBA recognizes that some entities, especially smaller entities, do not have an external auditor. In such circumstances it is likely that due to the size of the entity the professional accountant would have the ability to escalate the matter. If the response to the matter is not appropriate, the professional accountant would have a right to disclose the suspected illegal act to an appropriate authority. The types of illegal acts to which such disclosure would apply would be those of such consequence that reporting would be in the public interest. However, the IESBA is of the view that for smaller entities which have no external auditor, there is a low probability of occurrence of illegal acts of such consequence and as such is of the view that such circumstances would be rare.

Exceptional Circumstances

The IESBA recognizes that in exceptional circumstances it would not be appropriate to require a professional accountant to disclose a suspected illegal act to an appropriate authority, or expect the accountant to exercise the right to disclose. The provisions, therefore, provide that in exceptional circumstances disclosure is not required or expected. Such exceptional circumstances would arise where a reasonable and informed third party would conclude the consequences of disclosure are so severe as to justify not disclosing. An example of such an exceptional circumstance would be threats to the physical safety of the professional accountant or others. Circumstances of a commercial nature, such as the loss of a client or income, would not constitute exceptional circumstances. The IESBA is of the view that commercial consequences to the professional accountant or others are not sufficient ground to warrant justification for not disclosing.

If the professional accountant determines not to disclose because exceptional circumstances exist, the proposals call for the professional accountant to determine whether to terminate the professional relationship with the client (in the case of a professional accountant in public practice) or resign from the employing organization (in the case of a professional accountant in business). In the case of a professional accountant providing professional services to an audit client, the proposals also require the professional accountant to determine whether it is appropriate to provide professional services in the particular jurisdiction. The IESBA is of the view that such actions are consistent with a professional accountant's responsibility to act in the public interest.

Documentation

The proposal would require the professional accountant to document the steps taken to respond to suspected illegal acts. The documentation shall include the persons consulted, responses received, and the disclosure, if any, made to an appropriate authority. The IESBA considered whether there should be a materiality threshold for such documentation and concluded that this would not be appropriate. The IESBA noted that ISA 260, *Consideration of Laws and Regulations on an Audit of Financial Statements* requires documentation of identified or suspected non-compliance with laws and regulations without regard to materiality. The IESBA recognized that professional accountants in business may encounter a larger number of immaterial suspected illegal acts. The proposal does not require extensive documentation of every individual suspected illegal act. For example, in an organization in the retail industry that is susceptible to regular but minor acts of pilferage, the IESBA is of the view that the documentation requirements would be met by having a policy or procedure to address such matters. In short, the level of documentation would be commensurate with the gravity of the suspected illegal act.

The proposal would also require documentation when the professional accountant, due to exceptional circumstances, did not make the required or expected disclosure to an appropriate authority. The documentation would include:

- the rationale for not disclosing;
- if the accountant did not terminate the professional relationship or resign from the employing organization, the rationale for not doing so; and
- in the case of a professional accountant providing services to an audit client of the firm or a network firm, if the accountant determined it was appropriate to continue providing professional services in the particular jurisdiction, the rationale for doing so.

The IESBA is of the view that it would only be in exceptional circumstances that a professional accountant would determine that it was not appropriate to make the required or expected disclosure to an appropriate authority. It is therefore, appropriate that such circumstances and the rationale for not disclosing be comprehensively documented. The IESBA is of the view that maintaining such documentation is also in the interest of the professional accountant.

Analysis of Overall Impact of the Proposed Changes[1]

The IESBA is pilot testing the use of impact analysis to convey the results of its assessment of the potential impact that proposed amendments to the Code may have. The impact analysis is contained in the appendix to this document.

Effective Date

The IESBA proposes that the effective date for the changes be one year after approval of the final standard. The IESBA is of the view that implementation would not require major changes to established procedures and therefore a relatively short transition period is appropriate.

[1] Impacts are presented in tabular format in the Appendix.

Project Timetable

Subject to comments received on exposure of proposed changes, the IESBA intends to finalize the revisions to the Code in the second half of 2013.

Guide for Respondents

The IESBA welcomes comments on all matters addressed in the Exposure Draft. Comments are most helpful when they refer to specific paragraphs, include the reasons for the comments, and, where appropriate, make specific suggestions for any proposed changes to wording. When a respondent agrees with proposals in this Exposure Draft (especially those calling for change in current practice), it will be helpful for the IESBA to be made aware of this view.

Request for Specific Comments

The IESBA would welcome views on the following questions:

1. Do respondents agree that if a professional accountant identifies a suspected illegal act, and the accountant is unable to dispel the suspicion, the accountant should be required to discuss the matter with the appropriate level of management and then escalate the matter to the extent the response is not appropriate? If not, why not and what action should be taken?
2. Do respondents agree that if the matter has not been appropriately addressed by the entity, a professional accountant should at least have a right to override confidentiality and disclose certain illegal acts to an appropriate authority?
3. Do respondents agree that the threshold for reporting to an appropriate authority should be when the suspected illegal act is of such consequence that disclosure would be in the public interest? If not, why not and what should be the appropriate threshold?

Matters specific to professional accountants in public practice (Section 225 of the Code)

4. Do respondents agree that the standard for a professional accountant in public practice providing services to an audit client should differ from the standard for a professional accountant in public practice providing services to a client that is not an audit client? If not, why not?
5. Do respondents agree that an auditor should be required to override confidentiality and disclose certain suspected illegal acts to an appropriate authority if the entity has not made adequate disclosure within a reasonable period of time after being advised to do so? If not, why not and what action should be taken?
6. Do respondents agree that a professional accountant providing professional services to an audit client of the firm or a network firm should have the same obligation as an auditor? If not, why not and what action should be taken?
7. Do respondents agree that the suspected illegal acts to be disclosed referred to in question 5 should be those that affect the client’s financial reporting, and acts the subject matter of which falls within the expertise of the professional accountant? If not, why not and which suspected illegal acts should be disclosed?
8. Do respondents agree that a professional accountant providing professional services to a client that is not an audit client of the firm or a network firm who is unable to escalate the matter within the

client should be required to disclose the suspected illegal act to the entity's external auditor, if any? If not, why not and what action should be taken?

9. Do respondents agree that a professional accountant providing professional services to a client that is not an audit client of the firm or a network firm should have a right to override confidentiality and disclose certain illegal acts to an appropriate authority and be expected to exercise this right? If not, why not and what action should be taken?

10. Do respondents agree that the suspected illegal acts to be disclosed referred to in question 9 should be those acts that relate to the subject matter of the professional services being provided by the professional accountant? If not, why not and which suspected illegal acts should be disclosed?

Matters specific to professional accountants in business (Section 360 of the Code)

11. Do respondents agree that a professional accountant in business who is unable to escalate the matter within the client or who has doubts about the integrity of management should be required to disclose the suspected illegal act to the entity's external auditor, if any? If not, why not and what action should be taken?

12. Do respondents agree that a professional accountant in business should have a right to override confidentiality and disclose certain illegal acts to an appropriate authority and be expected to exercise this right? If not, why not and what action should be taken?

13. Do respondents agree that the suspected illegal acts to be disclosed referred to in question 12 above should be acts that affect the employing organization's financial reporting, and acts the subject matter of which falls within the expertise of the professional accountant? If not, why not and which suspected illegal acts should be disclosed?

Other

14. Do respondents agree that in exceptional circumstances a professional accountant should not be required, or expected to exercise the right, to disclose certain illegal acts to an appropriate authority? If not, why not and what action should be taken?

15. If respondents agree that in exceptional circumstances a professional accountant should not be required, or expected to exercise the right, to disclose certain illegal acts to an appropriate authority, are the exceptional circumstances as described in the proposal appropriate? If not, how should the exceptional circumstances be described?

16. Do respondents agree with the documentation requirements? If not, why not and what documentation should be required?

17. Do respondents agree with the proposed changes to the existing sections of the Code? If not, why not and what changes should be made?

18. Do respondents agree with the impact analysis as presented? Are there any other stakeholders, or other impacts on stakeholders, that should be considered and addressed by the IESBA?

PROPOSED ADDITIONS TO THE CODE OF ETHICS FOR PROFESSIONAL ACCOUNTANTS ADDRESSING ILLEGAL ACTS

Section 225 below would be added to Part B of the Code—Professional Accountants in Public Practice.

SECTION 225

Responding to a Suspected Illegal Act

225.1 This section describes the circumstances where a professional accountant in public practice shall or has a right to override the fundamental principle of confidentiality and disclose a suspected illegal act to an appropriate authority. For the purposes of this section, illegal acts comprise acts of omission or commission, intentional or unintentional, committed by a client, or by those charged with governance, management or employees of a client which are contrary to the prevailing laws or regulations. Personal misconduct unrelated to the business activities of the entity is excluded. This section refers to suspected illegal acts because whether a matter constitutes an illegal act is ultimately a matter for legal determination by a court of law.

225.2 If a professional accountant in public practice identifies a suspected illegal act, the accountant shall consider whether there are any applicable legal or regulatory requirements governing how the suspected illegal act is to be addressed and, if so, the accountant shall comply with those requirements. When required by law or regulation to disclose a suspected illegal act, for example as a result of anti-money laundering legislation, a professional accountant in public practice shall make the disclosure in compliance with the relevant legal or regulatory requirements and comply with any prohibitions on alerting ("tipping-off") the client to the pending disclosure.

225.3 If the professional accountant in public practice identifies a suspected illegal act, the accountant shall consider whether it is appropriate, based on all relevant facts and circumstances, to terminate the professional relationship with the client. Termination shall not be a substitute for disclosure to an appropriate authority as discussed in this section.

225.4 For the purposes of this section, "audit client" is the entity in respect of which a firm conducts an audit engagement and related entities over which the client has direct or indirect control.

Professional Accountant Providing Professional Services to an Audit Client

225.5 If a professional accountant in public practice providing professional services to an audit client of the firm or network firm acquires, or receives, information that leads the accountant to suspect that an illegal act has been committed by the audit client, or by those charged with governance, management or employees of the audit client, the accountant shall take reasonable steps to confirm or dispel that suspicion. In doing so, the professional accountant is expected to apply knowledge, judgment and expertise when considering the matter, but is not expected to have detailed knowledge of laws and regulations beyond that which is required for the professional service for which the accountant was engaged. In taking reasonable steps to confirm or dispel the suspicion, the professional accountant may wish to consult with others within the firm, a network firm or, on an anonymous basis, a relevant professional body. If the professional accountant in public practice is performing a non-audit service for an audit client of the firm, or a network firm, the accountant shall consult with the engagement partner for the audit.

225.6 If the professional accountant is unable to dispel the suspicion, the accountant shall discuss the matter with the appropriate level of management. The determination of which level of management is the appropriate one is a matter of professional judgment and is affected by factors such as the nature of the act, the circumstances and individuals involved, the likelihood of collusion and the magnitude of the matter. The appropriate level of management is generally at least one level above the person or persons who appear to be involved in the matter.

225.7 If, in the accountant's professional judgment, the response to the matter is not appropriate, the professional accountant shall escalate the matter to higher levels of management, within the entity and the group, as appropriate. If the highest level of management has not appropriately addressed the matter, the professional accountant shall discuss the matter with those charged with governance of the entity or the group, as appropriate. In any case the matter shall be discussed with those charged with governance as required by applicable auditing standards.

225.8 If the professional accountant has doubts about the integrity or honesty of management or suspects that management is involved in the suspected illegal act, the accountant shall discuss the matter directly with those charged with governance. If the professional accountant has doubts about the integrity or honesty of those charged with governance or suspects that those charged with governance are implicated in the suspected illegal act, the accountant may consider it appropriate to discuss the matter with the relevant professional body on an anonymous basis or with a legal advisor under the protection of legal privilege to assist in determining the appropriate course of action.

225.9 When determining if the response to the matter is appropriate the professional accountant shall consider the nature and magnitude of the matter and factors such as whether:

- The matter has been adequately investigated;
- Remedial action has been taken to address the matter; and
- Appropriate steps have been taken to reduce the risk of re-occurrence, such as for example, additional controls or training.

225.10 If the professional accountant or the engagement partner for the audit determines that the suspected illegal act is of such consequence that disclosure to an appropriate authority would be in the public interest, there is an appropriate authority to receive the disclosure, and the matter has not been disclosed, the accountant or the engagement partner for the audit shall advise the entity that the matter should be disclosed to the appropriate authority.

225.11 In making the determination as to whether disclosure would be in the public interest, the professional accountant shall take into account whether a reasonable and informed third party, weighing all the specific facts and circumstances, would be likely to conclude that the suspected illegal act is of such consequence that disclosure would be in the public interest. The determination will require professional judgment and consideration of the nature and magnitude of the matter, including the number of people that could be affected by the suspected illegal act and the extent to which those people could be affected.

225.12 An appropriate authority is one with responsibility for such a matter. In many instances, that authority will have the ability to investigate and take action to safeguard the public interest. The appropriate authority to which to disclose the matter will depend on the nature of the suspected illegal act for example a competition regulator in the case of a suspected cartel arrangement, and a securities regulator in the case of suspected fraudulent financial reporting in a listed entity.

225.13 If the entity has not made an adequate disclosure within a reasonable period of time, after being advised to do so, the professional accountant or the engagement partner for the audit shall disclose the following to the appropriate authority:

- Suspected illegal acts that directly or indirectly affect the client's financial reporting.
- Suspected illegal acts the subject matter of which falls within the expertise of the professional accountant.

225.14 In exceptional circumstances a professional accountant in public practice is not required, under this section, to disclose the suspected illegal act. Exceptional circumstances would arise where a reasonable and informed third party would conclude that the consequences of disclosure are so severe as to justify not complying with the requirement to disclose, for example, where there would be threats to the physical safety of the professional accountant or other individuals. Where the consequences of disclosure for the professional accountant or others are of a commercial nature, such as the potential loss of a client or income, this would not constitute exceptional circumstances. In such cases the accountant shall determine whether to terminate the professional relationship with the client and whether it is appropriate to continue to provide professional services in the particular jurisdiction.

225.15 When making a disclosure to an appropriate authority, and thus overriding the fundamental principle of confidentiality, the professional accountant shall act reasonably, in good faith and exercise caution when making statements and assertions.

Professional Accountant Providing Professional Services to a non Audit Client

225.16 If a professional accountant in public practice providing professional services to a client that is not an audit client of the firm or of a network firm acquires, or receives, information that leads the accountant to suspect that an illegal act has been committed by the client, or by those charged with governance, management or employees of the client, the professional accountant shall follow the process outlined in paragraphs 225.5 - 225.9. If the professional accountant is unable to escalate the matter, the professional accountant shall disclose the matter to the external auditor, if any, to enable the external auditor to escalate the matter.

225.17 If the professional accountant determines that the suspected illegal act is of such consequence that disclosure would be in the public interest, there is an appropriate authority to receive the disclosure, and the matter has not been disclosed, the accountant shall advise the entity that the matter should be disclosed to the appropriate authority. If the entity has not made an adequate disclosure within a reasonable period of time, after being advised to do so, the professional accountant shall disclose the matter to the external auditor, if any, if the accountant has not already done so. In determining whether disclosure would be in the public interest and whether there is an appropriate authority to receive the disclosure, the professional accountant shall follow the guidance in paragraphs 225.11 and 225.12.

225.18 If the suspected illegal act relates to the subject matter of the professional services being provided by the professional accountant, and, after having disclosed the matter to the external auditor if any, in the accountant's professional judgment the response to the matter continues to be not appropriate the accountant has a right to disclose the matter to an appropriate authority. A professional accountant is expected to exercise this right in order to fulfill the accountant's responsibility to act in the public interest.

225.19 If the client is an individual and the professional accountant is unable to dispel the suspicion, the accountant shall discuss the matter with the individual. If the client admits to the suspected illegal act the professional accountant shall advise the client to disclose the matter to an appropriate authority, if there is an appropriate authority to receive the disclosure. If the client refuses to disclose the matter, or does not admit to the suspected illegal act, the professional accountant shall determine whether to terminate the professional relationship with the individual. If the professional accountant determines that the suspected illegal act is of such consequence that disclosure would be in the public interest and the subject matter of the illegal act falls within the expertise of the professional accountant, the accountant has a right to disclose the matter to an appropriate authority. A professional accountant is expected to exercise this right in order to fulfill the accountant's responsibility to act in the public interest.

225.20 In exceptional circumstances a professional accountant would not be expected to exercise the right to disclose to an appropriate authority under paragraphs 225.18 and 225.19. Exceptional circumstances would arise where a reasonable and informed third party would conclude that the consequences of disclosure are so severe as to justify not exercising the right to disclose, for example where there would be threats to the physical safety of the professional accountant or other individuals. Where the consequences of disclosure for the professional accountant or others are of a commercial nature, such as the potential loss of a client or income, this would not constitute exceptional circumstances. If the professional accountant does not exercise the right to disclose the accountant shall consider whether to terminate the professional relationship with the client.

225.21 When making a disclosure to an appropriate authority, and thus overriding the fundamental principle of confidentiality, the professional accountant shall act reasonably, in good faith and exercise caution when making statements and assertions.

Obtaining External Advice

225.22 In determining how to comply with the requirements of this section, including whether to disclose the suspected illegal act to an appropriate authority, and if so, to which authority, the professional accountant may wish to discuss the matter with the relevant professional body on an anonymous basis or with a legal advisor under the protection of professional privilege. In addition, the professional accountant may wish to seek legal advice to obtain an understanding of any protection afforded by legislation, such as that afforded in some jurisdictions under whistle-blowing legislation.

Documentation

225.23 The professional accountant shall document the steps the accountant took to respond to suspected illegal acts. The documentation shall include, the persons consulted, responses received, the disclosure, if any, made to an appropriate authority. If the accountant did not disclose the matter under paragraphs 225.14 or 225.20 the documentation shall also include:

- The rationale for not disclosing;
- If the accountant determined not to terminate the professional relationship with the client, the reason why; and
- If the accountant determined that it was appropriate to continue providing professional services in the particular jurisdiction, the reason why.

Section 360 below would be added to Part C of the Code—Professional Accountants in Business.

SECTION 360

Responding to a Suspected Illegal Act

360.1 This section describes the circumstances where a professional accountant in business has a right to override the fundamental principle of confidentiality and disclose a suspected illegal act to an appropriate authority. For the purposes of this section, illegal acts comprise acts of omission or commission, intentional or unintentional, committed by an employing organization, or by those charged with governance, management or employees of an employing organization which are contrary to the prevailing laws or regulations. Personal misconduct unrelated to the business activities of the entity is excluded. This section refers to suspected illegal acts because whether a matter constitutes an illegal act is ultimately a matter for legal determination by a court of law.

360.2 If a professional accountant in business identifies a suspected illegal act, the accountant shall consider whether there are any applicable legal or regulatory requirements governing how the suspected illegal act is to be addressed and, if so, the accountant shall comply with those requirements. When required by law or regulation to disclose a suspected illegal act, a professional accountant in business shall make the disclosure in compliance with the relevant legal or regulatory requirements.

360.3 If the professional accountant in business identifies a suspected illegal act, the accountant shall consider whether it is appropriate, based on all relevant facts and circumstances, to resign from the employing organization. Resignation shall not be a substitute for disclosure to an appropriate authority as discussed in this section.

360.4 If a professional accountant in business acquires, or receives, information that leads the accountant to suspect that an illegal act has been committed by an employing organization, or by those charged with governance, management or employees of an employing organization, the accountant shall take reasonable steps to confirm or dispel that suspicion. In doing so, the professional accountant is expected to apply knowledge, judgment and expertise when considering the matter, but is not expected to have detailed knowledge of laws and regulations beyond that which is required for the professional activity the accountant is undertaking. In taking reasonable steps to confirm or dispel the suspicion, the professional accountant may wish to consult with others within the organization or, on an anonymous basis, a relevant professional body.

360.5 If the professional accountant is unable to dispel the suspicion, the accountant shall determine the appropriate course of action, taking into account whether the organization has an established mechanism, such as an ethics policy, for addressing such matters.

360.6 The professional accountant shall generally first disclose a suspected illegal act within the reporting lines of the employing organization by reporting the matter to a superior. If, in the professional accountant's judgment, the response to the matter is not appropriate or the professional accountant suspects that the superior or management is involved in the suspected illegal act, the accountant shall:

- Escalate the matter within the entity, for example with higher levels of management, internal audit, or those charged with governance; or

- Disclose the matter in accordance with any established mechanism such as an ethics policy.

If the professional accountant is unable to escalate the matter or the professional accountant has doubts about the integrity or honesty of management and there is no established mechanism for reporting such matters such as an ethics hotline, the professional accountant shall disclose the matter to the external auditor, if any.

360.7 When determining if the response to the matter is appropriate, the professional accountant shall consider the nature and magnitude of the matter and factors such as whether:

- The matter has been adequately investigated;
- Remedial action has been taken to address the matter; and
- Appropriate steps have been taken to reduce the risk of re-occurrence, such as for example, additional controls or training.

360.8 If the professional accountant determines that the suspected illegal act is of such consequence that disclosure would be in the public interest, there is an appropriate authority to receive the disclosure, and the matter has not been disclosed, the accountant shall advise the employing organization that the matter should be disclosed to the appropriate authority. If the employing organization has not made an adequate disclosure within a reasonable period of time, the professional accountant shall disclose the matter to the external auditor if any, if the accountant has not already done so.

360.9 If, in the professional accountant's professional judgment, the response to the matter is not appropriate, the accountant has a right, to disclose the following to the appropriate authority:

- Suspected illegal acts that directly or indirectly affect the employing organization's financial reporting.
- Suspected illegal acts the subject matter of which falls within the expertise of the professional accountant.

A professional accountant is expected to exercise this right to disclose in order to fulfill the accountant's responsibility to act in the public interest.

360.10 In exceptional circumstances an accountant would not be expected to exercise the right to disclose. Exceptional circumstances would arise where a reasonable and informed third party would conclude that the consequences of disclosure are so severe as to justify not exercising the right to disclose for example, where there would be threats to the physical safety of the professional accountant or other individuals. If the professional accountant does not exercise this right the accountant shall consider whether to resign from the employing organization.

360.11 In making the determination as to whether disclosure would be in the public interest, the professional accountant shall take into account whether a reasonable and informed third party, weighing all the specific facts and circumstances would be likely to conclude that the suspected illegal act is of such consequence that disclosure would be in the public interest. The determination will require professional judgment and consideration of the nature and magnitude of the matter, including the number of people that could be affected by the suspected illegal act and the extent to which those people could be affected.

360.12 An appropriate authority is one with responsibility for such a matter. In many instances, that authority will have the ability to investigate and take action to safeguard the public interest. The appropriate authority to which to disclose the matter will depend upon the nature of the suspected illegal act; for example a competition regulator in the case of a suspected cartel and a securities regulator in the case of suspected fraudulent financial reporting in a listed entity.

360.13 In determining how to comply with the requirements of this section, including whether to disclose the suspected illegal act to an appropriate authority, and if so to which authority, the professional accountant may wish to discuss the matter with the relevant professional body on an anonymous basis or with a legal advisor under the protection of professional privilege. In addition the professional accountant may wish to seek legal advice to obtain an understanding of any protection afforded by legislation, such as that afforded in some jurisdictions under whistle-blowing legislation, if the accountant decides to disclose the matter to a party outside of the employing organization.

360.14 When making a disclosure to an appropriate authority, and thus overriding the fundamental principle of confidentiality, the professional accountant shall act reasonably, in good faith and exercise caution when making statements and assertions.

360.15 The professional accountant shall document the steps the accountant took to respond to suspected illegal acts. The documentation shall include the persons consulted, responses received, the disclosure, if any, made to an appropriate authority. If the accountant did not exercise the right to disclose, the documentation shall include:

- The rationale for not disclosing; and
- If the accountant determined not to resign from the employing organization, the reason why.

The professional accountant shall retain the documentation for a sufficient period of time taking into account relevant laws and regulation.

PROPOSED CHANGES TO OTHER SECTIONS OF THE CODE

The relevant sections have been extracted below from the extant Code. We have used "………" to indicate places where text has been omitted from these sections. To access the full text of the extant code, see [2012 Handbook of the Code of Ethics for Professional Accountants](#) from [www.ethicsboard.org](#).

SECTION 100

Ethical Conflict Resolution[2]

100.17 A professional accountant may be required to resolve a conflict in complying with the fundamental principles.

100.18 When initiating either a formal or informal conflict resolution process, the following factors, either individually or together with other factors, may be relevant to the resolution process:

(a) Relevant facts;

(b) Ethical issues involved;

(c) Fundamental principles related to the matter in question;

(d) Established internal procedures; and

(e) Alternative courses of action.

Having considered the relevant factors, a professional accountant shall determine the appropriate course of action, weighing the consequences of each possible course of action. If the matter remains unresolved, the professional accountant may wish to consult with other appropriate persons within the firm or employing organization for help in obtaining resolution.

100.19 Where a matter involves a conflict with, or within, an organization, a professional accountant shall determine whether to consult with those charged with governance of the organization, such as the board of directors or the audit committee.

100.20 It may be in the best interests of the professional accountant to document the substance of the issue, the details of any discussions held, and the decisions made concerning that issue.

100.21 If a significant conflict cannot be resolved, a professional accountant may consider obtaining professional advice from the relevant professional body or from legal advisors. The professional accountant generally can obtain guidance on ethical issues without breaching the fundamental principle of confidentiality if the matter is discussed with the relevant professional body on an anonymous basis or with a legal advisor under the protection of legal privilege. Instances in which the professional accountant may consider obtaining legal advice vary. ~~For example, a professional accountant may have encountered a fraud, the reporting of which could breach the professional accountant's responsibility to respect confidentiality. The professional accountant may consider obtaining legal advice in that instance to determine whether there is a requirement to report.~~

[2] In December 2011, the IESBA issued the Exposure Draft, *Proposed Changes to the Code of Ethics for Professional Accountants Addressing Conflicts of Interest*. That Exposure Draft proposed some changes to Section 100, these changes are not reflected in the above text.

100.22 If, after exhausting all relevant possibilities, the ethical conflict remains unresolved, a professional accountant shall, ~~where possible~~unless prohibited by law, refuse to remain associated with the matter creating the conflict. The professional accountant shall determine whether, in the circumstances, it is appropriate to withdraw from the engagement team or specific assignment, or to resign altogether from the engagement, the firm or the employing organization.

SECTION 140

Confidentiality

140.1 The principle of confidentiality imposes an obligation on all professional accountants to refrain from:

(a) Disclosing outside the firm, employing organization or the auditor confidential information acquired as a result of professional and business relationships without proper and specific authority or unless there is a legal or professional right or duty to disclose; and

(b) Using confidential information acquired as a result of professional and business relationships to their personal advantage or the advantage of third parties.

140.2 A professional accountant shall maintain confidentiality, including in a social environment, being alert to the possibility of inadvertent disclosure, particularly to a close business associate or a close or immediate family member.

140.3 A professional accountant shall maintain confidentiality of information disclosed by a prospective client or employer.

140.4 A professional accountant shall maintain confidentiality of information within the firm or employing organization.

140.5 A professional accountant shall take reasonable steps to ensure that staff under the professional accountant's control and persons from whom advice and assistance is obtained respect the professional accountant's duty of confidentiality.

140.6 The need to comply with the principle of confidentiality continues even after the end of relationships between a professional accountant and a client or employer. When a professional accountant changes employment or acquires a new client, the professional accountant is entitled to use prior experience. The professional accountant shall not, however, use or disclose any confidential information either acquired or received as a result of a professional or business relationship.

140.7 The following are circumstances where professional accountants are or may be required to disclose confidential information or when such disclosure may be appropriate:

(a) Disclosure is permitted by law and is authorized by the client or the employer;

(b) Disclosure is required by law, for example:

(i) Production of documents or other provision of evidence in the course of legal proceedings; or

(ii) Disclosure to the appropriate public authorities of infringements of the law that come to light; and

(c) There is a professional duty or right to disclose, when not prohibited by law:

(i) To comply with the quality review of a member body or professional body;

(ii) To respond to an inquiry or investigation by a member body or regulatory body;

(iii) To protect the professional interests of a professional accountant in legal proceedings; ~~or~~

(iv) To comply with technical standards,

~~(iv)~~(v) To comply with ~~and ethics~~ requirements contained in Sections 225 and 360 in this Code.

140.8 Sections 225 and 360 describe the circumstances where a professional accountant shall or has a right to override the fundamental principle of confidentiality and disclose a suspected illegal act to an appropriate authority. In other situations, where the professional accountant has discretion in deciding whether to disclose confidential information, relevant factors to consider include:

- Whether the interests of all parties, including third parties whose interests may be affected, could be harmed if the client or employer consents to the disclosure of information by the professional accountant;
- Whether all the relevant information is known and substantiated, to the extent it is practicable; when the situation involves unsubstantiated facts, incomplete information or unsubstantiated conclusions, professional judgment shall be used in determining the type of disclosure to be made, if any;
- The type of communication that is expected and to whom it is addressed; and
- Whether the parties to whom the communication is addressed are appropriate recipients.

SECTION 150

Professional Behavior

150.1 The principle of professional behavior imposes an obligation on all professional accountants to comply with relevant laws and regulations and avoid any action that the professional accountant knows or should know may discredit the profession. This includes actions that a reasonable and informed third party, weighing all the specific facts and circumstances available to the professional accountant at that time, would be likely to conclude adversely affects the good reputation of the profession, for example if a professional accountant is associated with a client or employing organization that acts unethically.

150.2 In marketing and promoting themselves and their work, professional accountants shall not bring the profession into disrepute. Professional accountants shall be honest and truthful and not:

(a) Make exaggerated claims for the services they are able to offer, the qualifications they possess, or experience they have gained; or

(b) Make disparaging references or unsubstantiated comparisons to the work of others.

SECTION 210

Professional Appointment

Client Acceptance and Continuance

210.1 Before accepting a new client relationship, a professional accountant in public practice shall determine whether acceptance would create any threats to compliance with the fundamental principles. Potential threats to integrity or professional behavior may be created from, for example, questionable issues associated with the client (its owners, management or activities).

210.2 ~~Client~~ Questionable issues associated with the client that, if known, could threaten compliance with the fundamental principles include, for example, client involvement in illegal activities (such as money laundering), dishonesty, ~~or~~ questionable financial reporting practices or other unethical behavior.

210.3 A professional accountant in public practice shall evaluate the significance of any threats and apply safeguards when necessary to eliminate them or reduce them to an acceptable level.

Examples of such safeguards include:

- Obtaining knowledge and understanding of the client, its owners, managers and those responsible for its governance and business activities; or
- Securing the client's commitment to address the questionable issues, for example through improvinge corporate governance practices or internal controls.

210.4 Where it is not possible to reduce the threats to an acceptable level, the professional accountant in public practice shall decline to enter into the client relationship.

210.5 ~~A professional accountant in public practice shall periodically review whether to continue with a recurring client engagement.~~ Potential threats to compliance with the fundamental principles may have been created after acceptance that would have caused the professional accountant to decline the engagement had that information been available earlier. A professional accountant in public practice shall, therefore, periodically review whether to continue with a recurring client engagement. For example, a threat to compliance with the fundamental principles may be created by a client's unethical behavior such as improper earnings management or balance sheet valuations. If a professional accountant in public practice identifies a threat to compliance with the fundamental principles, the accountant shall evaluate the significance of the threats and apply safeguards when necessary to eliminate the threat or reduce it to an acceptable level. Where it is not possible to reduce the threat to an acceptable level, the professional accountant in public practice shall terminate the client relationship.

Engagement Acceptance

210.6 The fundamental principle of professional competence and due care imposes an obligation on a professional accountant in public practice to provide only those services that the professional accountant in public practice is competent to perform. Before accepting a specific client engagement, a professional accountant in public practice shall determine whether acceptance would create any threats to compliance with the fundamental principles. For example, a self-interest threat to professional competence and due care is created if the engagement team does not possess, or cannot acquire, the competencies necessary to properly carry out the engagement.

210.7 A professional accountant in public practice shall evaluate the significance of threats and apply safeguards, when necessary, to eliminate them or reduce them to an acceptable level. Examples of such safeguards include:

- Acquiring an appropriate understanding of the nature of the client's business, the complexity of its operations, the specific requirements of the engagement and the purpose, nature and scope of the work to be performed.
- Acquiring knowledge of relevant industries or subject matters.
- Possessing or obtaining experience with relevant regulatory or reporting requirements.
- Assigning sufficient staff with the necessary competencies.
- Using experts where necessary.
- Agreeing on a realistic time frame for the performance of the engagement.
- Complying with quality control policies and procedures designed to provide reasonable assurance that specific engagements are accepted only when they can be performed competently.

210.8 When a professional accountant in public practice intends to rely on the advice or work of an expert, the professional accountant in public practice shall determine whether such reliance is warranted. Factors to consider include: reputation, expertise, resources available and applicable professional and ethical standards. Such information may be gained from prior association with the expert or from consulting others.

………

SECTION 300

………

300.5 A professional accountant in business may hold a senior position within an organization. The more senior the position, the greater will be the ability and opportunity to influence events, practices and attitudes. A professional accountant in business is expected, therefore, to encourage an ethics-based culture in an employing organization that emphasizes the importance that senior management places on ethical behavior. Established ethics policies and whistle-blowing procedures that have been communicated to all employees may be useful to achieve the objective of establishing and maintaining an ethics-based culture. Such procedures help to encourage ethical behavior and increase the likelihood of senior management being alerted to a problem in time to prevent serious damage.

300.6 A professional accountant in business shall not knowingly engage in any business, occupation, or activity that~~.~~:

- Would be incompatible with the professional accountant's responsibility to act in the public interest.
- A reasonable and informed third party would be likely to conclude, weighing all the specific facts and circumstances available to the professional accountant at that time, impairs or might impair integrity, objectivity or the good reputation of the profession. ~~and as a result would be incompatible with the fundamental principles.~~

Examples include improper earnings management or balance sheet valuations.

………

300.15 ~~In circumstances where a~~If a professional accountant in business believes that unethical behavior ~~or actions by others will continue to~~has occurred within the employing organization, the professional accountant shall discuss the matter with the appropriate level of management. If the response to the matter is not appropriate, the professional accountant shall escalate the matter to higher levels of management to the extent possible. If the response is still not appropriate, the professional accountant shall discuss the matter with those charged with governance, if possible. If, in the professional accountant's judgment, the response to the matter is not appropriate, the professional accountant ~~in business~~ may consider consulting with a relevant professional body on an anonymous basis or obtaining legal advice~~. In those extreme situations where all available safeguards have been exhausted and it is not possible to reduce the threat to an acceptable level, a professional accountant in business~~ and may conclude that it is appropriate to resign from the employing organization.

Appendix: Impact Analysis

Current Standard	Proposed Change	Impact	Magnitude of Impact	Duration of Impact
Disclosure of suspected illegal acts by professional accountants				
A professional accountant shall maintain confidentiality unless there is a professional duty or right to disclose confidential information, when not prohibited by law, to comply with technical standards and ethics requirements.	In certain circumstances, a professional accountant will be required or will have a right to override confidentiality and to disclose certain suspected illegal acts to an appropriate authority, when not prohibited by law, if the client has not disclosed the matter. Disclosure would be required or permitted, after having followed an escalation process in the organization, if: • The professional accountant determines that the suspected illegal act is of such consequence that disclosure would be in the public interest; • The client or employing organization has not disclosed the matter; and • There is an appropriate authority to receive the disclosure.	*Public interest* The public interest is better protected because of a process that defines when a suspected illegal act needs to be reported to an appropriate authority and thus increasing the consistency in the treatment of such occurrences. A possible reduction in the number of illegal acts because of the deterrent effect associated with the knowledge that a professional has a right or a duty to disclose certain suspected illegal acts to an appropriate authority. *Client or employing obligation* A client or employing organization would face a reduction in confidentiality. Entities without an established mechanism for addressing such matters, such as a Code of Ethics, might have to implement such a mechanism. *Professional accountant* A professional accountant who determines that disclosure would be in the public interest and discloses a suspected illegal act to an	High Moderate Moderate Low	Ongoing Ongoing Ongoing One off

Current Standard	Proposed Change	Impact	Magnitude of Impact	Duration of Impact
		appropriate authority will face increased exposure to litigation if the suspicion turns out to be unfounded. Not all jurisdictions afford protection from retaliation to a professional accountant who makes sure a disclosure. In such jurisdictions, whistle blowing protection may need to be strengthened otherwise a professional accountant may face exposure to retaliation.	High	
Process to be followed by professional accountant when encountering a suspected illegal act				
	If a professional accountant suspects that an illegal act has been committed, the professional accountant shall: • Take steps to confirm or dispel that suspicion. • If unable to dispel the suspicion, discuss the matter with the appropriate level of management • If the response to the matter is not appropriate, escalate the matter within the entity to higher levels of management, and to those charged with governance.	*Public interest* Enhances confidence in illegal acts being appropriately addressed as there is a standardized process to analyze and address the matter and to disclose it to the appropriate authority.	High	Ongoing
		Professional Accountants who are Auditors An escalation process already exists in ISA 240 and ISA 250.	Low	Ongoing
		Professional Accountants in Public Practice who are not Auditors Professional accountants in public practice who are not auditors will have a process for confirming or dispelling suspicion of illegal acts	Moderate	Ongoing

Current Standard	Proposed Change	Impact	Magnitude of Impact	Duration of Impact
		Professional Accountants in Business Professional accountants in business will have a process for confirming or dispelling suspicion of illegal acts	Moderate	Ongoing
		Client or employing organisation Increase in the number of suspected illegal acts that are disclosed to the client or employing organization	Moderate	Ongoing
Level of obligation for different categories of professional accountant				
	Auditors and professional accountants providing services to an audit client: • Disclosure will be required when certain conditions are met (see above). Professional accountants in public practice providing services to a non-audit client and professional accountants in business : • Disclosure will be permitted when certain conditions are met (see above)	*Public interest* The public interest is better protected because of a process for reporting of suspected illegal acts to appropriate authorities.	High	Ongoing
		A possible reduction in the number of illegal acts because of the deterrent effect associated with the knowledge that a professional accountant providing non-assurance services to a client that is not an audit client and a professional accountant in business are expected to exercise their right to disclose certain illegal acts to an appropriate authority.	Moderate	Ongoing
		Client or Employing Organization A client or employing organization would face a reduction in confidentiality	Moderate	Ongoing

Current Standard	Proposed Change	Impact	Magnitude of Impact	Duration of Impact
		Professional accountants A professional accountant who determines that disclosure would be in the public interest and discloses a suspected illegal act to an appropriate authority will face increased exposure to litigation if the suspicion turns out to be unfounded. Not all jurisdictions afford protection from retaliation to professional accountants who make sure disclosure. In such jurisdictions, whistle blowing protection may need to be strengthened otherwise a professional accountant may face exposure to retaliation.	High	Ongoing
Nature of illegal acts to be disclosed by a professional accountant				
	An auditor and a professional accountant providing services to an audit client shall disclose : • Suspected illegal acts that directly or indirectly affect the client's financial reporting. • Suspected illegal acts the subject matter of which falls within the expertise of the professional accountant. A professional accountant providing services to a non-audit client has a right to disclose suspected illegal acts that relates to the subject matter	*Public interest* The public interest is better protected because of a process for reporting of suspected illegal acts to appropriate authorities. A possible reduction in the number of illegal acts because of the deterrent effect associated with the knowledge that a professional accountant providing non-assurance services to a client that is not an audit client and a professional accountant in business are expected to exercise their right to disclose certain illegal acts to an appropriate authority.	Moderate Moderate	Ongoing

Current Standard	Proposed Change	Impact	Magnitude of Impact	Duration of Impact
	of the professional services being provided A professional accountant in business has a right to disclose: • Suspected illegal acts that directly or indirectly affect the client's financial reporting. • Suspected illegal acts the subject matter of which falls within the expertise of the professional accountant.	*Client or Employing Organization* A client or employing organization would face a reduction in confidentiality *Professional accountant* A professional accountant who determines that disclosure would be in the public interest and discloses a suspected illegal act to an appropriate authority will face increased exposure to litigation if the suspicion turns out to be unfounded. A professional accountant in business who discloses a suspected illegal act to an appropriate authority might lose employment. Not all jurisdictions afford protection from retaliation to professional accountants who make sure disclosure. In such jurisdictions, whistle blowing protection may need to be strengthened otherwise a professional accountant may face exposure to retaliation.	Moderate High High	Ongoing Ongoing Ongoing

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