

31 March 2012

Ms Jan Munro
Deputy Director
International Ethics Standards Board for Accountants
International Federation of Accountants
545 Fifth Avenue, 14th Floor
New York, New York 10017 USA
By email: janmunro@ifac.org

Dear Jan,

RE: Proposed Changes to the Code of Ethics for Professional Accountants Addressing Conflicts of Interest

Accounting Professional & Ethical Standards Board Limited (APESB) welcomes the opportunity to make a submission on *Proposed Changes to the Code of Ethics for Professional Accountants Addressing Conflicts of Interest* (Proposed Changes).

APESB's role

APESB is governed by an independent board of directors whose primary objective is to develop and issue, in the public interest, appropriate professional and ethical standards. These standards apply to the membership of the three major Australian professional accounting bodies. A secondary objective of the APESB is to provide the opportunity or forum for the discussion and consideration of issues relating to professional standards for accountants. The APESB is funded by the three major accounting bodies, but has complete independence in its standard-setting activities.

Our essential function is the setting of standards, and in doing this we endeavour to incorporate a strong emphasis on professionalism and the role of sound judgement in those accountants who are obliged to follow our standards. We believe that setting high quality standards with demanding criteria contributes to the professional standing and behaviour of members of the accounting profession.

General Comments

APESB is generally supportive of the Proposed Changes which aim to provide additional guidance to improve the professional accountant's ability to avoid or manage conflicts of interest. APESB believes that these proposed amendments are in the public interest and provide further understanding of sources of potential conflicts of interest for professional accountants and steps to identify, evaluate and managed these conflicts.

New Definition of Professional Activity

APESB is supportive of the new defined term Professional Activity and the way it links with the revised definition of Professional Services. When including the new definition of Professional Activity the APESB believes that is a good opportunity for IESBA to "modernise" the listing of activities since the existing definition of Professional Services is somewhat out of date.

APESB recommends IESBA consider including activities such as financial reporting, financial planning, valuation services, forensic services, risk management and information technology under the definition of Professional Activity as professional accountants are increasingly involved in these areas of specialisation and do not relate as well to the more traditional definition of Professional Services in the extant Code.

For example:

Professional Activity: An activity requiring accountancy or related skills undertaken by a professional accountant, including financial reporting, auditing, taxation services, valuations, forensic services, wealth management, management consulting, risk management, sustainability reporting and information technology.

Disclosure of conflicts of interest and engagements subject to Section 290 – Paragraphs 220.7& 220.8

Paragraph 220.7 states that "*It is generally necessary to disclose the nature of the conflict to the client and all known relevant parties and to obtain written consent...*". We believe that for audit and review engagements that are subject to section 290, a stricter level of conduct is required.

APESB recommends that IESBA consider revising paragraph 220.7 (and potentially 220.8) to apply a distinction between disclosure of conflicts and obtaining client consent for audit and review engagements subject to section 290 of the Code and all other engagements.

We recommend that for audit and review engagements subject to section 290 of the Code, the practitioner be required to disclose conflicts of interests and obtain client consent or decline the engagement when disclosure for reasons of confidentiality is not possible. In respect of all other engagements APESB agrees with IESBA's proposed approach.

Paragraphs 220.5 and 310.4

Paragraphs 220.5 and 310.4 have similar bullet points for identifying and evaluating a conflict. We believe that bullet points 3 and 4 of paragraph 220.4 should be restated in the following manner to be consistent with paragraph 310.4:

- *Evaluate the significance of relevant interests or relationships. In general, the more direct the relationship between the professional service and the matter on which the clients' interests are in conflict, the more significant the threats may be;*
- *Evaluate the extent to which a professional service performed for more than one client may result in a conflict of interest. In general, the more direct the relationship between the professional service and the matter on which the clients' interests are in conflict, the more significant the threats may be; and*

In the third bullet point of paragraph 310.4 we question the need to include materiality, which is not included in the third bullet point of paragraph 220.5, and propose that it be revised in the following manner:

- Evaluate the significance ~~or materiality~~ of relevant interests or relationships; and

Specific Comments

APESB's responses to IESBA's specific questions are enclosed herewith for your consideration.

We hope you find these comments useful in your final deliberations and if you require any additional information, please do not hesitate to contact me at kspargo@bigpond.net.au or Channa Wijesinghe, Technical Director at channa.wijesinghe@apesb.org.au.

Yours sincerely



Kate Spargo

Chairman

Specific Comments

APESB's responses to the specific issues raised by the IESBA are as follows:

1. Do respondents find the description and examples of conflicts of interest helpful?

APESB is supportive of the IESBA's efforts to provide examples of conflicts of interest as they help to illustrate potential ethical dilemmas faced by professional accountants.

2. Do respondents find the reasonable and informed third party standard appropriate?

APESB supports the use of a reasonable and informed third party standard in identifying potential conflicts of interest and implementing appropriate safeguards. This provides the professional accountant with the impetus to step back and consider the ethical dilemma from others' perspectives, which should lead to a more robust and objective decision making process.

3. Do respondents find the "reason to believe" threshold for network firms in evaluating conflicts of interest appropriate?

APESB considers this threshold to be appropriate. However, we recommend that the description be expanded to include the consideration of all the facts and circumstances available, as in 220.4, 220.8, and 310.3. The revised provision in 220.5 should read:

'Evaluate any potential conflicts of interest that the professional accountant has reason to believe may exist due to interests and relationships of a network firm, *weighing all the facts and circumstances available to the professional accountant in public practice at that time*, and taking into account factors such as the nature of the professional services provided and the clients served, and the geographic locations of all relevant parties.'

4. Do respondents find the guidance concerning safeguards to manage conflicts of interest and obtaining and documenting consent, as set out in paragraph 220.7, appropriate?

APESB finds the guidance as set out in paragraph 220.7 appropriate, except for the removal of the safeguard pertaining to 'a senior individual not involved with the relevant client engagements reviewing the application of safeguards', which is included at paragraph 220.4(e) of the extant Code. APESB suggests retaining in the revised Code

the safeguard which supports the development of risk management practices through peer review.

5. Do respondents concur with the three conditions set out in paragraph 220.8 required to be met before a professional accountant can proceed to accept or continue with an engagement when a conflict of interest exists but consent cannot be obtained because it would in itself breach confidentiality? Are the examples within paragraph 220.8 helpful?

APESB agrees with the three conditions, in particular the use of a reasonable and informed third party test, which promotes a more objective assessment of the engagement acceptance criteria.

APESB finds the examples useful in illustrating high risk cases of conflicts of interest and where confidentiality would be breached by requesting consent to proceed with an engagement. The acceptance of these types of engagements should not be encouraged and therefore we believe that the examples should be presented in the following manner:

‘In certain circumstances where a potentially significant threat to objectivity or one of the other fundamental principles exists, requesting consent would in itself result in a breach of confidentiality. Examples of such circumstances may include:’

6. Do respondents agree with the general requirement to identify, evaluate and manage conflicts of interests as set out in proposed Section 310 of the Code?

APESB is supportive of the proposed requirements to identify, evaluate and manage conflicts of interests as set out in proposed Section 310 of the Code.

7. Do respondents find the reasonable and informed third party test appropriate?

APESB supports the use of a reasonable and informed third party standard in identifying potential conflicts of interest and implementing appropriate safeguards. This provides the professional accountant with the impetus to step back and consider the ethical dilemma from the perspective of others, which should lead to a more robust and inclusive decision making process.

8. Do respondents find the conforming changes proposed for Sections 320 and 340 useful? Are they appropriate and adequate?

APESB is supportive of the changes proposed for Sections 320 and 340. However, the extant Code contains provisions requiring the professional accountant in business to ‘not use confidential information for personal gain’. APESB believes this provision should be retained in the revised Code.

9. 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?

APESB believes the impact analysis is a useful overview of the proposed changes and the cost/benefits of their implementation. The impact analysis could be enhanced by including a description of key terms used, such as ‘low impact’ means no significant systems changes, most professional accountants already have adopted similar standards; ‘high impact’ means new requirement, etc. We believe that the impact analysis could also be used as a tool to increase uptake of changes by presenting positive outcomes such as efficiency gains or more effective risk management.