



**Annual Review of Compiled APES 110 Code of Ethics for Professional Accountants**

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## 1. Executive Summary

### 1.1 Background

APESB issued APES 110 *Code of Ethics for Professional Accountants – Revised 2010* (the Code) in December 2010 with an effective date of 1 July 2011. The revised Code aligned Australia's professional requirements with the IESBA Code and also includes additional Australian specific requirements.

In December 2011, the definition of Public Interest Entity in APES 110 was revised and was included in the compiled version of APES 110 that was issued in September 2012.

APESB subsequently issued amending standards to the Code in May 2013 and November 2013 due to revisions to the IESBA Code and in respect of SMSF Auditor Independence matters. A compiled APES 110 was released in November 2013 taking into account all amending standards issued as at that date.

### 1.2 Reason for this report

In accordance with APESB's constitution, a review needs to be performed on an annual basis after a new standard is effective to identify any issues reported by stakeholders. This report presents a review of the issues reported to the APESB or identified by an internal technical review and the proposed recommendations to address the identified issues.

### 1.3 Issues identified

*Carry forward issue from the 2012 Six Month Review*

#### **Definition of Network Firm**

As currently drafted, some stakeholders are reading the deeming provisions contained in paragraphs 290.16 – 290.24 in relation to Network Firms as inappropriately deeming small practices as being part of a Network.

*Carry forward issue from the 2013 Annual Review*

#### **Public Interest Entities in the public sector**

The NSW Auditor General's office raised the issue of the application of the definition of Public Interest Entities in the public sector.

#### **New issues**

No new issues have been reported or identified by an internal technical review.

## 1.4 Summary of Recommendations/Actions Taken

*Carry forward issue from the 2012 Six Month Review*

### **Definition of Network Firm**

Technical Staff recommend that no amendments be made in respect of the definition of Network Firm. It is recommended that this issue can be addressed by Member education by the Professional Bodies. Technical Staff also recommend that this issue be closed and removed from the APESB Issues Register.

*Carry forward issue from the 2013 Annual Review*

### **Public Interest Entities in the public sector**

Technical Staff recommend that the Board directly communicate with the ACAG Chairman of APESB's willingness to assist in this regard.

## 2. Review of Issues

*Carry forward issue from the 2012 Six Month Review*

### 2.1 Definition of Network Firm

#### **Issue**

APES 110 deems a Firm to be a Network Firm if it satisfies any of the stated criteria in paragraphs 290.16 – 290.24. A stakeholder raised the issue that deeming as such means there is little point to the application of the reasonable and informed third party test contained in paragraph 290.15 and the consideration of particular facts and circumstances as suggested by paragraph 290.14. The stakeholder's key concern is the implications for a partner in a small firm that may be inappropriately deemed to be in a Network.

#### **Analysis of issue**

Paragraphs 290.16-290.24 do contain some deeming provisions. However, there are two limbs to each of these paragraphs that need to be satisfied prior to a Firm being deemed as being part of a Network. For example, paragraph 290.20 states as follows:

*Where the larger structure is aimed at co-operation and the entities within the structure share the use of a common brand name, it is deemed to be a Network. A common brand name includes common initials or a common name. A Firm is deemed to be using a common brand name if it includes, for example, the common brand name as part of, or along with, its Firm name, when a partner of the Firm signs an audit report.*

and Network is defined as follows:

**Network** means a larger structure:

- (a) That is aimed at co-operation; and
- (b) That is clearly aimed at profit or cost sharing or shares common ownership, control or management, common quality control policies and

procedures, common business strategy, the use of a common brand-name, or a significant part of professional resources.

As currently drafted, paragraph 290.20 states that the larger structure must be aimed at co-operation and share the use of a common brand name. Both limbs must be satisfied to be deemed a Network. In practice, a small Firm that is not sharing profits, costs, ownership, control, management, quality control policies, business strategies, or significant resources is unlikely to be deemed a Network as suggested by the stakeholder due to the absence of co-operation.

Paragraph 290.14 of APES 110 states that whether a Network is created depends on the particular facts and circumstances of the situation. Paragraph 290.15 continues to say that the judgement as to whether the larger structure is a Network shall be made in light of whether a reasonable and informed third party would be likely to conclude, weighing all the specific facts and circumstances, that the entities are associated in such a way that a Network exists.

In the case of the small practitioner, as noted above, it is more likely that the application of paragraphs 290.14 and 290.15 will lead to the conclusion that a Network does not exist.

#### 2014 Update

APESB Technical Staff have communicated with the IESBA and were referred to the Network Firm examples in attachment 12(b). The examples developed by IESBA in respect of *Network Firms* illustrate the application of the *Network Firm* definition contained in the Code.

#### **Stakeholders**

Members in Public Practice, Firms and Professional Bodies.

#### **Recommendation/Status**

The Network Firm provisions contained in the Code are consistent with the IESBA Code and allows for the application of professional judgement when determining whether a Network exists. This Network Firm definition and its related provisions were originally issued by IESBA in 2006 and incorporated in the Australian Code in 2007. Due to the nature of this global definition it is not advisable to make any amendments to the definition and the issue may be addressed by way of Member education by the Professional Bodies.

Technical staff recommends that this issue be closed and removed from the APESB Issues Register.

*Carry forward issue from the 2013 Annual Review*

## **2.2 Public Interest Entities in the public sector**

### **Issue**

During a meeting held with the Audit Office of New South Wales the issue of what is considered a Public Interest Entity (PIE) in the public sector was raised with the APESB. This was due to the potential differing interpretations of the definition of a Public Interest Entity in the Code as currently there is no specific guidance for the public sector in this regard.

The Code defines Public Interest Entity as:

- (a) A Listed Entity; or*
- (b) An 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.*

### **2013 Update**

APESB representatives met with officers of Audit Office of New South Wales and understood that clarification of the application of this definition to the public sector would be useful for stakeholders.

### **2014 Update**

Further discussions were held with representatives of the Audit Office of New South Wales.

### **Stakeholders**

Firms, State and Federal Auditor Generals.

### **Recommendation**

Technical Staff recommend that the Board directly communicate with the ACAG Chairman of APESB's willingness to assist in this regard.