

28 June 2024

Director
Corporate Conduct and Analysis Unit
Market Conduct and Digital Division
The Treasury
Langton Crescent
PARKES ACT 2600

Via Email: CCAU@treasury.gov.au

Dear Sir/Madam,

Regulation of accounting, auditing and consulting firms in Australia – Consultation Paper May 2024

Accounting Professional & Ethical Standards Board Limited (APESB) welcomes the opportunity to make a submission on the Treasury's consultation on the regulation of accounting, auditing and consulting firms in Australia (the Consultation Paper).

APESB is an independent entity with a primary purpose to develop, issue, and maintain high quality professional and ethical pronouncements for the Australian accounting profession in the public interest. APESB's pronouncements apply to the members of the three major Australian professional accounting bodies; Chartered Accountants Australia and New Zealand (CA ANZ), CPA Australia and the Institute of Public Accountants (IPA).

In Australia, APESB issues APES 110 *Code of Ethics for Professional Accountants (including Independence Standards)* (APES 110) and a range of professional and ethical standards that address non-assurance services for the accounting profession.

Overall Comments

The auditing, accounting, and consulting industries are important service sectors of the Australian economy, and therefore APESB supports the consideration of the regulation applicable to accounting, auditing and consulting firms in Australia. Many large professional services firms offer all these services, and failures in one service line could potentially impact other service lines and erode public trust in the firm.

APESB firmly believes that a robust framework of professional and ethical standards is essential for accountants to address ethical issues effectively. However, the true effectiveness of these standards is realised when they are supported by a strong monitoring and enforcement regime, which could be administered by a statutory regulator or another body.

APESB firmly believes that the regulation for each service category provided by a firm requires individual consideration. For example, effective regulation for audit services, where there are extensive legislative requirements (including legislative auditing and assurance standards) in place,

will not adequately address issues related to consulting services where similar legislative requirements, monitoring and enforcement mechanisms may not exist or are not as effective as those in place for the audit sector.

A collective assessment is challenging and may provide false comfort that existing regulation is sufficient. The ethical failures identified in the multiple parliamentary inquiries make it apparent that some form of intervention is required to ensure the proper functioning of the market and economy, or, in the context of the Government, the economy, effectiveness of service delivery to its citizens, and value for money for taxpayers. Lack of action will see the likelihood of ethical failures continuing, which will be detrimental to the clients who receive these services, which include public sector entities, the Government and, ultimately, the taxpayers of Australia.

Observations on the background information in the Consultation Paper

APESB appreciates the level of information in the Consultation Paper. However, a couple of matters require further clarification.

APESB directors

On page 33 of the Consultation Paper, APESB directors are referred to as being from Professional Bodies.

We are concerned that this implies that APESB directors are nominee directors of the professional bodies, which is not the case.

All APESB Directors are independent, non-executive directors, mindful of their statutory duties to act in the interests of APESB and not in the interests of the organisation that nominated them. While each professional body nominates two individuals for APESB Board positions, the directors enter into a contract with APESB that creates obligations to act independently in the public interest and not in accordance with any directions of the nominating body. The Independent Chair is appointed by the Board, and it is constitutionally mandated that the Chair cannot be an accountant.

Excluding the Chair, the other directors of APESB are members of one or more of the professional bodies.

Quality Management Standards

In relation to the setting of standards on quality control for the auditing sector, in Table 5 on page 24 of the Consultation Paper, both the Auditing and Assurance Standards Board (AUASB) and APESB are listed as establishing audit-related standards on quality controls. We would like to clarify that the Auditing and Assurance Standards Board (AUASB) and APESB are not jointly responsible for audit-related quality management standards.

The AUASB issues ASQM 1 *Quality Management for Firms that Perform Audits or Reviews of Financial Reports and Other Financial Information, or Other Assurance or Related Services Engagements* (ASQM 1), which applies to audit and assurance services and APESB issues APES 320 *Quality Management for Firms that provide Non-Assurance Services* (APES 320) that applies to services other than audit and assurance services. Refer to Appendix C for further information on the application of quality management standards to firms depending on the services they provide.

APESB also notes that Table 1 lists the PCAOB as the relevant entity for quality control in the US. APESB encourages the Treasury to consider whether the American Institute of Certified Public

Accountants (AICPA) should also be included in that table, as the AICPA issues Quality Management standards that apply to audits of non-public companies in the United States.

Managing conflicts of interests

The Consultation paper, on page 18, notes that Australian requirements do not incorporate certain independence-related mechanisms, including the US requirement for audit committees of public companies to pre-approve all audit and non-audit services. Please note that there is a similar requirement in APES 110, which requires the approval of those charged with governance of a public interest entity audit client before the firm or network firm can provide non-assurance services to the audit client, entities that control the audit client and entities controlled by the audit client. This requirement is set out in paragraph R660.22 of APES 110, and should be considered in conjunction with paragraphs R600.23 to R 600.24. The requirement was included as part of the Amending Standard [Amendments to the Non-Assurance Services provisions of APES 110](#) issued in December 2022, which is now effective for periods beginning on or after 1 July 2023.

Matters for consideration

In response to recent Parliamentary Inquiries, APESB have previously carefully considered how potential reforms could be progressively implemented to address concerns with the current regulatory landscape for auditors, accountants and consultants. The proposed measures or actions suggested by APESB consider enhancement to the current regulatory landscape, transformation of the regulatory landscape, and enhancing ethical behaviours and public interest for all professions. The proposed measures and actions are replicated in Appendix B for the Treasury's consideration.

We respectfully suggest that the following matters be considered by the Treasury as part of this consultation:

- Mandated reporting requirements and consistent governance mechanisms reflect international best practice, e.g., requirements in the UK and Japan, and should be considered for large partnerships in Australia to improve the transparency and accountability of these firms.
- The existing professional and ethical standards for the accounting profession relating to managing conflicts of interest are robust; however, to clarify the application and scope of these requirements, a specific standard on management consulting services could be developed by APESB.
- The requirements of existing APESB pronouncements effectively separate the provision of audit services and non-audit services in multidisciplinary firms, particularly in the context of managing conflicts of interest and maintaining auditor independence and objectivity.
- Where consultants may not have a generally recognised framework to manage conflicts of interest in the absence of a professional code of conduct, Treasury should consider whether a rigorous code of ethics should be established based on APES 110, which would be applicable to all consultants.
- Providing legislative backing to professional and ethical standards would improve compliance by professionals subject to the requirements and also assist monitoring bodies with appropriate powers to enforce the provisions.
- Whether the UK FRC approach to monitoring and enforcement of large accounting partnerships, including reviewing their governance and quality management systems, provides solutions to address concerns with oversight in Australia.

- An independent body could be established to monitor all professional services firms that provide consulting services (i.e., non-audit services).
- Whistleblower protection should be legislated for employees and partners of large accounting partnerships to encourage the reporting of unethical behaviour and ensure whistleblowers are adequately protected.

Appendix A provides APESB's specific responses to the questions raised in the Consultation Paper that are relevant to or impact professional and ethical pronouncements. Appendix B sets out an extract of APESB's suggested measures or actions included in our submission to the Parliamentary Joint Committee on Corporations and Financial Services Inquiry into Ethics and Professional Accountability (the PJC Inquiry). Appendix C provides further information on the application of quality management systems for the assurance and non-assurance service lines of the Firms.

Concluding Comments

We trust you find these comments useful in your deliberations. If you wish to discuss this further or require additional information, please get in touch with APESB's Chief Executive Officer, Channa Wijesinghe, at channa.wijesinghe@apesb.org.au.

Yours sincerely



Nancy Milne OAM
Chairman

Appendix A

APESB's Responses to Questions in the Consultation Paper

APESB has responded to the questions in the Consultation Paper that relate to or impact its role and mandate as the National Standards Setter of accounting professional and ethical standards in Australia.

Governance

Question 2: How should governance mechanisms operate in large accounting partnerships? Does this reflect how governance is managed in practice?

APESB notes that concerns have been raised at parliamentary inquiries¹ into the governance mechanisms in place in large accounting partnerships, especially as there is no prescribed requirement or mandate for partnerships to implement consistent governance structures in Australia.

As part of the APESB Submission to the PJC Inquiry, APESB highlighted potential measures that might improve the governance of firms, such as:

- treating large firms as Public Interest Entities (PIEs), including the release of audited, general-purpose financial statements, to improve transparency and accountability;
- adopt remuneration and accountability practices observed in APRA-regulated listed entities; and
- consider the development of further professional and ethical requirements (based on the UK FRC's Audit Firm Governance Code) to address firm governance, organisational culture and the tone from the top of large professional services firms in the Australian environment

APESB also noted in its submission to the PJC Inquiry that the Big Six firms in the UK are Limited Liability Partnerships (LLPs) under the [Limited Liability Partnerships Act 2000](#) and are subject to audit and disclosure requirements with respect to partner remuneration.

Large accounting firms in the UK are required to comply with the [UK Audit Firm Governance Code](#), which is issued by the UK Financial Reporting Council (UK FRC). It has been in place since 2010, with the most recent revision in April 2022. This Code requires firms to place a greater emphasis on the concept of public interest. Key aspects of the Code include:

- It applies to firms that audit 20 or more Public Interest Entities (PIEs);
- The Board Chair and the senior partner/chief executive need to be separate roles;
- The firm needs to establish a Board to oversee management, which has a defined Charter or terms of reference;
- The board composition must have at least half the firm's Board selected from partners who do not have significant management responsibility within the firm and at least three Independent Non-Executives (INEs);

¹ Firm governance was considered in the [Parliamentary Joint Committee on Corporations and Financial Services Inquiry into Ethics and Professional Accountability](#), the [Finance and Public Administration References Committee's Inquiry into the management and assurance of integrity by consulting services](#), and the [NSW Public Accountability and Works Committee Inquiry into the NSW Government's use and management of consulting services](#).

- INEs (for the whole firm) and Audit Non-Executives (ANEs) (for the audit practice) have the responsibility to consider whether the firm is acting contrary to the public interest, endangering the objectives of the Code and initiating procedures for fundamental disagreements;
- INEs are not partners of the firm or responsible for strategy or performance and have no voting rights or make decisions;
- Firms are required to have a Code of Conduct, which includes a part on operational separation that the largest firms may apply².

The UK FRC reviews a firm's application of the Audit Firm Governance Code and assesses the effectiveness of the respective firm's governance arrangements. It also monitors audit firms' compliance with their obligation to publish transparency reports, reviews the contents and disclosures of transparency reports, and provides feedback.

APESB also notes that in 2017, the Financial Services Agency of Japan published the "Principles for Effective Management of Audit Firms (The Audit Firm Governance Code)," which was revised in March 2023. Audit firms in Japan that audit listed entities are required under legislation to comply with this Code. Other audit firms can voluntarily adopt the Code and implement a scaled governance approach based on their size and operations.

The five key principles of the Japanese Audit Firm Governance Code are:

- In order to accomplish their public interest role, the audit firm should encourage its personnel to have frank and open-minded dialogue, enhance mutual development, promote their full competence, and continuously enhance the audit quality on a firm-wide basis.
- An audit firm should have effective management in order to develop its organizational operations as a whole for the continuous enhancement of the audit quality.
- An audit firm should have a function to supervise and evaluate the effectiveness of its management from an independent viewpoint and thereby support to enhance the effectiveness of the management.
- An audit firm should develop an operational structure to effectively manage its organizational operations. The audit firm should also strengthen its people retention and development and proactively engage in dialogue and discussion within the firm and with audited companies about the possible enhancement of audit quality.
- An audit firm should ensure transparency, explaining the status of the Code's implementation, to allow stakeholders in the capital market to assess its audit quality appropriately. The firm should also effectively utilize internal and external assessments of its initiatives to improve its management and operations.

Compliance with the Japanese Audit Firm Governance Code is overseen by the regulator and the Japanese Institute of Certified Public Accountants (JICPA).

Both these Codes could provide guidance on the governance structures that could be applied to large accounting partnerships and the type of professional and ethical standards that could be established in Australia.

² The UK FRC published [Principles for Operational Separation of Audit Practices](#) in July 2020 (updated in February 2021), which Big Four audit firms of UK have agreed to meet. These firms are transitioning to operational separation of their audit practices, with a final deadline in 2024.

Question 3: Are there any key issues that are not captured above in relation to the governance mechanisms of large partnerships? Are there additional examples of benefits for non-stakeholders of good governance?

Internationally, the topic of firm culture and governance has been recognised as a significant issue. In its [Strategy and Work Plan for 2024-2027](#), the International Ethics Standards Board for Accountants (IESBA) has committed to a workstream considering firm culture and governance. The workstream will explore the root causes of the ethical lapses and undertake a review of the provisions in the *International Code of Ethics for Professional Accountants (including International Independence Standards)* (the International Code) to consider whether the International Code should be further strengthened to promote a robust culture of ethical behaviour within firms.

APESB's CEO and IESBA Member Channa Wijesinghe has been appointed Chair of this [IESBA Working Group](#), whose Terms of Reference were approved in March 2024. The Working Group is currently gathering information but is expected to report on its findings and recommendations to the IESBA in December 2024.³

Professional standards, regulations and laws

Question 5: Are conflicts of interest managed appropriately by auditing and accounting practitioners? If not, what could be done to improve the management of conflicts of interest?

Based on the observed ethical failures in Australia, it is apparent that conflicts of interest are not always being managed appropriately by auditors, accountants and consultants. The recently released final report from the Finance and Public Administration References Committee's Inquiry into the management and assurance of integrity by consulting services ([the FPAR report](#)) states in paragraph 5.57:

'The interpretation of what constitutes a conflict of interest is not consistent across consulting firms or with how the APS considers conflicts of interest. The Big 4 consulting firms, and others, each have their own unique conflicts of interest policies. However, the committee has received evidence that despite the existence of these policies, conflicts of interest are improperly managed, and at times, ignored.'

APESB pronouncements establish requirements for members of the professional accounting bodies to manage conflicts of interest.

APES 110 *Code of Ethics for Professional Accountants (including Independence Standards)* (APES 110) sets out the requirements for professional accountants in public practice to identify and manage real and perceived conflicts of interest in their engagements in Section 310 *Conflicts of Interest*.⁴ Before accepting a new client relationship, engagement or business relationship, APES 110 requires professional accountants to take reasonable steps to identify circumstances that might create a conflict of interests⁵

³ Further details are available on the IESBA's project page for this workstream: <https://www.ethicsboard.org/consultations-projects/firm-culture-and-governance>.

⁴ Note that professional accountants in business are also required to manage conflicts of interest by applying the requirements in Section 210 *Conflicts of Interest* of [APES 110](#).

⁵ As specified in paragraphs R310.5 to 310.5A3 of [APES 110](#).

Professional accountants must also remain alert to changes in the nature of activities or services, interests and relationships that might create a conflict of interest while performing professional activities or engagements.⁶

APES 110 also sets out [specific prohibitions](#) relating to the provision of non-assurance services to audit clients and for the interests, relationships and actions of all audit clients. These prohibitions ensure professional accountants comply with the fundamental principles in APES 110 and make it explicitly clear which circumstances or situations create a conflict of interest that cannot be appropriately managed.

The management of conflicts of interest is also addressed in [APES 320 Quality Management for Firms that provide Non-Assurance Services](#) (APES 320). APES 320 requires firms to establish and maintain a system of quality management for non-assurance services, including consulting services. This includes the establishment of policies and procedures in relation to the acceptance and continuance of client relationships and specific engagements that consider the identification of conflicts of interest and the impact on accepting or continuing an engagement.⁷

APESB does not consider there are deficiencies in its standards concerning managing conflicts of interest for accounting and auditing practitioners. However, there could be an opportunity to clarify the application and scope of these requirements for professional accountants who provide management consulting services. As noted in our measures or actions identified in APESB's submission to the PJC Inquiry, APESB could consider the development of a specific standard on management consulting services, which would include requirements relating to confidentiality, conflicts of interest, financial interests, and business relationships, and would apply to all professional services firms.

Question 6: How effective are existing policies and regulations in separating the provision of audit and non-audit services in multi-disciplinary firms, particularly in the context of managing conflicts of interest to maintain auditor independence and objectivity? If they are not effective, how could they be improved?

APESB considers that the requirements of existing APESB pronouncements effectively separate the provision of audit services and non-audit services in multidisciplinary firms, particularly in the context of managing conflicts of interest and maintaining auditor independence and objectivity.

Table 2 of the Consultation Paper highlights that the percentage of revenue of other assurance and non-audit services provided to audit clients in Big 4 firms in FY2023 is 6% on an aggregate basis. The historical trend of the percentage of non-audit services to audit clients shows a declining trend. The overall low percentage of revenue of other services to audit clients is indicative that, overall, the existing requirements and prohibitions in the *Corporations Act 2001* and APES 110 are effective in restricting non-audit services to audit clients.

In December 2022, APESB issued an Amending Standard to APES 110's [Non-Assurance Services provisions](#), which became effective on 1 July 2023. This standard further restricts the provision of non-assurance services to audit clients. A summary of these prohibitions is set out in an APESB guidance document (issued August 2023), which is available [here](#).

Accordingly, given that the new non-assurance services provisions have been effective for a short period, they should be given more time to be adopted and implemented in Australia. These provisions should also be monitored and enforced by the audit regulator and other monitoring bodies to ensure effective compliance.

⁶ Specified in paragraph R310.6 of [APES 110](#).

⁷ Set out in paragraph 4.14 of [APES 320](#).

Question 7: How effective is the existing self-regulatory framework in ensuring the integrity and quality of services provided by professionals in the audit and accounting industries? If it is not effective, how could it be improved?

Based on the ethical failings that have occurred in Australia over the last few years, the current self-regulatory framework appears ineffective in ensuring the integrity and quality of some services provided by large accounting firms.

In November 2023, the Australian Financial Reporting Council (FRC) issued an [Audit Quality Report](#). The report described the current regulatory framework for auditors in Australia as a co-regulatory framework, as different bodies monitor and oversee the different services provided by professional accountants. Some specific services professional accountants provide are overseen by regulators, such as audit services (for entities reporting under the *Corporations Act 2001*) being overseen by ASIC and tax services overseen by the Tax Practitioners Board (TPB).

The adequacy of the monitoring and enforcement program of ASIC has been under scrutiny, with concerns raised at the parliamentary inquiries and within the FRC Audit Quality Report about the resources allocated within ASIC for this program and the breadth and robustness of the reviews. We are pleased to see that ASIC has [announced](#) it will review auditors' compliance with ethical and independence standards to support the financial reporting and audit surveillance program going forward. However, APESB agrees with the FRC, that ASIC's audit review program should review more audit files on an annual basis. ASIC is the key safeguard for the integrity and quality of audit services provided.

The UK FRC monitoring program is recognised internationally as a good model to follow due to its rigorous and thorough review program, which includes reviews on the governance aspects of large partnerships in the UK. APESB provided information on this program as part of its responses to questions on notice for the Finance and Public Administration References Committee inquiry into the Management and assurance of integrity by consulting services (refer to [question 2](#)). APESB encourages the Treasury to consider whether the UK FRC's approach could help inform reforms to address concerns about the current Audit oversight program in Australia.

Professional accountants who provide services other than those under the oversight of specific regulators are subject to monitoring and enforcement by their professional body. It is difficult to assess the effectiveness of the monitoring process by professional bodies, as there is no consistent reporting on the outcomes of quality reviews performed by the professional bodies. The [FRC Audit Quality Report](#) recommended that more comprehensive reporting on the scope and results of the quality review be implemented, and APESB support this recommendation.

As stated above, the current ethical failures indicate that the reviews performed by the applicable monitoring bodies on large accounting firms may not be effective. If you consider the deficiencies raised about PwC in the [Switkowski report](#), it raises the question of whether these matters would have been identified earlier if more effective quality review programs had been in place.

Where a person is a member of more than one body, the review process vests with the body that issues the member's practising certificate. APESB understands that the members of the larger accounting and audit firms are subject to the review processes of CA ANZ as the partners of those firms obtain their practising certificates from CA ANZ.

APESB believes the effectiveness and independence of the existing professional bodies' quality review programs could be enhanced by placing oversight of these monitoring programs with a new regulator or using another oversight mechanism. We note that the FPAR report includes a

recommendation⁸ this oversight could be performed by annual reporting to the Joint Standing Committee on Corporations and Financial Services. This would provide oversight over the breadth of professional accountants, both big and small. APESB would support this initiative and note that it would be akin to the oversight of professional bodies in the UK, who undertake specific regulatory tasks delegated by the UK FRC under [Delegation Agreements](#).

In relation to the oversight of large firms that provide a range of services, another option could be that firms that meet specific criteria (e.g., relating to revenue, number of employees, size, etc.) would fall under the oversight of ASIC (assuming ASIC's audit mandate can be broadened to other services) or another regulator. This would capture services that may not currently be subject to appropriate regulatory oversight and ensure consistent monitoring and enforcement of all services provided.

Question 8: Are there any key issues that are not captured above in relation to the adequacy of standards, regulations and laws?

APESB notes that the Treasury has addressed questions in this paper relating to audit and accounting industries. We are concerned that this could lead to inaccurate reflections on the adequacy of standards, regulations and laws regarding the provision of consulting services.

On average, 80 percent of the Big Four firms' revenue in Australia comes from the provision of consulting services to non-audit clients. Most parts of this business are essentially 'unregulated', as opposed to audit services, for example, where legislative auditing and assurance standards, detailed audit independence standards and prohibitions are in place.

APESB firmly believes that each service provided by a firm (e.g., audit, accounting and consulting) requires individual consideration, as regulation, monitoring, and enforcement for audit services (even if effective) will not adequately address issues related to consulting services.

APESB is also concerned that large consulting firms, that are not professional accounting firms, may not have a generally recognised framework to manage conflicts of interest in the absence of a professional code of conduct. If we are to avoid future issues with consulting services, APESB encourages the Treasury to consider whether a rigorous code of ethics should be established based on APES 110, which would be applicable to all consultants.

APESB also believes it is vitally important to increase the prominence of ethical standards. While the current focus on ethical issues has highlighted the importance of ethics, providing legislative backing would improve compliance and enforceability of the standards. We encourage Treasury to consider whether this reform would enhance the current regulatory framework.

Transparency, public information and reporting

Question 9: Recognising that companies are subject to reporting requirements that focus on protecting investors, should firms providing audit services to these companies be subject to enhanced transparency reporting beyond what is already mandated? If so, what additional information should be included in transparency reports? Should the information be verified?

APESB agrees that large firms providing audit services should be subject to enhanced transparency reporting beyond what is already mandated. As noted in our response to question 2, APESB would support treating large firms as Public Interest Entities (PIEs), which would require

⁸ Refer to recommendation 10 on page x of the [FPAR Report](#).

them to release audited, general-purpose financial statements. We would also support the disclosure of information on remuneration and accountability practices observed by APRA-regulated listed entities.

This would bring Australia in line with the transparency obligations of the Big Six firms in the UK, which are Limited Liability Partnerships (LLPs) under the [Limited Liability Partnerships Act 2000](#) and are subject to audit and disclosure requirements on partner remuneration.

APESB believes that broader transparency and disclosure requirements that are imposed on accountancy firms should also apply to all professional services firms that provide services of interest, such as consulting services, to both the Government and the private sector

Enforcement and standard-setting

Question 11: Does the preceding section capture the regulatory overlaps/gaps that should be addressed in audit, tax and insolvency? How could gaps or overlaps be addressed?

APESB notes that this question refers to the regulatory oversight of audit, tax and insolvency. However, we are of the view that many of the issues that have occurred relate to the oversight of the consulting industry, as we have noted in our response to question 8. The FPAR report notes the significance of the consulting industry to the economy and the lack of regulation of this sector. We would encourage the Treasury to consider the regulatory gaps for consulting services.

APESB has noted our concerns about regulatory gaps in audit, tax and insolvency in questions 7 and 8.

Question 12: Are the powers and resources dedicated to regulatory oversight sufficient?

As noted in our response to question 7, APESB is concerned about the adequacy of the resources allocated to financial reporting and audit surveillance at ASIC and believes that a broad surveillance program is necessary to ensure the proper functioning of the financial markets and economy. However, ASIC's mandate is limited and does not cover all services provided by firms to clients. Given that the big four firms generally provide 80% of services to non-audit clients (including the public sector), as noted in Table 2 on page 24 of the Consultation Paper, there is a need to assess the effectiveness of the regulatory, monitoring and enforcement mechanisms applicable to these consulting services, which have been the focus of the parliamentary inquiries.

Protection of whistleblowers

Question 16: What mechanisms are in place for whistleblowers to report corruption, rule-breaking, or other unethical conduct in your Organisation or industry? Do these mechanisms provide sufficient protection?

APESB considers mechanisms are in place for professional accountants to report corruption, rule-breaking or other unethical conduct. APES 110 provides a thought process and a framework for professional accountants to respond to Non-Compliance with Laws and Regulations (NOCLAR). The NOCLAR provisions (sections 260 and 360) contain a response framework to guide professional accountants in deciding how best to act in the public interest when they become aware of NOCLAR or suspected NOCLAR when performing professional activities or providing professional services. The framework sets out various possible courses of action for a professional accountant, including escalating the matter within the organisation or firm, following internal whistleblowing policies or protocols, or disclosing the matter to an appropriate authority.

NOCLAR comprises any act of omission or commission, intentional or unintentional, committed by a client or employer. This includes acts taken by management or by those charged with governance, or by others working for, or under the direction of, the client or employer, that are contrary to prevailing laws or regulations. APES 110, including the NOCLAR provisions, do not establish protections for whistleblowers.

APESB understands that most accounting and auditing firms in Australia use a partnership structure; consequently, their employees and partners may not be within the scope of whistleblower protection provided under the *Corporations Act 2001* or the *Taxation Administration Act 1953*. As mentioned in Treasury's Consultation Paper, a partnership is not a 'regulated entity' for the purposes of the whistleblower laws in the *Corporations Act 2001*.

APESB supports legislative initiatives to enhance whistleblower protection at both the state and territory levels for employees and partners in accounting firms. This will encourage reporting of unethical behaviour and provide appropriate safeguards to protect whistleblowers.

Question 17: Is there sufficient protection for employees and partners in accounting, auditing and consulting partnerships who want to report misconduct? If not, what gaps exist that may need to be addressed and how should they be addressed?

As noted in our response to question 16, APESB does not believe there are sufficient protections in place for employees and partners in accounting, auditing and consulting partnerships who want to report misconduct because these protections are only available under specific legislation.

Appendix B

APESB's suggested measures or actions from its submission to the PJC Inquiry

This Appendix provides an extract from pages 3 to 4 of [APESB's submission](#) to the Parliamentary Joint Committee on Corporations and Financial Services Inquiry into Ethics and Professional Accountability. The extract sets out the 'measures or actions (that) could be considered, either individually, in part, or as a whole, to improve the ethics and professional accountability of large professional services firms (accounting and other consultants):

Enhancements to the current regulatory framework

- APESB considers the development of a standard (based on the UK FRC's Audit Firm Governance Code) that focuses on the culture and governance of large professional services firms in the Australian environment;
- APESB, in conjunction with the IESBA, works towards strengthening the global Code on issues that impact firm culture and governance;
- APESB considers the development of a specific standard on management consulting services, which include requirements relating to confidentiality, conflicts of interest, financial interests, and business relationships, and would apply to all professional services firms; and

Enhance the existing ethics module of the professional programs and mandatory continuing professional development of accountants by increasing coverage of the APESB Standards.

Transforming the existing regulatory landscape

- Provide legislative backing for APESB's professional and ethical pronouncements;
- Move APESB under the oversight of the FRC (consistent with the Australian Accounting and Auditing standard setters);
- Enhance transparency of large professional service firms by requiring them to prepare general purpose financial reports, including remuneration disclosures and subject them to audit if they are not already subject to these requirements, which would be filed with ASIC and be available for public inspection; and
- Establish an independent body to monitor all professional services firms that provide audit, assurance and consulting services. This would broaden oversight from just accounting practitioners and could capture those firms and entities currently not subject to statutory regulatory oversight who provide those services. This independent body will undertake enforcement actions where appropriate and prepare public annual reports of its monitoring and enforcement activities to enhance public trust.

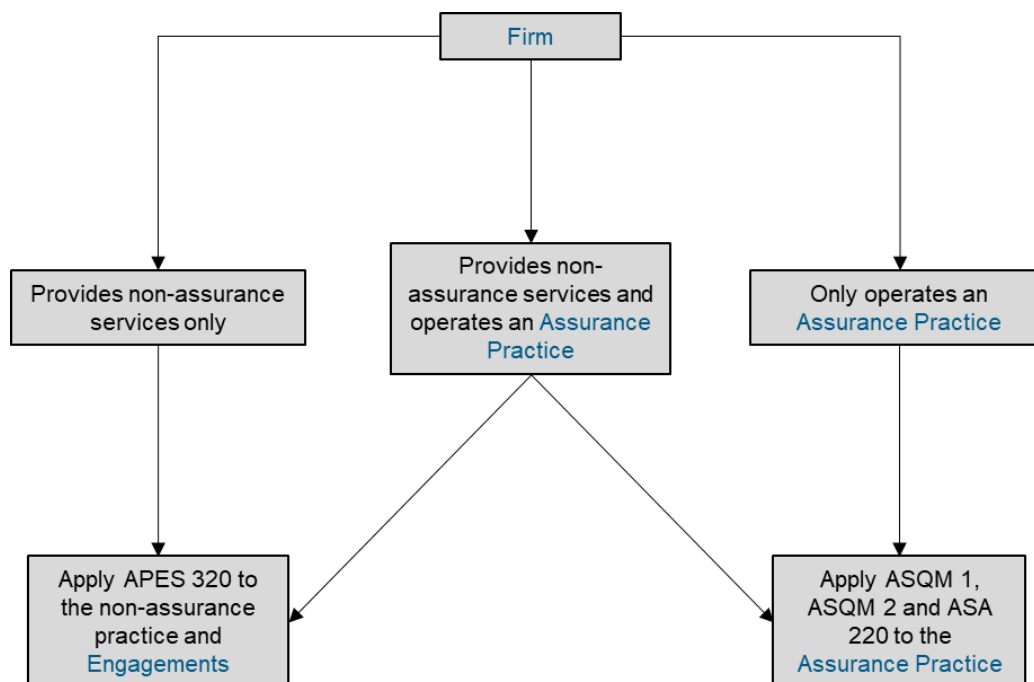
Enhancing ethical behaviours and public interest for all professions

- Enhance transparency of the provision of professional services to public interest entities and Government by extending the financial statements disclosure from fees paid to the entity's auditor for audit and non-audit services to all fees paid to professional services firms for all services provided to the entity;
- The Government develop a rigorous Code of Ethics (such as APES 110) that could be applied to all professional services firms or persons that contract with or provide any form of professional services to the Government;
- Apply the enhancements discussed in the preceding paragraphs to all firms providing professional services; and
- APESB consider whether there is merit in developing a professional agnostic APES 110 and a professional standard for management consulting that could apply to all professionals.

Appendix C

Application of quality management systems by Firms (Extract APES 320, Apx 1)

Firms are required to apply quality management standards based on the type of *Professional Services* that the *Firms* provide. The flow chart below sets out the key considerations of a *Firm* in determining the quality management standards that the *Firm* must comply with. The table following the flow chart provides a non-exhaustive list of *Professional Services* provided by non-assurance practices and *Engagements* and the *Professional Services* that are provided by *Assurance Practices*.



Professional Services provided by non-assurance practices and Engagements include, but are not limited to:	Professional Services provided by Assurance Practices consist of:
Business services (including compilations of financial information)	Audit Engagements
Taxation services	Review Engagements
Valuation Services	Other assurance Engagements
Forensic accounting services	Related services Engagements including agreed-upon procedures Engagements ⁶
Insolvency services	
Corporate finance services	
Financial planning services	
Agreed-upon procedures Engagements ⁹	

⁹ ASQM 1 applies to a Firm that performs audits, reviews, other assurance and related services Engagements (paragraph Aus 0.1 of ASQM 1). Appendix 3 of ASRS 4400 Agreed-Upon Procedures Engagements provides differentiating factors between agreed-upon procedures Engagements and Assurance Engagements. If a Firm does not provide any audits, reviews or other assurance Engagements, then for the quality management of Engagements, the Firm is required to apply APES 320.