

International Ethics Standard Board for
Accountants
Mr Stavros Thomadakis, IESBA Chairman
Mr Ken Siong, IESBA Technical advisor

Sent by email to
KenSiong@ethicsboard.org

Paris, Wednesday 10th June 2020

Ref: JB.CGE.GCA 20200100

RE: CNCC response to the Exposure Draft on the “Proposed revisions to the Non-Assurance Services Provisions of the Code”.

Dear Stavros,
Dear Ken,

I have the pleasure to submit to the IESBA the comments of the CNCC on the Exposure draft on the “Proposed Revisions to the Non-Assurance Services Provisions of the Code”.

Overall, we are supportive of all improvements of the Code that can lead to better protect the independence of the auditor. We are also conscious of the need not to neglect the independence in appearance since it is the primary perception of the auditor’s independence by the stakeholders and the Public.

However, we have some concerns about the tendency which seems to emerge in the most recent exposure drafts of the IESBA, including this one, to replace the risks and safeguards approach on which the IESBA Code is originally based on by a series of prohibitions or rules.

We also have concerns about the removal of the materiality qualifier for the provision of certain non-assurance services. Materiality is key to the audit and should be key to independence as well. The application of the IESBA code should not lead the auditor to seek immaterial elements because this would be totally inconsistent with the audit approach which has never required the auditor to obtain evidence on immaterial elements of the financial statements.

We should be careful not to create prohibitions which can be counterproductive from an economical point of view, without further protecting the auditor’s independence.

You will find below our detailed answers to the questions of the exposure draft. Should you need any other information, please do not hesitate to contact us.

Yours Sincerely,


Jean Bouquot
President of CNCC

Prohibition on NAS that will create a self-review threat for PIEs

1. Do you support the proposal to establish a self-review threat prohibition in proposed paragraph R600.14?

We support in principles the proposal to establish a prohibition on providing NAS that create a self-review threat to PIEs audit clients, based on the application material in 600.11 A2 explaining the thought process to evaluate whether the provision of a NAS creates a self-review threat or not.

However, we believe it is important to clarify that the three conditions (a), (b) and (c) are cumulative in paragraph 600.11 A2.

We also believe it is important to clarify what is meant by audit procedures and audit judgements in bullets (b) and (c). There is no definition of audit procedures and audit judgments in the ISAs. It is therefore not possible to refer in the IESBA code to an IAASB definition of those notions. It should however be clarified that audit procedures and audit judgements are meant in the IESBA code as they are meant in the ISAs.

2. Does the proposed application material in 600.11 A2 set out clearly the thought process to be undertaken when considering whether the provision of a NAS to an audit client will create a self-review threat? If not, what other factors should be considered?

See our response to question 1.

Providing Advice and Recommendations

3. Is the proposed application material relating to providing advice and recommendations in proposed paragraph 600.12 A1, including with respect to tax advisory and tax planning in proposed paragraph 604.12 A2, sufficiently clear and appropriate, or is additional application material needed?

We consider that the issue of advice and recommendation is to be handled with great caution. The auditor provides recommendations to its audit client during the course of the audit. If he considers that an accounting treatment is not appropriate, he will recommend to the audit client the one he considers appropriate. If the client is able to challenge the position of the auditor and concludes that the accounting treatment recommended by the auditor is appropriate and consequently adjust the financial statements, the auditor is not in a position of self-review.

It is difficult to understand why a recommendation provided as a NAS would create a self-review threat when the same recommendation provided by the auditor in the course of the audit would not.

We are therefore not convinced that paragraph 600.11 A2 should apply to assess whether a recommendation create a self-review threat.

Similarly, paragraph 600.12 A1 states that determining whether advice and recommendations create a self-review threat depends on the nature of the advice and recommendations and how it might be implemented by the clients. For us it is not so much a question of the nature of the advice and recommendations but of their granularity, i.e. the level of details of such advice and recommendations. When the auditor presents recommendation for Management's consideration,

17

so that Management decides of the appropriate response, procedure or action plan, it eliminates any self-review threat for the auditor.

With respect to paragraph 604.12 A2, it is unclear whether the conditions set in this paragraph are the only one under which the provision of tax advisory and tax planning services does not create a self-review threat or whether they are just illustrative, which means that in case the tax advisory or tax planning services do not meet those conditions, then the auditor must revert back to the general conditions of the self-review threat set in paragraph 600.11 A2 to determine whether there is a self-review threat or not. In addition, there is a lack of clarity as to what is meant by “likely to prevail”. Does it mean that it has “a basis in tax law that is at least more likely than not to be allowable” or should it be interpreted in any other way?

Project on Definitions of Listed Entity and PIE

- 4. Having regard to the material in section I, D, “Project on Definitions of Listed Entity and PIE,” and the planned scope and approach set out in the approved project proposal, please share your views about what you believe the IESBA should consider in undertaking its project to review the definition of a PIE.**

We do not believe that the definition of Listed entity and PIEs needs to be reviewed in the IESBA code, for the new provisions of the code regarding the provision of NAS to work. Governments and regulators have set the definition of PIEs at national level to include the entities which they considered to be of Public Interest in their economy and society and on which they considered that additional requirements, either in terms of supervision or independence, were needed. As long as the code recognises that the local law prevails, the PIE definition in the code must remain principles based.

Materiality

- 5. Do you support the IESBA’s proposals relating to materiality, including the proposal to withdraw the materiality qualifier in relation to certain NAS prohibitions for audit clients that are PIEs (see Section III, B “Materiality”)?**

We do not support withdrawing the materiality qualifier in relation to certain NAS prohibitions for audit clients that are PIEs.

The IESBA code is principles based, it is not a set of rules. The purpose of an audit is to obtain reasonable assurance that the Financial statements are free from material misstatements. The application of the IESBA code should not lead the auditor to seek immaterial elements because this would be totally inconsistent with the audit approach which has never required the auditor to obtain evidence on immaterial elements of the financial statements.

We consider it is of the utmost importance to keep consistent principles and a coherent approach between the audit as set in the ISAs and the application of the code.

- 6. Do you support the proposal to prohibit the following NAS for all audit clients, irrespective of materiality:**

- **Tax planning and tax advisory services provided to an audit client when the effectiveness of the tax advice is dependent on a particular accounting treatment or presentation and**

the audit team has doubt about the appropriateness of that treatment or presentation (see proposed paragraph R604.13)?

- **Corporate finance services provided to an audit client when the effectiveness of such advice depends on a particular accounting treatment or presentation and the audit team has doubt about the appropriateness of that treatment or presentation (see proposed paragraph R610.6)?**

We support in principles but we believe that the expression “the audit team has doubt” is too subjective. It should be amended into “the audit team disagrees with that treatment and presentation”.

With respect to removing the materiality qualifier, see our comments above. We do not support removing the materiality qualifier.

Communication with TCWG

- 7. Do you support the proposals for Improved firm communication with TCWG (see proposed paragraphs R600.18 to 600.19 A1), including the requirement to obtain concurrence from TCWG for the provision of a NAS to an audit client that is a PIE (see proposed paragraph R600.19)?**

Yes, we support. TCWG have a crucial role to play in the audit, and especially with respect to auditor’s independence, since at the end of the day they bear the ultimate responsibility on the quality of the financial statements and they need to be able to rely on a quality audit to fulfil that responsibility. And therefore, they also need to be at ease with the auditor’s independence.

Other Proposed Revisions to General NAS Provisions

- 8. Do you support the proposal to move the provisions relating to assuming management responsibility from Section 600 to Section 400, and from Section 950 to Section 900?**

Yes, we support.

The fact that the auditor must not assume management responsibility is an overarching principle which should be positioned as a prominent principle within the code.

- 9. Do you support the proposal to elevate the extant application material relating to the provision of multiple NAS to the same audit client to a requirement (see proposed paragraph R600.10)? Is the related application material in paragraph 600.10 A1 helpful to implement the new requirement?**

Yes, we support in principles but we believe that more guidance is needed for the auditor to be able to assess the risk created by the provision of multiple NAS.

Proposed Revisions to Subsections

- 10. Do you support the proposed revisions to subsections 601 to 610, including:**

- **The concluding paragraph relating to the provision of services that are “routine or mechanical” In proposed paragraph 601.4 A1?**

17

We do not support the inclusion of technical advice on accounting issues within the description of accounting and bookkeeping services in paragraph 601.2 A3. In addition, there is no definition of “technical advice” in that paragraph, simply an example.

- **The withdrawal of the exemption in extant paragraph R601.7 that permits firms and network firms to provide accounting and bookkeeping services for divisions and related entities of a PIE if certain conditions are met?**

No, we do not support the withdrawal of that exemption. We do believe that preparing statutory financial statements based on information in the client-approved trial balance and preparing related notes based on client-approved records for the divisions and related entities of a PIE audit client would generally not create a self-review threat for the audit client.

- **The prohibition on the provision of a tax service or recommending a tax transaction if the service or transaction relates to marketing, planning or opining in favor of a tax treatment, and a significant purpose of the tax treatment or transaction is tax avoidance (see proposed paragraph R604.4)?**

Yes, we support in principles. However, we draw your attention to the risk of misinterpretation of the definitions of “significant purpose” and “tax avoidance”.

- **The new provisions relating to acting as a witness in subsection 607, including the new prohibition relating to acting as an expert witness in proposed paragraph R607.6?**

We have no comments.

Proposed Consequential Amendments

11. Do you support the proposed consequential amendments to Section 950?

Yes, we generally *support* the proposed consequential amendments.

12. Are there any other sections of the Code that warrant a conforming change as a result of the NAS project?

Not that we have identified.

