

Non-audit Services

Management Responsibilities

12 respondents commented on this area. Seven expressed support, some providing suggestions to clarify the language. Three respondents expressed the view that the proposals did not go far enough, for example the proposals permit the execution of an insignificant transaction. One respondent expressed the view that there should be an additional category of threat – a management threat. And one respondent expressed the view that a threats and safeguards principles based approach would be appropriate.

The Task force has considered the comments received and other than some changes to improve the clarity of the guidance, the Task Force is not recommending any changes in this area.

Preparing Accounting Records and Financial Statements

There were few comments received in this area. Other than a few changes to improve the clarity of the guidance, the Task Force is not recommending any changes in this area.

Valuation Services

Under existing Section 290, the guidance related to the provision of valuation services is the same for listed and non-listed audit clients. In both cases the self-review threat would be too significant if the valuation involves matters material to the financial statement and involves a significant degree of subjectivity. The IESBA reviewed these provisions and the ED proposed strengthening the provisions in two areas:

- For audit clients that are entities of significant public interest, the IESBA was of the view that a firm should not provide a valuation service if it would have a material effect on the financial statements. This enhanced safeguard is necessary to address the significant public interest in such entities. Accordingly, under the proposal a material valuation for an audit client that is an entity of significant public interest would compromise independence irrespective of the subjectivity associated with the valuation.
- To ensure consistent application of the Code, the IESBA proposed additional guidance on the meaning of significant subjectivity. Proposed revised Section 290 states that certain valuations do not involve a significant degree of subjectivity. This is likely to be the case where the underlying assumptions are determined by law or regulation or are widely accepted and when the techniques and methodologies to be used are based on generally accepted standards or are prescribed by law or regulation. In such circumstances, the results of a valuation performed by two or more parties are not likely to be materially different.

Of the 15 respondents who commented on the proposal that a firm should not perform a valuation service if it would have a material effect on the financial statements of an audit client that is an entity of significant public interest, four expressed explicit support for the

proposal and 11 stated that they disagreed with the proposal because if there was no significant subjectivity involved in the valuation service there would not be an acceptable self-review threat.

The Task Force has considered the comments received on this area and is of the view that no change is necessary. The Task Force is of the view that because of the public interest associated with financial statements of public interest entities the threat the threat to independence would be too great if an audit firm performed a material valuation for such an audit client.

Three respondents stated that tax-only valuations do not give rise to the same threats to independence as financial valuations. The Task Force has considered this issue and is of the view that a firm should not perform a material valuation service for an audit client that is an entity of public interest even if the valuation is for tax purposes. Accordingly, the Task Force will not recommend any change in this area.

Taxation Services

Existing Section 290 states that taxation services are generally not seen to create a threat to independence. The IESBA considered whether this position continued to be appropriate and concluded that additional guidance in this area is necessary. The proposed revised Section 290 recognizes that performing certain tax services may create self-review and advocacy threats and contains guidance on four broad categories of taxation services:

- *Tax return preparation* – these services involve assisting clients with their tax reporting obligations. The IESBA was of the view that such services do not generally threaten independence as long as management takes responsibility for the returns including any judgments made.
- *Preparation of tax calculations* – The IESBA was of the view that preparing calculations of tax liabilities (or assets) for an audit client for the purposes of the preparation of accounting entries that will be subsequently audited by the firm may create a self-review threat. In addition, for audit clients that are entities of significant public interest, the public interest is such that the firm should not perform calculations for the primary purpose of preparing accounting entries that are material to the financial statements.
- *Tax planning and other tax advisory services* – The IESBA was of the view that a self-review threat may be created where the advice will affect matters to be reflected in the financial statements. In addition, where the effectiveness of the advice depends upon a particular accounting treatment or presentation and there is reasonable doubt as to the appropriateness of the treatment or presentation, and the outcome of the advice will have a material effect on the financial statements the advice should not be provided

because the self-review threat would be so significant no safeguards could address the threat.

- *Assistance in the resolution of tax disputes* – The IESBA was of the view that an advocacy threat may be created when the firm represents an audit client in the resolution of a tax dispute once the tax authorities have made it known that they have rejected the audit client's arguments on a particular issue and are referring the matter for determination in a formal proceeding, for example before a tribunal or court. In addition, where the services involve acting as an advocate for an audit client before a public tribunal or court in the resolution of a tax matter and the amounts are involved are material to the financial statements, the service should not be provided because the advocacy threat would be so significant no safeguards could address the threat. What constitutes a public tribunal or court should be determined according to how tax proceedings are heard in the particular jurisdiction.

Many respondents had overall comments on the proposals, in addition to providing specific comments on the broad categories of tax services described in the ED. These general comments included the following sentiments:

- We generally support the proposal. (two respondents)
- We generally agree that the threats and safeguards approach should be applied to tax services. (13 respondents)
- Tax services historically have not created a threat to independence. (two respondents)
- The proposal appears to be moving to a rules-based approach where the restrictions are not based on threats. The length of the section on taxation seems out of proportion and is too detailed. (12 respondents)
- The provision of tax services enhances audit quality and consequently, it is in the public interest for accountants to provide tax services to their audit clients. (eight respondents)
- Companies rely on their auditors for tax services and additional costs will be incurred if they need to seek other advisors, which is not in the public interest. (eleven respondents)
- Smaller firms will be put in a disadvantageous position as compared to larger firms and/or small firms will not be able to implement the safeguards mentioned. (two respondents)
- The proposed restrictions could adversely affect the quality of tax return preparation and tax calculations. (two respondents)
- No recognition is given to the nature of tax regimes in different countries. (two respondents)
- The proposal could be strengthened further since the approach taken contradicts the general principles on management function. (one respondent)
- The proposals applicable to ESPI are supportable, but for others, the proposals should be deferred to assess whether the restrictions would enhance audit quality. (one respondent)

Several of the respondents believe that taxation services should be analyzed using a threats-and-safeguards approach and are concerned about what appears to be a disproportionate amount of space devoted to covering services that have traditionally been provided by accountants to their audit clients without restrictions. In addition, arguments are posited that these services are in the public interest as they enhance audit quality, reduce the audit client's costs, and help ensure accurate tax filings. However, while there was a lot of comment on this subject the majority of respondents (40 out of 76) had no comments on the tax proposals.

The IESBA concluded that given the differing conclusions on the independence consequences of differing taxation services, it was necessary to discuss the categories of tax services separately. As a result, other than possibly streamlining the language where possible, the IESBA concluded that the categories of taxation services addressed in the ED were appropriate.

The other main issue on taxation services related to comments on preparation of tax calculations. Several respondents suggested that the preparation of tax calculations should only be restricted for entities of significant public interest if the amounts are material and there is a high degree of subjectivity. Others argued that safeguards should be able to be applied to minimize any threat resulting from preparing tax calculations. Several respondents noted that either determining the "primary" purpose of the calculations would be difficult or the purpose of the calculations is not what gives rise to the threat. Two respondents argued that the threat to independence depends on the timing of the calculations.

In considering this issue the IESBA this issue noted that for entities of significant public interest bookkeeping services were prohibited, without regard to materiality. Thus, restricting auditors from calculating the tax liability for use by the client in preparing its accounting entries was not unreasonable. The IESBA also discussed whether the restriction should depend on the timing of the preparation of the tax calculations, recognizing that in some instances the calculations are performed before the audit is complete, whereas in other cases the calculations are performed after the audit. The IESBA was of the view that the critical issue, regardless of timing, is whether the client makes a good faith effort at calculating its current and deferred tax liabilities and preparing its accounting entries. The IESBA was of the view that the use of the term "primary" could convey the wrong meaning and asked the Task Force to consider this term. The Task Force has considered the term and is of the view the term should be deleted.

The Task Force is also of the view that an exception should be provided for emergency situations – which will bring align the position to that taken in bookkeeping:

“Except in emergency situations in the case of an audit client that is an entity of significant public interest, a firm should not prepare tax calculations of current and deferred tax liabilities (or assets) for the purpose of preparing accounting entries that are material to the financial statements on which the firm will express an opinion.”

IT Systems Services

Existing Section 290 provides that IT services involving the design *and* implementation of financial information technology systems that are used to generate information forming part of a client’s financial statements may create a threat that is likely to be too significant unless certain specified safeguards are applied. The existing section also provides that providing design *or* implementation services may create a threat. The IESBA reviewed these provisions and the ED proposed strengthening the guidance in two areas:

- For audit clients that are not entities of significant public interest, the ED states that either the design or the implementation of financial information technology systems that form a significant part of the accounting systems, or generate information that is significant to the client’s financial statements, may create a threat that is likely to be too significant unless certain specified safeguards are applied.
- For audit clients that are entities of significant public interest, the ED states that, due to the level of public interest in such entities, a firm should not provide services involving either the design or the implementation of financial information technology systems that form a significant part of the accounting systems, or generate information that is significant to the client’s financial statements.

Of the 14 respondents who commented on this proposal three were supportive of the strengthening of the requirements for entities of significant public interest, nine stated that the strengthening was not necessary, several stating that there was no evidence that the existing approach of mandatory safeguards had failed. One respondent expressed the view that the proposal for entities of significant public interest should be applied to all entities. One respondent stated that it was not possible to conclude whether the proposed amendment was appropriate or not.

The Task Force has considered the comments received. The Task Force is of the view that a firm should not provide design or implementation services to an audit client that is an entity of significant public interest. The Task Force will, therefore, be recommending no change in this provision.

Litigation Support Service

There were few comments received in this area. The Task Force is not recommending any changes in this area.

Legal Services

Few respondents commented on this area. One respondent stated that legal services can involve giving accounting advice and recommended the guidance be strengthened to state that service should be prohibited if there was reasonable doubt as to the appropriateness of the accounting treatment and the outcome of the advice would have a material consequence on the financial statements. The Task Force is of the view that no change is necessary because legal services (which are defined as any services for which the person providing the services must be either admitted to practice law before the Courts of the jurisdiction or have the required legal training to practice law) do not include offering accounting advice.

The Task Force is not recommending any change in this area.

Recruiting Senior Management

There were few comments received in this area. Other than a few changes to improve the clarity of the guidance, the Task Force is not recommending any changes in this area.

Corporate Finance Services

15 respondents commented on this area – five of whom were supportive of the position proposed. Of the ten other respondents one felt the proposals did not go far enough and proposed, for example, prohibiting assistance in developing corporate strategies, four questioned that guidance regarding reasonable doubt as to the accounting treatment. The Task force is of the view that the guidance is consistent with that provided in tax and is, therefore, appropriate.

Other than a few changes to improve the clarity of the guidance, the Task Force is not recommending any changes in this area.

Action requested

CAG Members are asked to consider the direction of the IESBA and the recommendations of the Task Force.