

IESBA CAG

Responding to a Suspected Fraud or Illegal Act

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Agenda

- Nature of matters to be addressed
- Process for responding to a suspected fraud or illegal act
- Task force proposal
- Discussion

Nature of items to be addressed

- ISA definitions
 - Fraud - “intentional acts ... involving the use of deception to obtain an unjust or illegal advantage”
 - Illegal acts (non-compliance with laws and regulations) – “acts of omission or commission by the entity which are contrary to prevailing laws and regulations”
- Fraud or other illegal acts that:
 - Have a direct or indirect effect on the financial reporting of the client or employing organization
 - Are within the expertise of the professional accountant

Nature of items to be addressed

- Unethical or improper behavior or acts
- What is unethical or improper is subjective and can differ between cultures and over time
- Such other matters should not be treated separately at this stage as they may represent fraud or illegal acts once further information has been gathered
- Some guidance contained in paragraphs 210.1-210.5 (Client Acceptance) and paragraph 300.15

Process for Responding

- Reasonable level of suspicion
- Sequential approach to disclosure within the client or employing organization
 - To management at an appropriate level
 - If management response not appropriate to a higher level of authority
 - For a professional accountant in business could disclose to the entity's external auditor

Process for responding

- Satisfactorily addressed
 - Matters appropriately investigated
 - Appropriate remedial action taken
 - Steps taken to reduce risk of re-occurrence
 - Disclosure made to an appropriate authority, or disclosure will be made within a reasonable period of time

Process for responding

- Matter not satisfactorily addressed
 - Calls into question integrity of client or employer
 - Existing guidance in Code in paragraphs 210.1-210.5 and paragraph 300.15 would point to resignation
 - If not disclosed to an appropriate authority by the entity the professional accountant should determine whether such a disclosure would be in the public interest

Task Force Proposal

Nature of matter	Response
Direct or indirect effect on financial reporting of client or employing organization	Requirement to disclose if in the public interest
Other suspected frauds or illegal acts that are within the expertise of the accountant	Requirement to disclose if in the public interest
Other unethical and improper acts within the expertise of the accountant	Permitted to disclose if in the public interest
Other suspected illegal acts	Permitted to disclose if in the public interest

Task Force Proposal

- Factors considered by Task Force in developing this proposal
 - A distinguishing mark of the accountancy profession is its acceptance to act in the public interest (first sentence of Code)
 - Balancing of principle of confidentiality and public interest
 - For matters that are not within the expertise of the accountant, obligations are similar to that of any other provider of services or employee

Task Force Proposal

- Whether a matter is in the public interest will depend upon:
 - Significance to the entity's financial reporting
 - Extent to which external parties are likely to be affected
 - Likelihood of recurrence

Task Force Proposal

- Situations where a requirement to disclose might be disproportionate (e.g. threat of physical harm)
- Suggested pre-requisites
 - Disclosure is not contrary to laws and regulations;
 - A whistle-blowing protection scheme is in place which affords both anonymity and protection from liability;
 - There is an appropriate authority to receive the disclosure and there is a judicial process which can be trusted.
- Not applicable to auditors

Discussion