

5 March 2012

Executive Director
Quality and member Relations
International Federation of Accountants
545 Fifth Avenue, 14th Floor
New York
New York 10017
USA

Dear Executive Director

CIPFA is pleased to have the opportunity to comment on the IFAC Board's exposure draft dated 6 December 2011 on the subject of Statements of Membership Obligations (Revised).

CIPFA supports the general principles that have been followed in producing the exposure draft, as explained in the section entitled 'Significant matters considered during the review', and we are particularly pleased to see the clarification of the 'best endeavors' concept. Clarity, and a more logical flow, seems to figure in most of the revised text, and we believe that this will be a considerable aid to those bodies that are working through their Action Plans for the first time. The 'Plain English' approach used is also a noticeable improvement.

On the 'Requests for Specific Comments':

1. We consider that the addition of an 'applicability framework' is also a step forward, and will help to guide bodies whose responsibilities are shared with regulators or government. We are also content that the definitions of 'adoption' and 'implementation' are clear and appropriate.
2. We were also interested to see the proposal for a potential additional SMO on the subject of governance structures, and we look forward to seeing detailed proposals in due course.

If you need further information on any of the issues we have raised in this response, please do not hesitate to contact me.

Yours sincerely



Thomas Lewis
Council Secretary



INVESTOR IN PEOPLE

CIPFA's response to:

IFAC Exposure Draft Statements of Membership Obligations (Revised)

March 2012

CIPFA, the Chartered Institute of Public Finance and Accountancy, is the professional body for people in public finance. Our 14,000 members work throughout the public services, in national audit agencies, in major accountancy firms, and in other bodies where public money needs to be effectively and efficiently managed.

As the world's only professional accountancy body to specialise in public services, CIPFA's portfolio of qualifications are the foundation for a career in public finance. They include the benchmark professional qualification for public sector accountants as well as a postgraduate diploma for people already working in leadership positions. They are taught by our in-house CIPFA Education and Training Centre as well as other places of learning around the world.

We also champion high performance in public services, translating our experience and insight into clear advice and practical services. They include information and guidance, courses and conferences, property and asset management solutions, consultancy and interim people for a range of public sector clients.

Globally, CIPFA shows the way in public finance by standing up for sound public financial management and good governance. We work with donors, partner governments, accountancy bodies and the public sector around the world to advance public finance and support better public services.

SMO1 – Quality Assurance

CIPFA is generally supportive of the proposed SMO, but we have a number of observations regarding the applicability of the proposed SMO as drafted to the audit of the financial statements of public sector bodies.

We support the principle of extending quality assurance to all audits of financial statements, and we assume that this is intended to include the financial statements of public sector bodies. We would support this on the basis that the responsibility for the use and stewardship of public money makes the public sector at least as important as the commercial sector in this respect. However, the SMO scope needs to be clarified in this respect.

We note that the IFAC International Auditing and Assurance Standards Board (IAASB) has a memorandum of understanding with the International Organisation of Supreme Audit Institutions (INTOSAI). The INTOSAI Professional Standards Committee formally cooperates with IFAC and the IAASB in its development of financial auditing guidelines for Supreme Audit Institutions, and has regard to IAASB standards when developing public sector specific guidance. INTOSAI is also represented through membership of the IAASB and of the CAG. In consequence of these cooperative measures

- The IAASB has issued clarified ISAs and other standards which include consideration of matters specific to audits of public sector financial statements.
- INTOSAI has issued a set of implementation guidelines which include guidelines on financial auditing (ISSAI 1000-1999) which are based on the ISAs. INTOSAI has also issued ISSAI 40 on Quality Control, which is based on ISQC1.

We would also note that while the SMO has regard to the extent to which IFAC member bodies have responsibility for quality assurance matters, there are particular issues in the context of public sector audits. The basis for compliance with this SMO will (as it does for other audits) reflect the formal responsibilities and powers that the IFAC member body has under local law. It may also vary significantly depending on whether the public sector audits are carried out by an entity headed by a professional accountant and staffed by professional accountants, or by persons with other training backgrounds. The statutory basis for public sector audit, the legal position of public sector audit agencies (or the statutory heads of audit agencies), and the overarching risk environment (including risks to auditor independence) may also be rather different to those factors underlying private sector company audits by private sector audit firms. In most cases, the audit agency will not be an IFAC member body, nor will it be regulated by an IFAC member body.

General concerns

We have two general concerns regarding the proposed SMO as drafted.

The first is that the terminology used throughout the proposed SMO is terminology that is more relevant in the private sector than the public sector. If the SMO is to be applied more widely, it would be helpful if the terms 'partner' and 'firm' were articulated in more inclusive terms, for example to make it clear that the definition of 'firm' encompasses public sector audit agencies and statutorily appointed individuals where appropriate.

The second concern is that the proposed SMO is based on a national level quality assurance review process developed for private sector 'public interest entities', and while the new proposals incorporate some additional flexibility, this may not be sufficient to result in a proportionate approach for quality assurance in the public sector audit context.

The following paragraphs provide more detailed comments on some of these issues.

Application at firm level (including public sector audit agencies and statutorily appointed individuals)

As noted above

- the IAASB has developed ISAs which have regard to special considerations relevant to the audit of public sector financial statements.
- INTOSAI has developed financial auditing guidelines based on ISAs, and a quality control ISSAI 40.

Depending on the arrangements for public sector audit in a specific jurisdiction, audits of public sector financial statements may be carried out in line with ISAs, ISSAIs, locally developed standards (which may or may not be informed by ISAs or ISSAIs), or with no formal standards framework.

Against this background, and having regard to the limited authority or responsibility which IFAC member bodies will generally have for the audits of public sector financial audits, we support the proposals for quality assurance as they apply through the firm's or public sector audit agency's own procedures.

Application at national level

The SMO also discusses requirements for external review to monitor the application of procedures by the firm or audit agency, carried out by an IFAC member body, regulator, or other independent person or organisation. We would note that the statutory basis for audit, the legal position of public sector audit agencies or the statutory heads of audit agencies, and the risk environment will generally be rather different to those factors underlying private sector company audits by private sector audit firms.

Against this background, we would support the principle of quality assurance review of audits of public sector financial statements. However, the practical realisation of a proportionate review framework might, in line with the reasons set out above, be somewhat different to that applied to private sector audits of private sector companies. It may sometimes be effective to apply the approach used for private sector audits directly: three of the UK public sector audit agencies have, on a voluntary basis, arranged for the audits for which they are responsible to be subject to such quality assurance review by IFAC member bodies or the UK oversight body as appropriate. However, having regard to the wider picture, especially in other jurisdictions, we are not sure that this will always be the best way to safeguard the public interest.

We would also note that, while in a private sector context we would agree with the prohibition at paragraph 63 of the SMO that *Firms and their peers shall not perform reciprocal quality assurance reviews*, it may be less clear that peer review should not be allowable in the case of public sector audit agencies operating in different legal jurisdictions, as long as these were subject to sufficient safeguards to reviewer independence and objectivity.

Application to wider categories of professional accountancy services

We also strongly support the extension of quality assurance to all kinds of professional accountancy services, and CIPFA already has a 'practice assurance' scheme in place that achieves this aim. This again would require some more generic terminology to be adapted to ensure the principles can be applied to non-audit assignments.

SMO2 – International Education Standards

This SMO is largely concerned with making it a requirement for bodies to implement and adopt standards issued by IAESB.

CIPFA is pleased to support the proposed SMO.

SMO3 – International Auditing Standards

This SMO is largely concerned with making it a requirement for bodies to implement and adopt standards issued by IAASB.

CIPFA is pleased to support the proposed SMO.

SMO4 – Code of Ethics for Professional Accountants

CIPFA has adopted the current IESBA Code of Ethics in the form of a CIPFA Standard of Professional Practice. We are pleased to support the proposed SMO.

SMO5 – International Public Sector Accounting Standards

This SMO is largely concerned with making it a requirement for bodies to implement and adopt standards issued by IPSASB.

As a leading Institute in the area, CIPFA is pleased to support the proposed SMO.

SMO6 – Investigation and Discipline

CIPFA has a number of concerns about the detailed changes to the SMO on Investigation and Discipline, and these are set out in the sub paragraphs below.

Scope – Misconduct

In our view, the key consideration of this paragraph of the SMO should be to set out the behaviours or actions that are expected under the terms of the SMO to lead to a disciplinary process. The current draft SMO suggests that a disciplinary process should be triggered only by 'misconduct.' However, this approach would require development of a precise definition of misconduct, and experience indicates that it is very difficult to do so satisfactorily. We suggest that enshrining the term 'misconduct' in the SMO is not necessary.

Scope – Criminal activity

CIPFA takes action against Members on a range of matters, some of which may be 'criminal,' while others may be 'misconduct'. But many of the cases are based on matters centring on levels of competence and negligence. Members' actions in these cases might not be construed as 'misconduct' in UK law, nor are they necessarily criminal. Furthermore, not all criminal activity should, in our view, lead to disciplinary action.

To give a simple example, misdemeanours such as minor traffic offences should, in our view, be excluded. In deciding whether to follow up on criminal activity, CIPFA currently uses a test as to whether the offence has a potential sanction of a prison sentence.

In conclusion, we feel that both the terms 'criminal activity' and 'misconduct' should be used with care, and should not be used to limit the bodies' procedures for the reasons described above. A non-exhaustive list of behaviours that should lead to a disciplinary process would, we suggest, present a straightforward solution. A distinction can then be made between 'disciplinary' issues and 'regulatory' issues in paragraph 15 of the SMO.

The investigative process

Paragraphs 19 and 24 deal with investigators', prosecutors' and committee independence. CIPFA's practice is that investigative work is never performed by an investigations committee member, and we feel that such involvement would be inappropriate.

Paragraphs 25 and 26 cover the issue of dealing with cases other than through a tribunal. We feel that these paragraphs need to be less prescriptive. For example, CIPFA's practice is that the investigations committee is empowered to dismiss a case, or to impose certain lesser sanctions (with the Member's consent), without being required to refer such cases on to a full disciplinary hearing.

We strongly believe that all complaints should be handled through the proper process, and would not support any suggestion of arrangements being reached between the Institute's staff and the Member.

Sanctions – Removal/restriction of practising rights

We feel that the wording of paragraph 16, (with additional references in paragraphs 31 and 32), is too restrictive. We are particularly concerned about the apparent requirement to provide for a sanction that restricts practising rights, as opposed to their full removal. Policing any such restriction would be very onerous for smaller bodies. We propose that it should be left to individual bodies whether or not they should enable this type of sanction. For the avoidance of doubt, we fully support the requirement that every member body should have the right to remove practising rights.

Rights of representation and appeal

In UK law, the word 'conviction' relates to criminal activity. We suggest using the terms 'findings,' 'finding against,' etc. as appropriate rather than the current terminology in paragraph 35.

Administration Process – Confidentiality

Paragraph 42 envisages ensuring confidentiality through 'binding agreements' with all participants in a case. It is not clear whether this refers only to committee members, and the Institute's staff and advisers, or whether it goes wider to witnesses etc. If the wider interpretation is intended, we question the extent to which such agreements would in practice be 'binding.' But it is likely that different circumstances will apply in different jurisdictions and so we recommend that this wording is reconsidered.

Public interest considerations

Paragraph 50 proposes an annual public report summarising the results of investigative and disciplinary proceedings. CIPFA's current practice is to publish a notice of findings where the disciplinary committee imposes a serious sanction i.e. a Reprimand or higher

against a Member following a public hearing; we do not publish any details of complaints that are dismissed, or where the result is in the Member's favour. We consider that this strikes the right balance between informing the public and protecting Members' personal interests. We propose that there should not be a requirement to publish any details of complaints or cases, beyond a simple numerical count of cases dealt with, except where the findings are against the Member. Instead we consider that bodies should have the discretion to exclude details of cases where matters have been addressed in private or no/lesser sanctions have been applied.

Definition

We suggest that International Public Sector Accounting Standard (IPSAS) should be added to the list of 'professional standards' at paragraph 59.

SMO7 – International Financial Reporting Standards

This SMO is largely concerned with making it a requirement for bodies to implement and adopt IFRSs issued by IASB.

CIPFA is pleased to support the proposed SMO.