

6 June 2020

Mr Ken Siong
Senior Technical Director
International Ethics Standards Board for Accountants (IESBA)
International Federation of Accountants (IFAC)
529 Fifth Avenue, 6th Floor
New York, New York 10017 USA

By email: kensiong@ethicsboard.org

Dear Mr Siong,

IESBA's Exposure Draft *Proposed Revisions to the Non-Assurance Services Provisions of the Code*

Accounting Professional & Ethical Standards Board Limited (APESB) welcomes the opportunity to make a submission on the IESBA's Exposure Draft *Proposed Revisions to the Non-Assurance Services Provisions of the Code* (NAS Proposals).

APESB is governed by an independent board of directors whose primary objective is to develop and issue, in the public interest, high-quality professional and ethical pronouncements. These pronouncements apply to the membership of the three major Australian professional accounting bodies (Chartered Accountants Australia and New Zealand, CPA Australia and the Institute of Public Accountants). In Australia, APESB issues APES 110 *Code of Ethics for Professional Accountants (including Independence Standards)* (APES 110) as well as a range of professional and ethical standards that address Non-Assurance Services (NAS).

Overall comments

APESB strongly supports the NAS Proposals, in particular, the removal of materiality qualifiers for services provided to audit clients that are Public Interest Entities (PIEs) and prohibiting the provision of any NAS to PIE audit clients which creates a self-review threat or an advocacy threat in relation to an audit engagement.

Australian regulatory environment

On 1 August 2019, an inquiry into the regulation of the auditing profession in Australia was referred to the Parliamentary Joint Committee on Corporations and Financial Services (PJC Inquiry). The PJC sought submissions on the Terms of References with the comment period closing on the 28 October 2019.

The PJC Inquiry received over 100 submissions and held four public hearings during the period November 2019 to February 2020. APESB made an initial submission on 28 October 2019 and two additional submissions to the PJC to clarify the mandatory nature of the Australian Code (APES 110), its prohibitions and to highlight the existing prohibitions on Insolvency Services. APESB also appeared at the public hearing held on 7 February 2020 in Canberra.

On 27 February 2020, the PJC Inquiry tabled an [Interim Report](#) in the Senate (the upper house of the Australian Federal Parliament) in which a significant proportion of the report focussed on the provision of NAS to audit clients.¹ The Interim Report notes in paragraph 4.103 that some submissions to the inquiry advocated for the adoption of an approach similar to the US *Sarbanes-Oxley Act of 2002* (SOX) with more prescriptive guidance on prohibited NAS. Several submissions stated that the Australian Code (APES 110) is subjective, and a more definitive list of prohibited NAS could be adopted (refer to paragraphs 4.103 to 4.110 of the Interim report).

The PJC Interim Report sets out ten recommendations, including, of particular relevance to the NAS Proposals, recommendation 3:

The committee recommends that the Financial Reporting Council, in partnership with ASIC, by the end of the 2020–21 financial year, oversee consultation, development and introduction under Australian standards of:

- *defined categories and associated fee disclosure requirements in relation to audit and non-audit services; and*
- *a list of non-audit services that audit firms are explicitly prohibited from providing to an audited entity.*

APESB is of the view that the NAS Proposals to remove the materiality qualifiers for services provided to audit clients that are PIEs and prohibiting the provision of any NAS to PIE audit clients which creates a self-review threat will assist Australia in meeting the above mentioned PJC Inquiry recommendation.

APESB is concerned that if the IESBA's proposals concerning NAS are not implemented or are not clear and enforceable, the Australian Government is likely to request APESB implement stricter prohibitions in the Australian Code.

We favourably note that the IESBA will shortly be commencing a benchmarking study which in due course will create an authoritative document to demonstrate the alignment of the IESBA's *International Code of Ethics for Professional Accountants (including International Independence Standards)* (the IESBA Code) with the US and EU independence requirements or highlight areas where there may be differences.

Impact of IESBA's NAS Proposals on the Australian Code

APESB is concerned that some of the specific proposed NAS provisions include subjectivity. We recommend that in respect of PIEs, the prohibitions must be clearly stated to make these provisions clearer and enforceable. While certain NAS may not impact the financial statements being audited, we believe it is important to clearly say that when it does impact the financial statements, it will create a self-review threat, and in those instances, the services are prohibited.

¹ The discussion on the provision of NAS is included in the PJC Inquiry interim report in paragraphs 4.12 to 4.116.

APESB is concerned that the NAS Proposals in its current form may not satisfy regulators and other public interest stakeholders who have raised concerns in respect of auditors providing NAS to their audit clients.

We acknowledge that there is no conclusive empirical evidence that the provision of NAS to audit clients has a detrimental impact on audit quality. Nonetheless, given the parliamentary inquiries in the UK, Australia and the Netherlands, there is a significant public perception issue in respect of the appropriate types of NAS and the quantum of fees earned from NAS by an entity's external auditor.

While we favourably note the progress made in the NAS Proposals, we believe that further enhancements are required to clearly specify the NAS that an entity's external auditor can provide as well as circumstances in which NAS are prohibited.

Development of a comprehensive list of permissible and prohibited NAS

We believe that some of the drafting issues noted in this submission are due to the utilisation of the existing NAS framework in the IESBA Code. A potential approach is for the IESBA to develop a listing of services that are permissible by an entity's external auditor as well as activities that are prohibited in the following categories:

- Audit-related services;
- Other Assurance Services; and
- Non-Assurance Services.

APESB recommends that the IESBA should consider developing definitions or guidance on services that are likely to be classified under each of the categories in a similar manner to the [UK FRC's Ethical Standard](#). This approach of classification of audit and other services provided by an entity's external auditor will also assist with the IESBA's Fee proposals to achieve transparency of fee-related information.

After that, the IESBA can assess and determine whether these permissible and prohibited NAS are appropriately captured in Sections 400, 600 and 950 of the IESBA Code.

In developing APESB's response to the NAS Proposals, we have taken into consideration Australian stakeholders written submissions made to the APESB on this IESBA exposure draft and Australian stakeholders' feedback from two roundtable events conducted by APESB in April 2020. The stakeholders who attended the roundtables included national standard setters, regulators, professional accounting bodies, accounting firms, investors and academics.

APESB's key recommendations are noted below. APESB's responses to the IESBA's specific questions on the NAS Proposals and other editorial amendments are attached in Appendix A.

Recommendations

APESB's key recommendations in relation to the NAS Proposals for the IESBA's consideration are:

- Similar to the prohibition on assuming a management responsibility for an audit client, we believe that in respect of a PIE audit client, there should be an explicit prohibition on undertaking any NAS where there are self-review or advocacy threats as there are no safeguards available or capable of being applied to address these threats.

- Remove the expression “*if there is a self-review threat*” and clearly state the prohibition. For example, a prohibition addressing a valuation service to a PIE audit client could be expressed as:

A firm or a network firm shall not provide a valuation service that will affect the accounting records or financial statements on which the firm will express an opinion to an audit client that is a public interest entity as the provision of such a service creates a self-review threat that cannot be eliminated or reduced to an acceptable level.

The above drafting approach should be applied to subsections 601 to 610 of the NAS Proposals (refer to specific comments 1 & 10 in Appendix A).

- To remove the emphasis on self-review threats in the NAS Proposals, revise the key requirements paragraphs to refer to threats in general and then address the most relevant threats (for example, self-review, advocacy, intimidation) to that particular circumstance in the guidance paragraphs.
- Revise proposed paragraph 600.11 A2 to remove subjectivity and enhance the enforceability of paragraph 600.11 A2 by adopting the proposed drafting proposed in specific comment 2 in Appendix A.
- The drafting of Section 604 needs to be revised, and a clear distinction made between tax compliance services vs. tax advisory and tax planning (refer to specific comment 3 in Appendix A)
- The IESBA Code’s definition of ‘Public Interest Entity’ needs to be consistent with the International Auditing and Assurance Board’s (IAASB’s) term ‘Entities of Significant Public Interest.’ It is preferable that the PIE definition continues to be maintained given its market recognition, and it should be consistent with the International Accounting Standards Board’s (IASB’s) definition of ‘Publicly Accountable Entity.’ This approach will facilitate both preparers of financial reports and auditors treating entities that have a public interest in a consistent manner.
- Revise the provisions relating to tax planning, tax advisory services, and corporate finance to strengthen the wording and provide clarity on when the requirements apply (refer to specific comments 3, 6 & 10).
- Consider combining requirements relating to a firm’s communication with Those Charged with Governance (TCWG) to reduce duplication.
- Provide additional guidance on documentation of matters relating to NAS, including documentation to support the concurrence received from TCWG that the provision of NAS will not affect the independence of the auditor.
- Revise key requirements provisions, and related application material, in Subsections 601 to 610 to strengthen them and make them more enforceable (refer to specific comment 10 in Appendix A).
- Revise the conforming amendment in paragraph R400.32 to clarify the different approaches a firm may undertake when they have provided NAS historically to a potential PIE audit client (refer to specific comment 12).

Concluding comments

We trust you find these comments useful in your final deliberations. Should you require additional information, please contact APESB's Chief Executive Officer, Mr. Channa Wijesinghe, at channa.wijesinghe@apesb.org.au.

Yours sincerely

A handwritten signature in black ink, appearing to read "Nancy Milne". The signature is written in a cursive, flowing style.

Nancy Milne OAM
Chairman

APPENDIX A

APESB's Specific Comments

APESB's responses to the specific matters raised by the IESBA on the NAS Proposals for the IESBA's consideration are as follows:

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?

APESB supports the proposal to establish a general self-review threat prohibition for PIE audit clients in proposed paragraph R600.14 of the IESBA Code. We agree that when self-review threats are created in relation to PIE audit clients, the threats cannot be eliminated, and safeguards are not available or capable of being applied to reduce the threats to an acceptable level.

APESB is concerned that some of the proposed prohibitions for NAS include subjectivity, which must be removed to make these provisions clearer and enforceable. While certain NAS may not impact the financial statements being audited, we believe it is important to clearly state that when it does impact the financial statements, it will create a threat. Specific comments concerning various subsections of the NAS Proposals are provided in APESB's response to question 10 below.

APESB is of the view that paragraph R600.8 should be strengthened with the inclusion that, in certain instances, threats cannot be eliminated, and safeguards are not capable of being applied to reduce the threats to an acceptable level. This approach would strengthen the requirement and clarify the intended prohibition in respect of NAS.

APESB agrees that it is easier to identify self-review and advocacy threats in the context of an auditor providing NAS. However, it is important to acknowledge that it is possible for any of the other threats set out in the Code to occur as well. For example, if a NAS has a significant fee, it may create, or be perceived to create, a self-interest threat.

Accordingly, the IESBA should consider whether to address threats in general in the key requirements paragraphs in the NAS Proposals and deal with the most relevant or likely threats in that circumstance in the related guidance paragraphs. Otherwise, there is a risk that an auditor or a firm may argue that as long as the threat created is not a self-review threat, they can apply a safeguard to eliminate the threat or reduce it to an acceptable level (which is not always possible).

APESB notes that the US Securities and Exchange Commission (SEC) rules include three overriding principles in relation to auditor independence and provision of non-assurance services²:

- **Auditor cannot function in the role of management** – this is comparative to proposed paragraph R400.13 of the NAS Proposals (or extant paragraph R600.7), which prohibits firms assuming management responsibility for an audit client.
- **An auditor cannot audit their own work** – we believe that proposed paragraph R600.14 has a similar intention, however, the use of the expression “if it creates a

² Details of the SEC rules are available at www.sec.gov/rules/final/33-8183.

self-review threat” in the proposed requirement paragraphs weakens the intent of those prohibitions.

- **Auditors cannot serve in an advocacy role for their client** – there are prohibitions in proposed paragraphs R604.25 and R608.8 for non-PIE audit clients (subject to materiality) and R604.26 and R608.9 of the NAS Proposals for PIE audit clients.

In considering the IESBA Code against the SEC rules, the IESBA Code currently prohibits an auditor from assuming a management responsibility, is proposing to prohibit the provision of NAS to PIE audit clients where it creates a self-review threat and prohibits specific advocacy roles.

The IESBA should also consider including an overriding requirement in Section 600, applicable to PIE audit clients, prohibiting the provision of any NAS that creates advocacy threats where there are no safeguards capable of addressing or eliminating these threats.

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?

APESB is of the view that the application material in proposed paragraph 600.11 A2 of the IESBA Code does not clearly set out the thought process to be undertaken when considering whether the provision of NAS to an audit client will create a self-review threat.

We understand the intention of the prohibition on providing NAS that creates a self-review threat relates to whether it will affect the accounting records or financial statements that the firm will express an opinion on.³

We are concerned that the use of an ‘and’ between (b) and (c) of proposed paragraph 600.11 A2 of the NAS Proposals creates subjectivity and, by default, potential materiality considerations. An alternative drafting of this paragraph to make it clearer and more enforceable by regulators could be as follows:

600.11 A2 Identifying whether the provision of a non-assurance service to an audit client will create a self-review threat involves determining whether there is a risk that: ~~(a)~~ the results of the service will affect the accounting records, internal controls over financial reporting, or the financial statements on which the firm will express an opinion, including when:

(ab) In the course of the audit of those financial statements, the results of the service will be subject to audit procedures; ~~and~~ or

(bc) ~~When making~~ Making an audit judgment, the audit team will evaluate or rely on any judgments made or activities performed by the firm or network firm in the course of providing the service.

³ This is consistent with the prohibitions in the proposed paragraphs R601.5, R603.5, R604.10, R604.15, R604.19, R604.24, R605.6, R606.6, R607.6, R608.6 and R610.8 of the NAS Proposals.

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?**

Subject to the editorials to proposed paragraph 600.11 A2 detailed in APESB's response to question 2 above, APESB believes the application material in proposed paragraph 600.12 A1 of the NAS Proposals is sufficiently clear and appropriate.

However, we do not believe the guidance in proposed paragraph 604.12 A2 is sufficiently clear and appropriate. The drafting creates subjectivity, in particular in subparagraph 604.12 A2 (c), which refers to "a basis in tax law that is likely to prevail." Some Australian stakeholders were of the view that the phrase 'likely to prevail' is open to interpretation, and the IESBA needs to clarify what this phrase means.

We understand the intention of the prohibitions on NAS is that a self-review threat is created when the NAS will affect the accounting records or financial statements that the firm will express an opinion on. We are concerned that the addition of a subjective list of incidences where it may not create a threat creates confusion and potentially leads to inconsistent application.

APESB is of the view that the factors listed in proposed paragraph 604.12 A2 of the NAS Proposals could be combined with proposed paragraph 604.12 A3 as factors relevant in identifying and evaluating self-review or advocacy threats.

We believe that it would be useful to have additional application material that distinguishes tax compliance services from tax advisory and tax planning services. It is more than likely that most tax compliance services are supported by a tax authority, precedent, or based on established practice (i.e., limb (a) and (b) of proposed paragraph 604.12 A2) and creates a lesser threat compared to tax advisory and tax planning services.

Accordingly, it is not appropriate to state *categorically* that tax advisory and tax planning will not create a threat in paragraph 604.12 A2 when compared to paragraph 604.6 A1, which states that tax return preparation does not usually create a threat.

APESB encourages the IESBA to review and strengthen the drafting of Section 604 of the NAS Proposals to address the concerns noted above. We also note that as there is a high likelihood that any tax service will impact on the accounting records and financial statements, and recommend that the use of "might" should be avoided as much as possible.

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.**

APESB supports the IESBA's planned scope and approach of reviewing the definition of 'listed entity' and PIE in the Code concurrently with the NAS and fee-related matters in the IESBA Code, and in coordination with the IAASB.

APESB agrees that there should be convergence between the definition of PIE and 'Entity of Significant Public Interest,' which is used in the IAASB standards. We strongly believe that both the IESBA and the IAASB should use the same terminology.

From APESB's perspective, this would preferably be PIE as it has gained significant market recognition in Australia. The IESBA and the IAASB also need to reach out to the International Accounting Standards Board (IASB) to ensure that there is consistency with IASB's term 'Publicly Accountable Entity.' This approach will facilitate all parties in the financial reporting supply chain, treating entities that have a public interest in a consistent manner.

We respectfully suggest that entities that require Engagement Quality Reviews are likely to be the same entities that need to comply with the stricter auditor independence requirements of the IESBA Code, such as audit partner rotation requirements.

We note that in some jurisdictions, the relevant National Standards Setter have issued additional guidelines on the IESBA Code's definition of a PIE. For example, in Australia, APES 110 includes the same definition of Public Interest Entity as per the IESBA Code. In addition, APES 110 elevates the application material in paragraph 400.8 to a requirement. Further, APES 110 also includes a list of specific entities in Australia that would generally be PIEs in paragraph AUST 400.8.1 A1, which includes banks, insurance companies, disclosing entities, registrable superannuation entities and other entities that raise equity or debt from the public.

Australian stakeholders strongly supported the use of the PIE definition as well as the use of a consistent term across all relevant standards, including financial reporting, auditing and assurance, and professional and ethical standards during the recent outreach activities.

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")?

APESB supports the IESBA's proposals relating to the removal of the materiality qualifier in relation to certain NAS prohibitions for audit clients that are PIEs.

Australian stakeholders were also supportive of this key amendment, which they thought would remove subjectivity from the NAS provisions and would bring clarity to the NAS that can be provided to an audit client.

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)?**

Subject to our responses to Questions 1 to 3, APESB supports proposed paragraph R604.13 of the NAS Proposals to prohibit tax planning and tax advisory services being provided to an audit client when the effectiveness of the advice is dependent on a particular accounting treatment or presentation, and the audit team has doubts about the treatment or presentation. We favourably note that the materiality qualifier has been removed for all audit clients, not just for PIE audit clients.

However, APESB notes that proposed paragraph R604.15 of the NAS Proposals, which applies to PIE audit clients only, prohibits tax planning services if a self-review threat is created in relation to the audit of the financial statements. APESB is of the view that the prohibition should be in respect of **any threat** that cannot be eliminated or reduced to an acceptable level. The related guidance material could address the most relevant threats in more detail, for example, self-review or advocacy threats.

- **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)?**

Subject to our responses to Questions 1 to 2, APESB supports proposed paragraph R610.6 of the NAS Proposals to prohibit corporate finance services being provided to an audit client when the effectiveness of the advice is dependent on a particular accounting treatment or presentation, and the audit team has doubt about the treatment or presentation. We favourably note that this proposal removes the materiality qualifier for all audit clients, not just PIEs.

However, APESB notes that proposed paragraph R610.8 of the NAS Proposals, which applies to PIE audit clients only, prohibits corporate finance services if a self-review threat is created in relation to the audit of the financial statements. APESB is of the view that the prohibition should be in respect of any threat, and the related guidance material could address the most relevant threats.

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)?**

APESB supports the proposals for improved firm communication with TCWG, including the requirement to obtain concurrence with TCWG for the provision of NAS to an audit client that is a PIE. We believe that proposed paragraphs R600.18 and R600.19 of the IESBA Code could be combined into one requirement paragraph for simplicity and clarity, for example:

R600.18 *Before a firm or a network firm accepts an engagement to provide a non-assurance service to an audit client that is a public interest entity which, for ~~the~~is purposes of this paragraph, shall include only related entities over which the audit client has direct or indirect control, the firm shall:*

- a) provide those charged with governance with sufficient information to enable them to make an informed decision about the impact of the provision of such a non-assurance service on the firm's independence;*
- and*

~~**R600.19**—A firm or a network firm shall not provide a non-assurance service to an audit client that is a public interest entity which, for this purpose, shall include only related entities over which the audit client has direct or indirect control, unless b) obtain concurrence from those charged with governance ~~of the public interest entity~~ concur with:~~

- ~~(a) The provision of that service; and~~
- ~~(b) The firm’s conclusion that any threat to independence has been eliminated or that safeguards that the firm proposes to apply will reduce such a threat to an acceptable level.~~

In addition, APESB encourages the IESBA to consider including application material on the documentation that professional accountants should obtain in relation to receiving concurrence from those charged with governance, to support proposed paragraph R600.18.

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?**

APESB supports the relocation of the prohibition on assuming management responsibility from Section 600 to Section 400 and from Section 950 to Section 900 of the IESBA Code to increase the prominence of these provisions. We believe that assuming management responsibility is relevant to independence in all aspects of an audit, review or other assurance engagement, not just the provision of non-assurance services. As such, we agree this should be an overarching independence obligation for professional accountants.

This proposal was also widely supported by Australian stakeholders.

- 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?**

APESB supports the elevation of the extant application material on the combined effect of multiple non-assurance services to a requirement in proposed paragraph R600.10 of the NAS Proposals. The application material in proposed paragraph 600.10 A1 helps implement the new requirement. However, APESB encourages the IESBA to consider if the second factor included in this paragraph should refer to a proposed service impacting the effectiveness of safeguards in relation to all other services being provided, including both assurance engagements and non-assurance services.

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?**

APESB supports the concluding paragraph in proposed paragraph 601.4 A1 of the NAS Proposals reminding firms that provide routine or mechanical services to audit clients that are not PIEs that they must not assume management responsibility (proposed paragraph R400.14) and that they must address any threats that are not at an acceptable level (under proposed paragraph R601.4(b)).

- **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?**

APESB supports the withdrawal of the exemption in extant paragraph R601.7 of the IESBA Code which currently permits accounting and bookkeeping services for divisions of immaterial related entities of a PIE under certain circumstances. We believe that this will eliminate any subjectivity in the prohibition on providing accounting and bookkeeping services to a PIE audit client and strengthen proposed paragraph R601.5.

- **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)?**

Subject to our responses to Questions 1 to 3, APESB is supportive of the intent of the new requirement that prohibits the provision of a service that encourages tax avoidance. However, the proposed paragraph R604.4 of the NAS Proposals uses the terminology ‘*tax avoidance*’.

In Australia, this is a term associated with breaching tax law. Therefore, if an Australian professional accountant were promoting tax avoidance transactions or schemes, they would be breaching the law and also breaching various sections of the Australian Code, including paragraph R115.1.

In APES 220 *Taxation Services*, APESB has avoided using terms like tax avoidance and instead refers to ‘*tax schemes or arrangements where the dominant purpose is to derive a tax benefit, and it is not reasonably arguable that the tax benefit is available under Taxation Law.*’⁴

As such, APESB suggests the IESBA may need to consider the use of alternative terminology, for example, ‘*tax minimisation,*’ to ensure that this requirement will be appropriate across the many jurisdictions that apply the IESBA Code.

⁴ Refer to [APES 220 Taxation Services](#), paragraph 5.4.

- **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?**

Since December 2008, professional accountants in Australia have needed to comply with a similar requirement⁵ in the Forensic Accounting Services professional standard as in proposed paragraph R607.6. Therefore, subject to our responses to Questions 1 to 2, APESB supports the new provisions relating to acting as a witness in subsection 607, including the prohibition on acting as an expert witness for a PIE audit client in the proposed paragraph R607.6.

Additional specific comments from APESB regarding subsections 601 to 610

Subsection 601 - Accounting and Bookkeeping Services

APESB supports the prohibition in proposed paragraph R601.5 of the NAS Proposals. However, we believe the inclusion of “*if the provision of such accounting and bookkeeping services will create a self-review threat*” is unnecessary as proposed paragraph 601.3 A1 establishes that providing accounting and bookkeeping services creates a self-review threat where the service affects the financial statements being audited. We believe that removing this expression will strengthen proposed paragraph R601.5 and make it clearer and more enforceable.

We also favourably note that proposed paragraph 601.3 A1 of the NAS Proposals does not include ‘might’ before the words ‘create a self-review threat,’ which makes this application material much stronger by removing subjectivity from extant paragraph 601.1.

We are firmly of the view that it is critically important to definitively state that a self-review threat is created when the NAS impacts the accounting records or financial statements on which the firm will express an audit opinion.

Subsection 603 - Valuation Services

Proposed paragraph 603.3 A1 of the NAS Proposals states that “*Providing a valuation service to an audit client might create a self-review threat when the results of the service will affect the accounting records or the financial statements on which the firm will express an opinion. Such services might also create an advocacy threat*”.

The drafting of this paragraph is different from the equivalent proposed paragraph 601.3 A1 of the NAS Proposals in respect of accounting and bookkeeping services, which definitively states it will create a self-review threat where the service impacts the accounting records or financial statements on which the firm will express an opinion. While it is possible that a valuation service may not impact the financial statements being audited, we believe it is important to differentiate that when it does impact the financial statements, it will create a self-review threat. APESB suggests the following amendments be made to this paragraph:

603.3 A1 *Providing a valuation service to an audit client ~~might~~ creates a self-review threat when the results of the service will affect the accounting records or the*

⁵ Refer to [APES 215 Forensic Accounting Services](#), paragraph 3.9.

financial statements on which the firm will express an opinion. Such services might also create an advocacy threat.

By making the application material more direct, the requirement in proposed paragraph R603.5 of the NAS Proposals should also be made clearer and more enforceable. APESB suggests the following amendments:

R603.5 *A firm or a network firm shall not provide a valuation service that will affect the accounting records or financial statements on which the firm will express an opinion to an audit client that is a public interest entity ~~if~~ as the provision of such a valuation service creates a self-review threat ~~in relation to the audit of the financial statements on which the firm will express an opinion~~ that cannot be eliminated or reduced to an acceptable level.*

Subsection 604 - Tax Services

Proposed paragraph 604.3 A1 of the NAS Proposals states that “*Providing tax services to an audit client might create a self-review threat when the results of the services will affect the accounting records or the financial statements on which the firm will express an opinion. Such services might also create an advocacy threat.*”

The drafting of this paragraph is different from the equivalent proposed paragraph 601.3 A1 of the NAS Proposals in respect of accounting and bookkeeping services, which definitively states it will create a self-review threat where the service impacts the accounting records or financial statements on which the firm will express an opinion.

In rare circumstances, it is possible that certain tax services may not impact the financial statements being audited. However, we believe it is important to differentiate that when it does impact the financial statements, it will create a self-review threat. APESB suggests the following amendments be made to this paragraph:

604.3 A1 *Providing tax services to an audit client ~~might~~ creates a self-review threat when the results of the services will affect the accounting records or the financial statements on which the firm will express an opinion. Such services might also create an advocacy threat.*

Therefore, subject to our responses to Questions 1 to 3, APESB supports the removal of the materiality qualifier in the prohibition on preparing tax calculations of tax liabilities (or assets) for PIE audit clients in proposed paragraph R604.10 of the NAS Proposals. However, we believe the inclusion of the qualifier “*if such calculations will create a self-review threat*” is unnecessary.

Proposed paragraph 604.8 A1 establishes that preparing tax calculations of current or deferred tax liabilities (or assets) for an audit client for the purposes of preparing accounting entries creates a self-review threat. We believe that the removal of this qualifier will strengthen proposed paragraph R604.10 and make it more enforceable.

Tax advisory and tax planning services

Proposed paragraph 604.12 A1 of the NAS Proposals states that “*Providing tax advisory and tax planning services might create a self-review threat when the results of the services will affect the accounting records or the financial statements on which the firm will express an opinion. Such services might also create an advocacy threat.*”

The drafting of this paragraph is different from the equivalent proposed paragraph 601.3 A1 of the NAS Proposals in respect of accounting and bookkeeping services, which definitively states it will create a self-review threat where the service impacts the accounting records or financial statements on which the firm will express an opinion.

In rare circumstances, it is possible that some tax advisory and tax planning services may not impact the financial statements being audited. However, we believe it is important to differentiate that when it does impact the financial statements that it will create a self-review threat.

Subject to APESB's response to Questions 1 to 3, APESB suggests the following amendments be made to this paragraph:

604.12 A1 Providing tax advisory and tax planning services to an audit client ~~might~~ creates a self-review threat when the results of the services will affect the accounting records or the financial statements on which the firm will express an opinion. Such services might also create an advocacy threat.

Also, the requirement in proposed paragraph R604.15 of the NAS Proposals should be strengthened and made more enforceable by making the followed suggested amendments:

R604.15 *A firm or a network firm shall not provide tax advisory and tax planning services that will affect the accounting records or financial statements on which the firm will express an opinion to an audit client that is a public interest entity ~~if~~ as the provision of such a services will create a self-review threat ~~in relation to the audit of the financial statements on which the firm will express an opinion~~ that cannot be eliminated or reduced to an acceptable level.*

Tax Services involving Valuations

Proposed paragraph 604.17 A1 of the NAS Proposals states that “*Providing valuation for tax purposes to an audit client might create a self-review threat when the results of the services will affect the accounting records or the financial statements on which the firm will express an opinion. Such services might also create an advocacy threat.*”

The drafting of this paragraph is different from the equivalent proposed paragraph 601.3 A1 of the NAS Proposals in respect of accounting and bookkeeping services, which definitively states it will create a self-review threat where the service impacts the accounting records or financial statements on which the firm will express an opinion.

APESB suggests the following amendments to proposed paragraph 604.17 A1 to ensure consistency with other provisions in the Code:

604.17 A1 Providing valuation for tax purposes to an audit client ~~might~~ creates a self-review threat when the results of the services will affect the accounting records or the financial statements on which the firm will express an opinion. Such services might also create an advocacy threat.

Further, we believe the application material in proposed paragraph 604.17 A2 of the NAS Proposals creates subjectivity and confusion by proposing differentiating requirements between valuation services for tax purposes that have no impact on the financial statements other than accounting entries relating to tax (where proposed paragraphs 604.16 A1 to 604.19 A1 apply) and valuation services for tax purposes that affect the

financial statements in other ways (in which case subsection 603 applies). To eradicate this issue, the paragraph should be split in two (similar to how the guidance was presented in the existing IESBA Code). This approach would also make it possible to simplify the proposed paragraph R604.19.

Assistance in the resolution of tax disputes

Proposed paragraph 604.21 A1 of the NAS Proposals is drafted differently to other equivalent paragraphs, such as proposed paragraph 601.3 A1. It is not clear why this paragraph does not include the words “*when the results of the services will affect the accounting records or the financial statements on which the firm will express an opinion.*” If this paragraph was drafted consistently to other paragraphs (as marked-up below), the requirement in proposed paragraph R604.24 could be simplified as follows:

604.21 A1 *Providing assistance in the resolution of a tax dispute to an audit client ~~might~~ creates a self-review threat when the results of the services will affect the accounting records or the financial statements on which the firm will express an opinion. Such services might also create an ~~or~~ advocacy threat.*

R604.24 *A firm or a network firm shall not provide assistance in the resolution of tax disputes that will affect the accounting records or financial statements on which the firm will express an opinion to an audit client that is a public interest entity ~~if~~ as the provision of that assistance will create a self-review threat ~~in relation to the audit of the financial statements on which the firm will express an opinion~~ that cannot be eliminated or reduced to an acceptable level.*

Subsection 605 - Internal Audit Services

Proposed paragraph 605.4 A1 of the NAS Proposals states that “*Providing internal audit services to an audit client might create a self-review threat when the results of the services impact the audit of the financial statements on which the firm will express an opinion.*”

The drafting of this paragraph is different from the equivalent proposed paragraph 601.3 A1 of the IESBA Code in respect of accounting and bookkeeping services, which definitively states it will create a self-review threat where the service impacts the accounting records or financial statements on which the firm will express an opinion. Certain internal audit services may not impact the financial statements being audited (as highlighted in proposed paragraph 605.2 A2). However, we believe it is important to differentiate that when it does impact the financial statements, it will create a self-review threat.

Subject to APESB’s response to Questions 1 to 2, APESB suggests the following amendments be made to this paragraph (including proposed changes for consistency with other comparable paragraphs):

605.4 A1 *Providing internal audit services to an audit client ~~might~~ creates a self-review threat when the results of the services ~~impact the audit of~~ will affect the accounting records or the financial statements on which the firm will express an opinion.*

The requirement in proposed paragraph R605.6 of the NAS Proposals should also be simplified and made more enforceable, through the following suggested amendments (including proposed changes for consistency with other comparable paragraphs):

R605.6 *A firm or a network firm shall not provide internal audit services that will affect the accounting records or financial statements on which the firm will express an opinion to an audit client that is a public interest entity ~~if~~ as the provision of such services will create a self-review threat ~~in relation to the audit of the financial statements on which the firm will express an opinion~~ that cannot be eliminated or reduced to an acceptable level.*

Subsection 606 - Information Technology Systems Services

Proposed paragraph 606.4 A1 of the NAS Proposals states that “*Providing IT systems services to an audit client might create a self-review threat when the results of the services impact the audit of the financial statements on which the firm will express an opinion.*”

The drafting of this paragraph is different from the equivalent proposed paragraph 601.3 A1 of the NAS Proposals in respect of accounting and bookkeeping services, which definitively states it will create a self-review threat where the service impacts the accounting records or financial statements on which the firm will express an opinion. We agree that certain IT systems services may not impact the financial statements being audited (as highlighted in proposed paragraph 606.3 A1). However, we believe it is important to differentiate that when it does impact the financial statements, it will create a self-review threat.

Subject to APESB’s response to Questions 1 to 2, APESB suggests the following amendments be made to this paragraph (including proposed changes for consistency with other comparable paragraphs):

606.4 A1 *Providing IT systems services to an audit client ~~might~~ creates a self-review threat when the results of the services ~~impact the audit of~~ will affect the accounting records or the financial statements on which the firm will express an opinion.*

In addition, the requirement in proposed paragraph R606.6 of the NAS Proposals should be simplified and made more enforceable by making the following amendments (including proposed changes for consistency with other comparable paragraphs):

R606.6 *A firm or a network firm shall not provide IT systems services that will affect the accounting records or financial statements on which the firm will express an opinion to an audit client that is a public interest entity ~~if~~ as the provision of such a service will create a self-review threat ~~in relation to the audit of the financial statements on which the firm will express an opinion~~ that cannot be eliminated or reduced to an acceptable level.*

Subsection 607 - Litigation Support Services

Proposed paragraph 607.3 A1 of the NAS Proposals states that “*Providing litigation support services to an audit client might create a self-review threat when the results of the services affect the accounting records or the financial statements on which the firm will express an opinion. Such services might also create an advocacy threat*”.

The drafting of this paragraph is different from the equivalent proposed paragraph 601.3 A1 of the NAS Proposals in respect of accounting and bookkeeping services, which definitively states it will create a self-review threat where the service impacts the accounting records or financial statements on which the firm will express an opinion. Certain litigation support services may not impact the financial statements being audited;

however, we believe it is important to differentiate that when it does impact the financial statements, it will create a self-review threat.

Subject to APESB's response to Questions 1 to 2, APESB suggests the following amendments be made to this paragraph:

607.3 A1 Providing litigation support services to an audit client ~~might~~ creates a self-review threat when the results of the services affect the accounting records or the financial statements on which the firm will express an opinion. Such services might also create an advocacy threat.

In addition, the requirement in proposed paragraph R607.6 of the NAS Proposals should be strengthened and made more enforceable, by making the following amendments:

R607.6 *A firm or a network firm shall not provide litigation support services that will affect the accounting records or financial statements on which the firm will express an opinion to an audit client that is a public interest entity if as the provision of such a service will create a self-review threat ~~in relation to the audit of the financial statements on which the firm will express an opinion~~ that cannot be eliminated or reduced to an acceptable level.*

Subsection 608 - Legal Services

Proposed paragraph 608.3 A1 of the NAS Proposals states that “*Providing legal services to an audit client might create a self-review threat when the results of the services affect the accounting records or the financial statements on which the firm will express an opinion. Such services might also create an advocacy threat*”.

The drafting of this paragraph is different from the equivalent proposed paragraph 601.3 A1 of the NAS Proposals in respect of accounting and bookkeeping services, which definitively states it will create a self-review threat where the service impacts the accounting records or financial statements on which the firm will express an opinion. We agree that some legal services may not impact the financial statements being audited; however, we believe it is important to differentiate that when it does impact the financial statements, it will create a self-review threat.

Subject to APESB's response to Questions 1 to 2, APESB suggests the following amendments be made to this paragraph:

608.3 A1 Providing legal services to an audit client ~~might~~ creates a self-review threat when the results of the services affect the accounting records or the financial statements on which the firm will express an opinion. Such services might also create an advocacy threat.

The requirement in proposed paragraph R608.6 of the NAS Proposals should also be simplified and made more enforceable through the following amendments:

R608.6 *A firm or a network firm shall not provide legal ~~advice~~ services that will affect the accounting records or financial statements on which the firm will express an opinion to an audit client that is a public interest entity if as the provision of such a ~~services~~ will create a self-review threat ~~in relation to the audit of the financial statements on which the firm will express an opinion~~ that cannot be eliminated or reduced to an acceptable level.*

Subsection 610 - Corporate Finance Services

Proposed paragraph 610.3 A1 of the NAS Proposals states that “*Providing corporate finance services to an audit client might create a self-review threat when the results of the services will affect the accounting records or the financial statements on which the firm will express an opinion. Such services might also create an advocacy threat*”.

The drafting of this paragraph is different from the equivalent proposed paragraph 601.3 A1 of the NAS Proposals in respect of accounting and bookkeeping services, which definitively states it will create a self-review threat where the service impacts the accounting records or financial statements on which the firm will express an opinion. We acknowledge that some corporate finance services may not impact the financial statements being audited. However, we believe it is important to differentiate that when it does impact the financial statements, it will create a self-review threat.

Subject to APESB’s response to Questions 1 to 2, APESB suggests the following amendments be made to this paragraph:

610.3 A1 Providing corporate finance services to an audit client ~~might~~ creates a self-review threat when the results of the services affect the accounting records or the financial statements on which the firm will express an opinion. Such services might also create an advocacy threat.

The requirement in proposed paragraph R610.8 of the NAS Proposals should also be simplified and made more enforceable by making the following amendments:

R610.8 *A firm or a network firm shall not provide corporate finance services that will affect the accounting records or financial statements on which the firm will express an opinion to an audit client that is a public interest entity ~~if~~ as the provision of such a services will create a self-review threat ~~in relation to the audit of the financial statements on which the firm will express an opinion~~ that cannot be eliminated or reduced to an acceptable level.*

Proposed Consequential Amendments

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

APESB supports the proposed consequential amendments to Section 950 of the IESBA Code.

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

APESB has not identified any other sections of the IESBA Code that require a conforming change as a result of the NAS Proposals.

However, APESB is concerned about a proposed conforming amendment in Section 400 of the NAS Proposals. Paragraph R400.32 is a new paragraph that intends to clarify the impact on the independence of an auditor if the auditor or the firm has provided NAS historically to a new PIE audit client.

APESB is supportive of the intention of proposed paragraph R400.32 but believes the provision would be more precise if it were broken into the two likely scenarios being:

- (a) The NAS has been provided in the same period that the audit is being undertaken; and
- (b) The NAS has been provided in prior years and another firm has audited those financial years.

In relation to scenario (a), the assessment of the impact on independence would follow the existing requirements in relation to NAS - if the service is material or will affect the accounting records or the financial statements on which the firm will express an opinion, the firm is precluded from accepting the audit engagement.

Concerning scenario (b), it will be a precondition that the NAS will have been subjected to auditing procedures by another firm. Therefore, the assessment will again be whether the service is material or will affect the accounting records or the financial statements on which the firm will express an opinion. If it is, then the firm needs to consider whether the safeguard of the PIE audit client engaging a party to undertake an external review of the NAS, would eliminate or reduce the threat to an acceptable level, thereby allowing the firm to accept the audit engagement.

APESB is of the view that firms are unlikely to engage an external party to undertake a review of the first-year audit in practice and question whether another firm reperforming the service is commercially feasible.

Other Editorial Comments

APESB provides the following general editorial comments in respect of the NAS Proposals for IESBA's consideration:

- Proposed paragraph 600.16 A2 could be strengthened by:
 - adding "*if available and capable of being applied*" after "*addressed by applying safeguards*"; and
 - clarifying that this is only in relation to NAS that are not otherwise prohibited by other provisions of the IESBA Code.
- Proposed paragraph 600.16 A4 could be strengthened by adding "*and capable of being applied*" after "*be available*."
- There is repetition in proposed paragraphs 601.2 A2 and A3 in relation to resolving account reconciliation problems and converting financial statements.
- Suggest adding the words "*that are*" before the words "*created by providing such services*" to improve clarity in proposed paragraph R601.4(b).