

14 December 2012

Mr Jörgen Holmquist  
Chair  
International Ethics Standards Board for Accountants  
By e-mail: [chrisjackson@ifac.org](mailto:chrisjackson@ifac.org)

Dear Mr Holmquist,

**IESBA Exposure Draft: Responding to a Suspected Illegal Act**

The APPC appreciates the opportunity to comment on the International Ethics Standards Board for Accountants' (IESBA's) Exposure Draft *Responding to a Suspected Illegal Act* (the ED).

As background, the APPC is an initiative of the three professional accounting bodies and the large professional services firms established in 2009 to be a key policy vehicle for the Australian accounting profession.

The APPC's objectives are to promote positive public policy outcomes in respect of audit, accounting and related services in Australia that:

1. Enhance the reputation of the accounting profession by setting and adhering to high standards of ethical and professional conduct.
2. Preserve the viability of a high quality, independent, external financial audit profession through an ongoing focus on audit quality and fair and equitable apportionment of the financial risks associated with the audit function.
3. Add value to the accounting profession's clients and stakeholders.

The APPC includes BDO, CPA Australia, Deloitte, Ernst & Young, Grant Thornton, KPMG, PwC, the Institute of Chartered Accountants Australia and the Institute of Public Accountants.

This submission provides a high level overview of the positions of the APPC member firms and professional bodies on the ED. The ED has been discussed at meetings of the APPC's Regulatory Monitoring Working Group and its Independence Task Force.

The ED proposes changes to the *Code of Ethics for Professional Accountants* (the Code) to address the circumstances where a professional accountant in public practice or business shall, or has a right to, override the fundamental principle of confidentiality and disclose a suspected illegal act to an appropriate external authority.

APPC members support IESBA's mission to serve the public interest by setting high-quality ethical standards and other pronouncements for professional accountants worldwide. However, we do not support the ED in its current form.

Our major concern is that creating a requirement for professional accountants to breach confidentiality when encountering a suspected illegal act, without adequate protections against the consequences of such disclosure, exposes the professional accountant to potential criminal and civil liability, as well as retaliation.

Accordingly, the creation of mandatory obligations to report suspected illegal acts should be left to the legislatures in each individual jurisdiction which have the power to provide effective legal protections for professional accountants when performing such a "whistleblower" role.

Whilst in principle we would support the Code providing professional accountants with the right to breach confidentiality to disclose a suspected illegal act to appropriate external authorities, in practice there are significant impediments that we consider would make this unworkable and continue to pose serious potential risks for professional accountants choosing to take such action. Again such matters should be left to legislators with knowledge of the specific regulatory needs within their jurisdiction and ability to afford protection.

It is understood that many of the individual members of the APPC have or are making their own submissions to IESBA on the ED either in their own right or through their international networks. Please refer to those individual submissions to ascertain the specific views of each respective member of the APPC on the ED and for more detailed comments.

On behalf of the APPC, thank you again for the opportunity to comment on the ED.

Yours sincerely,



Chris Hall  
Chairman - APPC  
(p) +61 2 9335 7108  
(e) [chrishall@kpmg.com.au](mailto:chrishall@kpmg.com.au)

cc: Ms Kate Spargo  
Chairman, Accounting Professional and Ethical Standards Board Limited  
By email: [sub@apesb.org.au](mailto:sub@apesb.org.au)