



Mr Ken Siong  
Deputy Director  
International Ethics Standards Board for Accountants (IESBA)

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Dear Mr Siong,

**Kreston International comments on IESBA Exposure Draft: “Responding to a Suspected Illegal Act”**

Kreston International appreciates the opportunity to respond to the IESBA Exposure Draft: “Responding to a Suspected Illegal Act”.

Kreston International Limited is a global network of independent accounting firms. Currently ranking as the 13th largest accounting network in the world, Kreston covers 98 countries with 600 offices providing a resource of over 19, 000 professional and support staff. Our member firms are involved in the audit of a range of businesses, from listed entities to SMEs and we have sought their input in preparing this response.

Kreston International members recognise the need to respond both to stakeholders’ expectations and in respect of audits to comply with International Standard of Auditing (ISA) 250 on “Consideration of Laws and Regulations in an Audit of Financial Statements” in relation to suspected illegal acts. This includes responding appropriately to non-compliance or suspected non-compliance with laws and regulations identified during the audit. The latter includes reporting non-compliance to those charged with governance, reporting non-compliance in the auditor’s report on the financial statements and reporting non-compliance to regulatory and enforcement authorities resulting from legal responsibilities of the auditor.

Member firms may also be subject to local law and regulatory requirements for example under tax law or money laundering regulations that can impose detailed reporting requirements. It is recognised that the auditor and professional accountant has a significant role within this area. However, local regulations and legal protections for auditors and professional accountants will vary considerably. This may produce conflicts between any revised Code and national law which will result in inconsistent application.

We have given our responses to the detailed questions below.

- 1. Do respondents agree that if a professional accountant identifies a suspected illegal act, and the accountant is unable to dispel the suspicion, the accountant should be required to discuss the matter with the appropriate level of management and then escalate the matter to the extent the response is not appropriate? If not, why not and what action should be taken?**

ISA 250 “Consideration of Laws and regulations in an Audit of Financial Statements” adequately sets out the steps to be taken by an auditor.

It is unclear what steps a professional accountant should take to dispel the suspicion and this is expecting the accountant to instigate work of their own accord. The correct route is to follow the established procedure within the entity and if these are in appropriate the professional accountant should obtain legal advice.

- 2. Do respondents agree that if the matter has not been appropriately addressed by the entity, a professional accountant should at least have a right to override confidentiality and disclose certain illegal acts to an appropriate authority?**

The ability to override confidentiality is a matter for national law and is not something that can be introduced consistently through the IESBA Code.

- 3. Do respondents agree that the threshold for reporting to an appropriate authority should be when the suspected illegal act is of such consequence that disclosure would be in the public interest? If not, why not and what should be the appropriate threshold?**

It is not within the knowledge and experience of many professional accountants to determine what is in the public interest and this may also differ across jurisdictions.

We have no comment on the appropriate threshold as it is not considered that this is the role of the professional accountant.

**Matters specific to professional accountants in public practice (Section 225 of the Code)**

- 4. Do respondents agree that the standard for a professional accountant in public practice providing services to an audit client should differ from the standard for a professional accountant in public practice providing services to a client that is not an audit client? If not, why not?**

Stakeholders are likely to have similar expectations of both an auditor and a professional accountant providing non audit services regarding the actions to be taken in respect of suspected illegal acts. As previously noted auditing standards already provide requirements for auditors.

If there is any differentiation this should be determined by law.

- 5. Do respondents agree that an auditor should be required to override confidentiality and disclose certain suspected illegal acts to an appropriate authority if the entity has not made adequate disclosure within a reasonable period of time after being advised to do so? If not, why not and what action should be taken?**

The auditor should follow the procedures of ISA 250 and any relevant national law and regulations. There may not be an appropriate authority in some jurisdictions.

- 6. Do respondents agree that a professional accountant providing professional services to an audit client of the firm or a network firm should have the same obligation as an auditor? If not, why not and what action should be taken?**

As noted above we do not agree with distinguishing the obligation of auditors and of professional accountants.

- 7. Do respondents agree that the suspected illegal acts to be disclosed referred to in question 5 should be those that affect the client's financial reporting, and acts the subject matter of which falls within the expertise of the professional accountant? If not, why not and which suspected illegal acts should be disclosed?**

No. Any requirements for disclosure should be determined by the appropriate authority. As noted previously it is difficult and probably inappropriate for the professional accountant to make judgements about the public interest.

- 8. Do respondents agree that a professional accountant providing professional services to a client that is not an audit client of the firm or a network firm who is unable to escalate the matter within the client should be required to disclose the suspected illegal act to the entity's external auditor, if any? If not, why not and what action should be taken?**

No. It is not the role of the auditor to act as an investigator and there is no economic reward for filling this role. There are a significant number of entities globally that do not have an auditor and this provision introduces differences in how these entities are dealt with where there is a suspected illegal act.

- 9. Do respondents agree that a professional accountant providing professional services to a client that is not an audit client of the firm or a network firm should have a right to override confidentiality and disclose certain illegal acts to an appropriate authority and be expected to exercise this right? If not, why not and what action should be taken?**

There are a wide range of legal requirements regarding confidentiality and disclosure and it would be difficult for the proposals to be implemented consistently.

- 10. Do respondents agree that the suspected illegal acts to be disclosed referred to in question 9 should be those acts that relate to the subject matter of the professional services being provided by the professional accountant? If not, why not and which suspected illegal acts should be disclosed?**

It would be difficult for the professional accountant to differentiate between those acts that relate to the subject matter and other matters of which they become aware.

**Matters specific to professional accountants in business (Section 360 of the Code)**

- 11. Do respondents agree that a professional accountant in business who is unable to escalate the matter within the client or who has doubts about the integrity of management should be required to disclose the suspected illegal act to the entity's external auditor, if any? If not, why not and what action should be taken?**

No, it is not the role of the auditor to act as the receiver of "whistle blowing" reports. Reporting should be to an appropriate authority subject to legal advice.

- 12. Do respondents agree that a professional accountant in business should have a right to override confidentiality and disclose certain illegal acts to an appropriate authority and be expected to exercise this right? If not, why not and what action should be taken?**

The override of confidentiality should be determined by national law and regulation the introduction of the right would not lead to consistent application.

- 13. Do respondents agree that the suspected illegal acts to be disclosed referred to in question 12 above should be acts that affect the employing organization's financial reporting, and acts the subject matter of which falls within the expertise of the professional accountant? If not, why not and which suspected illegal acts should be disclosed?**

As noted above we do not agree with the right to override confidentiality.

**Other**

- 14. Do respondents agree that in exceptional circumstances a professional accountant should not be required, or expected to exercise the right, to disclose certain illegal acts to an appropriate authority? If not, why not and what action should be taken?**

If there were a right to disclose certain illegal acts then it would be appropriate in exceptional circumstances that the professional accountant should not be required to report.

- 15. If respondents agree that in exceptional circumstances a professional accountant should not be required, or expected to exercise the right, to disclose certain illegal acts to an appropriate authority, are the exceptional circumstances as described in the proposal appropriate? If not, how should the exceptional circumstances be described?**

The exceptional circumstances described in the proposal are appropriate.

- 16. Do respondents agree with the documentation requirements? If not, why not and what documentation should be required?**

The documentation requirements appear reasonable subject to the concerns expressed about the right to report and the complexity of assessing the public interest.



**17. Do respondents agree with the proposed changes to the existing sections of the Code? If not, why not and what changes should be made?**

We do not agree with the proposed changes as they will not necessarily bring clarity and consistency to dealing with suspected illegal acts.

**18. Do respondents agree with the impact analysis as presented? Are there any other stakeholders, or other impacts on stakeholders, that should be considered and addressed by the IESBA?**

The impact analysis identifies the key issues and stakeholders.

If you have any questions please contact [andrew.collier@kreston.com](mailto:andrew.collier@kreston.com)

Yours faithfully  
For and on behalf of Kreston International

A handwritten signature in black ink, appearing to read 'A. Collier'.

Andrew Collier  
Director of Quality and Professional Standards