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Mr. Ken Siong
International Ethics Standards Board for Accountants
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Dear Mr. Siong:

Proposed Revisions to the Non-Assurance Services Provisions of the Code

Ernst & Young Global Limited, the central coordinating entity of the Ernst & Young organization, is pleased to comment on the IESBA's Exposure Draft, Proposed Revisions to the Non-Assurance Services Provisions of the Code (the ED).

We are supportive of the IESBA's efforts to enhance the non-assurance services provisions of the International Independence Standards of the Code. The IESBA has issued the ED at a time when many stakeholders and regulators are increasingly focusing on auditors' independence, and it is becoming increasingly important to keep the Code relevant and fit for purpose. There are certain aspects of the IESBA's proposed changes that we agree with, and which we believe contribute to a more robust Code. However, as more fully explained in our responses below, there are certain proposed changes that we believe warrant further consideration by the IESBA and we hope our comments will aid the IESBA in their efforts.

Twelve specific questions were identified on which the Board welcomed respondents' views and we have organized our response accordingly. Our comments are set out below.

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?

We believe it is inconsistent with the fundamental principles of the Code for a firm to provide a non-assurance service (NAS) to an audit client when the result is the audit firm self-reviewing its work. While we support a prohibition on NAS that create a self-review, the introductory sentence in proposed paragraph 600.11 A2 is unclear as to when the self-review prohibition is to be applied, as further described in our response to question two below.

We also do not believe that the changes proposed by the IESBA adequately elevate the importance of management's responsibility for decision making with regard to the output of the NAS when considering whether a threat of self-review has been created when providing a NAS to an audit client. We believe that understanding the self-review threat requires one to consider whether or not the firm or network firm has become so closely associated with management's responsibilities that the roles have become indistinguishable. If this were the case, the firm or network firm would not be in a position to be objective when performing an audit of the financial statements. The Code has historically recognized the impact of the client accepting responsibility for making decisions, as noted in extant paragraphs 601.3 A3 and 601.3 A4, and proposed paragraph 601.2 A2 retains this concept. Management's acceptance of responsibility includes having suitable skill, knowledge

and experience for making decisions and overseeing activities. While we would not propose that management's acceptance of responsibility alone would eliminate the threat of self-review, we do believe this is a critical consideration in evaluating the risk and therefore deserves more prominence within the proposed subsections of Self-review Threats and Providing Advice and Recommendations.

As used in the Code, the term "non-assurance services" covers a broad array of services provided by a firm. We are aware that in various jurisdictions there are requirements for companies to have an auditor provide services that do not involve an assurance opinion but a practitioner's report, such as services performed as agreed-upon procedures that are performed under the International Standards on Related Services (ISRS) of the International Auditing and Assurance Standards Board (IAASB) and comparable services performed under other globally recognized professional auditing and attestation standards. We believe that services that are performed under the IAASB standards, such as ISRS, and under other comparable globally recognized professional auditing and attestation standards should be excluded from the definition of a NAS.

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?

No, we do not believe that the application material in paragraph 600.11 A2 provides sufficiently clear guidance for considering whether the provision of a NAS to an audit client will create a self-review threat.

Proposed paragraph 600.11 A2 includes a new thought process framework for considering whether the provision of a NAS to an audit client will create a self-review threat. The IESBA has included the wording "whether there is a risk that" prior to listing the three sub-points (a) – (c), which we understand is meant to indicate that the mere existence of the risk of the three circumstances being present is enough under this framework to conclude that a self-review threat exists. We find this approach inconsistent with the conceptual framework of the Code because it involves evaluating the risk of a threat rather than evaluating the threat itself. Further, evaluating the risk that the three circumstances are present will be a qualitative estimation of likelihood, and we believe that the wording "whether there is a risk that" could result in inconsistent and unpredictable application of the self-review threat prohibition. Because it is not the presence of the risk that creates the self-review threat, but rather the fact of the three circumstances in sub-points (a) – (c) are present, we propose that the IESBA consider the following revisions:

~~"Identifying whether The provision of a non-assurance services to an audit client will create a self-review threat when involves determining whether there is a risk that..."~~

We do agree with the IESBA that all three circumstances described in sub-points (a) – (c) must exist in order to conclude that a self-review threat exists.

We are also uncertain of what the word "affect" in sub-point (a) of proposed paragraph 600.11 A2 is intended to encompass. This is a broad concept and could have unintended consequences depending on the interpretation of this word– for example, it could capture situations when there is no actual self-review. We suggest that this sentence be revised as follows:

"The results of the service will have a direct effect effect on ...".

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?

Proposed Paragraph 600.12 A1

No, we do not believe that the application material in proposed paragraph 600.12 A1 is necessary. We believe proposed paragraphs 400.13 A3 and A4, along with R400.14, sufficiently address within the Code the self-review threat associated with providing advice and recommendations to PIE audit clients. Further, we have concerns with the reference to the thought process framework in proposed paragraph 600.11 A2 for identifying whether or not the advice and recommendations provided to an audit client causes a self-review. This proposed approach for addressing self-review threats related to providing advice and recommendations seems inconsistent with our understanding that the IESBA's intent was not to change the substance of this evaluation when moving the requirement regarding a firm or network firm not taking on a management responsibility from Section 600 to Section 400.

We believe that the role of the audit client's management in making judgments and decisions is an important element in assessing whether a self-review threat is created, and that the mere provision of options that require further management consideration and decision and which is not so detailed that it constitutes design does not generally create a self-review threat. An example might be an assessment service that includes as subject matter financial and/or operational items. Generally, when performing an assessment service an auditor provides observations and recommendations related to the subject matter, including possible alternatives or modifications for management to consider, leading practices in the client's industry sector, or other topical or functional areas for management to review and consider. The services are generally based on diligence, industry standards, interviews, questionnaires, walk-throughs, reading of client documentation, or analysis of external data sources. When providing assessment services, the auditor shares observations and leading practices for the purpose of identifying gaps and opportunities for improvement. Advice and recommendations provided in an assessment would generally not be so detailed that they represent a roadmap for the client's design of its processes, systems, or internal controls. Additionally, advice and recommendations would not involve performing calculations or creating financial models that could be used in generating information used in financial reporting or for internal controls. However, given the unclear wording of proposed paragraph 600.11 A2, we believe that providing observation and recommendations from such an assessment service to a PIE audit client could unintentionally be concluded as creating a self-review threat and therefore prohibited.

Therefore, since the self-review threat associated with providing advice and recommendations arises from the firm taking a management responsibility, the application material provided in proposed paragraph 400.13 A3 and A4, along with R400.14, is sufficient for addressing this self-review threat within the Code. We recommend the following edit to proposed paragraph 400.13 A4 to more clearly make this point:

Subject to compliance with paragraph R400.14, providing advice and recommendations to assist management of an audit client in discharging its responsibilities is not assuming a management responsibility, and generally does not create a self-review threat.

Proposed paragraph 604.12 A2

We support the proposed application material with respect to tax advisory and tax planning in proposed paragraph 604.12 A2. This has been adapted from extant paragraph 604.7 A3 and is well understood and applied.

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.

We are supportive of keeping the distinction between the requirements for PIEs and non-PIEs.

We are supportive of the IESBA’s decision to accelerate its strategic commitment to review the PIE definition in close coordination with the IAASB. We believe the IESBA should defer any final action on this current ED for NAS until the project on the definition of listed entity and PIE has been completed. In undertaking this project, we believe the IESBA should exercise a level of caution as this is an area that is mostly within the realms of the local regulators. We believe the definition within the Code should be a baseline, principles-based definition to which local can supplement if and as required. The definition should not be so broad as to capture a wide range of entities, which we believe would diminish the effectiveness of designating certain types of entities as having a heightened degree of stakeholder concern and could lead to reduced or inconsistent implementation of the Code globally.

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 client that are PIEs (see Section III, B “Materiality”)?

Yes, we generally agree with withdrawing the materiality qualifier in relation to certain NAS prohibitions for audit clients that are PIEs.

We do have concerns, however, that withdrawing the materiality qualifier could unintentionally and unnecessarily limit the choice an enterprise has for an audit firm when applying the requirement in proposed paragraph R400.32. Therefore, we believe it would be in the public’s interest to allow materiality to be a consideration with regard to the requirement in sub-points (b) and (c) of proposed paragraph R400.32. Further, specifically for sub-point (b), we suggest the review be limited to the relevant elements for which a self-review exists when the matter is not material.

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)?
- 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)?

Yes, we support the proposal to prohibit these NAS, irrespective of materiality.

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)?

Yes, we support the proposals for improved firm communication with TCWG in relation of the provision of NAS. The view that auditor independence is a shared responsibility between the auditor and the audit client is widely held, and communication on independence matters will further enable TCWG to fulfill their oversight responsibilities with regard to auditor independence. We believe that an element of TCWG's oversight responsibilities is understanding the nature of the NAS provided by the auditor, and in order to do so should be involved in discussions with the firm and should concur with conclusions on the impact the NAS has on the firm's independence. To that point, we agree with the examples of information that might be provided to TCWG included in proposed paragraph 600.18 A1.

We also support the flexibility that the IESBA is providing as to the process to obtain TCWG's concurrence, since governance models and protocols could differ in various jurisdictions.

Because the requirement to obtain concurrence would apply to related entities over which the audit client has direct or indirect control, we believe the IESBA needs to consider the implications this might have with regard to private equity complexes. For example, a PIE might have control over portfolio companies that are not consolidated within the financial statements of the PIE audit client due to management or advisory agreements, but the audit committee of the PIE may not have the ability to concur with services provided at the portfolio company level that have no bearing or impact on the PIE audit client's financial statements. We note that other professional standards and regulatory frameworks for independence do not require pre-approval from TCWG of the controlling entity of a portfolio company in a private equity complex.

Obtaining concurrence as required in proposed paragraph R600.19 could also be potentially complex and/or impractical for a number of non-listed PIEs. Ownership and governance structures of unlisted PIEs vary, and we believe that the concurrence of TCWG will have less effect, and might be difficult to obtain, for entities without audit committees. In fact, a number of jurisdictions that have mandatory preapprovals of NAS by audit committees have restricted the requirements only to listed entities. We would encourage IESBA to consider the possibility to differentiate the requirements between listed PIE and non-listed PIE entities and limit this requirement to listed PIEs.

Regarding the IESBA's proposal to enhance communication with TCWG about independence matters with respect to assurance engagements other than audits and reviews, as included in proposed paragraph 900.34 A2, we believe there may be some practical issues with the ability of a firm providing an assurance engagement to meet with TCWG. Unlike audit and review engagements, assurance engagements are often entered into without the purview of TCWG, and often at the discretion of management, when the firm providing the assurance engagement is not also providing audit and review services. The IESBA should consider providing additional application material to address those situations, particularly if the reason is that the nature of the service is not of a nature that the TCWG consider necessary to address.

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?

Yes, we support the proposal to move the provision relating to assuming management responsibility from Section 600 (Provision of Non-assurance Services to an Audit Client) to Section 400 (Applying the Conceptual Framework to Independence for Audit and Review Engagements). We also support the proposal to move this same provision from Section 950 (Provision of Non-assurance Services to Assurance Clients) to Section 900 (Applying the Conceptual Framework to Independence for Assurance Engagements Other than Audit and Review Engagements).

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?

No, we do not believe it is necessary to elevate the extant application material in extant paragraph 600.5 A4 to a requirement, as in proposed paragraph R600.10. Raising the extant application material relating to the effect providing multiple NAS to an audit client has on the threats to independence to a requirement does not enhance the Code and creates additional uncertainties on how to comply with the requirement (for example, documentation requirements). The number of NAS provided to an audit client will only have meaning when considered in context of the size and complexity of the audit client, and therefore the Code needs to allow for the exercise of professional judgement, and should focus on the evaluating the significance of the threats rather than the quantity of NAS provided.

Proposed Revisions to Subsections

10. Do you support the proposed revisions to subsections 601 to 610, including:

- The concluding paragraph relating to the provisions of services that are "routine or mechanical" in proposed paragraph 601.4 A1?
- 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?
- 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)?

- 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?

As noted in our response to question one, we believe that it is not compatible for the auditor of a PIE to also deliver services which result in a direct self-review, a clear example of which would be bookkeeping or payroll services for a PIE audit client and its related entities.

Provisions of services that are “routine or mechanical”

We support the concluding paragraph in proposed paragraph 601.4 A1. We believe this strikes a reasonable balance between reinforcing the prohibition on assuming management responsibility, while taking into account that non-PIE entities, particularly those in an emerging market, could want more bookkeeping support from their auditors due to larger costs associated with multiple vendors and bidding processes.

However, with regard to routine and mechanical tasks included in administrative services in Subsection 602, we do feel that the IESBA should consider that routine and mechanical tasks can be both manual in nature (as the examples in proposed paragraph 602.2 A2 demonstrate) as well as automated. Merely performing an automated task does not immediately bring it outside the realms of an administrative service, although additional evaluation of the nature of the task would be required, for example whether the automated task is routine and requires no judgment to be made, or the judgement is based on client-defined criteria, etc. In addition, there are other services that can, and perhaps should be, included as examples in the administrative services listing in proposed paragraph 602. A2, including information/data search services.

Accounting and bookkeeping services for divisions and related entities

We support the withdrawal of the exemption in extant paragraph R601.7 that permits firms and network firms to provide accounting and bookkeeping services of a routine or mechanical nature for divisions and related entities of a PIE if certain conditions are met. We believe that when the firm or network firm performs accounting and bookkeeping services for divisions and related entities whose financial statements will be included in the consolidated financial statements, or form the basis of such financial statements, a self-review threat is created regardless if the accounting and bookkeeping services are of a routine and mechanical nature or not. This would be the case even if the financial statements of the division and related entities is prepared on a different basis of Generally Accepted Accounting Principles (for example, statutory financial statements), since these financial statements would generally form the basis on which adjusting entries will be determined to conform to the PIE audit client consolidated financial statements. However, we do believe that preparing statutory financial statements based on information in the client-approved trial balance and preparing related notes based on client-approved records for the divisions and related entities of a PIE audit client would generally not create a self-review threat at the PIE level and should therefore continue to be permitted under R601.5 provided that the statutory financial statements do not form the basis of the consolidated financial statements of the PIE audit client.

Tax 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

We support 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. We note, however, that the terms “significant purpose” and “tax avoidance” could have multiple interpretations. In certain jurisdictions, ample case law exists to more precisely describe such terms. In many other jurisdictions, however, such clarity is lacking. And as drafted, there is no clear distinction drawn between egregious/illegal tax evasion and prudent, appropriate and legal tax minimization. Further, we do believe the issues addressed here are both ethics issues as well as independence issues. Therefore, we believe it would be prudent for the IESBA to consider the results of the Tax Planning and Related Services project before finalizing its conclusions on the changes proposed in paragraph R604.4.

Other comments for subsections 601 – 610

Technical advice on accounting issues:

In proposed paragraph 601.2 A3, we do not agree that it is appropriate to include providing technical advice on accounting issues as an example of an accounting and bookkeeping services (5th bullet point of proposed paragraph 601.2 A3). In its Mapping Table, the IESBA describes the changes to extant paragraphs 601.3 A3 and A4 as a drafting refinement with no change in substance. However, we disagree and believe the changes creates a significant change in substance since providing technical advice per the extant Code paragraph 601.4 A4 does not usually create threats provided that neither the firm nor network firm assumes a management responsibility. It is reasonable, and does not create a self-review threat, for the auditor to discuss and provide advice and recommendations on the implementation of technical aspects of new accounting standards, or application of existing standards, with the client if management is experienced and has the appropriate qualifications to manage the topic and execute an implementation. It is also reasonable that the auditor provides observations regarding industry practice on how the standard is applied. Further, it is beneficial for the capital markets if companies discuss technical aspects of accounting standards with their auditor to understand implementation issues and discuss technical interpretations. If companies can ultimately manage an implementation on their own and make all necessary management decisions, then such discussions with the audit firm should not create a self-review threat. These discussions do not rise to the level of making a management decision.

Finally, the application material in proposed paragraph 601.2 A2 permits for dialogue between the firm and management of the audit client regarding applying accounting standards or policies and financial statement disclosure requirements. At what point does a dialogue become advice and recommendations? If management takes responsibility for decisions made, and this is executed truly in the spirit of recommendations, then we would not see a self-review threat. Therefore, we recommend removing the 5th bullet point of proposed paragraph 601.2 A3.

Corporate finance services:

Proposed paragraph 610.2 A1 includes due diligence as an example of a corporate finance service. We do not agree that a due diligence service is a corporate financial service and propose that due diligence services be omitted from proposed paragraph 610.2 A1. Due diligence services involve evaluating historical information in support of a potential transaction. These services are typically best performed by the auditor and do not give rise to threats to fundamental principles. On the other hand, the objective of corporate finance services is typically to assist client in addressing future business operations and corporate finance issues.

Proposed Consequential Amendments

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

Yes, we generally support the proposed consequential amendments to Section 950. Assurance services provided to an assurance client other than audit or review have distinctly different characteristics, namely in that the results of assurance services are often used for more discrete purposes and are often not made publicly available. With this in mind, we agree with the distinction made in proposed paragraph 950.9 A1 that expectations about a firm's independence are heightened with NAS is provided to a PIE assurance client and the results of the engagement will be made publicly available or provided to regulatory or oversight entity or organization. Therefore, those considerations related to PIE assurance clients should only be applicable when the conditions in points (a) and (b) of proposed paragraph 950.9 A1 are met.

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

We do not believe there are other sections of the Code that warrant a conforming change as a result of the NAS project.

We would be pleased to discuss our comments with members of the International Ethics Standards Board or its staff. If you wish to do so, please contact Tone Maren Sakshaug (tonemaren.sakshaug1@qa.ey.com) or John Neary (john.neary1@ey.com).

Yours sincerely,

Ernst + Young Global Limited