



Improving the Structure of the Code of Ethics for Professional Accountants - Phase 2

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MAJOR POINTS

1. We are generally supportive of the direction of travel and are pleased that some of our comments on the Phase 1 consultation have been taken up. However there are some major points outstanding that IESBA have not addressed in the Phase 2 consultation.
2. The new definition of professional behaviour now reflects the discussion that was previously in 150.1. However we note that 'avoid any action that the professional accountant knows or should know might discredit the profession' is considerably wider than 'avoid any action that discredits the profession'. It is not clear whether the definition has been changed to address the previous inconsistency between paragraph 100.5 and paragraph 150.1 or to address a perceived problem with the definition itself. We suggest that the definition itself remains as it was.
3. We believe the change to the definition of "acceptable level" changes the application of the reasonable and informed third party test. Requesting a positive conclusion as to compliance with the principles is quite a lot to ask of a hypothetical person. The previous definition set out a clearer threshold for behaviour and specified 'facts and circumstances available to the professional accountant' which was a helpful addition.
4. We agree with the decision to issue the restructured part 4B notwithstanding that it does not reflect the revised ISAE3000 – we are not aware that the existing discrepancy has led to problems. Nevertheless, this does look like there is a disconnect with IAASB and the matter should be addressed by IESBA/IAASB as a priority matter.
5. Given that the application date for all of the other changes proposed is June 15 2019 or periods commencing on or after that date as appropriate, it seems to be unnecessarily complex to introduce the long association provisions just six months earlier, complicating matters significantly for implementers who wish to maintain the IESBA timetable.
6. In addition to detailed comment under each question, we have included additional comments on phraseology and drafting in an Appendix.

RESPONSES TO SPECIFIC QUESTIONS

Q1: Do you believe that the proposals in this ED have resulted in any unintended changes in meaning of:

- **The provisions for Part C of the Extant Code, as revised in the close-off document for Part C Phase 1 (see Sections 200-270 in Chapter 1)?**
7. Paragraph 200.5 A3 begins with 'All professional accountants have a responsibility to act in the public interest.' This was not in the original consultation on revising what was then Part C and is not consistent with the discussion on the public interest in s100, which discusses the accountancy profession having a duty to act on the public interest, and individual professional accountants following the code. Extra wording that is unnecessary and inconsistent with other parts of the Code does not meet the objective of the restructuring to improve clarity. If an introductory sentence is necessary, 260.7 A1 provides one that is consistent with s100.
 8. R210.5 appears to suggest that circumstances creating a conflict of interest may only arise out of a specific 'activity'. We believe that conflicts can also arise 'passively' over the course of a business relationship. The revised wording therefore changes the analysis of potential conflicts.
- **The NOCLAR provisions (see Sections 260 and 360 in Chapter 2)?**

9. No.

- **The revised provisions regarding long association (see Sections 540 and 940 in Chapter 3)?**

10. No.

- **The provisions addressing restricted use reports in the extant Code (see Section 800 in Chapter 4)?**

11. Much of the purpose of the rework was to get away from the 'statement by indirect implication' style that is featured in much of the current code. 400.5 states that the independence sections use 'firm' for ease of reference. It also states that firms are required by ISQC1 to assign responsibilities for particular actions. Is it 100% clear from that that what 400.5 seems to be saying is that where 'firm' is used in the context of someone having to do something, 'firm' means whoever the firm has assigned to undertake that type of requirement.

- **The provisions relating to independence for other assurance engagements (Part 4B in Chapter 5)?**

12. 900.3 refers to the performance of assurance engagements by firms. While this is appropriate for audits, it is quite possible that other assurance engagements might be performed by individuals, not acting as firms. The basic construct of the paragraph is reasonable, but there should perhaps be an explanation that 'firm' could include an individual in such circumstances.

13. For consistency, R900.17 should state 'evaluate *and address*'

14. 900.17A1 refers to network firms being 'discussed' in R400.50 to 400.5A1. 'Discussed' leaves it unclear as to how precisely to apply those paragraphs here. R400.50 to 400.5A1 includes a number of specific requirements, but 900.17 implies a much lighter touch is appropriate in part 4B.

15. R900.33 The requirement in R900.33 to accept engagements only if various actions are completed is presented as an exception to R900.32. We are not sure that this is an exception: R900.32 covers pre-engagement work that can be terminated (and seems to presuppose such termination). R900.33 however, addresses situations where the pre-engagement work cannot be terminated.

16. If R911.5 applies to clients that are not a bank or similar institution this should be clarified.

17. We believe R524.9 might change the requirement of the extant code. References 'Senior or Managing Partner' removed and we are left only with a reference to CEO. We do not believe that the roles of the partners above are necessarily equivalent to that of a CEO. Given the nature of the accounting profession and firm structures retention of the previous wording is preferable. A similar issue arises with the removal of 'key audit partner' from the extant 290.139 whereas 524.10 again only applies to the CEO as above.

18. 601.5 A1 sets out actions that might be safeguards to address the self-review threats created when providing accounting and bookkeeping services to an audit client include. These include using professionals who are not audit team members to perform the work. The extant wording does not require professionals, merely individuals. Whilst we believe it important to promote professionalism this does change the application somewhat and it requires a definition of 'professional'. It is conceivable that, for example, using a junior bookkeeper who is not a member of a professional body could address the self-review threat described in the extant code but the extent to which such a person would be regarded as 'professional' would ultimately be a matter of opinion.

19. Re Q1 see also paragraphs 2 and 3 above and the appendix to this response.

Q2: Do you believe that the proposals are consistent with the key elements of the restructuring as described in Section III of this Explanatory Memorandum?

20. A table of contents might be useful at the start of each section.

21. It is unclear why it has been decided not to **embolden** the requirement paragraphs, rather than rely on an R in the paragraph labelling, which is more difficult to spot. Several respondents to the ED1 consultations made this suggestion.

22. IESBA seems to have a slightly counterintuitive hierarchy of sub headings, with italic headings talking precedence over plain headings at what seems to be the third and fourth levels. This can lead to confusion about what is included within what heading (examples include 900.15 to 900.22, and in the reworked ED1 material, section 320).

23. A number of references remain in the restructured code to situations where accountants are 'expected' to perform or refrain from performing, an action. Given the purpose of enhancing clarity it is not clear if this a requirement or advice.

24. A number of gaps are included both within and between sections, leading to statements such as 'paragraphs x to y are intentionally left blank'. While this is not particularly elegant, we agree with the approach, which will allow future changes without disturbing existing paragraph numbering.

Q3: Respondents are asked for any comments on the conforming amendments arising from the Safeguards project. Comments on those conforming amendments are requested by April 25, 2017 as part of a response to Safeguards ED-2.

25. See our response submitted on 20 April 2017.

Q4: Do you agree with the proposed effective dates for the restructured Code? If not, please explain why not.

26. Given that the application date for all of the other changes proposed is June 15 2019 or periods commencing on or after that date as appropriate, it seems to be unnecessarily complex to introduce the long association provisions just six months earlier, complicating matters significantly for implementers who wish to maintain the IESBA timetable.

27. We note that the jurisdictional clause in paragraph R540.18 now has an expiry date. This and a number of other aspects represent a significant change from the provisions subject to the limited re-exposure in February 2016. We note from the basis of conclusions relating to the close-off document that this was to address PIOB concerns but it is unclear to us why such significant changes should not be re-exposed in accordance with proper due-process.

Appendix

Minor/drafting comments

28. 120.6 A1 refers to policies and procedures that can enhance the accountant acting ethically. This is poorly worded. We suggest “that can enhance the ability of the accountant to act ethically”.
29. We remain of the view that the removal of the decision-making framework in extant 100.20 is a reduction in usability. Perhaps it might be included as helpful off-code guidance by IESBA.
30. The reference to ‘dominant personality’ has been removed from the revised 300.12. Is this not still worth mentioning as a more general issue?
31. In 200.7 A2 the phrase ‘might be necessary for a professional accountant to’ is a construct that does not seem consistent with any of the revised requirement/application material in the rest of the restructured code.
32. Is ‘consulting a policy’ per 220.11A1 really an action that might be appropriate? Surely the policy needs to be applied.
33. The phrasing in 240.2 is slightly different from the second introductory paragraph in most sections. It implies that it is the accountant that might create threats. In fact, as noted in 240.4A2, it is the circumstances that might create threats.
34. The wording in 270.4 A6 appears to be slightly circular, stating that an action that might eliminate a threat is such an action only if it addresses the threat.
35. 260.7A3 states that accountants finding inconsequential matters need not comply with this section. This is a different approach to that used elsewhere in the code regarding inconsequential or insignificant matters. Surely the right approach is that they must always comply with the section but that the section requires no action? This also applies to 360.7A3.
36. The level of fees should also be a factor in 600.4 A3.
37. 600.7 A1 is either too detailed or not detailed enough. Assuming a management responsibility can create threats beyond self-review, self-interest or familiarity (such as advocacy). Either this should be added or the wording simply limited to ‘threats’.
38. In 609.4 A1 ‘person’ has been changed to ‘individual’. The former is preferable as it allows for the situation where the potential contractor is operating through a legal entity.
39. If the section on restricted use reports (S800) is intended to be the final section of part 4A, would it not be better to be numbered as 899, in line with the approach in part 4B.
40. Regarding 800.1/800.2 the introduction element of each restructured section usually has a linking paragraph between the basic conceptual framework reminder and the paragraph explain the subject of the section. While accepting that this is, unusually, a section setting out reliefs from the requirements of other sections, there is some linking discussion in current 290.502 that might be appropriate. Also applies to section 999.
41. In 800.2 and elsewhere there are various references to ‘Part 4A (excluding this section)’. While technically correct, the meaning is clear without ‘excluding this section’.
42. The circumstances in 923.2 also create the possibility of an advocacy threat.