

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

An exposure draft issued for public consultation by the International Ethics Standards Board for Accountants (IESBA)

Comments from ACCA
May 2017
Ref: TECH-CDR-1504

ACCA (the Association of Chartered Certified Accountants) is the global body for professional accountants. We aim to offer business-relevant, first-choice qualifications to people of application, ability and ambition around the world who seek a rewarding career in accountancy, finance and management.

Founded in 1904, ACCA has consistently held unique core values: opportunity, diversity, innovation, integrity and accountability. We believe that accountants bring value to economies in all stages of development. We aim to develop capacity in the profession and encourage the adoption of consistent global standards. Our values are aligned to the needs of employers in all sectors and we ensure that, through our qualifications, we prepare accountants for business. We work to open up the profession to people of all backgrounds and remove artificial barriers to entry, ensuring that our qualifications and their delivery meet the diverse needs of trainee professionals and their employers.

We support our 188,000 members and 480,000 students in 178 countries, helping them to develop successful careers in accounting and business, with the skills required by employers. We work through a network of 100 offices and centres and more than 7,400 Approved Employers worldwide, who provide high standards of employee learning and development. Through our public interest remit, we promote appropriate regulation of accounting, and conduct relevant research to ensure accountancy continues to grow in reputation and influence.

Further information about ACCA's comments on the matters discussed here may be requested from:

Ian Waters
Head of Standards
ian.waters@accaglobal.com
+ 44 (0) 207 059 5992

Sundeep Takwani
Director - Regulation
sundeep.takwani@accaglobal.com
+ 44 (0) 207 059 5877

Tech-CDR-1504

ACCA



+44 (0)20 7059 5000



info@accaglobal.com



www.accaglobal.com



The Adelphi 1/11 John Adam Street London WC2N 6AU United Kingdom

ACCA welcomes the opportunity to comment on the proposals.

www.accaglobal.com.

GENERAL COMMENTS

We remain supportive of this project and the intended outcomes, and we see continued improvements to the structure within the Phase 2 proposals. The project has been made more complicated by the need to consider changes to the requirements of the Code during the course of restructuring the Code (the intention of which was *not* to change the requirements). Therefore, we appreciate the publication of the agreed-in-principle text at this stage.

Our concern remains that the proposals fail to address adequately the importance of having a Code that is not of excessive length. Much of the repetition within the Code serves no purpose, but obscures the more important content. Repetition also presents a risk of inconsistency between different sections, which is damaging. Part 1 is the fundamentally important Part, and any tendency to repeat its content elsewhere should be questioned. This concern relates to the understandability objective of this project, and is relevant to all users of the Code. However, it is particularly relevant to those professional accountants in Small and Medium Practices (SMPs), who generally do not have the resources of larger organisations.

We acknowledge that '[t]he IESBA does not intend to make changes to the Phase 1 agreed-in-principle text unless required to ensure consistency with the final text of Phase 2 of the Structure project'. However, it is only at this stage that we can reasonably start to see weaknesses in the outcomes of the Phase 1 stage. We are particularly concerned by the unnecessary length of the restructured sections of the Code. For example, given the clear and effective structure of sections 200 and 300 regarding the application of the conceptual framework, to include a paragraph in almost every section to reiterate the requirement to comply with the fundamental principles and apply the conceptual framework has no value. In fact, in each section, this is an introductory paragraph, which includes the words 'Professional accountants are required to ...' but is not numbered with an 'R' prefix. This could cause confusion.

We also recommend an exercise to review each 'introduction' for other paragraphs that do not add value. The removal of such redundant text will provide better focus on the important requirements and application material in the restructured Code. Beyond this,



we would suggest a pragmatic approach whereby the further simplification of individual paragraphs and sentences throughout the Code is held over to the initial review of the restructured Code. There remain several examples of text that is confusing or over-complicated.¹ Although the exercise of identifying such text could start immediately, we propose that the time for releasing a 'simplification exposure draft' would be one year after the issue of the restructured Code. At that stage, it might be appropriate to also expose possible amendments to align the International Independence Standards (IISs) with ISAE 3000 (Revised).

The IESBA should be wary of possible situations in which moving paragraphs (or parts of paragraphs) might change the emphasis. For example, proposed paragraph 310.3 is derived from part of extant paragraph 220.1; it refers to independence and the IISs, but does not mention objectivity, and does not explain the difference between objectivity and independence. (The relationship between objectivity and independence is something that we shall comment on further in our response to the Exposure Draft on *Proposed Application Material Relating to Professional Skepticism and Professional Judgment*.)

We welcome the proposed structure that places the IISs in a separate Part at the end of the Code, but keeps them close to the other provisions that are most relevant to professional accountants in public practice. Overall, we urge the IESBA not to lose sight of the risk that the Code could be perceived as becoming more rules-based. We recognise that this is a risk, given the objective of making the Code more enforceable. However, a principles-based Code – clearly set out - is essential to the project's objective of enhanced compliance with the Code.

Factors that would affect the navigation of an electronic version of the Code must also be considered at this stage. Identifying sections that are unlikely to be relevant to SMPs would, in future, help those SMPs to tailor the Code to their circumstances, providing better focus and understanding.

¹ See, for example, paragraphs 120.6A1, 240.2, 270.4A6, and 400.60A1



AREAS FOR SPECIFIC COMMENT:

In this section, we set out our responses to the request for specific comments set out on pages 10 and 11 of the consultation document.

Structure of the Code Phase 2

Question 1: 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)?
- the NOCLAR provisions (see Sections 260 and 360 in Chapter 2)?
- the revised provisions regarding long association (see Sections 540 and 940 in Chapter 3)?
- the provisions addressing restricted use reports in the extant Code (see Section 800 in Chapter 4)?
- the provisions relating to independence for other assurance engagements (Part 4B in Chapter 5)?

If so, please explain why and suggest alternative wording.

Part C - Phase 1:

We are concerned by the explicit statement in paragraph 200.5A3 that '[a]ll professional accountants have a responsibility to act in the public interest'. We would encourage consistency with paragraph 260.7A1, which notes that '[a] distinguishing mark of the accountancy profession is its acceptance of the responsibility to act in the public interest'. Given the inevitable disagreement at times about what the public interest entails in a given situation, the acceptance of the profession is very different to the responsibility of an individual within that profession. In any event, we would expect application material to avoid setting out professional accountants' responsibilities.

In combining extant paragraphs 310.3 and 310.6 into paragraph R210.5, it becomes more apparent that that existing wording may be confusing. In safeguarding the fundamental principles, the professional accountant is required to consider the circumstances that present a conflict of interest, rather than a particular activity. The



threat produced by an existing conflict must be assessed and managed before any activity is contemplated. Therefore, R210.5(b) should be reworded.

Independence for other assurance engagements:

The structure of the 'introduction' in section 900 is not consistent with that in section 400. This might raise questions in the mind of the reader. In addition, there is no reference, at the start of each of these sections, to the conceptual framework. Although the risk of confusing independence with objectivity should be avoided, we believe that, if the references at the start of each section in Parts 2 and 3 are to remain, there should also be a similar reference at the start of sections 400 and 900.

We have concerns, however, about the excessive number of references to applying the conceptual framework. For example, paragraph 911.3 states 'Section 911 sets out specific requirements and application material relevant to applying the conceptual framework to loans and guarantees'. There would be significant benefit in clarifying that application of the conceptual framework is often necessary in safeguarding objectivity (where loans and guarantees are concerned), but much of section 911 sets out requirements in order to ensure independence of mind and independence in appearance.

In the case of certain assurance engagements, it is possible (unlike an audit engagement) that the engagement may be with an individual professional accountant. Therefore, care should be taken to make clear within Part 4B that references to 'firm' could relate to an individual where the assurance engagement is with an individual.

Paragraph 900.17A1 simply states that network firms are discussed in respect of audits and reviews. However, section 900 concerns other assurance engagements, and so it is necessary to explain how paragraphs 400.50A1 to 400.54A1 relate to other assurance engagements.²

Question 2: Do you believe that the proposals are consistent with the key elements of the restructuring as described in Section III of this Explanatory Memorandum?

Increased prominence of the fundamental principles and conceptual framework:

Care should be taken to ensure that the restructured Code is not (and is not perceived as) moving away from a principles-based code. Compliance with a Code that is a set of

² We believe there are errors in the cross-referencing of paragraphs within the exposure draft and the agreed-in-principle text. This illustrates the complexity of the numbering system, which we still believe can be simplified.



rules has little value if, in some situations, compliance with those rules does not bring about compliance with fundamental ethical principles. Therefore, in completing this project to restructure the Code, it is important that the IESBA focuses on making compliance with the conceptual framework as easy as possible.

Requirements distinguished from other material:

Like many other respondents, we would prefer requirements to be emboldened and all prefixes and suffixes to be removed. The numbering system is so complicated that it is difficult to have discussions about how the different paragraphs of the Code interact. Therefore, engagement with the Code is more difficult.

Increased clarity of responsibility:

In general, we support the objective of identifying the responsible party in certain situations. However, with regard to the requirements that relate to compliance with the conceptual framework, it is important that professional accountants identify their own responsibility and feel accountable for their compliance with the Code. Therefore, the fundamental principles and conceptual framework must be absolutely clear, and seen as paramount.

Increased clarity in drafting:

Increased clarity of drafting is extremely important in achieving the overriding objectives of this project. However, given the requirement that the project is not to change the meaning of the Code, it is impossible to achieve the simplifications required within the parameters of the Restructure project. A future project should be undertaken to review specific provisions within the restructured Code, and this should be scoped out within the IESBA's strategy beyond 2018. It might include a review of the numbering conventions in sections 4A and 4B, as they appear inconsistent. It should, in time, be evident from each IIS's contents page that there is consistency in structure. This will assist the user in identifying more quickly the relevant sections in each IIS.

In accordance with the outcomes of the NOCLAR project, the definition of 'professional behaviour' in the restructured Code includes the avoidance of discreditable *conduct*, as opposed to *action*. This takes account of conduct that amounts to *inaction* in a situation in which appropriate action is called for. We believe there is more work to be done in searching through the Code to identify all other situations in which the word 'act' or 'action' could be seen as too limited (for example in paragraph 260.2).

There are other examples of inconsistency throughout the draft restructured Code, and we have already alluded to the benefit of seeking greater consistency in the structure and wording of the introductory paragraphs of each section. However, this Phase 2 exposure draft illustrates a further inconsistency between sections 200 and 300. The



latter includes sections on ‘identifying threats’, ‘evaluating threats’ and ‘addressing threats’; in contrast, section 200 does not include any paragraphs on addressing threats.

There is some inconsistency in phrasing throughout the Code, which we believe should fall within the scope of the current restructure project. However, as an alternative, it may be more appropriate to defer such an exercise to a later date. For example, there are several references to a review by a professional accountant, and a consistent way of expressing the rationale for the review and the required independence of the reviewer would be beneficial.

Clarity of drafting could also be improved by reviewing the draft restructured Code for imprecise words such as ‘generally’. If something is said to be ‘generally necessary’ (210.8A1), it would appear that it is a requirement in some circumstances. Also, the meaning of words such as ‘consider’ could be difficult to interpret and translate. Where the text states ‘factors to consider ... include’ (220.10A1, 260.16A1, 360.11A2, etc), this is failing to meet the stated objectives of avoiding use of the present tense in application material, and increased use of the active voice. We recommend that the IESBA should look for more opportunities to use a phrase such as ‘the professional accountant might consider’ in these areas.

Paragraph R923.5 uses the wording of extant paragraph 291.135 in requiring management to make ‘all relevant decisions’. Greater clarity (and accuracy) would arise from expressing this requirement as a need for the professional accountant to avoid making decisions that are the proper responsibility of management.

Conforming amendments arising from the safeguards project

Question 3: 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.

ACCA’s response to the Safeguards ED-2 was submitted to the IESBA on 25 April 2017.



Effective date

Question 4: Do you agree with the proposed effective dates for the restructured Code? If not, please explain why not.

In our opinion, the benefits of introducing the provisions in section 540 and 940 (relating to long association) to be effective six months prior to the rest of the restructured Code becoming effective are outweighed by the complications of effecting two changes in quick succession. Such complications are particularly burdensome for SMPs, and threaten effective compliance with the Code.

It is also inefficient to require implementation too soon after the issue of the restructured Code. This would threaten accurate translation of the Code, and would encourage a two-stage translation process – with the first phase based on draft text, and a second phase following the publication of the agreed final text.

General comments

Small and Medium Practices (SMPs) and PAIBs:

Navigation of the Code is an important consideration for all users, but particularly for SMPs. Identifying those sections of the Code that are unlikely to be relevant to SMPs would, in future, help those SMPs to identify the areas of the Code that most concern them and, in due course, help them to tailor an electronic version of the Code to their own circumstances, providing better focus and understanding.

Regulators and audit oversight bodies:

We have expressed our concern that the objectives of enhancing both compliance with the Code and its enforceability may conflict. The latter implies that clarity may be sought through more explicit requirements or rules; in contrast, strict adherence to a principles-based framework is most likely to bring about higher levels of accountability and, therefore, compliance.

Translations:

We have commented above on the inefficiency that would be suffered by translators if the effective date of the restructured Code was too soon after the issue of the final version of the restructured Code. In any event, translation of the restructured Code will be demanding on resources, including time, and a realistic translation period will be required.





ACCA



+44 (0)20 7059 5000



info@accaglobal.com



www.accaglobal.com



The Adelphi 1/11 John Adam Street London WC2N 6AU United Kingdom