

June 1, 2020

The IESBA Chairman
International Ethics Standards Board
International Federation of Accountants
529 5th Avenue, 6th Floor
New York
New York 10017
United States of America

Via Online Submission

Dear Mr Stavros Thomadakis

COMMENTS ON IESBA EXPOSURE DRAFT '*PROPOSED REVISIONS TO THE NON-ASSURANCE SERVICES PROVISIONS OF THE CODE*'

The Malaysian Institute of Certified Public Accountants ("MICPA") appreciates the opportunity to comment on IESBA Exposure Draft, '*Proposed Revisions to the Non-Assurance Services Provisions of the Code*'. We also applaud the effort of the IESBA to enhance the Code.

In this regard, we are pleased to attach MICPA's comments as set out in Appendix I for your consideration.

We trust our comments and accompanying recommendations to be of value and useful to the IESBA, in your onward deliberation. MICPA looks forward to further strengthening such dialogues with your organisation.

Please do not hesitate to contact the undersigned or the Technical Director, Ms Chiam Pei Pei, at +603-2698 9622 should you require any clarification.

Thank you.

Yours faithfully



NOVIE TAJUDDIN
Chief Executive Officer

Our responses to the specific questions are as follows:

Prohibition on NAS that Will Create Self-review Threat for PIEs

Question 1: Do you support the proposal to establish a self-review threat prohibition in proposed paragraph R600.14?

Comment: We support the principle articulated in paragraph R600.14. We also note that Sections 601-610 addresses largely the traditional areas of services. However, with advancement of technology and new methods of delivery, there will be an evolution of new service offerings. There ought to be clarity particularly in Section 600 that these new services should be evaluated against the principles in the Code.

Question 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?

Comment: We would also like to seek clarification as the risks described in paragraph 600.11 A2(a), (b) and (c). In other words, we wish to clarify whether an “and” or “or” should be used in the paragraph 600.11 A2.

In addition, the first condition in paragraph 600.11 A2 indicates that an evaluation needs to be performed to determine whether the “the results of the service will affect the accounting records, internal controls over financial reporting, or the financial statements on which the firm will express an opinion”. In the widest interpretation, it can be argued that almost all services have the potential to have such an effect. We therefore recommend that the IESBA provide application guidance to address this concern.

In addition, we believe the concept of “materiality” should be retained in considering the risk of a self-review threat as explained in Question 5.

Providing Advice and Recommendations

Question 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?

Comment: In the extant Code, the principle is that providing advice and recommendations to assist the management of an audit client in discharging its responsibilities is not assuming a management responsibility. It follows that as long as a firm complies with the conditions set out in paragraph 600.8, there ought to be no further restrictions on advice and recommendation.

It is therefore unclear the intention of IESBA on the above proposed extension of the prohibition to providing advice and recommendations as it is not consistent with the position established in the Code.

In addition, there should be clarity that providing advice and recommendations to management, say on internal controls, as part of the audit engagement will not create threats to independence as they are considered part of the normal audit processes.

Project on Definitions of Listed Entity and PIE

Question 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.

Comment: We believe that the IESBA should continue with the existing approach in the Code, where it distinguishes the requirements for PIE audit client and non-PIE audit client. This is also in line with the stakeholders’ expectations on firm’s independence in respect of PIE audit client.

Consequently, the project to review and standardise the definition of a PIE between the accounting, auditing and ethical Standards is critical. The goal is to make the definition of PIE as universal as possible and therefore eliminate the need for additional national definitions to ensure uniformity in application. In Malaysia, for example, PIE is defined under the Schedule 1 of the Securities Commission Malaysia Act 1993.

Materiality

Question 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 clients that are PIEs (see Section III, B ‘Materiality’)?

Comment: We are of the view that removal of any consideration of “materiality” in relation to NAS is not consistent with the conceptual framework approach in the Code. Indeed, we believe that materiality is a relevant factor in identifying and evaluating whether a NAS self-review threat arises.

The concept of “materiality” is well embedded in accounting and auditing standards. Application of accounting policies and disclosures are not required if the transactions and amounts involved are not considered material. Similarly, audit procedures may not be performed in relation to certain classes of transactions, account balances or disclosures if the risk of material misstatement is assessed as low.

The IIS also continues to apply the concept of “materiality” in evaluating whether an interest or relationship creates a threat to independence as in the case with indirect financial interests and close business relationships.

Question 6: Do you support the proposal to prohibit the following NAS for all audit clients, irrespective of materiality:

a) 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)?

Comment: Subject to the comments above, we support the proposal in R604.13. We suggest IESBA elaborates on the point under R604.13(b) and to provide an example on this scenario.

b) 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)?

Comment: Subject to the comments above, we support the proposal in R610.6. We suggest IESBA elaborates on the point under R610.6(b) and to provide an example on this scenario.

Communication with TCWG

Question 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)?

Comment: We agree with the proposals for improved firm communication with TCWG, including the requirement to obtain concurrence from TCWG for the provision of a NAS to an audit client that is a PIE in paragraphs R600.18 and R600.19.

We recommend that IESBA considers introducing a “de-minimis” provision in case of inadvertent minor NAS breaches which may result in the firm being considered as not independent and therefore unable to complete the audit which will not be in the public interest.

Other Proposed Revisions to General NAS Provisions

Question 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?

Comment: We have no objection of the proposal to move the provisions relating to assuming management responsibility from Section 600 to Section 400 and from Section 950 to Section 900.

Question 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 R600.10)? Is the related application material in paragraph 600.10 A1 helpful to implement the new requirement?

Comment: We support the proposal to elevate the extant application material relating to the provision of multiple NAS to the same audit client to a requirement. Firms should consider the combined effect of the multiple NAS that might create threats to independence.

Proposed Revisions to Subsections

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

a) The concluding paragraph relating to the provision of services that are ‘routine or mechanical’ in proposed paragraph 601.4 A1?

Comment: One of the examples given under paragraph 601.4 A1, i.e. preparing financial statements based on information in the client-approved trial balance may involve exercise of management judgement for presentation and disclosure of financial statements. This may not be regarded as a ‘routine or mechanical’ nature. On another note, we wish to highlight that though the Code allows professional accountants in public practice to provide accounting and bookkeeping services to audit clients that are not PIEs if such services require little or no professional judgment, such services are in fact prohibited in Malaysia. The audit license of a professional accountant in public practice in Malaysia will not be renewed if there is such a breach.

- b) **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?**

Comment: We agree with the withdrawal of the exemption in extant paragraph R601.7.

- c) **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)?**

Comment: We agree in principle with 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.

The proposal prohibits certain services unless the treatment has a basis in applicable tax law and regulation that is likely to prevail. We would highlight that in certain territories the relevant tax laws may lack the clarity or precedents to allow a firm to conclusively determine as such. As such, it should be made clear that the audit firm's independence will not be impaired if the advice given to the client is supported by substantive authority in tax code or pronouncements. In addition, it should also be clarified that an audit firm's independence will also not be impaired if the tax client's treatment is subsequently successfully challenged by the authorities even though the firm has fully complied with these requirements.

- d) **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?**

Comment: We agree with the new provisions relating to acting as a witness.

Proposed Consequential Amendments

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

Comment: We agree with the proposed consequential amendments to Section 950.

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

Comment: We have no further comments.