

Proposed changes to Part C of the Code addressing presentation of information and pressure to breach the fundamental principles

A consultation issued by the International Ethics Standards Board for Accountants

Comments from ACCA

April 2015

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.

We support our 170,000 members and 436,000 students in 180 countries, helping them to develop successful careers in accounting and business, with the skills needed by employers. We work through a network of 91 offices and centres and over 8,500 Approved Employers worldwide, who provide high standards of employee learning and development.

ACCA works in the public interest, assuring that its members are appropriately regulated for the work they carry out, and promoting principles-based approaches to regulation. We actively seek to enhance the public value of accounting in society through international research, and we take a progressive stance on global issues to ensure accountancy as a profession continues to grow in reputation and influence.

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ACCA welcomes the opportunity to comment on the proposals issued by the International Ethics Standards Board for Accountants (the IESBA). The ACCA Global Forum for Ethics has considered the matters raised, and the views of its members are represented in the following.

OVERALL COMMENTS

ACCA believes that the proposed changes to Part C of the Code addressing presentation of information and pressure to breach the fundamental principles would provide greater clarity for users of the Code, and are consistent with other current proposals designed to enhance the Code's usability. We support the general direction of the changes, but would strongly advocate focus on the fundamental principles. We believe that transparency is enhanced by achieving a clear distinction between requirements and guidance.

In the draft revised Code, there is extensive use of the word 'guidance' (paragraphs 310.11, 320.10, 320.11, 330.5 and 370.9). It is the view of ACCA that guidance should sit largely outside of the Code itself, in order to highlight the importance of the fundamental principles. Nevertheless, guidance in some form is certainly required in many areas. With this in mind, this project should be viewed in the context of the concurrent project to review the structure of the Code.

ACCA suggests that the applicability of Part C to professional accountants working in the public sector and in the not-for-profit/charity sector should also be considered as part of this consultation process. The definition of 'professional accountant in business' should be highlighted early in section 300.

ACCA supports the expectation, expressed in paragraph 300.5, that the professional accountant will encourage an ethics-based culture, and welcomes the expression of that expectation within the Code. However, the requirement that the professional accountant shall take 'reasonable steps' in order to do so is unhelpful without detailed information on the subject. But encouraging an ethics-based culture is not an easy matter, and is the subject of a great deal of material concerning areas such as codes of conduct and ethical leadership. Therefore, the Code is not the appropriate place in which to expand upon the important principle that the professional accountant will encourage an ethics-based culture.

It may be useful to highlight in the Code that the risk environment for professional accountants is likely to be greater in smaller organisations. The likelihood of being pressurised to collude in unethical behaviour might be thought to be higher in such cases.

SPECIFIC ISSUES

In this section of our response, we answer the ten questions set out in the consultation paper section *Request for Specific Comments*.

Proposed revised section 320

We support the broadening of the scope of section 320, and consider the proposed changes to paragraph 320.1 to be a significant enhancement.

Question 1: Is the enhanced guidance on applying the ‘fair and honest’ principle in Section 320 helpful?

Generally, we support the clear expression of the ‘fair and honest’ principle set out in paragraph 320.2. However, where there are lists of examples, it is often worthwhile emphasising that such lists are not exhaustive, and should not detract from the underlying ‘fair and honest’ principle which is, itself, derived from the fundamental principles.

Question 2: In particular, do respondents support the guidance in paragraph 320.3 addressing the issue of misuse of discretion in a manner that is intended to mislead? If not, please explain why. Are there any other considerations relating to this issue that should be addressed in Section 320?

These changes cover the possibility that a professional accountant’s discretion may be misused, the misrepresentation of transactions, and the professional accountants’ disassociation from misleading information. In respect of discretion, ACCA agrees with the five broad examples of scenarios under which judgment and discretion need to be applied (and the specific examples within each) set out in paragraph 320.3.

The IESBA may also wish to emphasise that the fair and honest presentation of information includes the full disclosure of relevant information by the PAIB, for example information relevant to auditors (both internal and external).

Question 3: Paragraph 320.4 provides guidance as to what PAIBs are expected to do ethically in order to prepare or present fairly and honestly information that does not have to comply with a relevant reporting framework. Is this guidance sufficient? If not, what further guidance could Section 320 usefully provide?

Proposed paragraph 320.4 states that the professional accountant would be required, in the case of certain assignments, to ‘include relevant estimates,

approximations and assumptions that are necessary to enable those who may rely on such information to form their own judgments.’ As drafted, this goes beyond guidance and, effectively, reduces the relevance of the professional accountant’s judgement while risking that the financial information being conveyed may be obscured. This is particularly relevant in respect of small entities, in which owner managers are likely to rely heavily on the expertise and professional judgement of the employed professional accountant.

Question 4: Do respondents agree that where a PAIB relies on the work of others, the PAIB should be required to take reasonable steps to be satisfied that such work enables the PAIB to comply with the overarching principle in paragraph 320.2?

We agree, and we note that such an understanding would be compatible with the requirements of auditing standards (eg ISA 500 and ISA 540). However, paragraph 320.5 should explain what factors are relevant when considering what steps may be ‘reasonable’ under the circumstances.

Question 5: Do respondents agree with the guidance proposed in paragraphs 320.6 and 320.7 regarding disassociation with misleading information? Are there other actions that could be specified?

We welcome the clarity provided by paragraphs 320.8 and 320.9. However, the preceding paragraphs are very detailed (while not being prescriptive). Paragraphs 320.6 and 320.7 may be combined and drafted in such a way that they are clearly seen to be guidance that is subordinate to paragraph 320.8.

Proposed section 370

When PAIBs succumb to inappropriate pressure, this will often have a direct impact on the quality of information on which users will rely. Therefore, strengthening the understanding of PAIBs (and providing resources in the form of a robust Code) must be a priority of the IESBA. This is an area in which individuals require support in order to be able to ‘do the right thing’. This is particularly true of professional accountants in small organisations, in which the threats are likely to be greater, due to the absence of formal procedures when ethical dilemmas are encountered.

Question 1: Do respondents agree with the overarching requirements in paragraphs 370.1 and 370.2?

ACCA welcomes guidance in this area, although we maintain that the guidance would be more effective if it were contained within a separate document – leaving the fundamental principles (and the specific requirement to uphold

them, set out in paragraphs 370.1 and 370.2) to be clearly expressed within the Code itself. Given that proposed section 370 has a different feel to other sections (moving away from a threats and safeguards approach), there is a strong argument for removing it from the Code, which would enable it to be forcefully promoted as a very commendable guidance document.

Paragraph 370.2 is appropriately succinct. We believe that it would be more robust if the professional accountant were prohibited from acting in a way that he or she believes '*could* result in a breach of one or more of the fundamental principles', rather than '*would* result in a breach of the fundamental principles'.

Pressure to breach a fundamental principle is, in itself, a threat to that principle. The wording currently lacks clarity, as it is well established that such pressure (ie threat) requires the professional accountant to apply appropriate safeguards. The last sentence of paragraph 370.1¹ may be unachievable. It also appears inconsistent with the first sentence of paragraph 370.3.²

It is unclear why the second sentence of paragraph 370.3³ is included. Reporting deadlines are a common source of pressure, and a very real threat to the fundamental principles.

Question 2: Are the illustrative examples of types of pressure that could result in a breach of the fundamental principles in paragraph 370.4 helpful?

The illustrative examples provided are useful in that they demonstrate clearly that pressure may come from a number of sources – both within the employing organisation and outside of it. However, perhaps the area in which the professional accountant requires most support is that of pressure from senior staff within the organisation. Comprehensive guidance within the proposed section 370 is at the cost of more focused guidance on how to respond to pressure from within the organisation.

Sections 310 to 360 will explore areas in which the fundamental principles may be threatened. They will provide examples and guidance. Proposed paragraph 370.4 provides examples set out under similar headings to those of sections 310 to 360. Care should be taken not to reinforce the misconception that the examples provided in these sections and in this paragraph 370.4 are exhaustive.

¹ 'The professional accountant shall not allow such pressure to result in a breach of the fundamental principles.'

² 'This section addresses pressures that could result in a professional accountant taking actions that breach the fundamental principles.'

³ 'It does not address routine pressures encountered in the workplace such as pressure to meet a reporting deadline.'

Question 3: Is it sufficiently clear that Section 370 addresses pressure that could result in a breach of fundamental principles, as opposed to the routine pressures that exist in the workplace? In particular, does paragraph 370.5 provide sufficient guidance to assist the PAIB in making that distinction? If not, what other considerations should the PAIB take into account?

We have already commented on this under question 1 above. The need for a distinction between ‘routine pressures’ and other pressures has not been made clear. Furthermore, although the proposed paragraph 370.5 appears useful, it does not appear to assist in making any such distinction.

Question 4: Do respondents find the guidance in paragraph 370.6 on responding to pressure that would result in a breach of the fundamental principles helpful? Are there other actions that should be considered?

Paragraphs 370.5 and 370.6 could be combined, as the consideration of policies, procedures, laws and regulations is a course of action that complements those listed in paragraph 370.6. Furthermore, it will be unnecessary for the professional accountant to consider the corporate ethical culture, as its culture is always apparent, and should not require researching.

ACCA believes that the possible actions listed in paragraph 370.6 are comprehensive, although there would be scope for more detailed explanations if these possible actions were to be moved to a separate guidance document apart from the Code itself. As suggested earlier, there might be benefits from producing more focused guidance on pressure coming from senior staff within the employing organisation.

Paragraph 370.6 suggests that the professional accountant in business might ‘Request restructuring or segregation of certain responsibilities and duties so that the professional accountant is no longer involved with the individual or entity exerting the pressure’. We do not believe that this would be effective in relieving the pressure (effectively a threat). Once a professional accountant has been pressurised to do something, that pressure is likely to remain, no matter how responsibilities are restructured or segregated.

Paragraph 370.6 also suggests that the accountant should ‘escalate the matter within the entity’. To the list of individuals who might be consulted in the organisation might be added the office of in-house legal counsel. (Similarly, in paragraph 300.15, the office of in-house counsel could be added to the list of management who might be consulted.)

Question 5: Are the references to other sections of Part C of the Code, in paragraph 370.9, helpful?

We believe that these references are helpful, but would suggest that the paragraph should add that examples contained within those sections are not exhaustive.

GENERAL COMMENTS

ACCA has developed this response following an internal due process involving preparers and users, those in developing nations, and those who will use the Code in translation. This input, such as from our Global Forum for Ethics, has informed the whole of this response. However, we would make the following observations.

Preparers (including SMEs) and users (including regulators)

Generally, ACCA considers the proposed changes to Part C of the Code to be relevant and timely, in view of the various accounting scandals that continue to surface. PAIBs have an important role to play in ensuring that financial information is free of material misstatement, and presented in a way that is fair and honest. We believe that the proposed changes will provide helpful guidance to assist PAIBs in their role.

We would refer to our response above under section 320 question 3. Also, as stated earlier, the risk of the professional accountant experiencing pressure to collude in unethical behaviour is likely to be greater in smaller organisations.

PAIBs working in the public sector

As stated earlier, within our overall comments, ACCA believes that reliance on the definition of 'professional accountant in business' at the end of the Code is inadequate. We recommend that section 300 should make clear the applicability of Part C to professional accountants working in the public sector and those working in the not-for-profit/charity sector (either as employees or as volunteers).

Developing nations

ACCA believes that ethical values should not be regarded as relative to location or culture. Inducements, for example, threaten fair trade and competition, and there is no reason why geographical boundaries and cultural differences should make inducements appear acceptable.

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