



Technical Director
International Ethics Standards Board for Accountants
International Federation of Accountants
529 Fifth Avenue, 6th Floor
New York 10017

June 4, 2020

Re: IESBA Exposure Draft – Proposed Revisions to the Non-Assurance Services Provision of the Code

Dear Mr Siong

Introduction

We¹ appreciate and thank you for the opportunity to comment on the IESBA's exposure draft regarding Proposed Revisions to the Non-Assurance Services Provision of the Code.

Overall Comments

We support the objective of establishing auditor independence requirements that meet the reasonable expectations of stakeholders, including those who rely on financial statements. In particular, we agree that the restrictions on the non-assurance services (NAS) that an audit firm or network firm can provide should take into account that stakeholders in Public Interest Entities (PIEs) have heightened expectations, and that clarity is in the interests of everyone. It is important for all stakeholders that the provisions are clear, reasonable, and capable of consistent interpretation and implementation. We believe that some enhancements to the text can be made to achieve this objective and, accordingly, some of our comments are directed at achieving this.

Stakeholders, including regulators, will be aware that a large proportion of the world's listed and other PIEs, and their auditors, are already subject to auditor independence requirements that have been established on a market basis, for example by the U.S. SEC and PCAOB, the UK FRC and by the European Union. These independence requirements frequently have a cross-border effect.

¹ This response is being filed on behalf of PricewaterhouseCoopers International Limited (PwCIL). References to "PwC", "we" and "our" refer to PwCIL and its global network of member firms, each of which is a separate and independent legal entity.

PricewaterhouseCoopers International Limited
1 Embankment Place
London WC2N 6RH
T: +44 (0)20 7583 5000 / F: +44 (0)20 7822 4652



These jurisdictional-based sets of rules are not identical and there is some inevitable friction and inefficiency where they overlap (that is, where PIEs and their auditors are subject to two or more independence regimes, including the provisions of the Code) and it is necessary for the auditor, the client and those charged with governance (TCWG) to determine, on a situation by situation basis, which is the more restrictive rule to apply. This friction will be exacerbated by this proposal which moves the International Independence Standards (“IIS”) further towards a rules-based Standard similar to (but in some important respects different from) those jurisdictional Standards mentioned. While we recognise IESBA’s ambition to establish “globally operable provisions”, we are concerned that this friction between the different sets of rules is not ultimately in the public interest and risks discrediting the profession and regulators if there is no agreement on a common baseline for independence standards for PIE audits.

We believe that ideally independence standards should converge on a single set of common and robust standards. This has parallels in what many advocated for, and what has largely happened, in relation to Accounting and Auditing Standards whereby, in the latter case, there are two dominant recognised sets of auditing standards (PCAOB/US GAAS and the ISAs). Whilst we recognise the challenges, we strongly encourage the IESBA to consider how the application of the IIS interacts with existing jurisdictional Standards and to open a dialogue with key stakeholders including IOSCO, the US SEC and other leading regulators/standard setters to see if there is a path forward to resolving this dilemma and which would ideally see the adoption of the IIS as a common standard. We are, of course, happy to contribute to this debate.

In addition to this overall comment, significant points that we cover in more detail below are:

- In general, we support the Board’s approach to addressing the self-review threat in relation to PIE audits but have a number of concerns about the clarity of the provisions (questions 1-2).
- In particular, we believe that materiality is a relevant factor in identifying and evaluating the risk of self-review when an audit engagement team plans its audit procedures (question 2).
- We believe that greater clarity is needed on the extent to which advice and recommendations would be prohibited (question 4).

Requests for specific comments:

Our responses to the specific questions raised in the ED follow.

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

We support the principle in broad terms. If the provision of a non-assurance service creates a self-review threat to independence that is not at an acceptable level the firm’s independence is threatened. Due in part to concerns about stakeholders’ perceptions about the potential impact on independence, it is appropriate to prohibit such services in the case of PIEs.

R600.14 sets out a general prohibition relating to those NAS that will create a self-review threat. Subsections 601-610 continue to address the largely traditional areas of services covered



in the extant Code. It is not immediately obvious to all readers that this prohibition applies to other NAS not addressed in these subsections. This is particularly the case because Section 600 has not been updated for new types of services and methods of delivery, such as those reflecting advances in technology. Aside from the building block approach in the Code, there is no clear connection between the requirements in subsection 600 and subsections 601-610. We believe this could be clearer, perhaps as an addition to 600.3/4 and/or 600.5 A1.

- 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?*

We have several concerns with this provision, as follows (explained in the order of the draft provisions):

- a) Paragraph 600.9 A2 sets out factors that are relevant in identifying and evaluating threats created by the provision of NAS to all audit clients. While there is no specific linking of those factors to the relevant threat, some of these, notably bullets 7-9, are relevant to evaluating the self-review threat. This includes whether “The extent to which the outcome of the service will have a material effect on the financial statements”.

Paragraph 600.11 A2 deals specifically with the self-review threat but there is no obvious link back to 600.9 A2, the factors to consider are not the same and, as a result, there is a disconnect between the two paragraphs which we believe will cause uncertainty and risks inconsistent interpretation and application.

- b) Paragraph 600.11A2 starts with the phrase “*Identifying whether the provision of a non-assurance service to an audit client will create a self-review threat involves determining whether there is a risk that...*”. While we understand that this should be a forward looking test, we believe that the application material should make it clear that the evaluation should be based on what is reasonably foreseeable and documented at the time the service is proposed to be provided, and that the impact of any subsequent change in the facts and circumstances should be evaluated at the relevant time. The response to any subsequent breach resulting from a change in the facts and circumstances should follow the “breaches provisions” in the IIS.
- c) The first condition in Paragraph 600.11 A2 is evaluating whether “*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*”. We have a concern that this is imprecise and open to wide interpretation. At the extreme it could be argued that almost every service provided has the potential to have such an effect, even if only indirectly. We recommend that the IESBA provide some application guidance as we assume this is not the intent.

For example, we believe that it would be helpful to refer to the intended purpose of the service. Accordingly, bullet (a) could be revised to:

“A significant purpose of the service is to affect the accounting records, internal controls over financial reporting, or the financial statements on which the firm will express an opinion.”

- d) We note that the Explanatory Memorandum (the “EM”) says:



“In response and given the heightened stakeholder concerns about auditor independence for PIEs, the IESBA is proposing that the materiality qualifier be withdrawn for audit clients that are PIEs. The NAS self-review threat prohibition would therefore apply even if the outcome or result of the NAS is immaterial.”

Despite this comment in the EM, 600.11 A2, on its own, would not rule out materiality as a factor in evaluating whether there is a risk of self-review. Indeed, we strongly believe that materiality is a relevant factor in identifying and evaluating whether a self-review threat arises. Several ISAs refer to “materiality” being a relevant factor in determining the nature and extent of audit procedures that need to be performed in order to obtain sufficient appropriate audit evidence on which to base the audit opinion. It thus affects whether a self-review threat might be created as there may be circumstances when it is not necessary to perform audit procedures in relation to a particular account balance, class of transaction or disclosures because the risk of material misstatement is so low. For example, ISA 330 says *“The extent of an audit procedure judged necessary is determined after considering the materiality, the assessed risk, and the degree of assurance the auditor plans to obtain.”* If an item is clearly immaterial/insignificant, there is no need to perform audit procedures on it and, therefore, no self-review threat. ISAs 200, 300, 315, 320 all include similar guidance to ISA 330.

To illustrate in the context of a single entity PIE, it is entirely possible that the results of an inconsequential service affects only an account balance, class of transactions or disclosure that will not be subject to audit procedures.

The removal of any consideration of “materiality” in relation to NAS is inconsistent with the conceptual framework approach and other provisions adopted in the Code. Moreover, we continue to believe that “materiality” is an appropriate factor in evaluating whether an interest or relationship creates a threat to independence, as is the case in the IIS with indirect financial interests and close business relationships, including in relation to PIEs.

Accordingly, we continue to believe that the IIS should clearly recognise the application of “materiality” considerations in the context of applying the factors set out in 600.11 A2. This would also be consistent with proposed 600.15 A1 (and 600.9 A2). In saying this, we are not suggesting that materiality should be used to argue that individual components in a group audit are “not subject to audit procedures” and further that this does not require the inclusion of a materiality qualifier (or exemption), as included in the extant Code, in subsections 601-610.

- e) Finally, we note that some readers are unclear as to whether the three conditions in this provision (600.11 A2) are cumulative in effect (which we understand is the intent). It might be clearer if the word “and” was added after bullet (a).

- 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?*



In addition to our comments on self-review above, we have concerns about the proposed extension of the prohibition to “advice and recommendations”. In the extant Code, the IESBA has to date taken the position that “*Providing advice and recommendations to assist the management of an audit client in discharging its responsibilities is not assuming a management responsibility*” and limited the IIS provisions to that principle, meaning that provided the firm complies with the conditions set out in extant R600.8 that there are no further restrictions on advice and recommendations. It is not clear why the Board has changed its view on that, and we think the proposed language lacks clarity and will create uncertainty and inconsistent application. This position is not consistent with the approach adopted when applying the US SEC independence rules and is an example of where friction will be created with other independence standards.

We recommend that the Board makes it clear that advice and recommendations provided as part of the audit engagement, such as those services currently permitted in relation to internal controls, is a normal part of the audit process and does not create threats to independence.

We acknowledge that there might be some limited situations, when the firm does not assume a management responsibility, where there might be a risk of a self-review threat, or at least an appearance of one.

We would prefer to see a provision along the following lines:

“Subject to compliance with paragraph R400.14, providing advice and recommendations, does not generally result in a risk of self-review. Whether providing advice and recommendations creates a self-review threat involves making the determination set out in paragraph 600.11 A2. This includes considering the purpose and nature of the advice and recommendations, the degree of detail provided, the reliance placed by client management on the firm’s advice, and how such advice and recommendations might be implemented by the audit client. If a self-review threat is identified, application of the conceptual framework requires the firm to address the threat where the audit client is not a public interest entity. If the audit client is a public interest entity, paragraph R600.14 applies”.

We also suggest that it would be useful to include application material to help determine when advice or recommendation might create a self-review threat. We suggest that where the firm’s advice and recommendations are:

- clearly expressed as matters for consideration and decision by the audit client’s management and give management a basis for its decisions in the form of an objective and transparent analysis and presentation of the issues, and
- are not provided in such detail that they can be implemented without consideration and planning by the client’s management, even if the firm’s advice may include only one recommended course of action,

that this does not amount to advice or a recommendation that will create a self-review threat.

- 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 have not deliberated, at this point in time, our views on potential revisions to the definitions of “listed entity” and “PIE”. Absent that planned ED it is clearly difficult to fully evaluate the potential impact of this proposal.

We acknowledge that stakeholders have identified difficulties in applying the definition of listed entity given that the term used in the Code differs from that used in jurisdictional legislation (notably “regulated” versus “recognised” exchanges) and agree that further clarity should be provided. We do believe it is important to retain the concept of listed entities as a subset of PIEs.

One matter that the Task Force might usefully consider is whether, in the absence of specific local regulation, all quoted/listed entities should be deemed to be ‘Listed? Specifically, can an exception be applied, for the entities whose quoted or listed shares, stock or debt are in substance not freely transferable or cannot be traded freely by the public or the entity? To illustrate, an entity (fund) might be listed on an exchange at the request of a pension fund investor in order to comply with pension rules. There is no trading of the entity’s shares through this exchange. The listing on the exchange is for “informational purposes” and is only listed at the request of one investor in order to comply with tax and pension requirements. As a privately held alternative fund, all capital transactions continue to occur as part of private offerings through the investor relations group.

We are also keen to avoid a patchwork of differing definitions across the world, although we recognise that size of an entity can be a factor to take into account in applying a jurisdictional definition. We are also aware that not all regulators have the capability or desire to make local determinations on what is or what is not a PIE in their jurisdiction and so directionally we believe that the IESBA should seek to define a baseline definition, to which regulators could add to or perhaps detract from (by reference to size of the entity) if they want. This would at least provide a common and minimum benchmark.

We believe it is critical that the Board continues to liaise with the IAASB on this, given the overlap with the ISAs.

- 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”)?*

No. Please see our comments on Question 2 above.

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

We support this proposal, subject to our comments above on Question 2.

However, we note that it is unclear how the prohibition in R604.13 is intended to interact with paragraph 604.12 A2 relating to tax advisory and tax planning services.

The underlying assumption seems to be that there will always be alignment between an applicable financial reporting framework and an applicable tax law or established practice, which may not be



true in every circumstance. We believe that, in the event of a conflict, the prohibition at R604.13 is intended to override the carve-out in paragraph 604.12 A2. In other words, the audit firm must not provide tax advice that depends on an inappropriate accounting treatment or presentation, even if that advice, together with the accounting treatment, would be likely to be acceptable to the relevant tax authorities. We suggest that this could helpfully be clarified.

- 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 in R600.19 together with the related application material.

However, we have a concern that an inadvertent breach of this requirement, for example in relation to a small inconsequential NAS (for example assistance in the preparation of a non-financial statutory return), could potentially put the firm in a position of not being regarded as independent, or being in breach of the IIS, and thus not able to conclude the audit. Such an outcome from a breach of what is effectively a process requirement would not seem to be in the public interest, nor impact independence of mind. While such a circumstance could potentially be addressed in accordance with the “breaches” provisions, we recommend that the IESBA consider including an appropriate de-minimis provision.

- 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 and the useful reminder in 600.7 A1.

- 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?*

Yes, we support the elevation to a requirement. However, we do have a concern about the need for the proposed application material in 600.10 A1 that prompts a consideration of whether “A proposed service impacts the effectiveness of safeguards put in place in relation to other non-assurance services”. The IIS effectively contain these 2 engagement-level safeguards:

- Using professionals who are not audit team members to perform the service.
- Having an appropriate reviewer who was not involved in providing the service review the audit work or service performed.

It seems difficult to see how the effectiveness of such a safeguard on an initial engagement would be affected by the provision of another NAS and we recommend that the second bullet of 600.10 A1 is deleted.

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

(1) The concluding paragraph relating to the provision of services that are “routine or mechanical” in proposed paragraph 601.4 A1?



We are comfortable with the revised examples of services that are regarded as “routine and mechanical”.

(2) 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?

As a general principle, we agree with the withdrawal of the current exemption.

However, we note that in practice audit firms often help clients with the preparation of local statutory financial statements, which are required for local statutory reporting purposes or regulatory or tax compliance purposes. This work is performed in accordance with the independence requirements relating to non-PIE audit clients after any group audit reporting has been undertaken (or for a component which is insignificant to the parent entity and there is no group reporting). We believe that these services are generally in the public interest and recommend that an exception from the resulting prohibition on preparing financial statements in R601.5 be provided for these services provided those financial statements are not used for consolidation purposes (whether or not the component auditor is from the same Network as the group auditor). This would be consistent with 601.4 A1.

(3) 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 proposal prohibits certain services unless that “treatment has a basis in applicable tax law and regulation that is likely to prevail”. We are generally supportive of this approach, but note that in some markets the relevant tax law lacks the clarity, precedents or administrative processes that would enable a firm to determine conclusively that their interpretation and application of the law and advice to the client is likely to be confirmed by the relevant tax authority, tribunal or court.

For this reason, it would be helpful to clarify that where local market conditions make the “basis in applicable tax law and regulation that is likely to prevail” test inappropriate, the audit firm’s independence will not be impaired if the tax advice given to the client is supported by “substantive authority” in the tax code or in tax authority pronouncements, taking into account all other relevant information available at the time.

It would also be helpful to clarify, for the avoidance of doubt, that an auditor’s independence should not be considered impaired if the firm has complied with this requirement, but the client’s tax treatment is subsequently successfully challenged by the tax authority.

We support the application material set out in 604.12 A2 in relation to the provision of tax advisory and tax planning services.

(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 R607.9?



Paragraphs R607.6 and 607.6 A1 say:

“A firm or a network firm shall not provide litigation support services to an audit client that is a public interest entity if the provision of such services will create a self-review threat in relation to the audit of the financial statements on which the firm will express an opinion.”

An example of a service that is prohibited because it gives rise to a self-review threat is providing advice in connection with a legal proceeding which affects the quantification of any provision in the financial statements on which the firm will express an opinion.”

This example suggests that the prohibition is a broad one, because it includes “advice...which affects the quantification of any provision in the financial statements” and is not limited to estimating damages or other amounts that affect the financial statements. Many different kinds of advice that could be provided by the firm as part of a litigation support service might be construed as having an effect, albeit indirect, on the client’s quantification of related provisions in its financial statements. The example and the extent of the resulting prohibition seem to be inconsistent with the ED’s explanation of how to identify a self-review threat, the limited prohibition on advice and recommendations, and the examples of other NAS that are prohibited for PIEs.

For example, sub-section 603 dealing with valuation services does not identify “advice” given in connection with a valuation performed by the client as creating a self-review threat, or as part of a “valuation service”, but instead appears to be focused entirely on the performance of a valuation by the firm. Furthermore, paragraph 608.6 A1, addressing legal services, only provides examples of deliverables that *might* create a self-review threat, leaving the firm to make the evaluation based on the facts and context.

We recommend that the Board clarifies its intentions in relation to the use of “advice” in paragraph 607.6 A1, and why this is different from the language of other sub-sections that contain examples of self-review threats, including providing assistance in the resolution of tax disputes, where “assistance” would normally include “advice”.

It would also be helpful if clarity could be brought to how these references to “advice” are intended to interact with the general provision in 600.12 A1.

With respect to R607.9, given that the role of the client’s tax advisor in a tax dispute could be encompassed within the IESBA definition of “expert witness”, it would be helpful to have clarification that this sub-section of the Code is not intended to apply to tax services, and specifically that it does not extend the scope of the prohibition on providing assistance to PIEs in relation to the resolution of tax disputes beyond paragraph R604.24.

Further we believe that R607.9 is unclear as drafted. The proposed language is ambiguous in that it could be read as capturing both the relevant PIE audit client and the adverse party. As the intention is to preserve auditor independence of the client, we recommend that the prohibition should be drafted in relation to the audit firm acting for the PIE audit client only. This would be consistent with the US SEC rules as they stand today as well. The edit suggested to give effect to this is highlighted in red below.



"Audit Clients that are Public Interest Entities

*R607.9 A firm or a network firm or a network firm or an individual within a firm or a network firm, shall not act **for** an audit client that is a public interest entity as an expert witness in a dispute **involving** unless appointed by a tribunal or court."*

(5) Legal advice

We recommend that the Board revises the second example in paragraph 608.6 A1 (legal advice - interpreting provisions in contracts) to make it clear that a self-review threat is only created if a purpose of the client's request for legal advice is to quantify a claim or liability for accounting or financial reporting purposes. We believe this is the intent.

10 *Other comments*

We have a concern regarding the new material proposed to be added at 950.9 in relation to the assurance clients that are PIEs. While we can accept that there might be raised expectations regarding independence in relation to these entities, we believe that there are practical limitations to disclosing any self-review threat with intended users and do not believe that this would be appropriate to include in, for example, the assurance report. There is no equivalent application material in section 400/600 on raising independence considerations with intended users (such as advocacy threats) and it is not clear what the user would do with this information. We see no benefit to such disclosure. If the firm, in communication with those charged with governance, are satisfied that any threat to independence is addressed, we do not believe that public communication of this serves any real purpose, and therefore do not agree this application material is appropriate.

We set out in an Appendix some further comments largely of an editorial nature which we hope the Board will find helpful.

Contact

We would be happy to discuss our views with you. If you have any questions regarding this letter, please contact me at samuel.l.burke@pwc.com.



Yours sincerely

A handwritten signature in black ink, appearing to read "Sam", written in a cursive style.

Sam Burke

Global Independence Leader



Appendix

Editorial and similar comments

Paragraph	Comment
<p>600.9 A2 950. 6 A2</p>	<p>It would be helpful to clarify the second bullet as to what is meant by the “manner” in which the service will be provided. This is not clear.</p>
<p>601.2 A3</p>	<p>We note that a 5th bullet has been added as an example of accounting and bookkeeping services. This is “Providing technical advice on accounting issues, including the conversion of existing financial statements from one financial reporting framework to another”. We observe that effectively the same service “Discussing how to convert existing financial statements from one financial reporting framework to another” is appropriately included in 601.2 A2 as part of the audit process that does not usually create threats. This is confusing and requires clarity if it is intended to represent different services. The former is presumably “doing the work”.</p>
<p>601.4 A2</p>	<p>The lead in should be amended to read “The firm <u>or a network firm</u> may...” and there is a missing “a” before “management” in the third line.</p>
<p>604.7 A1</p>	<p>For consistency we suggest “This service” is replaced by “Tax calculation services...”</p>
<p>604.9 A1</p>	<p>The first sentence duplicates 604.8 A1 and arguably is not needed.</p>



604.16 A1	Suggest revise “and include” to “including” to refer more clearly to the range of circumstances, not the services themselves.
604.17 A1	Suggest replacing “Providing valuation” with “performing valuation...” to be internally consistent.
R606.3	A heading is needed as this paragraph does not relate to the description of the service.
606.5 A1 and R606.6	The headings should be in italics.
608.6 A2	Suggest replacing “legal advisory services” with “legal advice” to be internally consistent within this sub-section.
609.4 A1	The first sentence would seem to fit better as a lead-in to para R609.4.
R610.5	The second part of this para seems to be included in error.
610.2 A1	We are surprised to see the addition of “Performing due diligence” in this paragraph as we do not regard this service as a “corporate finance service” given the nature of the work performed. Further we note that rarely would such a service give rise to a self-review threat given the nature of the service. Indeed, these services can enhance the quality of an audit and generally involve investigation-type procedures intended to better inform management’s due diligence process but do not form part of their decision making itself.