



THE INSTITUTE OF CHARTERED ACCOUNTANTS OF INDIA

(Set up by an Act of Parliament)

To

IESBA Senior Technical Director
New York USA

3rd June, 2020

Dear Sir,

Warm greetings!

The Institute of Chartered Accountants of India (ICAI) is a statutory body established by an Act of Parliament, viz. The Chartered Accountants Act, 1949 (Act No.XXXVIII of 1949) for regulating the profession of Chartered Accountancy in the country. The Institute, functions under the administrative control of the Ministry of Corporate Affairs, Government of India. The ICAI is the second largest professional body of Chartered Accountants in the world, with a strong tradition of service to the Indian economy in public interest.

The Ethical Standards Board is a Committee of ICAI for formulation of ethical standards for the profession.

The Exposure Draft of IESBA on Proposed Revisions to the Non-Assurance Services (NAS) in the Code of Ethics has been considered by the Ethical Standards Board of ICAI.

The response given hereunder to the Exposure Draft represent the response of ICAI, and CA. Sanjiv Kumar Chaudhary, Member, IESBA and Member, Ethical Standards Board of ICAI :-

S.No.	Specific Question of IESBA	Office Comments
1.	Do you support the proposal to establish a self-review threat prohibition in proposed paragraph R600.14?	This provision requires professional accountant to ascertain whether there is self-review threat. There is no issue in the same However, the fact that it applies only to PIE clients may be reconsidered, since the analogy would apply to all clients.
2.	Does the proposed application material in 600.11 A2 set out clearly the thought process to be undertaken when considering whether the	This is subjective analysis of factors to determine permissibility of NAS to audit Clients. Most of NAS in India are clearly demarcated as Yes or No as per the governing statute as well as by ICAI.



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<p>provision of a NAS to an audit client will create a self-review threat? If not, what other factors should be considered?</p>	<p>E.g. the Section 144 of Companies Act, 2013 reads as under (with regard to Auditor of a Company) :-</p> <p>144. An auditor appointed under this Act shall provide to the company only such other services as are approved by the Board of Directors or the audit committee, as the case may be, but which shall not include any of the following services (whether such services are rendered directly or indirectly to the company or its holding company or subsidiary company, namely:—</p> <p>(a) accounting and book keeping services;</p> <p>(b) internal audit;</p> <p>(c) design and implementation of any financial information system;</p> <p>(d) actuarial services;</p> <p>(e) investment advisory services;</p> <p>(f) investment banking services;</p> <p>(g) rendering of outsourced financial services;</p> <p>(h) management services; and</p> <p>(i) any other kind of services as may be prescribed:</p> <p>Provided that an auditor or audit firm who or which has been performing any non-audit services on or before the commencement of this Act shall comply with the provisions of this section before the closure of the first financial year after the date of such commencement.</p> <p><i>Explanation.</i>—For the purposes of this sub-section, the term “directly or indirectly” shall include rendering of services by the auditor,—</p> <p>(i) in case of auditor being an individual, either himself or through his relative or any other person connected or associated with such individual or through any other entity, whatsoever, in which such individual has significant influence or control, or whose name or trade mark or brand is used by such individual;</p> <p>(ii) in case of auditor being a firm, either itself or through any of its partners or through its parent, subsidiary or associate entity or through any other entity, whatsoever, in which the firm or any partner of the firm has significant influence or control, or whose name or trade mark or brand is used by the firm or any of its partners.</p> <p>Thus, there is already a stricter position in India with regard to NAS.</p>
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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 the Proposed paragraph 600.12 A1, it is mentioned as under :- "how such advice and recommendations might be implemented by the audit client" is too much subjective and presumptive. It may be difficult to implement. There should be further guidance and deliberation on it should be implemented. We agree with the proposed Paragraph 604.12 A2.
4.	Project on Definitions of Listed Entity and PIE . 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 are sending our comments on definition of PIE and Listed Entities separately.
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")?	There are statutory provisions in India , where NAS are prohibited totally irrespective of the materiality E.g. the Section 144 of Companies Act, 2013 reads as under (with regard to Auditor of a Company) :- 144. An auditor appointed under this Act shall provide to the company only such other services as are approved by the Board of Directors or the audit committee, as the case may be, but which shall not include any of the following services (whether such services are rendered directly or indirectly to the company or its holding company or subsidiary company, namely:— (a) accounting and book keeping services; (b) internal audit; (c) design and implementation of any financial information



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		<p>system;</p> <p>(d) actuarial services;</p> <p>(e) investment advisory services;</p> <p>(f) investment banking services;</p> <p>(g) rendering of outsourced financial services;</p> <p>(h) management services; and</p> <p>(i) any other kind of services as may be prescribed:</p> <p>Provided that an auditor or audit firm who or which has been performing any non-audit services on or before the commencement of this Act shall comply with the provisions of this section before the closure of the first financial year after the date of such commencement.</p> <p><i>Explanation.</i>—For the purposes of this sub-section, the term “directly or indirectly” shall include rendering of services by the auditor,—</p> <p>(i) in case of auditor being an individual, either himself or through his relative or any other person connected or associated with such individual or through any other entity, whatsoever, in which such individual has significant influence or control, or whose name or trade mark or brand is used by such individual;</p> <p>(ii) in case of auditor being a firm, either itself or through any of its partners or through its parent, subsidiary or associate entity or through any other entity, whatsoever, in which the firm or any partner of the firm has significant influence or control, or whose name or trade mark or brand is used by the firm or any of its partners.</p> <p>We are of the view that for other services, materiality would be required.</p>
6.	<p>Do you support the proposal to prohibit the following NAS for all audit clients, irrespective of materiality:</p> <ul style="list-style-type: none">• 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	<p>There is no corresponding prohibition in the domestic domain of India, although strict provisions for NAS are in place in various statutes like the Companies Act, 2013.</p> <p>The latest edition of IESBA Code of Ethics (2018) also gives a certain weightage to materiality qualifier in Taxation services to Audit Clients.</p> <p>Going further with dropping the materiality qualifier may not be appropriate.</p>



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	<p>about the appropriateness of that treatment or presentation (see proposed paragraph R604.13)?</p> <ul style="list-style-type: none">• 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)?	
7.	<p>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)?</p>	<p>Communication with TCWG to enable them to take informed decision about Firm's independence as Auditor is entirely a new proposition in the IESBA Code.</p> <p>However, it is existing in our jurisdiction already. E.g. under the Section 144(1) of Companies Act, 2013, an auditor has to obtain prior approval of the audit committee or board of the directors for providing non-audit services.</p> <p>Therefore, we are fine with this.</p>
8.	<p>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?</p>	<p>Repositioning is fine given the importance of subject to be treated separately</p>
9.	<p>Do you support the proposal to elevate the extant application material relating to the provision of multiple NAS to the same audit client</p>	<p>Fine with elevation of Application material with Requirement.</p>



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	to a requirement (see proposed paragraph R600.10)? Is the related application material in paragraph 600.10 A1 helpful to implement the new requirement?	
10.	<p>Do you support the proposed revisions to subsections 601 to 610, including:</p> <ul style="list-style-type: none">• The concluding paragraph relating to the provision of services that are “routine or mechanical” in proposed paragraph 601.4 A1?• 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?• 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 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?	<p>No Comments with respect to proposed paragraph 601, as we have a complete prohibition on these services when provided to the Audit Clients.</p> <p>We are fine with the proposed paragraph R604.4.</p> <p>we are also fine with the clarity with regard to Accountant’s role as witness in proposed paragraph 607.</p>



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11.	Do you support the proposed consequential amendments to Section 950?	Fine
12.	Are there any other sections of the Code that warrant a conforming change as a result of the NAS project?	Do not find such provisions
Other Provisions in exposure Draft, where specific questions have not been asked by IESBA . These are our additional observations.		
13.	600.6 A1 Paragraphs R100.3 to 100.3 A2 set out a requirement and application material relating to compliance with the Code. If there are laws and regulations in a jurisdiction relating to the provision of non-assurance services to audit clients that differ from or go beyond those set out in this section, firms providing non-assurance services to which such provisions apply need to be aware of those differences and comply with the more stringent provisions.	We are agreeable to it, as this brings the desired clarity of the Professional Accountants
14.	Proposed to make incorporation in Paragraph 600.9 A2 that Factors are relevant in identifying threat.	This has been clarified for the first time. It makes sense, as the accountant must be conversant with these Factors for taking the decision in the right manner.
15.	R400.32 A firm shall not accept appointment as auditor of a public interest entity to which the firm or the network firm has provided a non-assurance service prior to such appointment that would create a self-review threat in relation to the financial	India has certain provisions in in place where, in case appointments are done by Reserve Bank of India, C&AG, etc. where , the Non-Assurance Services should be relinquished if audit is to accepted. Thus we have a more stringent provision in this regard.



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<p>statements on which the firm will express an opinion unless the provision of such service has ceased and:</p> <p>(a) The results of the service were subject to auditing procedures in the course of the audit of the prior year's financial statements by a predecessor firm;</p> <p>(b) The firm engages a professional accountant, who is not a member of the firm expressing the opinion on the financial statements to perform a review of the first audit engagement affected by the self-review threat that is equivalent to an engagement quality review; or</p> <p>(c) The public interest entity engages another firm to:</p> <p>(i) Evaluate the results of the non-assurance service; or</p> <p>(ii) Re-perform the service, in either case, to the extent necessary to enable the other firm to take responsibility for the result of the service.</p>	<p>It can further be advised on the basis of these provisions:-</p> <p>If the Firm has already commenced NAS like Internal Audit, he should not be allowed to accept Audit for that year.</p> <p>The Firm may have an option to continue with NAS, and not undertake audit.</p>
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Thanking you,

Yours truly,

(CA. Kemisha Soni)

Chairperson

Ethical Standards Board

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