



American Institute of CPAs
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SENT VIA E-MAIL

April 15, 2015

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

Re: Exposure Draft, *Changes to Part C of the Code Addressing Presentation of Information and Pressure to Breach Fundamental Principles*

Dear Members of the International Ethics Standards Board for Accountants:

The American Institute of Certified Public Accountants' (AICPA) Professional Ethics Executive Committee (PEEC) is pleased to submit this comment letter to the International Ethics Standards Board for Accountants (IESBA) on its Exposure Draft, *Changes to Part C of the Code Addressing Presentation of Information and Pressure to Breach Fundamental Principles* (the "Exposure Draft"). The AICPA is the world's largest member association representing the accounting profession, with more than 400,000 members in 145 countries and a 125-year heritage of serving the public interest. AICPA members represent many areas of practice, including business and industry, public practice, government, education and consulting; membership is also available to accounting students and CPA candidates.

Throughout its history, the AICPA has been deeply committed to promoting and strengthening independence and ethics standards. Through the PEEC, the AICPA devotes significant resources to independence and ethics activities, including evaluating existing standards, proposing new standards, and interpreting and enforcing those standards. In drafting this comment letter, the PEEC has solicited input from the AICPA Business and Industry Executive Committee (BIEC). Among other responsibilities, the BIEC is responsible for considering global issues relating to AICPA relations with its members in business and industry and identifying future trends and issues to be addressed regarding members in business and industry.

General Comments

We support the IESBA's objective of setting high-quality ethics standards for professional accountants around the world and facilitating the convergence of international and national ethics standards.

Overall, we support the proposals within the Exposure Draft. Almost half of the AICPA's membership is made up of professional accountants in business ("PAIBs"). We agree that there is

a strong public interest in the role of the PAIB given the importance of financial reporting within global markets and welcome the IESBA's efforts to enhance the guidance in Part C of the IESBA Code so that the guidance relevant to PAIBs is both appropriate and robust.

Please see our specific comments below which address the request for specific comment.

Responses to Request for Specific Comment

Proposed Revised Section 320

1. Is the enhanced guidance on applying the “fair and honest” principle in Section 320 helpful?

Yes. We believe that the enhanced guidance clarifies the obligations of PAIBs.

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?

We support the guidance in paragraph 320.3 but believe further clarification is necessary. Specifically, PAIBs use professional judgment and discretion when presenting information and supporting a position. Thus, the guidance should have stronger emphasis on the fact that the examples in the bullets may present issues only when there is an intent to mislead. For example, the lead in paragraph could read as follows:

Preparing or presenting financial information *fairly and honestly* often involves judgment and discretion. *Using discretion is permissible, however, using* such discretion in a manner that is intended to mislead *would violate compliance with the fundamental principles*, including when:

Also, within the examples in the bullet points of paragraph 320.3, we recommend the phrase “manipulate income” should be changed to “misstate income” to provide clarity that discretion and professional judgment may be used by PAIBs when supporting a position in the presentation of information.

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?

Yes. The guidance is sufficient, however, it could be clarified to specifically note that the paragraph is addressing the performance of professional services that do not have to comply with a relevant reporting framework. Without such reference, the paragraph is vague as to its application. We recommend the proposed edit:

An important factor for the professional accountant to consider, especially when performing professional services that do not require compliance with a relevant reporting framework, is having regard to the purpose for which the information is to be used, the context in which it is provided and the audience to whom it is addressed.

- 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?**

No. We do not 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. This requirement is vague and therefore, may be interpreted in a wide variety of ways and could be onerous for PAIBs considering the varying sizes and structures of employing organizations in which a PAIB may work. We believe the PAIB should be permitted to use professional judgment when assessing the work of others. We suggest the guidance state the following:

In cases where the professional accountant relies on the work of others, the professional accountant shall ~~take reasonable steps~~ use professional judgment to the extent necessary to be satisfied that such work enables the professional accountant to fulfill the obligations set out in paragraph 320.2.

- 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?**

Yes. We agree with the guidance proposed in paragraphs 320.6 and 320.7 regarding disassociation with misleading information. However, in paragraph 320.8 it should be noted that if the PAIB chooses to resign from the employing organization, the PAIB is not relieved from the PAIB’s responsibilities in the situation, including any requirement to disclose the concerns to third parties such as regulatory authorities or the employer’s (former employer’s) external accountant.

In addition, we recommend that the last bullet in paragraph 320.7 caution PAIBs to be alert to any confidentiality requirements prior to considering disclosure, as follows:

Being alert to the fundamental principle of confidentiality, Ddetermining whether any requirements exist to communicate to third parties, including users of the information, regulatory authorities or the employing organization’s external accountant

Proposed Section 370

- 1. Do respondents agree with the overarching requirements in paragraphs 370.1 and 370.2?**

Yes. We agree with the overarching requirements in paragraphs 370.1 and 370.2.

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

Yes. The illustrative examples of types of pressure that could result in a breach of the fundamental principles in paragraph 370.4 are helpful.

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?

Yes. We believe it is 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. However, we do not believe paragraph 370.5 provides sufficient guidance to assist the PAIB in making that distinction. Paragraph 370.3 states: “This section addresses pressures that could result in a professional accountant taking actions that breach the fundamental principles. It does not address routine pressures encountered in the workplace such as pressure to meet a reporting deadline.” This respective sentence makes it clear that Section 370 addresses pressures that could result in a breach of fundamental principles. It should be noted, however, that pressure to meet a deadline could result in a breach to the fundamental principles. For example, a PAIB could breach the fundamental principle of Due Care when attempting to meet a tight deadline. Thus, the guidance should be applicable to all pressure, as, any pressure could result in a breach of the fundamental principles.

We do believe, however, that it would be appropriate for a PAIB to potentially seek legal counsel when being faced with pressure that *could* result in a breach to the fundamental principles. Thus, we recommend that paragraph 370.5 should contain a bullet stating “Consult with legal counsel” as does paragraph 370.6.

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?

We believe the guidance in paragraph 370.6 on responding to pressure that would result in a breach of the fundamental principles is helpful but believe it should be strengthened and more robust. Specifically, the PAIB should be *required* to engage in constructive challenge and escalate the matter with higher levels of management if the PAIB is unable to resolve the matter with the individual exerting the pressure. We do not agree that in cases where the pressure would result in a breach of the fundamental principles, the PAIB should be able to take action such as request a restructuring of responsibilities yet allow the pressure to remain unaddressed since, for example, it is likely another individual within the organization will be faced with the

same pressure. We believe actions such as restructuring of responsibilities or disclosing the matter to the organization's ethics hotline should be actions that the PAIB may also wish to consider but should not relieve the PAIB of his or her responsibility to resolve the matter or bring it to the attention of management or those charged with governance. We offer the following revisions to paragraphs 370.6 and 370.7 for the IESBA to consider:

370.6 If the professional accountant has determined that the pressure would result in a breach of the fundamental principles, the professional accountant ~~shall~~ ~~may wish to consider one or more of the following actions:~~

~~• Engage in constructive challenge with the individual exerting the pressure. *If the matter is not resolved after engaging in such constructive challenge, the professional accountant should*~~

~~• Escalate the matter within the entity, for example, with higher levels of management, internal or external auditors, or those charged with governance, including independent directors and, when appropriate, explaining any consequential risks to the organization.~~

The professional accountant may also wish to consider one or more of the following actions:

- Disclose the matter in accordance with any established mechanism such as through the employing organization's confidential ethics hotline.
- Consult with legal counsel.
- 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.

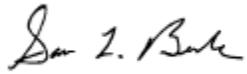
370.7 If the professional accountant determines that *appropriate action was not taken by higher levels of management or other appropriate parties*, or the pressure cannot be alleviated or eliminated, the professional accountant shall decline to undertake or discontinue the professional activity that would result in a breach of the fundamental principles. The professional accountant shall also consider resigning from the employing organization.

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

Yes. We believe the references to other sections of Part C of the Code, in paragraph 370.9 are helpful.

We appreciate this opportunity to comment. We would be pleased to discuss in further detail our comments and any other matters with respect to the IESBA's Exposure Draft.

Sincerely,

A handwritten signature in black ink that reads "Sam L. Burke". The signature is written in a cursive style with a large initial 'S'.

Samuel L. Burke, CPA
Chair, Professional Ethics Executive Committee

cc: Brian Caswell, CPA, IESBA Member
Lisa Snyder, CPA, CGMA, Director – Professional Ethics