



VIA E-MAIL

March 30, 2012

International Ethics Standards Board for Accountants
International Federation of Accountants
545 Fifth Avenue, 14th Floor
New York, NY 10017

Re: Exposure Draft: *Proposed Changes to the Code of Ethics for Professional Accountants Addressing Conflicts of Interest*

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: *Proposed Changes to the Code of Ethics for Professional Accountants Addressing Conflicts of Interest* (the "Exposure Draft").

We support the IESBA's efforts to review and strengthen, where necessary, the requirements contained in the IESBA *Code of Ethics for Professional Accountants* (the "Code"). 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.

General Comments

We agree with the IESBA that it is important to provide comprehensive guidance to professional accountants in identifying, evaluating and managing conflicts of interest. The topic of conflicts of interest includes a great deal of subjectivity; however, it is of great importance and in the public interest for professional accountants in public practice and business to perform professional services objectively and with the highest degree of integrity. Thus, extensive and encompassing guidance would benefit the public, professional accountants and other users of the Code.

Responses to Request for Specific Comments

1. Do respondents find the description and examples of conflicts of interest helpful?

Yes. Conflicts of interest is a topic that is both subjective and diverse. There are an unlimited number of situations and scenarios which may lead to a potential conflict of interest and numerous factors that may influence a specific set of circumstances. The broad description of conflict of interest combined with the examples in which conflicts of interest may arise provides a solid framework to describe potential conflicts and act as helpful guidance for early detection of a conflict of interest.

We note, however, that the description in Paragraphs 100.17 and 310.1 refer to “when undertaking a professional activity” whereas Paragraph 220.1 refers to “when performing a professional service.” We believe the term “undertaking” is appropriate for purposes of professional services as well as professional activities and believe the Board should be consistent in its terminology. Accordingly, we would recommend Paragraph 220.1 be revised to state, “when undertaking a professional service.”

Matters specific to professional accountants in public practice (Section 220 of the Code)

2. Do respondents find the reasonable and informed third party standard appropriate?

Yes. The reasonable and informed third party test used in identifying and evaluating conflicts of interest, and when applying safeguards will require the professional accountant in public practice to be mindful of the potential perception of a conflict of interest by a third party. We believe this is appropriate and consistent with the reasonable and informed third party standard used elsewhere in the Code.

3. Do respondents find the “reason to believe” threshold for network firms in evaluating conflicts of interest appropriate?

Yes. The “reason to believe” threshold is appropriate based on the fact that various networks share information concerning clients differently depending on many factors such as legal jurisdictions, size of the firms in the network, services provided by the network, number of firms in the network, etc. We believe this is a reasonable approach and would not support a more extensive requirement such as requiring firms to proactively search throughout the network to identify any interests or relationships that might create a conflict of interest.

4. Do respondents find the guidance concerning safeguards to manage conflicts of interest and obtaining and documenting consent, as set out in paragraph 220.7, appropriate?

No. We believe that if the threats to objectivity and other fundamental principles are not at an acceptable level, then disclosure and consent should be a requirement. The only exception should be when disclosure would result in a breach of confidentiality. We believe disclosure and consent is necessary to protect the public interest and allow for transparency. Once disclosure is made and consent is obtained, the professional accountant may implement other safeguards to eliminate or reduce threats to an acceptable level, if necessary.

In addition, we believe that the professional accountant should have flexibility in determining whether verbal or written consent is appropriate based on the circumstances.

We agree, with the statement that “if the consent is obtained verbally or is implied by the party’s conduct, the professional accountant is encouraged to document such consent.”

Specifically, we recommend that Paragraph 220.7 should be revised as follows (additions in *bold italics*, deletions ~~struck through~~):

The professional accountant in public practice shall evaluate the significance of the threat to objectivity and any threat to compliance with other fundamental principles created by a conflict of interest. ~~and shall apply safeguards, when necessary, to eliminate the threat or reduce it to~~ *If the threats are not at* an acceptable level. ~~It is generally necessary to,~~ *the professional accountant shall* disclose the nature of the conflict to the client and all known relevant parties and ~~to obtain written consent from the client and such parties to perform the professional service~~ *and apply additional safeguards, when necessary, to eliminate the threat or reduce it to an acceptable level.* In certain circumstances the consent obtained from any relevant party may be implied by the party’s conduct in keeping with common commercial practice. If the consent is obtained verbally or is implied by the party’s conduct, the professional accountant is encouraged to document such consent. Examples of other safeguards include:

We believe this same requirement should also apply to professional accountants in business in Section 310.

5. Do respondents concur with the three conditions set out in paragraph 220.8 required to be met before a professional accountant can proceed to accept or continue with an engagement when a conflict of interest exists but consent cannot be obtained because it would in itself breach confidentiality? Are the examples within paragraph 220.8 helpful?

At the February 2012 meeting of the IESBA, the SME/SMP Working Group reported on the unique and challenging issues faced by professional accountants in small and medium sized practices (SMPs). One of the recommendations of the SME/SMP Working Group was to “Establish a process to ensure that the particular circumstances of SMEs and SMPs are considered in all projects and deliberations.” We believe that in order to assist Small and Medium Practices implement the Code, the second condition in paragraph 220.8 that requires separate engagement teams should be deleted. The specific mechanisms mentioned in paragraph 220.8 are already mentioned in 220.7 as a suggested safeguard. Thus, it is already a consideration for all professional accountants and to make it a requirement in paragraph 220.8 may be impracticable for SMPs. In addition, there may be safeguards, other than separate engagement teams, that could eliminate or reduce threats to an acceptable level.

Accordingly, we would recommend this condition be deleted or revised as follows:

Specific mechanisms are in place to prevent disclosure of information ~~between the engagement teams serving the two clients;~~

We believe the examples provided in paragraph 220.8 are helpful.

Matters specific to professional accountants in business (Section 310, 320 and 340 of the Code)

6. Do respondents agree with the general requirement to identify, evaluate and manage conflicts of interests as set out in proposed Section 310 of the Code?

Yes. We agree with the general requirement to identify, evaluate and manage conflicts of interest as set out in proposed Section 310 of the Code. We believe that the proposed language addresses conflicts of interest more directly than the language in the extant Code.

7. Do respondents find the reasonable and informed third party test appropriate?

Yes. We believe the reasonable and informed third party test is appropriate for professional accountants in business.

8. Do respondents find the conforming changes proposed for Sections 320 and 340 useful? Are they appropriate and adequate?

Yes. We believe the conforming changes are appropriate.

Other

9. Do respondents agree with the impact analysis as presented? Are there any other stakeholders, or other impacts on stakeholders, that should be considered and addressed by the IESBA?

The first two columns of the impact analysis are useful in that they display new requirements of the Code in a fashion that is easily detectable and understandable. The remaining columns, however, are somewhat subjective. The information contained in these columns could vary based on specific facts and circumstances associated with the standard, the environment in which the professional accountant provides professional services, the professional services performed, market and industry specific characteristics, the various potential parties impacted, jurisdictional laws and regulations, etc. We are not aware of any other stakeholders that should be considered.

Other Comments

Examples of Conflicts of Interest Section 220

In Paragraph 220.2, the example of a conflict of interest concerning the license agreement could be revised to be more general as follows:

Advising a client on the purchase of a *product or service* information system while having a *royalty or commission* license agreement with a potential software vendor.

We also recommend that Paragraph 220.2 include an example of a conflict of interest pertaining to a professional accountant providing services to a divorcing couple as this appears to be a common issue:

A professional accountant has provided tax or other professional services for a couple who are undergoing a divorce, and the professional accountant has been asked to provide professional services for both parties during the divorce proceedings.

Identifying Conflicts of Interest

We believe it would be helpful if Paragraph 220.3 provided examples of “reasonable steps” the Board believes would be appropriate in identifying conflicts of interest.

We also recommend that when identifying conflicts of interest in Paragraph 220.6, another relevant factor should be the relative significance of the potential conflict of interest. Accordingly, we suggest an additional bullet point stating:

The relative significance of the potential conflicts of interest

General Comments Concerning Section 310

As noted above, under “Responses to Request for Specific Comments” query number four, we believe that if the professional accountant in business believes that the threats to objectivity and other fundamental principles are not at an acceptable level, the professional accountant should be required to disclose the nature of the conflict to all known relevant parties and obtain consent from such parties in order to undertake the professional activity and apply additional safeguards, when necessary, to eliminate the threat or reduce it to an acceptable level.

We suggest that the first and fourth examples of a conflict of interest in paragraph 310.2 be edited to be made more general as follows:

Serving ***in a management or on the Board position of Directors*** of two companies and acquiring confidential information from one company that could be used by the professional accountant to the advantage or disadvantage of the other company

Being responsible for selecting a vendor for the accountant’s employing organization and an immediate family member ~~of~~ ***or*** the professional accountant ~~owns one of the potential vendors~~ ***could benefit financially from the transaction***

We also recommend that Paragraph 310.5 should include an example of a safeguard such as consulting with a professional or a regulatory body such as the third bullet point in Paragraph 220.7.

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 "Wes Williams, CPA". The signature is written in a cursive, flowing style.

Wes Williams, CPA
Chair, Professional Ethics Executive Committee

cc: Kenneth Dakdduk, Chair, IESBA
Lisa A. Snyder, Director, Professional Ethics Division