



Professional Ethics Executive Committee

Open meeting agenda

February 20-21, 2024

Virtual



Open meeting agenda — February 20-21, 2024

Professional Ethics Division

Professional Ethics Executive Committee

<p>Meeting link: https://aicpa.zoom.us/j/93067038740</p> <p>Meeting ID: 930 6703 8740</p> <p>Observers must register: www.aicpa.org/peecmeeting</p>		
February 20		
10:00–10:05 ET	<p>Welcome</p> <p>Ms. Dourdourekas will welcome committee members and discuss administrative matters.</p>	
10:05–10:50	<p>Section 529 Plans</p> <p>The task force will update the committee on recent activities and seek input on direction.</p>	Agenda items 1A–1B
10:50–11:35	<p>IESBA convergence: Fees</p> <p>The task force will request input on non-authoritative guidance in the Plain English Guide (PEG).</p>	Agenda items 2A–2B
11:35–12:20	<p>IESBA convergence: Public interest entities</p> <p>The task force will present the Basis for Conclusions document.</p>	Agenda items 3A–3B
12:20–1:00	Lunch break	
1:00–1:45	<p>IESBA convergence: NAS — Tax services</p> <p>The task force will update the committee on recent activities and seek input on direction.</p>	Agenda items 4A–4C
1:45–2:15	<p>Private equity investment in firms</p> <p>The task force will update the committee on recent activities and seek input on direction.</p>	Agenda items 5A–5C

2:15–2:45	<p>Digital assets</p> <p>The task force will update the committee on recent activities.</p>	
2:45–2:55	<p>Artificial intelligence</p> <p>The task force will seek approval to expand the scope of the project to determine convergence needs related to IESBA guidance on the use of the output of technology.</p>	Agenda item 6
2:55–3:00	<p>IESBA convergence: Engagement Team/Group Audits</p> <p>The task force will update the committee on recent activities.</p>	
3:00–3:20	<p>IESBA monitoring: Using the work of an external expert</p> <p>Staff will provide the committee with an update on the project and seek input on the comment letter for IESBA’s exposure draft.</p>	Agenda items 7A–7C
February 21		
10:00–10:05 ET	<p>Welcome</p> <p>Ms. Dourdourekas will welcome committee members and discuss administrative matters.</p>	
10:05–11:05	<p>IESBA convergence: NAS — General</p> <p>The task force will seek approval of the revised interpretation for exposure.</p>	Agenda items 8A–8C
11:05–11:50	<p>Simultaneous employment or association with an attest client</p> <p>The task force will update the committee on recent activities and seek input on direction.</p>	Agenda items 9A–9D
11:50–12:20	<p>Engagements subject to the Statements on Standards for Attestation Engagements (SSAEs)</p>	Agenda item 10

	The task force will update the committee on recent activities.	
12:20–1:00	Lunch break	
1:00–1:45	IESBA monitoring: Sustainability Staff will provide an update on the project and seek input on the comment letter for IESBA's exposure draft.	Agenda items 11A–11C
1:45–2:00	IESBA update Staff will provide an update on IESBA's Strategy and Work Plan 2024–2027; Tax planning and related services; and collective investment vehicles, pension funds, and investment company complexes	Agenda items 12A–12D
2:00–2:05	Approval of November open minutes	Agenda item 13
	Future meeting dates May 9–10, 2024 August 13–14, 2024 November 12–13, 2024	

Section 529 Plans

Task force members

Randy Milligan (chair), Wendy Garrett, Tricia Strey

Observers

Pattie Davidson, Michele McGuckian, James Palazzo

AICPA staff

Summer Young

Task force charge

To understand the monitoring challenges and to determine how to address the independence concerns raised by investing in Section 529 savings plans.

Reason for agenda item

To seek input on the task force's consideration of whether the underlying investments in a Section 529 savings plan are a direct or indirect financial interest.

Background

This project deals with Section 529 savings plans or prepaid tuition plans, which are sponsored by state government or higher education institutions. PEEC developed the "Section 529 Plans" interpretation (ET sec. 1.240.070) nearly 20 years ago to help public practitioners maintain independence when investing in this type of plan. Over time, changes and enhancements have occurred that warrant a new look at independence related to this type of plan.

Prepaid tuition plans

Per the extant interpretation, a covered member who is the account owner of a prepaid tuition plan has a direct financial interest in the plan itself. However, because the sponsoring government or educational institution must provide the education regardless of the plan's performance or cost of education at a future date, the account owner does not have a financial interest in the underlying investments of the plan.

Savings plans

A covered member who is an account owner of a savings plan is considered to have a direct financial interest in both the plan and the plan's underlying investments because the account owner elects which sponsor's Section 529 savings plan to invest in, and prior to making the investment decision, the covered member has access to information about the plan's investment options or funds.

Strategy and work plan

PEEC's 2020–2023 strategy and work plan (SWP) identified monitoring challenges for Section 529 savings plans as account owners do not always know the underlying securities and these can be changed at any time by the plan manager. Seven comment letters were received in response to the SWP exposure draft, six of which supported the project, and one did not specify support. Two commenters recommended using an approach similar to the “Mutual Funds” interpretation (ET sec. [1.240.030](#)) and two others recommended treating the Section 529 savings plan underlying investments as indirect financial interests (ET sec. [0.400](#)).

Other

When the “Section 529 Plans” interpretation was initially developed, PEEC determined that the underlying investments in a Section 529 savings plan are a direct financial interest because the account owner selects the investment options offered by the plan. As well, the covered member needs to ensure that the plan chosen does not invest in an attest client or an affiliate of the attest client.

The plan manager may decide to change investments after the account owner invests. If the plan manager changes the investments in a way that impairs the covered member's independence, the covered member should either (a) transfer the account to another sponsor's Section 529 plan, or (b) transfer the account to another account owner who is not a covered member.

Although Section 529 savings plans still allow the account owner to select investment options and to change at any time, plans now are much more diverse. Typically, investment options are for various plan portfolios (risk-based portfolio, age-based portfolio, or individual fund selection). Visibility into the underlying holdings of these portfolios is difficult to obtain and monitor. Furthermore, the account owner owns a unit of participation in the trust, not the underlying securities. The underlying securities are owned directly by the trust.

For all Section 529 savings plans, the state sponsor, working with the plan's investment manager and plan manager, determines the investment options, which can change at any time. Account owners are informed of investment changes but the scope and timing of such communications from plan managers are inconsistent. Underlying fund changes are communicated before they occur unless it is a periodic rebalancing in a multi-asset portfolio. These changes can occur monthly, quarterly, semi-annually, or annually and the participants do not receive notice. These changes are especially cumbersome to track for automatic reallocation in an age-based portfolio option, year of enrollment option, or a risk-based option with multiple underlying funds.

Task force activities

The task force agreed that the extant interpretation is correct in that a covered member who is the account owner of a savings plan is considered to have a direct financial interest in the plan;

therefore, covered members cannot perform attest services for savings plans in which they invest. This is also true of a prepaid tuition plan. However, the task force is undecided about whether the underlying investments in a savings plan should still be considered a direct financial interest.

The additional options now offered (risk-based portfolio options, age-based portfolio options, year of enrollment portfolio options, or single portfolio options), as well as the fact that the account owner does not own the underlying securities but rather a unit of participation in the 529 plan trust, further complicates the determination of direct or indirect financial interest.

The code defines a *direct financial interest* as a financial interest that is

- a. owned directly by an individual or entity, including those managed on a discretionary basis by others.
- b. under the control of an individual or entity, including those managed on a discretionary basis by others.
- c. beneficially owned through an investment vehicle, estate, trust, or other intermediary when the beneficiary
 - i. controls the intermediary or
 - ii. has the authority to supervise or participate in the intermediary's' investment decisions.

These are characteristics of a Section 529 savings plan that indicate the underlying investments are a direct financial interest:

- The covered member elects to participate in the Section 529 savings plan and selects the portfolio (age-based, risk-based, or single asset).
- Any changes to the portfolio holdings are communicated to the account owner; however, rebalancing or reallocation within a portfolio can take place at any time without notice.

The code defines *beneficially owned, beneficial ownership interest* as follows.

Describes a financial interest providing an individual or entity the right to some or all of the underlying benefits of ownership. These benefits include the authority to direct the voting or disposition of the interest or to receive the economic benefits of the ownership interest.

The task force was undecided about whether a Section 529 savings plan meets the definition of

beneficially owned, beneficial ownership interest because the qualifications to control the intermediary or to supervise or participate in the intermediary's investment decisions are subject to the interpretation as the account owner may select only from investments offered by the plan and those investments can change at any time.

The code defines *indirect financial interest* as follows.

A financial interest beneficially owned through an investment vehicle, an estate, a trust, or an other intermediary when the beneficiary neither controls the intermediary nor has the authority to supervise or participate in the intermediary's investment decisions. When used in this definition, control includes situations in which the covered member has the ability to exercise such control, either individually or acting together with his or her firm or other partners or professional employees of his or her firm.

These are characteristics of a Section 529 savings plan that indicate the underlying investments are an indirect financial interest:

- Assets are held in trust in the name of the state sponsoring the plan.
- The account owner owns units of the Section 529 savings plan (essentially, the trust), not the underlying investments. Units in the trust are municipal fund securities.
- The account owner can select the investment strategy or individual funds but has no control or influence over the plan or plan manager and cannot participate in determining what investment options or funds are offered. The plan/plan manager can change investment options at any time.

See agenda item 1B (highlighted text), which is the Direct Plan Disclosure Booklet and Tuition Savings Agreement for New York's 529 College Savings Program. Note the following pertinent information:

- Pages [4](#) and [5](#) introduce the concepts of investment options/portfolios from which account owners may choose, the trust in which assets are held, and plan governance.
- Page [20](#) explains that the trust, the plan, and the portfolios offered under the plan are not mutual funds, but a municipal fund security offered by the trust. This portion of the booklet also explains that the Program Administrators (the NY Comptroller and the Higher Education Services Corporation) may change the fees or the underlying investments at any time.
- Page [23](#) discusses the different investment options offered under the plan. This section again discloses that the investments may be changed at any time by the Program

Administrators and the account owner does not own shares or interests in the underlying funds. Further discussion of each portfolio option and their underlying funds begins on page [26](#) and continues through page [33](#).

- Page [40](#) (section 8) provides more detail on plan governance.

Questions for the committee:

1. Does the committee believe the underlying investments in a Section 529 savings plan are a direct financial interest or an indirect financial interest?
2. Does the committee believe there should be a differentiation between risk and age-based portfolios versus single fund portfolios?
3. Does the committee believe the definition of *beneficially owned, beneficial ownership interest* applies to Section 529 savings plans?
4. Does the committee believe there is a difference between a risk- or aged-based portfolio that invests in multiple funds of an attest client versus a single fund portfolio with only one option in the attest client?

Materials presented

Agenda item 1B – New York 529 Program Disclosures

Direct Plan Disclosure Booklet and Tuition Savings Agreement



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Please Retain This Disclosure Booklet

This Disclosure Booklet—including the Tuition Savings Agreement and other supplements distributed from time to time—contains information about New York’s 529 College Savings Program *Direct Plan* (*Direct Plan*). It describes the risks associated with, and the terms and conditions of, investing in the *Direct Plan*. It should be read carefully and retained for your future reference.

The information contained in this Disclosure Booklet is authorized by the Office of the Comptroller of the State of New York (the Comptroller) and the New York State Higher Education Services Corporation (HESC). The Comptroller and HESC serve together as the Program Administrators of the *Direct Plan*.

Information other than what is contained in this Disclosure Booklet must not be relied upon as having been authorized by the Program Administrators.

This Disclosure Booklet has been identified by the Program Administrators as the Offering Materials (as defined in the College Savings Plans Network Disclosure Principles, as may be amended or restated from time to time) intended to provide substantive disclosure of the terms and conditions of an investment in the *Direct Plan*. This Disclosure Booklet is designed to comply with the College Savings Plans Network Disclosure Principles.

New York’s 529 College Savings Program currently includes two separate 529 plans. The *Direct Plan* is sold directly by the Program. You may also participate in New York’s 529 Advisor-Guided College Savings Program (Advisor-Guided Plan), which is sold exclusively through financial professionals and has different investment options and higher fees and expenses as well as financial professional compensation.

This Disclosure Booklet Supersedes Any Prior Booklets

This Disclosure Booklet is dated September 30, 2021, and supersedes all previously distributed Disclosure Booklets, including any supplements. No person should rely upon any previously distributed Disclosure Booklet or supplement after the date of this Disclosure Booklet. Information contained in this Disclosure Booklet is believed by the Program Administrators to be accurate as of its date but is not guaranteed by the Program Administrators and is subject to change without notice.

Investments Are Not Guaranteed or Insured

None of the United States; the State of New York; the Comptroller; HESC; any agency or instrumentality of the federal government or of the State of New York; any fund established by the State of New York or through operation of New York State law for the benefit of insurance contracts or policies generally; Ascensus Broker Dealer Services, LLC, or any of its affiliates; The Vanguard Group, Inc., or any of its affiliates; any agent, representative, or subcontractor retained in connection with the Program; or any other person makes any guarantee of, insures, or has any legal or moral obligation to insure either the ultimate payout of all or

any portion of the amount contributed to an Account or any investment return, or an investment return at any particular level, on an Account.

Investments in the *Direct Plan* are not guaranteed or insured by the *Direct Plan*, the Program Administrators, the Federal Deposit Insurance Corporation (FDIC), or any other entity. The value of your Account will depend on market conditions and the performance of the Investment Options you select. Investments in the *Direct Plan* can go up or down in value, and you could lose money by investing in the *Direct Plan*.

Tax Disclaimer

This Disclosure Booklet is not intended to constitute, nor does it constitute, legal or tax advice. This Disclosure Booklet was developed to support the marketing of the *Direct Plan* and cannot be relied upon for purposes of avoiding the payment of federal, state, or local taxes or penalties. You should consult your legal or tax advisor about the impact of these rules on your individual situation.

State Tax and Other Benefits

If you are not a New York State taxpayer, before investing, consider whether your or the Beneficiary’s home state offers a 529 plan that provides its taxpayers with favorable state tax or other state benefits that may only be available through investment in that state’s 529 plan, and which are not available through investment in the *Direct Plan*. Other state benefits may include financial aid, scholarship funds, and protection from creditors. Since different states have different tax provisions, this Disclosure Booklet contains limited information about the state tax consequences of investing in the *Direct Plan*. Therefore, please consult your financial, tax, or other advisor to learn more about how state-based benefits (or any limitations) would apply to your specific circumstances. You also may wish to contact your home state’s 529 plan(s), or any other 529 plan, to learn more about those plan features, benefits, and limitations. Keep in mind that state-based benefits should be one of many appropriately weighted factors to be considered when making an investment decision.

Spanish Language Version

A Spanish-translated version of this Disclosure Booklet will be made available by visiting nysaves.org/espanol or by contacting us by mail at New York’s 529 College Savings Program *Direct Plan*, P.O. Box 55440, Boston, MA 02205-8323, or by phone at **877-NYSAVES** (877-697-2837).

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Getting Started

Opening an Account in the *Direct Plan* is easy. Just follow these steps:



1. Read this Disclosure Booklet in its entirety and save it for future reference. It contains important information you should review before opening an Account, including information about the benefits and risks of investing.



2. Gather your information:
 - a. Your Social Security number or Individual Taxpayer Identification number and date of birth.
 - b. Your permanent address.
 - c. Your Beneficiary's Social Security number or Individual Taxpayer Identification number and date of birth.
 - d. Your email address.
 - e. Your checking or savings account number and your bank's routing number (if you want to contribute electronically with a bank transfer).



3. Go to nysaves.org and click **Open an Account**. The easy-to-follow directions will guide you through the enrollment process. Enrolling online is fast, convenient, and secure. In as little as ten minutes, you can be fully signed up and saving for your Beneficiary's higher education. Or, if you prefer, you can complete and mail the Enrollment Application that is downloadable from the **Forms** section of our website.

If you would like to open an Account, request an Enrollment Application or other forms, or have other questions about the *Direct Plan*, visit us at nysaves.org or call us toll-free at **877-NYSAVES** (877-697-2837). You may also address questions and requests in writing to: New York's 529 College Savings Program *Direct Plan*, P.O. Box 55440, Boston, MA 02205-8323. A Spanish-translated version of this Disclosure Booklet is available by visiting nysaves.org/espanol or by contacting the number or address provided above.

Section 1. Introduction and Summary

For many families and individuals, paying the cost of higher education seems like a big challenge. The *Direct Plan* is designed to help you meet that challenge with a tax-advantaged Account.

This Disclosure Booklet contains important information that can help you decide whether to open an Account in the *Direct Plan*. You can find the key terms used throughout this Disclosure Booklet in the “Glossary,” beginning on page 43.

This introduction and summary provide highlights of the features of the *Direct Plan* and tells you the section and page number where you can find more complete information about each topic.

About New York’s 529 College Savings Program

Direct Plan

Offered by New York State, the *Direct Plan* lets you save for education by investing in a tax-advantaged way. Through your Account, you select and then contribute to one or more of the 16 Investment Options included in the *Direct Plan*. Any investment earnings will grow tax-deferred and your withdrawals from the Account are federally and New York State tax-free, provided the money is used for Qualified Higher Education Expenses at Eligible Educational Institutions. Under federal law but not New York State law, a distribution used to pay for K-12 Tuition Expenses (up to \$10,000 annually), Apprenticeship Program Expenses, or Qualified Loan Repayments is also tax-free.

What’s Inside

[Your Account \(page 6\)](#)

This section explains how to open an Account in the *Direct Plan*, choose a Beneficiary, choose your Investment Options, designate a Successor Account Owner, and contribute money to an Account. This section also explains how you can maintain or make changes to your Account, how to receive gift contributions to your Account, how to use your Account to pay for Qualified Higher Education Expenses, and how the Upromise rewards program works.

[Fees \(page 18\)](#)

We charge an asset-based fee as a percentage of the total assets you invest in each Portfolio, but we do not charge a sales commission or an annual fee. The asset-based fee covers investment management and program management services. As of the date of this Disclosure Booklet, the Annual Asset-Based Fee is 0.12%. This translates into an annual cost of \$1.20 for every \$1,000 in your Account. As an Account Owner, you indirectly bear a pro-rata share of the Annual Asset-Based Fee. The fee reduces the return you will receive from investing in the *Direct Plan*. Fees are described in greater detail in this section.

[Risks \(page 20\)](#)

In addition to the investment risks of the Portfolios, there are certain risks relating to the *Direct Plan* you should be aware of before opening an Account or making a contribution. In this section, we discuss some of these key risks. You should consult a qualified tax or financial professional before making a contribution. Specific investment risks are discussed in Section 5. Investment Options.

[Investment Options \(page 23\)](#)

In this section, you will find information about your Investment Options, including a discussion of the Age-Based Options and the Individual Portfolios.

- You can choose from among three **Age-Based Options**, which automatically move your assets to progressively more conservative Portfolios as your Beneficiary approaches college age. You can select the option—conservative, moderate, or aggressive—that best reflects your risk tolerance.
- You can choose from among various **Individual Portfolios**, which invest in stock funds, bond funds, insurance company funding agreements, and combinations thereof. If you choose an Individual Portfolio, your money will remain in that Portfolio until you instruct us to move it.

You should consider the information carefully before choosing to invest in one or more of these Investment Options. Information related to each Portfolio’s strategy and risks has been provided by Vanguard and has not been independently verified by the Program Administrators, who make no representation as to the information’s accuracy or completeness.

You may change your Investment Options for balances currently in your *Direct Plan* Account up to two times per calendar year or if you change your Beneficiary. You can apply new contributions to your existing Portfolio selections or to new Portfolios.

[Performance Information \(page 34\)](#)

In this section, we show the performance of the Portfolios in the *Direct Plan* over various periods. Performance information is also routinely updated on our website at nysaves.org.

[Important Tax Information \(page 36\)](#)

This section summarizes some of the federal and New York State tax consequences of investing in the *Direct Plan*. However, this is not an exhaustive discussion and is not intended as individual tax advice.

[Plan Governance \(page 40\)](#)

The section summarizes the administration of the *Direct Plan*.

- **The Trust:** A statutory trust created by the New York State Legislature specifically for the purpose of holding and investing the Program’s assets.

- **The Program:** The New York State College Choice Tuition Savings Program, which consists of the *Direct Plan* and the Advisor-Guided Plan.
- **Program Administrators:** The Comptroller and HESC.
- **Program Manager:** Ascensus Broker Dealer Services, LLC.
- **Investment Manager:** The Vanguard Group, Inc.
- **Custodian:** The Bank of New York Mellon.

[Protections and Limitations \(page 42\)](#)

In this section, you will learn about the rights and obligations associated with your Account, considerations related to changes to your Account, and state and federal laws.

[Glossary \(Page 43\)](#)

This section provides definitions of terms contained in this Disclosure Booklet. Note that terms defined in the glossary (other than you, we, our, and us) appear with initial capital letters when referenced in this document.

[The Direct Plan's Privacy Policy \(page 47\)](#)

This section contains information about which parties may request your personal information, who is responsible for maintaining that information, and how the *Direct Plan* will use your personal information.

[New York's College Savings Program Direct Plan Tuition Savings Agreement \(page 48\)](#)

This section details your rights and responsibilities in connection with your enrollment in the *Direct Plan*. You must review this Agreement in detail prior to completing an Enrollment Application. Upon enrolling in the *Direct Plan*, you will be prompted to acknowledge your understanding of and agreement with the terms, conditions, and information contained in this Disclosure Booklet and the Agreement.

Section 2. Your Account

This section explains the steps for Opening Your Account, Contributing to Your Account, Maintaining Your Account, and Withdrawing From Your Account.

Opening Your Account

Who Can Participate

To become an Account Owner in the *Direct Plan* you must be one of the following:

- A U.S. citizen or resident alien.
- A fiduciary or agent for a trust, an estate, a corporation, a company, a partnership, or an association.

We require each Account Owner to have a Social Security number or Individual Taxpayer Identification number and provide a U.S. permanent street address that is not a post office box.

Minors may become Account Owners; however, a parent or guardian must complete the Enrollment Application on their behalf. An emancipated minor must submit a court order as well as any other documentation that we request, establishing that he or she is empowered to enter into a contract without the ability to revoke that contract based on age.

You do not have to be a New York State resident to be an Account Owner or a Beneficiary, and there are no income restrictions.

No Residency Restriction

You and your Beneficiary don't need to be New York State residents to open a *Direct Plan* Account.

How to Open an Account

To open an Account, you must complete and submit an Enrollment Application. You can do this in one of three ways:

- Online: Complete the Enrollment Application at nysaves.org.
- By mail: Complete, sign, and mail an Enrollment Application to New York's 529 College Savings Program *Direct Plan*, P.O. Box 55440, Boston, MA 02205-8323.
- By phone: Call **877-NYSAVES** (877-697-2837).

By signing the Enrollment Application online or in the paper format, you agree that your Account is subject to the terms and conditions of the then-current Tuition Savings Agreement as well as to the information about the *Direct Plan* in this Disclosure Booklet. We reserve the right to hold you liable in the event you intentionally provide inaccurate information in connection with your Account.

You may choose to open an Account with the assistance of a financial professional, who would generally charge a fee for this service. You must consent and agree to authorize your financial professional to access your Account and perform certain transactions on your behalf on the

appropriate Plan form. The Plan and its authorized representatives, at their discretion, may terminate your financial professional's authority to access your Account.

Questions?

If you have any questions about setting up your Account, you can get additional information online at nysaves.org or by calling **877-NYSAVES** (877-697-2837).

Once you set up your Account, only you control how that Account's assets are invested and used. Although contributions to the *Direct Plan* are considered completed gifts to your Beneficiary for federal gift, generation-skipping, and estate tax purposes, a Beneficiary who is not the Account Owner has no control over the assets in the Account. See *Designate a Successor Account Owner* later in this section.

Choose a Beneficiary

You will need to select a Beneficiary for the Account on your Enrollment Application. Your Beneficiary is the future student. Your Beneficiary must be a U.S. citizen or resident alien with a valid Social Security number or Individual Taxpayer Identification number.

Other considerations when selecting a Beneficiary:

- Your Beneficiary can be of any age—newborn to adult.
- You may select only one Beneficiary per Account.
- You do not have to be related to your Beneficiary.
- You may select yourself as the Beneficiary.

Choose Investment Options

You may select from a number of Investment Options, which fall into two categories:

- Age-Based Options (three options). The asset allocation of money invested in any of the Age-Based Options is automatically adjusted over time to become more conservative as your Beneficiary approaches college age. The Age-Based Options are designed for college savings and may not be appropriate for those saving for primary or secondary education.
- Individual Portfolios (13 options). The asset allocation of money invested in any of the Individual Portfolios is static; it does not change over time.

You may choose up to five Investment Options per contribution, and you must allocate a minimum of 5% of the contribution to each Investment Option you choose. For details about the *Direct Plan*'s Investment Options, including investment objectives, strategies, risks, and performance, see *Section 5. Investment Options*.

Designate a Successor Account Owner

You should consider designating a Successor Account Owner who will become the Account Owner if you die. If you designate a Successor Account Owner, that person will take over your rights, title, and interest in an Account (including the right to change your Beneficiary) upon your death.

If you have not designated a Successor Account Owner, ownership of your Account and all rights related to your Account will be determined upon your death as provided in applicable laws for wills, estates, and intestate succession. If you are concerned with assuring who would exercise control over your Account upon your death, you should designate a Successor Account Owner or consult a qualified estate planning professional.

If you do not initially designate a Successor Account Owner but later decide to do so, or if you wish to revoke or change a designation, you may make the change online at nysaves.org, by phone at **877-NYSAVES** (877-697-2837), or by mailing the appropriate form to the *Direct Plan*. The change will become effective after your instructions have been received and processed.

Choose a Successor

Designating a successor now will assist in making an ownership transfer of your Account to your named successor more efficient.

The Successor Account Owner will be required to submit to us one of the following:

- A certified copy of a death certificate sufficiently identifying you by name and Social Security number or Individual Taxpayer Identification number.
- Other proof recognized under applicable law and acceptable to the Program Administrators before taking any action regarding the Account following your death. To complete the transfer, your Successor Account Owner must also complete a new Enrollment Application after your death.

You should consult with a qualified tax advisor about the potential tax and legal consequences of a change in Account Owner. See *Section 7. Important Tax Information—Federal Gift and Estate Taxes* for additional information.

Contributing to Your Account

You may contribute to your *Direct Plan* Account by any of the following methods: Recurring Contributions, electronic bank transfer, check, money order up to \$100, payroll deduction (if your employer permits payroll deduction), transfer from a Upromise account, Qualified Rollovers from a non-Program 529 plan, transfer from another Account in the *Direct Plan* or the Advisor-Guided Plan, transfer from an education savings account, or redemption of a Qualified U.S. Savings Bond. We also accept contributions from custodial accounts under the Uniform Gifts to Minors Act or the Uniform Transfers to Minors Act (UGMA/UTMA). You may also receive a gift contribution through Ugift. Some of these methods are discussed in detail later in this section.

Ways to Contribute to Your <i>Direct Plan</i> Account	Recurring Contributions Link your bank account and the <i>Direct Plan</i> to schedule automatic transfers on a recurring basis.	Electronic Bank Transfer (EBT) Link your bank account to the <i>Direct Plan</i> for electronic transfer from your checking or savings account.	Check or Money Order (money order subject to \$100 limit) Send a check or money order payable to “New York’s 529 College Savings Program <i>Direct Plan</i> ” to P.O. Box 55440, Boston, MA 02205-8323.	Payroll Deduction Link your <i>Direct Plan</i> Account to your employer so a set amount is taken out of your paycheck each pay period.
Upromise Link your <i>Direct Plan</i> Account to the Upromise rewards program to earn a percentage of what you spend on eligible everyday purchases.	Ugift Give a unique code to your family and friends and allow them to contribute to your <i>Direct Plan</i> Account.	Incoming Rollover Transfer assets from a 529 plan outside the Program to your <i>Direct Plan</i> Account.	Contribution From Education Savings Account or Qualified U.S. Savings Bond Contribute to the <i>Direct Plan</i> from an education savings account or by selling a Qualified U.S. Savings Bond.	Contribution From UGMA/UTMA Contribute assets from an UGMA/UTMA account to your <i>Direct Plan</i> Account.

Third-Party Contributions

Others can make contributions to your Account as well. However, only you, as the Account Owner, can control how the Account's assets are invested and used. Contributions made by a third party may not be deductible from New York State taxable income.

Spousal Contribution

Your spouse can contribute to your Account, and those contributions may be eligible for the New York State tax deduction if you file a joint New York State income tax return. However, if a contribution check is from your spouse's individual bank account and not an account held jointly with you, we will generally treat it as a contribution made by a third party, and it may not be deductible from New York State taxable income by you or your spouse.

Please contact the New York State Department of Taxation and Finance (DTF) to see if the contribution qualifies for a deduction.

Minimum Contributions

There is no Minimum Contribution when opening an Account or adding to an existing Account. However, there is a minimum transfer amount when investing through Upromise. In addition, gift contributions through Ugift must be at least \$1.

No Minimum Contribution

There is no minimum required to open a *Direct Plan* Account.

Maximum Account Balance

There is no limit on the growth of Accounts. However, you will not be permitted to make contributions to any Account for a Beneficiary if the aggregate Account balance, including the proposed contributions and *Direct Plan* and Advisor-Guided Plan Accounts for that Beneficiary regardless of Account Owner, would exceed the "Maximum Account Balance." This limit is determined periodically by the Program Administrators in compliance with federal requirements. The Maximum Account Balance is currently **\$520,000**. If your Account has reached the Maximum Account Balance, it may continue to accrue earnings, but additional contributions will not be accepted and will be returned to you or rejected. The Maximum Account Balance is based on the aggregate market value of the Account(s) for a Beneficiary plus the amount of total withdrawals, and not solely on the aggregate contributions made to the Account(s). If, however, the market value of such Account(s) falls below the Maximum Account Balance because of market fluctuations and not as a result of withdrawals from the Account(s), additional contributions will be accepted not in excess of the Maximum Account Balance. We may, in our discretion, refuse to accept a proposed contribution if we determine that accepting the contribution would not comply with federal or New York State requirements. None of the Plan Officials will be responsible for any loss, damage, or expense incurred in connection with a rejected or returned contribution. In the future, the Maximum Account Balance

might be reduced under certain circumstances. To determine periodically whether the Maximum Account Balance has changed, log on to nysaves.org.

Impermissible Methods of Contributing

We will not accept contributions made by cash, money order over \$100, credit card, traveler's check, starter check, check drawn on banks located outside the U.S., check not in U.S. dollars, third-party personal check in an amount greater than \$10,000, check dated earlier than 180 days before the date of receipt, postdated check, check with unclear instructions, or any other check we deem unacceptable. We also will not accept contributions made with stocks, securities, or other noncash assets.

Allocation of Contributions

You will be asked to designate on your Enrollment Application how you want your contributions allocated. You may invest all of your assets in one Investment Option or allocate your contributions among up to five different Investment Options.

For example, you may choose five Individual Portfolios or one Age-Based Option and four Individual Portfolios. Regardless of how many Investment Options you select, you must allocate a minimum of 5% of your contributions to each. For example, you could choose three Investment Options and allocate your contributions 60%/35%/5%.

Any contribution will be invested in accordance with the standing instructions you have provided for your Account unless you specify different allocation instructions for a particular contribution. You may change your instructions with respect to future contributions at any time: online at nysaves.org, by phone at **877-NYSAVES** (877-697-2837), or by submitting the appropriate form to the *Direct Plan*.

Recurring Contributions

You may contribute to your Account through periodic automated debits from a checking or savings account if your bank is a member of the Automated Clearing House, subject to certain processing restrictions. To initiate a Recurring Contribution during enrollment, you must complete the appropriate section of the Enrollment Application. Paper-based Enrollment Applications must be accompanied by appropriate checking or savings account information. You also may set up a Recurring Contribution after an Account has been established, either online at nysaves.org or by submitting the appropriate form.

There is no charge for establishing or maintaining Recurring Contributions. Your bank account will be debited on the day you designate, or the 10th of each month if no designation is made, provided the day is a regular business day. If the day you designate falls on a weekend or a holiday, the debit for your Recurring Contribution will occur on the next business day.

Your trade date (or the date your purchase is effective) will be the business day prior to your designated date. If you indicate a start date that is within the first four days of the month, there is a chance your investment will be credited on

the last business day of the previous month. Please note that Recurring Contributions with a debit date of January 1, 2, 3, or 4 will be credited in the same year as the debit date.

Authorization to perform Recurring Contributions will remain in effect until we receive notification of its change or termination. Either you or we may terminate your Recurring Contributions at any time. To be effective, we must receive a change to, or termination of, your Recurring Contributions at least five business days before the next debit is scheduled to be deducted from your bank account, and such change or termination is not effective until we receive and process the new instruction.

If your Recurring Contribution cannot be processed because the bank account on which it is drawn contains insufficient funds or because of incomplete or inaccurate information, or if the transaction would violate processing restrictions, we reserve the right to suspend the processing of future Recurring Contributions.

A program of regular investment cannot ensure a profit or protect against a loss.

Electronic Bank Transfer (EBT)

You may contribute to your Account by authorizing us to withdraw money by EBT from your bank checking or savings account, subject to certain processing restrictions. To authorize an EBT, you must be the account owner of the bank account and must provide certain information about the account from which funds will be withdrawn (the same information required to establish a Recurring Contribution).

Once you have provided that information, you may request an EBT from the designated bank account to your Account, online at nysaves.org or by phone at **877-NYSAVES** (877-697-2837).

There is no charge for requesting an EBT. If your EBT cannot be processed because the bank account on which it is drawn contains insufficient funds or because of incomplete or inaccurate information, or if the transaction would violate processing restrictions, we reserve the right to suspend processing of future EBT contributions.

We may place a limit on the total dollar amount per day you may contribute to an Account by EBT. Contributions in excess of such limit will be rejected or returned. If you plan to contribute a large dollar amount to your Account by EBT, you may want to contact the *Direct Plan* to inquire about the current limit prior to making your contribution.

Contributions by Check

Please make all checks payable to "New York's 529 College Savings Program *Direct Plan*" and send them to the following address: P.O. Box 55440, Boston, MA 02205-8323. For established Accounts, please include your Account number on the check. Family and friends are permitted to contribute directly to your existing Account by making checks payable to "New York's 529 College Savings Program *Direct Plan*."

Family and friends may also contribute by check through Ugift as described in this section. Any check that is made payable to you or your Beneficiary that you or your

Beneficiary then endorse to the *Direct Plan* cannot exceed \$10,000. Contributions to an Account by third parties are not generally deductible from New York State taxable income by the third party or the Account Owner. Please contact the DTF to see if the contribution qualifies for a deduction.

Contributions by Payroll Deduction

You may be eligible to make automatic contributions to your Account through payroll deduction, provided your employer has agreed to offer this service.

Contributions by payroll deduction will be permitted only from employers able to meet the *Direct Plan's* operational and administrative requirements for payroll deductions.

Please check with your employer to see whether you are eligible to contribute to the *Direct Plan* through payroll deduction.

Ugift®

You may invite family and friends to contribute to your Account through Ugift, a *Direct Plan* feature, to provide a gift to your Beneficiary. You provide a unique contribution code to selected family and friends, and gift givers can either contribute online through a onetime or recurring electronic bank transfer or by mailing in a gift contribution coupon with a check made payable to "Ugift—New York's 529 College Savings Program *Direct Plan*."

Gift contributions received in good order will be held for approximately five business days before being transferred to your Account. Those made through Ugift are subject to the Maximum Account Balance and daily contribution limit requirements of the *Direct Plan*. Gift contributions will be invested according to the allocation on file for your Account at the time the contribution is transferred. There may be potential tax consequences of gift contributions to your Account. You and the gift giver should consult a tax advisor about your particular circumstances. For more information about Ugift, visit nysaves.org or call us at **877-NYSAVES** (877-697-2837).

Upromise®

We make saving for college easier with Upromise, a rewards service that gives back a percentage of your eligible spending with hundreds of America's leading companies as college savings. Once you enroll in the *Direct Plan*, your Account can be linked to your Upromise account so that rewards savings accumulated in your Upromise account are automatically transferred to your Account on a periodic basis, subject to a minimum transfer amount. Go to upromise.com for more information on transfer minimums. You may be eligible to deduct all or a portion of your rewards savings transferred to your Account from your New York State adjusted gross income.

Upromise is offered by Upromise, Inc., and this Disclosure Booklet is not intended to provide detailed information concerning the service. Upromise is administered in accordance with the terms and procedures set forth in the Upromise Member Agreement (as amended from time to time), which is available on the Upromise website. If you want more information about Upromise, please visit upromise.com.

Incoming Rollover Contributions

You can contribute to your Account with money transferred from a 529 plan outside of the Program without adverse tax consequences if certain requirements are met. This transaction is known as a “Qualified Rollover.” You may roll over assets from an account in a non-Program 529 plan to your Account for the same Beneficiary without federal income tax consequences (including the Federal Penalty) if the rollover does not occur within 12 months from the date of a previous rollover to a Qualified Tuition Program for the same Beneficiary. You may also roll over money from a non-Program 529 plan to your Account without federal income tax consequences at any time when you change Beneficiaries provided that the new Beneficiary is a “Member of the Family” of the old Beneficiary as described in *Section 2. Your Account—Maintaining Your Account—Substituting Beneficiaries*. A 529 plan rollover that does not meet these criteria will be considered both a Federal Nonqualified Withdrawal and a New York Nonqualified Withdrawal that is subject to federal and applicable state income tax and the Federal Penalty. See *Section 2. Your Account—Withdrawing From Your Account* and *Section 7. Important Tax Information*.

Incoming rollovers can be direct or indirect. Direct Rollovers involve the transfer of money from a 529 plan outside of the Program directly to the Program. Indirect Rollovers involve the transfer of money from an account in a 529 plan outside of the Program to the Account Owner, who then contributes the money to an Account in the Program. To be a Qualified Rollover and avoid federal income tax consequences, money you receive in an Indirect Rollover must be contributed to your Account within 60 days of the withdrawal. If you are a New York taxpayer, you may be eligible to deduct all or a portion of the rollover from your New York State adjusted gross income. See *Section 7. Important Tax Information*. You should be aware that not all 529 plans outside of the Program permit Direct Rollovers. In addition, there may be state income tax consequences (and in some cases penalties) resulting from a rollover out of a state’s 529 plan.

You can roll over assets to the Program, directly (if permitted by your current 529 plan) or indirectly, either as an initial contribution when you open an Account or as an additional contribution to an existing Account. When making a rollover, you will need to provide us with documentation from the distributing 529 plan account indicating the portion of the withdrawal attributable to earnings.

Until we receive this documentation, the entire amount of the rollover will be treated as earnings, which would be subject to taxation as a Federal and New York Nonqualified Withdrawal. See *Section 7. Important Tax Information*.

Contributions From an Education Savings Account or Qualified U.S. Savings Bond

You can contribute to your Account with proceeds from the sale of assets held in an education savings account described in Section 530 of the Code (i.e., a Coverdell Education Savings Account) or a Qualified U.S. Savings Bond. You will need to provide us with the following documentation:

- For assets from an education savings account, an account statement or other documentation from the custodial financial institution showing the total amount contributed and the proportion of the assets that represents earnings.
- For assets obtained by redeeming a Qualified U.S. Savings Bond, an account statement, Form 1099-INT, or other documentation from the financial institution that redeemed the bond showing the proportion of the assets that represents earnings.

Until we receive this documentation, the entire amount of the contribution will be treated as earnings, which would be subject to taxation as a Federal and New York Nonqualified Withdrawal. See *Section 7. Important Tax Information*.

Contributions From UGMA/UTMA Custodial Accounts

If you are the custodian of an UGMA/UTMA account, you may be able to open an Account using custodial assets previously held in the UGMA/UTMA account, subject to the laws of the state where you opened the UGMA/UTMA account. As custodian, you will act as the Account Owner and you may incur capital gains (or losses) from the sale of noncash assets held in the UGMA/UTMA account. You should consult a qualified tax advisor with respect to the contribution of UGMA/UTMA custodial assets and the implications of such a contribution. As an UGMA/UTMA custodian, you should consider the following:

- You may make withdrawals from the Account only as permitted under applicable UGMA/UTMA law as in effect in the state under which the UGMA/UTMA account was established, and under the policies and rules of the *Direct Plan*.
- You may not select a new Beneficiary (directly or by means of a Qualified Rollover) except as permitted under applicable UGMA/UTMA law.
- You should not change the Account Owner to anyone other than a successor custodian during the term of the custodial account under applicable UGMA/UTMA law.
- When the custodianship terminates, your Beneficiary is legally entitled to take control of the Account. The custodian must then direct the Plan to transfer ownership of the Account to the Beneficiary.
- If the custodian fails to direct the Plan to transfer ownership of the Account when your Beneficiary is legally entitled to take control of the Account assets, we may freeze the Account and/or refuse to allow the custodian to transact on the Account. Some UGMA/UTMA laws allow for more than one age at which the custodianship terminates (“Age of Termination”). The Plan may freeze the Account based on the youngest allowable Age of Termination of the custodianship according to the UGMA/UTMA laws where the custodianship account was established, based on the Plan’s records. The custodian may be required to provide documentation to the Plan if the Age of Termination of the custodianship account is other than the youngest allowable age under the applicable UGMA/UTMA law or if the applicable UGMA/UTMA law differs from Plan records.

- You should consider whether additional contributions of money not previously gifted to the Beneficiary under UGMA/UTMA should be made to a separate and noncustodial Account (a noncustodial Account will allow the Account Owner to retain control of the assets and make Beneficiary changes).
- The Plan Officials are not liable for any consequences related to an UGMA/UTMA custodian's improper use, transfer, or characterization of custodial funds.

Maintaining Your Account

Once you set up your *Direct Plan* Account, you may access it 24 hours a day by logging on to nysaves.org. You will be able to view your Account statements, transaction confirmations, and other personal correspondence. You may also make changes to your Account, including substituting your Beneficiary and changing your Investment Options. If you have additional questions or need assistance, you can call **877-NYSAVES** (877-697-2837).

Switching Beneficiaries

To avoid a taxable event, the new Beneficiary must be a Member of the Family of the former Beneficiary.

Substituting Beneficiaries

You can change your Beneficiary at any time, except for UGMA/UTMA 529 accounts. To avoid adverse tax consequences, the new Beneficiary must be a Member of the Family of the current Beneficiary. (For the definition of Member of the Family, see *Section 10. Glossary*.)

Any change of your Beneficiary to a person who is not a Member of the Family of your Beneficiary is treated as both a Federal and a New York Nonqualified Withdrawal subject to applicable federal and state income taxes as well as the Federal Penalty. There may also be federal and state gift tax, estate tax, or generation-skipping transfer tax consequences in connection with changing the Beneficiary of your Account. You should consult a qualified tax advisor. For more details, see *Section 7. Important Tax Information—Federal Gift and Estate Taxes*.

You can change your Beneficiary by going online at nysaves.org or by mailing the appropriate form to the *Direct Plan*. If you already established an Account for the new Beneficiary, you may process a Beneficiary change online or by phone at **877-NYSAVES** (877-697-2837). At the time you change your Beneficiary, you may also reallocate assets in the Account to a different mix of Investment Options.

You may not change your Beneficiary or transfer funds between Accounts if the resulting total balance of all Accounts for the new Beneficiary, including the newly designated Account or newly transferred assets, would exceed the Maximum Account Balance. See *Section 2. Your Account—Contributing to Your Account—Maximum*.

Note: If you are invested in an Age-Based Option and you choose not to reallocate your assets, your new Beneficiary will automatically be moved to a Portfolio within the Age-Based Option that corresponds with his or her age.

However, the overall risk level of the Portfolio will remain consistent with the Investment Option you previously selected—conservative, moderate, or aggressive.

Change of Account Ownership

You can transfer ownership of your Account balance to a new Account Owner at any time. After the transfer is complete, the new Account Owner will have sole control of the assets you have chosen to transfer. Once you transfer all the assets in your Account to a new Account Owner, your Account will be closed.

To make the change, you need to submit the *Direct Plan's* Change of Ownership Form. If you are transferring ownership of more than one Account, you will need to submit a separate form for each Account. In addition, if the new Account Owner does not already have an Account for your Beneficiary, he or she must submit an Enrollment Application. Forms can be downloaded at nysaves.org. For questions about the forms, you can also call us at **877-NYSAVES** (877-697-2837) on business days from 8 a.m. to 8 p.m., Eastern time.

If the new Account Owner takes one of the following types of withdrawals, he or she will be liable for New York State income tax on any amount you previously deducted: New York Nonqualified Withdrawals, withdrawals because of Qualified Scholarships, and rollovers to a 529 plan account outside of the Program. The new Account Owner is liable for the tax even if he or she is not a New York State taxpayer. Therefore, in order to complete the transfer, you must certify that you have disclosed to the new Account Owner any previous New York State tax deductions taken for contributions made to the Account. A transfer of control of your Account may also have adverse income or gift tax consequences. You should contact a qualified tax advisor regarding the application of federal, state, and local tax law to your circumstances before transferring ownership of an Account.

Making Changes to Your Account

You can change your Investment Options online, by phone, or by mailing the appropriate form. You can make these changes twice per calendar year.

Changing Your Investment Options

Should your investment goals or needs change, you have the flexibility to move the assets in your existing Account to a different mix of Investment Options within the *Direct Plan*. You can change your Investment Options twice per calendar year. This reallocation of assets in your Account is considered an Investment Exchange and is not subject to federal and state taxes or to the Federal Penalty. You can initiate this transaction online at nysaves.org, by mailing the appropriate form, or by calling **877-NYSAVES** (877-697-2837). In addition, a transfer of assets between the *Direct Plan* and the Advisor-Guided Plan is considered an Investment Exchange.

For Accounts invested in Age-Based Options, the automatic reallocation of assets based on the age of your Beneficiary is **not** considered one of your twice-per-calendar-year Investment Exchanges.

In addition, changing the asset allocation of your existing Account through an Investment Exchange will not automatically change the allocation of future contributions to that Account. You must change that allocation separately. You can reallocate future contributions among Investment Options at any time.

For example, if you want to change your Investment Option from the Aggressive Growth Portfolio to the Moderate Growth Portfolio, you can only do so twice per calendar year. However, you could change the amount of future allocations to the Moderate Growth Portfolio, or any other Portfolio you hold, as often as you would like.

What if My Beneficiary Does Not Go to College or Use the Account Assets?

If your Beneficiary does not go to college or use the Account assets for college, you may do one of the following:

- Keep all or a portion of the remaining assets in the Account to pay future Qualified Higher Education Expenses, such as graduate or professional school expenses, for the existing Beneficiary.
- Change your Beneficiary to a Member of the Family of the existing Beneficiary.
- Withdraw all or a portion of the remaining assets.

Unused Account Assets

If assets remain in your Account after your Beneficiary has completed (or decided not to complete) higher education, you may exercise one or more of the following options:

- Keep the funds in the Account, where they can continue to be invested and grow tax-deferred. The money in your Account will be available if your Beneficiary decides to attend college or a trade or technical school, or needs the funds for graduate school or other higher education.
- Transfer the balance, without being subject to federal income taxes or the Federal Penalty, to an eligible Member of the Family of your Beneficiary.
- Withdraw the money and use it for noneducational purposes. (However, your earnings would be subject to federal income tax and the Federal Penalty, as well as state and local income taxes. New York State taxpayers may also be subject to recapture of previously taken state tax benefits.

The first two options should not result in federal and New York State income tax liabilities. The third option will be considered a Federal and New York Nonqualified Withdrawal, subject to applicable New York State and federal income tax, including the Federal Penalty. New York State taxpayers may also be subject to recapture of previously taken state tax benefits that have accrued on contributions to the Account.

Under certain circumstances, if—for a period of at least three years after your Beneficiary attains the age of 18 years—there has been no activity in your Account and attempts to reach you at the contact address provided are unsuccessful, your Account may be considered abandoned. Abandoned Accounts of Account Owners who reside in New York State may be liquidated and reported to the New York State Comptroller’s Office of Unclaimed Funds. Abandoned Accounts of Account Owners who reside outside of New York State will be handled according to the laws of the Account Owner’s state of residence.

Confirmations and Statements

You will receive confirmations for any activity in your Account, except for Recurring Contribution transactions, payroll deduction transactions, the automatic movement of Account assets to a more conservative Age-Based Option as your Beneficiary ages, and transfers from a Upromise account to your Account, all of which will be confirmed on a quarterly basis.

You will receive quarterly Account statements to reflect financial transactions only if you have made any of the following financial transactions within the quarter:

- Contributions made to your Account.
- Withdrawals made from your Account.
- Investment Exchanges.
- Changes to contribution percentages among selected Investment Options in your Account.
- Automatic transfers of Account assets to more conservative Age-Based Options.

The total value of your Account at the end of the quarter will also be included in your quarterly Account statement. You will receive an annual Account statement even if you have made no financial transactions within the year.

We periodically match and update the addresses of record for each Account against a change-of-address database maintained by the U.S. Postal Service to reduce the possibility that items sent by first-class mail, such as Account statements, will be undeliverable.

You can securely access your Account information, including quarterly statements and transaction confirmations, 24 hours a day at nysaves.org by obtaining an online username, password, and security image. You can also choose to receive all of your account statements and transaction confirmations electronically.

If you enroll online, you will be required to select a username and password. If you enroll by mail or by phone, you will be able to set up online Account access and obtain a username and password at nysaves.org.

You are expected to regularly and promptly review all transaction confirmations, Account statements, and any email or paper correspondence sent by the *Direct Plan*. Contact us immediately if you believe someone has obtained unauthorized access to your Account or if you believe there is a discrepancy between a transaction you requested and your transaction confirmation.

Safeguarding Your Account

To safeguard your Account, it is important that you keep your Account information confidential, including your username and password. We have implemented reasonable processes, procedures, and internal controls to confirm that transaction requests are genuine, but these measures do not guarantee that fraudulent or unauthorized instructions received by the *Direct Plan* will be detected.

Neither the Program nor any of its Plan Officials will be responsible for losses resulting from fraudulent or unauthorized instructions received by the *Direct Plan*, provided we reasonably believed the instructions were genuine. For more information about how we protect your information and important information about how you can protect your information, see the **Security** link on nysaves.org.

Affirmative Duty to Promptly Notify Us of Errors

If you receive a confirmation that you believe contains an error or does not accurately reflect your authorized instructions—e.g., the amount invested differs from the amount contributed or the contribution was not invested in the particular Investment Option(s) you selected—you must promptly notify us of the error. If you do not notify us within ten business days of the mailing of the confirmation at issue, you will be considered to have approved the information in the confirmation and to have released the Program and its Plan Officials from all responsibility for matters covered by the confirmation. Moreover, any liability due to such an error resulting from participation in the *Direct Plan* for which the Program or any Plan Officials are determined to be responsible shall be limited to an amount equal to gains due to market movement that would have resulted from the transaction during the ten-day time period in which you should have acted.

Withdrawing From Your Account

You may request a withdrawal from your Account at any time online at nysaves.org, by mailing the appropriate form, or by calling **877-NYSAVES** (877-697-2837).

If your request is in good order, please allow seven to ten business days for the withdrawal to reach you, your Beneficiary, or the Eligible Educational Institution, as applicable.

If you have made a withdrawal request for funds recently contributed to your Account, we will not withdraw those funds until they have been collected. It may take up to seven business days for us to collect contributions by check, Recurring Contribution, or electronic bank transfer (EBT).

In addition, you may not make withdrawals by EBT for 15 calendar days after bank information has been added or edited.

A New York Qualified Withdrawal can be paid by check to the Account Owner or Beneficiary, via Automated Clearing House to the Account Owner, or by check directly to an Eligible Educational Institution. We will pay the proceeds of a Federal Nonqualified Withdrawal or New York

Nonqualified Withdrawal, and withdrawals because of a Beneficiary's death, Disability, or receipt of a Qualified Scholarship or attendance at a military academy only by check or EBT to the Account Owner.

Estimated Time to Process Withdrawals

Request	Delivery Time
Withdrawals received in good order	7 to 10 business days by check or 2 business days by EBT
Distribution to HESC for transfer to an Eligible Educational Institution	2 to 3 weeks
Withdrawals after a change of address	9 business days plus the delivery time noted above
Withdrawals by EBT after a change in bank information	15 calendar days

Paying Educational Institutions

If you would like to withdraw money from your Account to pay for your Beneficiary's Qualified Higher Education Expenses (other than at a foreign Eligible Educational Institution), we will send the withdrawal directly to the Eligible Educational Institution unless you request that HESC transfer the withdrawal. In keeping with HESC's mission to help students pay for college, HESC can facilitate payments from your Account to an Eligible Educational Institution.

If you request that HESC transfer the withdrawal, we will transfer funds to HESC, and HESC, in turn, will transfer the withdrawal to the applicable Eligible Educational Institution. Please allow two to three weeks for this process.

Account with Multiple Investment Options

When making a withdrawal from an Account invested in more than one Investment Option, you may select the Investment Option or Options from which your funds are to be withdrawn. If you do not designate a particular Investment Option or Options, the withdrawal will be taken proportionately from each of your existing Investment Options. For example, if your Account balance at the time of the withdrawal request was 72% in the Aggressive Growth Portfolio and 28% in the Conservative Growth Portfolio, the total withdrawal would be taken 72% and 28%, respectively, from those two Investment Options. See *Section 2. Your Account—Contributing to Your Account—Allocation of Contributions*.

Change of Address

We will hold withdrawal requests for nine business days following a mailing address change if the withdrawal is made by check to the Account Owner. We will also hold withdrawal requests for nine business days following a change to a Beneficiary's mailing address if the withdrawal is made by check payable to your Beneficiary.

Paying for School—Types of Withdrawals

Withdrawals are classified by the IRS and the State of New York as Qualified or Nonqualified.

Types of Withdrawals

There are four types of withdrawals:

- New York Qualified Withdrawals
- Federal Qualified Withdrawals
- New York Nonqualified Withdrawals
- Federal Nonqualified Withdrawals

Withdrawals: Qualified and Nonqualified

The IRS and the State of New York classify withdrawals as either Qualified or Nonqualified.

New York Qualified Withdrawals

To be considered a New York Qualified Withdrawal, the proceeds must be used for the Qualified Higher Education Expenses of your Beneficiary at an Eligible Educational Institution. An Eligible Educational Institution does not include an elementary or secondary school or an Apprenticeship Program. Accordingly, withdrawals for K-12 Tuition Expenses and Apprenticeship Program Expenses are considered New York Nonqualified Withdrawals. Qualified Loan Repayments are also considered New York Nonqualified Withdrawals. See *Section 2. Withdrawals for K-12 Tuition Expenses, Apprenticeship Programs, and Qualified Loan Repayments.*

Under current law, the earnings portion of a New York Qualified Withdrawal is not subject to New York State taxes and the earnings portion is not subject to federal income taxation.

Federal Qualified Withdrawals

To be considered a Federal Qualified Withdrawal, the proceeds must be used for your Beneficiary's Qualified Higher Education Expenses, K-12 Tuition Expenses (up to \$10,000 annually), Apprenticeship Program Expenses, or a Qualified Loan Repayment.

Under current law, the earnings portion of a Federal Qualified Withdrawal used to pay Qualified Higher Education Expenses of the Beneficiary at an Eligible Educational Institution is not subject to New York State taxes or federal income taxation. However, if a Federal Qualified Withdrawal is used to pay K-12 Tuition Expenses or Apprenticeship Program Expenses or to make a Qualified Loan Repayment and you are a New York State taxpayer, the distribution is not considered a New York Qualified Withdrawal and will require the recapture of any New York State tax benefits that have accrued on contributions.

New York Nonqualified Withdrawals

A New York Nonqualified Withdrawal is any withdrawal other than:

- A New York Qualified Withdrawal.
- A withdrawal because of the death or Disability of your Beneficiary.
- A withdrawal because of the receipt of a Qualified Scholarship (to the extent the amount withdrawn does not exceed the amount of the scholarship) or attendance at a military academy by your Beneficiary.
- An ABLE Rollover Distribution.
- A transfer of assets to the credit of another Beneficiary within the Program, as long as the other Beneficiary is a Member of the Family of the prior Beneficiary. See *Section 2. Your Account—Maintaining Your Account—Substituting Beneficiaries.*

The earnings portion of a New York Nonqualified Withdrawal is treated as income to the recipient and thus subject to New York State income taxes and, in certain cases, the Federal Penalty. For New York taxpayers, earnings and the portion of the distribution attributable to contributions for which a New York State tax deduction was previously taken will be subject to New York personal income tax. See *Section 7. Important Tax Information—New York State Tax Information.*

Federal Nonqualified Withdrawals

In general, a Federal Nonqualified Withdrawal is any withdrawal other than:

- A Federal Qualified Withdrawal.
- A withdrawal because of the death or Disability of your Beneficiary.
- A withdrawal because of the receipt of a Qualified Scholarship (to the extent the amount withdrawn does not exceed the amount of the scholarship) or attendance at a military academy by your Beneficiary (to the extent the amount withdrawn does not exceed the cost of attendance).
- A Qualified Rollover to a 529 plan outside of the Program.
- An ABLE Rollover Distribution.
- A transfer of assets to the credit of another Beneficiary, as long as the other Beneficiary is a Member of the Family of the prior Beneficiary. See *Section 2. Your Account—Maintaining Your Account—Substituting Beneficiaries.*

The earnings portion of a Federal Nonqualified Withdrawal is treated as income to the recipient and thus subject to applicable federal and state income taxes and the Federal Penalty. For New York taxpayers, earnings and the portion of the distribution attributable to contributions for which a New York State tax deduction was previously taken will be subject to New York personal income tax.

As discussed below, there are certain withdrawals that are subject to federal income taxes but are exempt from the Federal Penalty.

Each of these exceptions is discussed in more detail in *Withdrawals Exempt From the Federal Penalty* later in this section.

Withdrawals for K-12 Tuition Expenses, Apprenticeship Programs, and Qualified Loan Repayments

K-12 Tuition Expenses. Under federal law, you may withdraw funds from your Account to pay K-12 Tuition Expenses. For federal tax purposes, a distribution to pay K-12 Tuition Expenses up to \$10,000 annually is considered a Federal Qualified Withdrawal and is, therefore, free from federal taxes and the Federal Penalty.

Apprenticeship Programs. Under federal law, a withdrawal for fees, books, supplies, and equipment required for the participation of a Beneficiary in an Apprenticeship Program registered and certified with the Secretary of Labor under Section 1 of the National Apprenticeship Act (29 U.S.C. 50) is considered a Federal Qualified Withdrawal and is, therefore, free from federal taxes and the Federal Penalty.

Qualified Loan Repayments. Under federal law, a withdrawal to pay principal or interest on any qualified education loan, as defined in section 221(d) of the Code, for the Beneficiary or a sibling of the Beneficiary, up to a lifetime total of \$10,000 per individual, is considered a Federal Qualified Withdrawal and is, therefore, free from federal taxes and the Federal Penalty. Please note that if you make a Qualified Loan Repayment withdrawal from your Account, you may not also take a federal income tax deduction for any interest included in that Qualified Loan Repayment.

New York State Treatment. If you are a New York State taxpayer, the distributions for K-12 Tuition Expenses, Apprenticeship Program Expenses, and Qualified Loan Repayments are considered New York Nonqualified Withdrawals and will require the recapture of any New York State tax benefits that have accrued on contributions.

Qualified Higher Education Expenses

You may withdraw from your Account without incurring additional taxes or penalties as long as the proceeds are used for Qualified Higher Education Expenses of your Beneficiary including:

- Tuition, fees, and the cost of books, supplies, and equipment required for the enrollment or attendance of your Beneficiary at an Eligible Educational Institution.
- Expenses for the purchase of computer or certain peripheral equipment under the control of the computer (e.g., printers); internet access and related services; and certain computer software if the equipment, software, or services are to be used primarily by your Beneficiary during any of the years the Beneficiary is enrolled at an Eligible Educational Institution.
- In the case of a special needs Beneficiary, expenses for special needs services incurred in connection with enrollment or attendance at an Eligible Educational Institution.
- Certain costs of room and board incurred while attending an Eligible Educational Institution at least half-time.

Room and board expenses may be treated as a Qualified Higher Education Expense only if your Beneficiary is enrolled at least half-time. Half-time is generally defined as half of a full-time academic workload based on the standard used by the institution where your Beneficiary is enrolled; the

institution's standard must be no less than that required by the Department of Education's federal student financial aid standard. Room and board expenses submitted to the Program must be consistent with the room and board allowance calculated by the Eligible Educational Institution. The allowance is the "cost of attendance" estimated by the school for purposes of determining federal education assistance eligibility for that year.

If your Beneficiary lives in housing owned or operated by the school, room and board cost may not exceed the greater of the "cost of attendance" and the actual invoice amount charged by the school to the Beneficiary.

A Beneficiary does not have to be enrolled at least half-time to use a Federal Qualified Withdrawal or New York Qualified Withdrawal, as applicable, to pay for expenses relating to tuition, fees, books, supplies, equipment, eligible computer-related expenses, or special needs services.

Eligible Educational Institutions

Eligible Educational Institutions include accredited postsecondary educational institutions in the United States and certain foreign institutions offering credit toward an associate's degree, a bachelor's degree, a graduate level or professional degree, or another recognized postsecondary credential, and certain postsecondary vocational and proprietary institutions. To be an Eligible Educational Institution for purposes of Section 529 of the Code, an institution must be eligible to participate in U.S. Department of Education federal student financial aid and student loan programs. Go to fafsa.ed.gov to see a list of all Eligible Educational Institutions.

Refunds From Eligible Educational Institutions

If you receive a refund of any Qualified Higher Education Expenses from an Eligible Educational Institution that were originally paid from money withdrawn from your Account, you have some options on how you can use the refunded amount:

- Pay for Qualified Higher Education Expenses incurred by your Beneficiary in the same calendar year.
- Recontribute the refunded amount to the Account or another 529 plan account for the same Beneficiary for whom the refund was made within 60 days of the date of the refund. The recontributed amount cannot exceed the amount of the refund. This is considered a Refunded Distribution. Additional requirements may apply. Keep in mind that while the earnings portion of a Refunded Distribution would not be subject to federal income tax or the Federal Penalty, it is subject to New York State tax. See *Section 7. Important Tax Information—New York State Tax Information*.
- If the refund is not considered a Refunded Distribution, roll over the refunded money to a 529 account in another 529 plan for the same Beneficiary within 60 days of the date the money was withdrawn from your Account. This option is not allowed if a rollover was performed in the past 12 months for the Beneficiary. Keep in mind that while the earnings portion of the refunded money would not be

subject to federal income tax or the Federal Penalty, it is subject to New York State tax. See *Section 7. Important Tax Information—New York State Tax Information*.

- Roll over the money to an Account or a 529 account in another 529 plan for another Beneficiary within 60 days of the date the assets were withdrawn from your Account. If you select this option, you will also need to provide a signed letter of instruction letting us know that this is an Indirect Rollover. To avoid adverse federal income tax consequences, the new Beneficiary must be a Member of the Family of the prior Beneficiary. Keep in mind that while the earnings portion of the refunded money would not be subject to federal income tax or the Federal Penalty, it is subject to New York State tax. See *Section 7. Important Tax Information—New York State Tax Information*. Also note that only one Qualified Rollover can be completed per Beneficiary every 12 months. For additional information about rollovers, see *Section 2. Your Account—Contributing to Your Account—Incoming Rollover Contributions*.
- If the refund is not considered a Refunded Distribution, treat the refund as a Federal and New York State Nonqualified Withdrawal and either keep the funds or return them to your Account as a new contribution. Even if you return the money to your Account, the earnings portion of the Federal and New York State Nonqualified Withdrawals is subject to applicable federal, state, and local income taxes, including the Federal Penalty on the earnings and possible recapture of state income tax deductions.

You should also discuss the tax implications of refunds and recontributions with a tax advisor.

Withdrawals Exempt From the Federal Penalty

The following withdrawals are subject to federal income taxes but are exempt from the Federal Penalty.

Death of Your Beneficiary

If your Beneficiary dies, you may select a new Beneficiary, withdraw all or a portion of the Account balance, or authorize all or a portion of the Account balance to be withdrawn and paid to the estate of your Beneficiary.

Withdrawals that are paid to the estate of your Beneficiary will not be subject to the Federal Penalty, but the earnings portions will be subject to any applicable federal income tax at the recipient's tax rate.

If you select a new Beneficiary who is a Member of the Family of the former Beneficiary, you will not owe any additional federal or New York State income tax or the Federal Penalty. See *Section 2. Your Account—Maintaining Your Account—Substituting Beneficiaries*.

Withdrawals because of the death of a Beneficiary are not included in computing the New York State taxable income of either the Account Owner or your Beneficiary.

Disability of Your Beneficiary

If your Beneficiary becomes Disabled, you can do the following:

- Select a new Beneficiary.
- Withdraw all or a portion of the Account balance.
- Authorize all or a portion of the Account balance to be withdrawn and paid to your Beneficiary.

Withdrawals because of your Beneficiary's Disability will not be subject to the Federal Penalty, but the earnings portions will be subject to any applicable federal income tax at the recipient's tax rate. However, these withdrawals will not be subject to New York State income tax for either the Account Owner or your Beneficiary.

If you select a new Beneficiary who is a Member of the Family of the former Beneficiary, you will not owe any additional federal or New York State income tax or the Federal Penalty. See *Section 2. Your Account—Maintaining Your Account—Substituting Beneficiaries*.

Receipt of a Qualified Scholarship/Attendance at a Military Academy

If your Beneficiary receives a Qualified Scholarship or attends a military academy, you may choose one of the following actions:

- Select a new Beneficiary. If you select a new Beneficiary who is a Member of the Family of the former Beneficiary, you will not owe any additional federal or New York State income tax or the Federal Penalty. See *Section 2. Your Account—Maintaining Your Account—Substituting Beneficiaries*.
- Withdraw from the Account up to the amount of the Qualified Scholarship, or in the case of attendance at a military academy, up to the cost of advanced education attributable to that attendance. The entire amount of a withdrawal because of a Qualified Scholarship or attendance at a military academy is includable in computing the New York State taxable income of the Account Owner (other than the portion of any withdrawal that was not previously deducted from New York State personal income tax).
- Authorize all or a portion of the Account balance to be withdrawn and paid to your Beneficiary without imposition of the Federal Penalty. However, the earnings portion will be subject to recapture of New York State tax deductions previously taken.

You should consult a qualified educational or tax advisor to determine whether a particular payment or benefit constitutes a Qualified Scholarship.

Withdrawals Exempt From Federal Income Taxes and the Federal Penalty

In addition to Federal Qualified Withdrawals, the following withdrawals are exempt from federal income taxes and the Federal Penalty.

Rollovers to Other 529 Plans

You may roll over all or part of the balance of your *Direct Plan* Account to a 529 plan outside of the Program within 60 days of withdrawal without incurring any federal income tax or the Federal Penalty if:

- The rollover is to an account for the same Beneficiary and the Beneficiary did not receive another rollover within the past 12 months.
- The rollover is for a new Beneficiary who is a Member of the Family of the prior Beneficiary.

For New York State taxpayers, Qualified Rollovers will be subject to New York State income taxes on the earnings portion, as well as the recapture of any previous New York State tax deductions taken for contributions to the Account. See *Section 7. Important Tax Information—New York State Tax Information*. You should consult a tax advisor prior to initiating a rollover.

ABLE Rollover Distributions

You may roll over all or part of the balance of your Account to a Qualified ABLE Program account within 60 days of the withdrawal from your Account without incurring any federal income tax or the Federal Penalty in either of these situations:

- The rollover is to an account for the same Beneficiary.
- The rollover is for a new eligible Beneficiary who is a Member of the Family of the original Beneficiary.

Any rollover must be made before January 1, 2026, and cannot exceed the annual contribution limit in Section 529A(b)(2)(B)(i) of the Code.

The state tax treatment of rollovers is determined by each individual state. ABLE Rollover Distributions are not subject to New York State taxes or penalties. See *Section 7. Important Tax Information—New York State Tax Information*. You should consult a tax advisor prior to initiating an ABLE Rollover Distribution.

Transfer Assets to Another Beneficiary Within the Program

If you transfer assets within the Program from one Beneficiary's Account to another, as long as the new Beneficiary is a Member of the Family of the old Beneficiary, the transfer will be treated as a nontaxable transfer of assets for federal and New York State income tax purposes. A transfer will be permitted only to the extent that the total balance of all Accounts for the benefit of the new Beneficiary, including the transfer, would not exceed the Maximum Account Balance. See *Section 2. Your Account—Maintaining Your Account—Substituting Beneficiaries*.

Refunded Distribution

As discussed above, a refund received from an Eligible Educational Institution that qualifies as a Refunded Distribution will not be subject to federal income tax or the Federal Penalty. However, a Refunded Distribution is subject to New York State income tax. See *Section 7. Important Tax Information—New York State Tax Information*.

Records Retention

Under current federal and state tax laws, you are responsible for obtaining and retaining records, invoices, or other documents and information that are adequate to substantiate:

- Particular expenses that you claim to be Qualified Higher Education Expenses, K-12 Tuition Expenses, Apprenticeship Program Expenses, or a Qualified Loan Repayment.
- The death or Disability of a Beneficiary or receipt of a Qualified Scholarship by a Beneficiary.
- The earnings component of and compliance with the timing requirements applicable to Qualified Rollovers.
- The earnings component of contributions funded from Qualified U.S. Savings Bonds or education savings accounts.
- Refunded Contributions.

The Program has no responsibility to provide, or to assist you in obtaining, such documentation.

Section 3. Fees

We have established fees and other charges relating to the *Direct Plan*. These fees may change from time to time. Any changes will be included in subsequent Disclosure Booklets or supplements. The fees are described and illustrated below.

Total Annual Asset-Based Fee

Each Portfolio has a Total Annual Asset-Based Fee, which includes both administrative and investment management costs. This fee is a percentage of the assets in each Portfolio and is charged against those assets. The *Direct Plan* currently charges an Annual Asset-Based Fee of 0.12%.

The Total Annual Asset-Based Fee is composed of the following:

- **Underlying Fund Fee.** This fee includes investment advisory fees, administrative costs, and other expenses of the Underlying Funds in your Portfolio, which are paid to Vanguard.
- **Program Management Fee.** This fee is paid to the Program Manager and the Investment Manager to cover the expenses of administering and managing the *Direct Plan*. This fee is accrued daily and is factored into the pricing of each Portfolio's Unit.

As an Account Owner, you indirectly bear a pro-rata share of the Underlying Fund Fee and the Program Management Fee. These fees reduce the return you will receive from investing in the *Direct Plan*.

Float Income

The Program Manager may receive indirect compensation for the custodial services that it provides to your Account. This compensation, known as "float" income, is paid by the financial organization at which the Program Manager maintains "clearing accounts" or by the investments in which the Program Manager invests in those clearing accounts. Float income may arise from interest that is earned on Account contributions or distributions during the time these assets are held by the Program Manager in clearing accounts but are not invested in an Investment Option. For example, if you request a distribution and receive the distribution check but do not cash it for several days, some interest may be earned while your funds remain in the clearing account. These clearing accounts generally earn interest at a rate between the money market rate and that of U.S. Treasury notes. The interest paid on each of these transactions is typically small, and it is likely to represent a minor portion of the overall compensation received by the Program Manager.

Other Program Charges, Fees, or Penalties

Except for the Program Management Fee and the convenience fees described below, there is currently no charge, fee, or penalty imposed by the Program for opening or maintaining any Account. There are no additional fees for any transactions in any Account, any withdrawals from an Account, or any transfers to or from a 529 plan outside of the Program. However, we may impose additional charges,

fees, or penalties in the future. Any brokerage fees or expenses for trading assets within an Underlying Fund will be borne by the Underlying Fund.

We will report optional convenience fees (e.g., for priority delivery, as applicable) as withdrawals on Form 1099-Q. Such fees may be considered Federal Nonqualified Withdrawals and New York Nonqualified Withdrawals. You should consult your tax advisor regarding calculating and reporting any tax liability as applicable.

Fee Structure

The following table shows total fees charged to each Portfolio in the *Direct Plan*. The estimated Underlying Fund Fee and Program Management Fee added together equal the Total Annual Asset-Based Fee.

Portfolio	Annual Asset-Based Fee			Total Annual Asset-Based Fee ⁴	Additional Investor Expenses Annual Account Maintenance Fee
	Estimated Underlying Fund Fee ¹	State Fee ²	Program Management Fee ³		
Aggressive Growth Portfolio	0.03%	None	0.09%	0.12%	None
Aggressive Portfolio	0.03	None	0.09	0.12	None
Growth Portfolio	0.03	None	0.09	0.12	None
Blended Growth Portfolio	0.03	None	0.09	0.12	None
Moderate Growth Portfolio	0.03	None	0.09	0.12	None
Disciplined Growth Portfolio	0.03	None	0.09	0.12	None
Conservative Growth Portfolio	0.03	None	0.09	0.12	None
Conservative Portfolio	0.03	None	0.09	0.12	None
Income Portfolio	0.04	None	0.08	0.12	None
Balanced Income Portfolio	0.03	None	0.09	0.12	None
Conservative Income Portfolio	0.03	None	0.09	0.12	None
Interest Accumulation Portfolio	0.03	None	0.09	0.12	None
Developed Markets Index Portfolio	0.04	None	0.08	0.12	None
Growth Stock Index Portfolio	0.04	None	0.08	0.12	None
Mid-Cap Stock Index Portfolio	0.03	None	0.09	0.12	None
Small-Cap Stock Index Portfolio	0.03	None	0.09	0.12	None
Value Stock Index Portfolio	0.04	None	0.08	0.12	None
Bond Market Index Portfolio	0.03	None	0.09	0.12	None
Inflation-Protected Securities Portfolio	0.07	None	0.05	0.12	None

¹Estimated Underlying Fund Fees reflect each Underlying Fund's expense ratio disclosed in its most recent prospectus as of June 30, 2021. Expenses for multiple-fund Portfolios represent a weighted average of the expenses of the Portfolio's Underlying Funds. The fees and expenses of the Underlying Funds may change. Estimated Underlying Fund Fees for the Income Portfolio and the Interest Accumulation Portfolio may include a stable value wrap fee of between 0.15% and 0.17%, which could reduce the returns of the Portfolios. The wrap fee, if any, is deducted from the total assets held by the Underlying Fund prior to the determination of each day's Portfolio Unit price. This fee could reduce the returns of the Portfolios.

² No separate fee is charged to Accounts by the Program Administrators. The Program Manager and Investment Manager pay a monthly fee to the Program Administrators to help pay the costs of administering the Program. This payment is not deducted from any Accounts.

³ Vanguard and Ascensus have agreed to a specific formula for the allocation of the Program Management Fee.

⁴ Total Annual Asset-Based Fee as of September 30, 2021.

Investment Cost Example

The following example is intended to help you compare the cost of investing in the *Direct Plan* over different time periods. The costs are the same for each Portfolio. It illustrates the hypothetical expenses that you would incur over various periods if you invest \$10,000 in a Portfolio. This example assumes that a Portfolio provides a return of 5% a year, and that the Portfolio's Total Annual Asset-Based Fee (currently 0.12%) remains the same. The results apply whether or not the investment is redeemed at the end of the period, but they do not take into account any redemption that is considered a Federal or a New York Nonqualified Withdrawal, or otherwise subject to federal or state income taxes, or any penalties. See *Section 2. Your Account—Withdrawing From Your Account*.

Approximate Cost of a \$10,000 Investment in Each Investment Option (assuming a return of 5% per year)

1 Year	3 Years	5 Years	10 Years
\$12	\$39	\$68	\$154

This example does not represent actual expenses or performance from the past or in the future. Actual future expenses may be higher or lower than those shown. The rate is not guaranteed.

Section 4. Risks

In addition to the investment risks of the Portfolios, there are certain risks relating to the *Direct Plan* you should be aware of before opening an Account or making a contribution. In this section, we will discuss some of these key risks. You should consult a qualified tax or financial professional before making a contribution. Investment risks are discussed in *Section 5. Investment Options*.

No Guarantee of Principal or Earnings; No Insurance

The value of your Account may increase or decrease over time based on the performance of the Portfolio(s) you select. It is possible that, at any given time, your Account's value may be less than the total amount contributed. Neither the *Direct Plan* nor any of its Plan Officials makes any guarantee of, insures, or has any legal or moral obligation to insure either the ultimate payout of all or any portion of the amount contributed to an Account or any investment return, or an investment return at any particular level, on an Account. *Direct Plan* Accounts are not bank deposits and are not insured or guaranteed by the FDIC or any other federal or state government agency.

Market Uncertainties and Other Events

As a result of market uncertainties, the overall market value of your Account may exhibit volatility and could be subject to wide fluctuations in response to factors, including but not limited to regulatory or legislative changes, worldwide political uncertainties, and general economic conditions (such as inflation and unemployment rates), acts of God, acts of civil or military authority, acts of government, accidents, environmental disasters, natural disasters or events, fires, floods, earthquakes, hurricanes, explosions, lightning, suspensions of trading, epidemics, pandemics, public health crises, quarantines, wars, acts of war (whether war is declared or not), terrorism, threats of terrorism, insurrections, embargoes, cyberattacks, riots, strikes, lockouts or other labor disturbances, disruptions of supply chains, civil unrest, revolutions, power or other mechanical failures, loss or malfunction of utilities or communications services, delays or stoppage of postal or courier services, delays in or stoppages of transportation, and any other events or circumstances beyond our reasonable control whether similar or dissimilar to any of the foregoing (all enumerated and described events in this section individually and collectively, "Force Majeure").

All of these factors may cause the value of your Account to decrease (realized or unrealized losses) regardless of our performance or any systematic investing on your part.

Inflation

Increases in the cost of living or the cost of higher education may reduce or eliminate the value of the returns of your Account.

Limited Investment Direction

You may not direct how a Portfolio's assets are invested. The ongoing management of *Direct Plan* investments is the responsibility of the Comptroller, Ascensus, and Vanguard. In addition, you are limited under federal law in your ability to change the investment allocation for previous contributions and earnings.

Limited Liquidity

Investment in the Program involves the risk of reduced liquidity regarding your investment. Once you open an Account for your Beneficiary, the circumstances under which funds may be withdrawn without federal and state tax liability are limited.

The tax liabilities can include the Federal Penalty and, for New York State taxpayers, recapture of New York State income tax deductions. See *Section 7. Important Tax Information*.

No Suitability Determination

The *Direct Plan* and its Plan Officials make no representations regarding the suitability of the *Direct Plan's* Investment Options for any particular investor. Other types of investments and other types of education savings vehicles may be more appropriate depending on your personal circumstances. Please consult your tax or investment advisor for more information.

Not a Direct Investment in Mutual Funds or Registered Securities

Money you contribute to your Account will be invested in Portfolios that hold Vanguard mutual funds. However, the Trust, the *Direct Plan*, and the *Direct Plan's* Portfolios are not mutual funds. An investment in the Program is an investment in municipal fund securities that are issued and offered by the Trust. These securities are not registered with the U.S. Securities and Exchange Commission (SEC) or any state, nor are the Trust, the Program, or the Program's Portfolios registered as investment companies with the SEC or any state.

Potential Changes to the Program, Program Manager, and Investment Manager

The Program Administrators reserve the right, in their sole discretion, to discontinue the *Direct Plan* or to change any aspect of the *Direct Plan*. For example, the Program Administrators may change the *Direct Plan's* fees and charges; add, subtract, or merge Portfolios; close a Portfolio to new investors; or change the Underlying Fund(s) of a Portfolio. Depending on the nature of the change, you may be required to participate in, or be prohibited from participating in, the change with respect to an Account you opened before the change. Limitations imposed by New York State law may require the Portfolios to invest assets differently from the manner described in *Section 5. Investment Options*. This, in turn, may affect the ability of the Portfolios to achieve their investment objectives.

Under New York State law, the Comptroller and HESC must solicit competitive bids for a new Program Manager whose appointment would be effective at the scheduled termination of the current Management Agreement with Ascensus Broker Dealer Services, LLC, in May 2023. In certain circumstances Ascensus Broker Dealer Services, LLC, may cease to be the Program Manager, or Vanguard may cease to be the Investment Manager, before the scheduled termination date—e.g., as a result of a material breach of the Management Agreement by Ascensus Broker Dealer Services, LLC.

Under the Management Agreement and certain related agreements, the Program Administrators may hire new or additional entities in the future to manage all or part of the *Direct Plan's* assets. See *Section 8. Plan Governance*.

If a new Program Manager is selected, you might have to establish new Accounts in order to make additional contributions to the Program. The fee and compensation structure applicable to a new Program Manager, or that applicable to Ascensus Broker Dealer Services, LLC, under a new Management Agreement, might be different from the Program Management Fee currently charged. Additionally, a successor Investment Manager may achieve different investment results than would have been achieved by Vanguard, even if managing similar investment options.

Uncertainty of Tax Consequences

Federal and New York State law and regulations governing the administration of 529 plans could change in the future. The United States Department of the Treasury (Treasury Department) has issued proposed regulations under Section 529 of the Code (Proposed Regulations), an advance notice of proposed rulemaking describing new proposed regulations that will be issued under Section 529 (Advance Notice) and, in conjunction with the Internal Revenue Service (IRS), has published certain notices and other guidance with respect to the anticipated modification of the Proposed Regulations (Notices). As of the date of this Disclosure Booklet, taxpayers may rely upon the Proposed Regulations and the Notices until final regulations are issued or other further action is taken by the Treasury Department. The Proposed Regulations and the Notices do not, however, provide guidance on certain aspects of the *Direct Plan*.

It is uncertain when the Treasury Department may issue final regulations or, if it does, to what extent such final regulations will differ from the Proposed Regulations and Notices. Other administrative guidance or court decisions might be issued that could adversely affect the federal tax consequences with respect to the *Direct Plan* or to contributions to, or withdrawals from, your Account. Congress could also amend Section 529 of the Code or other federal law in a way that would materially change or eliminate the federal tax treatment described above. If necessary, the Comptroller, HESC, and the Program Manager intend to modify the *Direct Plan* according to applicable law for the *Direct Plan* to meet the requirements of Section 529. If the *Direct Plan*, as currently structured or as subsequently modified, does not meet the requirements of Section 529 for any reason, the tax consequences to Account Owners and Beneficiaries are uncertain. Therefore, it is possible that you could be subject

to taxes on undistributed earnings in your Account, as well as to other adverse tax consequences. You may wish to consider consulting a qualified tax advisor.

The Program received a ruling from the IRS on May 30, 2001, providing that the Program, as then operated, satisfied the requirements for exemption from federal income tax as a Qualified Tuition Program described in Section 529 of the Code. There can be no assurance that this ruling is applicable to the *Direct Plan* as currently operated. In addition, changes in the law governing any of the federal and state tax consequences described in this Disclosure Booklet might require material changes to the *Direct Plan's* operations in order for the anticipated federal and New York State tax consequences to apply.

The New York State tax matters discussed in this Disclosure Booklet are based on opinions of the DTF. DTF's opinions are based on the conclusion that the *Direct Plan* is a Qualified Tuition Program within the meaning of Section 529 of the Code. There can be no assurance that there will not be subsequent official interpretations or court decisions that could adversely affect the New York State tax consequences for you and your Beneficiary or that the federal law or the New York State statutes governing aspects of the *Direct Plan* may not be amended in a way that could materially alter or eliminate those consequences. See *Section 7. Important Tax Information*.

No Indemnification

The Program, Ascensus, and Vanguard will not indemnify any Account Owner or Beneficiary against losses or other claims arising from the official or unofficial acts, negligent or otherwise, of the Program Administrators or State employees.

Cybersecurity Risk

The *Direct Plan* relies significantly upon the computer systems of its service providers. Therefore, the *Direct Plan* could be susceptible to operational and information security risks resulting from cyber threats and cyberattacks that may adversely affect your Account and cause it to lose value. For example, cyber threats and cyberattacks may interfere with your ability to access your Account, make contributions or exchanges, or request and receive distributions; they may also impede trading and/or impact the ability to calculate net asset values; cyber threats and cyberattacks may also result in the unauthorized disclosure and use of the personally identifiable information of an Account Owner, Beneficiary, and others. Cybersecurity risks include security or privacy incidents, such as human error, unauthorized release, theft, misuse, corruption, and destruction of Account data maintained online or digitally by the *Direct Plan*. Cybersecurity risks also include denial of service, viruses, malware, hacking, bugs, security vulnerabilities in software, attacks on technology operations, and other disruptions that could impede the *Direct Plan's* ability to maintain routine operations. Although the *Direct Plan's* service providers undertake efforts to protect their computer systems from cyber threats and cyberattacks, which include internal processes and technological defenses that are preventative in nature, and other controls designed to provide a multilayered security posture, there are no

guarantees that the *Direct Plan* or your Account will avoid losses due to cyber threats or cyberattacks or other information security breaches in the future.

Eligibility for Financial Aid

Being the Account Owner or Beneficiary of an Account may adversely affect your eligibility for financial aid.

In making decisions about eligibility for financial aid programs offered by the U.S. government and the amount of aid required, the U.S. Department of Education takes into consideration a variety of factors, including the assets owned by the student (i.e., your Beneficiary) and the assets owned by the student's parents. The U.S. Department of Education generally expects the student to spend a substantially larger portion of his or her own assets on educational expenses than the parents. For purposes of these federal programs, available balances in a 529 plan account are treated as an asset of (a) the student if the student is an independent student, or (b) the parent if the student is a dependent student, regardless of whether the owner of the 529 plan account is the student or the parent. In addition, a distribution from a 529 plan may be considered income to your Beneficiary in calculating eligibility for the school year following the distribution.

With respect to financial aid programs offered by educational institutions and other nonfederal sources, the effect of being the Account Owner or Beneficiary of an Account varies from institution to institution. Accordingly, no generalizations can be made about the effect of being the Account Owner or Beneficiary of an Account on the student's eligibility for financial aid, or the amount of aid the student may qualify for, from these sources.

Under New York State law, assets in an Account are not taken into consideration in determining the eligibility of your Beneficiary or the Account Owner for financial aid under any New York State-administered financial aid programs.

The federal and nonfederal financial aid program treatments of assets in the *Direct Plan* are subject to change at any time. You should, therefore, check and periodically monitor the applicable laws and other official guidance, as well as particular *Direct Plan* and institutional rules and requirements, to determine the impact of your Account on eligibility under particular financial aid programs.

No Guarantee That Investments Will Cover Education-Related Expenses

There is no guarantee that the money in your Account will be sufficient to cover all of your Beneficiary's higher education expenses, even if contributions are made in the maximum allowable amount for your Beneficiary. The future rate of increase in higher education expenses is uncertain and could exceed the rate of investment return earned by any or all of the Portfolios over any relevant period.

Education Savings and Investment Alternatives

There are many 529 plans other than the *Direct Plan*, including the Advisor-Guided Plan and other education savings investment alternatives. These plans offer education savings and investment alternatives that differ from those

available in the *Direct Plan*. Other 529 plans, and other investment alternatives, may offer state tax and other benefits not available under the *Direct Plan*. These 529 plans and other investment alternatives may have different tax and other consequences, may have different eligibility and other requirements, and may charge fees and expenses that may be more or less than those charged by the *Direct Plan*. You should consider other investment alternatives before opening an Account in the *Direct Plan*.

No Guarantee of Admission to Any Institution and Related Matters

There is no guarantee or commitment from the Plan Officials, or any other person, that:

- A Beneficiary will be admitted to any institution or program (including any Eligible Educational Institution).
- Upon admission to an institution or program, the institution or program will permit a Beneficiary to continue to attend.
- A Beneficiary will graduate or receive a degree from any institution, or complete a program of instruction.

New York State residency for a Beneficiary will not be established for tax status, financial aid eligibility, or any other purpose merely because of his or her designation as a Beneficiary of an Account.

Medicaid and Other Federal and State Noneducational Benefits

The effect of an Account on eligibility for Medicaid or other state and federal benefits is uncertain. It is possible that an Account will be viewed as a "countable resource" in determining an individual's financial eligibility for Medicaid. Withdrawals from an Account during certain periods also may have the effect of delaying the disbursement of Medicaid payments. You should consult a qualified advisor to determine how your Account may affect eligibility for Medicaid or other state and federal noneducational benefits.

***Direct Plan* Investment Options Not Designed for Elementary and Secondary School Tuition Expenses or Qualified Loan Repayments**

The Investment Options we offer through the *Direct Plan* have been designed exclusively for you to save for postsecondary higher education expenses. They have not been designed to assist you in reaching your K-12 Tuition Expense savings or Qualified Loan Repayment goals. Specifically, the Age-Based Options are designed for Account Owners seeking to automatically invest in progressively more conservative Portfolios as their Beneficiary approaches college age. The time horizons and withdrawal periods of the Age-Based Options may not match those needed to meet your K-12 Tuition Expense savings or Qualified Loan Repayment goals, which may be significantly shorter. In addition, if you are saving for K-12 Tuition Expenses or to make Qualified Loan Repayments and wish to invest in the Individual Portfolios, please note that these Portfolios are composed of fixed investments. This means that your assets will remain invested in that Portfolio until you direct us to move them to a different Portfolio.

Section 5. Investment Options

In this section, you will find information about your Investment Options, including a discussion of the Age-Based Options and the Individual Portfolios. You should consider the information carefully before choosing to invest in one or more of these Investment Options.

Information related to each Portfolio's strategy and risks has been provided by Vanguard and has not been independently verified by the Program Administrators, who make no representation as to the information's accuracy or completeness.

Summary of Investment Options

The *Direct Plan* offers multiple Investment Options intended to help you save for Qualified Higher Education Expenses. Each Investment Option corresponds to a Portfolio or series of Portfolios, and each Portfolio invests your contributions in one or more Underlying Funds managed by Vanguard.

Please keep in mind that as an Account Owner, you will not directly own shares of or interests in the Underlying Funds.

Investments—at a Glance

Currently, you can select from:

- 3 Age-Based Options that become more conservative as your Beneficiary nears college age.
- 13 Individual Portfolios that invest in stock funds, bond funds, insurance company funding agreements, and combinations of those funds.

Age-Based Options

You can choose from among three Age-Based Options, which automatically move your assets to progressively more conservative Portfolios as your Beneficiary approaches college age. You can select the option—conservative, moderate, or aggressive—that best reflects your risk tolerance.

Individual Portfolio Options

You can choose from among 13 Individual Portfolios, which invest in stock funds, bond funds, insurance company funding agreements, and combinations thereof. If you choose an Individual Portfolio, your money will remain in that Portfolio until you instruct us to move it.

Changes to Investment Options, Program Manager, and Investment Manager

The Program Administrators reserve the right to change, at any time and without prior notice, the Investment Options, the Portfolios included in the Age-Based Options, the asset allocation of the Individual Portfolios, or the Underlying Funds in which the Portfolios invest.

In accordance with the Management Agreement and certain related agreements, the Program Administrators reserve the right to change the Program Manager and the Investment Manager. See *Section 4. Risks—Potential Changes to the Program, Program Manager, and Investment Manager*.

Investment Time Horizons for Different Savings Goals

Please note that the investment time horizon for college investing is expected to be very short relative to that for retirement investing (i.e., 5 to 20 years versus 30 to 60 years). Also, the need for liquidity during the withdrawal phase (to pay for certain educational expenses) generally is very important. You should seriously consider the level of risk you wish to assume, your investment time horizon, and other factors important to you before you select Investment Options. You should periodically assess and, if appropriate, adjust your investment choices with the same factors in mind.

When determining whether to save for K-12 Tuition Expenses or Qualified Loan Repayments, the Age-Based Options are designed for college savings time horizons and withdrawal periods and not for K-12 Tuition Expense or Qualified Loan Repayment time horizons, which may be shorter.

Note also that none of the Plan Officials can offer any assurance that the recommended asset allocations will maximize returns, minimize risk, or be the appropriate allocation in all circumstances for every investor who has a particular time horizon or risk tolerance.

Requesting Additional Information About the Underlying Funds

Your contributions to a Portfolio will be invested in one or more of the Underlying Funds. Please keep in mind that you will not own shares of or interests in the Underlying Funds. Instead, you will own interests in the Trust. Additional information about the investment strategies and risks of each Underlying Fund, except for Vanguard Short-Term Reserves Account, is available in its current prospectus and statement of additional information. You can request a copy of the current prospectus, the statement of additional information, or the most recent semiannual or annual report of an Underlying Fund by visiting Vanguard's website at vanguard.com or by calling **877-NYSAVES** (877-697-2837). Information about Vanguard Total Bond Market II Index Fund can be found on vanguard.com. Vanguard Short-Term Reserves Account is not a mutual fund. Therefore, there is no prospectus or statement of additional information available. However, information about Vanguard Short-Term Reserves Account can be found later in this section under *Portfolio Descriptions—Interest Accumulation Portfolio*.

The Target Indexes of the Underlying Funds May Change

All of the Underlying Funds, except Vanguard Inflation-Protected Securities Fund and Vanguard Short-Term Reserves Account, are index funds. Each index fund reserves the right to substitute a different index for the index it currently tracks if the current index is discontinued, if the Underlying Fund's agreement with the sponsor of its target index is terminated, or for any other reason determined in good faith by the Underlying Fund's board of trustees. In any of these situations, a substitute index would measure the same market segment as the current index.

Age-Based Options

You may choose from the following three Age-Based Options:

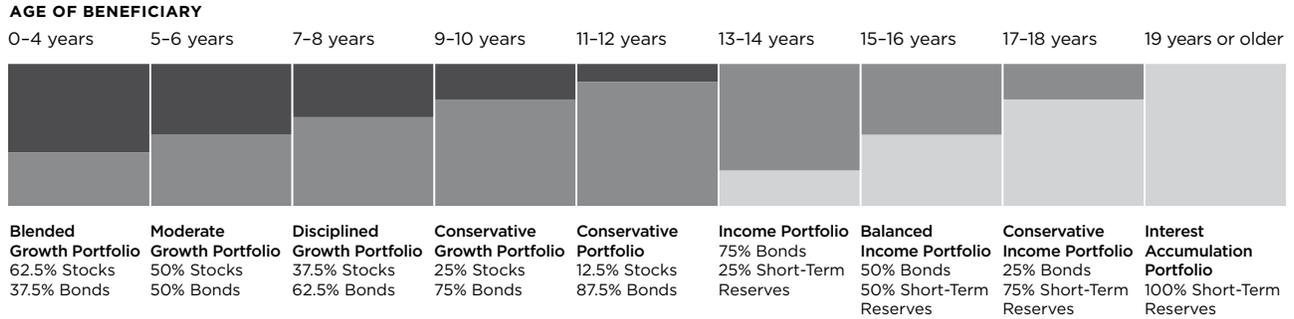
- Conservative Age-Based Option
- Moderate Age-Based Option
- Aggressive Age-Based Option

These Age-Based Options are designed to take into account a Beneficiary's age and your investing time horizon—i.e., the number of years before your Beneficiary is expected to attend college. Within the Age-Based Options, you may invest, according to your risk tolerance, in a conservative, a moderate, or an aggressive asset allocation. In general, for younger Beneficiaries, the Age-Based Options will be invested in Portfolios that are more heavily weighted in stocks to take advantage of the relatively long period of investment in order to try to maximize returns. As time passes, Account assets are automatically moved to more conservative Portfolios in an attempt to preserve capital as your Beneficiary approaches college age. We have designed the *Direct Plan* for you to closely match the Age-Based Options to your Beneficiary's age range. However, you may choose different Age-Based Options depending on your individual circumstances.

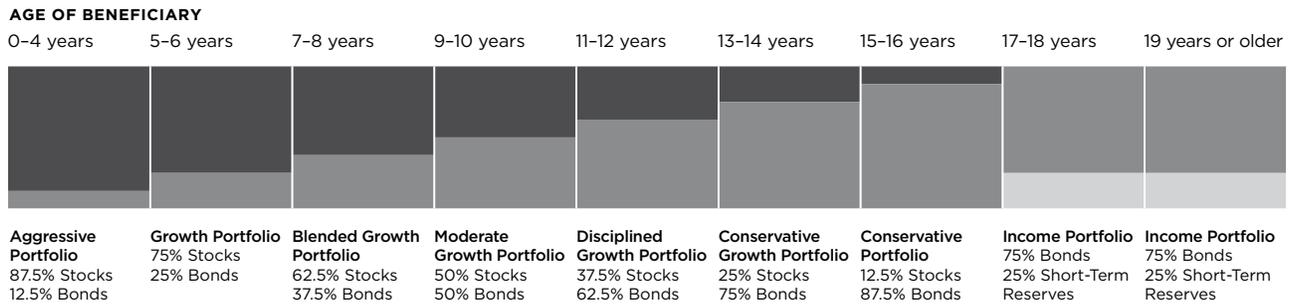
As shown in the table on the following page, for any particular age group, the Conservative Age-Based Option usually has a higher concentration of assets in bond funds and/or short-term reserves than does the Moderate Age-Based Option. The same is true for the Moderate Age-Based Option in comparison with the Aggressive Age-Based Option. Portfolios with higher allocations to bond funds and short-term reserves tend to be less volatile than those with higher stock allocations. Less-volatile Portfolios generally will not decline as much when stock markets go down but also will not appreciate in value as much when stock markets go up. Each of the Portfolios included in the Age-Based Options invests in a combination of Underlying Funds in the percentages shown in the table. Certain of these Portfolios are also offered as Individual Portfolios. For a description of each of these Portfolios, see *Individual Portfolio Options* later in this section.

With the Age-Based Options, we automatically exchange assets from one Portfolio to another as your Beneficiary ages. The exchange takes place annually during the month following the month of your Beneficiary's birth date, according to the following schedule:

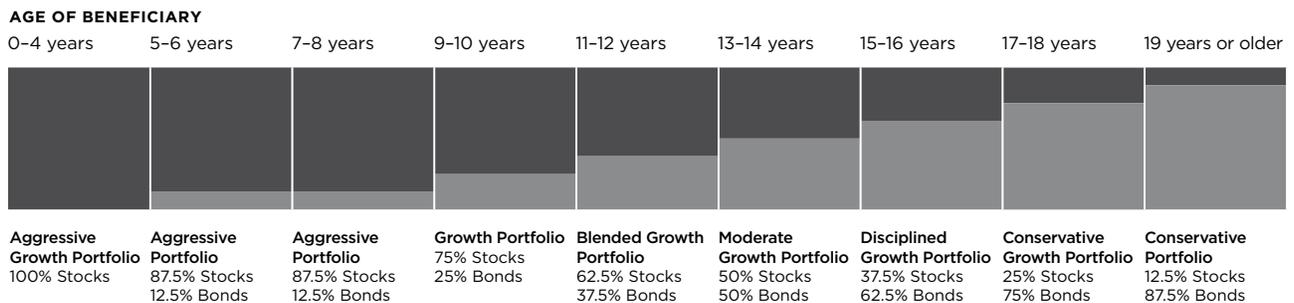
Conservative Option



Moderate Option



Aggressive Option



● Stocks ● Bonds ● Short-term reserves

Individual Portfolio Options

Unlike the Age-Based Options, the Individual Portfolios do not change asset allocations as your Beneficiary ages. Instead, the asset allocation of each Portfolio remains fixed over time.

If you choose to invest in Individual Portfolios that have a significant weighting in stocks, you should consider moving your assets to more conservative Portfolios as your Beneficiary approaches college age. Please note that there are limitations on your ability to move assets from one Portfolio to another. You can make changes to your Investment Options or allocation percentages twice per calendar year per Beneficiary. Additional changes or a transfer of assets within a calendar year may be subject to federal, state, and other taxes.

The Individual Portfolios consist of five Multi-Fund Individual Portfolios, which invest in multiple Underlying Funds, and eight Single-Fund Individual Portfolios, each of which invests in a single Underlying Fund.

Stock Portfolios

- Aggressive Growth Portfolio*
- Developed Markets Index Portfolio
- Growth Stock Index Portfolio
- Mid-Cap Stock Index Portfolio
- Small-Cap Stock Index Portfolio
- Value Stock Index Portfolio

Balanced Portfolios

- Conservative Growth Portfolio*
- Growth Portfolio*
- Moderate Growth Portfolio*

Bond Portfolios

- Bond Market Index Portfolio
- Income Portfolio*
- Inflation-Protected Securities Portfolio

Short-Term Investment Portfolios

- Interest Accumulation Portfolio

Portfolio Descriptions

The following profiles highlight the investment objective, strategy, and a summary of the main risks of each Portfolio. The Portfolios are more likely to meet their goals if each Underlying Fund in which each Portfolio invests achieves its stated investment objectives.

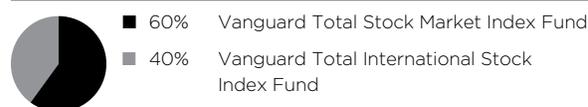
*Multi-Fund Portfolio.

Age-Based Options

Aggressive Growth Portfolio

The Portfolio seeks to provide capital appreciation.

The Portfolio invests in two Vanguard stock index funds, resulting in an allocation of its assets to U.S. stocks and non-U.S. stocks. The percentages of the Portfolio's assets allocated to each Underlying Fund are:



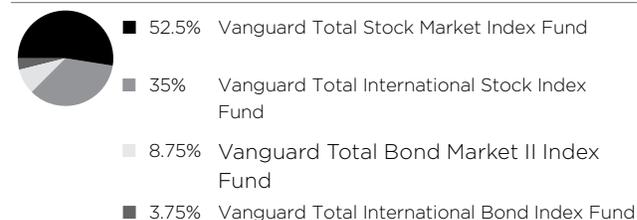
Investment Risks

The Portfolio is subject to stock market risk, country/regional risk, currency risk, emerging markets risk, investment style risk, index sampling risk, and nondiversification risk.

Aggressive Portfolio

The Portfolio seeks to provide capital appreciation and low to moderate current income.

The Portfolio invests in two Vanguard stock index funds and two Vanguard bond index funds, resulting in an allocation of its assets to U.S. stocks, non-U.S. stocks, investment-grade U.S. bonds, and investment-grade non-U.S. bonds. The percentages of the Portfolio's assets allocated to each Underlying Fund are:



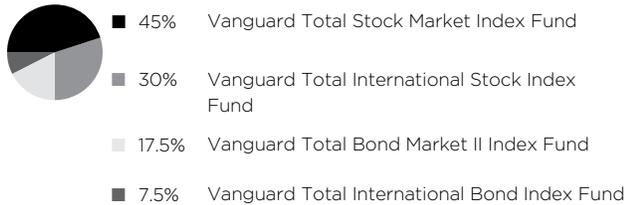
Investment Risks

The Portfolio is proportionately subject to the risks of the underlying stock funds, including stock market risk, country/regional risk, currency risk, and emerging markets risk; and the risks of the underlying bond funds, including interest rate risk, income risk, prepayment risk, extension risk, call risk, credit risk, country/regional risk, liquidity risk, currency and currency hedging risk, and derivatives risk. The Portfolio is also subject to investment style risk, index sampling risk, and nondiversification risk.

Growth Portfolio

The Portfolio seeks to provide a high level of capital appreciation and low current income.

The Portfolio invests in two Vanguard stock index funds and two Vanguard bond index funds, resulting in an allocation of its assets to U.S. stocks, non-U.S. stocks, investment-grade U.S. bonds, and investment-grade non-U.S. bonds. The percentages of the Portfolio's assets allocated to each Underlying Fund are:



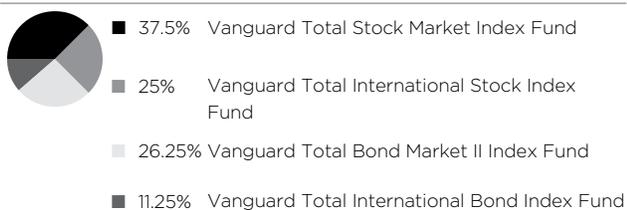
Investment Risks

The Portfolio is proportionately subject to the risks of the underlying stock funds, including stock market risk, country/regional risk, currency risk, and emerging markets risk; and the risks of the underlying bond funds, including interest rate risk, income risk, prepayment risk, extension risk, call risk, credit risk, country/regional risk, liquidity risk, currency and currency hedging risk, and derivatives risk. The Portfolio is also subject to investment style risk, index sampling risk, and nondiversification risk.

Blended Growth Portfolio

The Portfolio seeks to provide a moderate level of capital appreciation along with current income.

The Portfolio invests in two Vanguard stock index funds and two Vanguard bond index funds, resulting in an allocation of its assets to U.S. stocks, non-U.S. stocks, investment-grade U.S. bonds, and investment-grade non-U.S. bonds. The percentages of the Portfolio's assets allocated to each Underlying Fund are:



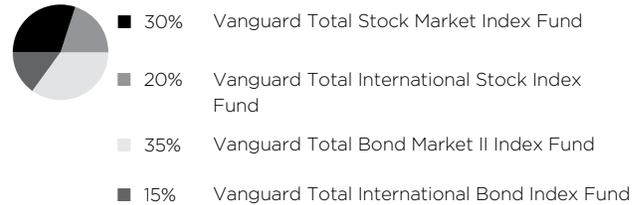
Investment Risks

The Portfolio is proportionately subject to the risks of the underlying stock funds, including stock market risk, country/regional risk, currency risk, and emerging markets risk; and the risks of the underlying bond funds, including interest rate risk, income risk, prepayment risk, extension risk, call risk, credit risk, country/regional risk, liquidity risk, currency and currency hedging risk, and derivatives risk. The Portfolio is also subject to investment style risk, index sampling risk, and nondiversification risk.

Moderate Growth Portfolio

The Portfolio seeks to provide capital appreciation and current income.

The Portfolio invests in two Vanguard stock index funds and two Vanguard bond index funds, resulting in an allocation of its assets to U.S. stocks, non-U.S. stocks, investment-grade U.S. bonds, and investment-grade non-U.S. bonds. The percentages of the Portfolio's assets allocated to each Underlying Fund are:



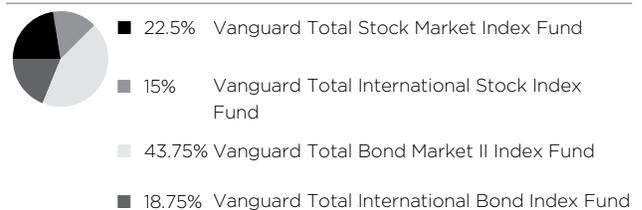
Investment Risks

The Portfolio is proportionately subject to the risks of the underlying stock funds, including stock market risk, country/regional risk, currency risk, and emerging markets risk; and the risks of the underlying bond funds, including interest rate risk, income risk, prepayment risk, extension risk, call risk, credit risk, country/regional risk, liquidity risk, currency and currency hedging risk, and derivatives risk. The Portfolio is also subject to investment style risk, index sampling risk, and nondiversification risk.

Disciplined Growth Portfolio

The Portfolio seeks to provide a moderate level of current income along with capital appreciation.

The Portfolio invests in two Vanguard stock index funds and two Vanguard bond index funds, resulting in an allocation of its assets to U.S. stocks, non-U.S. stocks, investment-grade U.S. bonds, and investment-grade non-U.S. bonds. The percentages of the Portfolio's assets allocated to each Underlying Fund are:



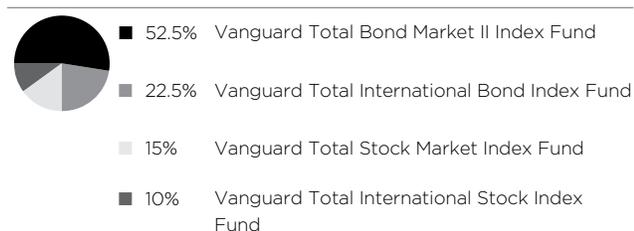
Investment Risks

The Portfolio is subject to the risks of the underlying bond funds, including interest rate risk, income risk, prepayment risk, extension risk, call risk, credit risk, country/regional risk, liquidity risk, currency and currency hedging risk, and derivatives risk; and the risks of the underlying stock funds, including stock market risk, country/regional risk, currency risk, and emerging markets risk. The Portfolio is also subject to investment style risk, index sampling risk, and nondiversification risk.

Conservative Growth Portfolio

The Portfolio seeks to provide a high level of current income and low capital appreciation.

The Portfolio invests in two Vanguard bond index funds and two Vanguard stock index funds, resulting in an allocation of its assets to investment-grade U.S. bonds, investment-grade non-U.S. bonds, U.S. stocks, and non-U.S. stocks. The percentages of the Portfolio's assets allocated to each Underlying Fund are:



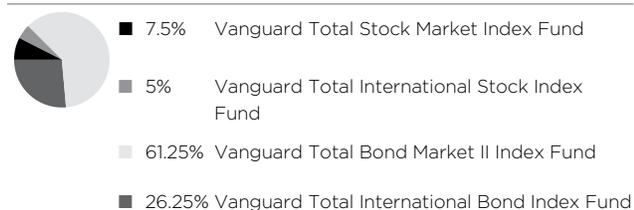
Investment Risks

The Portfolio is subject to the risks of the underlying bond funds, including interest rate risk, income risk, prepayment risk, extension risk, call risk, credit risk, country/regional risk, liquidity risk, currency and currency hedging risk, and derivatives risk; and the risks of the underlying stock funds, including stock market risk, country/regional risk, currency risk, and emerging markets risk. The Portfolio is also subject to investment style risk, index sampling risk, and nondiversification risk.

Conservative Portfolio

The Portfolio seeks to provide a high level of current income and low capital appreciation.

The Portfolio invests in two Vanguard stock index funds and two Vanguard bond index funds, resulting in an allocation of its assets to U.S. stocks, non-U.S. stocks, investment-grade U.S. bonds, and investment-grade non-U.S. bonds. The percentages of the Portfolio's assets allocated to each Underlying Fund are:



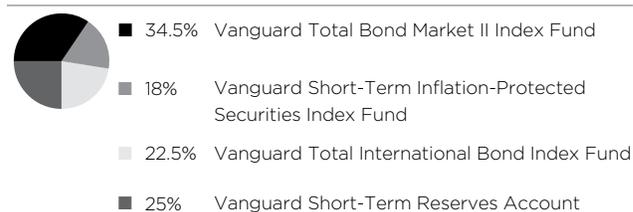
Investment Risks

The Portfolio is subject to the risks of the underlying bond funds, including interest rate risk, income risk, prepayment risk, extension risk, call risk, credit risk, country/regional risk, liquidity risk, currency and currency hedging risk, and derivatives risk; and the risks of the underlying stock funds, including stock market risk, country/regional risk, currency risk, and emerging markets risk. The Portfolio is also subject to investment style risk, index sampling risk, and nondiversification risk.

Income Portfolio

The Portfolio seeks to provide current income.

The Portfolio invests in three Vanguard bond funds and one Vanguard short-term reserves account, resulting in an allocation of its assets to investment-grade U.S. bonds, investment-grade non-U.S. bonds, and short-term investments. The percentages of the Portfolio's assets allocated to each Underlying Fund are:



Investment Risks

The Portfolio is proportionately subject to the risks of the underlying funds, including interest rate risk, income risk, prepayment risk, extension risk, call risk, credit risk, country/regional risk, liquidity risk, currency and currency hedging risk, derivatives risk, income fluctuation risk, index sampling risk, and manager risk.

The Income Portfolio invests in Vanguard Short-Term Reserves Account, which in turn invests in Vanguard Federal Money Market Fund. Vanguard Short-Term Reserves Account's investment in the Federal Money Market Fund is not insured or guaranteed by the Federal Deposit Insurance Corporation or any other government agency. Although the Federal Money Market Fund seeks to preserve the value of the investment at \$1 per share, it is possible that Vanguard Short-Term Reserves Account may lose money by investing in the Fund. The contracts held by the Short-Term Reserves Account are not guaranteed by the U.S. government, Vanguard, the Program, the State of New York, or the Program Administrators. Funding agreements are backed by the financial strength of the insurance companies that issue the contracts. The Portfolio may lose value if an insurance company is unable to make interest or principal payments when due.

Balanced Income Portfolio

The Portfolio seeks to provide current income.

The Portfolio invests in three Vanguard bond index funds and one Vanguard short-term reserves account, resulting in an allocation of its assets to investment-grade U.S. bonds, investment-grade non-U.S. bonds, and short-term investments. The percentages of the Portfolio's assets allocated to each Underlying Fund are:



Investment Risks

The Portfolio is proportionately subject to the risks of the underlying funds, including interest rate risk, income risk, prepayment risk, extension risk, call risk, credit risk, country/regional risk, liquidity risk, currency and currency hedging risk, derivatives risk, income fluctuation risk, index sampling risk, and manager risk.

Conservative Income Portfolio

The Portfolio seeks income consistent with preservation of principal with a low level of current income.

The Portfolio invests in three Vanguard bond index funds and one Vanguard short-term reserves account, resulting in an allocation of its assets to investment-grade U.S. bonds, investment-grade non-U.S. bonds, and short-term investments. The percentages of the Portfolio's assets allocated to each Underlying Fund are:



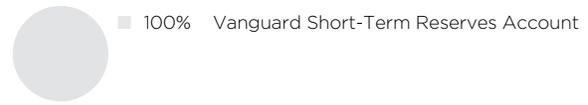
Investment Risks

The Portfolio is proportionately subject to the risks of the underlying funds, including interest rate risk, income risk, prepayment risk, extension risk, call risk, credit risk, country/regional risk, liquidity risk, currency and currency hedging risk, derivatives risk, income fluctuation risk, index sampling risk, and manager risk.

Interest Accumulation Portfolio

The Portfolio seeks income consistent with the preservation of principal.

The Portfolio invests its assets in a Vanguard short-term reserves account:



Investment Risks

The Portfolio is subject to income risk, manager risk, and credit risk.

The Interest Accumulation Portfolio invests in Vanguard Short-Term Reserves Account, which in turn invests in Vanguard Federal Money Market Fund. Vanguard Short-Term Reserves Account's investment in the Federal Money Market Fund is not insured or guaranteed by the Federal Deposit Insurance Corporation or any other government agency. Although the Federal Money Market Fund seeks to preserve the value of the investment at \$1 per share, it is possible that Vanguard Short-Term Reserves Account may lose money by investing in the Fund. The contracts held by the Short-Term Reserves Account are not guaranteed by the U.S. government, Vanguard, the Program, the State of New York, or the Program Administrators. Funding agreements are backed by the financial strength of the insurance companies that issue the contracts. The Portfolio may lose value if an insurance company is unable to make interest or principal payments when due.

Portfolio Strategy Summaries

Aggressive Growth, Aggressive, Growth, Blended Growth, Moderate Growth, Disciplined Growth, Conservative Growth, and Conservative Portfolios

Through their investment in Vanguard Total Stock Market Index Fund, the Portfolios indirectly invest in U.S. stocks. The Fund employs an indexing investment approach designed to track the performance of the CRSP US Total Market Index, which represents approximately 100% of the investable U.S. stock market and includes large-, mid-, small-, and micro-cap stocks regularly traded on the NYSE and Nasdaq. The Fund invests by sampling the index, meaning it holds a broadly diversified collection of securities that, in the aggregate, approximates the full index in terms of key characteristics. These key characteristics include industry weightings and market capitalization, as well as certain financial measures, such as price/earnings ratio and dividend yield.

Through their investment in Vanguard Total International Stock Index Fund, the Portfolios indirectly invest in international stocks. The Fund employs an indexing investment approach designed to track the performance of the FTSE Global All Cap ex US Index, a float-adjusted, market-capitalization-weighted index designed to measure equity market performance of companies located in developed and emerging markets, excluding the United States. The Fund invests all, or substantially all, of its assets in the common stocks included in its target index.

Aggressive, Growth, Blended Growth, Moderate Growth, Disciplined Growth, Conservative Growth, Conservative, Income, Balanced Income, and Conservative Income Portfolios

Through their investment in Vanguard Total Bond Market II Index Fund, the Portfolios also indirectly invest in U.S. bonds. The Fund employs an indexing investment approach designed to track the performance of the Bloomberg Barclays U.S. Aggregate Float Adjusted Index. This index represents a wide spectrum of public, investment-grade, taxable, fixed income securities in the United States—including government, corporate, and international dollar-denominated bonds, as well as mortgage-backed and asset-backed securities—all with maturities of more than one year. The Fund invests by sampling the index, meaning that it holds a broadly diversified collection of securities that, in the aggregate, approximates the full index in terms of key risk factors and characteristics. All of the Fund's investments will be selected through the sampling process, and at least 80% of the Fund's assets will be invested in bonds held in the index. The Fund maintains a dollar-weighted average maturity consistent with that of the index, which generally ranges between five and ten years.

Through their investment in Vanguard Total International Bond Index Fund, the Portfolios also indirectly invest in international bonds. The Fund employs an indexing investment approach designed to track the performance of the Bloomberg Barclays Global Aggregate ex-USD Float Adjusted RIC Capped Index (USD Hedged), which provides a broad-based measure of the global, investment-grade, fixed-rate debt markets. The index includes government,

government agency, corporate, and securitized non-U.S. investment-grade fixed income investments, all issued in currencies other than the U.S. dollar and with maturities of more than one year. The index methodology is not designed to satisfy the diversification requirements of the Investment Company Act of 1940. The Fund will attempt to hedge its foreign currency exposure, primarily through the use of foreign currency exchange forward contracts, in order to correlate to the returns of the index, which is U.S. dollar hedged. Such hedging is intended to minimize the currency risk associated with investment in bonds denominated in currencies other than the U.S. dollar. The Fund invests by sampling the index, meaning that it holds a range of securities that, in the aggregate, approximates the full index in terms of key risk factors and other characteristics. All of the Fund's investments will be selected through the sampling process and, under normal circumstances, at least 80% of the Fund's assets will be invested in bonds included in the index. The Fund maintains a dollar-weighted average maturity consistent with that of the index, which generally ranges between five and ten years.

Income, Balanced Income, and Conservative Income Portfolios

Through their investment in Vanguard Short-Term Inflation-Protected Securities Index Fund, the Portfolios indirectly invest in short-term investments. The Fund employs an indexing investment approach designed to track the performance of the Bloomberg Barclays U.S. Treasury Inflation-Protected Securities (TIPS) 0–5 Year Index. The index is a market-capitalization-weighted index that includes all inflation-protected public obligations issued by the U.S. Treasury with remaining maturities of less than five years. The Fund attempts to replicate the target index by investing all, or substantially all, of its assets in the securities that make up the index, holding each security in approximately the same proportion as its weighting in the index. The Fund maintains a dollar-weighted average maturity consistent with that of the target index, which generally does not exceed three years.

Income, Balanced Income, Conservative Income, and Interest Accumulation Portfolios

Through their investment in Vanguard Short-Term Reserves Account, the Portfolios indirectly invest in funding agreements issued by one or more insurance companies, synthetic investment contracts, and shares of Vanguard Federal Money Market Fund. Funding agreements are interest-bearing contracts that are structured to preserve principal and accumulate interest earnings over the life of the investment. The agreements pay interest at a fixed minimum rate and have fixed maturity dates that normally range from two to five years.

Individual Portfolios

These Portfolios are available as standalone options and, as such, do not change as the Beneficiary ages. Several are also available as Age-Based Options. Please see above for those descriptions.

Stock Portfolios

Portfolio, Investment Objective, and Risks	Portfolio Strategy Summary
AGGRESSIVE GROWTH PORTFOLIO See the description under <i>Age-Based Options</i> above.	See the description under <i>Age-Based Options</i> on page 26.
DEVELOPED MARKETS INDEX PORTFOLIO The Portfolio seeks to track the performance of a benchmark index that measures the investment return of stocks issued by companies located in Canada and the major markets of Europe and the Pacific region. The Portfolio is subject to stock market risk, country/regional risk, investment style risk, and currency risk.	The Portfolio invests 100% of its assets in Vanguard Developed Markets Index Fund, which employs an indexing investment approach designed to track the performance of the FTSE Developed All Cap ex US Index. The FTSE Developed All Cap ex US Index is a market-capitalization-weighted index that is made up of approximately 3,885 common stocks of large-, mid-, and small-cap companies located in Canada and the major markets of Europe and the Pacific region. The Fund attempts to replicate the target index by investing all, or substantially all, of its assets in the stocks that make up the index, holding each stock in approximately the same proportion as its weighting in the index.
GROWTH STOCK INDEX PORTFOLIO The Portfolio seeks to track the performance of a benchmark index that measures the investment return of large-capitalization growth stocks. The Portfolio is subject to stock market risk, investment style risk, and nondiversification risk.	The Portfolio invests 100% of its assets in Vanguard Growth Index Fund, which employs an indexing investment approach designed to track the performance of the CRSP US Large Cap Growth Index, a broadly diversified index predominantly made up of growth stocks of large U.S. companies. The Fund attempts to replicate the target index by investing all, or substantially all, of its assets in the stocks that make up the index, holding each stock in approximately the same proportion as its weighting in the index.
MID-CAP STOCK INDEX PORTFOLIO The Portfolio seeks to track the performance of a benchmark index that measures the investment return of mid-capitalization stocks. The Portfolio primarily is subject to stock market risk and investment style risk.	The Portfolio invests 100% of its assets in Vanguard Mid-Cap Index Fund, which employs an indexing investment approach designed to track the performance of the CRSP US Mid Cap Index, a broadly diversified index of stocks of mid-size U.S. companies. The Fund attempts to replicate the target index by investing all, or substantially all, of its assets in the stocks that make up the index, holding each stock in approximately the same proportion as its weighting in the index.
SMALL-CAP STOCK INDEX PORTFOLIO The Portfolio seeks to track the performance of a benchmark index that measures the investment return of small-capitalization stocks. The Portfolio is subject to stock market risk and investment style risk.	The Portfolio invests 100% of its assets in Vanguard Small-Cap Index Fund, which employs an indexing investment approach designed to track the performance of the CRSP US Small Cap Index, a broadly diversified index of stocks of small U.S. companies. The Fund attempts to replicate the target index by investing all, or substantially all, of its assets in the stocks that make up the index, holding each stock in approximately the same proportion as its weighting in the index.

Portfolio, Investment Objective, and Risks	Portfolio Strategy Summary
<p>VALUE STOCK INDEX PORTFOLIO</p> <p>The Portfolio seeks to track the performance of a benchmark index that measures the investment return of large-capitalization value stocks.</p> <p>The Portfolio is subject to stock market risk and investment style risk.</p>	<p>The Portfolio invests 100% of its assets in Vanguard Value Index Fund, which employs an indexing investment approach designed to track the performance of the CRSP US Large Cap Value Index, a broadly diversified index predominantly made up of value stocks of large U.S. companies.</p> <p>The Fund attempts to replicate the target index by investing all, or substantially all, of its assets in the stocks that make up the index, holding each stock in approximately the same proportion as its weighting in the index.</p>

Balanced Portfolios

Portfolio, Investment Objective, and Risks	Portfolio Strategy Summary
<p>MODERATE GROWTH PORTFOLIO</p> <p>See the description under <i>Age-Based Options</i> above.</p>	<p>See the description under <i>Age-Based Options</i> on page 27.</p>
<p>GROWTH PORTFOLIO</p> <p>See the description under <i>Age-Based Options</i> above.</p>	<p>See the description under <i>Age-Based Options</i> on page 27.</p>
<p>CONSERVATIVE GROWTH PORTFOLIO</p> <p>See the description under <i>Age-Based Options</i> above.</p>	<p>See the description under <i>Age-Based Options</i> on page 28.</p>

Bond Portfolios

Portfolio, Investment Objective, and Risks	Portfolio Strategy Summary
<p>BOND MARKET INDEX PORTFOLIO</p> <p>The Portfolio seeks to track the performance of a broad, market-weighted bond index.</p> <p>The Portfolio is subject to interest rate risk, income risk, prepayment risk, extension risk, call risk, credit risk, index sampling risk, and liquidity risk.</p>	<p>The Portfolio invests 100% of its assets in Vanguard Total Bond Market Index Fund, which employs an indexing investment approach designed to track the performance of the Bloomberg Barclays U.S. Aggregate Float Adjusted Index. This index represents a wide spectrum of public, investment-grade, taxable, fixed income securities in the United States—including government, corporate, and international dollar-denominated bonds, as well as mortgage-backed and asset-backed securities—all with maturities of more than one year.</p> <p>The Fund invests by sampling the index, meaning that it holds a broadly diversified collection of securities that, in the aggregate, approximates the full index in terms of key risk factors and other characteristics. All of the Fund’s assets will be selected through the sampling process, and at least 80% of the Fund’s assets will be invested in bonds held in the index. The Fund maintains a dollar-weighted average maturity consistent with that of the index, which generally ranges between five and ten years.</p>
<p>INCOME PORTFOLIO</p> <p>See the description under <i>Age-Based Options</i> above.</p>	<p>See the description under <i>Age-Based Options</i> on page 28.</p>

Portfolio, Investment Objective, and Risks**INFLATION-PROTECTED SECURITIES PORTFOLIO**

The Portfolio seeks to provide inflation protection and income consistent with investment in inflation-indexed securities.

The Portfolio is subject to interest rate risk, income fluctuation risk, manager risk, liquidity risk, and derivatives risk.

Portfolio Strategy Summary

The Portfolio invests 100% of its assets in Vanguard Inflation-Protected Securities Fund. The Fund invests at least 80% of its assets in inflation-indexed bonds issued by the U.S. government, its agencies and instrumentalities, and corporations. The Fund may invest in bonds of any maturity; however, its dollar-weighted average maturity is expected to be in the range of seven to 20 years.

At a minimum, all bonds purchased by the Fund will be rated investment-grade or, if unrated, will be considered by the advisor to be investment-grade. Unlike a conventional bond, whose issuer makes regular fixed interest payments and repays the face value of the bond at maturity, an inflation-indexed security (IIS) provides principal and interest payments that are adjusted over time to reflect a rise (inflation) or a drop (deflation) in the general price level for goods and services. In the event of deflation, the U.S. Treasury has guaranteed that it will repay at least the face value of an IIS issued by the U.S. government.

Note: The Inflation-Protected Securities Portfolio seeks to provide protection from inflation (i.e., a rise in the general price level of goods and services), as measured by the Consumer Price Index. It is possible that the costs of higher education may increase at a rate that exceeds the rate of increase of the Consumer Price Index.

Short-Term Investment Portfolio**Portfolio, Investment Objective, and Risks****INTEREST ACCUMULATION PORTFOLIO**

See the description under *Age-Based Options* above.

Portfolio Strategy Summary

See the description under *Age-Based Options* on page 29.

Section 6. Performance Information

In this section, we show the performance of the Portfolios in the *Direct Plan* over various periods. The data used to create the performance table on the following page includes each Portfolio's asset-based fee. See *Section 3. Fees*. The performance data shown represent past performance, which is not a guarantee of future results. Investment returns and principal value will fluctuate, so investors' Portfolio Units, when sold, may be worth more or less than their original cost. For performance data current to the most recent month-end, which may be higher or lower than that cited, visit nysaves.org or call 877-NYSAVES (877-697-2837).

The performance of an index is not an exact representation of any particular investment, as you cannot invest directly in an index. Benchmark comparative indexes represent unmanaged or average returns on various financial assets, which can be compared with the Portfolios' total returns for the purpose of measuring relative performance. Benchmark index returns reflect no deduction for fees or expenses, which are applicable to Portfolio investments.

Keep in mind that the performance of the Portfolios will differ from the performance of the Underlying Funds, even when a Portfolio invests in only one Underlying Fund. This is primarily because of differences in a Portfolio's Total Annual Asset-Based Fee and the Underlying Fund Fee and differences in the trade dates of Portfolio purchases.

Because the Portfolios have higher fees than the Underlying Funds, over comparable periods of time, all other things being equal, a Portfolio would have lower performance than its comparable Underlying Fund. (Of course, investing in the Underlying Funds does not offer the same tax advantages as investing in the Portfolios.) Performance differences also are caused by differences in the trade dates of Portfolio purchases. When you invest in a Portfolio, you will receive Portfolio Units as of the trade date. The Portfolio will use your money to purchase shares of an Underlying Fund.

However, the trade date for the Portfolio's purchase of the Underlying Fund's shares typically will be one business day after the trade date for your purchase of Portfolio Units.

Depending on the amount of cash flow into or out of the Portfolio and whether the Underlying Fund is going up or down in value, this timing difference will cause the Portfolio's performance either to trail or exceed the Underlying Fund's performance.

If you are invested in an Age-Based Option, the assets in the Portfolio in which you are currently invested (Current Portfolio) will automatically transfer to other Portfolios as your Beneficiary ages and depending on the Age-Based Option you chose. Accordingly, the assets in your Current Portfolio may have been invested in the Current Portfolio for all or only a portion of the period reported in the performance table shown on the next page. Thus, your personal performance may differ from the performance for a Portfolio as shown in the table based on the timing and amount of your investments.

Average Annual Total Returns

For the period ended June 30, 2021

Individual Portfolio/Benchmark	1-Year	3-Year	5-Year	10-Year	Since Portfolio Inception Date ¹	Inception Date
Aggressive Growth Portfolio	41.15%	15.36%	15.45%	13.14%	9.79%	11/14/2003
<i>Benchmark: Aggressive Growth Composite Index²</i>	<i>41.81</i>	<i>15.82</i>	<i>15.86</i>	<i>13.41</i>	<i>10.15</i>	
Aggressive Portfolio	35.24	14.14	—	—	13.00	9/22/2017
<i>Benchmark: Aggressive Composite Index</i>	<i>35.84</i>	<i>14.66</i>	<i>—</i>	<i>—</i>	<i>13.49</i>	
Growth Portfolio	29.70	12.93	12.37	10.80	8.75	11/14/2003
<i>Benchmark: Growth Composite Index³</i>	<i>30.09</i>	<i>13.44</i>	<i>12.79</i>	<i>11.09</i>	<i>9.12</i>	
Blended Growth Portfolio	24.15	11.66	—	—	10.46	9/22/2017
<i>Benchmark: Blended Growth Composite Index</i>	<i>24.55</i>	<i>12.17</i>	<i>—</i>	<i>—</i>	<i>10.94</i>	
Moderate Growth Portfolio	18.94	10.35	9.19	8.35	7.12	11/14/2003
<i>Benchmark: Moderate Growth Composite Index⁴</i>	<i>19.22</i>	<i>10.84</i>	<i>9.61</i>	<i>8.64</i>	<i>7.45</i>	
Disciplined Growth Portfolio	14.05	9.10	—	—	7.88	9/22/2017
<i>Benchmark: Disciplined Growth Composite Index</i>	<i>14.09</i>	<i>9.46</i>	<i>—</i>	<i>—</i>	<i>8.21</i>	
Conservative Growth Portfolio	8.99	7.64	6.02	5.81	5.36	11/14/2003
<i>Benchmark: Conservative Growth Composite Index⁵</i>	<i>9.15</i>	<i>8.03</i>	<i>6.33</i>	<i>6.08</i>	<i>5.67</i>	
Conservative Portfolio	4.16	6.25	—	—	5.02	9/22/2017
<i>Benchmark: Conservative Composite Index</i>	<i>4.39</i>	<i>6.56</i>	<i>—</i>	<i>—</i>	<i>5.32</i>	
Income Portfolio	1.33	3.95	2.52	2.50	3.23	11/14/2003
<i>Benchmark: Income Composite Index⁶</i>	<i>0.99</i>	<i>3.86</i>	<i>2.47</i>	<i>2.52</i>	<i>3.47</i>	
Balanced Income Portfolio	1.46	3.33	—	—	2.81	9/22/2017
<i>Benchmark: Balanced Income Composite Index</i>	<i>0.67</i>	<i>2.97</i>	<i>—</i>	<i>—</i>	<i>2.49</i>	
Conservative Income Portfolio	1.67	2.73	—	—	2.44	9/22/2017
<i>Benchmark: Conservative Income Composite Index</i>	<i>0.34</i>	<i>2.09</i>	<i>—</i>	<i>—</i>	<i>1.86</i>	
Developed Markets Index Portfolio	35.72	9.08	10.82	6.33	9.86	3/26/2009
<i>Benchmark: Spliced Developed Markets Index⁷</i>	<i>34.74</i>	<i>8.92</i>	<i>10.96</i>	<i>6.33</i>	<i>9.55</i>	
Small-Cap Stock Index Portfolio	56.35	14.65	15.85	12.78	10.94	11/19/2003
<i>Benchmark: Spliced Small Cap Index⁸</i>	<i>56.47</i>	<i>14.73</i>	<i>15.94</i>	<i>12.87</i>	<i>11.15</i>	
Mid-Cap Stock Index Portfolio	46.77	16.40	15.64	13.02	11.08	11/20/2003
<i>Benchmark: Spliced Mid-Cap Index⁹</i>	<i>46.93</i>	<i>16.51</i>	<i>15.78</i>	<i>13.16</i>	<i>11.48</i>	
Growth Stock Index Portfolio	42.64	25.20	22.93	17.35	11.95	11/20/2003
<i>Benchmark: Spliced Growth Index¹⁰</i>	<i>42.83</i>	<i>25.35</i>	<i>23.09</i>	<i>17.52</i>	<i>12.32</i>	
Value Stock Index Portfolio	41.16	12.76	12.92	12.16	9.14	11/20/2003
<i>Benchmark: Spliced Value Index¹¹</i>	<i>41.31</i>	<i>12.86</i>	<i>13.05</i>	<i>12.31</i>	<i>9.52</i>	
Bond Market Index Portfolio	-0.51	5.29	2.90	3.26	3.84	11/20/2003
<i>Benchmark: Spliced Bloomberg Barclays U.S. Aggregate Float Adjusted Index¹²</i>	<i>-0.33</i>	<i>5.44</i>	<i>3.07</i>	<i>3.44</i>	<i>4.16</i>	
Inflation-Protected Securities Portfolio	6.45	6.39	3.97	3.28	4.10	11/20/2003
<i>Benchmark: Bloomberg Barclays U.S. Treasury Inflation Protected Securities Index</i>	<i>6.51</i>	<i>6.53</i>	<i>4.17</i>	<i>3.40</i>	<i>4.44</i>	
Interest Accumulation Portfolio	1.83	2.14	1.85	1.09	1.65	11/14/2003
<i>Benchmark: Institutional Money Market Fund Average¹³</i>	<i>0.02</i>	<i>1.20</i>	<i>1.07</i>	<i>0.55</i>	<i>1.24</i>	

1 Performance for the Portfolio and its benchmark is calculated since the Portfolio inception date. "Since Inception" returns for less than one year are not annualized.

2 Weighted 70% Spliced Institutional Total Stock Market Index and 30% FTSE Global All Cap ex US Index. The Spliced Institutional Total Stock Market Index consists of the Dow Jones Wilshire 5000 Index through April 8, 2005; the MSCI U.S. Broad Market Index through January 14, 2013; and the CRSP US Total Market Index thereafter.

3 Weighted 52.5% Spliced Institutional Total Stock Market Index, 22.5% FTSE Global All Cap ex US Index, 20% Bloomberg Barclays U.S. Aggregate Float Adjusted Index, and 5% Bloomberg Barclays Global Aggregate ex-USD Float Adjusted RIC Capped Index (USD Hedged).

4 Weighted 35% Spliced Institutional Total Stock Market Index, 15% FTSE Global All Cap ex US Index, 40% Spliced Bloomberg Barclays U.S. Aggregate Float Adjusted Index, and 10% Bloomberg Barclays Global Aggregate ex-USD Float Adjusted RIC Capped Index (USD Hedged).

5 Weighted 17.5% Spliced Institutional Total Stock Market Index, 7.5% FTSE Global All Cap ex US Index, 60% Spliced Bloomberg Barclays U.S. Aggregate Float Adjusted Index, and 15% Bloomberg Barclays Global Aggregate ex-USD Float Adjusted RIC Capped Index (USD Hedged).

6 Weighted 42% Spliced Bloomberg Barclays U.S. Aggregate Float Adjusted Index, 15% Bloomberg Barclays Global Aggregate ex-USD Float Adjusted RIC Capped Index (USD Hedged), 18% Bloomberg Barclays U.S. 0-5 Year TIPS Index, and 25% Institutional Money Market Funds Average.

7 Consists of the MSCI EAFE Index through May 28, 2013; the FTSE Developed ex North America Index through December 20, 2015; the FTSE Developed All Cap ex US Transition Index through May 31, 2016; and the FTSE Developed All Cap ex US Index thereafter.

8 Consists of the MSCI U.S. Small Cap 1750 Index through January 30, 2013; and the CRSP US Small Cap Index thereafter.

9 Consists of the MSCI U.S. Mid Cap 450 Index through January 30, 2013; and the CRSP US Mid Cap Index thereafter.

10 Consists of the MSCI U.S. Prime Market Growth Index through April 16, 2013; and the CRSP US Large Cap Growth Index thereafter.

11 Consists of the MSCI U.S. Prime Market Value Index through April 16, 2013; and the CRSP US Large Cap Value Index thereafter.

12 Consists of the Barclays U.S. Aggregate Bond Index through December 31, 2009, and the Barclays U.S. Aggregate Float Adjusted Index thereafter.

13 Derived from data provided by Lipper Inc.

Section 7. Important Tax Information

This section summarizes some of the federal and New York State tax consequences of investing in the *Direct Plan*.

We have based the following information on the relevant provisions of the Code; New York State tax law; Proposed Regulations; IRS notices, rulings, and other guidance; opinions of the DTF regarding New York tax matters; and legislative history and interpretations of applicable federal and New York State law existing on the date of this Disclosure Booklet. However, it is possible that Congress, the New York State Legislature, the Treasury Department, the IRS, the DTF, other taxing authorities, or the courts may take actions that would modify the tax law consequences described. Those changes may be retroactive. In addition, if the Treasury Department adopts final regulations, those regulations may alter the tax consequences discussed in this section or may require us to make changes to the *Direct Plan* so that you can take advantage of federal tax benefits. See *Section 4. Risks—Uncertainty of Tax Consequences*.

There is no way to ensure that the IRS or the DTF will accept the conclusions presented in this section or if these conclusions would be upheld in court. Some tax rules are uncertain and their application may vary depending on your particular facts and circumstances.

Please note that this is not an exhaustive discussion and is not intended as individual tax advice. Because it is your responsibility to verify contributions, withdrawals, and transfers, it is important for you to keep all records, invoices, and other documents regarding your Account to support:

- Expenses that you claim to be Qualified Higher Education Expenses, K-12 Tuition Expenses, Apprenticeship Program Expenses, or Qualified Loan Repayments.
- Withdrawals because of the death or Disability of, or receipt of a Qualified Scholarship by, your Beneficiary.
- The earnings component of and compliance with the timing requirements applicable to Qualified Rollovers.
- The earnings component of contributions funded from Qualified U.S. Savings Bonds or education savings accounts.
- Refunded Distributions.

We encourage you to consult a qualified tax advisor regarding the federal and state tax consequences of:

- Opening an Account.
- Contributing money to, or withdrawing money from, your Account.
- Changing Beneficiaries of your Account.
- Transferring money in your Account to another Account, to an account in a 529 plan outside of the Program, or to a Qualified ABLE Program.
- Transferring money in your Account to the Account of another Account Owner.
- Transfers from your Upromise account.

If you are not a New York State taxpayer, consider before investing whether your or your Beneficiary's home state offers a 529 plan that provides its taxpayers with favorable

state tax or other benefits that may only be available through investing in your home state's 529 plan, and which are not available through investment in the *Direct Plan*. Other state benefits may include financial aid, scholarship funds, and protection from creditors. Since different states have different tax provisions, this Disclosure Booklet contains limited information about the state tax consequences of investing in the *Direct Plan*. Therefore, please consult your financial, tax, or other advisor to learn more about how state-based benefits (or any limitations) would apply to your specific circumstances. You also may wish to contact your home state's 529 plan(s), or any other 529 plan, to learn more about those plan features, benefits, and limitations. Keep in mind that state-based benefits should be one of many appropriately weighted factors to be considered when making an investment decision.

Federal Tax Information

Contributions

Under federal law, contributions to your Account are not considered taxable income to your Beneficiary.

Contributions are not deductible for federal income tax purposes, but the income earned on your contributions grows free from federal income tax until you make a withdrawal from your Account. In the event you take a Federal Nonqualified Withdrawal, the income earned on your contributions will be subject to federal income taxation and the Federal Penalty.

Other Contributions and Transfers

You can generally transfer money to your Account without adverse federal income tax consequences if the money is:

- A Refunded Distribution;
- Transferred within 60 days of withdrawal from another Account in the Program, and the Beneficiary of your Account is a Member of the Family of the Beneficiary of the distributing Account;
- A Qualified Rollover from a 529 plan outside of the Program;
- From an education savings account described in Section 530 of the Code (i.e., a Coverdell Education Savings Account); or
- Made up of proceeds from the redemption of a Qualified U.S. Savings Bond described in Section 135 of the Code.

Coordination With Qualified U.S. Savings Bonds

If you redeem a Qualified U.S. Savings Bond and use those funds to make contributions to your Account, you may be allowed to exclude all or a portion of the income from that Qualified U.S. Savings Bond in computing your federal taxable income for the year in which you make the contribution. To qualify:

- You must meet certain age, ownership, and income limitations;

- The Qualified U.S. Savings Bond generally must be issued after 1989; and
- You, your spouse, or your eligible dependent must be the Beneficiary of the Account.

Withdrawals

For federal tax purposes, there are generally two types of withdrawals: Federal Qualified Withdrawals and Federal Nonqualified Withdrawals. These withdrawals comprise the following:

- Principal, which is not taxable when distributed.
- Earnings, if any, which may be subject to federal income tax.

We determine the portion of a withdrawal attributable to contributions and earnings based on IRS rules and report the distribution to the IRS and the recipient on Form 1099-Q. However, we do not report whether the withdrawal is a Federal Qualified Withdrawal or a Federal Nonqualified Withdrawal. The earnings portion of a withdrawal will generally be calculated on an Account-by-Account basis.

If you don't select a specific Investment Option(s) from which to take a withdrawal, the withdrawal will be taken proportionally from all the Investment Options in your Account. If you request that a withdrawal be taken from one or more specific Investment Option(s), the earnings, for tax-reporting purposes, will be calculated based on the earnings of all the Investment Options in your Account.

You are responsible for preparing and filing the appropriate forms when completing your federal income tax return and for paying any applicable tax to the Treasury Department.

The earnings portion of withdrawals that are Federal Qualified Withdrawals, Qualified Rollovers, ABLE Rollover Distributions, and Refunded Distributions is not subject to federal income taxation. The earnings portion of other withdrawals (including Federal Nonqualified Withdrawals, withdrawals made because of the death or Disability of a Beneficiary, the receipt by your Beneficiary of a Qualified Scholarship, and attendance of your Beneficiary at a military academy) are included in computing the federal taxable income of the person taking the withdrawals for the years in which the withdrawals are made.

In addition, the earnings portion of Federal Nonqualified Withdrawals is subject to the Federal Penalty. However, the Federal Penalty does not apply to Federal Qualified Withdrawals, Qualified Rollovers, or the following withdrawals:

- Because of the death or Disability of your Beneficiary.
- Because your Beneficiary received a Qualified Scholarship (as long as the withdrawal does not exceed the amount of the scholarship).
- Because your Beneficiary attends a military academy (as long as the withdrawal does not exceed the estimated cost of attendance).

For additional information about Federal Qualified Withdrawals and federal taxes, see IRS Publication 970.

Qualified Rollovers

You may transfer all or part of the money in your Account to an account in a 529 plan outside of the Program without adverse federal income tax consequences (and no Federal Penalty) if the transfer occurs within 60 days of the withdrawal from your Account and the recipient account is established for the benefit of one of the following:

- A person who is a Member of the Family of the original Beneficiary (See *Section 2. Your Account—Maintaining Your Account—Substituting Beneficiaries*).
- The same Beneficiary, but only if a rollover for the same Beneficiary did not occur within the past 12 months. See *Section 2. Your Account—Contributing to Your Account—Incoming Rollover Contributions*.

ABLE Rollover Distributions

You may also transfer all or part of the money in your Account to an account in a Qualified ABLE Program without adverse federal income tax consequences (and no Federal Penalty). The ABLE Rollover Distribution must:

- Be completed within 60 days of the withdrawal from your Account;
- Be to an account for the same Beneficiary or a new Beneficiary who is a Member of the Family of the original Beneficiary;
- Be made before January 1, 2026; and
- Not exceed the annual contribution limit in Section 529A(b)(2)(B)(i) of the Code.

Transfers Within the Program

Transfers between the *Direct Plan* and the Advisor-Guided Plan are not considered a Qualified Rollover; rather, these types of transfers are considered Investment Exchanges. You can only perform an Investment Exchange twice per calendar year. See *Section 2. Your Account—Maintaining Your Account—Changing Your Investment Options*.

Other Higher Education Expense Benefit Programs

If you have an education savings account under Section 530 of the Code or the American Opportunity Tax Credit and Lifetime Learning Credits under Section 25A of the Code, you must coordinate the tax benefits of those accounts with your *Direct Plan* Account.

Education Savings Accounts

You may contribute money to, or withdraw money from, your Account and an education savings account (i.e., a Coverdell Education Savings Account) in the same year. You cannot, however, count the same expenses as "qualified education expenses" for education savings account purposes and Qualified Higher Education Expenses for 529 plan purposes. If the total withdrawals from both accounts exceed your Beneficiary's Qualified Higher Education Expenses, the recipient of the withdrawal must allocate the higher education expenses between both withdrawals to determine how much may be treated as tax-free under the education savings account and your Account.

American Opportunity Tax Credit and Lifetime Learning Tax Credits

Your participation in or the receipt of benefits from your Account will not be affected by the use of the American Opportunity Tax Credit or Lifetime Learning Tax Credit (if you qualify for these credits) as long as any withdrawal from your Account is not used for the same expenses for which the tax credit was claimed. If a withdrawal from your Account is used for the same expenses for which the tax credit was claimed, the withdrawal or part of the withdrawal may be considered a Federal Nonqualified Withdrawal.

Federal Gift and Estate Taxes

If your contributions, together with any other gifts to the Beneficiary (over and above those made to your Account), do not exceed \$15,000 per year (\$30,000 for married couples making a proper election), no gift tax will be imposed for that year. Gifts of up to \$75,000 can be made in a single year (\$150,000 for married couples making a proper election) for a Beneficiary, and you may elect to apply the contribution against the annual exclusion equally over a five-year period. This allows you to move assets into tax-deferred investments and out of your estate more quickly.

Federal Gift Tax Exemption

In 2021, you can contribute up to \$15,000 a year (\$30,000 if married and making the split-gift election) to the *Direct Plan* without incurring federal gift taxes. This amount is periodically adjusted for inflation.

If you die with assets still remaining in your Account, the Account's value generally will not be included in your estate for federal estate tax purposes, unless you elect the five-year averaging and die before the end of the fifth year. If your Beneficiary dies and assets remain in your Account, the value of your Account may be included in the Beneficiary's estate for federal tax purposes. Further rules regarding gifts and the generation-skipping transfer tax may apply in the case of distributions, changes of Beneficiaries, and other situations. The state law treatment of gift and estate taxes varies; therefore, you should consult with your tax advisor about the specific effect of federal and state (if any) gift tax and generation-skipping transfer tax on your situation.

New York State Tax Information

New York State Tax Deduction for Contributions to the *Direct Plan*

The following New York State tax benefits are available only to New York State taxpayers. If you are not a resident of New York but are a New York State taxpayer, the deduction used in computing New York State taxable income will not be as beneficial to you as it is to New York State residents. We make no representation as to the consequences to you or your Beneficiary of contributions to, earnings on, transfers of, or withdrawals from your Account under the laws of any other state.

Your contributions (or those of your spouse) may be deductible in computing your New York State taxable income for New York State personal income tax purposes up to \$5,000 (\$10,000 if you are married filing jointly). The tax deduction is calculated based on all contributions to all of your *Direct Plan* and Advisor-Guided Plan Accounts in any taxable year (and only to the extent not deductible or eligible for credit for federal income tax purposes).

If you are married filing separately, a contribution check from your spouse's individual bank account, and not an account held jointly with you, will generally be treated as a contribution made by a third party. Therefore, it may not be deductible from New York State taxable income by you or your spouse.

Please contact the DTF to see if the contribution qualifies for a deduction.

The income earned on your contributions will generally grow free from state income tax until you make a withdrawal from your Account provided you make a New York Qualified Withdrawal.

State Income Tax Benefits

New York State taxpayers can apply up to \$5,000 (\$10,000 if married filing jointly) toward calculating a state tax deduction on contributions to the *Direct Plan*.

You must make a contribution before the end of a given calendar year for it to be deductible for that calendar year. We will treat your contribution sent by U.S. mail as having been made the year sent if the U.S. Postal Service has postmarked the envelope on or before December 31 of that year. Regardless of the calendar year for which your contribution is deductible, the trade date of the contribution (and thus the price of the Portfolio Units purchased with the contribution) will be determined based on the day we receive the contribution and, with respect to a Recurring Contribution and EBT contributions, on the business day before the bank debit occurs.

If your Recurring Contribution designation date is January 1, 2, 3, or 4, that Recurring Contribution will be treated as having been made in the new calendar year.

Contributions to your Account by a third party are generally not deductible from New York State taxable income by you or the third party. Also, contributions are not includable in computing the New York State taxable income of your Beneficiary for New York State personal income tax purposes. Please contact the DTF to see if the contribution qualifies for a deduction.

Incoming Rollovers; Uprromise Transfers

The DTF has advised us that incoming rollover contributions from an account in a 529 plan outside of the Program to an Account that occur within 60 days of the withdrawal, for the benefit of your Beneficiary or a Member of the Family of your Beneficiary, may be deductible up to \$5,000 (\$10,000 if married filing jointly) in computing your New York State taxable income.

The DTF further advised that Upromise savings transferred to your Account may be deductible in computing your New York State adjusted gross income. You should also consult a qualified tax advisor with respect to the New York State and local tax consequences of transfers from your Upromise account.

Transfers Within the Program

Transfers between the *Direct Plan* and the Advisor-Guided Plan are not considered a Qualified Rollover for New York State tax purposes; rather, these types of transfers are considered Investment Exchanges. You can only perform an Investment Exchange twice per calendar year. See *Section 2. Your Account—Maintaining Your Account—Changing Your Investment Options*.

Withdrawals Not Subject to New York Taxation

New York Qualified Withdrawals and withdrawals because of the death or Disability of your Beneficiary are not includable in computing your or your Beneficiary's New York State taxable income.

New York Qualified Withdrawals are withdrawals used to pay a Beneficiary's Qualified Higher Education Expenses. This does not include K-12 Tuition Expenses, Apprenticeship Program Expenses, or Qualified Loan Repayments, as these are considered New York Nonqualified Withdrawals and are treated as described below.

Withdrawals Subject to New York Taxation

New York Nonqualified Withdrawals, including withdrawals used to pay K-12 Tuition Expenses, Apprenticeship Program Expenses, or Qualified Loan Repayments; and withdrawals because of a Qualified Scholarship received by your Beneficiary or attendance at a military academy will be includable in computing your New York State taxable income for the year in which you make the withdrawal. This does not include any portion of that withdrawal attributable to contributions to your Account that were not previously deducted from your New York State personal income taxes.

Recapture of Income Tax Deduction

If you take a New York Nonqualified Withdrawal, New York law requires the recapture of amounts previously deducted from your New York State personal income tax.

Recontributions

If you withdraw funds and then later recontribute those funds into an Account, including a Refunded Distribution, the withdrawal will be treated as a New York Nonqualified Withdrawal without regard to whether the withdrawal and recontribution result in income for federal tax purposes.

This means that the amount withdrawn will be included in your New York State gross income and is subject to recapture for amounts previously deducted from your New York State personal income tax. However, you may be eligible for a New York State tax deduction for the recontribution to your Account. Please consult a tax advisor regarding your personal circumstances.

Outgoing Rollovers

The Program has received a letter from the DTF advising that all Rollover Distributions from an Account to an account in a 529 plan outside of the Program that occur on or after January 1, 2003, will be treated as New York Nonqualified Withdrawals for New York State tax purposes. This tax treatment applies without regard to whether the Rollover Distribution results in income for federal tax purposes. This means that any portion of the Rollover Distribution that is earnings or for which a previous income deduction was taken will be included in your New York State gross income for that tax year and will be subject to recapture of any previously taken New York State income deductions.

ABLE Rollover Distributions

ABLE Rollover Distributions are not subject to federal or New York State taxes or penalties. However, please consult a qualified tax or investment advisor about your personal circumstances prior to initiating a rollover.

New York Gift and Estate Taxes

New York repealed its gift tax on January 1, 2000. The federal estate tax treatment of Account balances, contributions, withdrawals from Accounts, and changes in your Beneficiary of an Account governs the treatment of these items for New York estate tax purposes. If you are a New York City or City of Yonkers taxpayer, the discussion of tax consequences described above also applies when calculating taxable income for New York City personal income tax and the City of Yonkers resident income tax surcharge.

Other State and Local Tax Information

Prospective Account Owners should consider the potential impact of income taxes imposed by jurisdictions other than New York State, the City of New York, and the City of Yonkers. Other state or local taxes may apply, including gift and estate taxes imposed by other states, depending on the residency or domicile of you or your Beneficiary. Non-New York taxpayers or residents should consult a qualified tax advisor about the applicability, if any, of state or local taxes in other jurisdictions and the applicability of New York State and local income, estate, and gift taxes.

It is possible that a recipient of money withdrawn from the *Direct Plan* may be subject to income tax on those withdrawals by the state where he or she lives or pays taxes. It is also possible that amounts rolled over into the *Direct Plan* from a 529 plan outside of the Program may be subject to a tax imposed on the rollover amount by that other state. You should consult a qualified tax advisor regarding the state tax consequences of participating in the *Direct Plan*.

Section 8. Plan Governance

Who's Who in the Program

The Trust	All money in the Program is held in the Trust. The Comptroller serves as trustee of the Trust and oversees all of its assets.
The Program	The Program consists of the <i>Direct Plan</i> and the Advisor-Guided Plan.
Program Administrators	The Comptroller and HESC together are responsible for administering and establishing the rules that govern the Program.
Program Manager	Ascensus Broker Dealer Services, LLC, is responsible for the day-to-day operations of the Program, including recordkeeping.
Investment Manager	The Vanguard Group, Inc., is responsible for managing the investments in the <i>Direct Plan</i> .
Custodian	The Bank of New York Mellon Corporation is the custodian of Account assets for the <i>Direct Plan</i> .

The Trust

The New York State College Choice Tuition Savings Program Trust Fund (Trust) is a statutory trust created by the New York State Legislature specifically for the purpose of holding and investing the Program's assets. Trust assets are segregated from, and not commingled with, other assets.

Although the Comptroller, as trustee of the Trust, is the legal owner of all Trust investments, these investments are held solely for the benefit of Account Owners. An investment in the *Direct Plan* is an investment in municipal fund securities.

These securities are issued and offered by the Trust. Although money contributed to an Account will be invested in Portfolios that hold mutual funds (among other types of investments), keep in mind that neither the Trust, the *Direct Plan*, nor any of the *Direct Plan*'s Portfolios are mutual funds. An investment in the *Direct Plan* is not an investment in shares of any mutual fund.

The Program

The New York State College Choice Tuition Savings Program currently includes two separate 529 plans. The *Direct Plan* is sold directly by the Program. New York's 529 Advisor-Guided College Savings Program (Advisor-Guided Plan) is sold exclusively through financial professionals. The Vanguard Group, Inc., serves as the Investment Manager for the *Direct Plan*.

J.P. Morgan Investment Management Inc. serves as the Investment Manager for the Advisor-Guided Plan.

Ascensus Broker Dealer Services, LLC, serves as the Program Manager for both plans.

The Program Administrators

The Comptroller and HESC together are the Program Administrators and are responsible for implementing the Program and establishing rules to govern the Program. Generally, the Comptroller and HESC act jointly with respect to the Program. The Comptroller oversees the investment of all assets of the Program, which the Comptroller holds as trustee of the Trust. If requested by an Account Owner, HESC transmits payments to educational institutions and is responsible for related matters. For more information about the Comptroller and HESC, see *The Comptroller and HESC* later in this section.

The Program Manager and the Investment Manager

Ascensus Broker Dealer Services, LLC, and its affiliates (also referred to as "Ascensus") are responsible for the day-to-day operations of the Program.

Pursuant to the Management Agreement, Ascensus Broker Dealer Services, LLC, has overall responsibility for the management, administration, distribution, recordkeeping, and transfer-agency services provided to the Program and is permitted to delegate certain services, including the provision of investment management and distribution services for the *Direct Plan*, to Vanguard. In certain circumstances, Ascensus will also assist Vanguard Marketing Corporation, an affiliate of The Vanguard Group, Inc., with marketing and distribution of the *Direct Plan*.

The Program Manager's term under the Management Agreement extends to May 6, 2023, subject to earlier termination in certain circumstances.

Under the terms of the Management Agreement and certain related agreements, Ascensus and Vanguard are required to treat all Account Owner and Beneficiary information confidentially. Ascensus and Vanguard are prohibited from using or disclosing this information, except as may be necessary to perform their obligations under the terms of the agreements.

Vanguard is responsible for the following:

- Investing the *Direct Plan*'s assets, subject to oversight by the Comptroller.
- Marketing and distributing the *Direct Plan*.
- In certain circumstances, administering services pursuant to the Management Agreement and to certain related agreements between it and Ascensus Broker Dealer Services, LLC.

The Investment Manager's term under the Management Agreement and related subcontracts extends to May 6, 2023, subject to earlier termination in certain circumstances.

The Comptroller and HESC

The Comptroller is the administrative head of the Department of Audit and Control, commonly known as the Office of the State Comptroller. The Comptroller is New York State's chief fiscal officer and auditor and is

responsible, as sole trustee, of the New York State and Local Retirement System and the New York State and Local Police and Fire Retirement System. In addition to administering the Program, the Office of the State Comptroller performs the State of New York's pre- and post-audit functions, monitors and reports on other public entities, and works to ensure that New York State and its local governments are discharging their responsibilities in an efficient, effective, and timely manner.

HESC is an agency of the State of New York created to improve the postsecondary educational opportunities for eligible students of New York State through financial aid and loan programs. In addition to its administration of the Program, HESC coordinates the State of New York's administrative efforts in student financial aid and loan programs with those of the federal government.

Legal and Other Contractual Matters

Compliance With New York Retirement and Social Security Law

The Trust is subject, on an aggregate basis, to the investment limitations set forth in Article 4-A of the New York State Retirement and Social Security Law (Article 4-A), as modified by Article 6 of the New York State Finance Law. Among other things, Article 4-A restricts the amount that the Trust can invest in stocks, either directly or through the Underlying Funds. However, it is possible that Account Owners will allocate their assets among the various Portfolios and among Investment Options available under the Program in such a way that the Trust, in the aggregate, would exceed the statutory limit for stocks.

If this occurs, the Program Administrators will direct that certain Portfolios that invest all or partly in stocks reduce their investment in stocks (and increase their investment in bonds or other securities) to the extent necessary for the Trust to comply in the aggregate with the limitation imposed by Article 4-A on stock investments. If this were to happen, appropriate notice (in Account statements and on nysaves.org) would be made to affected Account Owners.

Securities Laws

The staff of the SEC has advised the Comptroller and HESC that it will not recommend any enforcement action to the SEC if, among other things, the Program distributes the interests in the Trust and the Tuition Savings Agreements in reliance upon the exemption from registration provided in Section 3(a)(2) under the Securities Act of 1933, as amended, in reliance on an opinion of counsel to the staff of the SEC to that effect. In addition, the Comptroller and HESC have received a "no action" letter from the New York State Attorney General confirming that the Program may conduct the offering of the Trust interests and the Tuition Savings Agreements in New York without registration under New York State securities laws. The Trust interests and the Tuition Savings Agreements are not required to be registered under the securities or "blue sky" laws of any other state or other jurisdiction; therefore, under current law, interests in the Trust and Tuition Savings Agreements may be offered to individuals in all 50 states and the District of Columbia.

Continuing Disclosure and Financial Audits

Certain financial information and operating data relating to the Trust will be filed by or on behalf of the Trust in electronic form with the Electronic Municipal Market Access (EMMA) system. The Municipal Securities Rulemaking Board (MSRB), as the sole repository for the central filing of electronic municipal securities disclosure, maintains EMMA. Notices of certain enumerated events will be filed by or on behalf of the Trust with the MSRB.

The Program Manager is responsible for preparing annual financial statements for the Trust, which are audited by a nationally recognized firm of independent certified public accountants.

Conflicts With Applicable Law

This Disclosure Booklet is for informational purposes only. In the event of any conflicts between the description of the *Direct Plan* contained here and any requirement of federal or New York State law applicable to the matters addressed here, the legal requirement will prevail over this Disclosure Booklet. Applicable federal or New York State law will govern all matters pertaining to the *Direct Plan* that are not discussed in this Disclosure Booklet.

Information Subject to Change

Statements contained in this Disclosure Booklet that involve estimates, forecasts, or matters of opinion, whether or not so expressly described, are intended solely as such and are not to be construed as representations of fact.

Not an Offer to Sell

This Disclosure Booklet does not constitute an offer to sell or the solicitation of an offer to buy. There will not be any sale of a security described in this Disclosure Booklet by any person in any jurisdiction in which it is unlawful to make an offer, solicitation, or sale.

Custodian Arrangements

The Bank of New York Mellon Corporation is the Custodian of Account assets for the *Direct Plan*.

Section 9. Protections and Limitations

Creditor Protection Under U.S. and New York State Law

Bankruptcy legislation protects certain assets in federal bankruptcy proceedings that have been contributed to a 529 plan account. However, bankruptcy protection for 529 plan assets is limited and has certain conditions. To be protected, your Beneficiary must be a child, stepchild, grandchild, or stepgrandchild of the individual who files for bankruptcy protection. In addition, contributions made to all 529 plan accounts for the same Beneficiary are protected subject to the following limits:

- Contributions made less than 365 days before the bankruptcy filing are not protected.
- Contributions made between 365 and 720 days before the bankruptcy filing are protected up to \$6,825 (as adjusted for inflation).
- Contributions made more than 720 days before the bankruptcy filing are fully protected.

Under New York State law, an Account Owner's assets are exempt from money judgments as follows:

- Fully exempt if the judgment debtor is the Account Owner and the Beneficiary of the Account, and is a minor.
- Fully exempt if the Account is established in connection with a Qualified Scholarship.
- Otherwise, contributions up to \$10,000 are exempt if the judgment debtor is the Account Owner.

This information is not meant to constitute individual tax or bankruptcy advice. Please consult your own advisors concerning your individual circumstances.

No Assignments or Pledges

Neither you nor your Beneficiary can use your *Direct Plan* Account or a portion of the Account as collateral for a loan. The Account cannot be assigned, transferred, or pledged as security for a loan (including, but not limited to, a loan used to make contributions to the Account) either by you or your Beneficiary. However, you can transfer your Account because of the following:

- A change of Beneficiary.
- A transfer within the Program to an Account with the same Beneficiary or a new Beneficiary who is a Member of the Family of the original Beneficiary.
- A rollover to a 529 plan outside of the Program for an account with the same Beneficiary or a new beneficiary who is a Member of the Family of the original Beneficiary.
- A transfer of Account ownership to a new Account Owner.
- A transfer of Account ownership to a Successor Account Owner.

Any pledge of an interest in an Account will be of no force and effect.

Certain Rights of the Program Administrators

The Program Administrators reserve the right to:

- Refuse, change, discontinue, or temporarily suspend Account services, which includes accepting contributions and processing withdrawal requests for any reason including, but not limited to, a closure of the NYSE for any reason other than its usual weekend or holiday closings, any period when trading is restricted by the SEC, or any emergency circumstances.
- Delay sending out the proceeds of a withdrawal request for up to seven days.

Account Restrictions

In addition to rights expressly stated elsewhere in this Disclosure Booklet, we reserve the right to:

- Freeze an Account and/or suspend Account services when the Program has received reasonable notice of a dispute regarding the assets in an Account, including notice of a dispute in Account ownership, or when the Program reasonably believes a fraudulent transaction may occur or has occurred.
- Freeze an Account and/or suspend Account services upon the notification to the Program of the death of an Account Owner until the Program receives required documentation in good order and reasonably believes that it is lawful to transfer Account ownership to the Successor Account Owner.
- Freeze or redeem an Account, without the Account Owner's permission, in cases of threatening conduct or suspicious, fraudulent, or illegal activity.
- Reject a contribution for any reason, including contributions that the Program Manager or the Program Administrators believe are not in the best interest of the *Direct Plan*, a Portfolio, or an Account Owner.

The risk of market loss, tax implications, penalties, and any other expenses as a result of such an Account freeze or redemption will be solely the Account Owner's responsibility.

Section 10. Glossary

The following terms are used throughout this Disclosure Booklet.

ABLE Rollover Distribution: A distribution to an account in a Qualified ABLE Program for the same Beneficiary or a Member of the Family of the Beneficiary. Any distribution must be made before January 1, 2026, not exceed the annual contribution limit in Section 529A(b)(2)(B)(i) of the Code, and be contributed to the Qualified ABLE Program within 60 days after receiving the distribution.

Account: An Account in the *Direct Plan* established by an Account Owner for a Beneficiary.

Account Owner or You: An individual 18 years or older, an emancipated minor (as determined by New York State law), a trust, an estate, a partnership, an association, a company, a corporation, or a qualified custodian under the Uniform Gifts to Minors Act/Uniform Transfers to Minors Act (UGMA/UTMA), who signs an Enrollment Application establishing an Account. In certain cases, the Account Owner and Beneficiary may be the same person.

Advisor-Guided Plan: New York's 529 Advisor-Guided College Savings Program. The Advisor-Guided Plan is sold exclusively through financial professionals and offers investment options that are not available under the *Direct Plan*. The fees and expenses of the Advisor-Guided Plan are higher and include financial professional compensation. Please see ny529advisor.com for more information.

Age-Based Option: An Investment Option in which the asset allocation is based on your Beneficiary's age and becomes more conservative as your Beneficiary gets closer to college age.

Apprenticeship Program Expenses: The cost of fees, books, supplies, or equipment required for a Beneficiary to participate in an apprenticeship program that is registered and certified with the Secretary of Labor under Section 1 of the National Apprenticeship Act.

Ascensus: This term refers collectively or individually, as the case requires, to Ascensus Broker Dealer Services, LLC, Ascensus College Savings Recordkeeping Services, LLC, Ascensus Investment Advisors, LLC, and their affiliates.

Beneficiary: The individual designated by an Account Owner to receive the benefit of an Account.

Code: Internal Revenue Code of 1986, as amended, and the regulations issued thereunder.

Comptroller: The Office of the State Comptroller of New York State.

Custodian: An individual who opens an Account on behalf of a minor Beneficiary with assets from an UGMA/UTMA account.

Direct Plan or Plan: New York's 529 College Savings Program *Direct Plan*.

Direct Rollover: The direct transfer of money from a 529 plan outside of the Program to the Program.

Disabled or Disability: Condition of a Beneficiary who is unable to perform any substantial gainful activity because of any medically determinable physical or mental impairment that can be expected to result in death or to be of long-continued and indefinite duration. Medical documentation will be required to verify this condition. See IRS Publication 970, available at irs.gov/publications/p970.

DTF: The New York State Department of Taxation and Finance.

Electronic Bank Transfer (EBT): A service in which an Account Owner authorizes the *Direct Plan* to transfer money from a bank or other financial institution to an Account.

Eligible Educational Institution: An institution as defined in Section 529(e) of the Code. Generally, the term includes accredited postsecondary educational institutions or vocational schools in the United States and some accredited postsecondary educational institutions or vocational schools abroad that offer credit toward a bachelor's degree, an associate's degree, a graduate-level or professional degree, or another recognized postsecondary credential. The institution must be eligible to participate in a student financial aid program under Title IV of the Higher Education Act of 1965 (20 U.S.C. §1088). You can generally determine whether a school is an Eligible Educational Institution by searching for its Federal School Code (identification number for schools eligible for Title IV financial aid programs) at fafsa.ed.gov. An Eligible Educational Institution does not include an elementary or a secondary school.

Enrollment Application: A participation agreement between an Account Owner and the Trust, establishing the obligations of each and prepared in accordance with the provisions of the *Direct Plan*. An Enrollment Application may be completed online or in paper form.

Federal Nonqualified Withdrawals: A withdrawal from an Account that is not one of the following:

- A Federal Qualified Withdrawal.
- A withdrawal paid to a beneficiary of your Beneficiary (or the estate of your Beneficiary) on or after the death of your Beneficiary.
- A withdrawal by reason of the Disability of your Beneficiary.
- A withdrawal by reason of the receipt of a Qualified Scholarship by your Beneficiary (to the extent the amount withdrawn does not exceed the amount of the scholarship).
- A withdrawal by reason of your Beneficiary's attendance at certain specified military academies.
- A withdrawal resulting from the use of education credits as allowed under federal income tax law.
- A Rollover Distribution to another Qualified Tuition Program that is not sponsored by the State of New York in accordance with the Code, with appropriate documentation.

Federal Penalty: A federal tax required by the Code that is equal to 10% of the earnings portion of a Federal Nonqualified Withdrawal.

Federal Qualified Withdrawal: A withdrawal from an Account that is used to pay Qualified Higher Education Expenses, K-12 Tuition Expenses (up to \$10,000 annually), or Apprenticeship Program Expenses or to make a Qualified Loan Repayment.

HESC: The New York State Higher Education Services Corporation.

Indirect Rollover: The transfer of money from an account in a 529 plan outside of the Program to the Account Owner, who then contributes the money to an Account in the Program. To avoid federal income tax consequences, money received in an Indirect Rollover must be contributed to your Account within 60 days of the withdrawal and satisfy certain other requirements discussed in this Disclosure Booklet.

Individual Portfolio: Investment Options that are Multi-Fund or Single-Fund Portfolios that do not change as your Beneficiary ages.

Investment Exchange: A reallocation of assets in your Account from one Investment Option to another. You can change your Investment Options twice per calendar year.

Investment Manager: The Vanguard Group, Inc.

Investment Option: The Age-Based Options and Individual Portfolios available for investment in the *Direct Plan*.

IRS: The Internal Revenue Service.

K-12 Tuition Expense: Expenses in connection with enrollment at an elementary or a secondary (K-12) public, private, or religious school. For federal tax purposes, a distribution to pay K-12 Tuition Expenses up to \$10,000 annually is considered a Federal Qualified Withdrawal and is, therefore, free from federal taxes and penalties. For New York State law purposes, a distribution to pay K-12 Tuition Expenses is a New York Nonqualified Withdrawal and requires recapture of any New York State tax benefits that accrued on the contributions.

Management Agreement: An agreement among the Comptroller, HESC, Ascensus Broker Dealer Services, LLC, Vanguard, and certain other entities to provide the *Direct Plan* with administrative, Account servicing, marketing and promotion, and investment management services. The Management Agreement is now effective and will terminate in 2023, or earlier, as provided by its terms.

Maximum Account Balance: The maximum aggregate balance of all Accounts for the same Beneficiary in Qualified Tuition Programs sponsored by the State of New York, as established by the Program Administrators from time to time, which will limit the amount of contributions that may be made to Accounts for any one Beneficiary, as required by Section 529 of the Code. The current Maximum Account Balance is \$520,000.

Member of the Family: An individual as defined in Section 529(e)(2) of the Code. Generally, this definition includes a Beneficiary's:

- Son, daughter, stepson or stepdaughter, or a descendant of any of them.
- Brother, sister, stepbrother, or stepsister.
- Father or mother, or an ancestor of either.
- Stepfather or stepmother.
- Son or daughter of a brother or sister.
- Brother or sister of the father or mother.
- Son-in-law, daughter-in-law, father-in-law, mother-in-law, brother-in-law, or sister-in-law.
- Spouse or the spouse of any individual described above.
- First cousin.

For purposes of determining who is a Member of the Family, a legally adopted child or a foster child of an individual is treated as the child of that individual by blood. The terms "brother" and "sister" include half-brothers and half-sisters.

New York Nonqualified Withdrawals: A withdrawal from an Account that is not one of the following:

- A New York Qualified Withdrawal.
- A withdrawal because of the death or Disability of your Beneficiary.
- A withdrawal because of the receipt of a Qualified Scholarship or attendance at a military academy by your Beneficiary (to the extent the amount withdrawn does not exceed the amount of the scholarship).
- A transfer of assets to the credit of another Beneficiary within the Program, as long as the other Beneficiary is a Member of the Family of the prior Beneficiary.

If you are a New York State taxpayer, a Federal Qualified Withdrawal where the proceeds are used to pay K-12 Tuition Expenses or Apprenticeship Program Expenses or to make a Qualified Loan Repayment is considered a New York Nonqualified Withdrawal, and the withdrawal will require the recapture of any New York State tax benefits that have accrued on contributions.

New York Qualified Withdrawal: A withdrawal from an Account that is used to pay the Qualified Higher Education Expenses of a Beneficiary.

NYSE: The New York Stock Exchange.

Plan Officials: The State of New York, the Program, the Program Administrators, the Trust, any agency or instrumentality of the federal government or the State of New York, any fund established by the State of New York or through operation of New York State law for the benefit of holders of insurance contracts or policies generally, Ascensus (including their respective affiliates and agents), Vanguard (including their respective affiliates and agents), any successor Program Manager or Investment Manager, and any other counsel, advisor, or consultant retained by, or on behalf of, those entities and any employee, officer, official, or agent of those entities.

Portfolio: An investment vehicle that invests in one or more mutual funds or accounts managed by Vanguard. There are two types of Portfolios: Multi-Fund Individual Portfolios and Single-Fund Individual Portfolios.

Portfolio Unit or Unit: An interest in a Portfolio.

Program: The New York State College Choice Tuition Savings Program. The Program includes the *Direct Plan* and the Advisor-Guided Plan. The Advisor-Guided Plan is described in a separate disclosure booklet.

Program Administrators: The Comptroller and HESC.

Program Management Services: The services provided to the Accounts, the Trust, and the *Direct Plan* by the Program Manager and its affiliates, Ascensus College Savings Recordkeeping Services, LLC, and Ascensus Investment Advisors, LLC, pursuant to the terms of the Management Agreement. These services include recordkeeping and other administrative services.

Program Manager: Ascensus Broker Dealer Services, LLC.

Qualified ABLE Program: A program designed to allow certain individuals with disabilities to save for qualified Disability expenses. Qualified ABLE Programs are sponsored by states or state agencies and are authorized by Section 529A of the Code.

Qualified Higher Education Expenses: Qualified Higher Education Expenses as defined in Section 529 of the Code, but only to the extent such expenses are incurred by a Beneficiary at an Eligible Educational Institution. Generally, these include the following:

- Tuition, fees, and the costs of textbooks, supplies, and equipment required for the enrollment or attendance of a Beneficiary at an Eligible Educational Institution.
- Expenses for the purchase of computer or certain peripheral equipment under the control of the computer (e.g., printers); internet access and related services; and certain computer software if the equipment, software, or services are to be used primarily by your Beneficiary during any of the years the Beneficiary is enrolled at an Eligible Educational Institution.
- Certain costs of room and board for any academic period during which the Beneficiary is enrolled at least half-time at an Eligible Educational Institution.
- Expenses for a special needs Beneficiary that are necessary in connection with the Beneficiary's enrollment or attendance at an Eligible Educational Institution.

Qualified Loan Repayment: An Account distribution or distributions used to repay a qualified education loan, as defined in Section 221(d) of the Code, of your Beneficiary or your Beneficiary's sibling that do not exceed the federal lifetime limit of \$10,000 per individual.

Qualified Rollovers: A transfer of funds from one 529 plan account to another 529 plan account that meets the requirements to avoid adverse federal tax consequences under Section 529 of the Code.

Qualified Scholarship: An educational scholarship allowance or payment given to a student to pay for Qualified Higher Education Expenses.

Qualified Tuition Program: A program designed to allow you to either prepay or contribute to an account established for paying a student's Qualified Higher Education Expenses, K-12 Tuition Expenses, Apprenticeship Program Expenses, or Qualified Loan Repayments. Qualified Tuition Programs, also known as 529 plans, are sponsored by states, state agencies, or educational institutions and are authorized by Section 529 of the Code.

Qualified U.S. Savings Bond: A Qualified U.S. Savings Bond is a series EE bond issued after 1989 or a series I bond. The bond must be issued either in your name (as the sole owner) or in the names of both you and your spouse (as co-owners). The owner must be at least 24 years old before the bond's issue date. The issue date is printed on the front of the savings bond.

Recurring Contribution: A service in which an Account Owner authorizes the *Direct Plan* to transfer money, on a regular and predetermined basis, from a bank or other financial institution to an Account.

Refunded Distribution: A withdrawal taken for Qualified Higher Education Expenses that is later refunded by the Eligible Educational Institution and recontributed to a Qualified Tuition Program that meets the following requirements:

- The retribution does not exceed the amount of the refund from the Eligible Educational Institution.
- The retribution does not exceed the amount of withdrawals previously taken to pay the Qualified Higher Education Expenses of the Beneficiary.
- The retribution is made to an account in a Qualified Tuition Program for the same Beneficiary to whom the refund was made.
- The funds are recontributed to a Qualified Tuition Program within 60 days of the date of the refund from the Eligible Educational Institution.

A Refunded Distribution will not be subject to federal income tax or the Federal Penalty. However, it could be subject to recapture of New York State tax deductions.

Rollover Distribution: A withdrawal that is paid to a 529 plan account outside of the Program for the benefit of the same Beneficiary or for the benefit of a Member of the Family of your Beneficiary. Only one Rollover Distribution is allowed in a 12-month period for the same Beneficiary. A rollover to a 529 plan outside of the Program may result in adverse tax consequences.

Successor Account Owner: The person named in the Enrollment Application, or otherwise identified in writing, online, or over the phone to the *Direct Plan*, by the Account Owner to take control of the Account if the Account Owner dies. The Successor Account Owner may be your Beneficiary if your Beneficiary has reached the age of majority.

Total Annual Asset-Based Fee: The total fee you pay for investing in the *Direct Plan*. This fee consists of the Underlying Fund Fee and the Program Management Fee. The Total Annual Asset-Based Fee is deducted from the returns of each Portfolio.

- **Underlying Fund Fee:** This fee includes investment advisory fees, as well as administrative and other expenses, which are paid to Vanguard as applicable.
- **Program Management Fee:** The fee paid to the Program Manager and Investment Manager for administration and management of the *Direct Plan*. This fee is intended to provide all income to the Program Manager necessary to cover the expenses of administering and managing the *Direct Plan*.

Treasury Department: The United States Department of the Treasury.

Trust: The New York State College Choice Tuition Savings Program Trust Fund, as established by the New York State Legislature. When you invest in the *Direct Plan*, you are purchasing Portfolio Units issued by the Trust.

Trustee: The Comptroller of the State of New York is the trustee of the Trust and is the legal owner of all Trust investments.

Tuition Savings Agreement: The document that describes the terms under which you agree to participate in the *Direct Plan*.

Ugift: A program through which you may invite family and friends to contribute to your Account.

UGMA/UTMA: Uniform Gifts to Minors Act/Uniform Transfers to Minors Act.

Underlying Funds or Funds: The mutual funds or other investments that make up the Portfolios.

Upromise: A rewards account where you earn a percentage of what you spend on eligible everyday purchases.

Vanguard: The Vanguard Group, Inc., Vanguard Marketing Corporation, and their affiliates.

We, Our, or Us: The *Direct Plan*, the Program Administrators, and/or the State of New York, as applicable.

Section 11. The *Direct Plan*'s Privacy Policy

New York State Personal Privacy Protection Law Notice

Personal information is being requested from you by the employees, agents, or representatives of the following entities: the Comptroller, HESC, Ascensus, and Vanguard.

Personal information you submit will be maintained in the records of the *Direct Plan*. Ascensus and Vanguard are responsible for maintaining those records. They may be contacted by mail at P.O. Box 55440, Boston, MA 02205-8323 or by phone at **877-NYSAVES** (877-697-2837).

Personal information is collected from you under the authority of the New York State College Choice Tuition Savings Program Act (Article 14-A of the New York Education Law) and Section 529 of the Code. The personal information you submit will be used to maintain records of your contributions to the *Direct Plan* and the earnings on those contributions. It will also be used to process transactions you request. If you decline to submit the requested information, it may be impossible for you to be enrolled in the *Direct Plan* or for us to process transactions you request.

Section 12. New York's College Savings Program *Direct Plan*

Tuition Savings Agreement

I hereby agree with, and represent and warrant to, the Comptroller, as Trustee of the Trust, on behalf of myself and my Beneficiary, as follows. Each capitalized term used but not defined in this Tuition Savings Agreement (Agreement) has the meaning that term has in the Disclosure Booklet:

A. Representations and Warranties:

1. I have accepted, read, and understand the Disclosure Booklet, this Agreement, and the Enrollment Application as currently in effect. I have been given the opportunity to obtain answers to all of my questions concerning the Program, the Trust, the Account, and this Agreement. In making a decision to open an Account and enter into this Agreement, I have not relied upon any representations or other information, whether oral or written, other than as set forth in the Disclosure Booklet and this Agreement.
2. I certify that I am at least 18 years of age and a citizen or a resident of the United States of America. My Beneficiary also is a citizen or a resident of the United States of America.
3. I am opening this Account to provide funds for Qualified Higher Education Expenses, K-12 Tuition Expenses, Apprenticeship Program Expenses of the Beneficiary, or to make Qualified Loan Repayments (collectively, "Educational Expenses").
4. I understand that I am solely responsible for determining which Qualified Tuition Program is best suited to my needs and objectives. I understand that the *Direct Plan* and/or the Investment Options in the *Direct Plan* may not be suitable for all investors as a means of saving and investing for education costs. I have determined that an investment in the *Direct Plan* is a suitable investment for me as a means of saving for Educational Expenses.
5. I recognize that investment in the *Direct Plan* involves certain risks, including, but not limited to, those referred to in Section 4 and Section 5 of the Disclosure Booklet, and I understand these risks and have taken them into consideration in making my investment decisions. I understand and agree that there is no guarantee that any investment objectives described in the Disclosure Booklet will be realized and that neither the Plan Officials nor any other person makes any guarantee of, insures, or has any legal or moral obligation to insure either the ultimate payout of all or any portion of the amount contributed to my Account or an investment return at any particular level on my Account.
6. I understand that contributions to a Portfolio will be invested in one or more of the Underlying Funds. I will not own shares of or interests in the Underlying Funds. Instead, I will own interests in the Trust.
7. I understand that any attempt to use my Account as collateral for a loan would be void. I also understand that the Trust will not lend any assets to my Beneficiary or to me.
8. I understand that the Program Manager has the right to provide a financial professional identified by me to the *Direct Plan* with access to financial and other information regarding my Account.
9. The Plan Officials, individually and collectively, are not liable for: (i) a failure of the *Direct Plan* to qualify or to remain a Qualified Tuition Program under the Code including any subsequent loss of favorable tax treatment under state or federal law; (ii) any loss of funds contributed to my Account or for the denial to me or my Beneficiary of a perceived tax or other benefit under the *Direct Plan*, the Trust, or the Enrollment Application; or (iii) loss caused directly or indirectly by Extraordinary Events. I understand and agree that there is no guarantee of or commitment whatsoever from Plan Officials or any other person that: (i) the Beneficiary of my Account will be admitted to any institution or program (including any Eligible Educational Institution); (ii) upon admission to an institution or program, my Beneficiary will be permitted to continue to attend; (iii) my Beneficiary will graduate or receive a degree from any institution or complete a program of instruction; (iv) New York State residency will be created for tax status, financial aid eligibility, or any other purpose for my Beneficiary because the individual is a Beneficiary of an Account; or (v) contributions to my Account plus the earnings thereon will be sufficient to pay educational expenses. I acknowledge that the Beneficiary of my Account has no rights or legal interest with respect to the Account (unless the Account is an UGMA/UTMA account or I am both the Account Owner and Beneficiary). I understand and agree that neither I nor my Beneficiary will be permitted to have any role in the selection or retention of the Program Manager or Investment Manager or to direct the investment of my Account other than through my selection of Investment Options and that, once invested in a particular Investment Option, contributions and earnings thereon may only be transferred to another Investment Option twice per calendar year or otherwise when I select a new Beneficiary of my Account.
10. I understand and agree that Ascensus Broker Dealer Services, LLC, may not necessarily continue as Program Manager, and Vanguard may not necessarily continue as Investment Manager, for the entire period that my Account is open, and even if they do, that there is no assurance that the terms and conditions of the current Management Agreement will continue without material change and that there are, accordingly, various potential consequences I should take into consideration as discussed in the Disclosure Booklet under *Section 4. Risks—Potential Changes to the Program, Program Manager, and Investment Manager*.
11. The following sentence is applicable for individuals executing this Agreement in a representative or fiduciary capacity: I have full power and authority to enter into and perform this Agreement on behalf of the individual named as Account Owner. If I am establishing an Account as a

custodian for a minor under UGMA/UTMA, I understand and agree that I assume responsibility for any adverse consequences resulting from establishing this Account.

12. I understand and acknowledge that I have not been advised by the Plan Officials or any other person to invest, or to refrain from investing, in a particular Investment Option.

13. I acknowledge that I have an affirmative duty to promptly review any and all trade confirmations and Account statements for accuracy and completeness and to promptly notify the *Direct Plan* of any items I believe to be in error. If I do not notify the *Direct Plan* within ten business days of the mailing of the trade confirmation or Account statement at issue, I will be considered to have approved the information therein and to have released the Plan Officials from all responsibility for matters covered by the confirmation or Account statement. Moreover, any liability that is due to such an error resulting from participation in the *Direct Plan* for which the Plan Officials are determined to be responsible shall be limited to an amount equal to gains due to market movement that would have resulted from the transaction during the ten-day time period in which I should have acted.

14. I understand and agree that the Plan Officials shall not be liable for any loss, failure, or delay in performance of each of their obligations related to my Account or any diminution in the value of my Account arising out of or caused, directly or indirectly, by a Force Majeure event.

B. Penalties and Fees: I understand and agree that if I make a Federal Nonqualified Withdrawal, I may be subject to the Federal Penalty on the earnings portion of that withdrawal and that the Federal Penalty will be payable in addition to, and along with, my federal income tax for the year of the Federal Nonqualified Withdrawal. I understand and agree that if I make a New York Nonqualified Withdrawal, I may be subject to the recapture of any New York State tax benefits that had accrued on contributions to my Account. In addition, I understand and agree that I may be subject to other fees, charges, or penalties in the future, as described in the Disclosure Booklet.

I understand that a full or partial rollover of my Account to a non-New York Qualified Tuition Program or a full or partial rollover of my Account to a Qualified ABLE Program that does not meet the requirements of an ABLE Rollover Distribution would be subject to New York State taxes on earnings as well as the recapture of all previous New York State tax deductions taken for contributions to the Account.

C. Necessity of Qualification: I understand that the *Direct Plan* is intended to be a Qualified Tuition Program under Section 529 of the Code and to achieve favorable New York State tax treatment under New York State law. I acknowledge that I am not relying on Plan Officials as my tax consultant or financial planner.

D. Effectiveness of This Agreement: This Agreement shall become effective upon the opening of my Account on the records of the Program.

E. Contributions and Account Balance: I understand and agree that I will not make contributions to my Account in excess of the amount that I believe may be necessary to

pay Educational Expenses and that I may not make a contribution to my Account if the aggregate balance, including the proposed contribution, of all Accounts for the same Beneficiary would exceed the Maximum Account Balance to be determined periodically by the Program Administrators in conformance with federal requirements. I also understand and agree that any portion of an attempted contribution to my Account that, along with existing balances of all Accounts for my Beneficiary, would exceed the then-current Maximum Account Balance will be returned to me or rejected.

F. Applicability of Rules and Regulations of the Comptroller and Finality of Decisions and Interpretations:

I understand and agree that my Account and this Agreement are subject to those rules and regulations as the Comptroller may promulgate in accordance with New York State law. I also understand and agree that all decisions and interpretations by Plan Officials in connection with the operation of the *Direct Plan* shall be final and binding on each Account Owner, Beneficiary, and any other person affected by those decisions and interpretations.

G. Indemnity: I understand that the establishment of my Account will be based on my agreements, representations, and warranties set forth in this Agreement. I agree to indemnify and hold harmless Plan Officials from and against any and all loss, damage, liability, or expense, including reasonable attorneys' fees, that any of them may incur by reason of, or in connection with, any misstatement or misrepresentation made by me in this Agreement or otherwise with respect to my Account and any breach by me of any of the agreements, representations, or warranties contained in this Agreement. This provision will survive termination of the Agreement.

H. Binding Nature; Third-Party Beneficiaries: The Disclosure Booklet and Tuition Savings Agreement are binding upon me, my heirs, successors, beneficiaries, and permitted assigns. By completing my Enrollment Application, I agree that all of my representations and obligations are for the benefit of the Plan Officials, all of whom can rely upon and enforce my representations and obligations contained in the Disclosure Booklet and my Enrollment Application. Each of the Plan Officials is a third-party beneficiary of, and can rely upon and enforce, any of my agreements, representations, and warranties in this Agreement.

I. Amendment and Termination: The Program Administrators may amend this Agreement or the Disclosure Booklet, and the *Direct Plan* may be suspended or terminated, at any time. But unless it is permitted by law, my Account will continue to benefit my Beneficiary or the Beneficiary selected by my Successor Account Owner.

J. Governing Law: This Agreement is governed by New York State law. I and the Comptroller, as Trustee of the Trust, submit to exclusive jurisdiction of courts in New York State for all legal proceedings arising out of or relating to this Agreement.

K. Survival: I understand and agree that my statements, representations, warranties, and covenants will survive the termination of my Account.



Vanguard

ascensus™ | college savings

New York's 529 College Savings Program *Direct Plan*

P.O. Box 55440

Boston, MA 02205-8323

Email: ny529@nysaves.org

Phone: **877-NYSAVES** (877-697-2837)

Website: nysaves.org

The Comptroller of the State of New York and the New York State Higher Education Services Corporation are the Program Administrators and are responsible for implementing and administering the *Direct Plan*.

Ascensus Broker Dealer Services, LLC, serves as Program Manager and, in connection with its affiliates, provides recordkeeping and administrative support services and is responsible for day-to-day operations of the *Direct Plan*. The Vanguard Group, Inc., serves as the Investment Manager. Vanguard Marketing Corporation provides marketing and distribution services to the *Direct Plan*.

No guarantee: None of the State of New York, its agencies, the Federal Deposit Insurance Corporation (FDIC), The Vanguard Group, Inc., Ascensus Broker Dealer Services, LLC, nor any of their applicable affiliates insures accounts or guarantees the principal deposited therein or any investment returns on any account of investment portfolio.

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Upromise is a registered service mark of Upromise, Inc.

IESBA convergence: Fees

Task force members

Alan Long (chair), Melanie Barthel, Anika Heard, Randy Milligan, Kathy Savage, Peggy Ullmann

Observers

Sonia Araujo, Jan Neal

AICPA staff

Sarah Brack, Ellen Gorla

Task force charge

To develop a principles-based framework for members to determine when the level of fees and fee dependency impair independence.

Reason for agenda item

To seek input on updated nonauthoritative guidance related to the new fees standards.

Task force activities

PEEC approved the fees standards in August 2023. Over the course of the project, the task force requested the committee's and the public's input on proposed nonauthoritative guidance. As communicated at the November 2023 PEEC meeting, the task force decided to present the nonauthoritative guidance in the *Plain English Guide to Independence* (PEG) rather than new questions and answers. The new guidance will revise and expand the existing fees guidance in chapter 10 of the PEG to support members and other users as they implement and apply the fees standards.

Action needed

The task force requests the committee's feedback on the draft nonauthoritative guidance.

Materials presented

Agenda item 2B: Chapter 10 of the *Plain English Guide to Independence*: Fee issues

Chapter 10 of the *Plain English Guide to Independence: Fee issues*

For context, the entire chapter is presented in this agenda item.

New and revised content related to the IESBA convergence project begins on page 63 with the question “When I’m determining an attest engagement fee, does my consideration of other services performed for an attest client affect my independence?”

What types of fee arrangements between my firm and an attest client are prohibited?

Even when not related to an attest service, two types of fee arrangements are prohibited if the arrangement involves attest clients: contingent fees and commissions.

Contingent fees

A contingent fee is charged only if a specified result is attained or if the amount of the fee depends on the results of your firm’s services, for example:

Here are a couple of examples of contingent fees:

- A finder’s fee for helping a client locate a buyer for one of your client’s assets
- A fee based on a percentage of your client’s cost reduction as a result of your service when you are performing a consulting engagement to decrease a client’s operating costs

There are some exceptions to the prohibition:

- Fees fixed by a court or other public authority
- In tax matters, fees based on the results of judicial proceedings or the findings of governmental agencies

Commissions

A commission is any compensation you or your firm are paid for recommending or referring a third party’s product or service to a client or for recommending or referring a client’s product or service to a third party

Here are some examples:

- If you or your firm refers a client to a financial planning firm that pays you a commission for the referral

- If you or your *firm* sells accounting software to a *client* and receives a percentage of the sales price (a commission) from a software company
- If you or your *firm* refers a nonclient to an insurance company *client* that pays you a percentage of any premiums subsequently received (a commission) from the nonclient

Commissions or contingent fee arrangements with a client are not allowed if your firm also provides one of the following services to the client:

- An audit of [financial statements](#)
- A review of financial statements
- A compilation of financial statements if a third party (for example, a bank or an investor) will rely on the financial statements, and the report does not disclose a lack of independence
- An examination of prospective financial statements

You may have commission and contingent fee arrangements with persons associated with a *client* (such as officers, directors, and principal shareholders) or with a benefit plan that is sponsored by a *client* (that is, the plan itself is not an *attest client*).

For example, you may receive a commission from a nonclient insurer if you refer an officer of an *attest client* to the insurer and the officer purchases a policy. Even though this situation is permitted, you are still required to tell the officer in writing that you received a commission for making the referral.

Note: [State boards of accountancy and state societies](#) may have more restrictive regulations regarding fee arrangements, as well as specific disclosure requirements.

PCAOB Rule 3521, *Contingent Fees*,²¹ prohibits you and your firm from providing any service or product to an SEC audit client for a contingent fee or commission or receiving from the audit client, directly or indirectly, a contingent fee or commission. Although the PCAOB's definition of *contingent fees* was adapted from the SEC's definition, the PCAOB rule eliminates the exception for fees in tax matters if the fees are determined based on the results of judicial proceedings or the findings of governmental agencies. In addition, the PCAOB rule specifically indicates that the contingent fees cannot be received directly or indirectly from an issuer that is an audit client.

When are referral fees permitted?

[Paragraph .04](#) of the "Commissions and Referral Fees Rule" (ET sec. 1.520.001) provides an exception for referral fees for recommending or referring a CPA's services to another person or entity. That is, you may receive a fee for referring a CPA's services to any person or entity; or, if you are a CPA, you may pay a fee to obtain a *client*. You must inform the *client* in writing if you receive or pay a referral fee.

The SEC does not have any specific guidance on referral fees, so the general standard and four guiding principles are applicable.

Does value pricing impair my independence?

Value pricing is not prohibited by the code and will not impair your independence. Value pricing is a fixed fee determined and agreed to by the *client* based on the value or complexity of the service being provided to your client.

When determining the fees, you may want to consider the complexity and scope of the service, whether your *firm* can provide the service for the fee being proposed, how the fee proposal will be received by the client, and how you will explain the value of the service compared to the fee to the client.

Is independence affected when an attest client owes the firm fees for professional services the firm has already provided?

Threats to independence can result when a *client* does not pay professional service fees timely. It does not matter whether the fees are related to attest services. What matters is that the *attest client* owes the *firm* fees for an extended period of time. This is the case even if the attest client has given you a note receivable for these fees.

The AICPA revised its "Unpaid Fees" interpretation (ET sec. 1.270.010) in 2022 to direct

²¹ PCAOB rules can be found in *PCAOB Standards and Related Rules*.

practitioners to assess the effects on *independence* using a *threats* and *safeguards* approach.

If unpaid fees are significant and relate to services provided more than one year before the report issuance date, a *member* needs to assess whether safeguards can reduce threats to independence to an *acceptable level*. If unpaid fees are clearly insignificant and relate to services provided less than one year before the report issuance date, these fees would generally not present significant threats to independence. The revised interpretation provides additional guidance, including examples of factors to consider and safeguards that may be applied.

Additional questions and answers on the topic of unpaid fees are available in [Q&A section 125, Fees](#).

The SEC staff document *Office of the Chief Accountant: Application of the Commission's Rules on Auditor Independence — Frequently Asked Questions*, updated in June 2019, includes 11 questions related to nonaudit services provisions of the rule.

FAQ No. 2 under section A addresses the question of whether unpaid prior professional fees affect auditor independence. The SEC generally expects payment of past-due fees before an engagement has begun, although a short-term payment plan may be accepted if the SEC audit client has committed to pay the balance in full before the current year report is issued.

Does being compensated for selling certain services to clients affect my independence?

The AICPA guidance does not specifically address this issue.

The SEC prohibits audit partners from being directly compensated for selling nonattest services to issuers that are audit clients. According to the SEC, such financial incentives could threaten an audit partner's objectivity and the appearance of independence could be affected by such compensation arrangements.²²

The rule does not prevent an audit partner from sharing in profits of the audit practice or overall firm. It also does not preclude the firm from evaluating a partner based on factors related to the sale of nonaudit services to issuers (for example, the complexity of engagements or overall management of audit or nonaudit engagements).

²² Accounting firms with 10 or fewer partners and 5 or fewer audit clients that are issuers, as defined by the SEC, are exempt from this rule.

When I'm determining an attest engagement fee, does my consideration of other services performed for an attest client affect my independence?

Determining fees to charge an *attest client*, whether for attest or other services, is a business decision that should take into account the facts and circumstances – including the requirements of technical and professional standards – relevant to a specific engagement. However, when you are determining an *attest engagement* fee, it is not appropriate to consider other attest or nonattest services being provided to the attest client.

The “Determining Fees for an Attest Engagement” interpretation (ET sec. 1.230.030) does allow the *covered member* responsible for determining the attest engagement fee to consider the cost savings that come from the provision of other services to an attest client. The following are some examples of situations where cost savings might be achieved:

- You perform an audit of a company. In performing that audit, you obtain an understanding of the company's internal controls over the payroll process and test certain aspects of employee compensation. If your firm also performs an audit of the company's 401(k) plan, those procedures may not have to be performed again.
- Your firm has prepared the tax returns for an LLC for the past five years. This year, the LLC needs you to perform a review engagement for the first time. Your firm has substantial knowledge of the client's operations, industry, and transactions due to the tax work. This may reduce the amount of time needed to gain an understanding of the entity and may facilitate analytical procedures.
- You perform a compliance audit for a non-profit organization. During this audit, you perform internal control testing related to compliance requirement F for Super Grant. The grantor of Super Grant requires a separate agreed-upon procedures (AUP) report related to transactions relevant to compliance requirement F. Certain tests of controls you performed during the compliance audit are relevant to the AUP.

Does it matter if a large proportion of my firm's fees come from a particular attest client?

It does matter and it may affect your independence. According to the “Fee Dependency” interpretation (ET sec. 1.230.040), the level of the already present self-interest *threat* is heightened, and an undue influence threat is created. This is due to concerns around the potential loss of fees from attest and other services if you lose that client.

In addition, the “[Integrity and Objectivity Rule](#)” (ET sec. 1.100.001) and the “[Objectivity and Independence](#)” principle (ET sec. 0.300.050) discuss in broad terms that you should be alert for relationships that could diminish your objectivity and independence in performing attest services. This is one of those relationships.

You and your firm might consider implementing policies and procedures to help identify and monitor fees from attest clients including the following:

- a. Consider threats related to fees in the planning stage of the engagement.
- b. Base the consideration of threats related to fees on firm-specific criteria or factors that are applied on a facts-and-circumstances basis. (See the following section, “Factors to consider: Identifying what constitutes a large proportion of the firm’s total fees”).
- c. Periodically monitor the relationship. Defining “periodic” is a matter of judgment, but assessments that are performed at least annually can be effective. During such a review, you may discover that a prior determination no longer applies. This could be, for instance, because fees for a particular attest client no longer constitute a large proportion of your firm’s fees. Or attest client fees not previously identified as a large proportion could become so when, for example, additional services are contemplated.

Factors to consider: Identifying what constitutes a large proportion of the firm’s total fees

Unlike other standard-setters, the AICPA code doesn’t specify a level at which fees from an attest client constitute a large proportion. The “Fee Dependency” interpretation (ET sec. 1.230.040) opts instead for a principles-based assessment.

Each situation and attest client is unique, so it is important to use professional judgment to determine which qualitative and quantitative factors are relevant. What one firm or partner might consider a large proportion of fees may be different for another firm or partner based on the size of the firm, the composition of the practice, and risk tolerance.

If an attest client is not considered to represent a large proportion of fees, there would not be an impact on the level of the self-interest threat, no undue interest threat would be created, and no additional consideration of threats related to fees may be necessary.

The following are examples of factors that can be used to determine what constitutes a large proportion of fees:

- a. The size of the attest client, in terms of the percentage of fees or the dollar amount of fees versus total revenue of the firm, engagement partner, office, or practice unit of the firm.
- b. The significance of the attest client to the firm, engagement partner, office, or practice unit of the firm in light of the following:
 - i. The amount of time the firm, partner, office, or practice unit devotes to the attest client
 - ii. The effect on the partner’s stature within the firm due to the partner’s relationships with the attest client

- iii. The manner in which the partner, office, or practice unit is compensated
 - iv. The effect that losing the attest client would have on the firm, partner, office, or practice unit
- c. The importance of the attest client to the firm's growth strategies (for example, the firm is trying to enter a particular industry)
 - d. The stature of the attest client, which may enhance the firm's eminence in the marketplace
 - e. Whether the firm also provides services to related parties (for example, also provides professional services to affiliates or owners of the attest client)
 - f. Whether the engagement is recurring

Factors to consider: Level of threats when fees from one attest client represent a large portion of total fees

Your firm's total fees

If you've determined that an *attest client's* fees represent a large proportion of the total fees of the *firm*, the level of the self-interest and undue influence threats are elevated, and you must now evaluate whether the threats are at an acceptable level.

Evaluating threats

The following are examples of considerations that may affect the level of the threats:

- a. The operating structure of the firm
 - i. If it's a larger firm, attest and nonattest services may be separated to a good extent within the corporate structure. This tends to minimize the level of threats.
 - ii. If it's a smaller firm, it is likely less departmentalized than larger firms. Processes will be less formal and involve fewer people. As well, the firms' managing partners may engage in frequent and direct communications with the firms' partners and professional staff on attest client matters and be personally involved in staff assignments. This tends to heighten the level of threats.
- b. Whether the firm is expected to diversify such in a way that reduces dependence on the attest client

- c. The length of time during which the fees represent a large proportion of the total fees of the firm
- d. Whether the level of the fee is set by an independent third party, such as a regulatory body
- e. The qualitative and quantitative significance of the attest client to the firm (refer to “Factors to consider: identifying what constitutes a large proportion of the firm’s total fees”)

Mitigating threats

If you’ve determined that self-interest or undue influence threats (or both) are not at an acceptable level here are examples of actions you can take that might help eliminate the threats or reduce them to acceptable level:

- a. Have an appropriate reviewer who is not a member of the *firm* review the attest work performed (this reviewer can be from a network firm)
- b. Reduce the extent of nonattest services provided to the attest client
- c. Increase the client base of the firm to reduce dependence on the attest client
- d. Increase the extent of services provided to other clients
- e. Ensure that the compensation of the *partner* is not significantly influenced by the fees generated from the *attest client*

Total fees of one partner or one office of my firm

Though the interpretation does not require that the fee dependency be determined at the individual partner, office, or practice unit, a covered member, particularly at a smaller firm (and, depending on their particular facts and circumstances, larger firms), may find it helpful to think about threats related to fees that may exist for an individual partner, office, or practice unit.

Evaluating threats

The following are examples of considerations that may affect the level of the threats for an individual partner, office, or practice unit:

- a. The qualitative and quantitative significance of the attest client to the partner or office (refer to “Factors to consider: identifying what constitutes a large proportion of the firm’s total fees”).
- b. The extent to which the compensation of the partner, or the partners in the office, is dependent upon the fees generated from the attest client.

Mitigating threats

If you've determined that self-interest or undue influence threats (or both) are not at an acceptable level for an individual partner, office, or practice unit here are examples of actions you can take that might help eliminate the threats or reduce them to acceptable level:

- a. Have an appropriate reviewer who was not involved in the *attest engagement* review the attest work.
- b. Ensure that the compensation of the *partner* is not significantly influenced by the fees generated from the *attest client*.
- c. Reduce the extent of non-attest services provided by the *partner* or *office* to the *attest client*.
- d. Increase the client base of the *partner* or the *office* to reduce dependence on the *attest client*.
- e. Increase the extent of services provided by the *partner* or the *office* to other clients.

Factors to consider: Providing services to affiliates of a financial statement attest client

When you know or have reason to believe that a relationship or circumstance involving an *affiliate* of a *financial statement attest client* described under items (b)-(l) of the definition of affiliate is relevant to the evaluation of fee dependency, you need to consider that affiliate when identifying, evaluating, and addressing potential *threats* related to fee dependency.

For example, is the affiliate a sister entity? The further the affiliate is from the financial statement attest client in the financial statement attest client's group structure (for example a sister entity compared with a downstream material investee over which the financial statement attest client has significant influence), generally the less influence the financial statement attest client will have on the contracting for services by the affiliate, and the lower the level of the self-interest and undue influence *threats* in relation to the financial statement attest engagement.

Is it a problem if a large proportion of my or my firm's fees from an attest client are for nonattest services?

Undue influence and self-interest *threats* may exist when a large proportion of fees charged by the *firm* to an *attest client* is generated by providing nonattest services to the attest client. This is due to concerns about the potential loss of either the *attest engagement* or other services and the perception that the firm will focus on the nonattest relationship.

Evaluating threats

Because each situation is unique, it is important to use professional judgment to determine when the undue influence and self-interest threats exist and when these threats are not at an acceptable level. The following are examples of factors that are relevant in evaluating whether

threats exist and their significance:

- a. The ratio of fees for nonattest services to the *attest engagement* fee
- b. The length of time during which a large proportion of fees for nonattest services to the *attest engagement* fee has existed
- c. The nature, scope and purposes of the nonattest services, including:
 - i. Whether they are recurring services
 - ii. Whether law or regulation mandates the services to be performed by the *firm*

Mitigating threats

If you conclude that *threats* are not at an *acceptable level*, the following are examples of actions that might help eliminate or reduce the level of *threats* to an acceptable level:

- a. Have an appropriate reviewer who has not provided *attest* or nonattest services to the attest client review the work performed on the attest engagement
- b. Reduce the extent of nonattest services provided to the attest client.

How can I evaluate other threats to independence related to fees?

The self-interest and undue influence *threats* come into play in various scenarios related to fees. Each situation is unique, so it's important to use professional judgment to determine the level of the *threats* and how to reduce them to an acceptable level, if necessary. The significance of an *attest client* to a member (or the member's firm) — measured in terms of fees, status, or other factors — may diminish a member's ability to be objective and maintain *independence* when performing attest services. [Paragraphs .16 and .18](#) of the "Conceptual Framework for Independence" interpretation (ET sec. 1.210.010) include specific threats related to fees and you should use the framework to evaluate specific situations that may arise in your practice.

IESBA convergence: Public interest entities

Task force members

Lisa Snyder (chair), Cathy Allen, Greg Collins, Nancy Miller, Andrew Prather, Katherine Savage

Observers

Alina Kalachnyuk, Brandon Mercer

AICPA staff

Jennifer Clayton, Ellen Gorla

AICPA monitoring staff

Jason Brodmerkel, Mary Foelster, Ahava Goldman, Sue Hicks, Kim Kushmerick, Melinda Nolen, Brian Wilson

Task force charge

To determine convergence needs related to the International Ethics Standards Board for Accountants (IESBA) [Revisions to the Definitions of Listed Entity and Public Interest Entity in the Code](#).

The revised definitions and related standard are effective for audits of financial statements for periods beginning on or after December 15, 2024, and early adoption is permitted. IESBA also issued a related [basis for conclusion document](#) and [Q&As](#).

Reason for agenda item

To request committee feedback on the draft basis for conclusions document.

Materials presented

Agenda item 3B: Background and Basis for Conclusions: New definition of *publicly traded entity* and revised definition of *public interest entity*

Background and Basis for Conclusions: New definition of *publicly traded entity* and revised definition of *public interest entity*

Terms defined in the AICPA Code of Professional Conduct are italicized in this document. If you'd like to see the definitions, you can find them in "Definitions" ([ET sec. 0.400](#))

In December 2023, the AICPA Professional Ethics Committee (PEEC) released the following changes to the AICPA Code of Professional Conduct:

- A new definition of *publicly traded entity* (ET sec. 0.400.45)
- A revised definition of *public interest entity* (ET sec. 0.400.43)

In March 2024, PEEC released this publication to summarize considerations the committee deemed significant in the development of the definitions.

It includes reasons for accepting certain recommendations for change and rejecting others. The goal is to assist users in understanding the rationale for various elements of the defined terms. Several federal statutes and regulations that were in existence as of the date of this publication are referenced. These laws and regulations are identified only to provide context for decisions PEEC made regarding the development of the defined terms. This publication is not intended as a legal interpretation of those statutes and regulations and will not be updated if those laws and regulations change. If, however, changes occur that affect the guidance, PEEC may determine to address them through revisions of the defined terms or through other guidance.

Background

1. The project was part of PEEC's ongoing efforts to consider standards and guidance issued by the International Ethics Standards Board for Accountants (IESBA) and determine the potential effects on the AICPA Code of Professional Conduct (AICPA code).
2. PEEC appointed a task force with relevant expertise to review changes to IESBA's Code of Ethics (IESBA code) related to public interest entities. A member of the AICPA Auditing Standards Board (ASB) was also appointed as the ASB had a corresponding project affected by PEEC's work on this topic.
3. To ensure an accurate and complete understanding of the various entity types for possible inclusion in the definitions, the task force held discussions with representatives from the AICPA Employee Benefit Plan Audit Quality Center, AICPA Governmental Audit Quality Center, AICPA Insurance Expert Panel, AICPA NAIC Task Force, AICPA Investment Companies Expert Panel, and AICPA Depository Institutions Expert Panel. The task force

conducted supplemental research as necessary related to certain entities that register with the SEC and SEC independence rules that apply to those entities.

4. Upon completing its evaluation of the IESBA standard and the overall effects of adoption in the United States, PEEC issued for public comment an exposure draft with a proposed new definition of *publicly traded entity* and revised definition of *public interest entity* with a 90-day comment period.
5. PEEC received 14 comment letters on its proposal, and at its November 8–9, 2023 open meeting, the committee discussed the comments and further deliberated the relevant issues. As a result, PEEC modified the definitions.

[New definition of *publicly traded entity* and revised definition of *public interest entity* and basis for conclusions](#)

6. PEEC adopted a new definition of *publicly traded entity*, which was effective December 15, 2023.
7. PEEC also adopted a revised definition of *public interest entity*, which is effective for periods beginning on or after December 15, 2024, with early implementation allowed. For an entity that, under the revised definition, is no longer considered a public interest entity, the revised definition is effective December 15, 2023. This is discussed further in paragraphs 81–84.

Overview of IESBA activity related to public interest entities

8. In April 2022, IESBA revised its [definitions of *listed entity* and *public interest entity*](#) and provided its [basis for conclusion](#). The IESBA code includes separate and, in many cases, more restrictive independence provisions for public interest entities (PIEs). For example, the IESBA code prohibits members from providing non-assurance – or nonattest – services¹ to a PIE audit or review client if such services might create a self-review threat. In contrast, the AICPA code does not contain separate independence provisions for PIEs.
9. IESBA’s new PIE definition contains three mandatory categories of PIEs:
 - a. A publicly traded entity
 - b. An entity one of whose main functions is to take deposits from the public
 - c. An entity one of whose main functions is to provide insurance to the public

IESBA’s revised PIE definition also contains a general category described as an entity specified as such by law, regulation, or professional standards to meet the purpose in

¹ “Non-assurance services” is IESBA’s term for what the AICPA calls “nonattest services.”

paragraph 400.10 of the IESBA code.²

10. IESBA's application guidance explains that the categories are broadly defined, and no recognition is given to any size or other factors that could be relevant in a specific jurisdiction. It also acknowledges that those bodies responsible for setting ethics standards are expected to define these categories more explicitly to align with their jurisdictions. This includes referencing local law or regulation or setting size criteria for certain types of entities. The application guidance also
 - a. indicates that bodies responsible for setting ethics standards may need to add categories but are not expected to remove any.
 - b. encourages firms to consider whether to treat additional entities as PIEs.
11. The application guidance provides ethics standard-setting bodies with a list of factors to consider when determining whether an entity should be considered a PIE because there is significant public interest in the entity's financial condition.

These are the factors IESBA has provided for ethics standard-setting bodies to consider:

- a. Nature of the business or activities, such as taking on financial obligations to the public as part of the entity's primary business
- b. Whether the entity is subject to regulatory supervision designed to provide confidence that the entity will meet its financial obligations
- c. Size of the entity
- d. Importance of the entity to the sector in which it operates, including how easily replaceable it is in the event of financial failure
- e. Number and nature of stakeholders, including investors, customers, creditors and employees
- f. Potential systemic impact on other sectors and the economy as a whole in the event

² Paragraph 400.10 states, "Stakeholders have heightened expectations regarding the independence of a firm performing an audit engagement for a public interest entity because of the significance of the public interest in the financial condition of the entity. The purpose of the requirements and application material for public interest entities as described in paragraph 400.8 is to meet these expectations, thereby enhancing stakeholders' confidence in the entity's financial statements that can be used when assessing the entity's financial condition."

of financial failure of the entity

AICPA activity as a member body of IFAC

12. The AICPA, as a member body of the International Federation of Accountants (IFAC), endeavors to converge with the IESBA code when appropriate, to assist its members with providing services and conducting business in a global economy. Without AICPA refinements to the IESBA definitions, some firms in the United States would have to apply the IESBA definitions and therefore consider all publicly traded entities, all entities whose main function is to take deposits from the public, and all entities whose main function is to provide insurance to the public as PIEs (see further discussion on the Forum of Firms in paragraph 17). PEEC considered IESBA's PIE definition and guidance and adapted for U.S. practitioners. The following sections outline the committee's considerations.

Current regulation in the United States

13. The three mandatory categories covered by the new IESBA PIE definition are already heavily regulated in the United States by the SEC, PCAOB, FDIC, and the National Association of Insurance Commissioners (NAIC). These regulators have established appropriate independence requirements for the entities they oversee.
14. PEEC believes IESBA's PIE requirements generally align with the robust independence standards of these U.S. regulators that are applicable when a member is performing a financial statement audit engagement for a client subject to the applicable regulator's oversight. PEEC does not believe these independence standards should be applied to a client for other attest engagements that are not subject to the applicable regulator's oversight.
15. As such, the revised definition of *public interest entity* includes IESBA's mandatory categories but defers to the relevant U.S. regulators for purposes of the specific independence requirements. Adding a separate set of independence standards for PIEs would introduce significant complexity to the AICPA code, which could in turn lead to inconsistencies between the AICPA code and the rules of a particular regulator.
16. Commenters who responded to the exposure draft supported the decision to defer to the relevant U.S. regulators for purposes of the specific independence requirements applicable to each PIE category.
17. Firms that voluntarily join the [IFAC Forum of Firms](#) may have certain commitments to comply with the Forum of Firms Constitution. As a condition of their membership, those firms may need to consider the IESBA PIE requirements applicable to financial statement audit and review clients who are PIEs. When the IESBA PIE requirements are more restrictive than those of the relevant U.S. regulator referred to in the categories of the revised PIE definition, such firms may need to consider application of the IESBA PIE requirements. A

member who does not belong to a firm that is part of the Forum of Firms will continue to comply only with the AICPA code and rules of the relevant regulators, where applicable.

Mandatory category a.: Publicly traded entity (SEC and PCAOB)

18. The first mandatory PIE category is “publicly traded entity” (PTE). IESBA adopted the following definition of *publicly traded entity*:

An entity that issues financial instruments that are transferrable and traded through a publicly accessible market mechanism, including through listing on a stock exchange.

A listed entity as defined by relevant securities law or regulation is an example of a publicly traded entity.

19. The new IESBA definition includes not only entities whose shares, stock, or debt are traded on formal exchanges but also those entities trading on second-tier markets or over-the-counter (OTC) trading platforms.

20. PEEC determined that it would be helpful to incorporate a similar definition of *publicly traded entity* in the AICPA code and that the IESBA definition of *publicly traded entity* is appropriate to use for the AICPA PTE definition. However, IESBA’s use of “listed entity” as an example is eliminated in the AICPA PTE definition because “issuer” is the common U.S. term for this type of entity.³

21. The comment process identified potential issues with entities that have filed a registration statement with the SEC that has not become effective. PEEC believes an entity which has filed a registration statement with the SEC that has not become effective would not be considered an entity that is publicly traded, since these entities are not yet allowed to trade publicly. Therefore, PEEC added specific language to the AICPA PTE definition to make it clear that when an entity is required to file a registration statement with the SEC, the entity is deemed to be publicly traded when the entity’s registration statement is effective.

22. The SEC oversees publicly traded entities, and the SEC independence rules apply to auditors of issuers and certain nonissuers. Those rules that apply to issuer audits are in many respects considered to be substantially similar to IESBA independence requirements

³ From the Sarbanes-Oxley Act of 2002: “The term ‘issuer’ means an issuer (as defined in Section 3 of the Securities Exchange Act of 1934), the securities of which are registered under Section 12 of that Act, or that is required to file reports under Section 15(d) of that Act, or that files or has filed a registration statement that has not yet become effective under the Securities Act of 1933, and that it has not withdrawn.”

for PIEs. This conclusion is supported by IESBA’s [benchmarking report](#).

23. Accordingly, the PIE definition refines this category to extend only to those entities whose auditors are subject to the provisions of Regulation S-X, SEC Rule 2-01, “Qualifications of Accountants” that are applicable to auditors of issuers (issuer independence rules).

SEC independence rules that apply to both issuer and nonissuer audits	Additional SEC independence rules that apply to issuer audits only ⁴
<ul style="list-style-type: none"> • General standard of auditor independence (Rule 2-01(b)) • Financial relationships (Rule 2-01(c)(1)) • Employment relationships (Rule 2-01(c)(2)(i)–(iii)(A) and (c)(2)(iv)) • Business relationships (Rule 2-01(c)(3)) • Nonaudit services (Rule 2-01(c)(4)) • Contingent fees and commissions (Rule 2-01(c)(5)) 	<ul style="list-style-type: none"> • Employment cooling off for former members of the audit engagement team (Rule 2-01(c)(2)(iii)(B)–(C)) • Partner rotation (Rule 2-01(c)(6)) • Audit committee administration of the engagement (that is, audit committee preapproval) (Rule 2-01(c)(7)) • Audit partner compensation (Rule 2-01(c)(8))

24. The AICPA’s new definition of *publicly traded entity* includes financial instruments of certain nonissuers, such as governmental entities that issue bonds, as well as certain entities listed on OTC trading platforms.

25. However, the refined scope of the AICPA’s definition of *public interest entity* clarifies that inclusion of such financial instruments in the definition depends on whether auditors of these entities are subject to SEC issuer independence rules.

26. Issuers, publicly available mutual funds, and entities listed on OTC trading platforms are considered PIEs if their auditors are subject to SEC issuer independence rules. Entities are not considered PIEs if their auditors are not subject to issuer independence rules.

27. The comment process revealed that the proposed refinement appeared to scope a broader population of entities into the PIE definition (that is, any PTE whose auditor is subject to SEC Rule 2-01) rather than issuers only. To address this, PEEC added language to specify

⁴ The PCAOB also has certain independence rules that apply only to issuer audit clients (for example, PCAOB Rules 3523, 3524, and 3525).

that only those publicly traded entities whose auditor is subject to **provisions** of Regulation S-X, SEC Rule 2-01, “Qualifications of Accountants” **that are applicable to auditors of issuers** (emphasis added) would be PIEs.

28. This aligns with IESBA’s goal for the refinement to include not only entities having shares, stock, or debt traded on formal exchanges but also entities that trade in second-tier markets or on OTC trading platforms.

Mandatory category *b.*: Deposits from the public (FDIC)

29. PEEC refined this category to include financial institutions that

- a. meet the annual audit requirement imposed by Part 363 of FDIC regulations and
- b. have total assets of \$1 billion or more as of the beginning of the fiscal year.

30. Part 363 is applicable when a financial institution has more than \$500 million in assets and requires that the auditor be subject to SEC issuer independence rules.

31. However, the FDIC has recognized a heightened risk for financial institutions with total assets of more than \$1 billion. When that threshold is reached, several requirements of Part 363 are triggered. The following table outlines these requirements.

	Part 363 section	Requirement
Audit committee	Section 363.5	Establishment of an independent audit committee of its board of directors, the members of which shall be outside directors who are independent of management of the institution.
Management’s report	Section 363.2(b)	Management prepares a report including their assessment of the effectiveness of their internal control structure and procedures.
Internal control over financial reporting	Section 363.3(b)	The independent public accountant shall examine, attest to, and report separately on the assertion of management concerning the effectiveness of the institution’s internal control structure and procedures for financial reporting.

32. Financial institutions with greater than \$500 million in total assets represent approximately 98 percent of the total assets held by financial institutions as of December 31, 2022. Financial institutions with greater than \$1 billion in total assets represent approximately 96 percent of the total assets held by financial institutions as of December 31, 2022.
33. The comment process revealed that the FDIC's heightened restrictions do not include more restrictive independence requirements and therefore the threshold should be placed at total assets of \$500 million or more to align with the FDIC Part 363 regulations. PEEC concluded that the FDIC has recognized a heightened risk for financial institutions with total assets of more than \$1 billion, which triggers several requirements of Part 363, and that this higher threshold was appropriate for purposes of defining a PIE.
34. This refinement places significant importance on the size of the entity, which is a factor IESBA recommended considering during the refinement process.
35. Credit unions are not captured by this refinement, as they are not publicly traded entities subject to SEC issuer independence rules. However, they are regulated by the National Credit Union Administration (NCUA), which protects the interest of credit union members. In addition, the regulator (NCUA) has determined that auditors of credit unions should follow the AICPA independence standards.
36. Accordingly, PEEC's decision to exclude credit unions places significant importance on the supervision of a regulator, which is another factor IESBA recommended considering during the refinement process. In addition, there is nothing in the standards that prohibit the member from treating a credit union as a PIE if the member determines such treatment would be appropriate.
37. During the comment process, it was generally agreed that credit unions should not be added to the definition of PIE.

Mandatory category c.: Insurance to the public (NAIC)

38. PEEC refined this category to include only insurers that

- c. are subject to the NAIC Annual Financial Reporting Model Regulation (the [Model Audit Rule, or MAR](#)) adopted by the respective state insurance department and
- d. meet or exceed \$500 million in direct and assumed premiums.

39. Insurers that are in publicly traded groups and nonpublic insurers with greater than \$500 million in annual direct and assumed premiums represent approximately 45 percent of all insurers and 95 percent of total gross premiums as of December 31, 2021. With this threshold, categories a and c of the revised AICPA PIE definition will include approximately

45 percent of all insurers.

40. Section 7 of the MAR has independence requirements for auditors of insurers subject to that rule. These independence requirements are comparable to those of the SEC issuer independence rules, as they contain provisions related to the following:

- Partner rotation
- Prohibited nonaudit services
- Cooling-off period for employment
- Audit committee pre-approval
- Good standing with the standards of the profession

41. The NAIC has recognized a heightened risk for insurers with direct and assumed premiums over \$500 million. Reaching that threshold triggers several MAR requirements related to the insurer. These requirements are as follows:

	MAR section	Requirement
Audit committee	Section 14h	A supermajority (75% or more) of the members of the audit committee shall be independent. ⁵
Internal audit function requirements	Section 15 ⁶	Establish an internal audit function that is organizationally independent and reports to the audit committee regularly.
Management's report on internal control	Section 17	Management must prepare and file a report with the insurance

⁵ In order to be considered independent, a member of the audit committee may not, other than in his or her capacity as a member of the audit committee, the board of directors, or any other board committee, accept any consulting, advisory or other compensatory fee from the entity or be an affiliated person of the entity or any subsidiary thereof.

⁶ Individual insurers are subject to this requirement if they have annual direct written and assumed premiums of \$500 million or greater. In addition, when the insurer is a member of a group of insurers, the group will be subject to this requirement if the group has annual direct written and assumed premiums of \$1 billion or greater.

over financial reporting		commissioner on the insurer's internal control over financial reporting.
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42. The exposure draft noted other identified insurance entities that do not have uniform application of MAR-specific requirements and included the following:
- a. **Health maintenance organizations, managed care organizations, health care entities** – these entities are not always licensed and regulated by state departments of insurance; some may be regulated by other state agencies such as a department of health.
 - b. **Warranty companies** – these entities are not always licensed and regulated insurance companies. If the state considers them a licensed and regulated insurance company, they may subject them to the MAR.
 - c. **Captives and risk retention groups** – these entities might be subject to the MAR but typically don't provide insurance to the public. In general, these entities are not organized to provide insurance to the public but instead to cover the risk of the sponsoring company, unless specifically provided for in state regulations.
43. There is not consistent treatment of these entities in the United States. As noted above, some of these entities typically do not provide insurance to the public. Also, varying regulations by state may or may not subject these entities to the MAR.
44. The comment process revealed that the exposure draft was unclear about whether the entities listed in paragraph 42 that do not have uniform application of the MAR were specifically excluded from the PIE definition. PEEC discussed these entities at length and determined it is appropriate to defer to the relevant regulators to determine the requirements for their respective entities.
45. PEEC concluded that if an entity is offering insurance to the public, is subject to the MAR, and has \$500 million or more in annual direct written and assumed premiums, the entity should be considered a PIE. For those entities listed in paragraph 42 where the regulator determined that the entity should not be subject to the MAR, or the entity is not providing insurance to the public, the entity would not be considered a PIE. PEEC believes that auditors should know whether their client is subject to the MAR, which would initiate the member's evaluation of an entity as a PIE.
46. A member who does not belong to a firm that is part of the Forum of Firms will continue to comply only with the AICPA code and rules of the relevant regulator, where applicable. With this approach, no additional requirements are created in this category or the other categories.

Additional recommended categories

47. IESBA's application guidance indicates that an ethics standard-setting body is expected to consider adding additional categories of entities to its PIE definition, and identifies the following possible categories:

- a. Pension funds
- b. Collective investment vehicles
- c. Private entities with large numbers of stakeholders (other than investors)
- d. Not-for-profit organizations or governmental entities
- e. Public utilities

48. Additional categories that PEEC considered for possible inclusion in the PIE definition are described in the following sections.

New category d.: Investment companies

49. PEEC added a new category to capture investment companies (including mutual funds) that are registered with the SEC pursuant to the Investment Company Act of 1940 (1940 Act) and the Securities Act of 1933, except those that are insurance company products.

50. Initially, PEEC refined the category to include investment companies and funds registered with the SEC pursuant to the Investment Company Act of 1940. However, further research clarified that not all funds registered with the SEC pursuant to the 1940 Act are publicly available. Certain funds are limited and not solicited to the general public.

51. PEEC therefore determined that this PIE category should only capture those investment companies that are publicly available. The category was therefore refined to include entities also subject to the Securities Act of 1933 as well as the Investment Company Act of 1940, so that the category would include those that are registered with the SEC and publicly available.

52. Insurance company products (that is, products that use separate accounts, such as variable annuities, variable life products, indexed linked annuities, buffered linked annuities) were already factored into PEEC's consideration of category c. Therefore, insurance company products are excluded from this new category.

Other categories considered

Pension funds

53. Because of the significant variation in legal structure, governance, participant interest versus

broad public interest, and robust regulatory oversight, PEEC concluded that pension funds (including 11-K filers) should not be included in the definition of PIEs.

Rationale

54. PEEC considered various types of employee benefit plans in the United States; these include plans subject to Title 1 of the Employee Retirement Income Security Act of 1974 (ERISA), governmental employee benefit plans, church plans, and other plans established and maintained solely for the purpose of complying with applicable workers' compensation, unemployment compensation, or disability insurance laws.
55. The population of employee benefit plan types is broad and includes significant variation in legal structure, governance, regulatory oversight, and type of arrangements covered (that is, limited to certain pension arrangements as opposed to other post-employment benefits such as health insurance). In considering this category, PEEC noted that interest in the financial condition of the plan is generally limited to its participants as opposed to the broader public interest, which is a factor IESBA recommends considering when determining whether additional categories should be included as PIEs.
56. Plans subject to Title 1 of ERISA are required to file a Form 5500 with the DOL along with other documents to be filed with the IRS and Pension Benefit Guaranty Corporation. ERISA established participation, vesting, and minimum funding standards along with trust requirements.
57. Plans with more than 100 eligible participants are required to have a financial statement audit performed by an independent qualified public accountant. The DOL, which regulates these plans, recently updated its independence rules. In some respects, the DOL independence rules are more restrictive than those of the AICPA and the SEC (rules pertaining to the scope of financial relationships, for example); but in other respects, the DOL rules are less restrictive than the SEC's issuer independence rules.
58. The DOL's regulatory supervision is designed to provide confidence that the entity will meet its financial obligations.
59. Governmental employee benefit plans and public pension plans are primarily regulated under state statutes, local ordinances, and state constitutions. Laws can vary widely from one jurisdiction to another. Although public pension plans have no guarantor of plan benefits, states generally have constitutional or statutory provisions that dictate how pension plans are to be funded, protected, managed, or governed.
60. PEEC separately considered whether to specifically include, as an additional category under the PIE definition, employee benefit plans that the SEC requires to file a Form 11-K. These plans have a company stock fund component, where participants can invest in the sponsor

company's publicly traded stock and auditors must comply with the SEC issuer independence rules. These plans are subject to Title 1 of ERISA and are regulated by the DOL.

61. As with other employee benefit plans, significant interest in the financial condition of benefit plans filing Form 11-K is limited to plan participants as opposed to the broader public. In addition, PEEC believes consideration of the public interest is focused on the financial condition of the plan *sponsor* rather than on the plan itself, and the plan sponsor is already captured under category *a* of the AICPA's PIE definition.

Nonissuer broker-dealers and certain funds

62. After deliberation, PEEC concluded it is not appropriate to treat entities in this category as PIEs and subject their auditors to more restrictive independence requirements.

Rationale

63. The PIE definition excludes certain entities whose auditors are subject only to the nonissuer requirements of SEC independence rules (see the chart in paragraph 23 above), such as the following:

- a. Nonissuer broker-dealers registered with the SEC
- b. Private funds advised by an SEC-registered investment adviser who chooses to rely on the audit of the fund to meet the exemption under SEC Rule 206(4)-2, *Custody of funds or securities of clients by investment advisers*, under the Investment Advisers Act of 1940 (the custody rule)

64. Because these types of private funds and nonissuer broker-dealers are subject to SEC independence rules, and because nonissuer broker-dealers are themselves subject to certain PCAOB independence rules, PEEC considered whether to include them as additional categories under the PIE definition.

65. The SEC has required neither auditors of nonissuer broker-dealers nor those of the private funds described in paragraph 63 to be subject to the SEC issuer independence requirements under Rule 2-01.⁷ The public's interests are protected by the existing independence standards required for auditors of these entities.

Not-for-profit and governmental entities

⁷ In August 2003, the SEC issued a [Q&A](#) that clarified "for brokers and dealers or investment advisors that are not issuers as defined in the Act, the auditors would not be subject to the rotation requirements, or the compensation requirements of the Commission's independence rules."

66. PEEC considered and concluded that because enhanced independence requirements already govern these entities as needed, it is not appropriate to treat not-for-profit and governmental entities as PIEs.

Rationale

67. In 2018, the U.S. Government Accountability Office (GAO) strengthened the independence standards that apply to auditors of entities subject to *Government Auditing Standards* (also known as the Yellow Book). During its revision project, the GAO did not adopt the more restrictive SEC issuer independence rules.

68. The GAO's revised independence standards are, in some respects, more restrictive than those of the AICPA (for example, the GAO considers accounting records preparation and financial statement preparation services to be significant threats to independence).

69. Not-for-profit entities and governments that expend \$750,000 or more in federal assistance require an audit subject to the Yellow Book. Some states require compliance with the Yellow Book regardless of how much federal assistance is received. In any case, requirements are not consistent from one state to another.

Firm provision

70. IESBA's application guidance also encourages firms to consider whether to treat additional entities as PIEs.

71. These are the additional factors IESBA provides for firms to consider in their evaluation:

- a. Whether the entity is likely to become a PIE in the near future
- b. Whether, in similar circumstances, a predecessor firm has applied independence requirements for PIEs to the entity
- c. Whether in similar circumstances, the firm has applied independence requirements for PIEs to other entities
- d. Whether the entity has been specified as not being a PIE by law, regulation, or professional standards
- e. Whether the entity or other stakeholders required the firm to apply independence requirements for PIEs to the entity and, if so, whether there are any reasons for not meeting this request
- f. The entity's corporate governance arrangements, for example, whether those charged with governance are distinct from the owners or management

72. The revised PIE definition removed language that encourages the firm’s consideration of factors in the preceding list. PEEC believes this deletion is appropriate because typically the request to apply enhanced independence requirements is driven by the financial statement audit client, rather than the firm. Although these requests are not common occurrences in the United States, they do arise, when, for example, the entity is expecting to file an initial public offering.
73. In such cases, the member may apply the SEC issuer independence requirements and treat the client as a PIE as described under category *a* of the definition, but an entity would not be considered publicly traded until its registration statement is effective. The definition of *publicly traded entity* includes this language, which should assist in addressing an entity planning to go public. PEEC believes the AICPA code, with or without this language, allows a member to apply enhanced independence requirements and to treat the client as a PIE, where appropriate.

Transparency requirement

74. IESBA’s standard includes a transparency requirement under which the firm shall publicly disclose that the firm has applied the independence requirements for PIEs in performing an audit or review of the financial statements of an entity.
75. Because the standard does not state where the disclosure should be made, the International Auditing and Assurance Standards Board established that the disclosure should be made in the auditor’s report.
76. Based on the regulatory requirements applicable to each of the entities captured by the PIE definition, PEEC did not incorporate this transparency requirement into the AICPA code. This transparency requirement is achieved through the regulations requiring disclosure of the applicable independence standards in the auditor’s report (or, in the case of the NAIC, through a letter attached to the auditor’s report).

Scope

77. After the issuance of its standard, IESBA clarified that its definitions do cover audit and review engagements for PIEs.
78. PEEC is not aware of any U.S. regulator identified in the definition that requires a review engagement of an entity that would be considered a PIE when an audit is also not already performed for that entity. To avoid confusion and unintended consequences, the AICPA PIE definition only addresses financial statement audit engagements.
79. PEEC’s scope of the PIE definition is more akin to an “engagement approach” rather than the “entity approach” IESBA adopted, whereby if an entity is a PIE for audit purposes, the firm must apply the same independence requirements for any assurance engagements it

performs. If a regulator requires a review engagement, the member will need to comply with “Governmental Bodies, Commissions, or Other Regulatory Agencies” interpretation [1.400.050] of the “Acts Discreditable Rule” [1.400.001], which requires that the member comply with the requirements of such bodies, commissions and agencies.

Effective date

80. IESBA’s effective date is for periods beginning on or after December 15, 2024, with early implementation allowed. PEEC initially intended to align the AICPA interpretation with that of IESBA.

81. The comment process revealed that some PIEs under the current definition in the AICPA code will no longer be considered PIEs under the revised definition. Insurance separate accounts, employee benefit plans that file a Form 11-K, and banks that have more than \$500 million in total net assets but less than \$1 billion were identified as entities that would no longer be captured under the revised PIE definition. Auditors of such entities (for example, those in the Forum of Firms) may have needed to comply with certain new IESBA fee and non-assurance service provisions⁸ that were more restrictive than the SEC issuer independence rules. The IESBA provisions would apply until December 15, 2024, when the revised AICPA PIE definition goes into effect and such entities would be excluded from the revised PIE definition at that time. For example, under these new IESBA provisions, there are additional fees and non-audit services communication and disclosure requirements for PIEs. Implementing such provisions for only a short period of time and then ceasing to do so might create confusion for the public and stakeholders.

82. Although early adoption of the revised definition is permitted, it may not be feasible for a firm to early adopt all categories of the revised definition because sufficient time will be needed to implement the requirements for entities not previously considered PIEs (for example, non-publicly traded insurance companies that will become PIEs under the revised definition). For instance, a firm would have to early adopt the revised definition in order to exclude those specific entities that would no longer be considered PIEs and then adopt at the effective date (December 15, 2024) for any new entities considered to be PIEs under the revised definition. A “piecemeal” adoption is not appropriate.

83. For these reasons, a phased approach was considered reasonable to avoid confusion in the marketplace and with stakeholders.

a. The new definition of *publicly traded entity* was effective December 15, 2023.

b. The revised definition of *public interest entity* is effective for periods beginning on or after December 15, 2024, with early implementation allowed. For an entity that,

⁸ [Revisions to the Non-Assurances Services Provisions](#) and [Revisions to the Fee-Related Provisions](#)

under the revised definition is no longer considered a public interest entity, the revised definition was effective December 15, 2023.

IESBA convergence: NAS – Tax services

Task force members

Jimmy Williams (chair), Vince DiBlanda, John Ford, Dan Vuckovich

Observers

Lisa Darnell, Lori West

AICPA staff

Liese Faircloth, Ellen Gorla, Henry Grzes, John Wiley

Task force charge

To consider the [Final Pronouncement Non-Assurance Services](#) provisions of the IESBA code related to tax services and to monitor the Statements on Standards for Tax Services (SSTs) and IESBA Tax Planning and Related Services project to determine what guidance may be necessary.

Reason for agenda item

To seek input on adding guidance to the code regarding a member's evaluation of independence for certain tax advisory and tax planning services that do not meet a specified threshold of likelihood of success if challenged by the applicable taxing authorities.

The task force believes that the tax services that should be subject to this threshold are the provision of services or recommending a transaction to an attest client if the service or transaction relates to marketing, planning, or opining in favor of a tax treatment that was initially recommended, directly or indirectly, by the firm or network firm, and a significant purpose of the tax treatment or transaction is tax avoidance.

Background

IESBA's Tax Services Subsection 604 provides guidance in the following areas:

- a. Tax services in general
- b. Tax return preparation
- c. Tax calculations for the purpose of preparing accounting entries
- d. Tax advisory services and tax planning services
- e. Tax services involving valuations
- f. Assistance in the resolution of tax disputes

During the November PEEC meeting the committee agreed with the task force that the code

already adequately addressed topics (b), (c), (e) and (f). The committee also agreed that additional guidance may be helpful in topics (a) and (d).

Task force activities

The current Tax Services interpretation (ET sec. 1.295.160) addresses considerations for members in maintaining independence regarding the preparation and transmittal of tax returns, authorized representation in administrative proceedings, power of attorney, and representation in court. The interpretation, however, does not address tax advisory and planning services. Tax advisory and tax planning services comprise a broad range of services, such as advising the attest client how to structure its affairs in a tax efficient manner or advising on the application of a tax law or regulation.

General tax services

The task force discussed tax advisory and tax planning services and concluded that there two general types of such services that a member may provide to its attest clients. The first is general tax consultations in matters that would normally not result in a self-review threat, and the second is services regarding tax avoidance.

The first type are general services that normally would not impact independence because the services

- a. are supported by a tax authority or other precedent;
- b. are based on an established practice (being a practice that has been commonly used and has not been challenged by the relevant tax authority); or
- c. have a basis in tax law that the firm is confident is likely to prevail.

The task force concluded that routine consultations with attest clients on matters that meet the above criteria and do not typically have a large degree of subjectivity will not create self-review or advocacy threats to independence.

Tax avoidance services

There is a second type of tax advisory and tax planning services and these services are more specific to advising a client on matters of tax avoidance or minimization.

IESBA addresses these types of tax services in subsection 604 of the revised code. R604.4 provides a new general tax services prohibition on a firm or a network firm providing a tax service or recommending a transaction to an audit client if the service or transaction relates to marketing, planning, or opining in favor of a tax treatment that was initially recommended, directly or indirectly, by the firm or network firm, and a significant purpose of the tax treatment or transaction is tax avoidance, unless the firm is confident that the proposed treatment has a basis in applicable tax law or regulation that is likely to prevail.

Confidence threshold and independence

IESBA's "[Basis for Conclusions](#)" document states that respondents generally supported the proposed revisions to the tax services section of the code. However, many respondents commented on the use of the term "likely to prevail," noting that in their view it was subjective and unclear. Those respondents suggested, among other things, replacing the term with "more likely than not" (MLTN) because of its use in accounting literature (FASB ASC 740) and in the analogous PCAOB Rule 3522.

IESBA noted that the Public Interest Oversight Board (PIOB) expressed the view that the term "more likely than not" is perceived as being too low a threshold. Therefore, IESBA decided to retain the "likely to prevail" terminology throughout the revised tax services subsection, but also introduced the words "is confident" to clarify IESBA's expectations without using terms of art which may be well understood in some jurisdictions but unclear in others.

IESBA also stated that it envisages that a firm may choose to document, in situations that are not apparent, the factors considered in determining its confidence that the proposed treatment has a basis in applicable tax law and regulation that is likely to prevail.

IESBA's new general standard requirement for all tax advisory and tax planning services for audit clients reads as follows:

R604.4 A firm or a network firm shall not provide a tax service or recommend a transaction to an audit client if the service or transaction relates to marketing, planning, or opining in favor of a tax treatment that was initially recommended, directly or indirectly, by the firm or network firm, and a significant purpose of the tax treatment or transaction is tax avoidance, unless the firm is confident that the proposed treatment has a basis in applicable tax law or regulation that is likely to prevail.

604.4 A1 Unless the tax treatment has a basis in applicable tax law or regulation that the firm is confident is likely to prevail, providing the non-assurance service described in paragraph R604.4 creates self-interest, self-review and advocacy threats that cannot be eliminated and safeguards are not capable of being applied to reduce such threats to an acceptable level.

Some task force members noted that they see the IESBA guidance calling for a two-test approach in analyzing the proposed tax treatment. The first is the firm's confidence, and the second is that the treatment is likely to prevail. IESBA defined neither term and therefore both tests rely on the firm's professional judgments based on facts and circumstances.

Some task force members also noted that the threshold "the firm is confident that the proposed treatment has a basis in applicable tax law or regulation that is likely to prevail" could, in certain situations, be interpreted as less restrictive than the MLTN threshold. Many of the task force

members noted that if the likely to prevail language is adopted, the code should be revised to provide members with definitional guidance for the term.

The task force discussed confidence thresholds used in United States for auditing of public companies, accounting for uncertain tax positions, and IRS preparer penalties.

PCAOB standard

Rule 3522 Tax Transactions in the PCAOB standards states that a registered public accounting firm is not independent of its audit client if the firm, or any affiliate of the firm, during the audit and professional engagement period, provides any nonaudit service to the audit client related to marketing, planning, or opining in favor of the tax treatment of

- a. confidential transactions or
- b. aggressive tax position transactions that were initially recommended, directly or indirectly, by the registered public accounting firm and a significant purpose of which is tax avoidance, unless the proposed tax treatment is at least more likely than not to be allowable under applicable tax laws.

FASB ASC 740 – Income taxes

As part of accounting for income taxes, FASB ASC 740 requires entities to identify their uncertain tax positions, and determine when, if ever, the tax return benefit (or expected tax return benefit) should be recognized for financial reporting purposes. The following guidance should be applied when assessing the recognition of benefits from an uncertain tax position.

FASB ASC 740-10-25-6

An entity shall initially recognize the financial statement effects of a tax position when it is more likely than not, based on the technical merits, that the position will be sustained upon examination. The term *more likely than not* means a likelihood of more than 50 percent; the terms *examined* and *upon examination* also include resolution of the related appeals or litigation processes, if any. For example, if an entity determines that it is certain that the entire cost of an acquired asset is fully deductible, the more-likely-than-not recognition threshold has been met. The more-likely-than-not recognition threshold is a positive assertion that an entity believes it is entitled to the economic benefits associated with a tax position. The determination of whether or not a tax position has met the more-likely-than-not recognition threshold shall consider the facts, circumstances, and information available at the reporting date. The level of evidence that is necessary and appropriate to support an entity's assessment of the technical merits of a tax position is a matter of judgment that depends on all available information.

FASB ASC 740-10-25-7

In making the required assessment of the more-likely-than-not criterion:

- a. It shall be presumed that the tax position will be examined by the relevant taxing authority that has full knowledge of all relevant information.
- b. Technical merits of a tax position derive from sources of authorities in the tax law (legislation and statutes, legislative intent, regulations, rulings, and case law) and their applicability to the facts and circumstances of the tax position. When the past administrative practices and precedents of the taxing authority in its dealings with the entity or similar entities are widely understood, for example, by preparers, tax practitioners and auditors, those practices and precedents shall be taken into account.
- c. Each tax position shall be evaluated without consideration of the possibility of offset or aggregation with other positions.

IRS understatement of taxpayer's liability by tax return preparer

IRC Section 6694 imposes penalties on tax return preparers for conduct giving rise to certain understatements of liability on a return (including an amended or adjusted return) or claim for refund. Section 6694(a) provides that tax return preparers are subject to penalties for understatement due to unreasonable tax positions if they prepare any return or claim of refund with respect to which any part of an understatement of liability is due to a position unless it is reasonable to believe that the position would more likely than not be sustained on its merits. A 1999 Joint Committee on Taxation Staff Report describes the MLTN standard as a greater than 50 percent possibility that the position would be sustainable if examined by the tax authorities.

The review by the task force of the threshold issue in professional standards suggest the MLTN threshold would be well understood in the United States based on the review of the above accounting, auditing, and IRC standards for financial statement disclosures, maintaining independence for public company audits, when recommending aggressive tax positions with a significant purpose of tax avoidance, and tax return disclosure of uncertain tax positions.

Some members of the task force noted that though the MLTN threshold is defined in professional standards and is well understood by practitioners in both the audit and tax areas, other task force members noted that the MLTN is a single test approach, is less flexible, and, in certain situations, could be more restrictive than the likely to prevail threshold in IESBA guidance.

A majority of the task force members recommends adding additional guidance to the "Tax Services" interpretation that would describe tax advisory and tax planning services in general and provide guidance as to when members should conclude that independence would be impaired when provided certain tax advisory and planning services unless a specific likelihood

of success threshold is met.

The task force recommends using the IESBA threshold, which addresses member confidence as a core part of the test: the member is confident that the recommendation has a basis in applicable tax law or regulation that is likely to prevail. The task force also recommends that the code give examples of how the threshold would be applied in the United States for non-public attest clients. The MLTN threshold could be an example of how to meet this standard, rather than the only test for members to apply.

Questions for the committee

1. What are the committee's thoughts on providing attest clients tax advisory or tax planning services, and specifically those whose primary objective is tax avoidance as opposed to general tax advisory services?
2. What are the committee's thoughts regarding the likely to prevail threshold versus the more likely than not threshold?
3. Is the threshold "the member is confident that the recommendation has a basis in applicable tax law or regulation that is likely to prevail" appropriate?
4. Should certain services relating to tax avoidance be subject to enhanced independence requirements?
5. Is it reasonable to update the existing "Tax Services" interpretation rather than draft a new interpretation?

Materials presented

- Agenda item 4B: IESBA Subsection 604 – Tax services
- Agenda item 4C: "Tax Services" interpretation (ET sec. 1.295.160)

IESBA Subsection 604 – Tax services

Introduction

604.1 In addition to the specific requirements and application material in this subsection, the requirements and application material in paragraphs 600.1 to 600.27 A1 are relevant to applying the conceptual framework when providing a tax service to an audit client.

Requirements and Application Material

Description of Service

604.2 A1 Tax services comprise a broad range of services. This subsection deals specifically with:

- Tax return preparation.
- Tax calculations for the purpose of preparing accounting entries.
- Tax advisory services.
- Tax planning services.
- Tax services involving valuations.
- Assistance in the resolution of tax disputes.

604.2 A2 It is possible to consider tax services under broad headings, such as tax planning or compliance. However, such services are often interrelated in practice and might be combined with other types of non-assurance services provided by the firm such as corporate finance services. It is, therefore, impracticable to categorize generically the threats to which specific tax services give rise.

Potential Threats Arising from the Provision of Tax Services

604.3 A1 Providing tax services to an audit client might create a self-review threat when there is a risk that the results of the services will affect the accounting records or the financial statements on which the firm will express an opinion. Such services might also create an advocacy threat.

604.3 A2 Factors that are relevant in identifying self-review or advocacy threats created by providing any tax service to an audit client, and evaluating the level of such threats include:

- The particular characteristics of the engagement.
- The level of tax expertise of the client's employees.

- The system by which the tax authorities assess and administer the tax in question and the role of the firm or network firm in that process.
- The complexity of the relevant tax regime and the degree of judgment necessary in applying it.

All Audit Clients

R604.4 A firm or a network firm shall not provide a tax service or recommend a transaction to an audit client if the service or transaction relates to marketing, planning, or opining in favor of a tax treatment that was initially recommended, directly or indirectly, by the firm or network firm, and a significant purpose of the tax treatment or transaction is tax avoidance, unless the firm is confident that the proposed treatment has a basis in applicable tax law or regulation that is likely to prevail.

604.4 A1 Unless the tax treatment has a basis in applicable tax law or regulation that the firm is confident is likely to prevail, providing the non-assurance service described in paragraph R604.4 creates self-interest, self-review and advocacy threats that cannot be eliminated and safeguards are not capable of being applied to reduce such threats to an acceptable level.

A. Tax Return Preparation

Description of Service

604.5 A1 Tax return preparation services include:

- Assisting clients with their tax reporting obligations by drafting and compiling information, including the amount of tax due (usually on standardized forms) required to be submitted to the applicable tax authorities.
- Advising on the tax return treatment of past transactions.
- Responding on behalf of the audit client to the tax authorities' requests for additional information and analysis (for example, providing explanations of and technical support for the approach being taken).

Potential Threats Arising from the Provision of Tax Return Preparation Services

All Audit Clients

604.6 A1 Providing tax return preparation services does not usually create a threat because:

- (a) Tax return preparation services are based on historical information and principally involve analysis and presentation of such historical information under existing tax law, including precedents and established practice; and

- (b) Tax returns are subject to whatever review or approval process the tax authority considers appropriate.

B. Tax Calculations for the Purpose of Preparing Accounting Entries

Description of Service

604.7 A1 Tax calculation services involves the preparation of calculations of current and deferred tax liabilities or assets for the purpose of preparing accounting entries supporting tax assets or liabilities in the financial statements of the audit client.

Potential Threats Arising from the Provision of Tax Calculation Services

All Audit Clients

604.8 A1 Preparing tax calculations of current and deferred tax liabilities (or assets) for an audit client for the purpose of preparing accounting entries that support such balances creates a self-review threat.

Audit Clients that are Not Public Interest Entities

604.9 A1 In addition to the factors in paragraph 604.3 A2, a factor that is relevant in evaluating the level of self-review threat created when preparing such calculations for an audit client is whether the calculation might have a material effect on the financial statements on which the firm will express an opinion.

604.9 A2 Examples of actions that might be safeguards to address such a self-review threat when the audit client is not a public interest entity include:

- 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.

Audit clients that are Public Interest Entities

R604.10 A firm or a network firm shall not prepare tax calculations of current and deferred tax liabilities (or assets) for an audit client that is a public interest entity. (Ref: Para. R600.14 and R600.16).

C. Tax Advisory and Tax Planning Services

Description of Service

604.11 A1 Tax advisory and tax planning services comprise a broad range of services, such as advising the audit client how to structure its affairs in a tax efficient manner or advising on the application of a tax law or regulation.

Potential Threats Arising from the Provision of Tax Advisory and Tax Planning Services

All Audit Clients

604.12 A1 Providing tax advisory and tax planning services to an audit client might create a self-review threat when there is a risk that the results of the services will affect the accounting records or the financial statements on which the firm will express an opinion. Such services might also create an advocacy threat.

604.12 A2 Providing tax advisory and tax planning services will not create a self-review threat if such services:

- (a) Are supported by a tax authority or other precedent;
- (b) Are based on an established practice (being a practice that has been commonly used and has not been challenged by the relevant tax authority); or
- (c) Have a basis in tax law that the firm is confident is likely to prevail.

604.12 A3 In addition to paragraph 604.3 A2, factors that are relevant in identifying self-review or advocacy threats created by providing tax advisory and tax planning services to audit clients, and evaluating the level of such threats include:

- The degree of subjectivity involved in determining the appropriate treatment for the tax advice in the financial statements.
- Whether the tax treatment is supported by a ruling or has otherwise been cleared by the tax authority before the preparation of the financial statements.
- The extent to which the outcome of the tax advice might have a material effect on the financial statements.

When a self-review threat for an audit client that is a public interest entity has been identified, paragraph R604.15 applies.

When Effectiveness of Tax Advice Is Dependent on a Particular Accounting Treatment or Presentation

R604.13 A firm or a network firm shall not provide tax advisory and tax planning services to an audit client when:

- (a) The effectiveness of the tax advice depends on a particular accounting treatment or presentation in the financial statements; and
- (b) The audit team has doubt as to the appropriateness of the related accounting treatment

or presentation under the relevant financial reporting framework.

Audit Clients that are Not Public Interest Entities

R604.14 A1 Examples of actions that might be safeguards to address self-review or advocacy threats created by providing tax advisory and tax planning services to an audit client that is not a public interest entity include:

- Using professionals who are not audit team members to perform the service might address self-review or advocacy threats.
- Having an appropriate reviewer, who was not involved in providing the service, review the audit work or service performed might address a self-review threat.
- Obtaining pre-clearance from the tax authorities might address self-review or advocacy threats.

Audit clients that are Public Interest Entities

Self-Review Threats

R604.15 A firm or a network firm shall not provide tax advisory and tax planning services to an audit client that is a public interest entity if the provision of such services might create a self-review threat. (Ref: Para. R600.14, R600.16, 604.12 A2).

Advocacy Threats

604.15 A1 Examples of actions that might be safeguards to address an advocacy threat created by providing tax advisory and tax planning services to an audit client that is a public interest entity include:

- Using professionals who are not audit team members to perform the service.
- Obtaining pre-clearance from the tax authorities.

D. Tax Services Involving Valuations

Description of Service

604.16 A1 The provision of tax services involving valuations might arise in a range of circumstances including:

- Merger and acquisition transactions.
- Group restructurings and corporate reorganizations.
- Transfer pricing studies.
- Stock-based compensation arrangements.

Potential Threats Arising from the Provision of Tax Services Involving Valuations

All Audit Clients

604.17 A1 Providing a valuation for tax purposes to an audit client might create a self-review threat when there is a risk that the results of the service will affect the accounting records or the financial statements on which the firm will express an opinion. Such a service might also create an advocacy threat.

604.17 A2 When a firm or a network firm performs a valuation for tax purposes to assist an audit client with its tax reporting obligations or for tax planning purposes, the result of the valuation might:

- (a) Have no effect on the accounting records or the financial statements other than through accounting entries related to tax. In such situations, the requirements and application material set out in this subsection apply.
- (b) Affect the accounting records or the financial statements in ways not limited to accounting entries related to tax, for example, if the valuation leads to a revaluation of assets. In such situations, the requirements and application material set out in subsection 603 relating to valuation services apply.

604.17 A3 Performing a valuation for tax purposes for an audit client will not create a self-review threat if:

- (a) The underlying assumptions are either established by law or regulation, or are widely accepted; or
- (b) The techniques and methodologies to be used are based on generally accepted standards or prescribed by law or regulation, and the valuation is subject to external review by a tax authority or similar regulatory authority.

Audit Clients that are Not Public Interest Entities

604.18 A1 A firm or a network firm might perform a valuation for tax purposes for an audit client that is not a public interest entity where the result of the valuation only affects the accounting records or the financial statements through accounting entries related to tax. This would not usually create threats if the effect on the financial statements is immaterial or the valuation, as incorporated in a tax return or other filing, is subject to external review by a tax authority or similar regulatory authority.

604.18 A2 If the valuation that is performed for tax purposes is not subject to an external review and the effect is material to the financial statements, in addition to paragraph 604.3 A2, the following factors are relevant in identifying self-review or advocacy threats created by providing those services to an audit client that is not a public interest entity, and evaluating the level of

such threats:

- The extent to which the valuation methodology is supported by tax law or regulation, other precedent or established practice.
- The degree of subjectivity inherent in the valuation.
- The reliability and extent of the underlying data.

604.18 A3 Examples of actions that might be safeguards to address such threats for an audit client that is not a public interest entity include:

- Using professionals who are not audit team members to perform the service might address self-review or advocacy threats.
- Having an appropriate reviewer who was not involved in providing the service review the audit work or service performed might address a self-review threat.
- Obtaining pre-clearance from the tax authorities might address self-review or advocacy threats.

Audit clients that are Public Interest Entities

Self-Review Threats

R604.19 A firm or a network firm shall not perform a valuation for tax purposes for an audit client that is a public interest entity if the provision of that service might create a self-review threat. (Ref: Para. R600.14, R600.16, 604.17 A3).

Advocacy Threats

604.19 A1 Examples of actions that might be safeguards to address an advocacy threat created by providing a valuation for tax purposes for an audit client that is a public interest entity include:

- Using professionals who are not audit team members to perform the service.
- Obtaining pre-clearance from the tax authorities.

E. Assistance in the Resolution of Tax Disputes

Description of Service

604.20 A1 A non-assurance service to provide assistance to an audit client in the resolution of tax disputes might arise from a tax authority's consideration of tax calculations and treatments. Such a service might include, for example, providing assistance when the tax authorities have notified the client that arguments on a particular issue have been rejected and either the tax authority or the client refers the matter for determination in a formal proceeding before a tribunal

or court.

Potential Threats Arising from the Provision of Assistance in the Resolution of Tax Disputes

All Audit Clients

604.21 A1 Providing assistance in the resolution of a tax dispute to an audit client might create a self-review threat when there is a risk that the results of the service will affect the accounting records or the financial statements on which the firm will express an opinion. Such a service might also create an advocacy threat.

604.22 A1 In addition to those identified in paragraph 604.3 A2, factors that are relevant in identifying self- review or advocacy threats created by assisting an audit client in the resolution of tax disputes, and evaluating the level of such threats include:

- The role management plays in the resolution of the dispute.
- The extent to which the outcome of the dispute will have a material effect on the financial statements on which the firm will express an opinion.
- Whether the firm or network firm provided the advice that is the subject of the tax dispute.
- The extent to which the matter is supported by tax law or regulation, other precedent, or established practice.
- Whether the proceedings are conducted in public.

Audit Clients that are Not Public Interest Entities

604.23 A1 Examples of actions that might be safeguards to address self-review or advocacy threats created by assisting an audit client that is not a public interest entity in the resolution of tax disputes include:

- Using professionals who are not audit team members to perform the service might address self-review or advocacy threats.
- Having an appropriate reviewer who was not involved in providing the service review the audit work or the service performed might address a self-review threat.

Audit clients that are Public Interest Entities

Self-Review Threats

R604.24 A firm or a network firm shall not provide assistance in the resolution of tax disputes to an audit client that is a public interest entity if the provision of that assistance might create a

self-review threat. (Ref: Para. R600.14 and R600.16).

Advocacy Threats

604.24 A1 An example of an action that might be a safeguard to address an advocacy threat for an audit client that is a public interest entity is using professionals who are not audit team members to perform the service.

Resolution of Tax Matters Including Acting as an Advocate Before a Tribunal or Court

Audit Clients that are Not Public Interest Entities

R604.25 A firm or a network firm shall not provide tax services that involve assisting in the resolution of tax disputes to an audit client that is not a public interest entity if:

- (a) The services involve acting as an advocate for the audit client before a tribunal or court in the resolution of a tax matter; and
- (b) The amounts involved are material to the financial statements on which the firm will express an opinion.

Audit Clients that are Public Interest Entities

R604.26 A firm or a network firm shall not provide tax services that involve assisting in the resolution of tax disputes to an audit client that is a public interest entity if the services involve acting as an advocate for the audit client before a tribunal or court.

604.27 A1 Paragraphs R604.25 and R604.26 do not preclude a firm or a network firm from having a continuing advisory role in relation to the matter that is being heard before a tribunal or court, for example:

- Responding to specific requests for information.
- Providing factual accounts or testimony about the work performed.
- Assisting the client in analyzing the tax issues related to the matter.

604.27 A2 What constitutes a “tribunal or court” depends on how tax proceedings are heard in the particular jurisdiction.

“Tax Services” interpretation (ET sec. 1.295.160)

- .01 For purposes of this interpretation, tax services include preparation of a tax return, transmittal of a tax return, and transmittal of any related tax payment to the taxing authority, signing and filing a tax return, having a power of attorney limited strictly to tax matters; and authorized representation of attest clients in administrative proceedings before a taxing authority.
- .02 For purposes of this interpretation, a tax return includes all tax filings, including informational tax forms (such as estimated tax vouchers), extension forms, and Forms 990, 5500, 1099, and W-2, filed with a taxing authority or other regulatory agency.
- .03 Preparation and transmittal. When a member prepares a tax return and transmits the tax return and related tax payment to a taxing authority in paper or electronic form, self-review and management participation threats to the member’s compliance with the “Independence Rule” [1.200.001] may exist. If the member applies the “General Requirements for Performing Nonattest Services” interpretation [1.295.040] of the “Independence Rule,” threats would be at an acceptable level and independence would not be impaired, provided that the member does not have custody or control over the attest client’s funds or assets and the individual designated by the attest client to oversee the tax services
- a. reviews and approves the tax return and related tax payment.
 - b. if required for filing, signs the tax return prior to the member transmitting the return to the taxing authority.

The following are not considered having custody or control over an attest client’s funds: making electronic tax payments authorized by an attest client pursuant to a taxing authority’s prescribed criteria (as discussed in paragraph .04), affixing the attest client’s depository account information on a tax return, or remitting an attest client’s check made payable to the taxing authority.

- .04 If the member applies the “General Requirements for Performing Nonattest Services” interpretation [1.295.040] of the “Independence Rule” [1.200.001], threats would be at an acceptable level and independence would not be impaired when a member signs and files a tax return on behalf of management, provided that the member has the legal authority to do so and
- a. the taxing authority has prescribed procedures in place for an attest client to permit a member to sign and file a tax return on behalf of the attest client (for example, Forms 8879 or 8453), and such procedures meet, at the minimum, standards for electronic return originators and officers outlined in Form 8879, or

- b. an individual in management who is authorized to sign and file the attest client's tax return provides the member with a signed statement that clearly identifies the return being filed and represents that such individual
 - i. is authorized to sign and file the tax return.
 - ii. has reviewed the tax return, including accompanying schedules and statements, and it is true, correct, and complete to the best of the individual's knowledge and belief.
 - iii. authorizes the member or another named individual in the member's firm to sign and file the tax return on the attest client behalf.

.05 *Authorized representation in administrative proceedings.* If the member applies the "General Requirements for Performing Nonattest Services" interpretation [1.295.040] of the "Independence Rule" [1.200.001], threats would be at an acceptable level and independence would not be impaired if a member acts as the attest client's authorized representative in administrative proceedings before a taxing authority, provided that the member obtains the attest client's agreement prior to committing the attest client to a specific resolution with the taxing authority. [Prior reference: paragraph .05 of ET section 101]

.06 *Power of attorney.* When a member has an attest client's power of attorney, the self-review, management participation, and advocacy threats to the covered member's compliance with the "Independence Rule" [1.200.001] may exist. If the member applies the "General Requirements for Performing Nonattest Services" interpretation [1.295.040] of the "Independence Rule," threats would be at an acceptable level and independence would not be impaired, provided that the member's use of the power of attorney is limited strictly to tax matters and the member does not bind the attest client to any agreement with a taxing authority or other regulatory agency. [No prior reference: new content]

.07 *Representation in court.* Threats to compliance with the "Independence Rule" [1.200.001] would not be at an acceptable level, and could not be reduced to an acceptable level through the application of safeguards, and independence would be impaired if a member represents an attest client in court to resolve a tax dispute. For purposes of this interpretation, court encompasses a tax, district, or federal court of claims and the equivalent state, local, or foreign forums. [Prior reference: paragraph .05 of ET section 101]

.08 For information about transition provision for engagements commenced prior to February 28, 2007, see <https://us.aicpa.org/interestareas/professionalethics/community/downloadabledocuments/transistion%20periods.pdf>.

Effective Date

.09 Paragraph .06 of this interpretation is effective December 15, 2014.

A nonauthoritative basis-for-conclusions document that summarizes considerations that were deemed significant in the development of this interpretation is available. See [“Background and Basis for Conclusions: Revisions to Interpretations and Rulings Under Rule 101 — Independence”](#) in Basis for Conclusions Documents.

In addition, nonauthoritative questions and answers regarding performance tax services are available. See [Ethics Questions & Answers section 280](#), Nonattest Services — Tax Services.

Private equity investment in firms

Task force members

Anna Dourdourekas (co-chair), Lisa Snyder (co-chair), Catherine Allen, Peter Bible, Andreea Danel, Bob Denham, Jennifer Elder, Kelly Hnatt, Paul Meyer, Randy Milligan, Bisi Tairu, Joe Turkewitz, Paula Young

AICPA staff

Jim Brackens, Joan Farris, Ellen Gorla, Toni Lee-Andrews

Task force charge

To determine whether the increase in private equity investments in public accounting firms creates a need to revise the code or issue nonauthoritative guidance. The task force will evaluate the current provisions in the code including the “Alternative Practice Structures” (APS) interpretations (ET sec. [1.220.020](#) and [1.810.050](#)) under the “Independence Rule” and the “Form of Organization Rule,” respectively, to determine if they are appropriate and sufficient.

Reason for agenda item

To update the committee on recent activities and seek input on direction.

Task force activities

Scope 1: Evaluate the current “Alternative Practice Structure” interpretation of the “Independence Rule” for applicability to private equity structures.

The task force developed key assumptions (agenda item 5C) for two investment scenarios, one in which the private equity (PE) firm has an investment that allows for control over the nonattest entity and one in which the PE firm has an investment that allows it to exercise significant influence over the nonattest entity, but not control. The task force then performed an exercise based on the key assumptions for each scenario to compare the results of (1) applying the current APS interpretation ([ET sec. 1.220.020](#)) with (2) applying a covered member approach followed by the application of the “Conceptual Framework for Independence” interpretation ([ET sec. 1.210.010](#)).

Based on the results of the exercise, the task force is recommending a conceptual framework approach for individuals and entities that are outside the scope of covered members but who may create threats to independence.

The task force has made several preliminary conclusions regarding the various entities and relationships in the PE structure and will present those specifically related to portfolio companies below in this memo.

All preliminary conclusions can be found in agenda item 5B. Other preliminary conclusions the task force recently made involve the registered investment advisor, general partner, independent investor, investees of an independent investor, limited partners, PE controlling persons, and others at the direction of the PE firm.

The committee is asked to review the preliminary conclusions reached below and in agenda item 5B and provide input to the task force.

[Preliminary conclusions regarding portfolio companies](#)

The task force used the following definitions for its analysis.

Noncontrolling investment scenario. A PE firm, or more than one PE firm or investor acting together, has significant influence over the nonattest entity; however, such PE firms or investors cannot exercise control over the nonattest entity. Significant influence is as defined in FASB ASC 323-10-15.

Controlling Investment Scenario. A PE firm, or more than one PE firm or investor acting together, has a controlling interest in the nonattest entity. Control is as used in FASB ASC 810.

See diagrams at the end of this memo that depict examples of the PE corporate trees with relevant entities for each scenario.

Preliminary conclusions related to portfolio companies within PE firm

Relationship with portfolio company (PC)	Noncontrolling investment scenario	Controlling investment scenario	Basis for conclusion – noncontrolling investment scenario	Basis for conclusion – controlling investment scenario
Can PCs (in same fund as nonattest entity) that are controlled by the PE firm be attest clients?	<p>Apply the conceptual framework.*</p> <p>*Factors members should consider in the evaluation will be provided.</p>	No	Although the appearance factor may be too great to overcome, the conceptual framework approach allows for an evaluation in unique situations, such as a potential acquisition by the PE firm of an attest client when audit is in progress.	PCs are under common control with the nonattest entity.
Can PCs (in the same fund as the nonattest entity) that the PE firm has significant influence over and are material to the fund be attest clients?	<p>Apply the conceptual framework*.</p> <p>*Factors members should consider in the evaluation will be provided.</p>	No	Although the appearance factor may be too great to overcome even in the noncontrolling scenario, the conceptual framework approach allows for an evaluation in unique situations, such as a potential acquisition by the PE firm of an attest	The nonattest entity is controlled and the PE firm has significant influence over the PCs and the investment is material to the fund. Independence in appearance could be compromised.

Relationship with portfolio company (PC)	Noncontrolling investment scenario	Controlling investment scenario	Basis for conclusion – noncontrolling investment scenario	Basis for conclusion – controlling investment scenario
			client when audit is in progress.	
Can PCs (in the same fund as the nonattest entity) that the PE firm does not have significant influence over, or does have significant influence over, but it is not material to the fund, be attest clients?	Apply the conceptual framework.* *Factors members should consider in the evaluation will be provided.	Apply the conceptual framework.* *Factors members should consider in the evaluation will be provided.	Although the appearance factor may be too great to overcome even in the noncontrolling scenario, the conceptual framework approach allows for an evaluation in unique situations, such as a potential acquisition by the PE firm of an attest client when audit is in progress.	Same basis; factors to consider in the conceptual framework evaluation may be different given the PE firm has control over the nonattest entity.
Can PCs (in a different fund than the nonattest entity) regardless of PE ownership be attest clients?	Apply the conceptual framework.* *Factors members should consider in the evaluation will be provided.	Apply the conceptual framework.* *Factors members should consider in the evaluation will be provided.	Whether or not the PC is an existing attest client versus a potential new client may be relevant. Even though the same conclusion was made for the controlling scenario, the task force agreed	Although independence in appearance may be difficult to overcome, the task force agreed the conceptual framework should be used. The factors to consider may be

Relationship with portfolio company (PC)	Noncontrolling investment scenario	Controlling investment scenario	Basis for conclusion – noncontrolling investment scenario	Basis for conclusion – controlling investment scenario
			an evaluation should take place.	different under this scenario.
Can PCs (in any fund) other than the nonattest entity provide prohibited nonattest services to attest clients?	Yes	Yes	The current APS interpretation explicitly permits this. Monitoring such services would be difficult. The task force is discussing exceptions currently noted in the APS interpretation (e.g. acting as promoter).	Same basis.
Can PCs (in any fund) make or receive referrals to or from the attest firm?	Apply the conceptual framework, “Commissions and Referral Fees Rule” and “Conflicts of Interest” interpretation.	Apply the conceptual framework, “Commissions and Referral Fees Rule” and “Conflicts of Interest” interpretation.	No fee or other compensation should be received or paid by the attest firm on behalf of attest client. An exclusive relationship is an example of a potential conflict of interest that could occur. A factor to consider in the conceptual framework evaluation could be	Same basis.

Relationship with portfolio company (PC)	Noncontrolling investment scenario	Controlling investment scenario	Basis for conclusion – noncontrolling investment scenario	Basis for conclusion – controlling investment scenario
			whether benefits, such as goodwill with the PE firm, could be perceived as receiving a benefit from the relationship.	
Can any nonattest entity board member be on the board of a PC (in any fund), regardless of PE ownership, and that PC provide prohibited nonattest services to attest clients?	Yes	Yes	Services are provided by the PC, not the board member. Monitoring for this should not be required; however, if the attest firm becomes aware of the relationship, the conceptual framework should be applied.	Same basis.

Questions for the committee

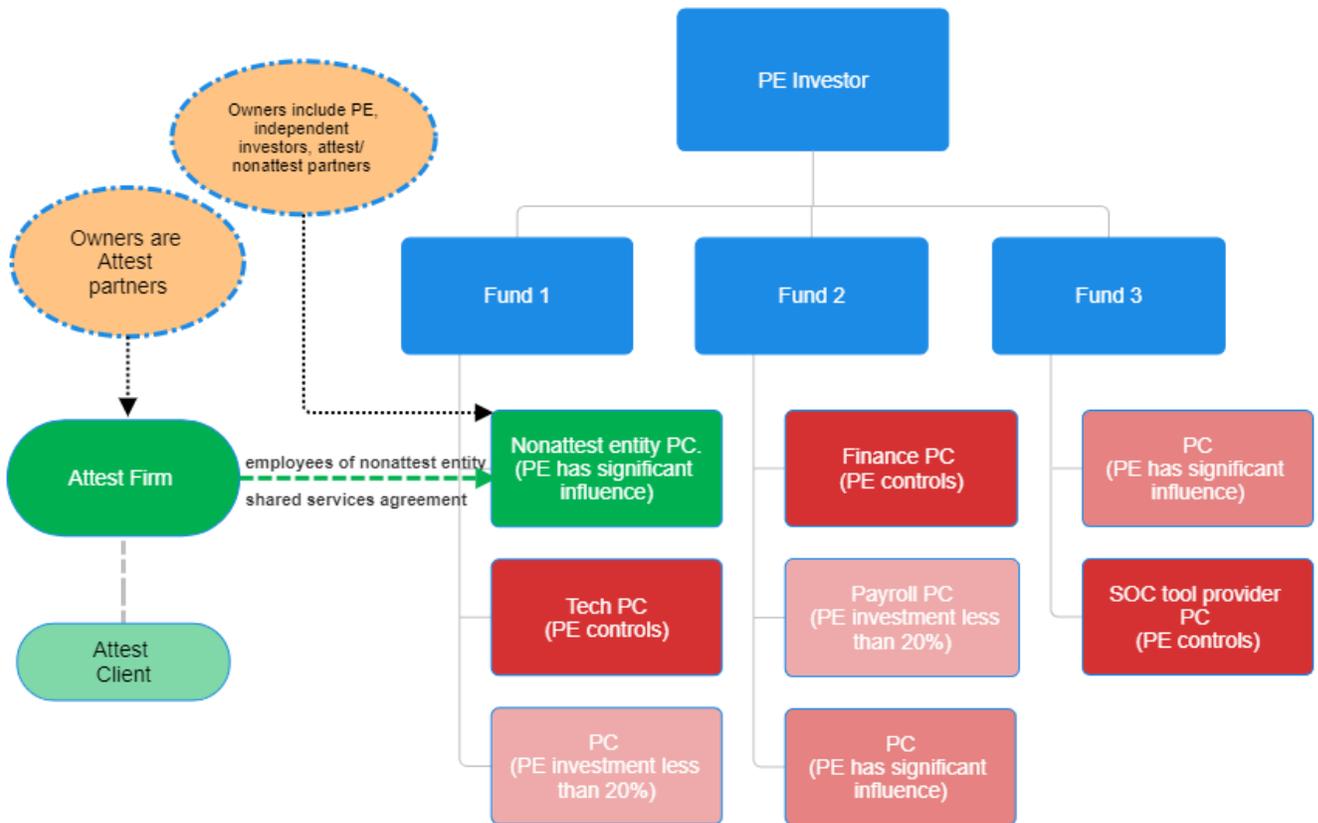
1. Does the committee agree with the recommendation to apply the conceptual framework approach for individuals and entities that are outside the scope of covered members and who may create threats to independence?
2. Does the committee agree with the preliminary conclusions regarding portfolio companies above?
3. Does the committee agree with the other preliminary conclusions included in agenda item 5B?

Materials presented

- Agenda item 5B: Preliminary conclusions
- Agenda item 5C: Key assumptions

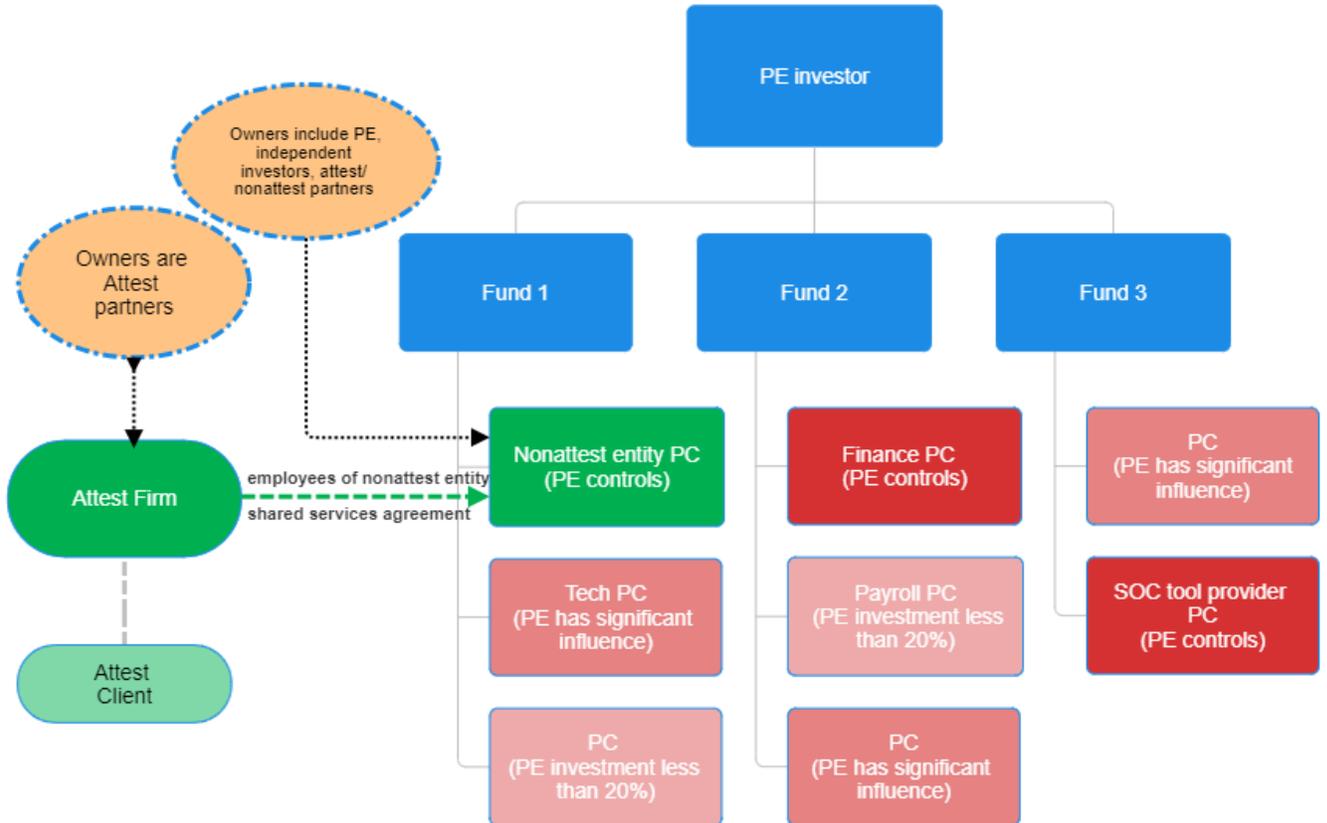
PE Corporate Tree Examples for Noncontrolling and Controlling Investment Scenarios

Noncontrolling investment scenario - no single private equity firm (PE) or any other entity has a controlling interest in the nonattest firm; however, at least one PE has significant influence over the nonattest entity. Significant Influence as defined in FASB ASC 323-10-15.



Controlling investment scenario -

A single private equity firm, or more than one PE acting together with another investor, or any other entity has a controlling interest in only the nonattest firm. Control as used in FASB Accounting Standards Codification (ASC) 810, Consolidation.



Preliminary conclusions

Relationship affecting independence	Noncontrolling investment scenario ¹	Controlling investment scenario ²
Network firms	<p>The attest firm and nonattest entity are network firms per the “Network and Network Firms” interpretation (ET sec. 1.220.010) because they cooperate to enhance the firms’ capabilities to provide professional services. Also, they share at least one of the following:</p> <ul style="list-style-type: none"> • Brand name • Control • Profits or costs • Business strategy • Significant professional resources • Quality control policies and procedures. <p>The PE firm and its portfolio companies would generally not be considered network</p>	Same conclusion as noncontrolling.

¹ Noncontrolling investment scenario: A PE firm, or more than one PE firm or investor acting together, has significant influence over the nonattest entity; however, such PE firms or investors cannot exercise control over the nonattest entity. Significant influence is as defined in FASB ASC 323-10-15.

² Controlling investment scenario: A PE firm, or more than one PE firm or investor acting together, has a controlling interest in the nonattest entity. Control is as used in FASB ASC 810.

Relationship affecting independence	Noncontrolling investment scenario ¹	Controlling investment scenario ²
	firms of the attest firm and nonattest entity because they are not cooperating with the attest firm or nonattest entity to enhance their capabilities to provide professional services.	
Individuals who should be evaluated based on the covered member definition	<p>a. Nonattest entity partners, principals or similar.</p> <p>i. When evaluating whether a nonattest entity partner meets one of the covered member criteria, consider that the attest partners are also employees of the nonattest entity, and therefore a nonattest firm partner could be in the chain of command.</p> <p>ii. If determined not to be covered members, nonattest firm partners would be subject to the interpretations of the “Independence Rule” that pertain to “partners and</p>	<p>a. Nonattest entity partners, principals or similar.</p> <p>Same conclusion as noncontrolling.</p>

Relationship affecting independence	Noncontrolling investment scenario ¹	Controlling investment scenario ²
	<p>professional employees” of the firm, which includes a network firm.</p> <p><i>b.</i> Nonattest entity professional employees.</p> <p><i>i.</i> When evaluating whether a nonattest entity professional employee meets one of the covered member criteria, consider that professional employees of the nonattest entity are leased to the attest firm; as such, a nonattest entity professional employee could be on the attest engagement team or provide more than 10 hours of nonattest services to the attest client.</p> <p><i>ii.</i> If nonattest entity professional employees do not meet any criteria of a covered member, they would be subject to the interpretations under the Independence Rule that pertain to “partners and professional employees” of the firm which includes a network firm.</p>	<p><i>b.</i> Nonattest entity professional employees.</p> <p>Same conclusion as noncontrolling.</p>

Relationship affecting independence	Noncontrolling investment scenario ¹	Controlling investment scenario ²
	<p><i>c.</i> Nonattest entity CEO.</p> <p>The CEO of the nonattest entity would be a covered member due to meeting covered member criterion b. in a position to influence the attest engagement and criterion b. directly supervises or manages the attest engagement partner, including all successively senior levels above that individual through the firm's chief executive.</p> <p><i>d.</i> Nonattest entity senior leadership.</p> <p>The nonattest entity senior leadership team (executive committee, etc.) would be covered members due to meeting covered member criterion b. in a position to influence the attest engagement, and its criterion b. directly supervises or manages the attest engagement partner, including all successively senior levels above that individual through the firm's chief executive.</p>	<p><i>c.</i> Nonattest entity CEO.</p> <p>Same conclusion as noncontrolling.</p> <p><i>d.</i> Nonattest entity senior leadership.</p> <p>Same conclusion as noncontrolling.</p>

Relationship affecting independence	Noncontrolling investment scenario ¹	Controlling investment scenario ²
	<p>e. Nonattest entity board members.</p> <p>Nonattest entity board members who make decisions regarding the compensation of attest partners and have ultimate authority over such compensation at an individual level, whether exercised or not, would be covered members. These individuals would meet covered member criterion b. in a position to influence the attest engagement, and its criterion a. evaluates the performance or recommends the compensation of the attest engagement partner.</p>	<p>e. Nonattest entity board members.</p> <p>Same conclusion as noncontrolling.</p>
<p>Individuals and entities not identified as covered members within the PE structure who may create threats to independence and potential safeguards</p>	<p>a. Nonattest entity board members.</p> <p>i. Nonattest entity board members who are not covered members should not be in a key position at an attest client of the attest firm because of the threat to the appearance of independence.</p> <p>ii. Nonattest entity board members who are not covered members</p>	<p>a. Nonattest entity board members.</p> <p>Same conclusion and safeguards as noncontrolling</p>

Relationship affecting independence	Noncontrolling investment scenario ¹	Controlling investment scenario ²
	<p>should not have a material financial interest in an attest client because of the threat to the appearance of independence.</p> <p><i>b.</i> General partner of the fund holds the investment in the nonattest entity.</p> <p><i>i.</i> The general partner should not be an attest client of the attest firm.</p> <p><i>ii.</i> The general partner should not have a lending relationship with an attest client.</p> <p><i>iii.</i> The general partner should not have a material financial interest in an attest client because of the threat to the appearance of independence.</p> <p><i>iv.</i> The general partner should not be in a key position at an attest client of the attest firm because of the threat to the appearance of independence.</p>	<p><i>b.</i> General partner of the fund that holds the investment in the nonattest entity.</p> <p>Same conclusion and safeguards as noncontrolling.</p> <p><i>c.</i> General partner of a different fund than that of the nonattest entity.</p>

Relationship affecting independence	Noncontrolling investment scenario ¹	Controlling investment scenario ²
	<p data-bbox="695 670 1241 781"><i>c.</i> Registered investment adviser (RIA), investment manager, investment management company, broker-dealer.</p> <p data-bbox="728 821 1251 971"><i>i.</i> The RIA or any similar individual or entity for the fund that holds the investment in the nonattest entity should not be an attest client.</p> <p data-bbox="722 1011 1251 1279"><i>ii.</i> The RIA or any similar individual or entity for a fund other than the fund that holds the investment in the nonattest entity could potentially be an attest client and should be evaluated using the conceptual framework.</p> <p data-bbox="695 1320 1100 1352"><i>d.</i> PE firm controlling persons.</p> <p data-bbox="743 1393 1251 1425">Due to their potential influence through</p>	<p data-bbox="1339 313 1864 581">If the attest firm becomes aware of a lending relationship between a general partner outside the fund of the nonattest entity, the conceptual framework should be applied to determine if threats to independence are at an acceptable level.</p> <p data-bbox="1293 662 1839 773"><i>d.</i> Registered investment adviser (RIA), investment advisor, investment management company, broker-dealer.</p> <p data-bbox="1339 813 1801 846">Same conclusion as noncontrolling.</p> <p data-bbox="1293 1317 1696 1349"><i>e.</i> PE firm controlling persons.</p> <p data-bbox="1339 1386 1843 1419">These individuals have the authority to</p>

Relationship affecting independence	Noncontrolling investment scenario ¹	Controlling investment scenario ²
	<p>ownership or other means, such as advising, or by having the authority to appoint PE representatives to the board of the nonattest entity, these individuals should not have a material financial interest in or a lending relationship with an attest client.</p> <p>e. Others who perform activities at the direction of the PE firm.</p> <p>The task force is still discussing the threats created by these individuals including a potential threat caused by the of the receipt of a fee for referring an attest client to the attest firm.</p> <p>f. Independent investor (with less than significant influence over the nonattest</p>	<p>appoint PE representatives to the board of the nonattest entity, but generally would not meet the definition of a covered member because these individuals can only appoint members to the board of the nonattest entity; they do not generally participate in compensation discussions or have any voting rights on the board on the nonattest entity.</p> <p>Due to their potential influence through ownership or other means, such as advising, these individuals should not have material financial interests in or lending relationships with attest clients.</p> <p>f. Others who perform activities at the direction of the PE firm.</p> <p>The task force is still discussing the threats created by these individuals including a potential threat caused by the of the receipt of a fee for referring an attest client to the attest firm.</p> <p>g. Independent investor (with less than significant influence over the nonattest</p>

Relationship affecting independence	Noncontrolling investment scenario ¹	Controlling investment scenario ²
	<p>entity).</p> <ul style="list-style-type: none"> i. No attest services should be provided. ii. Independent investors should be monitored for material financial interests in attest clients. <p>If material financial interests are identified, the conceptual framework should be applied to determine if threats to independence are at an acceptable level. Monitoring should not extend to the investees of the independent investor.</p> <p>To determine if an independent investor can provide prohibited nonattest services to attest clients, the attest firm should apply the conceptual framework to determine if threats to independence are at an acceptable level. The task force is discussing factors to consider in the conceptual framework evaluation.</p> <p><i>g.</i> Controlled portfolio companies (in same</p>	<p>entity).</p> <p>Same conclusions and safeguards as noncontrolling.</p> <p><i>h.</i> Controlled portfolio companies (in same</p>

Relationship affecting independence	Noncontrolling investment scenario ¹	Controlling investment scenario ²
	<p>fund as the nonattest entity)</p> <p>To determine whether attest services can be provided, the attest firm should apply the conceptual framework to determine if threats to independence are at an acceptable level. In most circumstances, the threat to the appearance of independence may be too great to overcome. The task force is discussing factors to consider in the conceptual framework evaluation to mitigate the potential for too much diversity in practice.</p> <p><i>h.</i> Portfolio companies (in the same fund as the nonattest entity) that the PE firm has significant influence over and are material to the fund.</p> <p>To determine if attest services can be provided, the attest firm should apply the conceptual framework to determine whether the threats to independence are at an acceptable level. In most circumstances the threat to the appearance of independence may be</p>	<p>fund as the nonattest entity)</p> <p>No attest services should be provided.</p> <p><i>i.</i> Portfolio companies (in the same fund as the nonattest entity) that the PE firm has significant influence over and are material to the fund.</p> <p>No attest services should be provided.</p>

Relationship affecting independence	Noncontrolling investment scenario ¹	Controlling investment scenario ²
	<p>too great to overcome. The task force is discussing factors to consider in the conceptual framework evaluation to mitigate the potential for too much diversity in practice.</p> <p><i>i.</i> Portfolio companies (in the same fund as the nonattest entity) that the PE firm does not have significant influence over, or does have significant influence over, but are not material to the fund.</p> <p>To determine if attest services can be provided, the attest firm should apply the conceptual framework to determine whether the threats to independence are at an acceptable level. In most circumstances the threat to the appearance of independence may be too great to overcome. The task force is discussing factors to consider in the conceptual framework evaluation to mitigate the potential for too much diversity in practice.</p> <p><i>j.</i> Portfolio companies (in a different fund than that of the nonattest entity) regardless of PE ownership.</p>	<p><i>j.</i> Portfolio companies (in the same fund as the nonattest entity) that the PE firm does not have significant influence over, or does have significant influence over, but are not material to the fund.</p> <p>Same conclusion as noncontrolling, though factors to consider in the conceptual framework evaluation may differ.</p> <p><i>k.</i> Portfolio companies (in a different fund than the nonattest entity) regardless of PE ownership.</p>

Relationship affecting independence	Noncontrolling investment scenario ¹	Controlling investment scenario ²
	<p>To determine if attest services can be provided, the attest firm should apply the conceptual framework to determine whether threats to independence are at an acceptable level. The task force is discussing factors to consider in the conceptual framework evaluation.</p>	<p>Same conclusion as noncontrolling, though factors to consider in the conceptual framework evaluation may differ.</p>
<p>Individuals and entities not identified as covered members within the PE structure who do not generally create threats to independence</p>	<p><i>a.</i> General partner of a different fund than that of the nonattest entity.</p> <p>General partners outside the fund of the nonattest entity would not be subject to independence requirements.</p> <p><i>b.</i> Limited partners.</p> <p>Limited partners who are not associated with the nonattest entity would not be subject to independence requirements.</p> <p><i>c.</i> Investees of an independent investor (investor has less than significant influence over the nonattest entity).</p> <p><i>i.</i> The attest firm could provide attest services to the investees of an independent investor and independence would not be</p>	<p><i>a.</i> Limited partners</p> <p>Same conclusion as noncontrolling.</p> <p><i>b.</i> Investees of an independent investor (investor has less than significant influence over the nonattest entity).</p> <p>Same conclusions as noncontrolling.</p>

Relationship affecting independence	Noncontrolling investment scenario ¹	Controlling investment scenario ²
	<p>impaired.</p> <ul style="list-style-type: none"> ii. Investees of an independent investor could provide prohibited nonattest services to attest clients. <p>d. Portfolio companies in any fund.</p> <ul style="list-style-type: none"> i. Portfolio companies in any fund may provide prohibited nonattest services to attest clients of the attest firm without impairing independence, and the attest firm should not be required to monitor for such activity. ii. The attest firm could potentially make or receive referrals to or from a portfolio company of any investor as long as no fee or other compensation is paid or received for such referral as is prohibited by the “Commissions and Referral Fees Rule” (ET sec. 1.520.001). Guidance in the “Conceptual Framework for Independence” (ET sec. 1.210.010) and “Conflicts of Interest” (ET sec. 1.110.010) interpretations must also be 	<p>c. Portfolio companies in any fund.</p> <p>Same conclusions as noncontrolling.</p>

Relationship affecting independence	Noncontrolling investment scenario ¹	Controlling investment scenario ²
	followed.	

Key assumptions

These key assumptions were developed for the purpose of creating parameters within which to perform the exercise described in agenda item 5A and are not intended to be representative of every PE structure.

Key assumption for	Noncontrolling investment scenario ¹	Controlling investment scenario ²
CPA firm	The attest firm and nonattest entity are separate and distinct legal entities, and the attest firm complies with the “Form of Organization Rule” (ET Sec. 1.810.001). Attest firm revenues are separate and distinct from the nonattest entity’s revenues and are used as a source of funding for the shared services agreement.	Same assumption as noncontrolling.
Network firms	The attest firm and nonattest entity are <i>network firms</i> per the “Network and Network Firms” interpretation (ET sec. 1.220.010) because they cooperate to enhance the firms’ capabilities to provide professional services and share at least one of the following:	Same assumptions as noncontrolling.

¹ Noncontrolling investment scenario: A PE firm, or more than one PE firm or investor acting together, has significant influence over the nonattest entity; however, such PE firms or investors cannot exercise control over the nonattest entity. Significant influence is as defined in FASB ASC 323-10-15.

² Controlling investment scenario: A PE firm, or more than one PE firm or investor acting together, has a controlling interest in the nonattest entity. Control is as used in FASB ASC 810.

Key assumption for	Noncontrolling investment scenario ¹	Controlling investment scenario ²
	<ul style="list-style-type: none"> • Brand name • Control • Profits or costs • Business strategy • Significant professional resources • Quality control policies and procedures. <p>The private equity (PE) firm does not provide professional services as defined in the code, and therefore it would not be considered a network firm. If the PE firm does provide professional services, it would be considered a network firm if one of the other characteristics of a network exists.</p>	
PE firm interest	A PE firm, or more than one PE firm or investor acting together, has significant influence over the nonattest entity; however, such PE firms or investors cannot exercise control over the nonattest entity. Significant influence is as defined in FASB ASC 323-10-15.	A PE firm, or more than one PE firm or investor acting together, has a controlling interest in the nonattest entity. Control is as used in FASB ASC 810.
PE firm's general partner of the fund	The PE firm's general partner (GP) of the fund that has an interest in the nonattest entity has representation on the board of directors (board) of the nonattest entity relative to the GP's interest in the nonattest	Same assumptions as noncontrolling, except the GP's interest would allow the GP's representatives to exercise control (as defined in FASB ASC 810) over the

Key assumption for	Noncontrolling investment scenario ¹	Controlling investment scenario ²
	<p>entity. The GP's interest would allow the GP's representatives to exercise significant influence (as defined in FASB ASC 323-10-15) over the nonattest entity but not control the entity. The GP's representative can weigh in on nominating board members, finance, budget, and strategic decisions.</p>	<p>nonattest entity.</p>
<p>Nonattest entity board</p>	<p>The board of the nonattest entity typically has PE representation relative to the PE fund's interest in the nonattest entity, but individually and collectively the PE representatives would not have control through voting rights on the board; PE representatives have significant influence (as defined in FASB ASC 323-10-15) over the board. Compensation, finance and budget, resource allocation, and strategic decisions are made at the board or board committee level, but not ordinary course managerial and operational decisions related to the nonattest entity or attest firm. Board members have authority over the compensation on an individual level of the nonattest entity principals and employees, which include attest firm partners.</p>	<p>Same assumptions as noncontrolling except the PE representatives have control through voting rights on the board and have control (as defined in FASB ASC 810) over the board.</p>
<p>Nonattest entity executive committee</p>	<p>The executive committee or similar body is appointed by the CEO of the nonattest</p>	<p>Same assumptions as noncontrolling.</p>

Key assumption for	Noncontrolling investment scenario ¹	Controlling investment scenario ²
	<p>entity and lies between the nonattest entity and the board of the nonattest entity. It would have no PE representation and is the body that manages the operations of the nonattest entity as well as evaluates performance and recommends to the nonattest entity board compensation on an individual level of the nonattest entity principals and employees. The evaluations and compensation recommendations from this body include those for attest firm partners because they are employees of the nonattest entity.</p>	
Attest firm governance	<p>The attest firm has its own governing body separate and distinct from the nonattest entity's executive committee and board and is elected by the attest firm partners. The attest firm makes all decisions regarding attest clients, attest work, quality management, independence risk management, and attest firm personnel, including hiring, performance evaluations, and recommends the individual attest partner compensation to the nonattest entity board.</p>	Same assumptions as noncontrolling.
CEOs or equivalent (CEOs)	CEOs of the attest firm and nonattest entity are not the same individual. The CEO of the	Same assumptions as noncontrolling.

Key assumption for	Noncontrolling investment scenario ¹	Controlling investment scenario ²
	attest firm reports to the attest firm board. The CEO of the nonattest entity reports to the nonattest entity board.	
Shared services	A shared services agreement exists between the attest firm and nonattest entity (for example, back-office support and leasing employees).	Same assumption as noncontrolling.
Others who perform activities at the direction of the PE firm	These are individuals (for example, independent contractors, employees, independent consultants) who work at the direction of and are directly compensated by the PE and perform activities relating to the attest firm or nonattest entity.	Same assumption as noncontrolling.

Artificial Intelligence

Task force members

Clare Kristin Levison (chair), Tom Campbell, Scott Graham, Anika Heard, Paul Helfer

Consultants

Danielle Cheek, Kevin Murphy

Observers

April King, Adriana Parente, Sonya Tighe, Lori West

AICPA staff

Ellen Gorla, Iryna Klepcha

Task force charge

To create awareness of the various threats related to the use of artificial intelligence (AI).

Reason for agenda item

To seek approval to expand the scope of the project to determine convergence needs related to IESBA guidance on the use of the output of technology.

Background

The AICPA Professional Ethics Division released the PEEC [Strategy and Work Plan for 2021-2023](#) (SWP) in 2019 and identified potential threats associated with the use of AI. The goal of including the AI project in the SWP was to create awareness of various threats related to AI.

Task force activities

The AI Task Force has met to identify areas of artificial intelligence to address. The task force is still in the discovery phase of determining whether the topics will require changes to the AICPA Code of Professional Conduct (code), nonauthoritative guidance, or both.

During discussions, the task force noted that some concerns, such as inaccuracy of information produced by AI, overreliance on AI, and increased cybersecurity risks, are addressed in [IESBA's technology-related revisions](#) issued to their code in April 2023. Specifically, the guidance on the use of output of technology requires professional accountants in business to determine the appropriate steps to fulfill requirements related to preparation and presentation of information. The IESBA code also requires professional accountants in public practice to determine whether the use of technology output is appropriate for the intended purposes.

In November 2023, the Professional Ethics Executive Committee (PEEC) approved the appointment of a new task force to consider whether the AICPA code should address members' use of the output of technology, and if so, how. The task force recommends expanding the

scope of the AI project to determine convergence needs related to IESBA's guidance on using the output of technology.

Question for the committee:

1. Does the committee approve expanding the scope of the AI Task Force to determine convergence needs related to the use of output of technology?

IESBA monitoring – Using the work of an external expert

Project description

IESBA initiated this project to develop revisions to the IESBA code that will address the ethics and independence issues that can arise when experts work alongside professional accountants in business (PAIBs) and professional accountants in public practice (PAPPs), including in tax planning, technology-related activities, and sustainability reporting and assurance. The following ethics and independence considerations are included:

- Use of an external expert in audit and assurance engagements (ethics and independence)
- Involvement of an external expert in the preparation and presentation of financial and nonfinancial information, including sustainability information, and other activities (ethics)
- Involvement of an external expert in the provision of other services, such as tax planning and technology-related activities (ethics)

Project update

IESBA unanimously approved the proposed provisions for exposure at its December 2023 meeting. The proposals include three new sections in the IESBA Code of Ethics (IESBA code) addressing using the work of an external expert:

- Section 390 for professional accountants (PAs) in public practice (PAPPs)
- Section 290 for PAs in business (PAIBs)
- Section 5390 for sustainability assurance practitioners (SAPs). This section is profession-agnostic.

The proposed sections establish an ethical framework to guide PAPPs, PAIBs, or SAPs, as applicable, in evaluating whether an external expert has the necessary competence, capabilities and objectivity in order to use that expert's work for the intended purposes. These sections also include provisions to guide a PAIB, PAPP, or SAP, as applicable, in applying the IESBA code's conceptual framework when using the work of an external expert.

This project is being progressed along with the sustainability project because the use of external experts is critical in the preparation and presentation of sustainability information and assurance over that information.

Timing

Indicative Timing	Milestone
January 29, 2024	IESBA released the ED
April 30, 2024	Closing date for comments to the ED
June 2024	Preliminary highlights of ED responses to IESBA
September–October 2024	Full review of ED responses and first-read post-exposure with IESBA Outreach to stakeholders
December 2024	IESBA approval of final pronouncement
2025	Roll-out and implementation support

Comment letter and request for committee feedback

The monitoring group that will assist PEEC and AICPA staff in drafting the comment letter includes

- several PEEC members or those designated by PEEC members and
- other stakeholders, internal and external to the Association, that have experience or interest in the topic.

The monitoring group met on February 9, 2024 to discuss the comment letter direction and would like input from the committee on IESBA’s exposure draft.

Questions for the committee

1. Does the committee have specific concerns with the exposure draft?
2. How would the proposed standards elevate the accounting profession?
3. What implementation challenges might our members encounter?
4. Is there a need for additional guidance in the AICPA code regarding using the work of external experts?

Materials presented

- Agenda item 7B: Exposure draft
- Agenda item 7C: Graphic – Using the work of an external expert

Exposure Draft
January 2024
Comments due: April 30, 2024

*International Ethics Standards Board
for Accountants®*

Using the Work of an External Expert

IESBA

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About the IESBA

The [International Ethics Standards Board for Accountants](#)® (IESBA®) is an independent global standard-setting board. The IESBA's mission is to serve the public interest by setting high-quality, international ethics (including independence) standards as a cornerstone to ethical behavior in business and organizations, and to public trust in financial and non-financial information that is fundamental to the proper functioning and sustainability of organizations, financial markets and economies worldwide.

Along with the [International Auditing and Assurance Standards Board](#) (IAASB), the IESBA is part of the [International Foundation for Ethics and Audit](#) (IFEA). The [Public Interest Oversight Board](#) (PIOB) oversees IESBA and IAASB activities and the public interest responsiveness of the standards.

The structures and processes that support the operations of the IESBA are facilitated by the International Foundation for Ethics and Audit™ (IFEATM).

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REQUEST FOR COMMENTS

This Exposure Draft, *Using the Work of an External Expert*, was developed and approved by the IESBA.

The proposals in this Exposure Draft may be modified in light of comments received before being issued in the final pronouncement. Comments are requested by **April 30, 2024**.

Respondents are asked to submit their comments electronically through the IESBA website using the "[Submit a Comment](#)" link. Please submit comments in both PDF and Word files. Also, please note that first-time users must register to use this feature. All comments will be considered a matter of public record and will ultimately be posted on the website. Although the IESBA prefers that comments are submitted via its website, comments can also be sent to Ken Siong, Program and Senior Director, at KenSiong@ethicsboard.org.

This publication may be downloaded from the IESBA website: www.ethicsboard.org. The approved text is published in the English language.

USING THE WORK OF AN EXTERNAL EXPERT

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EXPLANATORY MEMORANDUM

I. Introduction

1. This memorandum provides background to, and an explanation of, the proposed revisions to the [International Code of Ethics for Professional Accountants \(including International Independence Standards\)](#) (the Code) relating to using the work of an external expert.
2. The IESBA unanimously approved the proposed provisions for exposure at its December 2023 meeting. The proposals include three new sections to the Code addressing using the work of an external expert – proposed Section 390 for professional accountants (PAs) in public practice (PAPPs), proposed Section 290 for PAs in business (PAIBs), and proposed Section 5390 for sustainability assurance practitioners (SAPs). The explanations in this memorandum apply equally to all three proposed new sections, unless otherwise specified.
3. The proposed Section 5390 is an integral part of the Exposure Draft (ED), *Proposed International Ethics Standards for Sustainability Assurance (including International Independence Standards) (IESSA) and Other Revisions to the Code Relating to Sustainability Assurance and Reporting (Sustainability ED)*, and, therefore, should be read in conjunction with that ED.

II. Background and Overview

A. The Impetus for the Project and its Objectives

4. The IESBA's deliberations in developing the revised definition of "engagement team" in the Engagement Team – Group Audits (ET-GA) project raised questions, including from the Public Interest Oversight Board (PIOB), as to whether external experts¹ should be subject to independence requirements in audit and other assurance engagements. The PIOB has observed the growing involvement of experts in areas such as estimates and technology and, in particular, in sustainability. The PIOB has, therefore, commented that it is in the public interest to assess whether the nature of the work of experts and their contribution to the audit/assurance opinion should trigger a requirement for them to be subject to independence requirements, similar to other individuals who are part of the engagement team.²
5. In addition, responses to the IESBA's April 2022 strategy survey and the ET-GA ED, feedback from the IESBA's April 2022 Tax Planning Global Roundtables, as well as the IESBA Technology Working Group's Phase 2 fact-finding work recognized the importance of reviewing the ethics, including independence, issues arising from a PA's use of an expert. In particular, comments, observations or questions raised included the following:
 - Whether the role and independence of experts providing sustainability-related services are sufficiently addressed in the Code. It was suggested that the IESBA consider the impact of the increasing use of experts from the Code's perspective, particularly in relation to sustainability-related services.
 - Preparing and presenting financial and, in particular, non-financial information (e.g., sustainability information) often involves the assistance of, or reliance upon, technology experts. The question arose as to the factors PAs should consider to gain confidence that the work of a

¹ External experts are specifically excluded from the definitions of Engagement Team, Audit Team and Assurance Team in the Code because they are not under the direction, supervision and review of the firm.

² See page 8 of the PIOB's [November 2022](#) Public Interest Issues List on IESBA Projects.

technology expert was objective and the work of such expert could be used and relied upon to make ethical decisions and whether the Code should serve as a basis for PAs to make such an assessment.

- PAs who are not equipped with the necessary expertise or experience to advise the client or employing organization in certain situations need to rely upon the judgments of other firms or experts with the appropriate competencies. PAs would then need to assume that these firms or experts will operate within a similar ethical framework as the PAs.
6. Further, the IESBA recognized the need to consider the ethics, including independence, implications of:
- PAs in public practice who use the work of experts in providing non-assurance services (NAS).³
 - Non-PAs using the work of experts in the context of the development of ethics, including independence, standards for all sustainability assurance practitioners in the proposed Part 5 of the Code.
 - Using experts in sustainability assurance engagements if the Code were to take a framework-neutral approach with respect to the sustainability assurance standards used to perform a sustainability assurance engagement (i.e., not limiting the interoperability of those new standards with just the IAASB's standards).
7. Given this backdrop, in December 2022, the IESBA approved the [project](#) to address the ethics, including independence, considerations relating to the use of all experts, whether employed or externally engaged (i.e., hired) by an employing organization or firm in (a) audit, sustainability, and other assurance engagements, (b) the provision of professional services other than audit and assurance services, and (c) the preparation of financial and non-financial information. A discussion of the IESBA's additional deliberations about the scope of the proposals is set out in Section (II)(C) below.

B. Highlights of Proposed Provisions Relating to Using the Work of an External Expert

8. Using the work of an external expert might create threats to a PA's or SAP's compliance with the fundamental principles, particularly the principles of integrity, objectivity and professional competence and due care. This is because there might be potential over-reliance on the external expert's work by the PA or SAP, and hence threats to a PA's or SAP's compliance with the fundamental principles might be created if the external expert and its work are not appropriately evaluated.
9. The proposed new sections 390, 290 and 5390,⁴ therefore establish an ethical framework to guide PAs in public practice and in business, and SAPs, respectively, in evaluating whether an external expert has the necessary competence, capabilities and objectivity (CCO) for the PA or SAP to use the expert's work for the intended purposes. In particular, if the PA or SAP deems that the external expert is not competent, capable or objective, the Code would prohibit the PA or SAP from using the external expert's work. The proposals also include provisions to guide a PA or SAP in applying the Code's conceptual framework when using the work of an external expert.

³ Paragraph 62 of [IESBA Consultation Paper: Proposed IESBA Strategy and Work Plan, 2024 to 2027](#)

⁴ For SAPs performing sustainability assurance engagements that meet specific criteria, see [Sustainability ED](#).

10. The proposed provisions have been developed on a principles-based approach so that the Code can remain relevant and fit for purpose as business and market practice evolve, particularly regarding the use of external experts in emerging or developing fields as well as in the context of ongoing rapid transformations in technology.
11. The proposals are set out in three new and different sections of the Code, given that there are differences in considerations and risks related to using an external expert for PAPPs, PAIBs and SAPs.
12. Consistent with any other provisions of the Code, the proposed provisions do not override laws and regulations prevailing in a given jurisdiction. Further, extant paragraph 100.7 A1 of the Code remains applicable, i.e., where a jurisdiction has provisions that differ from or go beyond those in the Code, PAs need to be aware of those differences and comply with the more stringent provisions unless prohibited by law or regulation.

C. Deliberations Relating to the Scope of the Project

13. While developing the proposed provisions, the IESBA deliberated three key issues with respect to the scope as set out below, having regard to the project proposal and stakeholder feedback.

Whether the Proposed Provisions Should Address the Use of Experts Employed by an Employing organization or Firm (“Internal Experts”)

14. The IESBA’s deliberations highlighted a number of practical challenges that would arise if the proposed provisions were to address internal experts.
15. In particular, PAIBs often use the work of others internal to the employing organization who have specialized competence in specific fields or areas as defined by their roles and responsibilities. The IESBA considered that it would be unduly burdensome to require a PAIB to undertake the CCO evaluation each time the PAIB needs to rely on the work of experts internal to the organization. This recognizes that to work in their roles as experts in their designated fields or areas, the internal experts can be expected to have satisfied their employing organizations’ recruitment criteria and performance assessment on a periodic basis. The IESBA also noted that for internal experts within an employing organization, such experts are producing information from management’s perspective and, therefore, would not be “objective.”
16. For internal experts employed by a firm whose work is used in an audit or other assurance engagement (and who are not members of the engagement team, audit team, assurance team or sustainability assurance team), the IESBA recognized that such individuals would already be subject to (i) the firm’s quality management or other policies and procedures addressing hiring, competence and resourcing, and (ii) the provisions of the Code as the firm is subject to the Code.
17. Accordingly, IESBA is proposing that the scope of the provisions focus on “external experts” only.

Whether the Proposed Provisions Should Address the Use of the Work of a Management’s Expert Employed by a Client in an Audit or Other Assurance (Including Sustainability Assurance) Engagement

18. As noted in the ISA 500 (Revised) Exposure Draft,⁵ management may employ or engage experts in fields other than accounting (e.g., actuarial, valuation, engineering, or climate change and

⁵ Proposed International Standard on Auditing (ISA) 500, *Audit Evidence*

sustainability) to obtain information necessary to prepare the financial statements.

19. The IESBA believes that work performed by a management's expert comes from the client's perspective, not unlike information or analyses that management might prepare or produce. In addition, management takes full responsibility for the work of any expert management might use to assist in preparing financial statements or reports.
20. Accordingly, for the PA or SAP, the work of a management's expert is just part of the overall information from management that they consider when providing any professional service. This means that from the perspective of the Code, the objectivity of the management's expert would be regarded as being the same as for any other source of information within the client.
21. Therefore, the proposed Sections 390 and 5390 do not address the use of the work of a management's expert. This is explained in proposed paragraphs 390.4 A4(a) and 5390.4 A4(a).

Should External Experts Used in an Audit or Other Assurance (Including Sustainability Assurance) Engagement be Independent?

22. The IESBA initially considered requiring external experts to be independent under the Code when their work has a significant influence on the audit or other assurance engagement ("significant influence test.")
23. At the March-April 2023 IESBA global sustainability roundtables, however, the IESBA heard concerns from many participants about such an approach:
 - It was stressed that it would be the presumptive responsibility of the PA or SAP to ensure that if they intend to use the work of an external expert, such external expert is objective, since the PA or SAP has the ultimate responsibility to sign off on the audit or assurance report.
 - The significant influence test would likely lead to challenges in implementability and enforceability as it introduces a level of subjectivity that would lead to inconsistent application. Further, there were questions as to the reasonableness of such an approach as there is a presumption that the engagement team would only engage an external expert when the subject matter is significant.
 - Unlike firms or assurance practitioners who are subject to the Code, external experts are not in the audit or assurance business. Accordingly, the Code is not enforceable on external experts and external experts would not be expected to have designed and implemented, and be operating, extensive systems of quality management to monitor and oversee compliance with independence requirements across their organizations.
24. The IESBA decided to move away from the concept of a significant influence test under which only a limited number of external experts who meet the "significant influence" threshold would be subject to independence requirements. Instead, considering the public interest, the IESBA determined to broaden the scope of applicability of the proposed provisions to all external experts used in audit or other assurance engagements.
25. The IESBA proposes that the evaluation of external experts in an audit or assurance engagement be performed through the lens of objectivity. The approach additionally requires the PA or SAP to evaluate specified interests, relationships, and circumstances relative to the external expert's objectivity. The IESBA believes that this approach will appropriately address the public interest

expectations concerning external experts, while balancing considerations relating to scalability, proportionality and implementability under the Public Interest Framework.

26. Additional considerations about the approach are set out in Section (V)(A) below.

D. Interactions with the IESBA's Sustainability Project

27. As highlighted in the project proposal, using experts will often be critical in preparing and presenting sustainability information, as well as in the assurance of such information. As such, this project is being progressed in tandem with the Sustainability Project.
28. The IESBA's [Sustainability Reference Group](#) and Sustainability Work Stream 2 have considered and provided input to the proposals in Section 5390 regarding the use of external experts in sustainability assurance engagements.

E. IAASB-IESBA Coordination

29. The development of the proposals was closely coordinated with the International Auditing and Assurance Standards Board (IAASB) to maximize alignment and interconnectivity between the proposals and the IAASB's standards to the greatest extent possible. In particular, in developing the proposals, the IESBA has endeavored to avoid (a) conflict with ISA 620⁶ or other relevant IAASB standards and the ISSA 5000⁷ ED, and (b) incorporating provisions relating to the performance of audit or assurance procedures in the proposals versus encapsulating ethics-related considerations. In this regard, IAASB Staff have provided overarching comments and suggestions in relation to the proposals in Section 390.
30. Additionally, the IAASB has included in its Strategy and Work Plan for 2024-2027, a project to consider possible narrow scope amendments to IAASB standards as a result of the finalization of this project. The IAASB will also take into account developments in this project during the finalization of ISSA 5000.

F. Consideration of Other Stakeholder Inputs

31. The project has also been informed by feedback from various stakeholders since its inception, including:
- Four global roundtables held in Paris, Sydney, Singapore and New York with over 140 senior-level participants from 84 organizations across a wide range of stakeholder categories.
 - The IESBA Consultative Advisory Group (CAG).
 - The IESBA-National Standard Setters (NSS) Liaison Group.
 - The Forum of Firms (FoF).
 - The IFAC Small and Medium Practices Advisory Group (SMP AG).
 - The International Organization of Securities Commissions Committee 1 Auditing Subcommittee (IOSCO C1).
 - The International Forum of Independent Audit Regulators' Standards Coordination Working

⁶ ISA 620, *Using the Work of an Auditor's Expert*

⁷ Proposed International Standard on Sustainability Assurance (ISSA) 5000, *General Requirements for Sustainability Assurance Engagements*

Group (IFIAR SCWG).

- The Committee of European Auditing Oversight Bodies (CEAOB).

III. Definitions

A. Definition of Expertise

32. ISA 620 defines expertise as knowledge, skills and experience.
33. However, the IESBA observed some inconsistency between the definition in ISA 620 and how "expertise *and/ or* experience" is used or referred to in the Code. For example:
- Extant paragraph 120.5 A5: "The accountant's *expertise and experience* are sufficient to reach a conclusion."
 - Extant paragraph R230.3: "A professional accountant shall not intentionally mislead an employing organization as to the level of *expertise or experience* possessed."
34. Furthermore, the IESBA observed that the concept of "experience" in the Code appears to be used as a factor separate from determining whether a PA had sufficient knowledge, training, qualifications, or competence. For example:
- Extant paragraph R115.2: "... A professional accountant shall be honest and truthful and shall not make...exaggerated claims for the services offered by, or *qualifications or experience* of, the accountant..."
 - Extant paragraph 230.3 A1: "The principle of professional competence and due care requires that a professional accountant only undertake significant tasks for which the accountant has, or can obtain, sufficient *training or experience*."
 - Extant paragraph 300.7 A4: "The client has *competent employees with experience* and seniority to make managerial decisions."
 - Extant paragraphs 524.4 A4/924.4 A4: "...Assigning to the audit/assurance team individuals who have *sufficient experience* relative to the individual who has joined the client."
 - Extant paragraph R540.9: "...When a firm has only a few people with the *necessary knowledge and experience* to service as a key audit partner..."
35. The IESBA also considered jurisdictional literature such as [PCAOB AS 1210: Using the Work of an Auditor-Engaged Specialist](#): "A specialist is a person (or firm) possessing *special skill or knowledge* in a particular field other than accounting or auditing."
36. The IESBA further consulted various dictionary definitions of "expert" and noted that those definitions generally do not include the element of experience:

Dictionary	Noun	Adjective
Cambridge	A person with a high level of <i>knowledge or skill</i> relating to a particular subject or activity.	Having or showing a lot of <i>knowledge or skill</i> .
Merriam-Webster	One with the special <i>skill or knowledge</i> representing <i>mastery</i> of a particular subject.	Having, involving, or displaying special <i>skill or knowledge</i> derived from <i>training or experience</i> .

Dictionary	Noun	Adjective
Oxford Languages	A person who has a comprehensive and <i>authoritative knowledge of or skill</i> in a particular area.	Having or involving <i>authoritative knowledge</i> .

37. Accordingly, the IESBA determined to propose a definition of "expertise" that refers only to knowledge and skills. The IESBA's view is that the element of experience is a complementary factor that strengthens confidence in the expert, besides the expert's expertise (knowledge and skills). Furthermore, skills are inherently also developed through experience.
38. The IESBA considered whether consequential amendments are necessary where the term "expertise" is used in conjunction with the term "knowledge" or "skills" in the extant Code. However, the IESBA viewed that in those extant provisions where the terms "knowledge" and "skills" are being referred to, they are used to convey a broader meaning of knowledge or skills (for example, knowledge of the client, industry, etc.) rather than one that is limited to knowledge or skills in a particular field (the definition of expertise).

B. Definitions of Expert and External Expert

Expert

39. The IESBA proposes to introduce a new definition of "expert" which is broad and anchored relative to the PA's or SAP's competence.
40. This approach recognizes that an expert might need to be used when the PA or SAP lacks sufficient expertise to perform a professional activity or service. The PA or SAP might seek an expert to assist them in such circumstances. The concept of reaching out to others who have the relevant expertise is rooted in the Code. For example, the Code refers to using experts in extant paragraphs 400.11 (in the context of an audit engagement) and 330.5 A1 (in the context of referring a client to an expert). It also refers to consulting with others with expertise, for example, in extant paragraph 120.5 A5.

External Expert

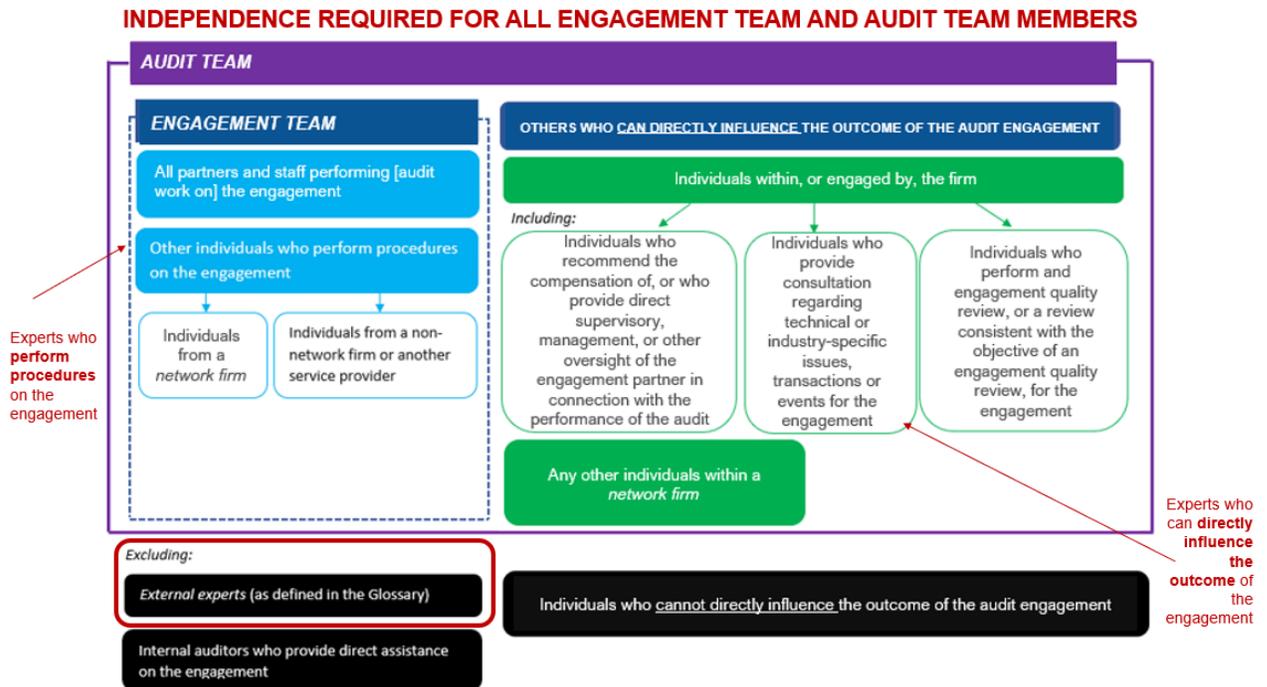
41. The IESBA proposes to revise the extant definition of an external expert⁸ to:
- Explicitly refer to external experts who are engaged (i.e., hired) by an employing organization, firm or SAP. This presents a clearer contrast against experts that might be internal to the employing organization or firm.
 - Distinguish between external experts used in an audit engagement vs an assurance (including sustainability assurance) engagement.

See the proposed changes in mark-up in the Glossary.

42. Regarding audit engagements, the IESBA noted the basic expectation for, and conceptual underpinning of, a PA to have expertise in accounting or auditing. Therefore, when an external expert is used in an audit engagement, such external expert's work is used because it consists of expertise outside of accounting or auditing. Accordingly, an external expert is different from:

⁸ "An individual (who is not a partner or a member of the professional staff, including temporary staff, of the firm or a network firm) or organization possessing skills, knowledge and experience in a field other than accounting or auditing, whose work in that field is used to assist the professional accountant in obtaining sufficient appropriate evidence."

- Individuals who perform audit procedures (who generally will have audit expertise) who are part of the engagement team (ET) and are subject to independence.
 - Individuals with expertise in accounting or other technical or industry-specific matters who provide consultations. Those individuals are part of the audit team (AT) and are subject to independence.
43. The different roles of experts in an audit engagement are illustrated in a diagram contained in the ET-GA Basis for Conclusions, as set out below:



44. Regarding assurance (including sustainability assurance) engagements, the IESBA noted the basic expectation for, and conceptual underpinning of, a PA or SAP to have expertise in assurance. Therefore, when an external expert is used in an assurance (including sustainability assurance engagement), such external expert's work is used because it consists of expertise outside of assurance. The terms are also aligned with the concepts in the IAASB's auditing and assurance standards and its proposed ISSA 5000.
45. Regarding NAS engagements, an external expert is simply an expert engaged (i.e., hired) by a PA or SAP, who has expertise that is outside the PA's or SAP's competence.

C. Distinguishing Between AT Members and External Experts

46. In its deliberations, the IESBA revisited the question of how to distinguish between individuals who are providing consultation regarding technical or industry-specific issues, transactions or events for the engagement versus external experts. The former are audit, assurance, or sustainability assurance team members, as the case may be, and subject to the Code's *independence* requirements. The latter are not but they will be subject to the proposed *ethics* provisions in Sections 390 and 5390, as applicable.
47. The IESBA observes that, in response to the extensive discussions around this question during the

ET-GA project, IESBA Staff have already issued a few questions and answers (Q&As) to address the matter in the IESBA Staff ET-GA Questions & Answers publication.⁹

AT Members Who Can Directly Influence the Outcome of the Engagement

48. Additionally, under ISQM 1¹⁰ and ISA 220 (Revised),¹¹ the outcome resulting from consultation regarding a technical or industry-specific issue, transaction or event for the engagement must be implemented. This is because, as set out in ISQM 1 and ISA 220 (Revised):
- The firm must establish quality objectives that address the performance of quality engagements, including in relation to consultations on difficult or contentious matters, and that such consultations are undertaken and the conclusions agreed are implemented.¹²
 - The engagement partner is required to, among other matters, take responsibility for undertaking appropriate consultation and to determine that the nature and scope of, and conclusion resulting from, such consultations are agreed with the party consulted, and that the conclusion agreed has been implemented.¹³
49. The consultation would, therefore, provide an opinion or advice to enable the PA, assurance practitioner or SAP to reach a conclusion on audit or assurance work they have performed on the particular technical or industry-specific issue, transaction or event. In these circumstances, the IESBA observes that the engagement partner must ensure that the conclusion from the consultation is agreed and implemented but would not be expected to be able to override the opinion or advice received from the party consulted.
50. Therefore, consultations performed as part of applying ISQM 1 and ISA 220 (Revised) directly influence the outcome of the engagement, and individuals who provide such consultations are part of the audit, assurance or sustainability assurance team, as the case may be.

External Experts

51. Before the work of an external expert can be used for purposes of an audit or assurance (including sustainability assurance) engagement, the PA needs to perform procedures over such work to determine its sufficiency and appropriateness as evidence. Accordingly, the PA can decide not to use the external expert's work as part of the evidence supporting the audit or assurance opinion.
52. Thus, an external expert cannot directly influence the outcome of an engagement and is, therefore, not part of the audit, assurance or sustainability assurance team.
53. For illustrative purposes, Appendix 1 provides a flowchart to assist stakeholders in distinguishing between AT members and external experts in the context of an audit engagement.

⁹ [ET-GA Q&As](#), questions 8 and 9

¹⁰ International Standard on Quality Management (ISQM) 1, *Quality Management for Firms that Perform Audits or Reviews of Financial Statements, or Other Assurance or Related Services Engagements*

¹¹ ISA 220 (Revised), *Quality Management for an Audit of Financial Statements*

¹² ISQM 1, paragraph 31(d)

¹³ ISA 220 (Revised), paragraph 35

IV. Agreeing the Terms of Engagement

54. With respect to agreeing the terms of engagement with an external expert whose work will be used in an audit or other assurance engagement, the IESBA considered a few stakeholder questions about whether it would be necessary to provide the guidance relating to agreeing the terms of engagement with respect to using the work of an expert, given that the IAASB's standards already address this.
55. Upon due deliberation, the IESBA agreed that such guidance would be appropriate from an ethics perspective. In particular:
- The guidance would facilitate the PA's evaluation of CCO for experts used in NAS and also in the context of sustainability assurance engagements addressed in the proposed Part 5 of the Code and performed by SAPs who might be applying assurance standards other than the IAASB's standards.
 - In the context of an audit or other assurance engagement, it is important to highlight that in agreeing the terms of engagement with the external expert, a PA or SAP should also agree on the expert's provision of information necessary to facilitate the PA's or SAP's evaluation of the expert's objectivity.
56. Taking into account input from IAASB staff, proposed paragraph R390.5 therefore requires the PA to agree the terms of engagement with the external expert *"to the extent not otherwise addressed by law, regulation or other professional standards."* This avoids duplication with law, regulation, or other professional standards such as the IAASB standards which may already address the PA's responsibilities relating to agreeing the terms of engagement with the expert. A similar proposal is contained in paragraph R5390.5 for sustainability assurance engagements addressed in the proposed Part 5 of the Code.
57. Specific to agreeing the terms of engagement with an external expert whose work will be used in a NAS engagement, the IESBA considered a few stakeholder questions as to whether it would also be necessary to agree the provision of information needed from the external expert for NAS engagements to facilitate the evaluation of objectivity under proposed paragraph 390.6 A4.
58. The IESBA's view is that proposed paragraph 390.6 A6 already contains sufficient application material to guide the PA or SAP to obtain information to evaluate the external expert's objectivity in a NAS context. It would not be necessary for the PA or SAP to request information from the external expert for NAS engagements, unlike in an audit or sustainability assurance engagement under proposed paragraphs R390.8 and R5390.8. For example, under proposed paragraphs 390.6 A4 and 390.6 A6, information concerning the external expert's objectivity can be obtained from inquiry or discussion with others and review of published materials.

V. Evaluating an External Expert's Competence, Capabilities and Objectivity

Proposed Paragraphs R390.6 to R390.12 and Related Application Material

59. Proposed paragraph R390.6 requires a PA to evaluate whether the external expert has the necessary CCO. This is conceptually aligned with the existing provisions in ISA 620¹⁴ and ISAE 3000 (Revised).¹⁵ The IESBA believes that whether an external expert has the necessary CCO is also relevant to a

¹⁴ ISA 620, *Using the Work of an Auditor's Expert*

¹⁵ International Standard on Assurance Engagements (ISAE) 3000 (Revised), *Assurance Engagements Other than Audits or Reviews of Historical Financial Information*

PAPP's and PAIB's compliance with the fundamental principles of the Code in performing other professional services (i.e., NAS engagements) and professional activities, respectively.

60. The IESBA notes that, consistent with the application of the conceptual framework, this required evaluation will involve the PA (a) having an inquiring mind, (b) exercising professional judgment, and (c) using the reasonable and informed third party test. In particular, when applying the proposed paragraph R390.6, the PA's exercise of professional judgment would be essential to weigh all the relevant CCO factors against the specific facts and circumstances of the external expert. For example, immaterial and insignificant interests, relationships or circumstances should generally not result in the PA or SAP concluding that the external expert is not objective.
61. Application material in proposed paragraphs 390.6 A2 to A6 provides relevant factors that could be considered in the required evaluation as well as guidance as to where to obtain the information.
62. For external experts used in an audit or other assurance engagement, given the heightened public interest expectations from stakeholders, additional requirements and application material with respect to the evaluation required by proposed R390.6 are set out in proposed paragraphs R390.8 to R390.11 (see proposed paragraph 390.7 A1). See also further discussion in Section (V)(A) below.
63. The IESBA view is that there is no safeguard against threats if an external expert does not satisfactorily pass the CCO evaluation. Accordingly, proposed paragraph R390.12 prohibits a PA from using the external expert's work if:
 - (a) The PA is unable to obtain the information needed for the accountant's evaluation of the external expert's CCO; or
 - (b) The PA determines that the external expert is not competent, capable or objective.
64. Similar provisions are set out in proposed Section 5390 for SAPs in the context of sustainability assurance engagements addressed in the proposed Part 5 of the Code.

Timing of the CCO Evaluation

65. The IESBA also considered whether the CCO evaluation under proposed paragraphs R390.6 and R390.12 should be concluded before the external expert starts the work (and therefore prior to agreeing to the terms of engagement with the external expert in proposed paragraph R390.5). The IESBA's view is that in practice, it may not be practicable to wait until the CCO evaluation has been completed before engaging the external expert as there may be unavoidable constraints, such as a tight window within which an external expert can complete the work, time needed for the external expert to secure the information requested for the CCO evaluation, etc.
66. Therefore, the IESBA is proposing that the Code does not preclude the external expert from beginning the work while the CCO evaluation proceeds simultaneously, provided that the external expert has agreed to the terms of engagement to provide all the information necessary to facilitate the evaluation. Proposed paragraph R390.6 is drafted in such a way as to allow for that possibility from an operability perspective. This wording is aligned with ISA 620, paragraph 9, "*The auditor shall evaluate whether the auditor's expert has the necessary CCO for the auditor's purposes.*"

Consideration of Safeguards or Exemptions

67. External experts can be involved in a broad array of fields, ranging from emerging or niche ones to those with more established or generally accepted practices or standards. In addition, the availability

of external experts might vary in different jurisdictions, and some jurisdictions might not have external experts who can satisfactorily pass the CCO evaluation, leading to a limited number or lack of experts who can be used.

68. In this regard, the IESBA deliberated whether any safeguards or exemptions are possible regarding the prohibition on using the work of an external expert if the expert does not satisfactorily pass the CCO evaluation. For example, the IESBA explored whether transparency to relevant stakeholders, such as the users of the audit or assurance report or those charged with governance, might be a safeguard to address the threat of using an external expert who is not objective in an audit or other assurance (including sustainability assurance) engagement.
69. However, the IESBA came to the view that if an external expert is not objective, the work of such expert cannot be used in any professional service or activity. In particular, introducing transparency as a mitigating action against threats to the expert's objectivity could create an "easy out" and shift the burden and responsibility to evaluate the objectivity of the external expert from the PA to stakeholders.
70. The IESBA considers that ultimately, an external expert's competence, capabilities and objectivity cannot be less relevant or lower in jurisdictions or fields with limited experts. The IESBA notes that where it is determined that there are no external experts available in a particular field or jurisdiction, the PA or SAP could consider:
- Using an expert from another jurisdiction.
 - Consulting with the appropriate regulatory or professional body and ascertain the proper next steps.
71. The IESBA also observed that limitations in the availability of experts are a matter of timing as the market capacity will gradually adjust to meet the demand. Therefore, in finalizing the provisions, the IESBA will consider whether to develop appropriate transitional provisions while being cognizant of the need not to lower the bar regarding an expert's competence, capabilities and objectivity.
72. Finally, in relation to external experts used in an audit or other assurance engagement, a few stakeholders observed that ISA 620, paragraph 13, allows for additional procedures to be performed by the PA or for additional work to be performed by the expert, should the auditor determine that the auditor's expert's work is inadequate for the auditor's purpose. These stakeholders questioned whether, as an alternative to the prohibition under paragraph R390.12, the proposals should also allow for additional procedures to be performed by the PA if the external expert is determined not to satisfactorily pass the CCO evaluation.
73. In this regard and taking into account input from IAASB staff, the IESBA noted that ISA 620 is not explicit on whether the auditor can use the work of an auditor's expert if that expert does not satisfactorily pass the CCO evaluation. Instead, ISA 620, paragraph 13, discusses what the auditor can do if the work of the external expert is not adequate. The IESBA considers that these are two separate issues, one being an ethical issue and the other being a performance matter.
74. Therefore, the IESBA agreed that the proposed prohibition should remain with no qualification. Recognizing stakeholders' heightened expectations in the context of an audit or other assurance engagement, the proposals now explicitly set out the consequence if the external expert does not satisfactorily pass the CCO evaluation. The proposals therefore fill a gap in the Code where there was no guidance previously.

A. External Experts Used in an Audit or Other Assurance (Including Sustainability) Engagement

Approach

75. Given the heightened public interest expectations in relation to external experts used in an audit or other assurance (including sustainability) engagement, the IESBA deliberated whether to take an objectivity or independence approach for such experts (see paragraphs 22 to 25).
76. The IESBA concluded to take an objectivity¹⁶ approach given that (i) external experts who are not subject to the direction, supervision and review of the firm will not have systems of quality management in place to monitor and oversee compliance with independence requirements, (ii) it would not be in the public interest for the Code to constrain the supply of external experts by imposing undue cost and burden on such experts to design, implement and operate such systems of quality management, (iii) it is the responsibility of the PA under auditing or assurance standards to be satisfied that if the PA intends to use the work of an external expert, such external expert is objective, and (iv) the Code does not directly apply to external experts, who in the context of their work, are not assurance providers. The IESBA therefore agreed that the onus should be on the PA to evaluate the external expert's objectivity, with the key principle being that a PA should not use the work of an external expert if the expert is not objective.
77. Therefore, to address stakeholders' heightened public interest expectations in relation to external experts used in audit or other assurance engagements, the IESBA proposes an approach that, in addition to the basic evaluation of the objectivity of an external expert in the context of any professional service under proposed paragraphs 390.6 A4 and A6, requires a PA to include specific interests, relationships and circumstances in the evaluation of the external expert's objectivity.
78. More specifically, to strengthen the considerations regarding the external expert's objectivity in an audit or other assurance context:
- Proposed paragraph R390.8 requires the PA to request the external expert to provide, in relation to the entity at which the expert is performing the work and with respect to the period covered by the audit or assurance report and the engagement period, information about specific interests, relationships and circumstances between the external expert and the entity.

The information set out in proposed paragraph R390.8(a) to (m) draw from the independence attributes in Parts 4A and 4B of the Code. Overall, apart from bullets (i), (k) and (l), the bullets broadly align with the independence attributes set out in Parts 4A and 4B of the Code. The IESBA is proposing to include bullets (i), (k) and (l) because it believes these are relevant and necessary in order for the PA to be able to evaluate and conclude on the expert's objectivity.

The IESBA proposes that, after receiving such information, the PA evaluate the expert's objectivity according to proposed paragraph R390.6, as detailed in paragraphs 59 to 64 above.
 - Proposed paragraph R390.11 requires the PA to request the expert to disclose, in relation to the period covered by the audit or assurance report and the engagement period, information about interests, relationships or circumstances of which they are aware between the external expert, their immediate family or the external expert's employing organization and the client. For example, this could include:

¹⁶ Extant paragraph 120.15 A1: "...Independence is linked to the fundamental principles of objectivity and integrity..."

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- Any direct financial interest or material indirect financial interest in the client held by the external expert, their immediate family, or the external expert's employing organization.
- Any interests or relationships of the external expert, their immediate family or the external expert's employing organization with the client and those entities over which it has direct or indirect control.
- Any conflicts of interest the external expert, their immediate family or the external expert's employing organization might have with the client.

The IESBA proposes that, after receiving such information, the PA evaluate the expert's objectivity in accordance with proposed paragraph R390.6, as detailed in paragraphs 59 to 64 above.

This proposed requirement recognizes that if the expert has an interest in, or relationship with, the client, there is a risk that it might influence the expert to produce a 'favorable' result for the entity as the PA will use the expert's work for purposes of the audit or other assurance engagement. The requirement therefore covers all possible interests, relationships and circumstances that might create an unacceptable level of threat to the expert's objectivity.

The proposed requirement also focuses the request on the external expert only (rather than both the expert and the client) to take into account that at times, audit procedures might require that the use of an expert (e.g., for investigative purposes) should be kept confidential and not disclosed to the client. As such, proposed paragraph 390.11 A2 clarifies that in applying paragraph R390.11, there might be situations where the PA might not want to inquire with the client about interests, relationships or circumstances concerning the expert used. However, it also highlights that inquiring with the client is a possible source of information about the matters set out in proposed paragraphs R390.11 and 390.11 A1.

79. If the PA concludes that an external expert is not objective based on the evaluation of these independence attributes, the PA is prohibited from using the work of the external expert (see proposed paragraph R390.12).
80. A similar approach is set out in proposed Section 5390 for SAPs in the context of sustainability assurance engagements addressed in the proposed Part 5 of the Code.
81. The IESBA considered the proposed time period for which the external expert would be required to provide the information, i.e., the period covered by the audit or assurance report and the engagement period, and whether the proposed period should be the period covered by the financial statements and the engagement period as per Parts 4A and 4B. However, the IESBA agreed to retain the proposed period since (i) these proposed sections would also cover engagements other than audits of financial statements, and (ii) there could indeed be circumstances where the period covered by an assurance report would be longer than that covered by the audit report, in particular, for sustainability engagements. It is not intended, however, that the time period for which the external expert provides the information for the evaluation of its objectivity, is longer than the period for which the PA or SAP is required to be independent in an audit or assurance engagement. (See paragraphs R390.8 – R390.11 and R5390.8 – R5390.11.)
82. To facilitate the practical application of these requirements, proposed paragraphs R390.5 and 390.5 A1 set out that a PA, when agreeing the terms of engagement with the external expert, might consider discussing the PA's expectations regarding the expert's objectivity, including information needed from

the expert to facilitate the PA's evaluation of that objectivity. The IESBA believes that this would help mitigate the potential practical challenge of the expert declining to disclose information about relevant interests, relationships or circumstances after the PA has engaged the expert. Thus, if an external expert refuses to disclose such information when the PA and the expert are seeking to agree to the terms of engagement, the PA can determine not to use the work of such expert. A similar approach is proposed in Section 5390 for SAPs.

83. Overall, the IESBA believes that this approach is balanced, proportionate and operable, and will address the public interest expectations concerning external experts used in an audit or other assurance (including sustainability assurance) engagement.

Scalability

84. Responsive to stakeholder feedback during the development of the proposals, the IESBA considered whether the approach could be delineated for external experts used in an audit or other assurance engagement depending on whether or not the client is a public interest entity (PIE). However, unlike in the context of independence provisions where the Code can set out specific prohibitions pertaining to PIE audit clients versus non-PIE audit clients, the fundamental principle of objectivity cannot differ for different clients given that it concerns ethical behavior.
85. Nevertheless, the IESBA noted that scalability is already built into the objectivity approach set out in the proposed new Section 390 (and its equivalent Section in the proposed Part 5) as that approach is scaled based on the nature of the engagement (i.e., whether it is an audit or other assurance, including sustainability assurance, engagement) and the PA's evaluation of the expert's interests, relationships and circumstances.

Expectations for the External Expert

86. In the context of applying these requirements, the IESBA does not expect that an external expert must set up, or have in place, a system of quality management similar to that expected for a firm or assurance practitioner. As noted above, the IESBA does not believe that this would be operable or enforceable. For example, where a PA requests an external expert to disclose any direct financial interest or material indirect financial interest held by the external expert, their immediate family, or the external expert's employing organization in the entity at which the expert is performing work, the IESBA does not expect the external expert to set up an internal monitoring process on the financial interests of all of these parties. Instead, with due notice when agreeing the terms of engagement, the expert is afforded the opportunity to take the appropriate steps, in good faith, to gather the necessary information to disclose to the PA.

B. Consideration of the External Expert's Team

87. In developing the proposals, the IESBA heard questions from various stakeholders about how the proposals would interact with an external expert's team and organization.
88. The proposed new definition of an external expert pertains to an individual only. In applying the proposed provisions, the PA's evaluation of the expert's CCO is envisioned to be conducted with respect to the individual who oversees the expert work. This takes into account that an expert might have a supporting team (which might include other experts) and that it would be the expert's responsibility to determine what support from the team is needed to perform the work.

89. However, as set out in proposed paragraph R390.9, specifically for external experts used in an audit or other assurance engagement, the IESBA is of the view that objectivity must be evaluated for all individuals on a team that an expert uses to perform the work. This approach recognizes stakeholders' heightened expectations concerning the external expert and any supporting team. It is also consistent with the applicability of the Part 4 independence provisions to all AT members.

C. General Principle Relating to the Evaluation of Objectivity

90. The IESBA's view is that the direct threat to the expert's objectivity generally arises from the interests, relationships or circumstances with the entity at which the expert is performing work. Requiring the objectivity of an external expert concerning entities at which the expert is not performing work would be unduly onerous, especially considering that such an expert might not even have systems of quality management in place to monitor such interests, relationships and circumstances. Accordingly, the provisions concerning evaluating the external expert's objectivity focus on the entity at which the expert is performing work.
91. However, the IESBA also notes that certain interests, relationships or circumstances held by the external expert's organization or external expert's immediate family in the entity at which the external expert is performing the work could impact the external expert's objectivity. In applying the proposals, the PA would then need to exercise professional judgment when taking into account such interests, relationships or circumstances involving the expert's immediate family or at the organizational level in evaluating whether the external expert is objective (see, in particular, proposed paragraphs 390.6 A4, R390.8 and 390.11 A1). A similar approach is taken in the proposed Section 5390 for SAPs.

VI. Other Considerations

A. Potential Threats Arising from Using the Work of an External Expert

92. Proposed paragraph 390.13 A1 explains that threats to compliance with the fundamental principles might still be created from using the work of an external expert even if a PA has satisfactorily concluded that the external expert has the necessary CCO for the PA's purpose.
93. Application material in proposed paragraphs 390.14 A1, 390.15 A1 and 390.16 A1 to A2 contains guidance with respect to identifying, evaluating and addressing threats to the PA's compliance with the fundamental principles when using the work of an external expert.
94. The IESBA notes that the examples of actions to address identified threats listed in proposed paragraphs 390.16 A1 to A2 are not in relation to the evaluation of an external expert's CCO. The examples of actions that might be safeguards as set out in proposed paragraph 390.16 A2 are in relation to threats that might be created when a PA uses the work of an external expert, for example, the threats set out in proposed paragraph 390.14 A1.
95. Finally, in accordance with proposed paragraph 390.1, the IESBA noted that where there are no actions that can eliminate identified threats or safeguards that can reduce the level of the threats to an acceptable level, the PA must decline or end the professional service or activity in accordance with paragraph R120.10(c).
96. Similar considerations are set out in proposed Section 5390 with respect to SAPs performing sustainability assurance engagements addressed in the proposed Part 5 of the Code.

B. Communicating with Those Charged with Governance and Documentation

97. The IESBA deliberated various views regarding the use of the term “encourage” in proposed paragraphs 390.20 A1 and 390.21 A2 addressing communication with those charged with governance (TCWG) and documentation, respectively. The views ranged from, on the one hand, an encouragement being too weak from an enforcement perspective to, on the other hand, the proposed provisions on communication with TCWG and documentation not being needed as (i) they are already covered in the provisions for audit and other assurance engagements in the Code, and (ii) it would be challenging from a NAS perspective.
98. The IESBA agreed to retain the two proposed paragraphs as they are generally consistent with how the Code addresses matters of communication with TCWG and documentation in the context of professional services, where the provisions are also encouragements and not requirements. Furthermore, the IESBA considers that such guidance would be helpful for SAPs who are non-PAs in the context of sustainability assurance engagements addressed in the proposed Part 5.

C. Using the Work of Others

99. During the development of the proposals, various stakeholders have questioned whether information provided by third-party data providers or other sources of information is work performed by an expert.
100. The IESBA’s view is that individuals or organizations that provide datasets for general purposes, or other general sources of information, are not within the scope of the proposals. Such individuals or organizations include, for example:
- Those that provide industry or other benchmarking data or studies, such as information about employment statistics including hours worked and compensation per week by geographical area, real estate prices, carbon emissions by vehicle type, mortality tables, or other datasets for general use. This is explained in proposed paragraph 390.4 A4(b).
- The IESBA recognizes that there might be experts within organizations that provide information for general use (e.g., valuations that involve proprietary knowledge). The IESBA, however, considers that such experts are not in the scope of the proposed sections as the PA or SAP does not engage them to use their expertise to perform bespoke work.
- Those within employing organizations or firms (e.g., IT teams) dealing with matters relating to the use of technology and data governance, including maintaining data privacy.
 - Management’s experts (i.e., in the context of ISA 500, ISAE 3000 (Revised), and proposed ISSA 5000).
 - Those who provide sustainability certifications with no assurance elements, and where the PA or SAP is not using the certifications as work to be relied upon as sufficient appropriate evidence in an audit or other assurance engagement.
101. Concerning whether there should be additional guidance developed with respect to using the work of others, the IESBA observed that:
- Extant paragraphs R220.7 and 220.7 A1 already provide guidance on using the work of others.
 - Extant Part 3 of the Code does not address using the work of others. However, extant paragraphs R220.7 to 220.7 A1 are still relevant in Part 3 as a result of the applicability provisions in the Code (i.e., paragraphs R120.4 and R300.5).

- Using the work of others is outside the remit of this project.
102. The IESBA has proposed clarification that the work of experts does not constitute the work of others in the proposed consequential amendments to Section 220 (see proposed paragraph 220.7 A1).

D. Using the Output of Technology

103. The IESBA also observed the increasing use of certain generative artificial intelligence (AI) tools (e.g., ChatGPT) to generate responses to prompts or questions. The responses can take the form of coherent and seemingly authoritative statements or answers.
104. The IESBA's view is that such uses of the output of the technology do not amount to using the work of an expert. AI is not an expert as it does not possess the expertise to exercise judgment, interpret the inputs and outputs, and be accountable for them.
105. This view is supported by the development of various government regulations around the development and use of AI systems, e.g., the EU's [regulatory framework](#) for developing and using AI systems. The Technology Working Group's Phase 2 Report also highlights the impacts and risks of using AI's output, including bias, misinformation, disinformation, etc.
106. In this regard, the recently approved [technology revisions to the Code](#) guide a PA through the decision-making process when determining whether to use the output of technology (including AI). Such revisions build on concepts in the extant Code that are also relevant, for example, being aware of bias and having an inquiring mind.

VII. Additional Considerations for Part 2 – PAIBs

107. The IESBA noted that most of the provisions detailed in the proposed new Section 390 are equally applicable to PAIBs who intend to use external experts to support their work. As such, the proposed new Section 290 is equivalent to the proposed new Section 390 except for the following areas in relation to evaluating an external expert's CCO:
- The requirements and application material for "audit or other assurance engagements" in proposed Section 390 are not included in the proposed Part 2 equivalent section as they are not applicable.
 - The application material added in the proposed Part 2 equivalent section to explain what "other interests" might be in the context of factors that are relevant in evaluating the objectivity of the external expert used by a PAIB. Such other interests are distinct to PAs in business as drawn from the extant Code Section 240.

VIII. Additional Considerations for Part 5 – Sustainability Assurance

A. Another Practitioner

108. The IESBA considered whether the use of "another practitioner" in a sustainability assurance engagement who is not under the direction, supervision and review of the SAP is similar to the use of an external expert who is also not under the direction, supervision and review of the SAP.
109. The IESBA observed that the function and expertise of another practitioner and those of an external expert are fundamentally different. The former performs assurance work, whilst the latter does not. See further explanatory details in the [Sustainability ED](#).

B. Use of External Experts Across the Sustainability Value Chain

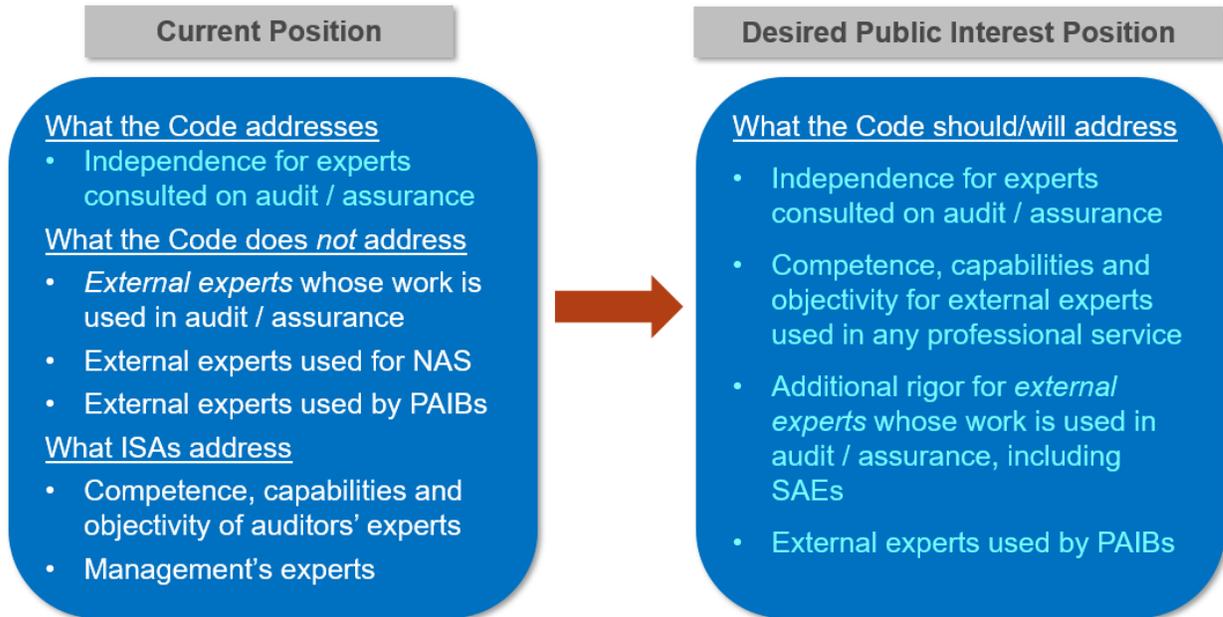
110. The IESBA's view is that the general principle regarding [evaluating objectivity](#) remains applicable. The evaluation refers to the entity at which the practitioner performs work.
111. In some circumstances, such entity might be different from the entity that engaged the practitioner (e.g., such entity could be a supplier in the value chain that is outside the organizational boundary of the entity that engaged the practitioner, or such entity could be a related entity of the entity that engaged the practitioner in a group sustainability assurance engagement).
112. Specifically for the Part 5 equivalent to proposed Section 390, the IESBA considered whether to expand the scope of the evaluation of objectivity to the client's value chain. On due reflection, the IESBA believes this would be neither practicable nor manageable. For example, a particular supplier within a client's value chain might also be the supplier to many other entities. Such supplier might then become inundated with numerous requests to provide information about interests, relationships and circumstances involving an external expert with its customers. Whether such a supplier would even respond would be outside the control of the practitioner, client or entity at which the expert is performing work.
113. Accordingly, the IESBA has proposed that the scope of the evaluation of objectivity remains as set out in proposed Section 5390 for sustainability assurance engagements.

C. External Experts who are also Sustainability Assurance Practitioners

114. Various stakeholders have questioned whether the proposals would address circumstances where an assurance provider also acts as an expert on a specific subject matter for the same entity, which might arise when there is a limited number of experts in the field or area regarding such subject matter. This means that the assurance provider is also providing a NAS in its capacity as an expert to the same entity.
115. In such a situation, the self-review threat provisions of the equivalent NAS section in the independence standards within the proposed Part 5 would cover the circumstance where an expert also acts as an assurance provider on a specific subject matter.

IX. Analysis of the Overall Impact of the Proposed Changes

116. The IESBA believes that these proposals will serve the public interest as they will set a global benchmark for (i) how to evaluate the competence, capabilities and objectivity of external experts from an ethical perspective, and (ii) how to identify, evaluate and address the threats that might be created when using the work of an external expert. The diagram below illustrates the desired public interest position that the proposals are intended to achieve:



117. The IESBA further considers that the proposals meet the key characteristics of the Public Interest Framework as follows:

- Comprehensiveness, due to the development of a comprehensive ethical framework based on the Code's conceptual framework that covers the use of external experts in audit and other assurance (including sustainability assurance) engagements, NAS, as well as for PAIBs.
- Scalability, due in particular to the proportionality in the evaluation of objectivity, taking into account the nature of the engagement, and applying greater rigor to evaluate objectivity against independence attributes for external experts in an audit and other assurance context.
- Clarity, due to the clear distinction among internal, external and management's experts.
- Implementability, due to the focus on the evaluation of objectivity by a PA/non-PA practitioner versus imposition of independence requirements on external experts in an audit or other assurance context that would be burdensome, inoperable and unenforceable on the external experts.
- Enforceability, due to the clear requirements for PAs/non-PA practitioners.

118. Given the nature and extent of the proposed revisions to the Code, the IESBA believes that some of the proposals are of a level that would entail significant changes to the policies and procedures for PAPPs and assurance practitioners, including firms and SMPs. Such changes may result in increased costs. The nature and significance of those costs will depend on the particular circumstances. As with any changes to the Code, PAPPs, assurance practitioners, NSS and others with responsibilities for adoption and implementation can expect implementation costs associated with awareness and

training initiatives, translation where needed, and, where applicable, maintenance costs with respect to updating internal policies and methodologies.

X. Project Timetable and Effective Date

119. The indicative timeline for the completion of the Use of Experts project is set out below. This timeline takes into account a 90-day comment period for the ED and is aligned with the timeline for the Sustainability project.

Indicative Timing	Milestone
April 30, 2024	<ul style="list-style-type: none"> • Closing date for comments to the ED
June 2024	<ul style="list-style-type: none"> • Preliminary highlights of ED responses to IESBA
September–October 2024	<ul style="list-style-type: none"> • Full review of ED responses and first-read post-exposure with IESBA • Outreach to stakeholders
December 2024	<ul style="list-style-type: none"> • IESBA approval of final pronouncement
2025	<ul style="list-style-type: none"> • Roll-out and implementation support

XI. Guide for Respondents

120. The IESBA welcomes comments on all matters addressed in this ED, but especially those identified in the Request for Specific Comments below. Comments are most helpful when they refer to specific paragraphs, include the reasons for the comments, and, where appropriate, make specific suggestions for any proposed changes to wording. When a respondent agrees with proposals in this ED, it will be helpful for the IESBA to be made aware of this view.

A. Request for Specific Comments

Glossary

1. Do respondents support the proposals set out in the glossary concerning the proposed new and revised definitions? See Section III.

Evaluation of CCO for all Professional Services and Activities

2. Do respondents support the approach regarding evaluating an external expert's competence, capabilities and objectivity? Are there other considerations that should be incorporated in the evaluation of CCO specific to PAIBs, PAPPs and SAPs? See Section V.
3. Do respondents agree that if an external expert is not competent, capable or objective, the Code should prohibit the PA or SAP from using their work? See paragraphs 67 to 74.

Evaluation of CCO for Audit or Other Assurance Engagements

4. In the context of an audit or other assurance (including sustainability assurance) engagement, do respondents agree that the additional provisions relating to evaluating an external expert's

objectivity introduce an appropriate level of rigor to address the heightened public interest expectations concerning external experts? If not, what other considerations would help to address the heightened public interest expectations? See Section (V)(A).

Potential Threats Arising from Using the Work of an External Expert

5. Do respondents support the provisions that guide PAs or SAPs in applying the conceptual framework when using the work of an external expert? Are there other considerations that should be included? See Section (VI)(A).

B. Request for General Comments

121. In addition to the request for specific comments above, the IESBA is also seeking comments on the matters set out below:

- *Small- and Medium-Sized Entities (SMEs) and Small and Medium Practices (SMPs)* – The IESBA invites comments regarding any aspect of the proposals from SMEs and SMPs.
- *Regulators and Audit Oversight Bodies* – The IESBA invites comments on the proposals from an enforcement perspective from members of the regulatory and audit oversight communities.
- *Sustainability Assurance Practitioners Other than Professional Accountants* – The IESBA invites comments on the clarity, understandability and usability of the proposals from SAPs outside of the accountancy profession who perform sustainability assurance engagements addressed in the proposed Part 5 of the Code.
- *Developing Nations* – Recognizing that many developing nations have adopted or are in the process of adopting the Code, the IESBA invites respondents from these nations to comment on the proposals, and in particular on any foreseeable difficulties in applying them in their environment.
- *Translations* – Recognizing that many respondents may intend to translate the final changes for adoption in their own environments, the IESBA welcomes comment on potential translation issues respondents may note in reviewing the proposals.

Appendix 1: Flowchart for Experts Used in an Audit Engagement

The following flowchart sets out the different questions PAs should ask when they are using an expert in the context of an audit engagement:



Please see following page for flowchart setting out questions for “expert employed by the firm.”

The following flowchart sets out the different questions that PAs should ask when they are using an expert employed by the firm in the context of an audit engagement:



EXPOSURE DRAFT: USING THE WORK OF AN EXTERNAL EXPERT

SECTION 220 (MARK UP FROM EXTANT)*

PREPARATION AND PRESENTATION OF INFORMATION

...

Requirements and Application Material

General

...

Using the Work of Others

R220.7 A professional accountant who intends to use the work of others, whether internal or external to the employing organization, or other organizations, shall exercise professional judgment to determine the appropriate steps to take, if any, in order to fulfill the responsibilities set out in paragraph R220.4.

220.7 A1 For the purposes of this section, the work of others excludes the work of an external expert. When a professional accountant intends to use the work of an external expert, the requirements and application material set out in Section 290 apply.

220.7 A~~2~~⁴ Factors to consider when a professional accountant intends to use the work of others include:

- The reputation and ~~expertise-competence~~ of, and resources available to, the other individual or organization.
- Whether the other individual is subject to applicable professional and ethics standards.

Such information might be gained from prior association with, or from consulting others about, the other individual or organization.

...

* Mark-Up from [2023 Version of the International Code of Ethics for Professional Accountants \(including International Independence Standards\)](#) incorporating approved pronouncements effective in December 2024, i.e., the [technology-related revisions](#) and [revisions to the definitions of listed entity and public interest entity](#), as well as the [revisions relating to the definition of engagement team and group audits](#) in the Code which are already effective.

PROPOSED SECTION 290

USING THE WORK OF AN EXTERNAL EXPERT

Introduction

- 290.1 Professional accountants are required to comply with the fundamental principles and apply the conceptual framework set out in Section 120 to identify, evaluate and address threats.
- 290.2 Using the work of an external expert might create threats to compliance with the fundamental principles, particularly the principles of integrity, objectivity and professional competence and due care.
- 290.3 This section sets out requirements and application material relevant to applying the conceptual framework in relation to using the work of an external expert.

Requirements and Application Material

General

- 290.4 A1 A self-interest threat to compliance with the principles of integrity and professional competence and due care is created if a professional accountant performs a professional activity for which the accountant has insufficient expertise.
- 290.4 A2 An action that might be a safeguard to address such a threat is to use the work of an external expert for the professional activity who has the competence, capabilities and objectivity to deliver the work needed for such service.
- 290.4 A3 An external expert might be used to undertake specific work to support a professional activity performed by a professional accountant. Such work can be in a field that is well-established or emerging. Examples of such work include:
- The valuation of assets such as complex financial instruments, land and buildings, plant and machinery, jewelry, works of art, antiques, intangible assets, assets acquired in business combinations, and assets that may have been impaired.
 - The valuation of liabilities such as those assumed in business combinations, those from actual or threatened litigation, environmental liabilities, site clean-up liabilities, and those associated with insurance contracts or employee benefit plans.
 - The calculation of greenhouse gas emissions.
 - The measurement of pollutants emitted to air, water and soil.
 - The valuation of products and materials designed along principles for a sustainable economy.
 - The estimation of oil and gas reserves.
 - The interpretation of contracts, laws and regulations, including tax laws and regulations, tax treaties and bilateral agreements.
 - Assessment and evaluation of IT systems, including those related to cybersecurity.
- 290.4 A4 This section does not apply to the use of information provided by individuals or organizations that are external information sources for general use. They include, for example, those that provide industry or other benchmarking data or studies, such as information about employment

statistics including hours worked and compensation per week by geographical area, real estate prices, carbon emissions by vehicle type, mortality tables, or other datasets for general use.

Agreeing the Terms of Engagement with an External Expert

R290.5 If the professional accountant has identified an external expert to use for a professional activity, the accountant shall agree the terms of engagement with the external expert, including the nature, scope and objectives of the work to be performed by the external expert.

290.5 A1 In agreeing the terms of engagement, matters that the professional accountant might discuss with the external expert include:

- The intended use and timing of the external expert's work.
- The external expert's general approach to the work.
- Expectations regarding confidentiality of the external expert's work and the inputs to that work.
- The expected content and format of the external expert's completed work, including any assumptions made and limitations to that work.
- Expectations regarding the external expert's communication of any non-compliance or suspected non-compliance with laws and regulations committed by the employing organization, or those working for or under the direction of the employing organization, of which the external expert becomes aware when performing the work.

Evaluating the External Expert's Competence, Capabilities, and Objectivity

R290.6 The professional accountant shall evaluate whether the external expert has the necessary competence, capabilities and objectivity for the accountant's purpose.

290.6 A1 A self-interest, self-review or advocacy threat to compliance with the principles of integrity, objectivity and professional competence and due care might be created if a professional accountant uses an external expert who does not have the competence, capabilities or objectivity to deliver the work needed for the particular professional activity.

290.6 A2 Factors that are relevant in evaluating the competence of the external expert include:

- Whether the external expert's credentials, education, training, experience and reputation are relevant to, or consistent with, the nature of the work to be performed.
- Whether the external expert belongs to a relevant professional body and, if so, whether the external expert is in good standing.
- Whether the external expert's work is subject to professional standards issued by a recognized body, or follows generally accepted principles or practices, in the external expert's field or area of expertise.
- Whether the external expert can explain their work, including the inputs, assumptions and methodologies used.
- Whether the external expert has a history of performing similar work for the professional accountant's employing organization or other clients.

- 290.6 A3 Factors that are relevant in evaluating the capabilities of the external expert include:
- The resources available to the external expert.
 - Whether the external expert has sufficient time to perform the work.
- 290.6 A4 Factors that are relevant in evaluating the objectivity of the external expert include:
- Whether the external expert is subject to ethics standards issued by a body responsible for issuing such standards in the external expert's field of expertise.
 - Whether the external expert or their employing organization has a conflict of interest or other interests in relation to the work the external expert is performing at the entity.
 - Whether the professional accountant knows or is aware of any bias that might affect the external expert's work.
 - Whether the external expert will evaluate or rely on any previous judgments made or activities performed by the external expert or their employing organization in undertaking the work.
- 290.6 A5 Other interests that might impact the level of threat to an external expert's objectivity include significant financial interests such as those arising from compensation, fees or incentive arrangements linked to financial and non-financial information and decision making.
- 290.6 A6 Examples of previous judgments made or activities performed by an external expert or their employing organization that might create a self-review threat to the external expert's objectivity include:
- Having advised the entity on the matter for which the external expert is performing the work.
 - Having produced data or other information for the entity which is then used by the external expert in performing the work or is the subject of that work.
- 290.6 A7 Information about the external expert's competence, capabilities and objectivity might be obtained from various sources, including:
- Personal association or experience with previous work undertaken by the external expert.
 - Inquiry of others within or outside the professional accountant's employing organization who are familiar with the external expert's work.
 - Discussion with the external expert about their background, including their field of expertise and business activities.
 - Inquiry of the external expert's professional body or industry association.
 - Articles, papers or books written by the external expert and published by a recognized publisher or in a recognized journal or other medium.
 - Published records, such as legal proceedings involving the external expert.
 - Inquiry of management of the employing organization and, if different, the entity at which the external expert is performing the work regarding any interests and relationships between the external expert and the employing organization or the entity.

- The internal controls, policies and procedures of the professional accountant's employing organization.

R290.7 The professional accountant shall not use work of the external expert if:

- (a) The accountant is unable to obtain the information needed for the accountant's evaluation of the external expert's competence, capabilities and objectivity; or
- (b) The accountant determines that the external expert is not competent, capable or objective.

Potential Threats Arising from Using the Work of an External Expert

290.8 A1 Threats to compliance with the fundamental principles might still be created from using the work of an external expert even if a professional accountant has satisfactorily concluded that the external expert has the necessary competence, capabilities and objectivity for the accountant's purpose.

Identifying Threats

290.9 A1 Examples of facts and circumstances that might create threats to a professional accountant's compliance with the fundamental principles when using an external expert's work include:

- (a) Self-interest threats
 - A professional accountant has insufficient expertise to understand and explain the external expert's conclusions and findings.
 - A professional accountant has undue influence from, or undue reliance on, the external expert or multiple external experts when performing a professional activity.
 - A professional accountant has insufficient time or resources to evaluate the external expert's work.
- (b) Advocacy threats
 - A professional accountant promotes the use of an external expert who has known bias towards conclusions potentially advantaging or disadvantaging the employing organization.
- (c) Familiarity threats
 - A professional accountant has a close personal relationship with the external expert.
- (d) Intimidation threats
 - A professional accountant feels pressure to defer to the external expert's opinion due to the external expert's perceived authority.

Evaluating Threats

290.10 A1 Factors that are relevant in evaluating the level of such threats include:

- The scope and purpose of the external expert's work.

- The impact of the external expert's work on the professional accountant's engagement.
- The nature of the professional activity for which the external expert's work is intended to be used.
- The professional accountant's oversight relating to the use of the external expert and the external expert's work.
- The appropriateness of, and transparency over, the data, assumptions and other inputs and methods used by the external expert.
- The professional accountant's ability to understand and explain the external expert's work and its appropriateness for the intended purpose.
- Whether the external expert's work is subject to technical performance standards or other professional or industry generally accepted practices, or law or regulation.
- Whether the external expert's work, if it were to be performed by two or more parties, is not likely to be materially different.
- The consistency of the external expert's work, including the external expert's conclusions or findings, with other information.
- The availability of other evidence, including peer-reviewed academic research, to support the external expert's approach.
- Whether there is pressure being exerted by the employing organization to accept the external expert's conclusions or findings due to the time or cost spent by the external expert in performing the work.

Addressing Threats

290.11 A1 An example of an action that might eliminate a familiarity threat is identifying a different external expert to use.

290.11 A2 Examples of actions that might be safeguards to address threats include:

- Consulting with qualified personnel within the employing organization who have the necessary expertise and experience to evaluate the external expert's work, obtaining additional input, or challenging the appropriateness of the external expert's work for the intended purpose.
- Using another external expert to reperform the external expert's work.
- Agreeing with management of the employing organization additional time or resources to complete the activity.

Other Matters

External Experts in Emerging Fields or Areas

290.12 A1 Expertise in emerging fields or areas might evolve depending on how laws, regulations and generally accepted practices develop. Emerging fields might also involve multiple areas of expertise. There might therefore be limited availability of external experts in emerging fields or areas.

290.12 A2 Information relating to some of the factors relevant to evaluating the competence of an external expert in paragraph 290.6 A2 might not be available in an emerging field or area. For example, there might not be public recognition of the external expert, professional standards might not have been developed, or professional bodies might not have been established in the emerging field. In such circumstances, a factor that might assist the professional accountant in evaluating an external expert's competence is the external expert's experience in a similar field to the emerging field, or in an established field, that provides a reasonable basis for the external expert's work in the emerging field.

Using the Work of Multiple External Experts

R290.13 When a professional accountant uses the work of more than one external expert in the performance of a professional activity, the accountant shall consider whether, in addition to the threats that might be created by using each external expert individually, the combined effect of using the work of the external experts might create additional threats or impact the level of threats.

Inherent Limitations in Evaluating an External Expert's Competence, Capabilities or Objectivity

290.14 A1 Paragraph R113.3 sets out communication responsibilities for the professional accountant with respect to limitations inherent in the accountant's professional activities. When using the work of an external expert, such communication might be especially relevant when there is a lack of information to evaluate the external expert's competence, capabilities or objectivity, and there is no available alternative to that external expert.

Communicating with Management and Those Charged with Governance When Using the Work of an External Expert

290.15 A1 The professional accountant is encouraged to communicate with management, and where appropriate, those charged with governance:

- The purpose of using an external expert and the scope of the external expert's work.
- The respective roles and responsibilities of the accountant and the external expert in the performance of the professional activity.
- Any threats to the accountant's compliance with the fundamental principles created by using the external expert's work and how they have been addressed.

Documentation

290.16 A1 The professional accountant is encouraged to document:

- The results of any discussions with the external expert.
- The steps taken by the accountant to evaluate the external expert's competence, capabilities and objectivity, and the resulting conclusions.
- Any significant threats identified by the accountant in using the external expert's work and the actions taken to address the threats.

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SECTION 320 (MARK UP FROM EXTANT)* PROFESSIONAL APPOINTMENTS

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Requirements and Application Material

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Using the Work of an Expert

~~R320.10~~ When a professional accountant intends to use the work of an expert in the course of undertaking a professional activity, the accountant shall determine whether the use is appropriate for the intended purpose.

~~320.10 A1~~ Factors to consider when a professional accountant intends to use the work of an expert include:

- ~~• The reputation and expertise of, and the resources available to, the expert.~~
- ~~• Whether the expert is subject to applicable professional and ethics standards.~~

~~Such information might be gained from prior association with, or from consulting others about, the expert.~~

...

Other Considerations

320.11~~2~~ A1 When a professional accountant is considering using the ~~work of experts or the~~ output of technology, a consideration is whether the accountant is in a position within the firm to obtain information in relation to the factors necessary to determine whether such use is appropriate.

320.11 A2 When a professional accountant intends to use the work of an expert, the requirements and application material set out in Section 390 apply.

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* Mark-Up from [2023 Version of the International Code of Ethics for Professional Accountants \(including International Independence Standards\)](#) incorporating approved pronouncements effective in December 2024, i.e., the [technology-related revisions](#) and [revisions to the definitions of listed entity and public interest entity](#), as well as the [revisions relating to the definition of engagement team and group audits](#) in the Code which are already effective.

PROPOSED SECTION 390

USING THE WORK OF AN EXTERNAL EXPERT

Introduction

- 390.1 Professional accountants are required to comply with the fundamental principles and apply the conceptual framework set out in Section 120 to identify, evaluate and address threats.
- 390.2 Using the work of an external expert might create threats to compliance with the fundamental principles, particularly the principles of integrity, objectivity and professional competence and due care.
- 390.3 This section sets out requirements and application material relevant to applying the conceptual framework in relation to using the work of an external expert.

Requirements and Application Material

General

- 390.4 A1 A self-interest threat to compliance with the principles of integrity and professional competence and due care is created if a professional accountant performs a professional service for which the accountant has insufficient expertise.
- 390.4 A2 An action that might be a safeguard to address such a threat is to use the work of an external expert for the professional service who has the competence, capabilities and objectivity to deliver the work needed for such service.
- 390.4 A3 An external expert might be used to undertake specific work to support a professional service provided by a professional accountant. Such work can be in a field that is well-established or emerging. Examples of such work include:
- The valuation of assets such as complex financial instruments, land and buildings, plant and machinery, jewelry, works of art, antiques, intangible assets, assets acquired in business combinations, and assets that may have been impaired.
 - The valuation of liabilities such as those assumed in business combinations, those from actual or threatened litigation, environmental liabilities, site clean-up liabilities, and those associated with insurance contracts or employee benefit plans.
 - The calculation of greenhouse gas emissions.
 - The measurement of pollutants emitted to air, water and soil.
 - The valuation of products and materials designed along principles for a sustainable economy.
 - The estimation of oil and gas reserves.
 - The interpretation of contracts, laws and regulations, including tax laws and regulations, tax treaties and bilateral agreements.
 - Assessment and evaluation of IT systems, including those related to cybersecurity.

390.4 A4 This section does not apply to:

- (a) The use of the work of an expert employed or engaged by the client to assist the client in preparing the financial or non-financial information. Such work is deemed to be information provided by management; and
- (b) The use of information provided by individuals or organizations that are external information sources for general use. They include, for example, those that provide industry or other benchmarking data or studies, such as information about employment statistics including hours worked and compensation per week by geographical area, real estate prices, carbon emissions by vehicle type, mortality tables, or other datasets for general use.

Agreeing the Terms of Engagement with an External Expert

All Professional Services

R390.5 If the professional accountant has identified an external expert to use for a professional service, the accountant shall, to the extent not otherwise addressed by law, regulation or other professional standards, agree the terms of engagement with the external expert, including:

- (a) The nature, scope and objectives of the work to be performed by the external expert; and
- (b) In the context of audit or other assurance engagements, the provision of information needed from the external expert for purposes of assisting the accountant's evaluation of the external expert's competence, capabilities and objectivity.

390.5 A1 In agreeing the terms of engagement, matters that the professional accountant might discuss with the external expert include:

- The intended use and timing of the external expert's work.
- The external expert's general approach to the work.
- Expectations regarding confidentiality of the external expert's work and the inputs to that work.
- The expected content and format of the external expert's completed work, including any assumptions made and limitations to that work.
- Expectations regarding the external expert's communication of any non-compliance or suspected non-compliance with laws and regulations committed by the client, or those working for or under the direction of the client, of which the external expert becomes aware when performing the work.

Evaluating the External Expert's Competence, Capabilities, and Objectivity

All Professional Services

R390.6 The professional accountant shall evaluate whether the external expert has the necessary competence, capabilities and objectivity for the accountant's purpose.

390.6 A1 A self-interest, self-review or advocacy threat to compliance with the principles of integrity, objectivity and professional competence and due care might be created if a professional

accountant uses an external expert who does not have the competence, capabilities or objectivity to deliver the work needed for the particular professional service.

390.6 A2 Factors that are relevant in evaluating the competence of the external expert include:

- Whether the external expert's credentials, education, training, experience and reputation are relevant to, or consistent with, the nature of the work to be performed.
- Whether the external expert belongs to a relevant professional body and, if so, whether the external expert is in good standing.
- Whether the external expert's work is subject to professional standards issued by a recognized body, or follows generally accepted principles or practices, in the external expert's field or area of expertise.
- Whether the external expert can explain their work, including the inputs, assumptions and methodologies used.
- Whether the external expert has a history of performing similar work for the professional accountant's firm or other clients.

390.6 A3 Factors that are relevant in evaluating the capabilities of the external expert include:

- The resources available to the external expert.
- Whether the external expert has sufficient time to perform the work.

390.6 A4 Factors that are relevant in evaluating the objectivity of the external expert include:

- Whether the external expert is subject to ethics standards issued by a body responsible for issuing such standards in the external expert's field of expertise.
- Whether the external expert or their employing organization has a conflict of interest in relation to the work the external expert is performing at the entity.
- Whether the professional accountant knows or is aware of any bias that might affect the external expert's work.
- Whether the external expert will evaluate or rely on any previous judgments made or activities performed by the external expert or their employing organization in undertaking the work.

390.6 A5 Examples of previous judgments made or activities performed by an external expert or their employing organization that might create a self-review threat to the external expert's objectivity include:

- Having advised the entity on the matter for which the external expert is performing the work.
- Having produced data or other information for the entity which is then used by the external expert in performing the work or is the subject of that work.

390.6 A6 Information about the external expert's competence, capabilities and objectivity might be obtained from various sources, including:

- Personal association or experience with previous work undertaken by the external expert.

- Inquiry of others within or outside the professional accountant's firm who are familiar with the external expert's work.
- Discussion with the external expert about their background, including their field of expertise and business activities.
- Inquiry of the external expert's professional body or industry association.
- Articles, papers or books written by the external expert and published by a recognized publisher or in a recognized journal or other medium.
- Published records, such as legal proceedings involving the external expert.
- Inquiry of the client and, if different, the entity at which the external expert is performing the work regarding any interests and relationships between the external expert and the client or the entity.
- The system of quality management of the professional accountant's firm.

Audit or Other Assurance Engagements

390.7 A1 Stakeholders have heightened expectations regarding the objectivity of an external expert whose work is used in an audit or other assurance engagement. Therefore, paragraphs R390.8 to R390.11 set out further actions in evaluating the objectivity of an external expert in an audit or other assurance engagement pursuant to paragraph R390.6.

R390.8 The professional accountant shall request the external expert to provide, in relation to the entity at which the external expert is performing the work and with respect to the period covered by the audit or assurance report and the engagement period, information about:

- (a) Any direct financial interest or material indirect financial interest held by the external expert, their immediate family, or the external expert's employing organization in the entity;
- (b) Any loan, or guarantee of a loan, made to the entity by the external expert, their immediate family, or the external expert's employing organization, other than where the loan or guarantee is immaterial to the external expert, their immediate family or the external expert's employing organization, as applicable, and the entity;
- (c) Any loan, or a guarantee of a loan, accepted by the external expert, their immediate family, or the external expert's employing organization from the entity if it is a bank or similar institution, other than where the loan or guarantee is made under normal lending procedures, terms and conditions;
- (d) Any loan, or a guarantee of a loan, accepted by the external expert, their immediate family, or the external expert's employing organization from the entity if it is not a bank or similar institution, other than where the loan or guarantee is immaterial to the external expert, their immediate family or the external expert's employing organization, as applicable, and the entity;
- (e) Any close business relationship between the external expert, their immediate family, or the external expert's employing organization and the entity or its management, other than where the financial interest, if any, is immaterial and the business relationship is

insignificant to the external expert, their immediate family or the external expert's employing organization, as applicable, and the entity or its management;

- (f) Any previous or current engagements between the external expert or their employing organization and the entity;
- (g) How long the external expert and their employing organization have been associated with the entity;
- (h) Any position as a director or officer of the entity, or an employee in a position to exert significant influence over the preparation of the entity's financial or non-financial information, or the records underlying such information:
 - (i) Held by the external expert or their immediate family;
 - (ii) Held or previously held by the external expert; or
 - (iii) Held or previously held by management of the external expert's employing organization;
- (i) Any previous public statements by the external expert or their employing organization which advocated for the entity;
- (j) Any fee or contingent fee or dependency on fees or other types of remuneration due to or received by the external expert or their employing organization from the entity;
- (k) Any benefits received by the external expert, their immediate family or the external expert's employing organization from the entity;
- (l) Any conflict of interest the external expert or their employing organization might have in relation to the work the external expert is performing at the entity; and
- (m) The nature and extent of any interests and relationships between the controlling owners of the external expert's employing organization and the entity.

R390.9 Where the external expert uses a team to carry out the work, the professional accountant shall request the external expert to have all members of the external expert's team provide the information set out in paragraph R390.8, in relation to the entity at which the external expert is performing the work and with respect to the period covered by the audit or assurance report and the engagement period.

R390.10 The professional accountant shall request the external expert to communicate any changes in facts or circumstances regarding the matters set out in paragraph R390.8 that might arise during the period covered by the audit or assurance report and the engagement period.

R390.11 Where the client is not the entity at which the external expert is performing the work, the professional accountant shall also request the external expert to disclose, in relation to the period covered by the audit or assurance report and the engagement period, information about interests, relationships or circumstances of which they are aware between the external expert, their immediate family or the external expert's employing organization and the client.

390.11 A1 Examples of interests, relationships or circumstances between the external expert and the client that might be included in the evaluation of the external expert's objectivity include:

- Any direct financial interest or material indirect financial interest in the client held by the external expert, their immediate family, or the external expert's employing organization.

- Any interests or relationships of the external expert, their immediate family or the external expert's employing organization with the client and those entities over which it has direct or indirect control.
- Any conflicts of interest the external expert, their immediate family or the external expert's employing organization might have with the client.

390.11 A2 Information about interests, relationships or circumstances between an external expert or their employing organization and the client might be obtained from inquiry of the client, if the circumstances of the engagement permit disclosure of the use of the external expert to the client.

All Professional Services

R390.12 The professional accountant shall not use the work of the external expert if:

- (a) The accountant is unable to obtain the information needed for the accountant's evaluation of the external expert's competence, capabilities and objectivity; or
- (b) The accountant determines that the external expert is not competent, capable or objective.

Potential Threats Arising from Using the Work of an External Expert

All Professional Services

390.13 A1 Threats to compliance with the fundamental principles might still be created from using the work of an external expert even if a professional accountant has satisfactorily concluded that the external expert has the necessary competence, capabilities and objectivity for the accountant's purpose.

Identifying Threats

390.14 A1 Examples of facts and circumstances that might create threats to a professional accountant's compliance with the fundamental principles when using an external expert's work include:

- (a) Self-interest threats
 - A professional accountant has insufficient expertise to understand and explain the external expert's conclusions and findings.
 - A professional accountant has undue influence from, or undue reliance on, the external expert or multiple external experts when performing a professional service.
 - A professional accountant has insufficient time or resources to evaluate the external expert's work.
- (b) Advocacy threats
 - A professional accountant promotes the use of an external expert who has known bias towards conclusions potentially advantaging or disadvantaging the client.
- (c) Familiarity threats
 - A professional accountant has a close personal relationship with the external

expert.

(d) Intimidation threats

- A professional accountant feels pressure to defer to the external expert's opinion due to the external expert's perceived authority.

Evaluating Threats

390.15 A1 Factors that are relevant in evaluating the level of such threats include:

- The scope and purpose of the external expert's work.
- The impact of the external expert's work on the professional accountant's engagement.
- The nature of the professional service for which the external expert's work is intended to be used.
- The professional accountant's oversight relating to the use of the external expert and the external expert's work.
- The appropriateness of, and transparency over, the data, assumptions and other inputs and methods used by the external expert.
- The professional accountant's ability to understand and explain the external expert's work and its appropriateness for the intended purpose.
- Whether the external expert's work is subject to technical performance standards or other professional or industry generally accepted practices, or law or regulation.
- Whether the external expert's work, if it were to be performed by two or more parties, is not likely to be materially different.
- The consistency of the external expert's work, including the external expert's conclusions or findings, with other information.
- The availability of other evidence, including peer-reviewed academic research, to support the external expert's approach.
- Whether there is pressure being exerted by the professional accountant's firm to accept the external expert's conclusions or findings due to the time or cost spent by the external expert in performing the work.

Addressing Threats

390.16 A1 An example of an action that might eliminate a familiarity threat is identifying a different external expert to use.

390.16 A2 Examples of actions that might be safeguards to address threats include:

- Consulting with qualified personnel who have the necessary expertise and experience to evaluate the external expert's work, obtaining additional input, or challenging the appropriateness of the external expert's work for the intended purpose.
- Using another external expert to reperform the external expert's work.
- Agreeing with the client additional time or resources to complete the engagement.

Other Matters

External Experts in Emerging Fields or Areas

- 390.17 A1 Expertise in emerging fields or areas might evolve depending on how laws, regulations and generally accepted practices develop. Emerging fields might also involve multiple areas of expertise. There might therefore be limited availability of external experts in emerging fields or areas.
- 390.17 A2 Information relating to some of the factors relevant to evaluating the competence of an external expert in paragraph 390.6 A2 might not be available in an emerging field or area. For example, there might not be public recognition of the external expert, professional standards might not have been developed, or professional bodies might not have been established in the emerging field. In such circumstances, a factor that might assist the professional accountant in evaluating an external expert's competence is the external expert's experience in a similar field to the emerging field, or in an established field, that provides a reasonable basis for the external expert's work in the emerging field.

Using the Work of Multiple External Experts

- R390.18** When a professional accountant uses the work of more than one external expert in the performance of a professional service, the accountant shall consider whether, in addition to the threats that might be created by using each external expert individually, the combined effect of using the work of the external experts might create additional threats or impact the level of threats.

Inherent Limitations in Evaluating an External Expert's Competence, Capabilities or Objectivity

- 390.19 A1 Paragraph R113.3 sets out communication responsibilities for the professional accountant with respect to limitations inherent in the accountant's professional services. When using the work of an external expert, such communication might be especially relevant when there is a lack of information to evaluate the external expert's competence, capabilities or objectivity, and there is no available alternative to that external expert.

Communicating with Management and Those Charged with Governance When Using the Work of an External Expert

- 390.20 A1 The professional accountant is encouraged to communicate with management, and where appropriate, those charged with governance:
- The purpose of using an external expert and the scope of the external expert's work.
 - The respective roles and responsibilities of the accountant and the external expert in the performance of the professional service.
 - Any threats to the accountant's compliance with the fundamental principles created by using the external expert's work and how they have been addressed.

Documentation

- 390.21 A1 The professional accountant is encouraged to document:
- The results of any discussions with the external expert.

EXPOSURE DRAFT

- The steps taken by the accountant to evaluate the external expert's competence, capabilities and objectivity, and the resulting conclusions.
- Any significant threats identified by the accountant in using the external expert's work and the actions taken to address the threats.

PROPOSED SECTION 5390

USING THE WORK OF AN EXTERNAL EXPERT

Introduction

- 5390.1 Sustainability assurance practitioners are required to comply with the fundamental principles and apply the conceptual framework set out in Section 5120 to identify, evaluate and address threats.
- 5390.2 Using the work of an external expert might create threats to compliance with the fundamental principles, particularly the principles of integrity, objectivity and professional competence and due care.
- 5390.3 This section sets out requirements and application material relevant to applying the conceptual framework in relation to using the work of an external expert.

Requirements and Application Material

General

- 5390.4 A1 A self-interest threat to compliance with the principles of integrity and professional competence and due care is created if a sustainability assurance practitioner performs a professional service for which the practitioner has insufficient expertise.
- 5390.4 A2 An action that might be a safeguard to address such a threat is to use the work of an external expert for the professional service who has the competence, capabilities and objectivity to deliver the work needed for such service.
- 5390.4 A3 An external expert might be used to undertake specific work to support a professional service provided by a sustainability assurance practitioner. Such work can be in a field that is well-established or emerging. Examples of such work include:
- The valuation of assets such as complex financial instruments, land and buildings, plant and machinery, jewelry, works of art, antiques, intangible assets, assets acquired in business combinations, and assets that may have been impaired.
 - The valuation of liabilities such as those assumed in business combinations, those from actual or threatened litigation, environmental liabilities, site clean-up liabilities, and those associated with insurance contracts or employee benefit plans.
 - The calculation of greenhouse gas emissions.
 - The measurement of pollutants emitted to air, water and soil.
 - The valuation of products and materials designed along principles for a sustainable economy.
 - The estimation of oil and gas reserves.
 - The interpretation of contracts, laws and regulations, including tax laws and regulations, tax treaties and bilateral agreements.
 - Assessment and evaluation of IT systems, including those related to cybersecurity.
 - The accounting for specific matters such as financial instruments or carbon credits.

5390.4 A4 This section does not apply to:

- (a) The use of the work of an expert employed or engaged by the sustainability assurance client to assist the client in preparing the financial or non-financial information. Such work is deemed to be information provided by management; and
- (b) The use of information provided by individuals or organizations that are external information sources for general use. They include, for example, those that provide industry or other benchmarking data or studies, such as information about employment statistics including hours worked and compensation per week by geographical area, real estate prices, carbon emissions by vehicle type, mortality tables, or other datasets for general use.

Agreeing the Terms of Engagement with an External Expert

All Professional Services

R5390.5 If the sustainability assurance practitioner has identified an external expert to use for a professional service, the practitioner shall, to the extent not otherwise addressed by law, regulation or other professional standards, agree the terms of engagement with the external expert, including:

- (a) The nature, scope and objectives of the work to be performed by the external expert; and
- (b) In the context of sustainability or other assurance engagements, the provision of information needed from the external expert for purposes of assisting the practitioner's evaluation of the external expert's competence, capabilities and objectivity.

5390.5 A1 In agreeing the terms of engagement, matters that the sustainability assurance practitioner might discuss with the external expert include:

- The intended use and timing of the external expert's work.
- The external expert's general approach to the work.
- Expectations regarding confidentiality of the external expert's work and the inputs to that work.
- The expected content and format of the external expert's completed work, including any assumptions made and limitations to that work.
- Expectations regarding the external expert's communication of any non-compliance or suspected non-compliance with laws and regulations committed by the sustainability assurance client, or those working for or under the direction of the client, of which the external expert becomes aware when performing the work.

Evaluating the External Expert's Competence, Capabilities, and Objectivity

All Professional Services

R5390.6 The sustainability assurance practitioner shall evaluate whether the external expert has the necessary competence, capabilities and objectivity for the practitioner's purpose.

5390.6 A1 A self-interest, self-review or advocacy threat to compliance with the principles of integrity, objectivity and professional competence and due care might be created if a sustainability

assurance practitioner uses an external expert who does not have the competence, capabilities or objectivity to deliver the work needed for the particular professional service.

5390.6 A2 Factors that are relevant in evaluating the competence of the external expert include:

- Whether the external expert's credentials, education, training, experience and reputation are relevant to, or consistent with, the nature of the work to be performed.
- Whether the external expert belongs to a relevant professional body and, if so, whether the external expert is in good standing.
- Whether the external expert's work is subject to professional standards issued by a recognized body, or follows generally accepted principles or practices, in the external expert's field or area of expertise.
- Whether the external expert can explain their work, including the inputs, assumptions and methodologies used.
- Whether the external expert has a history of performing similar work for the sustainability assurance practitioner's firm or other clients.

5390.6 A3 Factors that are relevant in evaluating the capabilities of the external expert include:

- The resources available to the external expert.
- Whether the external expert has sufficient time to perform the work.

5390.6 A4 Factors that are relevant in evaluating the objectivity of the external expert include:

- Whether the external expert is subject to ethics standards issued by a body responsible for issuing such standards in the external expert's field of expertise.
- Whether the external expert or their employing organization has a conflict of interest in relation to the work the external expert is performing at the entity.
- Whether the sustainability assurance practitioner knows or is aware of any bias that might affect the external expert's work.
- Whether the external expert will evaluate or rely on any previous judgments made or activities performed by the external expert or their employing organization in undertaking the work.

5390.6 A5 Examples of previous judgments made or activities performed by an external expert or their employing organization that might create a self-review threat to the external expert's objectivity include:

- Having advised the entity on the matter for which the external expert is performing the work.
- Having produced data or other information for the entity which is then used by the external expert in performing the work or is the subject of that work.

5390.6 A6 Information about the external expert's competence, capabilities and objectivity might be obtained from various sources, including:

- Personal association or experience with previous work undertaken by the external expert.

- Inquiry of others within or outside the sustainability assurance practitioner's firm who are familiar with the external expert's work.
- Discussion with the external expert about their background, including their field of expertise and business activities.
- Inquiry of the external expert's professional body or industry association.
- Articles, papers or books written by the external expert and published by a recognized publisher or in a recognized journal or other medium.
- Published records, such as legal proceedings involving the external expert.
- Inquiry of the sustainability assurance client and, if different, the entity at which the external expert is performing the work regarding any interests and relationships between the external expert and the client or the entity.
- The system of quality management of the sustainability assurance practitioner's firm.

Sustainability or Other Assurance Engagements

5390.7 A1 Stakeholders have heightened expectations regarding the objectivity of an external expert whose work is used in a sustainability or other assurance engagement. Therefore, paragraphs R5390.8 to R5390.11 set out further actions in evaluating the objectivity of an external expert in a sustainability or other assurance engagement pursuant to paragraph R5390.6.

R5390.8 The sustainability assurance practitioner shall request the external expert to provide, in relation to the entity at which the external expert is performing the work and with respect to the period covered by the assurance report and the engagement period, information about:

- (a) Any direct financial interest or material indirect financial interest held by the external expert, their immediate family, or the external expert's employing organization in the entity;
- (b) Any loan, or guarantee of a loan, made to the entity by the external expert, their immediate family, or the external expert's employing organization, other than where the loan or guarantee is immaterial to the external expert, their immediate family or the external expert's employing organization, as applicable, and the entity;
- (c) Any loan, or a guarantee of a loan, accepted by the external expert, their immediate family, or the external expert's employing organization from the entity if it is a bank or similar institution, other than where the loan or guarantee is made under normal lending procedures, terms and conditions;
- (d) Any loan, or a guarantee of a loan, accepted by the external expert, their immediate family, or the external expert's employing organization from the entity if it is not a bank or similar institution, other than where the loan or guarantee is immaterial to the external expert, their immediate family or the external expert's employing organization, as applicable, and the entity;
- (e) Any close business relationship between the external expert, their immediate family, or the external expert's employing organization and the entity or its management, other than where the financial interest, if any, is immaterial and the business relationship is

insignificant to the external expert, their immediate family or the external expert's employing organization, as applicable, and the entity or its management;

- (f) Any previous or current engagements between the external expert or their employing organization and the entity;
 - (g) How long the external expert and their employing organization have been associated with the entity;
 - (h) Any position as a director or officer of the entity, or an employee in a position to exert significant influence over the preparation of the entity's financial or non-financial information, or the records underlying such information:
 - (i) Held by the external expert or their immediate family;
 - (ii) Held or previously held by the external expert; or
 - (iii) Held or previously held by management of the external expert's employing organization;
 - (i) Any previous public statements by the external expert or their employing organization which advocated for the entity;
 - (j) Any fee or contingent fee or dependency on fees or other types of remuneration due to or received by the external expert or their employing organization from the entity;
 - (k) Any benefits received by the external expert, their immediate family or the external expert's employing organization from the entity;
 - (l) Any conflict of interest the external expert or their employing organization might have in relation to the work the external expert is performing at the entity; and
 - (m) The nature and extent of any interests and relationships between the controlling owners of the external expert's employing organization and the entity.
- R5390.9** Where the external expert uses a team to carry out the work, the sustainability assurance practitioner shall request the external expert to have all members of the external expert's team provide the information set out in paragraph R5390.8, in relation to the entity at which the external expert is performing the work and with respect to the period covered by the assurance report and the engagement period.
- R5390.10** The sustainability assurance practitioner shall request the external expert to communicate any changes in facts or circumstances regarding the matters set out in paragraph R5390.8 that might arise during the period covered by the assurance report and the engagement period.
- R5390.11** Where the sustainability assurance client is not the entity at which the external expert is performing the work, the sustainability assurance practitioner shall also request the external expert to disclose, in relation to the period covered by the assurance report and the engagement period, information about interests, relationships or circumstances of which they are aware between the external expert, their immediate family or the external expert's employing organization and the client.
- 5390.11 A1 Examples of interests, relationships or circumstances between the external expert and the sustainability assurance client that might be included in the evaluation of the external expert's objectivity include:

- Any direct financial interest or material indirect financial interest in the sustainability assurance client held by the external expert, their immediate family, or the external expert's employing organization.
- Any interests or relationships of the external expert, their immediate family or the external expert's employing organization with the sustainability assurance client and those entities over which it has direct or indirect control.
- Any conflicts of interest the external expert, their immediate family or the external expert's employing organization might have with the sustainability assurance client.

5390.11 A2 Information about interests, relationships or circumstances between an external expert or their employing organization and the sustainability assurance client might be obtained from inquiry of the client, if the circumstances of the engagement permit disclosure of the use of the external expert to the client.

All Professional Services

R5390.12 The sustainability assurance practitioner shall not use the work of the external expert if:

- (a) The practitioner is unable to obtain the information needed for the practitioner's evaluation of the external expert's competence, capabilities and objectivity; or
- (b) The practitioner determines that the external expert is not competent, capable or objective.

Potential Threats Arising from Using the Work of an External Expert

All Professional Services

5390.13 A1 Threats to compliance with the fundamental principles might still be created from using the work of an external expert even if a sustainability assurance practitioner has satisfactorily concluded that the external expert has the necessary competence, capabilities and objectivity for the practitioner's purpose.

Identifying Threats

5390.14 A1 Examples of facts and circumstances that might create threats to a sustainability assurance practitioner's compliance with the fundamental principles when using an external expert's work include:

- (a) Self-interest threats
 - A sustainability assurance practitioner has insufficient expertise to understand and explain the external expert's conclusions and findings.
 - A sustainability assurance practitioner has undue influence from, or undue reliance on, the external expert or multiple external experts when performing a professional service.
 - A sustainability assurance practitioner has insufficient time or resources to evaluate the external expert's work.
- (b) Advocacy threats
 - A sustainability assurance practitioner promotes the use of an external expert who

has known bias towards conclusions potentially advantaging or disadvantaging the sustainability assurance client.

(c) Familiarity threats

- A sustainability assurance practitioner has a close personal relationship with the external expert.

(d) Intimidation threats

- A sustainability assurance practitioner feels pressure to defer to the external expert's opinion due to the external expert's perceived authority.

Evaluating Threats

5390.15 A1 Factors that are relevant in evaluating the level of such threats include:

- The scope and purpose of the external expert's work.
- The impact of the external expert's work on the sustainability assurance practitioner's engagement.
- The nature of the professional service for which the external expert's work is intended to be used.
- The sustainability assurance practitioner's oversight relating to the use of the external expert and the external expert's work.
- The appropriateness of, and transparency over, the data, assumptions and other inputs and methods used by the external expert.
- The sustainability assurance practitioner's ability to understand and explain the external expert's work and its appropriateness for the intended purpose.
- Whether the external expert's work is subject to technical performance standards or other professional or industry generally accepted practices, or law or regulation.
- Whether the external expert's work, if it were to be performed by two or more parties, is not likely to be materially different.
- The consistency of the external expert's work, including the external expert's conclusions or findings, with other information.
- The availability of other evidence, including peer-reviewed academic research, to support the external expert's approach.
- Whether there is pressure being exerted by the sustainability assurance practitioner's firm to accept the external expert's conclusions or findings due to the time or cost spent by the external expert in performing the work.

Addressing Threats

5390.16 A1 An example of an action that might eliminate a familiarity threat is identifying a different external expert to use.

5390.16 A2 Examples of actions that might be safeguards to address threats include:

- Consulting with qualified personnel who have the necessary expertise and experience to

evaluate the external expert's work, obtaining additional input, or challenging the appropriateness of the external expert's work for the intended purpose.

- Using another external expert to reperform the external expert's work.
- Agreeing with the sustainability assurance client additional time or resources to complete the engagement.

Other Matters

External Experts in Emerging Fields or Areas

5390.17 A1 Expertise in emerging fields or areas might evolve depending on how laws, regulations and generally accepted practices develop. Emerging fields might also involve multiple areas of expertise. There might therefore be limited availability of external experts in emerging fields or areas.

5390.17 A2 Information relating to some of the factors relevant to evaluating the competence of an external expert in paragraph 5390.6 A2 might not be available in an emerging field or area. For example, there might not be public recognition of the external expert, professional standards might not have been developed, or professional bodies might not have been established in the emerging field. In such circumstances, a factor that might assist the sustainability assurance practitioner in evaluating an external expert's competence is the external expert's experience in a similar field to the emerging field, or in an established field, that provides a reasonable basis for the external expert's work in the emerging field.

Using the Work of Multiple External Experts

R5390.18 When a sustainability assurance practitioner uses the work of more than one external expert in the performance of a professional service, the practitioner shall consider whether, in addition to the threats that might be created by using each external expert individually, the combined effect of using the work of the external experts might create additional threats or impact the level of threats.

Inherent Limitations in Evaluating an External Expert's Competence, Capabilities or Objectivity

5390.19 A1 Paragraph R5113.3 sets out communication responsibilities for the sustainability assurance practitioner with respect to limitations inherent in the practitioner's professional services. When using the work of an external expert, such communication might be especially relevant when there is a lack of information to evaluate the external expert's competence, capabilities or objectivity, and there is no available alternative to that external expert.

Communicating with Management and Those Charged with Governance When Using the Work of an External Expert

5390.20 A1 The sustainability assurance practitioner is encouraged to communicate with management, and where appropriate, those charged with governance:

- The purpose of using an external expert and the scope of the external expert's work.
- The respective roles and responsibilities of the sustainability assurance practitioner and the external expert in the performance of the professional service.

- Any threats to the practitioner's compliance with the fundamental principles created by using the external expert's work and how they have been addressed.

Documentation

5390.21 A1 The sustainability assurance practitioner is encouraged to document:

- The results of any discussions with the external expert.
- The steps taken by the practitioner to evaluate the external expert's competence, capabilities and objectivity, and the resulting conclusions.
- Any significant threats identified by the practitioner in using the external expert's work and the actions taken to address the threats.

PROPOSED NEW GLOSSARY DEFINITIONS

Expert	An individual possessing expertise that is outside the professional accountant's or sustainability assurance practitioner's competence. Where appropriate, the term also refers to the individual's organization.
Expertise	Knowledge and skills in a particular field.

...

GLOSSARY (MARK UP FROM EXTANT)*

External Expert	<p><u>An expert engaged by a professional accountant's employing organization or firm, or by a sustainability assurance practitioner.</u></p> <p><u>In the context of audit engagements, An expert individual</u> (who is not a partner or a member of the professional staff, including temporary staff, of the firm or a network firm) or organization possessing expertise skills, knowledge and experience in a field other than accounting or auditing, whose work in that field is used to assist the professional accountant in obtaining sufficient appropriate <u>audit</u> evidence.</p> <p><u>In the context of assurance engagements, including sustainability assurance engagements, An expert individual</u> (who is not <u>an engagement leader</u>, a partner or a member of the professional staff, including temporary staff, of the firm or a network firm) or organization possessing expertise skills, knowledge and experience in a field other than assurance accounting or auditing, whose work in that field is used to assist the professional accountant <u>or sustainability assurance practitioner</u> in obtaining sufficient appropriate evidence.</p> <p><u>External experts are not members of the engagement team, audit team, review team, assurance team, or sustainability assurance team.</u></p> <p><u>Sections 290, 390 and 5390 set out the requirements and application material addressing the use of the work of an external expert.</u></p>
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* Mark-Up from [2023 Version of the International Code of Ethics for Professional Accountants \(including International Independence Standards\)](#) incorporating approved pronouncements effective in December 2024, i.e., the [technology-related revisions](#) and [revisions to the definitions of listed entity and public interest entity](#), as well as the [revisions relating to the definition of engagement team and group audits](#) in the Code which are already effective.

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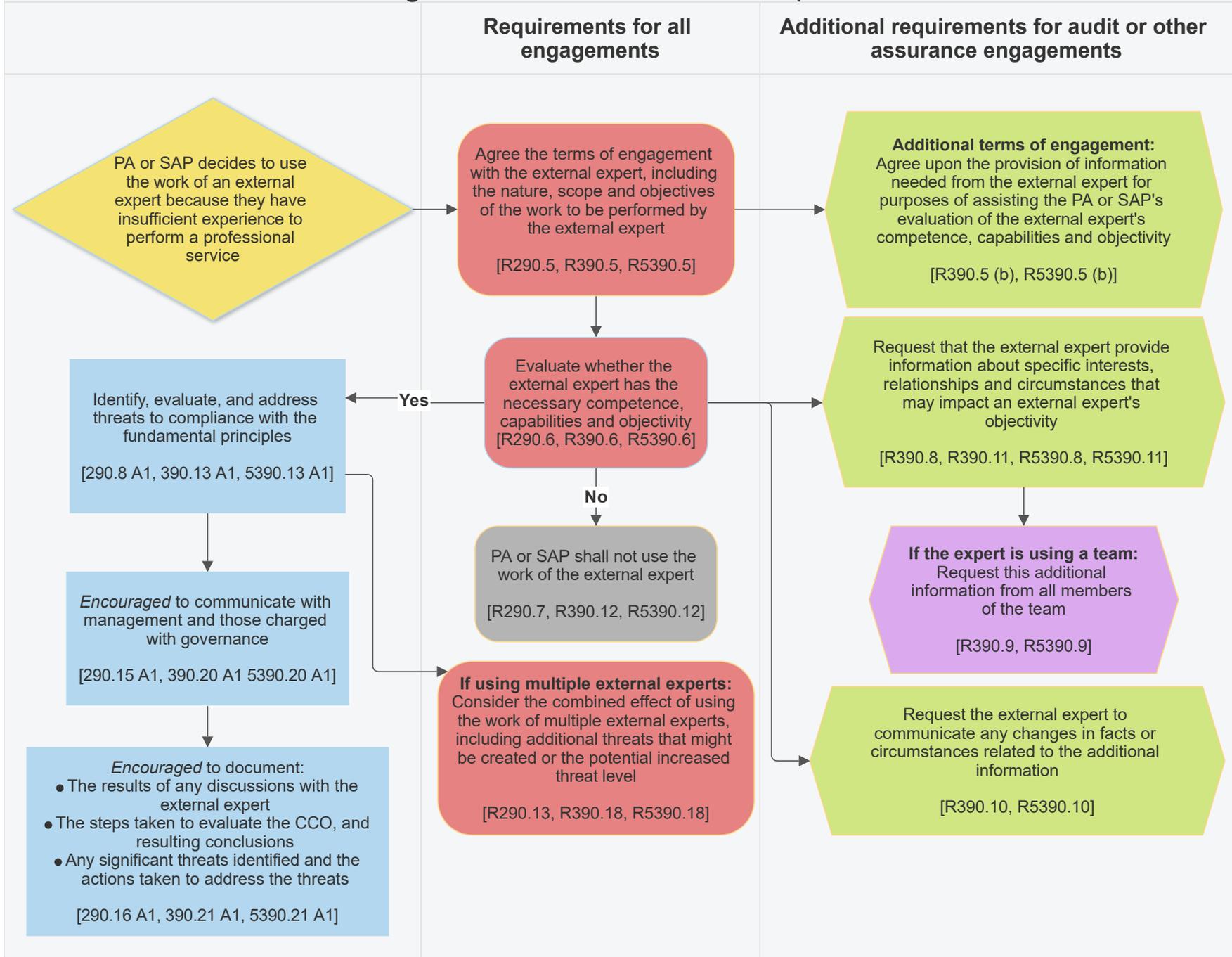




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T + 1 (212) 286-9344 F +1 (212) 286-9570
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Using the Work of an External Expert



IESBA convergence: Non-assurance services - General

Task force members

Andy Bonner (chair), Anna Dourdourekas, Kenneth Omoruyi, Lisa Snyder

Observers

Vincent DiBlanda, Brandon Mercer

AICPA staff

Liese Faircloth, Ellen Gorla

Task force charge

To determine convergence needs related to IESBA revisions to the [Final Pronouncement Non-Assurance Services](#) provisions of their code, specifically for recruiting and corporate finance services and for evaluating the self-review threat before performing nonattest services (IESBA NAS).

Reason for agenda item

To seek approval to expose revisions to the “Executive or Employee Recruiting” interpretation (ET sec. 1.295.135).

Task force activities

Searching for or seeking out candidates

During the November meeting, PEEC agreed that AICPA’s provision “soliciting candidates” seemed more actionable than IESBA’s “searching for or seeking out candidates.” For example, a practitioner could search a contact list for potential candidates but sending a direct message to one person asking him or her to apply would be solicitation. Some committee members suggested that it might be good to use the terms in the IESBA code.

Since IESBA’s provision is limited to key positions, it should be permissible to search for or seek out candidates for non-key positions based on attest client approved criteria. See item (b) in paragraph .02 of agenda item 8B.

The extant AICPA code allows screening candidates using criteria approved by the attest client and the IESBA code does not prohibit this service. The task force separated the searching for or seeking out from the screening provision to make it clear that the service is still permitted. However, the example has the resumes provided by the attest client, which shows that the practitioner did not solicit the candidates. See item (c) of paragraph .02 of agenda item 8B.

Qualified candidate

The extant AICPA code permits members to recommend qualified candidates to the attest client

for consideration. The IESBA code prohibits recommending one specific person to be appointed for a key position.

The task force discussed the differences between the two provisions and noted that the IESBA prohibition seems to indicate that the practitioner may not recommend only one person, and the AICPA provision indicates the practitioner may recommend multiple candidates. Consistency on this point between the AICPA and IESBA codes can be achieved by prohibiting recommending one candidate for a key position and specifying that multiple individuals may be recommended for all positions and that one candidate may be recommended for a non-key position. See item (d) in paragraph .02 and item (a) in paragraph.03 of agenda item 8B for the task force's recommended revisions.

Advising on terms of employment

The IESBA code prohibits advising on the terms of employment of a particular candidate for a key position. The extant AICPA code permits participation in employee hiring discussions in an advisory capacity. The task force recommends adding a prohibition to the AICPA code to prohibit advising an attest client in relation to a particular candidate. However, advising in relation to a position in general would be allowable. For example, if the practitioner assists the attest client in determining a compensation range prior to posting an opening, this would be in compliance with IESBA provision, but advising the attest client after one candidate has been identified would be prohibited. See item (f) in paragraph .02 and item (d) in paragraph .03 of agenda item 8B.

Reference checks

The task force also discussed IESBA's prohibition on reference checks and what this entails. Simply verifying prior employment did not raise the same level of concern that asking subjective questions of a personal reference might. PEEC did determine that reference checks are not necessarily a management responsibility, but noted there could be familiarity, advocacy or undue influence threats for the member when undertaking this service. The task force believes that when the position in question is not a key position, members could apply professional judgement to determine whether threats are at an acceptable level. However, when the position is a key position, the task force recommends adding a prohibition for undertaking reference or background checks. See item (e) of paragraph .03 of agenda item 8B.

Questions for the committee

1. Does the committee agree with the task force's recommended revisions?
2. Does the committee approve exposure of the proposed revisions to the "Executive or Employee Recruiting" interpretation in agenda item 8B?

3. Does the committee agree that the exposure period should be 90 days?
4. Does the committee agree with the proposed effective date of January 1, 2025, with early adoption permitted?

Materials presented

- Agenda item 8B: Proposed revisions to the “Executive or Employee Recruiting” interpretation
- Agenda item 8C: IESBA Code subsection 609 – *Recruiting Services*

Proposed revisions to the “Executive or Employee Recruiting” interpretation

Additions appear in ***boldface italic***. Deletions appear in ~~strike~~through.

Terms defined in the AICPA Code of Professional Conduct are italicized in this document. If you’d like to see the definitions, you can find them in “Definitions” ([ET sec. 0.400](#))

1.295.135 Executive or Employee Recruiting

- .01** When a member provides executive or employee recruiting services to an *attest client*, self-review and management participation *threats* to the *covered member’s* compliance with the “[Independence Rule](#)” [1.200.001] may exist.
- .02** If the member applies the “[General Requirements for Performing Nonattest Services](#)” interpretation [1.295.040] of the “Independence Rule” [1.200.001], *threats* would be at an *acceptable level* and *independence* would not be *impaired*. For example, a member may
- a. recommend a position description or candidate specifications.
 - b. ***search for or seek out***~~solicit and screen~~ candidates ***for non-key positions using attest-client-approved criteria***~~based on criteria approved by the attest client, such as required education, skills, or experience.~~
 - c. ***review candidate resumes provided by the attest client to identify those that meet the attest client’s criteria.***
 - d. recommend ***to the attest client more than one*** qualified ***candidate*** ~~candidates~~ ***to the attest client*** for their consideration based on ***attest client’s criteria*** ~~approved by the attest client.~~
 - e. ***recommend one qualified candidate for a non-key position to the attest client based on the attest client’s criteria.***
 - f. ***advise on the terms of employment, remuneration, or related benefits of a particular position*** ~~participate in employee hiring or compensation discussions in an advisory capacity.~~
- .03** However, **the member is prohibited from** ~~threats to compliance with the~~ “[Independence Rule](#)” [1.200.001] would not be at an ~~acceptable level~~ and could not be

~~reduced to an acceptable level by the application of safeguards, and independence would be impaired, if, for example, a member~~

- a. ***recommending one candidate to be hired for a key position.***
- b. commits ***committing*** the *attest client* to employee compensation or benefit arrangements.
- c. hires ***hiring*** or ***terminating*** the *attest client's* employees.
- d. ***advising on the terms of employment, remuneration, or related benefits of a particular candidate for a key position.***
- e. ***undertaking reference or background checks of prospective candidates for a key position.***

Subsection 609 – Recruiting Services

Introduction

609.1 In addition to the specific requirements and application material in this subsection, the requirements and application material in paragraphs 600.1 to 600.27 A1 are relevant to applying the conceptual framework when providing a recruiting service to an audit client.

Requirements and Application Material

Description of Service

609.2 A1 Recruiting services might include activities such as:

- Developing a job description.
- Developing a process for identifying and selecting potential candidates.
- Searching for or seeking out candidates.
- Screening potential candidates for the role by:
 - Reviewing the professional qualifications or competence of applicants and determining their suitability for the position.
 - Undertaking reference checks of prospective candidates.
 - Interviewing and selecting suitable candidates and advising on candidates' competence.
- Determining employment terms and negotiating details, such as salary, hours and other compensation. [This is a link.](#) Links should not be bold or use colors other than the default.

Risk of Assuming Management Responsibility When Providing a Recruiting Service

R609.3 Paragraph R400.13 precludes a firm or a network firm from assuming a management responsibility. When providing a recruiting service to an audit client, the firm shall be satisfied that:

- a) The client assigns the responsibility to make all management decisions with respect to hiring the candidate for the position to a competent employee, preferably within senior management; and
- b) The client makes all management decisions with respect to the hiring process, including:

- Determining the suitability of prospective candidates and selecting suitable candidates for the position.
- Determining employment terms and negotiating details, such as salary, hours and other compensation.

Potential Threats Arising from Providing Recruiting Services

All Audit Clients

- 609.4 A1 Providing recruiting services to an audit client might create a self-interest, familiarity or intimidation threat.
- 609.4 A2 Providing the following services does not usually create a threat as long as individuals within the firm or the network firm do not assume a management responsibility:
- Reviewing the professional qualifications of a number of applicants and providing advice on their suitability for the position.
 - Interviewing candidates and advising on a candidate's competence for financial accounting, administrative or control positions.
- 609.4 A3 Factors that are relevant in identifying self-interest, familiarity or intimidation threats created by providing recruiting services to an audit client, and evaluating the level of such threats include:
- The nature of the requested assistance.
 - The role of the individual to be recruited.
 - Any conflicts of interest or relationships that might exist between the candidates and the firm providing the advice or service.
- 609.4 A4 An example of an action that might be a safeguard to address such a self-interest, familiarity or intimidation threat is using professionals who are not audit team members to perform the service.

Recruiting Services that are Prohibited

R609.5 When providing recruiting services to an audit client, the firm or the network firm shall not act as a negotiator on the client's behalf.

R609.6 A firm or a network firm shall not provide a recruiting service to an audit client if the service relates to:

- a) Searching for or seeking out candidates;
- b) Undertaking reference checks of prospective candidates;
- c) Recommending the person to be appointed; or
- d) Advising on the terms of employment, remuneration or related benefits of a particular candidate,

with respect to the following positions:

- (i) A director or officer of the entity; or
- (ii) A member of senior management in a position to exert significant influence over the preparation of the client's accounting records or the financial statements on which the firm will express an opinion.

Simultaneous employment or association with an attest client

Task force members

Cathy Allen (chair), Andy Bonner, Jason Evans, Jeff Lewis, Nancy Miller, Dan Vuckovich

Observers

Jim Dalkin, Robin Donaldson, Nicole Anderson McLean, Bella Rivshin

AICPA staff

Jennifer Kappler

Task force charge

To consider whether to add an exception to the “Simultaneous Employment or Association With an Attest Client” interpretation ([ET sec. 1.275.005](#)) for individuals employed by the armed services and whether other modifications to the subtopic “Current Employment or Association with an Attest Client” ([ET sec. 1.275](#)) are warranted.

Reason for agenda item

To seek input on the task force’s recommended revisions to the “Definitions” and “Simultaneous Employment or Association With an Attest Client” interpretation.

Background

Recent milestones for this project include the approval of a framework based on restricting covered members and those holding key positions from being simultaneously employed by an attest client. The committee also approved certain specifically identified exceptions and the application of the “Conceptual Framework for Independence” ([ET sec. 1.2710.010](#)) to all other instances of simultaneous employment or association.

Task force activities

Agenda items 9B and 9C reflect the task force’s preliminary draft of the proposed interpretations. Agenda item 9D, the extant version, is provided for reference.

Next steps for the task force include addressing loaned staff, affiliates of financial statement attest clients, and participation in employee benefit plans. Prior to presenting an exposure draft to the committee, the task force intends to evaluate how the proposed changes to this interpretation will affect other interpretations under the “Current Employment or Association with an Attest Client” subtopic as well as those under the subtopic “Nonattest Services” ([ET sec. 1.295](#)).

Questions for the committee

1. Does the committee agree with the recommendation to remove specific reference to “director” and “officer” from the definition and instead prohibit those who serve in a governance role?
2. Does the committee agree with the recommendation to remove specific reference to “voting trustee”, or “trustee for any pension or profit-sharing trust” from the definition and instead allow for the application of the conceptual framework in those instances?
3. Previously, the draft included a reporting requirement based upon the receipt of an offer of employment for individuals defined in paragraph .01. The committee recommended that the reporting requirement not be limited to those defined in paragraph .01. Given that modification, the task force recommends the language be revised to require reporting before an offer is accepted as opposed to when it is received. Does the committee agree?
4. The current draft of the interpretation includes a provision for an inadvertent breach relative to the reporting requirement. Does the committee agree with this addition?
5. The task force revised paragraph .03 to include examples and how an individual might weigh facts and circumstances when evaluating threats. Does the committee believe the current presentation addresses concerns regarding how a member might apply the conceptual framework?
6. The task force was originally charged with determining whether an exception for individuals employed by the armed services should exist. A temporary enforcement policy was approved on November 16, 2021, to address this concern while the committee considered changes to the interpretation. The task force recommends that the exception included in the revised interpretation be extended to encompass all conflicts with relevant federal, state, local laws or regulations related to employment. Does the committee agree?

Materials presented

Agenda item 9B: Definitions (ET sec. 0.400)

Agenda item 9C: “Simultaneous Employment or Association With an Attest Client” interpretation (ET sec. 1.275.005, revised)

Agenda item 9D: “Simultaneous Employment or Association With an Attest Client” interpretation (ET sec. 1.275.005, extant)

Definitions (ET sec. 0.400)

- .48 ***Simultaneously employed or associated. When a partner or professional employee of the member's firm serves in a governance role or as an employee of an attest client during the period of the professional engagement.***

DRAFT

“Simultaneous Employment or Association With an Attest Client” interpretation (ET sec. 1.275.005, revised)

- .01** *Except as noted in paragraphs .08-.10, threats to compliance with the “Independence Rule” [1.200.001] would not be at an acceptable level and could not be reduced to an acceptable level by the application of safeguards and independence would be impaired when:*
- a.** *a covered member is simultaneously employed or associated with the attest client; or*
 - b.** *a partner or professional employee who is not a covered member is simultaneously employed or associated in a key position with the attest client.*
- .02** *Before a partner or professional employee accepts an offer to become simultaneously employed or associated with an attest client*
- a.** *the person should promptly report the offer to an appropriate person in the firm.*
 - b.** *the appropriate person should apply the “Conceptual Framework for Independence” interpretation [1.210.010], to evaluate whether the familiarity, management participation, advocacy, self-interest, and self-review threats are at an acceptable level.*
- .03** *An inadvertent and isolated failure to apply items (a)-(b) of paragraph .02 will not impair independence if the relevant parties perform the required procedures promptly upon discovery of the failure to do so and all other provisions of this interpretation are met.*
- .04** *Examples of factors to consider when evaluating whether threats are at an acceptable level include the following:*
- a.** *The individual’s position and role in the firm (for example, an individual who is a member of the firm’s management or otherwise in a highly visible position in the firm tends to create greater threats than a*

lower-level employee).

- b. The individual's position and role at the attest client (for example, the greater the visibility or responsibility taken on by the individual tends to increase threats).*
- c. The nature of the attest engagement (for example, a financial statement audit or other high level attest engagement tends to create greater threats than an agreed-upon procedures engagement).*
- d. The size and structure of the attest client (for example, simultaneous employment or association with a very small attest client tends to create greater threats than simultaneous employment or association with a larger and more complex attest client).*
- e. The duration of simultaneous employment or association (for example, a full-time or permanent position tends to create greater threats than a position that is part-time or temporary).*
- f. The value of the compensation to be paid to the member, including any fringe benefits (for example, a value that is material to the member's net worth tends to create greater threats).*
- g. The nature of the activity to be performed and the magnitude of the impact, for example*
 - i. performing duties that affect the client's financial statements or internal controls over financial reporting.*
 - ii. performing duties the member is prohibited from performing under an interpretation of the "Nonattest Services" subtopic [1.295].*
 - iii. performing management responsibilities.*
 - iv. performing duties involving marketing or other promotional work.*

.05 *If threats are not at an acceptable level, safeguards should be applied to eliminate the threats or reduce them to an acceptable level. Application of more than one safeguard may be necessary. If threats cannot be eliminated or reduced to an acceptable level, independence will be impaired. [Prior reference: paragraph .02C of ET section 101]*

- .06** *Examples of actions that might be safeguards include the following:*
- a. An appropriate reviewer who has not provided services to the attest client reviews the attest work.*
 - b. The firm employs policies and procedures that are designed to identify, evaluate, and monitor members' employment and association with attest clients.*
 - c. The firm employs monitoring procedures designed to detect non-compliance with the firm's independence policies and procedures.*
 - d. The firm conducts periodic training and provides periodic communications on the firm's independence policies and procedures related to members' employment and association with attest clients.*
- .07** *Communication with those charged with governance regarding evaluation of the threats to independence and the safeguards applied is not a sufficient safeguard when applied alone; however, it may be considered a safeguard when supplemented by other safeguards, such as those noted in paragraph .06.*
- Exceptions**
- .08** *Threats will be at an acceptable level and independence will not be impaired when a partner or professional employee of the member's firm serves as an adjunct faculty member of an educational institution that is an attest client of the firm and the partner or professional employee meets all the following safeguards:*
- a. Is not in a key position at the educational institution.*
 - b. Does not participate on the attest engagement team.*
 - c. Is not an individual in a position to influence the attest engagement.*
- .09** *Threats will be at an acceptable level and independence will not be impaired when a member in a government audit organization performs an attest engagement with respect to the government entity and the head of the government audit organization meets at least one of the following criteria:*
- a. Is directly elected by voters of the government entity with respect to*

which attest engagements are performed.

- b. Is appointed by a legislative body and is subject to removal by a legislative body.*
- c. Is appointed by someone other than the legislative body, as long as the appointment is confirmed by the legislative body and removal is subject to oversight or approval by the legislative body.*

.10 *Threats will be at an acceptable level and independence will not be impaired when a partner or professional employee of the member's firm is employed by the attest client and compliance with a relevant federal, state, local law or regulation and the partner or professional employee meets all of the following safeguards:*

- a. Is not in a key position with the attest client.*
- b. Does not participate on the attest engagement team.*
- c. Is not an individual in a position to influence the attest engagement.*

.11 *Upon termination of employment or association with the attest client, the partner or professional employee should comply with the requirements of the "Former Employment or Association With an Attest Client" interpretation [1.277.010] of the "Independence Rule" [1.200.001]. [Prior reference: paragraph .21 of ET section 101]*

.12 *Members that are simultaneously employed or associated with an attest client should consider their obligations as members in business under part 2 of the code. [No prior reference: new content]*

“Simultaneous Employment or Association With an Attest Client” interpretation (ET sec. 1.275.005, extant)

- .01 In this interpretation, simultaneous employment or association with an *attest client* is serving as a director, an officer, an employee, a promoter, an underwriter, a voting trustee, a trustee for any pension or profit-sharing trust of the *attest client*, or in any capacity equivalent to that of a member of management of an *attest client* during the period covered by the *financial statements* or the *period of the professional engagement*.
- .02 If a *partner* or professional employee of the *member’s firm* is simultaneously employed or associated with an *attest client*, familiarity, management participation, advocacy, or self-review *threats* to the *member’s* compliance with the “[Independence Rule](#)” [1.200.001] would not be at an *acceptable level* and could not be reduced to an *acceptable level* by the application of *safeguards*. Accordingly, *independence* would be *impaired*. [Prior reference: paragraph .02C of ET section 101]
- .03 However, *threats* will be at an *acceptable level* and *independence* will not be *impaired* when either of the following situations exists:
- a. A *partner* or professional employee of a *firm* serves as an adjunct faculty member of an educational institution that is an *attest client* of the *firm* and the *partner* or professional employee meets all of the following *safeguards*:
 - i. Does not hold a *key position* at the educational institution
 - ii. Does not participate on the *attest engagement team*
 - iii. Is not an *individual in a position to influence the attest engagement*
 - iv. Is employed by the educational institution on a part-time and non-tenure basis
 - v. Does not participate in any employee benefit plans sponsored by the educational institution, unless participation is required
 - vi. Does not assume any management responsibilities or set policies for

the educational institution

Upon termination of employment, the *partner* or professional employee should comply with the requirements of the “[Former Employment or Association With an Attest Client](#)” interpretation [1.277.010] of the “Independence Rule” [1.200.001]. [Prior reference: paragraph .21 of ET section 101]

b. A *member* in a government audit organization performs an *attest engagement* with respect to the government entity and the head of the government audit organization meets at least one of the following:

- i. Is directly elected by voters of the government entity with respect to which *attest engagements* are performed
- ii. Is appointed by a legislative body and is subject to removal by a legislative body
- iii. Is appointed by someone other than the legislative body, as long as the appointment is confirmed by the legislative body and removal is subject to oversight or approval by the legislative body

.04 *Members* that are simultaneously employed or associated with an *attest client* should consider their obligations as a *member in business* under [part 2](#) of the code. [No prior reference: new content]

Effective Date

.05 [Paragraph .04](#) of this interpretation is effective December 15, 2014.

A nonauthoritative question and answer regarding independent contractors retained by the firm who are simultaneously employed or associated with an attest client is available at <http://pub.aicpa.org/codeofconduct/resourceseamlesslogin.aspx?prod=ethics&tdoc=et-ga&tpr=et-ga100.02>

[See [Revision History Table](#).]

Engagements subject to SSAEs

Task force members

Nancy Miller (chair), Claire Blanton, Michael Brand, Alina Kalachnyuk, Randy Milligan

Observers

Hanna Baillie, Wendy Garrett, Mike Glynn, Ahava Goldman, Henry Grzes, Jen Noble, Reema Patel, Renee Rampulla, Paul Russo, Katherine Savage, Judith Sherinsky, Erica Thomas

AICPA staff

Emily Daly, Ellen Gorla, Melissa Powell

Task force charge

To consider revisions to or nonauthoritative guidance for the “Independence Standards for Engagements Performed in Accordance with Statements on Standards for Attestation Engagements” subtopic (ET sec. 1.297).

Reason for agenda item

To provide an update on task force activities and solicit feedback on the task force’s preliminary direction as it relates to addressing nonattest services performed for an attest client when the attest engagement is an engagement subject to the Statements on Standards for Attest Engagements (SSAE engagement).

Task force activities

It is important to provide clarity that promotes consistency in practice because the number and variety of SSAE engagements are increasing.

The task force is therefore considering each interpretation within the “Nonattest Services” subtopic (ET sec. 1.295) and how to apply those requirements to SSAE engagements, other than agreed-upon procedure engagements.

Examples of clarifications

Readiness assessments

It would be helpful to clarify what constitutes management responsibilities in services related to an SSAE engagement, such as readiness assessments, which are not currently addressed in the code.

In readiness assessments, practitioners are identifying gaps or vulnerabilities in the organization’s ability to meet reporting requirements ahead of an SSAE engagement that will evaluate whether the organization has met such requirements.

Practitioners should be careful during the readiness assessment not to be involved in designing policies or procedures to remedy those vulnerabilities. This activity falls under the umbrella of management responsibilities and therefore, independence will be impaired in an attest engagement for that client if performing such activity.

Prohibited and permissible services

When evaluating which threats are significant to a particular SSAE engagement when providing nonattest services, a member needs to consider the engagement type. For example, it could be a financial statement audit engagement or an SSAE engagement that may not include financial statements. There may be circumstances in which permissible nonattest services for a financial statement audit engagement should be prohibited in an SSAE engagement, but this may not be clear in the current guidance.

Potential revisions

The revisions the task force has considered thus far do not change the fundamental requirements but instead provide clarity on how to apply the nonattest services exception in the “Engagements, Other Than AUPs, Performed in Accordance With SSAEs” interpretation (ET sec. 1.297.030). However, by providing clear and specific examples, inconsistent or even incorrect application of that exception may be highlighted.

The task force has discussed removing the “Engagements, Other Than AUPs, Performed in Accordance With SSAEs” interpretation and revising other interpretations to clearly identify how to apply guidance to an SSAE engagement, especially those that do not include financial statements.

If the “Engagements, Other Than AUPs, Performed in Accordance With SSAEs” interpretation is retained, providing clear explanation and examples relevant to SSAE engagements will enhance consistency in practice.

IESBA Monitoring - Sustainability

Project description

- To develop ethics and independence standards for use by all sustainability assurance practitioners, which includes professional accountants and non-professional accountants (that is, assurance practitioners who are not professional accountants) that are reporting framework and assurance framework neutral
- To revise the IESBA Code of Ethics (IESBA code) to address ethics issues related to sustainability reporting

Work is being performed in two workstreams, as follows:

- Workstream 1: Independence in sustainability assurance engagements
- Workstream 2: Ethics in sustainability reporting and assurance

IESBA coordination

In addition to coordinating its work internally with the Use of Experts Task Force, IESBA is coordinating development of these standards with the International Auditing and Assurance Standards Board (IAASB), the International Sustainability Standards Board (ISSB), the International Organization for Standardization (ISO), and the International Accreditation Forum (IAF). The International Organization of Securities Commissions (IOSCO) March 2023 [Report on International Work to Develop a Global Assurance Framework for Sustainability-related Corporate Reporting](#) acknowledges being actively engaged with IESBA and the IAASB.

At its March 2023 meeting, IESBA decided to establish the Sustainability Reference Group, which is a group of stakeholders outside the accounting profession to be a sounding board for informing development of “profession-agnostic” ethics and independence standards for sustainability assurance engagements. The workstream members also used feedback from this reference group in the proposed revisions.

Status

At the December 2023 meeting, IESBA members considered the proposed revisions for exposure. After deliberation, IESBA members approved the proposed revisions for exposure. Those revisions include the following:

- Proposed revisions to parts 1 to 3 of the code addressing sustainability reporting by professional accountants
- A proposed new part 5 of the code, *International Ethics Standards for Sustainability Assurance* (including International Independence Standards) for all sustainability

assurance practitioners, regardless of whether they are professional accountants, when performing sustainability assurance engagements that are within the specified scope of part 5. The proposed new standards set out provisions that are at the same level as those for audits of financial statements. Among other matters, they address independence considerations related to group sustainability assurance engagements, using the work of another practitioner, and assurance of sustainability information from value chain entities.

- New terms and definitions including “sustainability information,” “sustainability assurance engagement” and “value chain.”
- Proposed consequential and conforming amendments to the code.

Appendix 2 of the Explanatory Memorandum (agenda item 11B) that accompanies the exposure draft (agenda item 11C) demonstrates the proposed new structure of the IESBA code.

IESBA staff distributed the draft explanatory memorandum and exposure draft to IESBA board members and technical advisors on January 23rd for a fatal flaw review. AICPA staff submitted comments for consideration by workstream members and IESBA staff. Staff has not yet evaluated whether the comments were addressed in the exposure draft.

The exposure draft was issued on January 29th with a public comment period of 100 days.

The monitoring group that will assist AICPA staff in drafting the comment letter includes

- several PEEC members or those designated by PEEC members and
- other stakeholders, internal and external to the Association, that have experience or interest in sustainability reporting and assurance.

In addition to the monitoring group, PEEC’s Engagements Subject to the SSAEs Task Force (SSAE task force) is also charged with monitoring this project.

Project update

Workstream 1: Independence in sustainability assurance engagements

IESBA’s exposure draft includes independence requirements for professional accountants and other practitioners who are not professional accountants. As a reminder, the IESBA code has two sets of independence provisions:

- 4A provisions apply to financial statement audits and reviews and have significantly more requirements than 4B. The provisions are more consistent with the AICPA Code of Professional Conduct for these engagements in many aspects.

- 4B provisions apply to other assurance engagements. Sustainability engagements currently fall under part 4B. The AICPA Code of Professional Conduct is currently more restrictive for these engagements.

Due to the public interest nature of sustainability reports, IESBA believes that the independence requirements in part 4A should apply to certain sustainability assurance engagements that meet certain requirements as outlined in the next paragraph. These proposed requirements are being drafted for all sustainability assurance practitioners regardless of whether the practitioner is a professional accountant and are being proposed in a new part 5 to the IESBA code.

The proposed independence revisions in the new part 5 are set forth as being applicable to sustainability assurance engagements where the sustainability information on which the sustainability assurance practitioner expresses an opinion

- a. is reported in accordance with a general-purpose framework; and
- b. is
 - i. required to be provided in accordance with law or regulation, or
 - ii. publicly disclosed to support decision-making by investors or other stakeholders.

For any sustainability assurance engagements not meeting these criteria, part 4B will continue to apply.

The proposed revisions clarify that the independence provisions for part 5 will not apply to direct engagements, engagements for which the assurance report is restricted in use and distribution, or sustainability assurance provided on sustainability information developed in accordance with a special-purpose framework or entity-developed criteria.

In drafting the independence revisions, workstream members lifted part 4A and tailored those section requirements to sustainability assurance engagements to include in the new part 5 of the code. These proposed revisions are tailoring the same requirements and application guidance that are applicable to audit and review engagements to sustainability assurance engagements, which includes replacing certain terminology with proposed new definitions. The following includes examples of the revisions being proposed in part 5 related to the changes in terminology:

- Replace “professional accountant” with “sustainability assurance practitioner.”
- Replace “audit or review engagement” with “sustainability assurance engagement.”

- Replace “audit or review client” with “sustainability assurance client.”
- Replace “audit team” with “sustainability assurance team.”
- Replace “engagement partner” with “engagement leader.”

IESBA considered each section of the proposed independence revisions within part 5, but more substantial discussion was related to the following topics (most of which were discussed at the June and September IESBA meetings as well). The proposed revisions discussed below include the requirements outlined in the exposure draft.

- *How the revisions will apply to entities that are considered public interest entities (PIEs).* If the entity meets the definition of PIE for the purposes of the financial statement audit or if the specific jurisdiction determines that the entity is a PIE in the context of the sustainability assurance engagement, the proposed requirements for PIEs in part 5, which are consistent with part 4A, will be applicable. If the financial statement auditor voluntarily treats the client as a PIE, the sustainability assurance practitioner is not required to treat the client as a PIE but may do so voluntarily.
- *Group assurance and another practitioner.* In performing the sustainability assurance engagement, the practitioner may need to consider using the work of another practitioner for a “component” of a sustainability assurance client.

A component for the purposes of a sustainability assurance engagement is proposed to be defined as follows:

“For a group sustainability assurance engagement, an entity, business unit, function or business activity, or some combination thereof, determined by the group sustainability assurance firm for purposes of planning and performing assurance procedures in the group sustainability assurance engagement, excluding entities within the value chain.”

- Group assurance. The ISSA 5000 exposure draft indicates that a firm ordinarily plans to be sufficiently involved in the assurance work carried out for the sustainability assurance engagement when able to do so. When the practitioner can direct, supervise, and review the work performed by that other practitioner, the other practitioner is a member of the engagement team, and the practitioner should evaluate the other practitioner’s independence in considering whether to use that practitioner’s work.

In IESBA’s proposed revisions, the practitioner would use the proposed revisions related to group assurance engagements in section 5405 to perform the independence evaluation of the other practitioner in this circumstance. This section outlines the independence requirements for the group sustainability

assurance firm, component sustainability assurance firm, and group sustainability assurance team, and these requirements are intended to be equivalent to those applicable to group audit engagements.

As noted above, when drafting the independence revisions, workstream members lifted part 4A and tailored those section requirements to sustainability assurance engagements to include in the new part 5 of the code. However, section 405 from part 4A are the independence requirements for audits and were developed to support the relevant auditing standard (ISA 600), and the IAASB has yet to propose group assurance standards in ISSA 5000. As a result, certain requirements that would typically reside in the assurance standard are being proposed in the IESBA code.

For example, the proposed section 5405 requires communication between a group sustainability assurance firm and a component sustainability assurance firm to make the component sustainability assurance firm aware of the relevant independence requirements and to obtain confirmation of understanding and commitment to comply with the requirements from the component sustainability assurance firm. The communication requirements that are equivalent for audits reside in ISA 600 and are re-enforced in section 405 of the IESBA code. Since group assurance standards have not yet been proposed in ISSA 5000, the communication requirements are being proposed in section 5405.

Because IAASB has not yet proposed group assurance standards, one IESBA board member abstained from voting to approve the exposure draft.

- Another practitioner. The ISSA 5000 exposure draft indicates that when the assurance practitioner (or group sustainability assurance firm) is not able to direct, supervise and review a component's assurance engagement, the other practitioner is not a member of the engagement team, and the practitioner is required to evaluate the other practitioner's independence in considering whether to use that practitioner's work.

In IESBA's proposed revisions, the practitioner would use the guidance in section 5406 to perform the independence evaluation. If planning to use the other practitioner's work, the practitioner is required to communicate with the other practitioner about the relevant independence requirements and confirm that the other practitioner is independent with respect to their assurance client in accordance with part 5.

- *Value chain entities.* A sustainability reporting framework may require that sustainability information from a value chain entity (for example a supplier or other entity outside the

reporting entity's organizational boundary) be included in the reporting entity's sustainability information that is subject to the sustainability assurance engagement.

Prior to the December meeting and during the initial part of the December meeting, the workstream members' proposal addressed value chain entities in the guidance for using another practitioner when the practitioner is unable to direct, supervise and review another practitioner's report (section 5406). After deliberations during the December meeting, the workstreams created a new section to address requirements for three possible scenarios depending on how and by whom the assurance work is performed over the value chain entity's sustainability information (section 5407). The three scenarios covered by 5407 are as follows:

- When the firm performs the assurance work at the value chain entity, the firm and members of the sustainability assurance team are required to be independent of the value chain entity in accordance with part 5.
- When the firm intends to use the work of a sustainability assurance practitioner at a value chain entity, the firm should confirm that the other practitioner is independent of that value chain entity in accordance with part 5. If the other practitioner makes such a statement of confirmation in its assurance report, the firm may use this statement to satisfy the requirement.
- When the firm performs the assurance work on the sustainability information of the value chain entity that is provided by the sustainability assurance client (and is not performing assurance work at the value chain entity), the firm is only required to be independent of the sustainability assurance client in accordance with part 5.

When the practitioner plans to use the work of the other practitioner at the value chain entity, section 5700 also includes application guidance that indicates that when the sustainability assurance team knows, or has reason to believe, that an interest, relationship or circumstance between the firm, a network firm or a member of the team and the value chain entity is relevant to the evaluation of the firm's independence from the client, the team is required to apply the conceptual framework.

- *Revisions related to proportion of fees evaluation.* Despite several IESBA members' disagreement with the proposal during the September 2023 meeting, workstream members proposed that when a professional accountant performs the financial statement audit and the sustainability assurance engagement, and there are separate fee arrangements for each engagement, the professional accountant should consider the fees from the sustainability assurance engagement as an "other fee" to compare to the audit fee for the proportion of fee evaluation and consideration of whether significant

threats are created. When reporting is integrated and under one fee arrangement, the fees from both engagements are evaluated together and compared to “other fees” in accordance with the fee provisions.

Considering that in all other aspects, the independence requirements proposed for sustainability assurance engagements are equivalent to those for financial statement audits and reviews, several IESBA members again expressed concerns over why the proposal doesn’t require consideration of the fees from the sustainability assurance engagement, and audit engagement together against all other fees; however, the approved exposure draft does not include revisions to address the concerns.

Workstream members presented the following table to IESBA during the September 2023 meeting to demonstrate the guidance proposed for the consideration of proportion of fees when both the financial statement audit and sustainability assurance engagement is performed for the same client.

		When a firm provides both audit and SAE to the client		When a firm only provides SAE to the client	
		Part 4A		Part 5	
		Audit Fee	Non-audit Fee	Sustainability Assurance Fee	Non-Sustainability Assurance Fee
Audit		30,000		-	-
Sustainability Assurance			20,000	20,000	
Sustainability-related NAS			2000		2000
Other NAS			4000		4000
			86 %		30 %

In case of **integrated reporting** the proportion of fees for other services is **12 %**

7

- Non-assurance services subsections.* All equivalent subsections in the new part 5 were revised and tailored to be applicable to a sustainability assurance engagement. The most significant proposal relates to the equivalent subsections 5601 and 5603. Subsection 5601 changed from “Accounting and Bookkeeping Services” to “Sustainability Data and Information Services,” and requirements and application guidance were tailored or expanded to be relevant to sustainability assurance

engagements. Subsection 5603 was expanded to also include forecasting and similar services in addition to valuation services.

- *Long association (including conforming change).* When evaluating threats created by long association with a client, the proposed revisions to extant guidance require practitioners to consider together time served on the audit and on the sustainability assurance engagement. Note that this concept of combining the engagements for the independence considerations is inconsistent with the proportion of fees guidance being proposed to consider the engagements separately.

Independence with respect to related entities

Although not part of the significant deliberations during IESBA’s December meeting, the proposed revisions for related entities are significant.

IESBA’s proposed definition of “sustainability assurance client” used in part 5 aligns with the definition of “audit client” used in part 4A as demonstrated in the following table. Part 4B is applicable to these engagements under the extant IESBA code, and this part uses “assurance client” to identify the client in which the practitioner should apply independence requirements. The following table is for comparison purposes.

Part 4B: Uses “assurance client”	Part 4A: Uses “audit client”	New part 5: Proposal for “sustainability assurance client”
<p>The responsible party and also, in an attestation engagement, the party taking responsibility for the subject matter information (who might be the same as the responsible party).</p>	<p>An entity in respect of which a firm conducts an audit engagement. When the client is a publicly traded entity, in accordance with paragraphs R400.22 and R400.23, audit client will always include its related entities. When the audit client is not a publicly traded entity, audit client includes those related entities over which the client has direct or indirect control. (See also paragraph R400.22.)</p> <p>In Part 4A, the term "audit</p>	<p>An entity in respect of which a firm conducts a sustainability assurance engagement. When the client is a publicly traded entity, in accordance with paragraphs [R400.22] and [R400.23], sustainability assurance client will always include its related entities. When the sustainability assurance client is not a publicly traded entity, sustainability assurance client includes those related entities over which the client has direct or</p>

Part 4B: Uses “assurance client”	Part 4A: Uses “audit client”	New part 5: Proposal for “sustainability assurance client”
	<p>client" applies equally to "review client".</p> <p>In the case of a group audit, see the definition of group audit client.</p>	<p>indirect control. (See also paragraph [R400.22].)</p>

The following points relate to the definition of “sustainability assurance client” in the new part 5:

- The engagements that meet the criteria in the new part 5 will also have to apply the independence requirements to certain “related entities” depending on whether or not the entity is a publicly traded entity under the proposed standards. For publicly traded entities, independence is required with respect to all related entities, and for entities other than publicly traded entities, independence is required with respect to those entities in which the client has direct or indirect control (entity described in item (c) of the definition of related entity provided below).
- The definition of “assurance client” for part 4B is similar to the AICPA code in that it requires independence with respect to the responsible party in an engagement subject to the SSAEs. Sustainability assurance engagements that do not meet the new part 5 independence criteria will continue to identify the responsible party when applying the independence requirements in Part 4B and are only required to apply the “reason to believe” principle¹ to related entities.

The IESBA code defines “related entity,” and that definition is comparable to the definition of “affiliates” in the AICPA code (with the exception of the affiliates identified in the AICPA code related to employee benefit plans). The IESBA defines “related entity” as follows:

An entity that has any of the following relationships with the client:

- a. An entity that has direct or indirect control over the client if the client is material to such entity;
- b. An entity with a direct financial interest in the client if that entity has significant influence

¹ If the assurance team knows or has reason to believe that a relationship or circumstance involved a related entity of the assurance client is relevant to the evaluation of the firm’s independence from the client, the team is required to include that related entity when identifying, evaluating, and addressing threats to independence under the conceptual framework.

over the client and the interest in the client is material to such entity;

- c. An entity over which the client has direct or indirect control;
- d. An entity in which the client, or an entity related to the client under (c) above, has a direct financial interest that gives it significant influence over such entity and the interest is material to the client and its related entity in (c); and
- e. An entity which is under common control with the client (a "sister entity") if the sister entity and the client are both material to the entity that controls both the client and sister entity

If an affiliate under the AICPA code does not include information that is part of the underlying subject matter in the SSAE engagement, it would not be identified as a responsible party and independence would not be required with respect to this entity. The affiliates requirements in the AICPA code apply only to financial statement attest clients and do not apply to responsible parties identified in the SSAE engagement.

Workstream 2: Ethics in sustainability reporting and assurance

IESBA's exposure draft includes ethics requirements related to sustainability reporting and assurance. Specifically, the scope of workstream members' proposed revisions include ethics requirements for sustainability assurance practitioners (professional accountants and other practitioners who are not professional accountants) in part 5, and ethics requirements for sustainability reporting for professional accountants only in parts 1, 2, and 3.

IESBA reviewed each section of the proposed revisions from this workstream. The more substantial revisions relate to the following topics:

- Noncompliance with laws and regulations (NOCLAR)
- Proposed definition of "sustainability information"
- Tax planning and other services

IESBA's Use of Experts Task Force is also proposing revisions for sustainability to be included in the new part 5.

Part 5 ethics (other than independence) proposal

The proposed ethics, other than independence, revisions for new part 5 are applicable to all sustainability assurance engagements (not just those engagements meeting the proposed criteria for the independence requirements in part 5). Extant requirements in parts 1 and 3 that are for professional accountants are focused on the profession, which includes all services provided by the profession; however, the scope of the proposed revisions in part 5 focuses on a

particular service (sustainability assurance engagements) and other services performed for the same sustainability assurance client.

The proposed scope is based on the premise that unethical behavior in other engagements for a sustainability assurance client may have a direct effect on credibility and public trust underpinning sustainability assurance. IESBA believes that revisions that would address all services performed by sustainability assurance practitioners would be too broad for those that are not professional accountants and is outside the scope of the project; however, workstream members plan to include language encouraging compliance with the ethical requirements in all services performed by sustainability assurance practitioners who are not professional accountants.

Similar to the drafting approach for the proposed revisions in workstream 1, the workstream 2 approach started with the requirements in part 1, section 270 (Breaches) of part 2, and part 3 (except section 321, *Second Opinions*) and tailored those requirements to sustainability assurance engagements and other engagements performed for the same client.

An equivalent section 321 was not included in the new part 5 because part 5's scope focuses only on the sustainability assurance client and other services provided to that client. The requirements in section 321 apply when providing a second opinion to an entity that is not an existing client.

Extant parts 1, 2, and 3 proposal

The proposed revisions for extant parts 1, 2, and 3 are applicable only to professional accountants and language is included in the proposal to encourage practitioners who are not professional accountants to comply with these parts of the IESBA code.

Minimal revisions are being proposed for extant part 1 (*Complying with the Code, Fundamental Principles and Conceptual Framework*), including revisions to add non-financial reporting to the activities performed by professional accountants and to add references to part 5.

Most of the revisions being proposed for part 2 (*Professional Accountants in Business*) include additions to the application guidance to add examples that support the requirements related to non-financial reporting and reporting sustainability information.

There is one proposed revision to a requirement in part 2, which expands the NOCLAR requirement for professional accountants in business. See the [Summary of NOCLAR proposed revision](#) section of this document.

Part 3 (*Professional Accountants in Public Practice*) revisions primarily include additions to the application guidance to support the existing requirements from the perspective of a professional accountant in public practice performing sustainability reporting/preparing sustainability

information. The proposal for this part does not include revisions from a sustainability assurance provider perspective because those revisions are included in the new part 5 proposal.

There is one additional requirement and related application guidance being proposed in part 3, and that is for the auditor to consider whether to communicate the known or suspected NOCLAR to the sustainability assurance practitioner performing a sustainability assurance engagement that meets the independence criteria proposed in part 5. See the [Summary of NOCLAR proposed revision](#) section of this document.

Definition of “sustainability information”

Of the definitions being proposed by workstream 2 members, IESBA board members focused primarily on the definition of “sustainability information” during their December 2023 meeting.

IAASB is proposing definitions for “sustainability information” and “sustainability matters” and IESBA and IAASB are not aligned in these proposed definitions at this time. Workstream members explained that the proposed definition encompasses both terms being proposed by IAASB and that there is justification for the inconsistencies due to the technical application proposed in ISSA 5000. Workstream members indicated that they would coordinate with IAASB and consider the comments IAASB has received on the definitions being proposed in the ISSA 5000 exposure draft. The following slide was included in the September 2023 presentation to demonstrate the differences between IESBA and IAASB.

Alignment of IESBA & IAASB Definitions	
IESBA	IAASB
<p>(a) Information about the opportunities, risks or impacts of:</p> <ul style="list-style-type: none"> (i) Economic, environmental, social, governance or other sustainability factors on an entity's activities, services or products; or (ii) An entity's activities, services or products on the economy, the environment or the public; or <p>(b) Information defined by law, regulation or the relevant reporting or assurance framework as “sustainability information” or equivalent terms or descriptions.</p> <p>Sustainability information includes information that may be:</p> <ul style="list-style-type: none"> • Expressed in financial or non-financial terms. • Historical or forward-looking. • Prepared for internal purposes or for mandatory or voluntary disclosure. • Obtained from an entity or its value chain such as customers and suppliers. • Related to the quantitative or qualitative evaluation of an entity's past or expected performance over the short, medium or long term. • Described in an entity's policies, plans, goals, commitments or representations. 	<p>(uu) Sustainability information – Information about sustainability matters. Sustainability information results from measuring or evaluating sustainability matters against the applicable criteria. For purposes of the ISSAs, sustainability information is the equivalent of “subject matter information” in other IAASB assurance standards. (Ref: Para. A32)</p> <p>(vv) Sustainability matters – Environmental, social, economic and cultural matters, including:</p> <ul style="list-style-type: none"> (i) The impacts of an entity's activities, products and services on the environment, society, economy or culture, or the impacts on the entity, and (ii) The entity's policies, performance, plans, goals and governance relating to such matters. <p>For purposes of the ISSAs, sustainability matters being measured or evaluated in accordance with the applicable criteria are the equivalent of “underlying subject matter” in other IAASB assurance standards.</p>

Summary of proposed NOCLAR revisions

The NOCLAR related proposed revisions affect extant parts 2 and 3, and the new part 5. All proposed revisions are based on elevating the requirements for those sustainability assurance engagements that meet the independence scope criteria in part 5 so that they are equivalent to those requirements for financial statement audits.

The NOCLAR requirements for professional accountants in business in part 2 are proposed to be expanded so that the professional accountant not only determines whether disclosure of a known or suspected NOCLAR should be made to the external auditor, but also determines whether disclosure should be made to the sustainability assurance practitioner performing a sustainability assurance engagement that meets the independence scope criteria in part 5.

As it relates to part 3, an additional requirement is being proposed for the financial statement auditor to consider whether to communicate the known or suspected NOCLAR to the sustainability assurance practitioner performing a sustainability assurance engagement that meets the independence criteria proposed in part 5.

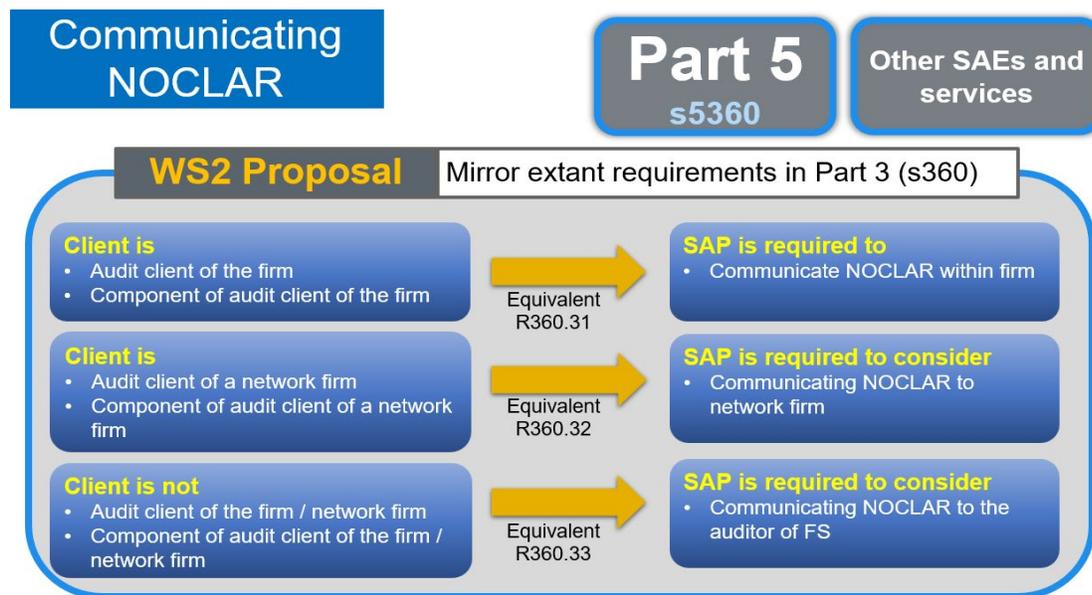
No revisions are being proposed to the extant requirements in part 3 that are applicable when performing services other than the audit. These requirements describe the professional accountant's responsibility to communicate the known or suspected NOCLAR with the financial statement auditor depending on whether the client is an audit client of the firm (required to communicate), the client is an audit client or component audit client of a network firm (required to consider communicating), or the entity is not a client of the firm or network firm (required to consider communicating)².

Within the new part 5, the same requirements in extant part 3 for financial statement audits (as described in the previous paragraph) are being proposed for those sustainability assurance engagements that meet the scope criteria for the independence requirements in part 5. In addition to those extant requirements and consistent with the additional requirement being proposed for the auditor in the part 3 revisions, workstream members are also proposing a requirement for the sustainability assurance practitioner performing a sustainability assurance engagement that meets the independence scope criteria in part 5 to consider whether to communicate the known or suspected NOCLAR to the external auditor.

When performing a sustainability assurance engagement that does not meet the criteria for the independence requirements in part 5 or providing other services to a sustainability assurance client, requirements are being proposed in the new part 5 that are equivalent to those in extant part 3 that are applicable when performing services other than financial statement audits. These

² As a reminder, the committee was not able to converge with IESBA's extant requirements for members to consider communicating known or suspected NOCLAR to the firm that performs the audit when the member or member's firm is not the auditor as this is not permitted under the "Confidential Client Information Rule" (ET sec. 1.700.001), except where communication is required by law or regulation.

requirements are to communicate or consider communicating to the auditor and are reflected in the following graphic that the workstream provided to IESBA during the September 2023 meeting.



If these proposed revisions are adopted by IESBA, the committee might consider whether to add guidance to the AICPA code requiring the auditor to communicate or consider communicating known or suspected NOCLAR to certain sustainability assurance providers that are within the firm or network firm.

Under current AICPA guidance for those members performing services other than audits or reviews, the member that performs the sustainability assurance engagement is required to communicate known or suspected NOCLAR to the auditor when the member’s firm also performs the financial statement audit or review and is required to consider communicating to the auditor when a network firm performs the financial statement audit or review. The committee will need to consider whether to add a requirement for the member performing these other services to also be required to communicate or consider communicating the known or suspected NOCLAR to certain sustainability assurance providers when that provider is within the firm or within a network firm.

Timeline

The workstreams are moving at an accelerated pace so the approved revisions will be available at the same time as the new sustainability-related standards the IAASB and the ISSB are developing.

The current project timeline is as follows:

January 29, 2024	IESBA released exposure draft, including explanatory memorandum.
May 10, 2024	Comment period for exposure draft ends.
June 2024	Update IESBA on comments for the project, including an overview of key comments from exposure draft respondents.
September 2024	IESBA reviews exposure draft responses and does first read of revisions.
December 2024	IESBA approves final revisions.

Comment letter and request for committee feedback

The following sections include several possible topics for the comment letter. AICPA staff seeks any input on these topics and will share such with the monitoring group.

Overall timeline

IESBA intends to adopt revisions in December 2024, which is to align with regulatory timelines. However, this timing may create tremendous pressure to forego re-exposure, regardless of the comments received on the exposure draft. It is not in the public interest to rush due process. Based on the level of comments anticipated, and the level of changes that may be needed to address those comments, re-exposure may be necessary. The AICPA's Auditing Standards Board (ASB) communicated this issue in its comment letter on the ISSA 5000 exposure draft. AICPA staff plans to seek input from the monitoring group on echoing similar concerns when drafting the comment letter to IESBA.

Question for the committee

1. Does the committee have feedback on the timeline for staff to share with the monitoring group?

Overall alignment with IAASB

The ASB also expressed concerns in its comment letter on the ISSA 5000 exposure draft related to the confusion and challenges that may be created because IAASB and IESBA have not yet sufficiently coordinated their efforts as noted below. AICPA staff plans to seek input from the monitoring group on echoing similar concerns when drafting the comment letter to IESBA.

- The IAASB and IESBA should eliminate inconsistencies between the scope of the proposed standards. For example, IESBA is proposing definitions for terms such as “value chain entity” and “another practitioner” and the IAASB is not. Also, IESBA is proposing group assurance requirements and the IAASB is not. See further discussion in the [Group assurance](#) section.
- The IAASB and IESBA should align definitions for the same terms that are being defined to avoid inconsistent interpretations of each (for example, sustainability information).

Question for the committee

2. Does the committee have feedback on the alignment with the IAASB for staff to share with the monitoring group?

Public interest entities

In the project’s proposed revisions, when a client is a PIE for the purposes of the financial statement audit, the client must be considered a PIE in the sustainability assurance engagement, and the practitioner should apply all PIE requirements.

There are additional independence requirements for PIEs in various aspects within the proposed new part 5, which are equivalent to the PIE requirements for financial statement audits in part 4A. The AICPA code does not contain PIE-specific requirements. Instead, it requires members to comply with the independence requirements imposed upon them by specified U.S. regulators under its refined definition of PIE when performing financial statement audits.

AICPA staff will continue discussions with the monitoring group and consult with the chair of the PIE task force to determine whether there are recommendations to include in the comment letter related to this topic.

Question for the committee

3. Does the committee have feedback on the PIE provisions for sustainability assurance engagements for staff to share with the monitoring group?

Independence with respect to related entities

Other than indicating that it's in the public interest to propose requirements for sustainability assurance engagements that are equivalent to those for audits, IESBA members have not discussed in much detail the appropriateness of applying independence requirements to related entities.

AICPA staff previously provided comments to workstream members requesting further explanation on the appropriateness of extending independence requirements to a related entity and what threats are being mitigated by this requirement in circumstances in which a related entity does not report sustainability information that is subject to the sustainability assurance engagement. During the fatal flaw review of the Explanatory Memorandum, AICPA staff again requested that an explanation be added to Explanatory Memorandum and a specific question be posed to address this concern.

Preliminary discussions with the monitoring group have raised a concern that this requirement is not appropriate because significant threats do not typically exist for related entities that do not include information subject to the assurance engagement. The "responsible party" approach seems most appropriate.

AICPA staff also contend that this proposal is a result of IESBA board members applying a blanket approach in making requirements equivalent to financial statement audits rather than carefully considering what threats are being mitigated in each aspect of the code. This could be a result of pressure IESBA is under to issue these requirements by the end of the year. AICPA ethics staff will continue to discuss possible comments in this area with the monitoring group and AICPA audit and attest staff.

Question for the committee

4. Does the committee have feedback on the definition of "sustainability assurance client" or application of the independence requirements to a related entity for staff to share with the monitoring group?

Group assurance

The following points have been identified through meetings with the monitoring group, AICPA audit and attest staff, the SSAE task force, and other discussions:

- The IAASB plans to but has yet to consider what the appropriate group assurance standards may encompass for sustainability assurance engagements. IESBA's independence requirements for group audits in section 405 were adopted to support the group audit requirements in ISA 600. Without group assurance standards, IESBA does not have basis for which to develop independence requirements, and this could result in

independence requirements that are not appropriate and do not support the related assurance standard once developed.

- Because there are no assurance requirements, IESBA’s proposal includes requirements that typically reside in the assurance standards rather than the IESBA code. Developing assurance requirements in the IESBA code is outside IESBA’s role and could result in inconsistencies with the assurance requirements when they are developed by IAASB.
- One of the workstream’s goals in this project has been to develop requirements that are assurance framework neutral, that is, could be applied when IAASB assurance standards are being used or another assurance standard (for example, standards developed by AccountAbility); however, the group audit terminology and requirements are specific to IAASB’s auditing standards, and therefore, the requirements are not assurance framework neutral.
- The proposed independence requirements for group sustainability assurance engagements are based on and are equivalent to the independence requirements in section 405 for group audits. Section 405 has been difficult for professional accountants to implement in practice and has required 32 Q&As thus far. Adopting the same requirements for sustainability assurance engagements, especially prior to related assurance requirements being developed, will only create more challenges for professional accountants. The practitioners who are not professional accountants will encounter even greater challenges with the independence requirements for group sustainability assurance engagements given that they are unfamiliar with the auditing standards and related independence requirements for group audit engagements.

The risk of misapplication, inconsistent application, and unintended consequences is high, and therefore, not in the public interest. AICPA ethics staff will continue to work with the monitoring group and AICPA audit and attest staff to consider whether there are other issues that should be communicated in the comment letter.

The group audit requirements in part 4A were approved by IESBA in February 2023. AICPA staff is currently working with the IFAC Convergence and Monitoring Task Force to develop recommendations for PEEC. For this reason, AICPA staff has not evaluated the specific group sustainability assurance requirements in part 5.

Question for the committee

5. Does the committee have feedback on the group assurance independence guidance for sustainability assurance practitioners for staff to share with the monitoring group?

Another practitioner

The independence requirements being proposed within section 406 require the sustainability assurance practitioner to communicate with “another practitioner” and obtain confirmation on whether the other practitioner and its firm have complied with the part 5 requirements as it relates to its assurance work on the entity in which the other practitioner expressed an opinion. This section is applicable only when considering work performed on a component of a sustainability assurance client by another practitioner.

The proposed requirements go as far to say that if these requirements are not met, the practitioner cannot use the work of the other practitioner, which is language that resides in the assurance standard and is not appropriate in the IESBA code. AICPA ethics staff will continue to work with the monitoring group and AICPA audit and attest staff to consider whether there are other issues the AICPA should communicate in the comment letter.

Question for the committee

6. Does the committee have feedback on the independence guidance for sustainability assurance practitioners with respect to another practitioner for staff to share with the monitoring group?

Value chain entities

The requirements being proposed related to value chain entities changed drastically in the final hours prior to IESBA members approving the exposure draft. Previously, the proposal included only requirements related to using the work of another practitioner and were part of the proposal in section 5406. However, just before approval of the exposure draft, those requirements were pulled from section 5406 and section 5407 was created to address the three scenarios as previously described (including when the practitioner considers using the work of another practitioner).

Conceptually, AICPA ethics staff believes that the proposed requirements may be more appropriate than what was previously drafted because they cover how the sustainability assurance provider could carry out the assurance work; however, similar to the group assurance requirements, IAASB has not yet proposed specific assurance requirements to address how the assurance work should be carried out.

Section 5700 includes only application guidance when using the work of another practitioner that has performed assurance work at the value chain entity. AICPA ethics staff will discuss with the monitoring group whether this guidance should be included in section 5407 so all requirements and guidance related to value chain entities are included in one section as well as continue to work through other possible comments with the monitoring group and AICPA audit

and attest staff.

Question for the committee

7. Does the committee have feedback on the independence requirements for value chain entities for staff to share with the monitoring group?

Proportion of fees

AICPA staff agrees with the IESBA members who expressed concerns with the proposed revisions related to the proportion of fees. Considering that in all other aspects, the independence requirements proposed for sustainability assurance engagements are equivalent to those for financial statement audits and reviews, it seems that considering the total fees from the sustainability assurance engagement and audit engagement together against all other fees when determining whether significant threats exists would be most appropriate. AICPA ethics staff will discuss this point further with the monitoring group.

Question for the committee

8. Does the committee have additional feedback related to the proportion of fees considerations for staff to share with the monitoring group?

NOCLAR

Under the AICPA code, members are not allowed to share or consider sharing confidential client information with an auditor or sustainability assurance practitioner when they are not within the firm or a network firm or not required by law or regulation. Alternatively, IESBA's proposal would require the sustainability assurance practitioner to consider communicating known or suspected NOCLAR with a firm outside the practitioner's firm or network.

Based on preliminary discussions with the monitoring group, AICPA ethics staff believes it is likely commenters will note that a factor the practitioner should consider when determining to communicate matters outside the firm or a network firm is whether relevant ethical requirements permit such communication. AICPA ethics staff will discuss this point further with the monitoring group, AICPA audit and attest staff, and legal counsel.

Question for the committee

9. Does the committee have feedback on the NOCLAR proposal for staff to share with the monitoring group?

Materials presented

- Agenda item 11B: Explanatory memorandum
- Agenda item 11C: Exposure draft (red line)

Explanatory Memorandum
January 2024
Comments due: May 10, 2024

*International Ethics Standards Board
for Accountants®*

**Explanatory Memorandum for
Proposed *International Ethics
Standards for Sustainability Assurance
(including International Independence
Standards)* (IESSA) and Other
Revisions to the Code Relating to
Sustainability Assurance and Reporting**

*This Explanatory Memorandum is intended to be read with the
separate Exposure Draft of the Proposed IESSA and Other
Revisions to the Code Relating to Sustainability Assurance and
Reporting*



About the IESBA

The [International Ethics Standards Board for Accountants®](#) (IESBA®) is an independent global standard-setting board. The IESBA's mission is to serve the public interest by setting high-quality, international ethics (including independence) standards as a cornerstone to ethical behavior in business and organizations, and to public trust in financial and non-financial information that is fundamental to the proper functioning and sustainability of organizations, financial markets and economies worldwide.

Along with the [International Auditing and Assurance Standards Board](#) (IAASB), the IESBA is part of the [International Foundation for Ethics and Audit](#) (IFEA). The [Public Interest Oversight Board](#) (PIOB) oversees IESBA and IAASB activities and the public interest responsiveness of the standards.

The structures and processes that support the operations of the IESBA are facilitated by the International Foundation for Ethics and Audit™ (IFEATM).

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REQUEST FOR COMMENTS

This Explanatory Memorandum (EM) accompanies, and should be read with, the Exposure Draft of [Proposed International Ethics Standards for Sustainability Assurance \(including International Independence Standards\) \(IESSA\) and Other Revisions to the Code Relating to Sustainability Assurance and Reporting](#) which was developed and approved by the IESBA.

The proposals in the ED may be modified in light of comments received before being issued in the final pronouncement. Comments are requested by **May 10, 2024**. Note that requests for extensions of time cannot be accommodated due to the accelerated timeline for finalization of the proposed standards.

Respondents are asked to submit their comments electronically through the IESBA website, using the “[Submit a Comment](#)” link. Please submit comments in both PDF and Word files. Also, please note that first-time users must register to use this feature. All comments will be considered a matter of public record and will ultimately be posted on the website. Although the IESBA prefers that comments are submitted via its website, comments can also be sent to Ken Siong, IESBA Program and Senior Director, at KenSiong@ethicsboard.org.

Recognizing that the IESBA utilizes software to support its analysis of comments received from respondents to public consultations, you can assist the IESBA’s review of the responses by bearing the following in mind in preparing your submission:

- Respond directly to the questions formulated and provide the rationale for your answers. If you disagree with the proposals in the ED, please provide specific reasons for your disagreement and specific suggestions for changes that may be needed to the requirements or application material. If you agree with the proposals, it will be helpful for the IESBA to be made aware of this view.
- You may respond to all questions or only those questions for which you have specific comments.
- When formulating your responses to a question, it is most helpful to identify the specific aspects of the ED that your response relates to, for example, by reference to sections, headings or specific paragraphs in the ED.
- Avoid inserting tables or text boxes when providing your responses to the questions.

This EM and the accompanying ED may be downloaded from the IESBA website: www.ethicsboard.org. The approved text is published in the English language.

PROPOSED IESSA AND OTHER REVISIONS TO THE CODE RELATING TO SUSTAINABILITY ASSURANCE AND REPORTING

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I. INTRODUCTION

1. This memorandum provides background to, and an explanation of, the additions and proposed revisions to the *International Code of Ethics for Professional Accountants (including International Independence Standards)* (the Code) relating to sustainability assurance and reporting. These proposed changes, including the proposed *International Ethics Standards for Sustainability Assurance (including International Independence Standards)* (IESSA) in a new Part 5 of the Code, are set out in the ED. The mark-up and clean versions of the ED are contained in two separate documents.
2. The ED is composed of the following Chapters:
 - Chapter 1: Proposed IESSA (New Part 5)
 - Chapter 2: Proposed Revised Glossary
 - Chapter 3: Proposed Consequential and Conforming Amendments Resulting from IESSA
 - Chapter 4: Proposed Revisions to Parts 1 to 3 of the Extant Code to Reflect Sustainability Reporting Considerations for Professional Accountants
3. The IESBA approved these proposed changes for exposure at its [December 2023](#) meeting.

A. Background

4. In recent years, there has been a sharp rise in market and public demand for sustainability information such as in relation to environmental, social and governance (ESG) matters. Such information is increasingly used to support not only capital allocation by investors, but also other decisions by customers, current or potential employees, government agencies and other stakeholders. As demand for sustainability information continues to expand rapidly not only in relation to environmental matters but also in relation to social and governance matters, there is a pressing public interest need to ensure that such information is trustworthy and comparable, and therefore capable of being subject to assurance. Governments and regulators in a number of major jurisdictions have also prioritized the development of new legislation and regulations governing sustainability reporting and assurance.
5. In response to these rapid developments, the IESBA [publicly committed](#) to developing, as a new strategic priority, global ethics (including independence) standards as part of the regulatory infrastructure (see diagram below) that supports transparent, relevant and trustworthy sustainability reporting. The IESBA began its information gathering in early 2022, including actively engaging in outreach to collect views and insights from a wide range of stakeholders. To highlight the relevance of the extant Code in addressing ethics issues relating to “greenwashing,” the IESBA released in October 2022 a [Staff publication](#) highlighting the relevance and applicability of the Code in combatting greenwashing.

Sustainability Reporting and Assurance



6. In September 2022, the International Organization of Securities Commissions (IOSCO) publicly recognized the work of both the IESBA and the International Auditing and Assurance Standards Board (IAASB) as important in meeting the need for robust standards applicable to all practitioners of sustainability assurance to foster independent, high-quality engagements and consistent practices.¹ In particular, IOSCO welcomed the two Boards' plans to develop high-quality, global assurance and ethics (including independence) standards that are profession-agnostic and can support limited and reasonable assurance of sustainability information. In addition, in its final report *Supervisory and Regulatory Approaches to Climate-related Risks*, the Financial Stability Board (FSB) also singled out the work of the IESBA and IAASB as relevant to the development of third-party assurance of climate-related public disclosures by corporates.²
7. In December 2022, the IESBA approved a project proposal to develop ethics (including independence) standards for sustainability assurance and reporting, allocating the necessary resources so that the key deliverables can be produced within an ambitious timeline.

B. Sustainability Project

Project Proposal

8. In December 2022, the IESBA approved two related project proposals. With respect to sustainability reporting and assurance, the IESBA approved a [project proposal](#) with the objectives to develop:
 - (a) Revisions to the Code³ to address the ethics issues that might arise in sustainability reporting; and
 - (b) Ethics and independence standards for use and implementation by all sustainability assurance

¹ In September 2022, IOSCO issued a [statement of support](#) for the work of the IESBA and IAASB to develop profession-agnostic global standards to support assurance of sustainability information.

² In its [2023 Progress Report on Climate-Related Disclosures](#), the FSB continued to highlight the need for a global assurance, ethics and independence framework for sustainability disclosures and expressed support for both Boards' standard-setting work in this regard.

³ For purposes of the ED, the reference to the extant Code is to the draft 2024 edition of the IESBA Handbook, which includes the most recent IESBA-approved revisions.

practitioners (i.e., professional accountants (PAs), conformity assessment bodies, and other practitioners performing sustainability assurance engagements).

9. In the same December 2022 meeting, the IESBA also approved a [project proposal](#) relating to the use of experts by PAs as well as all sustainability assurance practitioners. For more information about the IESBA's Use of Experts project, please visit its [webpage](#).

Public Interest Framework

10. The IESBA took into account the Public Interest Framework published by the Monitoring Group in July 2020⁴ when approving the Sustainability project proposal. The IESBA has also applied the Public Interest Framework's qualitative standard-setting characteristics when developing the proposed revisions to the Code. See also paragraph 23 below.

C. Coordination with the IAASB

11. As highlighted above, the IAASB is also undertaking a [sustainability project](#) to develop a new overarching standard for assurance on sustainability reporting that is:
 - (a) Responsive to the public interest need for a timely standard that supports the consistent performance of quality sustainability assurance engagements;
 - (b) Suitable across all sustainability topics, information disclosed about those topics, and reporting frameworks; and
 - (c) Implementable by all assurance practitioners.
12. In August 2023, the IAASB released its proposed ISSA 5000⁵ for public consultation. The comment period closed on December 1, 2023, and the IAASB aims to issue the final standard by the end of 2024.
13. In undertaking this project, the IESBA has engaged closely with the IAASB to address matters of mutual interest in order to ensure that the IESBA's final sustainability-related standards will be consistent and interoperable with the proposed ISSA 5000. Such matters include definitions of terms such as "sustainability information," using the work of another practitioner, sustainability assurance engagements in a group context, and the concept of value chain.

D. Sustainability Reference Group

14. The IESBA engaged with sustainability reporting and assurance experts through its [Sustainability Reference Group](#) established in June 2023. The Sustainability Reference Group members are predominantly from professions other than accounting and audit, and were selected based on a series of criteria, including their background, experience in sustainability reporting or assurance, diversity of stakeholder groups, and geographical location.
15. The Sustainability Reference Group has acted as a "sounding board" to the IESBA's Sustainability Task Force through quarterly meetings and written feedback to provide insights, expertise and advice relating to the development of the global ethics (including independence) standards for sustainability

⁴ See the Monitoring Group report, [Strengthening the International Audit and Ethics Standard-Setting System](#) (pages 22–23 of the Public Interest Framework's section on "What qualitative characteristics should the standards exhibit?").

⁵ Proposed International Standard on Sustainability Assurance (ISSA) 5000, *General Requirements for Sustainability Assurance Engagements*

reporting and assurance.

E. Stakeholder Engagement

Stakeholder Outreach

16. The IESBA has engaged in extensive outreach activities with key stakeholders prior to and during the project, including with:
- The IESBA Consultative Advisory Group (CAG).
 - Monitoring Group members, including IOSCO, the International Forum of Independent Audit Regulators (IFIAR), the European Commission (EC), the FSB and the World Bank.
 - Regional and national regulatory bodies, such as the Committee of European Auditing Oversight Bodies (CEAOB), United States Securities and Exchange Commission (SEC), and the Japan Financial Services Agency (JFSA).
 - International standard setters for sustainability reporting and assurance, such as the International Sustainability Standards Board (ISSB) and the International Organization for Standardization (ISO).
 - National standard setters (NSS).
 - Representatives of the accountancy profession, such as the International Federation of Accountants (IFAC) and its Small and Medium Practices (SMP) and Professional Accountants in Business (PAIB) Advisory Groups, the Forum of Firms (FoF), and professional accountancy organizations (PAOs).
 - Other international groups such as the International Accreditation Forum (IAF).
 - Sustainability information preparers, sustainability assurance practitioners, those charged with governance (TCWG), and user and investor groups.

Global Sustainability Roundtables

17. Given the importance and global scope of the Sustainability project, the IESBA conducted four global sustainability roundtables in March-April 2023 to inform its strategic direction on a range of key issues.⁶ These roundtables, held in Paris, Sydney, Singapore and New York, were attended by over 140 senior-level participants representing over 80 different organizations from a wide range of stakeholder groups,⁷ including non-PAs.

II. SUSTAINABILITY ASSURANCE

This Section covers Chapters 1 to 3 of the ED and questions 1 to 19.

A. Main Objectives of the IESSA

18. The IESBA agreed to develop the IESSA under a new Part 5 of the Code. Following extensive

⁶ Refer to [Agenda Item 2-A](#) of the June 2023 IESBA meeting for the summary of the feedback received from the roundtable participants.

⁷ Stakeholder groups represented included: Regulators, Users/Investors, Preparers/TCWG, International and National Standard Setters, Sustainability Assurance Practitioners (Accounting Firms and Others), PAOs, and Academics.

deliberation, the IESBA concluded that this option⁸ would best achieve the main objectives of the Sustainability project, having regard to the requirements of the Public Interest Framework, including that the new standards are comprehensive, scalable, clear, implementable, globally operable and enforceable for all sustainability assurance practitioners.

Equivalence to Audits

19. Recognizing the public interest in sustainability information that meets certain criteria, including sustainability information that is prepared in accordance with a general purpose framework and is publicly disclosed, the IESBA holds to the premise that sustainability assurance engagements on such information must be underpinned by the same high standards of ethical behavior and independence that apply to audits of financial information.⁹ With that in mind, the proposed IESSA is equivalent to Parts 1 to 4A of the Code, with certain exceptions as explained in paragraphs 4545 to 5050 below. Please refer to question 1(a).
20. The provisions in the proposed IESSA are drafted using the same language as for the ethics (including independence) provisions that apply to audits of financial statements, with terminologies amended only where necessary to be clear as to the application of the provisions with respect to sustainability. This is to maintain the equivalence of the provisions between the sustainability assurance engagements and audit engagements, and to minimize regulatory arbitrage issues such as courts interpreting differences in meaning when none was intended (i.e., there should be only a “single version of the truth”).

Profession-Agnostic Standards

21. Further to the IOSCO statement mentioned in paragraph 66 above, the IESBA agreed to develop profession-agnostic global ethics (including independence) standards for sustainability assurance engagements. This means that the IESSA should be capable of being understood and applied by all practitioners of sustainability assurance engagements, including those who are not PAs. The IESBA agreed that profession-agnostic standards best serve the public interest, given that there are different types of practitioners currently performing sustainability assurance engagements and that, in a number of jurisdictions, they are mostly not PAs. With this in mind, the IESBA developed the proposed IESSA using terminology that it intends to be understandable by all sustainability assurance practitioners. Please refer to question 1(b).

Framework-Neutral Standards

22. To align with the Code’s current approach, the IESBA has developed the ethics (including independence) standards in the proposed IESSA in a framework-neutral way so that they can underpin any reporting or assurance framework used to prepare or assure the sustainability information. Nevertheless, in developing the IESSA, the IESBA considered the global sustainability reporting and assurance standards developed by ISSB and IAASB, respectively, with a view to ensuring that the IESSA will be interoperable with those standards. Please refer to question 1(b).

⁸ The other two options considered by the IESBA were having a single set of ethics (including independence) standards applicable to audits and sustainability assurance engagements in the extant Code, and having the new ethics (including independence) standards in a separate Code.

⁹ This approach is consistent with the position taken by regulators in some major jurisdictions, such as the European Union (EU) and the United States (US).

Public Interest Framework

23. The IESBA is of the view that the IESSA is responsive to the public interest considering the Public Interest Framework characteristics (please refer to question 2), in particular:

- *Coherence* with the overall body of the IESBA's standards, recognizing that the extant Code already encapsulates a robust set of standards that sets expectations for, and guides, ethical behavior with respect to the provision of audit, review and other assurance services. As such, the extant Code was used as a baseline for developing the ethics (including independence) requirements and application material in the proposed Part 5.
- *Clarity and conciseness* of the standards, by using the Code's structure and drafting conventions for clarity, understandability and usability. The proposed IESSA follows the same building blocks approach in the extant Code – i.e., starting with the fundamental principles and the conceptual framework as the foundations of the new ethics (including independence) standards for sustainability assurance.

To ensure that the IESSA is applied in the same way as the extant Code in order to achieve equivalence, the language and terminologies used in Part 5 are as much as possible identical to those used in the extant Code, with the exception of the necessary adaptations to meet the objective of profession-agnostic standards and to include sustainability-related examples in the application material.

- *Implementability and enforceability*, by adopting an identical structure to the extant Code, with a clear distinction between requirements and application material. Further, making the proposed IESSA part of the Code will avoid the issue raised by some stakeholders about the lengthy legal process of adopting a new standalone standard or Code for sustainability assurance in some jurisdictions.

B. Significant Matters

Definition of Sustainability Information

24. The IESBA agreed to include a proposed definition for a new term, "sustainability information," applicable to both sustainability assurance and sustainability reporting, in the Glossary to the Code. This proposed definition determines what type of information is relevant for the purposes of applying the IESSA and the standards in Parts 1 to 3 of the extant Code regarding sustainability reporting.

25. Although cognizant of the fact that standards¹⁰ developed or being developed by other recognized standard setters use identical or similar terms (defined or not), the IESBA sees merit in having a specific and defined term for purposes of the ethics (including independence) standards for the following reasons:

- The proposed IESBA standards cover the collection, classification, recording, measurement, maintenance and approval of sustainability information (under proposed revised Parts 1 to 3 of the Code); the preparation or presentation of that information in the form of sustainability reports, statements or other disclosures (also under proposed revised Parts 1 to 3 of the Code); and the issue of an opinion on those disclosures (under new Part 5 of the Code).

¹⁰ For example, standards developed or being developed by the IAASB, the ISSB, the Global Reporting Initiative (GRI), and the European Financial Reporting Advisory Group (EFRAG)

- Other terms were considered, but “sustainability information” was deemed more aligned with the Public Interest Framework characteristics,¹¹ considering its parallels with the extant “historical financial information.”
 - If not defined, there is a risk that the IESBA standards would be inconsistently applied due to potentially arbitrary, misconstrued or too narrow interpretations of the term. Having a definition serves a clarifying and educative purpose, thus contributing to the *clarity, implementability* and *enforceability* of IESBA standards as required by the Public Interest Framework.
26. The IESBA’s proposed definition of “sustainability information” is intentionally broad and sufficiently generic to be perennial and interoperable with various reporting and assurance standards (including proposed ISSA 5000). It has two parts:
- The first part is the defined term with two components. Subparagraph (a) consists of a broad definition of sustainability information. It includes a reference to the ESG factors but is not limited to them as the IESBA recognizes that additional factors¹² such as economic ones may also be relevant for the sustainability information disclosed by companies. The reference to “other” factors is intended to keep the definition flexible and thus evergreen. Moreover, it is broad enough to cover disclosures made under both single and double materiality perspectives.
- Subparagraph (b) scopes in terms and definitions used in local or regional laws or regulations or by other standard setters. Regardless of how “sustainability information” is defined therein or whether a different term is used, it will be deemed to be “sustainability information” for the purposes of applying the IESBA standards. In particular, the proposed terms and definitions used in the ISSA 5000 ED (“sustainability information” and “sustainability matters”)¹³ are scoped into the IESBA’s definition through this subparagraph (b), making the necessary alignment between the two Boards’ proposed terms.
- The second part (in *italics*) provides further explanation to the defined term by including a non-exhaustive list of what may be considered to be sustainability information. It recognizes, among other things, the specificities of sustainability information and that it can be derived from the entity or third parties in the value chain.
27. Please refer to question 3.

Applicability and Scope of IESSA

Sustainability Assurance Engagements

28. The proposed Part 5 of the Code applies when a sustainability assurance practitioner performs a sustainability assurance engagement, as defined in the proposed revisions to the Glossary of the

¹¹ Particularly for the *consistency, clarity* and *conciseness* of the IESBA standards and consequently their *implementability* and *enforceability*. Such a term also defines the *appropriate scope* for the IESBA standards, as required by the Public Interest Framework, since the standards need to adequately cover both reporting and assurance activities.

¹² A specific reference to “cultural” factors was not included because the IESBA considered it to be a part of (and thus already included in) the “social” factor.

¹³ Although aligned in substance, the terms/definitions used in the IESBA and IAASB proposed standards are not identical. This is because of the different scopes of the two Board’s projects and standards. “Sustainability information” is used in the proposed IESBA standards for both sustainability reporting and sustainability assurance, while the proposed ISSA 5000 focuses on sustainability assurance only. Therefore, the IESBA determined that its definition needs to be sufficiently broad and should not reflect assurance-specific language.

Code. The definition of “sustainability assurance engagement” clarifies that the Code applies only to engagements designed to enhance the degree of confidence of the intended users about the sustainability information but not to certification engagements that are designed to confirm compliance with the specifications set out in relevant certification standards. (See proposed revised Glossary to the Code in Chapter 2.)

29. Part 5 sets out the same provisions for sustainability assurance engagements that fall within its scope irrespective of whether the engagement is a limited assurance or reasonable assurance engagement. The distinction between a limited assurance engagement and a reasonable assurance engagement is consistent with the definition of an assurance engagement in accordance with the IAASB’s proposed ISSA 5000. (See proposed revised Glossary to the Code in Chapter 2.)

Scope of Ethics Standards in the Proposed IESSA

30. The objective of the Sustainability project is to develop ethics (including independence) standards for sustainability assurance engagements that are equivalent to those that apply to audits of financial statements. As such, the starting point for this project was the extant Code, where the relevant ethics standards are set out in Parts 1 and 3 and the applicable independence requirements in Part 4A.

31. Currently, the extant Code applies to one cohort of practitioners (PAs) that can perform different types of activities or services. However, the IESBA has committed under the Sustainability project to issue profession-agnostic standards that can be used by different groups of practitioners (coming from different professions or fields) performing the same type of engagements – sustainability assurance engagements. This paradigm shift led the IESBA to consider three options for the scope of the ethics standards in the proposed IESSA, from the narrowest to the broadest:

- The narrowest option would focus strictly on the scope of the project (sustainability assurance) and the purpose of the project (to develop standards that are equivalent to those applying to audits of financial statements). It would entail developing ethics standards solely for sustainability assurance engagements that are subject to the independence requirements in Part 5 (see the criteria mentioned in paragraph 3939 below).
- At the other end of the spectrum, the broadest option would mean adopting the same scope as the extant Code, which would entail developing ethics standards for all activities and services provided by sustainability assurance practitioners to any of their clients.
- A middle ground option is to develop ethics standards for all sustainability assurance engagements and any other services that the practitioner provides to the same sustainability assurance client.

32. The IESBA proposes to adopt the middle ground option for the scope of the ethics standards in the IESSA as a balanced approach, having regard to the public interest considerations at hand. Sustainability information disclosed by companies is used by a wide range of stakeholders to assess and compare companies’ performances and to make investment, business or other decisions. Hence, given the level of public reliance placed on those disclosures, those performing the sustainability assurance engagements should follow the most stringent ethics requirements. However, adhering to the highest standards of ethical behavior only when performing the sustainability assurance engagement for the client might not sufficiently safeguard stakeholder confidence and the public interest at large. The IESBA, therefore, believes it is important to hold the practitioner to the same high ethics standards with respect to any other professional services they might provide to the same client. (See paragraph 5100.2(a) in Chapter 1.)

33. The broadest option would go beyond the scope of the project, potentially raising questions about the basis for the IESBA to set standards to cover all the activities performed, and services provided by, any sustainability assurance practitioner outside the accountancy profession.
34. The IESBA was of the view that the middle ground option best aligns with the Public Interest Framework's qualitative characteristics, including:
- *Consistency* with the priorities and scope of the Sustainability project. This option centers on a sustainability assurance service but recognizes that the public interest underpinning such a service may extend to other situations with the same client.
 - Appropriate *coherence* with the extant Code. While the Code applies to a certain profession and thus to all professional activities, services and relationships of members of that profession (i.e., PAs), the scope of the Sustainability project focuses on a certain service that can be provided by practitioners from different professions or fields. This option is a balanced middle ground focusing on the practitioners performing sustainability assurance engagements and any other services for the same client.
 - Ensuring an *appropriate scope* and *relevance* of the ethics standards, as they adequately serve the public interest underpinning sustainability disclosures and their assurance.
35. The IESBA also agreed that the ethics standards in the new Part 5 of the Code should cover all sustainability assurance engagements irrespective of whether they are within the scope of independence standards in Part 5 (see paragraph 5100.2(a) in Chapter 1). This is because the objective of the Sustainability project is to develop "*ethics and independence standards for use by all assurance practitioners in sustainability assurance engagements.*" This follows the same approach in the extant Code where there is only one set of ethics standards for PAs in public practice (PAPPs) (Parts 1 and 3 of the extant Code), irrespective of the type of services provided.
36. In addition, the IESBA recognizes that having high ethics standards that address circumstances outside the scope of the ethics standards in Part 5, such as services provided by a sustainability assurance practitioner to other clients, is also important because other aspects of the conduct of a practitioner may contribute to (or impair) the credibility of, and public trust in, the practitioner's sustainability assurance work. Thus, the proposed IESSA:
- Reminds ***practitioners who are PAs*** that Parts 1 to 4B of the Code apply in all situations not covered by Part 5 – see paragraph 5100.2b(a) in Chapter 1.¹⁴
 - Encourages ***practitioners who are not PAs*** to apply Parts 1 to 4B of the Code in all situations not covered by Part 5 – see paragraph 5100.2b(b) in Chapter 1 which includes examples of situations not covered by the IESSA, such as aspects of the relationships between the practitioner and other clients, and the practitioner and the firm.
- In complying with Parts 1 to 4B, the practitioners who are not PAs derive the benefit of public trust – which is first and foremost tied to the performance of sustainability assurance engagements – in their work and business relationships.
37. Please refer to question 4.

¹⁴ As part of this project, the Guide to the Code (located at the beginning of the Code) will also be updated so that users are clear about which Parts to follow for a given service or situation.

Scope of Independence Standards in the Proposed IESSA

38. Since sustainability assurance engagements can be very diverse in nature, scope and purposes, the IESBA believes that, as a first step, the independence standards in Part 5 should focus on sustainability assurance engagements with the same level of public interest as audits of financial statements. Please refer to question 5.
39. Accordingly, the IESBA proposes that the *International Independence Standards* (IIS) in Part 5 apply to a sustainability assurance engagement where the sustainability information on which the sustainability assurance practitioner expresses an opinion:
- (a) Is reported in accordance with a general purpose framework (as defined in the proposed revised Glossary); and
 - (b) Is required to be provided in accordance with law or regulation; or is publicly disclosed to support decision-making by investors or other stakeholders.
- (See paragraph 5400.3a in Chapter 1.)
40. The IESBA also proposes that the IIS in Part 5 apply only to attestation engagements (where a party other than the sustainability assurance practitioner measures or evaluates the underlying subject matter against the criteria) and not to direct engagements (where the sustainability assurance practitioner also measures or evaluates the underlying subject matter against the applicable criteria).^{15, 16} (See paragraph 5400.3d in Chapter 1.)
41. Where the sustainability assurance practitioner is a PA, Part 4B of the extant Code sets out independence standards for other sustainability assurance engagements¹⁷ that are not within the scope of the IIS in Part 5 (see paragraph 5400.3e in Chapter 1). This approach is in line with the extant Code, which specifies for PAs different independence standards for audit and review engagements (Part 4A) and for other assurance engagements (Part 4B).
42. Although Part 4B is currently applicable to PAs only, as mentioned above, other sustainability assurance practitioners are also encouraged to comply with its provisions when performing other sustainability assurance engagements outside of the scope of the IIS in the proposed IESSA. As part of its Strategy and Work Plan 2024-2027 (SWP), the IESBA will consider how the Code might be enhanced, whether through revision of the extant Part 4B or the development of a Part 4B equivalent in the new Part 5, to ensure that all independence standards for sustainability assurance engagements are addressed in the Code in a profession-agnostic manner.¹⁸
43. The IESBA proposes conforming amendments to Part 4A and Part 4B of the Code to clarify their scope, having regard to the new IIS in Part 5. (See paragraphs 400.17 and 900.1 in Chapter 3.)
44. See the diagrams in Appendix 1 for the inter-relationship between ethics and independence standards for sustainability assurance practitioners (PAs and non-PAs).

¹⁵ The Glossary of the extant Code defines attestation and direct engagements.

¹⁶ Part 5 makes references to a firm expressing an opinion on the sustainability information in the context of a reasonable assurance sustainability assurance engagement. In the context of a limited assurance engagement, those references mean a firm expressing a conclusion on the sustainability information.

¹⁷ Paragraph 5400.3e provides examples to sustainability assurance engagements that are not within the scope of the IIS in Part 5.

¹⁸ The new SWP for 2024-2027 was approved by the IESBA in December 2023 (see [Agenda Item 2-H.1](#) of the December 2023 IESBA meeting). Subject to PIOB approval of due process, the SWP is expected to be released in April 2024.

Structure of the Proposed IESSA

45. For equivalence purposes, the starting point for the Sustainability project was the extant Code, in which the ethics standards applying to audits of financial statements are set out in Parts 1 and 3 and the applicable independence requirements in Part 4A.
46. The standards in Part 2 of the extant Code were not replicated in Part 5 (apart from Section 270, as explained below), since Part 2 applies to PAs in business, who do not perform audits of financial statements.
47. In certain circumstances, Part 2 can also apply to PAs performing audits of financial statements. That is the case when an ethics issue arises in the context of their relationship with the firm.¹⁹ However, the development of standards for the performance of sustainability assurance engagements covers, by nature, the relationship between the practitioner and the client, not between the practitioner and their firm. Hence, except for Section 270, there is no need to develop equivalent standards to those in extant Part 2 for purposes of the IESSA.
48. The IESBA agreed to include in the proposed IESSA a set of provisions drawn from one section in Part 2 – Section 270, *Pressure to Breach the Fundamental Principles*. (See Section 5270 in Chapter 1.) The IESBA considered it important to include this Section in the new Part 5 because pressure to breach the fundamental principles,²⁰ which might arise in different situations and is not explicitly covered by the Part 1 equivalent standards in the IESSA, might compromise the performance of sustainability assurance engagements and consequently impair the public trust in it. Please refer to question 6.
49. Part 5 includes the equivalent Standards drawn from Part 3 of the extant Code except extant Section 321, *Second Opinions*, due to the topic of second opinions being outside the proposed scope of IESSA. As mentioned above, the proposed ethics standards in Part 5 apply to sustainability assurance engagements and any other services that a sustainability assurance practitioner performs for the same sustainability assurance client. Therefore, this assumes there is a client, i.e., the sustainability assurance client. However, extant Section 321 applies when a PA provides a second opinion to an entity that is not an existing client (see paragraph 321.2 of the extant Code).
50. If the practitioner is a PA, then extant Section 321 applies. Practitioners who are not PAs are encouraged to use the remainder of the Code (thus including Section 321) whenever their professional activities or professional and business relationships do not fall under Part 5 – see the specific example about second opinions in paragraph 5100.2b(b)(v) in Chapter 1.
51. The proposed IESSA further provides that if a sustainability assurance practitioner performs a sustainability assurance engagement within the scope of Part 5, the firm needs to apply the requirements and application material in Part 5 (see paragraph 5100.2 in Chapter 1), irrespective of whether the practitioner is a PA and provides other engagements to the client, such as audit of the financial statements. However, if the practitioner performs both engagements for the same client, the provisions in Parts 1 to 4A in the Code applicable to an audit also apply. (See paragraph 5400.16a in Chapter 1.)
52. Where the firm is subject to both Parts 1 to 4A and Part 5, this does not mean that the firm needs to apply the conceptual framework to separately identify, evaluate and address threats to independence

¹⁹ Part 2 of the Code is applicable to PAPPs via the “applicability provisions” – see paragraphs 120.4, R300.5, and 300.5 A1 of the extant Code.

²⁰ This is regardless of whether the pressure originates from the client, within the firm, or other sources.

in relation to each engagement. Taking into account laws and regulations of the relevant jurisdiction, it is an operational matter for firms performing both the audit and sustainability assurance engagement to determine how to comply with the corresponding requirements in Parts 1 to 4A and Part 5, within their systems of quality management. In most cases, complying with a requirement in Parts 1 to 4A will achieve compliance with the corresponding requirement in Part 5, and vice versa.

53. However, where applicable, Part 5 will address specific situations where additional independence considerations arise from the auditor also providing sustainability assurance services to the client, such as considerations relating to:
- The proportion of fees for services other than audit and sustainability assurance engagements to the audit or sustainability assurance fee.
 - The cooling-off period if an individual has acted as an engagement leader and a key audit partner for the same client.
 - The provision of accounting and bookkeeping services and sustainability data and information services to audit and sustainability assurance clients.
54. The numbering in the IESSA follows a 5000 sequence because the new standards are under Part 5 of the Code. To facilitate an equivalence verification, the numbering of the standards in Part 5 follows the numbering used in Parts 1 to 4A with a “5” added in front.
55. See the diagram in Appendix 2 that illustrates the proposed structure for the Code, including the extant Parts 1 to 4A/4B and the new Part 5.

Responding to Non-Compliance with Laws and Regulations™ (NOCLAR®)

Sustainability Assurance Practitioners (IESSA) and Auditors (extant Part 3 of the Code)

56. The proposed Section 5360 deals with NOCLAR. Similar to extant Section 360, the scope of this section in the IESSA is centered on (actual or suspected) non-compliance with laws and regulations that the practitioner becomes aware of in the course of providing services to the sustainability assurance client. (See paragraph 5360.3 in Chapter 1.)
57. Section 5360 only applies to NOCLAR committed by the parties listed in paragraph 5360.5 A1 such as TCWG and management of a sustainability assurance client. As mentioned in paragraph 5360.7 A3(b), it does not extend to situations where the NOCLAR has been committed by entities in the sustainability assurance client's value chain. This is similar to extant Section 360, where the NOCLAR provisions do not apply to situations where the NOCLAR has been committed by a third party. Nevertheless, the sustainability assurance practitioner might find the guidance in Section 5360 helpful in considering how to respond in a situation of NOCLAR within the client's value chain.
58. Section 5360 includes:
- One set of provisions applying to (actual or suspected) NOCLAR identified in the context of sustainability assurance engagements within the scope of the IIS in Part 5 (see paragraphs R5360.10 to 5360.28 A1 in Chapter 1);²¹ and
 - Another set of provisions covering those sustainability assurance engagements outside the scope of the IIS in Part 5 as well as other professional services performed for a sustainability

²¹ Sustainability assurance engagements within the scope of the IIS in Part 5 are the type of engagements that the IESBA agreed are equivalent to audits of financial statements.

assurance client (see paragraphs R5360.29 to 5360.40 A1 in Chapter 1).

This segmentation mirrors the structure in extant Section 360²² and is warranted by the scope of the ethics standards in the IESSA (see paragraphs 30 to 35 above).

59. The provisions applying to sustainability assurance engagements within the scope of the IIS in Part 5 include a proposed new requirement regarding the communication of (actual or suspected) NOCLAR to the auditor of the sustainability assurance client. Paragraph R5360.18a requires the practitioner to consider communicating (actual or suspected) NOCLAR to the auditor of the sustainability assurance client (if there is one). Paragraph 5360.18a A1 sets out examples of factors to guide the practitioner when considering whether to communicate the matter to the auditor. In particular, the last bullet on that illustrative list²³ allows for communication to be made according to the firm's or network firm's internal protocols or procedures.²⁴
60. The IESBA considered adding a separate requirement for the practitioner to also consider communicating (actual or suspected) NOCLAR to other sustainability assurance practitioners performing engagements for the same client²⁵ but agreed not to for the following reasons:
- The identification of (actual or suspected) NOCLAR in sustainability assurance will most likely have an impact on the audit of the financial statements given the financial materiality aspect of sustainability reporting. Therefore, communication with the auditor is particularly relevant.
 - Requiring communication with other sustainability assurance practitioners could raise practical issues, such as knowing if the client has engaged other practitioners and whether those other practitioners are performing sustainability assurance engagements within the scope of the IIS in Part 5.
 - Based on feedback from the Sustainability Reference Group, at least in the UK, large companies doing voluntary assurance²⁶ usually just engage one sustainability assurance practitioner. As such, a situation where one practitioner would have to consider communicating with other practitioner(s) may be uncommon.
 - Expanding the existing communication requirements to other practitioners would add a layer of complexity, potentially impairing the understandability and ultimately the adoption and

²² Section 360 includes a group of provisions for audits of financial statements (see extant paragraphs R360.10 to 360.28 A1) and another group of provisions applying to professional services other than audits of financial statements (see extant paragraphs R360.29 to 360.40 A1).

²³ This bullet is a new factor added to Part 5 but not included in extant paragraphs 360.34 A1 since Section 360 includes additional requirements (in paragraphs R360.31 and R360.32) where communication is to be made or considered to be made within the firm or network firm.

²⁴ There is one factor in extant paragraph 360.34 A1 that was not replicated in Part 5, related to the likely materiality of the matter to the audit of the client's or the group's financial statements. The IESBA agreed not to include such a factor in Part 5 because it might not be reasonable to expect a practitioner who is not a PA to recognize the materiality of a NOCLAR situation to the audit of the client's or the group's financial statements, especially if that practitioner is not familiar with integrated reporting. In addition, feedback from the Sustainability Reference Group supported not having practitioners who are not PAs make judgments on financial materiality or form opinions about financial statements. In any case, if a practitioner who is not a PA has this kind of expertise, such a factor could also be considered given that the list in paragraph 5360.18a A1 is not exhaustive.

²⁵ For instance, there may be situations where one practitioner provides assurance on one aspect of the sustainability information disclosed (e.g., greenhouse gas emissions) and other practitioner(s) provide assurance on other aspects (e.g., water pollution; compliance with human rights).

²⁶ This relates to "assurance" taken in technical terms, i.e., under the IAASB standards. It does not refer to verification or certification services under for instance the ISO standards.

implementation of the IESSA.

61. Thus, this approach focuses on first ensuring that sustainability assurance practitioners understand how the NOCLAR provisions work under Part 5 before the IESBA considers expanding on them. It is also in line with the following Public Interest Framework characteristics: clarity and conciseness of the standards as well as their scalability (over time), implementability, and enforceability.
62. In light of the public interest in sustainability assurance engagements that are within the scope of the IIS in the new Part 5, the IESBA also proposes a symmetrical requirement in extant Section 360. Under proposed paragraph R360.18a, the PA performing an audit of the financial statements will be required to consider whether to communicate (actual or suspected) NOCLAR to the client's sustainability assurance practitioner(s) performing a sustainability assurance engagement within the scope of the IIS in Part 5.
63. The proposed new requirements in paragraphs R5360.18a and R360.18a and the corresponding application material were based on extant paragraphs R360.33 to 360.35 A1. From a confidentiality perspective, this corresponds to a situation covered under paragraphs 5114.3 A1(b)(iv) for Part 5 and 114.3 A1(b)(iv) for the revisions in Part 3 where the practitioner might be required to disclose confidential information or when such disclosure might be appropriate to comply with technical and professional standards, including ethics requirements.
64. Please refer to question 7.
65. The proposed IESSA only addresses communication between the sustainability assurance practitioner and the auditor in the context of NOCLAR. The IESBA considers that the terms for the communication in a broader sense between the practitioner and other parties such as the auditor (or other practitioners) is a matter for the relevant sustainability assurance standards (such as proposed ISSA 5000) to determine. The IESBA will coordinate with the IAASB on this matter as needed.
66. The provisions covering sustainability assurance engagements outside the scope of the IIS in Part 5 as well as other professional services performed for a sustainability assurance client include communication requirements that mirror extant paragraphs R360.31 to 360.35 A1, i.e., for purposes of communicating to the auditor only.
67. Upon deliberation, the IESBA agreed not to extend the scope of paragraphs R5360.31 to R5360.33 to also include the client's sustainability assurance practitioners(s) for the following reasons:
 - Communication for audit purposes is sufficient. If a practitioner communicates with the auditor under these requirements, that communication will, in turn, trigger the auditor to consider communicating with a sustainability assurance practitioner under new paragraph R360.18a (in Part 3). This means that a practitioner performing a sustainability assurance engagement within the scope of the IIS in Part 5 can still become aware of (actual or suspected) NOCLAR through the communication from the auditor.
 - Communicating (actual or suspected) NOCLAR to management or TCWG is the priority, as set out by the NOCLAR regime. This is supported by paragraphs 360.34 A1 (for Part 3) and 5360.18a A1 and 5360.34 A1 (both for Part 5) which set out that a factor when considering whether to communicate NOCLAR to the auditor is whether management or TCWG have already informed the auditor about the matter.
 - Extending the scope of paragraphs R5360.31 to R5360.33 would add a layer of complexity, potentially impairing the understandability and ultimately the adoption and implementation of the IESSA.

Professional Accountants in Business (PAIBs) (Extant Part 2 of the Code)

68. The IESBA also proposes corresponding revisions to extant Section 260 (see paragraphs R260.15 and 260.15 A1 in Chapter 3) in order to align with the communication provisions mentioned above for Parts 5 and 3. The proposed revisions require the senior PA to determine whether to disclose (actual or suspected) NOCLAR also to the employing organization's sustainability assurance practitioner performing a sustainability assurance engagement within the scope of the IIS in Part 5. Please refer to question 8.

Independence Standards in the Proposed IESSA

69. The IIS in Part 5 require a sustainability assurance practitioner (referred to as "a firm"²⁷ in the IIS) performing a sustainability assurance engagement within the scope of the IIS to be independent. (See paragraph R5400.18. in Chapter 1.)
70. Like the approach for audit engagements, the proposed IIS in Part 5 also require network firms to be independent of the sustainability assurance clients of the other firms within the network in accordance with Part 5. The determination of the network and a network firm is based on the same concepts of network and network firms applicable in the case of an audit engagement. (See paragraphs 5400.50 A1 to 5400.54 A1 in Chapter 1.)
71. The conceptual framework set out in Section 5120 requires firms to identify, evaluate and address threats to independence in relation to a sustainability assurance engagement. In Part 5, the IIS provides examples and other guidance on interests, relationships, and circumstances that might create such threats to independence.
72. The IESBA's premise in developing the proposed IIS in Part 5 is that interests, relationships and circumstances that might create threats to independence for an audit of financial statements might also create threats for a sustainability assurance engagement. In developing the ED, the IESBA reviewed the independence standards for audit engagements and considered whether any changes or refinements are necessary based on the specific characteristics of sustainability assurance engagements, for example, with respect to the different subject matter (i.e., the sustainability information) and the different reporting boundaries.
73. The section below explains the key independence matters specific to sustainability assurance engagements.²⁸

Applying the Conceptual Framework to Independence for Sustainability Assurance Engagements

Quality Management System

74. Participants at the IESBA's global sustainability roundtables agreed that all sustainability assurance practitioners, including PAs and non-PAs, must have a system of quality management in place in order to comply with the relevant requirements, including ethical requirements. Therefore, the proposed IESSA recognizes that the sustainability assurance standards are based on an expectation that the firm will have designed, implemented and operated an appropriate system of quality management as a prerequisite to the performance of high-quality sustainability assurance

²⁷ See the explanation in paragraphs 76 and 77 in this document.

²⁸ Given the aim of equivalence between the independence standards for sustainability assurance engagements and those for audit engagements (in Part 5 and Part 4A of the Code, respectively), for any other independence matters set out in IIS in Part 5 please refer to the relevant standards and materials issued by IESBA applicable to audits of financial statements.

engagements. This is in line with the extant Code's approach in Part 4A which recognizes that the IAASB's ISQM 1²⁹ requires a firm to design, implement and operate a system of quality management for audits of financial statements performed by the firm.

75. Given that the proposed IESSA is framework-neutral, Part 5 does not prescribe a specific quality management standard. However, it states that sustainability assurance standards are based on an expectation that the sustainability assurance practitioner has a system of quality management designed, implemented and operated in accordance with applicable quality management standards. For illustrative purposes, the proposed Part 5 refers to the IAASB's ISSA 5000 as requiring compliance with ISQM 1³⁰ (or other legal, regulatory or professional requirements that are at least as demanding). (See paragraph 5400.3f in Chapter 1.)
76. Legal, regulatory or professional requirements that deal with the firm's responsibilities to design, implement, and operate a system of quality management might require the firm to address the fulfilment of responsibilities in accordance with relevant ethical requirements, including those related to independence. The allocation of responsibilities within a firm will depend on its size, structure and organization. Therefore, many of the provisions of the IIS in the proposed IESSA do not prescribe the specific responsibilities of individuals within the firm for actions related to independence, instead referring to "firm" for ease of reference. (See paragraph 5400.4 in Chapter 1.)
77. The determination of a "firm" in the context of a sustainability assurance engagement is equivalent to the approach in the context of an audit or other assurance engagement. Under proposed Part 5, a firm includes:
- (a) A sole practitioner, partnership or corporation of sustainability assurance practitioners;
 - (b) An entity that controls such parties, through ownership, management or other means; and
 - (c) An entity controlled by such parties, through ownership, management or other means.
- (See proposed revised Glossary to the Code in Chapter 2.)
78. The IIS in the proposed IESSA also set out specific requirements for members of the engagement team and sustainability assurance team. The determination of such individuals follows the same approach as for the engagement team and the audit team for audit engagements.³¹ (See proposed revised Glossary to the Code in Chapter 2.)

Sustainability Assurance Client

79. The IIS in the proposed IESSA require a firm providing a sustainability assurance engagement to be independent of the sustainability assurance client. A sustainability assurance client covers the entity in respect of which a firm conducts a sustainability assurance engagement. In addition, equivalent to the approach for audit engagements, when the client is a publicly traded entity (as defined in the

²⁹ International Standard on Quality Management 1, *Quality Management for Firms that Perform Audits or Reviews of Financial Statements, or Other Assurance or Related Services Engagements*

³⁰ See paragraph 5b of the proposed ISSA 5000.

³¹ For further material regarding the determination of an audit team member. please refer to the [Final Pronouncement: Revisions to the Code Relating to the Definition of Engagement Team and Group Audits](#)

Code), a sustainability assurance client will always include its related entities.³² When the sustainability assurance client is not a publicly traded entity, the sustainability assurance client includes those related entities over which the client has direct or indirect control. Consequently, the firm needs to be independent of the relevant related entities, too. (See proposed revised Glossary in Chapter 3.)

80. The IESBA believes that the approach to independence standards for sustainability assurance engagements should be proportionate and provide a scalable approach for sustainability assurance clients that are not public interest entities (PIEs). This is the same approach for the independence standards for audits of financial statements in Part 4A. Therefore, some of the independence provisions in Part 5 are applicable only to sustainability assurance engagements of PIEs.
81. The IESBA agreed that, as a first step, Part 5 should not prescribe which entities are PIEs in the context of sustainability assurance engagements but, instead, rely on the revised definition of PIE recently finalized by the IESBA in the context of audits of financial statements.³³
82. In the case of audit engagements, the factors guiding the determination of entities as PIEs are based on the extent of public interest in their financial condition. In the context of sustainability assurance engagements, stakeholders might also have heightened expectations given the nature of the entity and its sustainability information. However, the IESBA considers that in the context of the current regulatory environment, there would be the potential for confusion if an entity was determined to be a PIE solely on the basis of its sustainability information when it is not a PIE for the purposes of the audit of its financial statements.
83. Therefore, the IESBA proposes that an entity be deemed to be a PIE for the purposes of the sustainability assurance engagement if it has been determined as such for the purposes of the audit of its financial statements in accordance with the relevant provisions in Part 4A.^{34, 35} (See paragraph 5400.13 in Chapter 1.) Please refer to question 9.
84. The IESBA notes that this approach maintains equivalency of treatment between the audit and sustainability assurance engagement of an entity that falls within the PIE definition. It avoids the situation where PIE requirements are applied in relation to the audit but not in relation to the sustainability assurance engagement for the same entity, an outcome that might be viewed as incoherent or anomalous especially in an integrated reporting context. However, in the case of a

³² The Glossary to the Code defines a related entity as “an entity that has any of the following relationships with the client:

- (a) An entity that has direct or indirect control over the client if the client is material to such entity;
- (b) An entity with a direct financial interest in the client if that entity has significant influence over the client and the interest in the client is material to such entity;
- (c) An entity over which the client has direct or indirect control;
- (d) An entity in which the client, or an entity related to the client under (c) above, has a direct financial interest that gives it significant influence over such entity and the interest is material to the client and its related entity in (c); and
- (e) An entity which is under common control with the client (a “sister entity”) if the sister entity and the client are both material to the entity that controls both the client and sister entity.”

³³ [Final Pronouncement: Revisions to the Definition of Listed Entity and Public Interest Entity in the Code](#)

³⁴ Consequently, based on the approach in Part 4A, when determining whether an entity is a PIE, a sustainability assurance practitioner also needs to take into account more explicit definitions established by law, regulation or professional standards for the categories in the PIE definition.

³⁵ For further material regarding the determination of a PIE, please refer to material published by the IESBA related to the [Final Pronouncement: Revisions to the Definitions of Listed Entity and Public Interest Entity in the Code](#)

voluntary determination by the auditor of whether to treat an entity as a PIE for purposes of the audit of its financial statements, i.e., when the entity does not fall within the PIE definition, the IESBA does not believe that it would be appropriate for the Code to require another firm performing the sustainability assurance engagement to treat the entity as a PIE and therefore comply with the more stringent provisions in Part 5 applicable to PIEs. (See paragraph 5400.13a in Chapter 1.)

85. If a sustainability assurance client is a PIE, Part 5 will require the firm to publicly disclose the fact that it has applied the independence requirements for PIEs in the same manner as Part 4A requires for audit engagements (see paragraphs R5400.25 and R5400.26 in Chapter 1). The IESBA intends to coordinate with the IAASB and other sustainability assurance standards setters regarding the form and manner of such public disclosure.

Independence for Group Sustainability Assurance Engagements

86. The IESBA noted that sustainability reporting and assurance will be mandatory in some major jurisdictions, mostly for entities that operate as groups. Certain sustainability reporting frameworks already require reporting on a consolidated basis.³⁶ Therefore, the IESBA considered how the IIS in the proposed IESSA could best address independence considerations for group sustainability assurance engagements where the sustainability information includes the information of more than one entity or business unit, in a way that would achieve equivalence to the independence standards for group audit engagements. The IESBA recognized that the IAASB's proposed ISSA 5000 addresses group sustainability assurance engagements only in a general and overarching way.³⁷ However, the IESBA generally was of the view that not explicitly addressing group sustainability assurance engagements in Part 5 would detract from the premise that the independence standards in Part 5 are equivalent to those for audit engagements in Part 4A.
87. Furthermore, the proposed IESSA is being developed in a framework-neutral way. Accordingly, the proposed IESSA should address the independence of a sustainability assurance practitioner engaged to express an opinion on group sustainability information, irrespective of whether the practitioner applies ISSA 5000 or another sustainability assurance standard(s).
88. Therefore, the IIS in the proposed IESSA expressly address the independence considerations for group sustainability assurance engagements, i.e., when a group sustainability assurance firm and any component sustainability assurance firms carry out the assurance work. The relevant provisions in Section 5405 are equivalent to the independence standards applicable to group audit engagements.³⁸ To maintain that equivalence given that there is not yet an equivalent of ISA 600

³⁶ For example, in the EU, the Corporate Sustainability Reporting Directive (CSRD) already requires entities to report their sustainability information on a consolidated basis from 2025.

³⁷ The IAASB explained, in the Explanatory Memorandum that accompanied the Exposure Draft of proposed ISSA 5000, that the principles-based requirements in the proposed standard are capable of being applied for all sustainability assurance engagements, including for all types of sustainability information, regardless of the manner in which that information is presented. This includes that the sustainability information may be for a single entity or may include information for entities that are part of a group or other entities in the reporting entity's value chain. In addition to requirements and application material that recognize that the assurance engagement may involve firms and individuals from firms other than the assurance practitioner's firm, the application material also includes several references to groups or "consolidated" sustainability information, and examples of how certain requirements may be applied in those circumstances.

³⁸ For further information regarding the provisions applicable to group audits, please refer to the [Final Pronouncement: Revisions to the Code Relating to the Definition of Engagement Team and Group Audits](#), and the related [IESBA Staff Questions and Answers publication](#).

(Revised)³⁹ for group sustainability assurance engagements, Section 5405 includes specific requirements concerning the communication between the group sustainability assurance firm and the component sustainability assurance firms regarding the relevant ethics, including independence, provisions that apply to the group sustainability assurance engagement (see paragraphs R5405.3 and R5405.4 in Chapter 1). These proposed requirements help to achieve the effect of the requirements in ISA 600 (Revised), referenced in Section 405 in Part 4A, concerning the communication between the group audit firm and the component auditor firms regarding the relevant ethics, including independence, provisions that apply to the group audit engagement. The IESBA welcomes stakeholders' views on the current practice regarding sustainability reporting and assurance in a group context, how practice might develop in the future and whether this might give rise to potential issues in the application of the proposed provisions in Section 5405. Please refer to questions 10(a) and (b)(i)-(ii).

89. Given the equivalence to provisions applicable to group audit engagements, the IESBA proposes that the terms and definitions in Section 5405, such as group sustainability assurance firm, component sustainability assurance firm and group sustainability assurance team, mirror the concepts in the equivalent terms used in the independence standards for group audit engagements. (See proposed revised Glossary in Chapter 2.)
90. Concerning the definition of group sustainability assurance client, similar to the independence standards for group audit engagements, the IESBA is proposing that apart from the entity on whose group sustainability information the firm expresses an opinion and the relevant related entities, the definition also includes components at which assurance work is performed. In the context of group sustainability assurance engagements, the Code defines a component as an entity, business unit, function or business activity, or some combination thereof, determined by the group sustainability assurance firm for purposes of planning and performing assurance procedures in the group sustainability assurance engagement. Importantly, this definition explicitly excludes entities within the client's value chain. (See proposed revised Glossary in Chapter 2.) The independence considerations applicable to assurance work performed at, or with respect to, a value chain entity are addressed in Section 5407.
91. During its deliberations, the IESBA considered some concerns that references to the term "components" in the new Part 5 could create potential confusion for non-PAs if such a term is perceived to be audit-specific. The IESBA considered whether terms other than "components" might be used to describe the entities or business units within a group that are captured within the scope of the group sustainability assurance engagement. Upon deliberation, the IESBA came to the general view that consistency with the independence standards for group audit engagements would be beneficial, avoiding different terms to describe what are in essence the same parts of a group. The IESBA also considered that using other terms (for example, reporting entity) for the purposes of Section 5405 would not alleviate perceptions of potential complexity from the perspective of non-PAs. The IESBA noted that assisting non-PAs in achieving full understanding of all the provisions of Part 5 would be a matter of implementation, education and training. Please refer to question 10(b)(iii).
92. The IESBA acknowledges that until the IAASB or other sustainability assurance standard setters develop more specific standards addressing group sustainability assurance engagements, sustainability assurance practitioners might need guidance to consistently apply the provisions in Part 5 applicable to group reporting situations. Subject to the feedback received from stakeholders, the

³⁹ International Standard on Auditing (ISA) 600, *Special Considerations – Audits of Group Financial Statements (Including the Work of Component Auditors)*

IESBA will consider what implementation support resources, if any, it might commission to facilitate effective implementation of the provisions. The IESBA will also coordinate closely with the IAASB regarding the IAASB's future considerations in relation to addressing group sustainability assurance engagements.

Using the Work of Another Sustainability Assurance Practitioner

93. As mentioned above, Section 5405 in the proposed IESSA addresses independence considerations for group sustainability assurance firms, component sustainability assurance firms and members of the group sustainability assurance team. The latter might include individuals from outside the firm (either within or outside network firms) who perform assurance work at components within the group. However, the (group) firm must be able to direct, supervise and review the work of such individuals when they are members of the group sustainability assurance team.
94. For the purpose of issuing an assurance report on sustainability information, a firm might wish to use the work of another practitioner who has already carried out, or will carry out, assurance work with respect to a sustainability assurance client or a group sustainability assurance client, despite the firm not being able to direct, supervise and review the work of that practitioner. In this regard, the proposed ISSA 5000 recognizes and addresses the concept of using the work of *“another practitioner.”*⁴⁰ To align with proposed ISSA 5000, the IESBA proposes to address independence considerations regarding using the work of another practitioner in a new Section 5406.
95. For the purposes of the IIS in Part 5, the IESBA also proposes to define the new term “another practitioner” (also referred to as “other practitioner” where appropriate for ease of drafting) as a sole practitioner, partnership or corporation of practitioners that performs assurance work relevant to a sustainability assurance engagement, and the sustainability assurance practitioner is unable to direct, supervise and review their work. Along with this proposed new definition, the Glossary makes it clear that an individual from another practitioner who performs the assurance work is not a member of the engagement team. (See proposed revised Glossary in Chapter 2.)
96. When another practitioner carries out sustainability assurance work at the sustainability assurance client, the IESBA considered that the impact of their work on the outcome of the engagement and the firm's responsibilities in using their work are different compared with other individuals who might be involved in the engagement, but who are not carrying out assurance work, such as external experts or data providers. Therefore, as described below, proposed Section 5406 sets out an approach to addressing the independence considerations with respect to using the work of another practitioner at a sustainability assurance client.⁴¹ Please refer to question 11.
97. The IESBA recognizes that where a practitioner whose work the firm intends to use is not under the firm's direction and supervision, the firm cannot directly require that practitioner to comply with the Code's provisions. In some instances, that practitioner might have already completed their assurance work and might not have been subject to Part 5 of the Code. In light of this, the IIS in the proposed IESSA require the firm to:
 - Make the other practitioner aware of the relevant ethics, including independence, provisions;
and

⁴⁰ Paragraph A22 in the Exposure Draft of the proposed ISSA 5000

⁴¹ Section 5407 addresses circumstances where another practitioner, whose work the firm is not able to direct, supervise and review, performs assurance work at a value chain entity and the firm intends to use that work.

- Request that practitioner to confirm that they understand and will comply or, if the work has already been carried out, has complied, with such provisions. (See paragraphs R5406.3 and R5406.4 in Chapter 1.)
98. To meet the above request, the IESBA proposes that the other practitioner confirm that both the practitioner and the individuals from the practitioner who perform the assurance work are independent of the entity on whose sustainability information the other practitioner performs assurance work, in accordance with the independence requirements of Part 5. Given that the sustainability assurance client also includes certain related entities as defined in the Glossary, the other practitioner will need to be independent not only of the entity on whose sustainability information the other practitioner performs assurance work, but also its relevant related entities. (See paragraph R5406.5. in Chapter 1.)
 99. Furthermore, to maintain consistency with the approach used in the proposed Section 5405 on group sustainability assurance engagements, the IESBA intends that the independence provisions that apply to the entity on whose sustainability information the firm expresses an opinion (the client) should apply throughout the engagement and each entity within the definition of the sustainability assurance client. Accordingly, if a firm intends to use the work of another practitioner who performs assurance work at an entity that is not a PIE, but the entity on whose sustainability information the firm expresses an opinion is a PIE, the firm will need to request confirmation that the other practitioner is independent of the entity on whose sustainability information that practitioner performs assurance work in accordance with the provisions applicable to PIEs.
 100. If the firm cannot obtain confirmation regarding the independence of the other practitioner in accordance with the IIS in the proposed IESSA, the firm will need to consider that fact in determining whether, under the applicable sustainability assurance standards, it can proceed to use the assurance work of that practitioner for the purposes of the sustainability assurance engagement.
 101. The diagram in Appendix 3 explains the applicable sections in the proposed IIS of Part 5 when the firm performing the sustainability assurance engagement uses the assurance work of another sustainability assurance practitioner for the purposes of that engagement.

Independence Considerations Relating to Value Chain Entities

102. The reporting boundary for the sustainability information might differ from the reporting boundary for the financial statements. For example, a sustainability reporting framework might require the reporting entity to include information about material value chain entities in the sustainability information on which the firm will express an opinion. Consequently, interests, relationships or circumstances involving such value chain entities might create threats to the firm's independence. The IESBA proposes that the IIS in the IESSA specifically address these considerations.
103. Given that the determination of entities within the value chain is based on the reporting framework, the IESBA proposes that the Code define a client's value chain by reference to the applicable reporting framework. The value chain might include, for example, a sustainability assurance client's customers and suppliers that are material for sustainability reporting purposes. The value chain does not include components as defined for the purposes of a group sustainability assurance engagement. Please refer to question 12.

104. Based on the proposed definition of group sustainability assurance client,⁴² value chain entities are not part of the client's organizational boundary and are not under its control. Therefore, the provisions in Part 5 relevant to (group) sustainability assurance clients are not applicable to them. In light of this, the IESBA proposes to include new provisions in Sections 5407 and 5700 in the proposed IESSA that explicitly address the independence considerations applicable when assurance work is carried out at, or with respect to, a value chain entity for the purposes of a sustainability assurance engagement.
105. The IESBA welcomes stakeholders' views on whether the IIS in the proposed IESSA appropriately address the threats to independence related to value chain entities. Please refer to questions 13 and 14.

Assurance Work at a Value Chain Entity

106. If a sustainability reporting framework requires the inclusion of a value chain entity's information in the sustainability information (the value chain entity's information will most likely be material to that information), a firm performing the sustainability assurance engagement might determine to perform assurance procedures at, or with respect to, that value chain entity. In such circumstances, the firm might:
- (a) Perform the assurance work at the value chain entity;
 - (b) Use the work of a sustainability assurance practitioner who separately performs the assurance work at the value chain entity; or
 - (c) Perform the assurance work on the sustainability information of the value chain entity provided by the sustainability assurance client without carrying out assurance work at that entity.
107. Proposed Section 5407 addresses the independence considerations relating to the assurance work performed at, or with respect to, a value chain entity covered by bullet points (a) to (c) above. As the information of value chain entities may be included in both standalone or group sustainability information, this Section is applicable to both.
108. If the firm performs the assurance work at a value chain entity, proposed Section 5407 requires the firm and members of the sustainability assurance team to be independent of the value chain entity in accordance with the independence requirements of Part 5 that are applicable to a firm and a sustainability assurance team member, respectively, with respect to a sustainability assurance client. Given that the determination of the sustainability assurance client also includes certain related entities as specified in the definition of sustainability assurance client, the firm and members of the sustainability assurance team will need to be independent from not only the value chain entity, but also its relevant related entities. (See paragraph R5407.3 in Chapter 1.)
109. Where the firm decides to use the work of a sustainability assurance practitioner who separately performs the assurance work at the value chain entity:
- This practitioner could be any other sustainability assurance practitioner, irrespective of whether the firm is able to direct, supervise and review that practitioner's work.⁴³
 - In such circumstances, proposed Section 5407 requires the firm to be satisfied that such practitioner is independent of the value chain entity in accordance with the independence

⁴² See proposed revised Glossary in Chapter 2.

⁴³ This also includes "another practitioner" as defined in the proposed revisions to the Glossary to the Code.

requirements of Part 5 that are applicable to a firm with respect to that entity. The independence requirements are only applicable with respect to the value chain entity at which that practitioner performs the assurance work. (See paragraph R5407.4 in Chapter 1.)

- Recognizing that the value chain entity's sustainability assurance practitioner might have already carried out the relevant assurance work, and that such work might be used for the purposes of various other entities' sustainability assurance engagements, the IESBA proposes a pragmatic approach. That is, in such circumstances, the firm may rely on a statement of independence in the sustainability assurance practitioner's report to meet the above requirement. (See paragraph 5407.4 A1 in Chapter 1.)
- However, if that practitioner has not provided a statement of independence in relation to the assurance work at the value chain entity, proposed Section 5407 makes it a responsibility of the engagement leader to request that practitioner to confirm whether:
 - Where the work has yet to be carried out, the practitioner will comply with the relevant ethics, including independence, provisions of Part 5; or
 - Where the work has already been carried out, the practitioner understands and has complied with the relevant ethics, including independence, provisions of Part 5. (See paragraph R5407.5 in Chapter 1.)

110. If the firm performs the assurance work on the sustainability information of the value chain entity provided by the sustainability assurance client without carrying out assurance work at that entity, proposed Section 5407 requires the firm and members of the sustainability assurance team to be independent of the sustainability assurance client in accordance with the independence requirements of Part 5. (See paragraph R5407.6 in Chapter 1.)

Interests, Relationships or Circumstances Involving Value Chain Entities

111. There might be circumstances where a firm uses the work of a sustainability assurance practitioner who separately performs the assurance work at a value chain entity whose sustainability information is included in sustainability information on which the firm expresses an opinion. Although the firm uses the assurance work of the other practitioner, the firm still has ultimate responsibility for the sustainability assurance engagement and the opinion on the sustainability information. Therefore, the IESBA believes that Part 5 should recognize that interests, relationships or circumstances between the firm, a network firm or a member of the sustainability assurance team and that value chain entity might create threats to the firm's independence. The IESBA welcomes respondents' views on whether proposed Section 5700 appropriately addresses such threats. Please refer to question 14.

112. Recognizing that the level of the threats to independence that might be created by interests, relationships or circumstances involving a value chain entity will generally be lower, the IESBA proposes in Section 5700 that such threats be addressed on a "knows or has reason to believe" principle basis. (See paragraph R5700.4. in Chapter 1.)

113. The "knows or has reason to believe" principle is a well-established concept in the extant Code. The IESBA does not intend that the application of the "knows or has reason to believe" principle create a monitoring obligation on the firm. Accordingly, there is no expectation that the firm maintains an up-to-date database of the client's value chain entities and monitor any interests, relationships and circumstances between the firm, network firms and members of the sustainability assurance team and such entities. There is also no expectation that the firm monitor any changes to the client's value

chain during the engagement period or the reporting period for the engagement.

114. The approach in Section 5700 relies on the application of the conceptual framework as set out in Section 5120. If the sustainability assurance team knows about any interests, relationships or circumstances between the firm, a network firm or members of the sustainability assurance team and the value chain entity, the sustainability assurance team will need to include them when identifying, evaluating and addressing threats to independence. If the threats are not at an acceptable level, the sustainability assurance team will need to consider actions that might eliminate the threats or reduce them to an acceptable level. The IESBA welcomes respondents' views as to whether Section 5700 should provide more guidance in this regard, such as examples of factors to evaluate threats and potential safeguards.

Provision of Non-Assurance Services to Sustainability Assurance Clients

115. Taking an equivalent approach to the independence standards for audit engagements, the IIS in the proposed IESSA set out that providing NAS to a sustainability assurance client might create threats to compliance with the fundamental principles and to independence. The provision of NAS to an audit client focuses on the impact of such services on the financial statements. Likewise, the IESBA considers that in the context of a sustainability assurance engagement, the provision of the same NAS may impact the sustainability information on which the firm expresses an opinion. Consequently, the IESBA agreed that that general requirements and application material set out in Section 600 of Part 4A for audit engagements (such as the prohibition from assuming management responsibility, "self-review threat prohibition," and communication with TCWG) are also applicable when the firm provides NAS to a sustainability assurance client.
116. The proposed Section 5600 and its subsections also include updated examples that are more relevant to sustainability-related services.
117. Please refer to question 15.

Examples of NAS

118. The subsections to Section 5600 address the same types of NAS as in the independence standards for audit engagements in Part 4A of the Code, except for:
- Accounting and bookkeeping services.
 - Valuation services.
119. Instead of accounting and bookkeeping services, the proposed IESSA focuses more broadly on the provision of sustainability data and information services to a sustainability assurance client as those services might affect the sustainability information on which the firm expresses an opinion.⁴⁴ The provision of accounting and bookkeeping services to a sustainability assurance client is addressed

⁴⁴ The IIS in the proposed IESSA only prohibit firms from providing a sustainability data and information service to the sustainability assurance client if that service might be relevant to the sustainability information on which the firm expresses an opinion. If the firm expresses an assurance conclusion only in relation to certain sustainability matters, for example, climate-related issues, and the firm also provided sustainability information services in relation to reporting on other matters (for example, a Diversity, Equity, and Inclusion (DEI) Transparency Report) that is not in the scope of the sustainability assurance engagement, the provision of such a service does not create a self-review threat. Although the provision of sustainability data and information services in relation to sustainability information that is not subject to sustainability assurance is not prohibited under subsection 5601, the firm will still need to evaluate and address any other threats created by the provision of that service to the client. (See paragraphs R5601.5 and R5601.6 in Chapter 1.)

as one type of sustainability data and information services.⁴⁵ (See Subsection 5601 in Chapter 1.)

120. The Sustainability Reference Group pointed out that apart from valuation services, providing other NAS to a sustainability assurance client with regard to future developments of non-monetary value, such as estimation or other forecasting services (e.g., a service that includes estimating the amount of hazardous substances produced by a manufacturing process), could also create threats to independence. Given the similarities between estimation, forecasting and similar types of services and valuation services, the IESBA proposes to address these services under the same subsection as “valuation” services. (See Subsection 5603.)
121. Please refer to question 16 regarding the list of specific NAS addressed in Subsections 5601 to 5610.

Materiality

122. Section 5600 in the proposed IESSA, based on Section 600 in Part 4A, also provides factors to assist firms in identifying the different threats that might be created by providing a NAS to a sustainability assurance client. One such factor is the consideration of whether the outcome of the service will have a material effect on the sustainability information. Since the IIS in the proposed IESSA are applicable irrespective of the reporting framework used by the reporting entity or sustainability assurance standards used by the firm, the determination of materiality, and whether it is single or double materiality, will depend on the applicable reporting framework or assurance standards (for example, materiality in the CSRD or in the standards issued by the International Sustainability Standards Board (ISSB)). (See paragraph 5600.11 A1 in Chapter 1.)

Independence Matters Arising When a Firm Performs Both Audit and Sustainability Assurance Engagements for the Same Client

123. The IIS in the proposed IESSA also address certain independence matters and provide related guidance when the firm performs both audit and sustainability assurance engagements for the same client. Please refer to question 17.

Fees

124. As a guardrail around independence, the independence standards for audit engagements in the extant Part 4A require a firm to address the threats to independence arising from the firm receiving fees for services other than audit, including the fees for assurance services. The IESBA took into account that in practice, the audit and sustainability assurance engagements are generally still separate engagements, and in jurisdictions that require the disclosure of fees, regulators generally mandate the disclosure of audit fees only.
125. Although the IESBA’s objective is for equivalency between independence standards for audit engagements and independence standards for sustainability assurance engagements, the IESBA considered during its deliberations that there might be threats arising from concerns about the potential loss of the sustainability assurance engagement as a separate engagement (for example, if the firm were to express a modified audit opinion on the financial statements), which might impact the firm’s objectivity. The IESBA also considered that there might be a perception that the firm or network firm focuses on the sustainability assurance relationship to the detriment of the audit

⁴⁵ In addition, subsection 5601 does not mirror the exemption in paragraph R601.7 provided for accounting and bookkeeping services in Part 4A. The IESBA approved that exception to address a specific jurisdictional circumstance that is not relevant in the context of a sustainability assurance engagement.

engagement, or vice versa. Consequently, if the auditor also provides sustainability services to the client, Part 4A requires the firm to disclose the fees for such services as non-audit fees and consider applying safeguards regarding the proportion of non-audit to audit fees.

126. If the firm provides both the audit and the sustainability assurance engagements, the IIS in Part 5 guide the firms to apply the provisions in Section 410 in Part 4A regarding the evaluation of the threats created by the proportion of fees for services other than audit, including assurance services such as sustainability assurance engagements, to the audit fee. (See paragraph 5410.11 A1 in Chapter 1.)
127. The extant guidance in Section 410 in Part 4A relating to the evaluation of the level of the threats created by the proportion of fees includes the consideration of the nature, scope and purposes of the services other than audit, as a factor. The IESBA proposes a consequential amendment to this factor to clarify its applicability to sustainability assurance engagements. In circumstances where a large proportion of fees, relative to the audit fee, is generated by the provision of a sustainability assurance service in compliance with Part 5, the auditor might conclude that the level of threats is at acceptable level, especially if the auditor's performance of the sustainability assurance engagement is required by law or regulation. (See paragraph 410.11 A2 in Chapter 3.)
128. The IESBA notes that the provisions in Part 4A on the proportion of fees do not include any prohibition, threshold or a fee cap. Section 410 sets out guidance for firms to evaluate the level of the threats that might be created by the proportion of fees and provides guidance to assist such evaluation. Nevertheless, the IESBA believes that Part 5 needs to acknowledge the potential threats to independence related to the provision of both the audit and sustainability assurance engagements by the same firm, and guide the firm to evaluate the level of such threats and address them, if necessary. The IESBA does not believe that this guidance would impede the development of the sustainability assurance market or discourage the movement towards integrated reporting.
129. The IESBA welcomes respondents' views on the proposed approach regarding the proportion of fees received from audit and sustainability assurance engagements.

Long Association

130. If the auditor later becomes the provider of sustainability assurance services (or vice versa) to the same client, the extended period of the relationship might create familiarity and self-interest threats to independence. Accordingly, the IESBA proposes that the independence standards for audit and sustainability assurance engagements should address such threats. (See proposed Section 5540 in Chapter 1.)
131. This approach results in proposed consequential amendments to Section 540 in Part 4A applicable to audit engagements. (See proposed changes to Section 540 in Part 4A in Chapter 3.)

III. SUSTAINABILITY REPORTING

132. This Section covers Chapter 4 of the ED and questions 20 to 23.

A. General Overview

Scope of Sustainability Reporting-related Revisions

133. The IESBA considered whether to develop ethics standards for sustainability reporting to apply to all preparers of sustainability information (i.e., profession-agnostic). This would mean all those preparing, reporting and assuring sustainability information, regardless of their profession or field,

could be covered by the same robust ethics (including independence) standards issued by the IESBA.

134. While recognizing the benefits of all preparers of sustainability reporting being subject to the same robust ethics standards, the IESBA determined to restrict the scope of the current Sustainability project to developing ethics standards for sustainability reporting by PAs at this time. In reaching this decision, the IESBA has taken into account the following:
- There was no urgent international regulatory call for profession-agnostic ethics standards for sustainability reporting at this time.
 - There was no strong support from the global sustainability roundtable participants for the IESBA to develop profession-agnostic ethics standards for sustainability reporting at this moment, due to doubts about the enforceability of such standards on non-PAs as well as other factors such as the current use of corporate governance codes by regulators in a number of jurisdictions.
 - The need to expand the scope of extant Part 2 to all preparers of sustainability reporting is a much broader strategic matter which will require the IESBA's consideration over a longer period of time and discussions with a broad range of stakeholders.
135. In developing its SWP,⁴⁶ the IESBA observed that there is a public expectation that all preparers of financial and non-financial information should be subject to the same high ethics standards. Therefore, the IESBA agreed that it is in the public interest for it to explore the opportunity to extend the impact of the Code beyond the accountancy profession as a key strategic focus area. The IESBA has already taken the first step on this journey in developing profession-agnostic ethics (including independence) standards for sustainability assurance engagements under the current Sustainability project. As part of a phased approach, the IESBA will take the next step and focus on sustainability information with a new work stream to explore developing profession-agnostic ethics standards for sustainability reporting, to commence after the finalization of this project in 2024. Please refer to question 20.

Framework-neutral Standards

136. Consistent with the approach in the extant Code, the proposed sustainability reporting-related revisions have been developed to be framework-neutral, suitable for use irrespective of the underlying framework used to prepare the sustainability information, such as the ISSB's IFRS Sustainability Disclosure Standards, the Global Reporting Initiative (GRI) standards and the EFRAG's European Sustainability Reporting Standards (ESRS).
137. For instance, the proposed definition of sustainability information (see paragraphs 24 to 26) is drafted broadly to capture such information regardless of the framework used, and includes sustainability information "*prepared for internal purposes or for mandatory or voluntary disclosure.*"

Public Interest Framework Considerations

138. The IESBA is of the view that the proposed sustainability reporting-related revisions are responsive to the public interest considering the Public Interest Framework characteristics, in particular (please refer to question 21):

⁴⁶ The new SWP for 2024-2027 was approved by the IESBA in December 2023 (see [Agenda Item 2-H.1](#) of the December 2023 IESBA meeting). Subject to PIOB approval of due process, the SWP is expected to be released in April 2024.

- *Coherence* with the overall body of the IESBA's standards, recognizing that the extant Parts 2 and 3 already contain robust standards that address ethics issues relating to PAIBs performing professional activities and PAPPs providing professional services, respectively.
- *Relevance, clarity and conciseness* of the standards, notably by adding only those considerations and examples that are necessary to make Parts 1 to 3 fit for sustainability reporting.
- *Implementability and enforceability*, notably by maintaining the integrity of Parts 1 to 3 and making specific revisions only where necessary.

B. Significant Matters

139. The rapidly changing ecosystem of global and national sustainability standard setting, and the qualitative and forward-looking nature of sustainability information result in increased challenges, complexity and uncertainty in preparing or presenting sustainability information. Accordingly, PAs' exercise of discretion and professional judgment play a crucial role when performing such activities.
140. Extant Parts 1 to 3 of the Code already contain robust standards addressing ethics issues that might arise when performing financial or non-financial reporting. Accordingly, the IESBA does not believe substantive changes to address ethics issues specific to sustainability reporting are required. However, to ensure that these Parts remain fit for purpose, the IESBA proposes to include sustainability references where applicable, and to revise existing examples and add new examples relating to:
- Conduct to mislead in sustainability reporting;
 - Value chain considerations relevant to sustainability reporting; and
 - The forward-looking nature of sustainability information.

Proposed Revisions to Section 220⁴⁷

141. Section 220 of the Code guides PAIBs at all levels of the employing organization when involved in preparing and presenting financial or non-financial information, both within and outside the organization. Accordingly, a substantial proportion of the proposed sustainability reporting revisions was made to Section 220, including examples on conduct to mislead in sustainability reporting, the value chain and forward-looking information (see further discussions below). Other proposed revisions to this section include:
- Clarification that the preparation or presentation of information:
 - Relates not only to an entity's state of affairs, but also its operations, which would include, for example, its services or products (see paragraph 220.3 A2); and
 - Includes collecting the information, such as from an entity's value chain, and measuring the information, through for example measurement methods, metrics and estimations (see paragraph 220.3 A3).
 - Expanding the extant requirement that when preparing or presenting information, a PA must exercise professional judgment to also incorporate:
 - Describing clearly the impacts of business transactions or activities, as impacts are an

⁴⁷ Section 220, *Preparation and Presentation of Information*

important aspect of certain sustainability reporting frameworks (such as GRI and ESRS) (see subparagraph R220.4(c)(ii)); and

- Collecting and measuring information in a timely and proper manner (see subparagraph R220.4(c)(iii)).
- Expanding the types of information that a PA is encouraged to consider documenting to include the PA's analysis, assumptions, and judgments and decisions made in preparing or presenting the information (see paragraph 220.11 A1).

142. Please refer to question 22.

Conduct to Mislead in Sustainability Reporting

143. Conduct to mislead in sustainability reporting might arise from intentionally misleading others or through inappropriately using discretion, to misrepresent how responsible an organization is from a sustainability perspective (for example, "greenwashing"), or intentionally omitting certain sustainability information to avoid scrutiny on an organization's sustainability efforts (for example, "greenhushing").
144. PAs must not intentionally prepare or present information in a manner to mislead others or omit anything to render the information misleading (see subparagraphs R220.4(b) & (d)). Accordingly, a proposed new example illustrates how sustainability information might be intentionally prepared or presented to mislead others through a range of practices, such as omitting information, including false information, inappropriate calculations, or over/under emphasizing certain information (see paragraph 220.4 A1).
145. An applicable sustainability reporting framework might permit different actions, such as alternative measurement methods, or an entity might voluntarily apply such a framework or implement its own entity-defined framework. These situations require PAs to exercise discretion in making professional judgments. Accordingly, proposed examples in paragraph 220.5 A1 demonstrate how such discretion might be misused to mislead others or misrepresent sustainability information in contravention of paragraph R220.5.
146. The ED also includes new examples of pressure exerted on a PA in a sustainability reporting context that might result in a breach of compliance with the fundamental principles, such as pressure to misrepresent how an entity is aligned to or achieving its sustainability goals, and to manipulate sustainability information to avoid fines for breaches of environmental laws and regulations (see paragraph 270.3 A2).

Value Chain Considerations

147. Collecting and using data from within the value chain to prepare or present sustainability information might create ethics issues for PAs. Feedback from the global sustainability roundtables included that preparers need to be transparent about the availability and deficiencies of data, and that complexity in the value chain can result in difficulties in collecting reliable data.
148. When preparing or presenting information, PAs must avoid undue influence of, or reliance on, individuals, organizations or technology (see subparagraph R220.4(e)). A proposed new example illustrates that failing to consider the source, relevance and sufficiency of a supplier's data that is used in preparing or presenting sustainability information would result in undue reliance on an organization (see paragraph 220.4 A3). This example draws on the extant requirement in the Code for PAs to have an inquiring mind, which is a prerequisite to understanding known facts and

circumstances and involves considering the source, relevance and sufficiency of information obtained (see extant paragraphs R120.5 and 120.5 A1).

149. The IESBA also believes that the quantitative and qualitative characteristics of a client's value chain might impact the PA's evaluation of the level of threats to compliance with the fundamental principles (see proposed paragraphs 300.7 A4a and 320.3 A4). The example in paragraph 300.7 A4a highlights that a threat to compliance with professional competence and due care might arise where sustainability information comes from multiple suppliers that are geographically dispersed or is prepared under different reporting frameworks. The IESBA believes these situations might impair a PA's ability to act diligently and in accordance with applicable technical and professional standards (see extant subparagraph R113.1(b)) on a careful, thorough and timely basis (see extant paragraph 113.1 A3). These situations might also reduce the PA's ability to attain and maintain professional knowledge and skill (see extant subparagraph R113.1) under a myriad of different requirements.
150. Relationships with entities in the value chain might also create threats to compliance with the fundamental principles, such as a self-interest threat resulting from a PAIB holding a financial interest in a supplier of their employing organization where that supplier is impacted by the employing organization's sustainability practices (see proposed example in paragraph 200.6 A1(a)).

Forward-looking Information

151. A fundamental aspect of sustainability reporting is forward-looking information. However, the inherent uncertainty in such information creates potential ethics issues. For instance, excessive optimism in the analysis of estimates, and forward-looking information which is more qualitative and narrative-based by nature may lead to "greenwashing."
152. Therefore, the IESBA has proposed a new example in paragraph 220.5 A1 on how discretion in the preparation of forward-looking information might be misused in order to achieve inappropriate outcomes. This example was developed for broader application beyond sustainability reporting as forward-looking information is relevant to various types of information, including financial information.
153. The IESBA also believes that recent technology-related revisions to the Code dealing with the impact and management of complexity⁴⁸ include useful guidance for PAs when using forward-looking information. These provisions highlight that complexity, whether it is technology-related or not, is a factor to consider when exercising professional judgment. The provisions also explain that complexity results from the "*compounding effect of the interaction between, and changes in, elements of the facts and circumstances that are uncertain and variables and assumptions that are interconnected or interdependent.*"⁴⁹
154. Please refer to question 22.

Other Matters

155. The IESBA is also proposing a number of additional sustainability reporting-related examples and concepts to Parts 1 to 3 of the extant Code relating to:
- A sustainability-related committee as a further example of a subgroup of TCWG, in addition to an audit committee or individual member of TCWG (see paragraphs 200.9 A2 and 300.9 A2).

⁴⁸ Paragraphs 120.5 A6 to 120.5 A8 introduced in the IESBA's [Final Pronouncement April 2023 Technology-related Revisions to the Code](#) effective December 15, 2024.

⁴⁹ Paragraph 120.5 A6.

- A sustainability assurance practitioner as a potential avenue for PAs to communicate concerns in respect of misleading information or pressure to breach the fundamental principles (see paragraphs 220.9 A2 and 270.3 A4).
- Identification of threats to compliance with the fundamental principles (see paragraphs 200.6 A1 and 300.6 A1) and pressure that might result in threats to compliance with the fundamental principles (see paragraph 270.3 A2).
- Examples of circumstances with respect to financial interests, compensation and incentives that might create a self-interest threat (see paragraph 240.3 A2).

156. Please refer to question 22.

IV. USING THE WORK OF AN EXTERNAL EXPERT

157. Certain provisions in Section 5320 as well as Section 5390 of the proposed IESSA (in Chapter 1), and the revisions to “Using the Work of Others” in Section 220 and “Using the Work of an Expert” in Section 320, in the extant Code (in Chapter 4), all highlighted in grey, were developed under the Use of Experts project. See the Use of Experts Exposure Draft⁵⁰ for the respective rationale. Any feedback to those proposals should be provided in response to that Exposure Draft.

V. ANALYSIS OF OVERALL IMPACT OF THE PROPOSED CHANGES

158. The IESBA believes that the proposed IESSA and other revisions to the Code are critical to achieving public trust and confidence in sustainability assurance and reporting, and will support growth in the sustainability assurance market. The IESSA in particular aims to respond to an international regulatory call for robust ethics (including independence) standards that can be used by all sustainability assurance practitioners to foster independent, high-quality engagements and consistent practices.

159. Given the equivalence approach, the IESBA believes that practitioners who are already familiar with the extant Code (e.g., auditors of financial statements and other practitioners performing engagements where there is a requirement for compliance with the extant Code or other requirements that are as least as stringent, such as an ISAE 3000 (Revised)⁵¹ engagement) could implement the new standards without significant costs related to obtaining an understanding of the new requirements. Nonetheless, a few areas that will be impacted as a result of the IESSA include:

- The NOCLAR sections in Parts 2 and 3 of the Code, in particular, the new requirement in Part 3 for the auditor to consider communicating actual or suspected NOCLAR to the sustainability assurance practitioner (see paragraphs 56 to 63 above);
- The provisions in Section 5405 addressing group sustainability assurance engagements. (In the case of group sustainability assurance engagements performed in accordance with IAASB standards, there is currently no equivalent standard to ISA 600 (Revised), which applies to audits of group financial statements; such group sustainability assurance engagements will be covered in a general and overarching way under the IAASB’s proposed ISSA 5000.)
- The provisions addressing the different reporting boundaries in the context of a sustainability assurance engagement, which deal with independence considerations when assurance work

⁵⁰ [Use of Experts Exposure Draft](#)

⁵¹ International Standard on Assurance Engagements (ISAE) 3000 (Revised), *Assurance Engagements Other than Audits or Reviews of Historical Financial Information*

is performed at, or with respect to, a value chain entity (Sections 5407 and 5700).

160. For sustainability assurance practitioners who are neither PAs nor other practitioners performing engagements under assurance standards that require compliance with the extant Code, the proposed IESSA will represent a new and comprehensive set of ethics (including independence) standards. It is likely that implementing the proposed IESSA will result in increased costs, including with respect to the deployment of new (or significantly updated) policies and procedures, awareness raising and training initiatives. The IESBA plans to issue non-authoritative guidance material for those who are not familiar with the Code to assist them in navigating the IESSA.
161. Regarding the revisions to the extant Code to reflect sustainability reporting considerations, the IESBA anticipates that there will be non-trivial implementation costs relating to education and training for PAs. This is because of the need for them to fully appreciate the nature and extent of the new ethical expectations relating to the proposed changes to the Code to reflect sustainability reporting considerations.
162. The IESBA also expects costs related to adoption and implementation for national standard setters, professional accountancy organizations and other stakeholders, including translation where needed, and education and training efforts.

VI. PROJECT TIMELINE AND EFFECTIVE DATE

163. The indicative timeline for the completion of this project is set out below.

Indicative Timing	Milestone
May 2024	<ul style="list-style-type: none"> Closing date for comments to the ED
June 2024	<ul style="list-style-type: none"> Preliminary highlights of selected ED responses to IESBA
September 2024	<ul style="list-style-type: none"> Full IESBA review of respondents' comments and first read of revised proposals
October 2024	<ul style="list-style-type: none"> Discussion of significant matters arising on exposure with IESBA Stakeholder Advisory Council (SAC)
December 2024	<ul style="list-style-type: none"> IESBA approval of final pronouncement

164. The IESBA will coordinate with the IAASB to agree on the effective dates for the IESBA's final pronouncement and ISSA 5000.

VII. GUIDE FOR RESPONDENTS

165. The IESBA welcomes comments on all matters addressed in the ED, but especially the matters identified in the Request for Specific Comments below. Comments are most helpful when they refer to specific paragraphs, include the reasons for the comments, and, where appropriate, make specific suggestions for any proposed changes to wording. When a respondent agrees with proposals in this ED, it will be helpful for the IESBA to be made aware of this view.

Request for Specific Comments

166. The IESBA welcomes comments on the following specific matters. Where a respondent disagrees with a proposal, it will be helpful for the respondent to explain why and to provide suggestions for other ways to address the particular matter.

Sustainability Assurance

Main Objectives of the IESSA

1. Do you agree that the proposals in Chapter 1 of the ED are:
 - (a) Equivalent to the ethics and independence standards for audit engagements in the extant Code? *[See paragraphs 19 and 20 of this document]*
 - (b) Profession-agnostic and framework-neutral? *[See paragraphs 21 and 22 of this document]*
2. Do you agree that the proposals in Chapter 1 of the ED are responsive to the public interest, considering the Public Interest Framework's qualitative characteristics? *[See paragraph 23 of this document]*

Definition of Sustainability Information

3. Do you support the definition of "sustainability information" in Chapter 2 of the ED? *[See paragraphs 24 to 26 of this document]*

Scope of Proposed IESSA in Part 5

4. The IESBA is proposing that the ethics standards in the new Part 5 (Chapter 1 of the ED) cover not only all sustainability assurance engagements provided to sustainability assurance clients but also all other services provided to the same sustainability assurance clients. Do you agree with the proposed scope for the ethics standards in Part 5? *[See paragraphs 30 to 36 of this document]*
5. The IESBA is proposing that the *International Independence Standards* in Part 5 apply to sustainability assurance engagements that have the same level of public interest as audits of financial statements. Do you agree with the proposed criteria for such engagements in paragraph 5400.3a? *[See paragraphs 38 to 43 of this document]*

Structure of Part 5

6. Do you support including Section 5270 in Chapter 1 of the ED? *[See paragraphs 46 to 48 of this document]*

NOCLAR

7. Do you support the provisions added in extant Section 360 (paragraphs R360.18a to 360.18a A2 in Chapter 3 of the ED) and in Section 5360 (paragraphs R5360.18a to 5360.18a A2 in Chapter 1 of the ED) for the auditor and the sustainability assurance practitioner to consider communicating (actual or suspected) NOCLAR to each other? *[See paragraphs 56 to 67 of this document]*
8. Do you support expanding the scope of the extant requirement for PAIBs? (See paragraphs R260.15 and 260.15 A1 in Chapter 3 of the ED) *[See paragraph 68 of this document]*

Determination of PIEs

9. For sustainability assurance engagements addressed by Part 5, do you agree with the proposal to use the determination of a PIE for purposes of the audit of the entity's financial statements? *[See paragraphs 80 to 85 of this document]*

Group Sustainability Assurance Engagements

10. The IESBA is proposing that the *International Independence Standards* in Part 5 specifically address the independence considerations applicable to group sustainability assurance engagements. *[See paragraphs 86 to 92 of this document]*
- (a) Do you support the IIS in Part 5 specifically addressing group sustainability assurance engagements? Considering how practice might develop with respect to group sustainability assurance engagements, what practical issues or challenges do you anticipate regarding the application of proposed Section 5405?
- (b) If you support addressing group sustainability assurance engagements in the IIS in Part 5:
- (i) Do you support that the independence provisions applicable to group sustainability assurance engagements be at the same level, and achieve the same objectives, as those applicable to a group audit engagement (see Section 5405)?
- (ii) Do you agree with the proposed requirements regarding communication between the group sustainability assurance firm and component sustainability assurance firms regarding the relevant ethics, including independence, provisions applicable to the group sustainability assurance engagement? *[See paragraph 88 of this document]*
- (iii) Do you agree with the proposed defined terms in the context of group sustainability assurance engagements (for example, "group sustainability assurance engagement" and "component")?

Using the Work of Another Practitioner

11. Section 5406 addresses the independence considerations applicable when the sustainability assurance practitioner plans to use the work of another practitioner who is not under the former's direction, supervision and review but who carries out assurance work at a sustainability assurance client. Do you agree with the proposed independence provisions set out in Section 5406? *[See paragraphs 93 to 101 of this document]*

Assurance at, or With Respect to, a Value Chain Entity

12. Do you support the proposed definition of "value chain" in the context of sustainability assurance engagements? *[See paragraphs 102 and 103 of this document]*
13. Do you support the provisions in Section 5407 addressing the independence considerations when assurance work is performed at, or with respect to, a value chain entity? *[See paragraphs 104 to 110 of this document]*
14. Where a firm uses the work of a sustainability assurance practitioner who performs the assurance work at a value chain entity but retains sole responsibility for the assurance report on the sustainability information of the sustainability assurance client:
- (a) Do you agree that certain interests, relationships or circumstances between the firm, a

network firm or a member of the sustainability assurance team and a value chain entity might create threats to the firm's independence?

- (b) If yes, do you support the approach and guidance proposed for identifying, evaluating, and addressing the threats that might be created by interests, relationships or circumstances with a value chain entity in Section 5700? What other guidance, if any, might Part 5 provide? [See paragraphs 111 to 114 of this document]

Providing NAS to Sustainability Assurance Clients

15. The *International Independence Standards* in Part 5 set out requirements and application material addressing the provision of NAS by a sustainability assurance practitioner to a sustainability assurance client. Do you agree with the provisions in Section 5600 (for example, the "self-review threat prohibition," determination of materiality as a factor, and communication with TCWG)? [See paragraphs 115 and 116 of this document]
16. Subsections 5601 to 5610 address specific types of NAS. [See paragraphs 118 to 120 of this document]
- (a) Do you agree with the coverage of such services and the provisions in the Subsections?
- (b) Are there any other NAS that Part 5 should specifically address in the context of sustainability assurance engagements?

Independence Matters Arising When a Firm Performs Both Audit and Sustainability Assurance Engagements for the Same Client

17. Do you agree with, or have other views regarding, the proposed approach in Part 5 to address the independence issues that could arise when the sustainability assurance practitioner also audits the client's financial statements (with special regard to the proportion of fees for the audit and sustainability assurance engagements, and long association with the client)? [See paragraphs 123 to 131 of this document]

Other Matters

18. Do you believe that the additional guidance from a sustainability assurance perspective (including sustainability-specific examples of matters such as threats) in Chapter 1 of the ED is adequate and clear? If not, what suggestions for improvement do you have?
19. Are there any other matters you would like to raise concerning the remaining proposals in Chapters 1 to 3 of the ED?

Sustainability Reporting

Scope of Sustainability Reporting Revisions and Responsiveness to the Public Interest

20. Do you have any views on how the IESBA could approach its new strategic work stream on expanding the scope of the Code to all preparers of sustainability information? [See paragraphs 133 to 135 of this document]
21. Do you agree that the proposals in Chapter 4 of the ED are responsive to the public interest, considering the Public Interest Framework's qualitative characteristics? [See paragraph 138 of this document]

Proposed Revisions to the Extant Code

22. Do you agree that the proposed revisions to Parts 1 to 3 of the extant Code in Chapter 4 of the ED are clear and adequate from a sustainability reporting perspective, including:
- (a) Proposed revisions to Section 220? [See paragraphs 139 to 141 of this document]
 - (b) Proposed examples on conduct to mislead in sustainability reporting, value chain and forward-looking information? [See paragraphs 143 to 153 of this document]
 - (c) Other proposed revisions? [See paragraph 155 of this document]
23. Are there any other matters you would like to raise concerning the proposals in Chapter 4 of the ED?

Effective Date

24. Do you support the IESBA's proposal to align the effective date of the final provisions with the effective date of ISSA 5000 on the assumption that the IESBA will approve the final pronouncement by December 2024?

Using the Work of an External Expert

Certain provisions in Section 5320 as well as Section 5390 of the proposed IESSA (in Chapter 1), and the revisions to "Using the Work of Others" in Section 220 and "Using the Work of an Expert" in Section 320, in the extant Code (in Chapter 4), all highlighted in grey, were developed under the Use of Experts project. See [Using the Work of an External Expert](#) Exposure Draft for the questions relating to these aspects. Any feedback should be provided in response to that Exposure Draft.

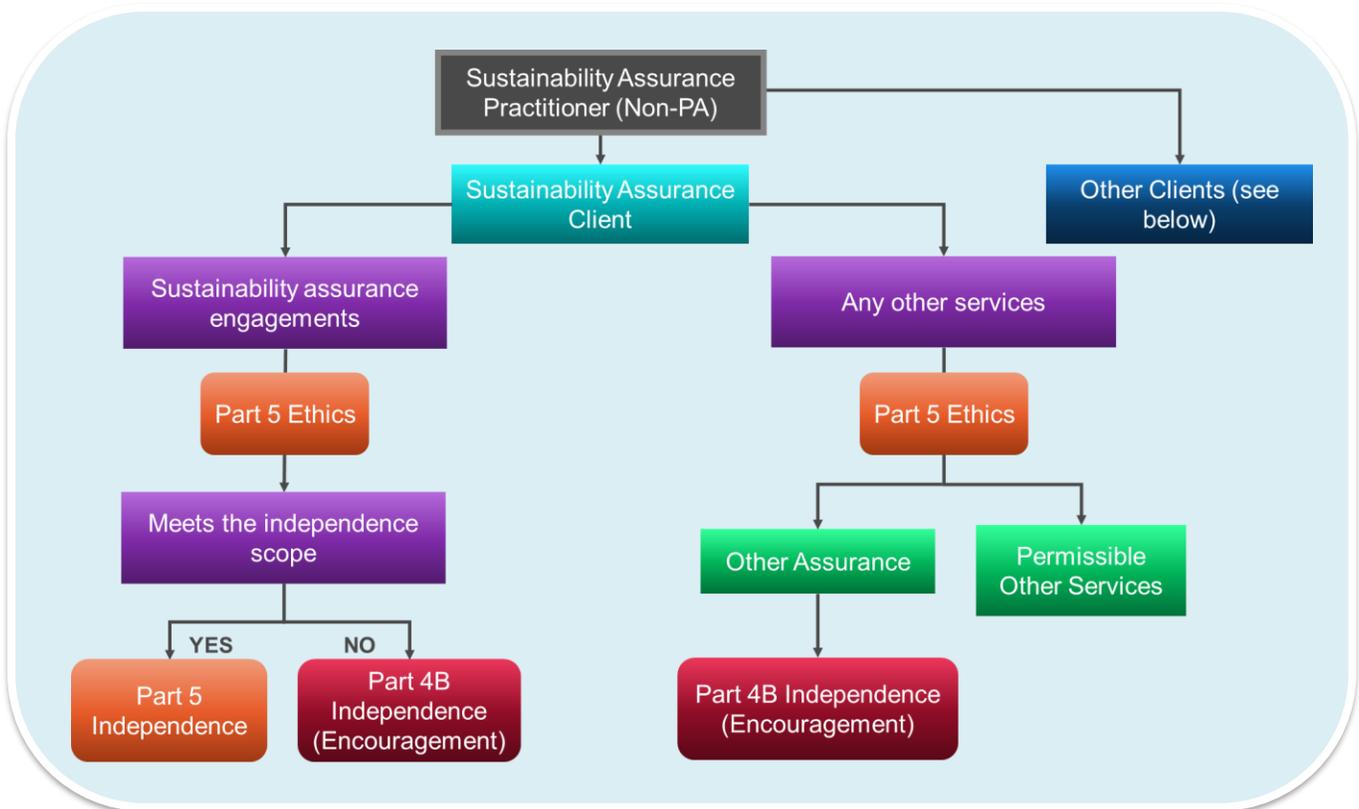
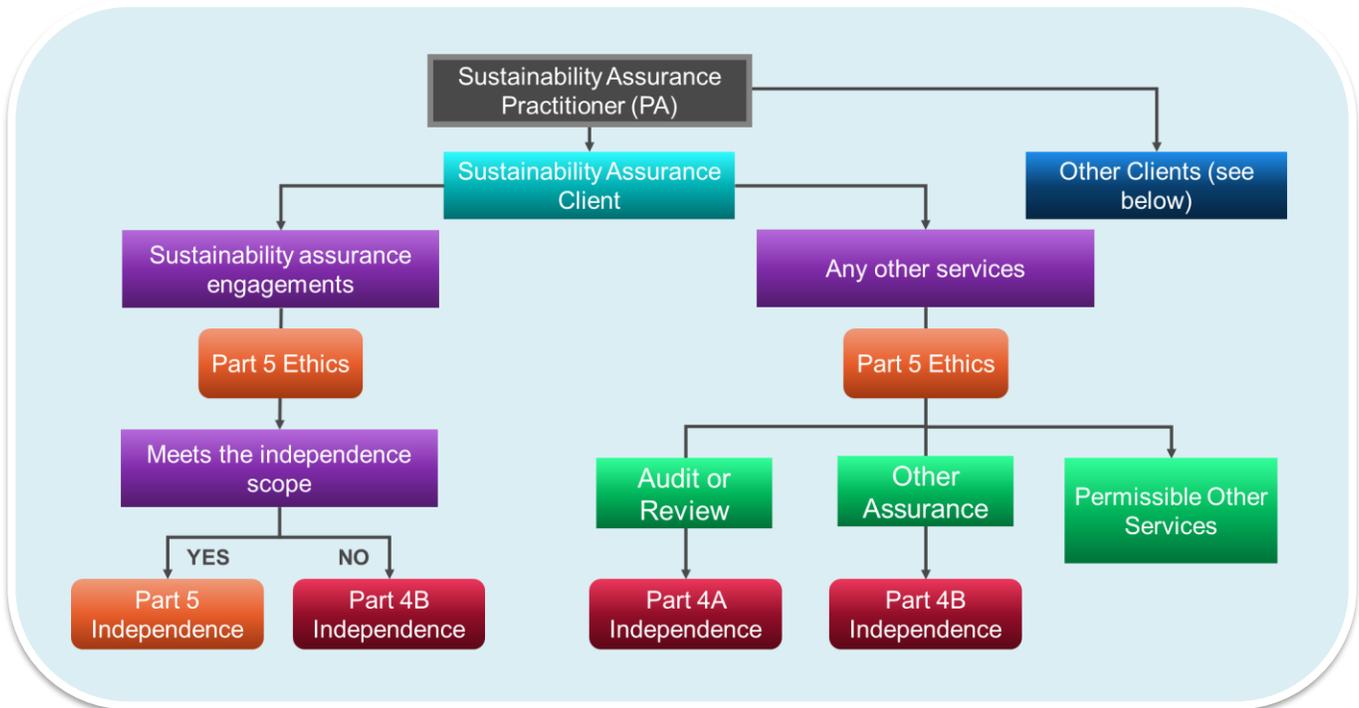
Request for General Comments

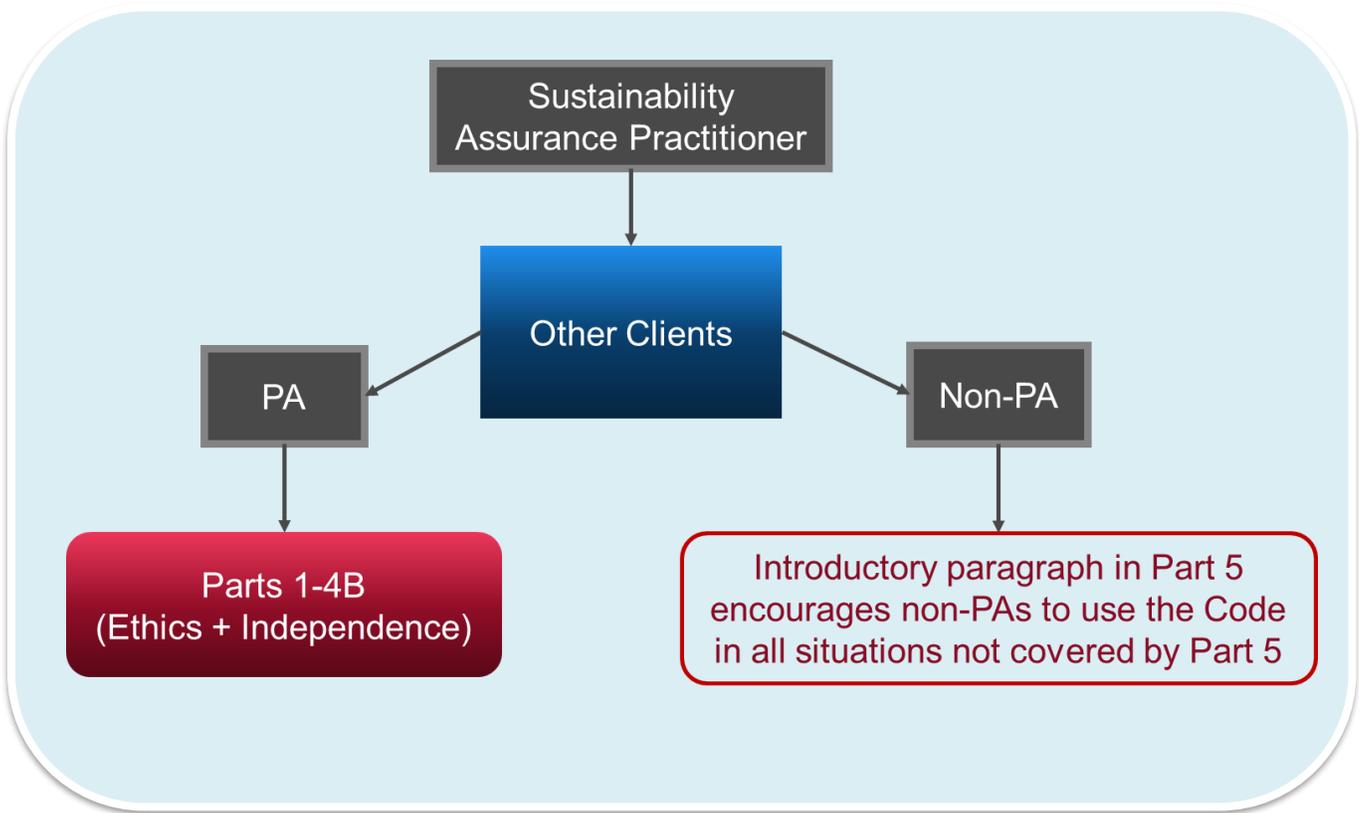
167. In addition to the request for specific comments above, the IESBA is also seeking comments on the matters set out below:
- (a) *Small- and Medium-sized Entities (SMEs) and Small and Medium Practices (SMPs)* – The IESBA invites comments regarding any aspect of the proposals from SMEs and SMPs.
 - (b) *Regulators and Oversight Bodies* – The IESBA invites comments on the proposals from an enforcement perspective from members of the regulatory and oversight communities.
 - (c) *Sustainability Assurance Practitioners Other than Professional Accountants* – The IESBA invites comments on the clarity, understandability and usability of the proposals from sustainability assurance practitioners outside of the accountancy profession who perform sustainability assurance engagements addressed by the *International Independence Standards* in the proposed Part 5 of the Code.
 - (d) *Developing Nations* – Recognizing that many developing nations have adopted or are in the process of adopting the Code, the IESBA invites respondents from these nations to comment on the proposals, and in particular on any foreseeable difficulties in applying them in their environment.

- (e) *Translations* – Recognizing that many respondents may intend to translate the final changes for adoption in their own environments, the IESBA welcomes comment on potential translation issues respondents may note in reviewing the proposals.

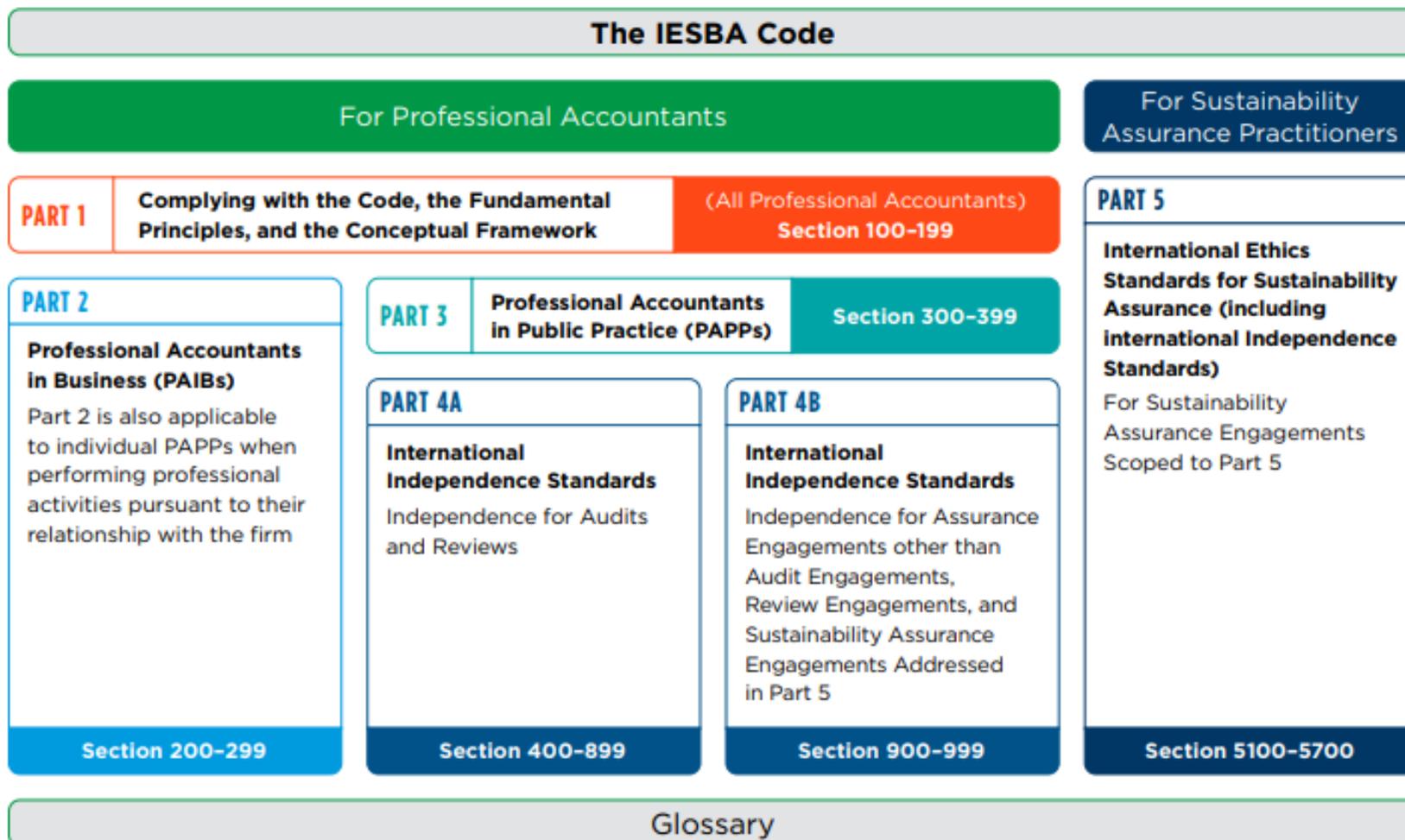
APPENDIX 1

The diagrams below illustrate the inter-relationship between ethics and independence standards for sustainability assurance practitioners (PAs and non-PAs):

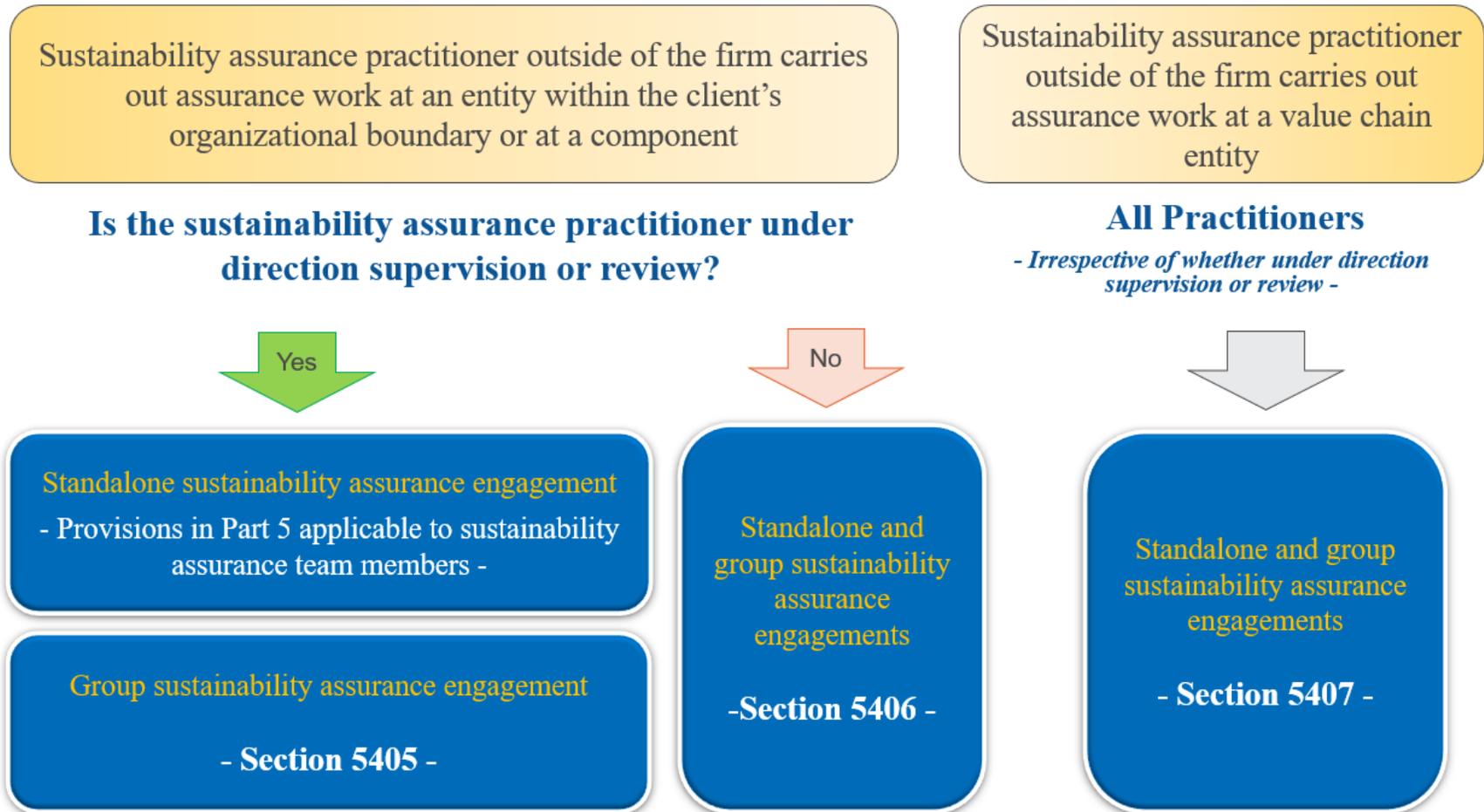




The diagram below illustrates the proposed structure for the Code including the extant Parts 1 to 4B and the new Part 5.



The diagram below explains the applicable sections in the IIS of Part 5 when the sustainability assurance practitioner performing the sustainability assurance engagement uses the assurance work of another sustainability assurance practitioner for the purposes of that engagement:



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**International
Ethics Standards
Board for Accountants®**

529 Fifth Avenue, New York, NY 10017
T + 1 (212) 286-9344 F +1 (212) 286-9570
www.ethicsboard.org

Exposure Draft
January 2024
Comments due: May 10, 2024

*International Ethics Standards Board
for Accountants®*

Proposed *International Ethics Standards for Sustainability Assurance (including International Independence Standards)* (IESSA) and Other Revisions to the Code Relating to Sustainability Assurance and Reporting – Mark-up Version

This Exposure Draft is intended to be read with the separate Explanatory Memorandum

IESBA

International
Ethics Standards
Board for Accountants®



About the IESBA

The [International Ethics Standards Board for Accountants](#)[®] (IESBA[®]) is an independent global standard-setting board. The IESBA's mission is to serve the public interest by setting high-quality, international ethics (including independence) standards as a cornerstone to ethical behavior in business and organizations, and to public trust in financial and non-financial information that is fundamental to the proper functioning and sustainability of organizations, financial markets and economies worldwide.

Along with the [International Auditing and Assurance Standards Board](#) (IAASB), the IESBA is part of the [International Foundation for Ethics and Audit](#) (IFEA). The [Public Interest Oversight Board](#) (PIOB) oversees IESBA and IAASB activities and the public interest responsiveness of the standards.

The structures and processes that support the operations of the IESBA are facilitated by the International Foundation for Ethics and Audit[™] (IFEA[™]).

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REQUEST FOR COMMENTS

This Exposure Draft of Proposed International Ethics Standards for Sustainability Assurance (including International Independence Standards) and Other Revisions to the Code Relating to Sustainability Assurance and Reporting (ED) was developed and approved by the [International Ethics Standards Board for Accountants](#)[®] (IESBA[®]).

The ED should be read along with the Explanatory Memorandum (EM) that accompanies it. This ED is a mark-up from the 2024 Version of the *International Code of Ethics for Professional Accountants (including International Independence Standards)*, except for Section 5380 which is marked-up from the final Tax text approved by the IESBA in December 2023.

The proposals highlighted in grey – i.e., the paragraphs in “Other Considerations” in Section 5320, and Section 5390 (in Chapter 1), and the paragraphs in “Using the Work of Others” in Section 220 and “Using the Work of an Expert” in Section 320 (in Chapter 4) – were developed under the Use of Experts project. See the [Using the Work of an External Expert Exposure Draft](#) for the respective rationale. Any feedback to those proposals should be provided in response to that Exposure Draft.

The approved text of ED is published in the English language. The proposals in the Exposure Draft may be modified based on comments received before being issued in final form. Comments are requested by **May 10, 2024**. Note that requests for extensions of time cannot be accommodated due to the accelerated timeline for finalization of these proposed standards.

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CHAPTER 1 – PROPOSED INTERNATIONAL ETHICS STANDARDS FOR SUSTAINABILITY ASSURANCE (INCLUDING INTERNATIONAL INDEPENDENCE STANDARDS)

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PART 51 –**INTERNATIONAL ETHICS STANDARDS FOR SUSTAINABILITY ASSURANCE (INCLUDING INTERNATIONAL INDEPENDENCE STANDARDS) COMPLYING WITH THE CODE, FUNDAMENTAL PRINCIPLES AND CONCEPTUAL FRAMEWORK****SECTION 5100****COMPLYING WITH PART 5THE CODE****Introduction****General**

5100.1 It is of public interest that sustainability assurance practitioners act ethically in order to maintain public trust and confidence in sustainability information that is subject to assurance. High-quality ethics and independence standards alongside other reporting and assurance standards will help investors, customers, employees and other users of sustainability information to confidently rely on such information in their decision-making. ~~A distinguishing mark of the accountancy profession is its acceptance of the responsibility to act in the public interest.~~

5100.1a Sustainability assurance practitioners are expected to have relevant knowledge, skills and experience to perform sustainability assurance engagements and have appropriate training to ensure their assurance skills are continually up to date with relevant developments.

5100.2 This Part sets out ethics (including independence) standards for sustainability assurance practitioners and comprises ~~Confidence in the accountancy profession is a reason why businesses, governments and other organizations involve professional accountants in a broad range of areas, including financial and corporate reporting, assurance and other professional activities. Accountants understand and acknowledge that such confidence is based on the skills and values that accountants bring to the professional activities they undertake, including:~~

- (a) Sections 5100 to 5390 which set out ethics standards for sustainability assurance engagements and other professional services performed for sustainability assurance clients. Adherence to ethical principles and professional standards; and
- (b) Sections 5400 to 5700 which set out independence standards for sustainability assurance engagements that are within the scope of the *International Independence Standards* in this Part as set out in paragraphs 5400.3a and 5400.3b. Use of business acumen;
- ~~(c) Application of expertise on technical and other matters; and~~
- ~~(d) Exercise of professional judgment.~~

~~The application of these skills and values enables accountants to provide advice or other output that meets the purpose for which it was provided, and which can be relied upon by the intended users of such output.~~

5100.2a When a sustainability assurance practitioner performs a sustainability assurance engagement that is not within the scope of the *International Independence Standards* in this Part, Part 4B of the Code sets out the applicable independence standards.

5100.2b Sustainability assurance practitioners might perform professional activities and have professional and business relationships that are not covered by this Part, in which case:

- (a) Parts 1 to 4B of the Code apply to a practitioner who is a professional accountant.
- (b) A practitioner who is not a professional accountant is encouraged to apply Parts 1 to 4B of the Code to guide the practitioner's general conduct. Adhering to the ethics (including independence) standards set out in the Code (or other ethics standards at least as demanding as the Code) in all professional activities contributes to public trust in sustainability information that is subject to assurance. This includes circumstances where the practitioner:
- (i) Prepares or presents financial or non-financial, including sustainability, information for a client, the firm or others.
 - (ii) Faces conflicts of interest when providing professional services to entities that are not sustainability assurance clients.
 - (iii) Is offered an inducement by a supplier of the firm or by entities that are not sustainability assurance clients.
 - (iv) Encounters suspected fraud or other non-compliance with laws and regulations by management, those charged with governance or other individuals at the firm.
 - (v) Is asked by an entity that is not an existing sustainability assurance client to provide a second opinion on the preparation of sustainability information or the application of other standards or principles to specific circumstances.
 - (vi) Provides tax planning services to entities that are not sustainability assurance clients.

5100.3 This ~~PartThe Code~~ sets out high quality standards of ethical behavior expected of sustainability assurance practitioners professional accountants for:

- (a) ~~a~~Adoption by professional accountancy organizations which are members of the International Federation of Accountants (IFAC), or for use by such members as a basis for their codes of ethics. The Code may also be used or adopted by those responsible for setting ethics (including independence) standards for sustainability assurance practitioners professional accountants in particular sectors or jurisdictions, ~~and~~
- (b) Use by firms in developing their ethics and independence policies.

5100.4 This ~~PartThe Code~~ establishes five fundamental principles to be complied with by all sustainability assurance practitioners professional accountants. It also includes a conceptual framework that sets out the approach to be taken to identify, evaluate and address threats to compliance with those fundamental principles and, ~~for audits and other assurance engagements~~, threats to independence. This ~~PartCode~~ also applies the fundamental principles and the conceptual framework to a range of facts and circumstances that sustainability assurance practitioners accountants might encounter, ~~whether in business or in public practice~~.

Sustainability Information Subject to Assurance

5100.4a Sustainability information might include comprehensive disclosures about many different topics or aspects of topics as required by the sustainability reporting framework or by law or regulation, or that an entity chooses to present in accordance with other criteria. Alternatively, the sustainability information presented by an entity might be limited to certain matters, such as metrics, targets or key performance indicators.

5100.4b The criteria used for the reporting of sustainability information on which the sustainability assurance practitioner expresses an opinion might be framework criteria, entity-developed criteria or a combination of both. Framework criteria might be embodied in law or regulation or issued by

authorized or recognized bodies that follow a transparent due process.

5100.4c Depending on the criteria used, the sustainability information might be prepared on a single entity or group basis, and might include information from other entities in the reporting entity's value chain.

5100.4d Sustainability information might be presented in different ways, for example, in a separate sustainability report issued by the entity, as part of the entity's annual report (e.g., a separately identified report within the annual report, or presented as part of the management report or management commentary), or in an integrated report.

Requirements and Application Material

5100.5 A1 The requirements in this Partthe Code, designated with the letter "R," impose obligations.

5100.5 A2 Application material, designated with the letter "A," provides context, explanations, suggestions for actions or matters to consider, illustrations and other guidance relevant to a proper understanding of this Partthe Code. In particular, the application material is intended to help a sustainability assurance practitioner professional accountant to understand how to apply the conceptual framework to a particular set of circumstances and to understand and comply with a specific requirement. While such application material does not of itself impose a requirement, consideration of the material is necessary to the proper application of the requirements of this Partthe Code, including application of the conceptual framework.

R5100.6 A sustainability assurance practitioner professional accountant shall comply with this Partthe Code.

5100.6 A1 Upholding the fundamental principles and compliance with the specific requirements of this Partthe Code enable sustainability assurance practitionersprofessional accountants to meet their responsibility to act in the public interest when providing sustainability assurance.

5100.6 A2 Complying with this Partthe Code includes giving appropriate regard to the aim and intent of the specific requirements.

5100.6 A3 Compliance with the requirements of the Code does not mean that professional accountants will have always met their responsibility to act in the public interest. There might be unusual or exceptional circumstances in which an sustainability assurance practitioneraccountant believes that complying with a requirement or requirements in this Partof the Code might not be in the public interest when providing sustainability assurance or would lead to a disproportionate outcome. In those circumstances, the practitioneraccountant is encouraged to consult with an appropriate body such as a professional or regulatory body.

5100.6 A4 In acting in the public interest, a sustainability assurance practitionerprofessional accountant considers not only the preferences or requirements of an individual sustainability assurance client or employing organization, but also the interests of other stakeholders when performing professional activities for sustainability assurance clients.

R5100.7 If there are circumstances where laws or regulations preclude a sustainability assurance practitionerprofessional accountant from complying with certain provisionsparts in thisof Partthe Code, those laws and regulations prevail, and the practitioneraccountant shall comply with all other provisionsparts in thisof Partthe Code.

5100.7 A1 The principle of professional behavior requires a sustainability assurance practitionerprofessional accountant to comply with relevant laws and regulations. Some jurisdictions might have provisions that differ from or go beyond those set out in this Partthe Code. PractitionersAccountants in those

jurisdictions need to be aware of those differences and comply with the more stringent provisions unless prohibited by law or regulation.

Breaches of ~~Part 5~~the Code

R~~5~~100.8 Paragraphs R~~5~~400.80 to R~~5~~400.89 and ~~5405.22 A1 to R5405.29 R900.50 to R900.55~~ address a breach of ~~independence requirements in this Part~~*International Independence Standards*. A ~~sustainability assurance practitioner~~*professional accountant* who identifies a breach of any other provision ~~in this Part of the Code~~ shall evaluate the significance of the breach and its impact on the ~~practitioner's~~*accountant's* ability to comply with the fundamental principles. The ~~practitioner~~*accountant* shall also:

- (a) Take whatever actions might be available, as soon as possible, to address the consequences of the breach satisfactorily; and
- (b) Determine whether to report the breach to the relevant parties.

~~5~~100.8 A1 Relevant parties to whom such a breach might be reported include those who might have been affected by it, a professional or regulatory body or an oversight authority.

SECTION 5110

THE FUNDAMENTAL PRINCIPLES

General

5110.1 A1 There are five fundamental principles of ethics for sustainability assurance practitioners~~professional accountants~~:

- (a) Integrity – to be straightforward and honest in all professional and business relationships.
- (b) Objectivity – to exercise professional or business judgment without being compromised by:
 - (i) Bias;
 - (ii) Conflict of interest; or
 - (iii) Undue influence of, or undue reliance on, individuals, organizations, technology or other factors.
- (c) Professional Competence and Due Care – to:
 - (i) Attain and maintain professional knowledge and skill at the level required to ensure that a sustainability assurance client ~~or employing organization~~ receives competent professional service, based on current technical and professional standards and relevant legislation; and
 - (ii) Act diligently and in accordance with applicable technical and professional standards.
- (d) Confidentiality – to respect the confidentiality of information acquired as a result of professional and business relationships.
- (e) Professional Behavior – to:
 - (i) Comply with relevant laws and regulations;
 - (ii) Behave in a manner consistent with ~~the profession's responsibility to acting~~ in the public interest in all professional activities and business relationships relating to sustainability assurance clients; and
 - (iii) Avoid any conduct that the sustainability assurance practitioner~~professional accountant~~ knows or should know might affect public trust in sustainability information that is subject to assurance~~discredit the profession~~.

R5110.2 A sustainability assurance practitioner ~~professional accountant~~ shall comply with each of the fundamental principles.

5110.2 A1 The fundamental principles of ethics establish the standard of behavior expected of a sustainability assurance practitioner~~professional accountant~~. The conceptual framework establishes the approach which a practitioner~~accountant~~ is required to apply in complying with those fundamental principles. Subsections 5111 to 5115 set out requirements and application material in this Part related to each of the fundamental principles.

5110.2 A2 A sustainability assurance practitioner ~~professional accountant~~ might face a situation in which complying with one fundamental principle conflicts with complying with one or more other fundamental principles. In such a situation, the practitioner~~accountant~~ might consider consulting, on an anonymous basis if necessary, with:

- Others within the firm ~~or employing organization~~.

- Those charged with governance.
- A professional body.
- A regulatory body.
- Legal counsel.

However, such consultation does not relieve the ~~practitioneraccountant~~ from the responsibility to exercise professional judgment to resolve the conflict or, if necessary, and unless prohibited by law or regulation, disassociate from the matter creating the conflict.

- ~~5110.2 A3~~ The ~~sustainability assurance practitioner professional accountant~~ is encouraged to document the substance of the issue, the details of any discussions, the decisions made and the rationale for those decisions.

SUBSECTION **5111** – INTEGRITY

- ~~R5111.1~~ A ~~sustainability assurance practitioner professional accountant~~ shall comply with the principle of integrity, which requires an ~~practitioneraccountant~~ to be straightforward and honest in all professional and business relationships.

- ~~5111.1 A1~~ Integrity involves fair dealing, truthfulness and having the strength of character to act appropriately, even when facing pressure to do otherwise or when doing so might create potential adverse personal or organizational consequences.

- ~~5111.1 A2~~ Acting appropriately involves:
- (a) Standing one's ground when confronted by dilemmas and difficult situations; or
 - (b) Challenging others as and when circumstances warrant, in a manner appropriate to the circumstances.

- ~~R5111.2~~ A ~~sustainability assurance practitionerprofessional accountant~~ shall not knowingly be associated with reports, returns, communications or other information where the ~~practitioneraccountant~~ believes that the information:

- (a) Contains a materially false or misleading statement;
- (b) Contains statements or information provided recklessly; or
- (c) Omits or obscures required information where such omission or obscurity would be misleading.

- ~~5111.2 A1~~ If a ~~sustainability assurance practitionerprofessional accountant~~ provides a modified report in respect of such a report, return, communication or other information, the ~~practitioneraccountant~~ is not in breach of paragraph ~~R5111.2~~.

- ~~R5111.3~~ When a ~~sustainability assurance practitionerprofessional accountant~~ becomes aware of having been associated with information described in paragraph ~~R5111.2~~, the ~~practitioneraccountant~~ shall take steps to be disassociated from that information.

SUBSECTION **5112** – OBJECTIVITY

- ~~R5112.1~~ A ~~sustainability assurance practitioner professional accountant~~ shall comply with the principle of objectivity, which requires an ~~practitioneraccountant~~ to exercise professional or business judgment without being compromised by:

- (a) Bias;
- (b) Conflict of interest; or
- (c) Undue influence of, or undue reliance on, individuals, organizations, technology or other factors.

R5112.2 A ~~sustainability assurance practitioner professional accountant~~ shall not undertake a professional activity for a sustainability assurance client if a circumstance or relationship unduly influences the ~~practitioner's accountant's~~ professional judgment regarding that activity.

SUBSECTION **5113** – PROFESSIONAL COMPETENCE AND DUE CARE

R5113.1 A ~~sustainability assurance practitioner professional accountant~~ shall comply with the principle of professional competence and due care, which requires a ~~practitioner accountant~~ to:

- (a) Attain and maintain professional knowledge and skills at the level required to ensure that a sustainability assurance client ~~or employing organization~~ receives competent professional service, based on current technical and professional standards and relevant legislation; and
- (b) Act diligently and in accordance with applicable technical and professional standards.

5113.1 A1 Serving sustainability assurance clients ~~and employing organizations~~ with professional competence involves the exercise of sound judgment in applying professional knowledge and skill when undertaking professional activities.

5113.1 A2 The knowledge and skills necessary for a professional activity vary depending on the nature of the activity being undertaken. For example, in addition to the application of any technical knowledge relevant to the professional activity, interpersonal, communication and organizational skills facilitate the ~~practitioner's professional accountant's~~ interaction with entities and individuals with whom the ~~practitioner accountant~~ interacts.

5113.1 A3 Maintaining professional competence requires a sustainability assurance practitioner professional accountant to have a continuing awareness and understanding of technical, professional, business and technology-related developments relevant to the professional activities undertaken by the ~~practitioner accountant~~. Continuing professional development enables a ~~practitioner accountant~~ to develop and maintain the capabilities to perform competently within the professional environment.

5113.1 A4 Diligence encompasses the responsibility to act in accordance with the requirements of an assignment, carefully, thoroughly and on a timely basis.

R5113.2 In complying with the principle of professional competence and due care, a sustainability assurance practitioner professional accountant shall take reasonable steps to ensure that those working in a professional capacity under the ~~practitioner's accountant's~~ authority have appropriate training and supervision.

R5113.3 Where appropriate, a ~~sustainability assurance practitioner professional accountant~~ shall make sustainability assurance clients, ~~the employing organization~~, or other users of the ~~practitioner's accountant's~~ professional activities, aware of the limitations inherent in the activities and explain the implications of those limitations.

SUBSECTION **5114** – CONFIDENTIALITY

R5114.1 A ~~sustainability assurance practitioner professional accountant~~ shall comply with the principle of confidentiality, which requires a ~~practitioner accountant~~ to respect the confidentiality of information acquired in the course of professional and business relationships. A ~~practitioner accountant~~ shall:

- (a) Be alert to the possibility of inadvertent disclosure, including in a social environment, and particularly to a close business associate or an immediate or a close family member;
- (b) Maintain confidentiality of information within the firm ~~or employing organization~~;
- (c) Maintain confidentiality of information disclosed by a prospective sustainability assurance client ~~or employing organization~~; and
- (d) Take reasonable steps to ensure that personnel under the practitioner's accountant's control, and individuals from whom advice and assistance are obtained, comply with the practitioner's accountant's duty of confidentiality.

5114.1 A1 Maintaining the confidentiality of information acquired in the course of professional and business relationships involves the sustainability assurance practitioner professional accountant taking appropriate action to protect the confidentiality of such information in the course of its collection, use, transfer, storage or retention, dissemination and lawful destruction.

R5114.2 Subject to paragraph R5114.3, a sustainability assurance practitioner professional accountant shall not:

- (a) Disclose confidential information acquired in the course of professional and business relationships;
- (b) Use confidential information acquired in the course of professional and business relationships for the advantage of the accountant practitioner, the firm, ~~the employing organization~~ or a third party;
- (c) Use or disclose any confidential information, either acquired or received in the course of a professional or business relationship, after that relationship has ended; and
- (d) Use or disclose information in respect of which the duty of confidentiality applies notwithstanding that the information has become publicly available, whether properly or improperly.

R5114.3 As an exception to paragraph R5114.2, a sustainability assurance practitioner professional accountant may disclose or use confidential information where:

- (a) There is a legal or professional duty or right to do so; or
- (b) This is authorized by the sustainability assurance client or any person with the authority to permit disclosure or use of the confidential information and this is not prohibited by law or regulation.

5114.3 A1 Confidentiality serves the public interest because it facilitates the free flow of information from the sustainability assurance professional accountant's client ~~or employing organization~~ to the sustainability assurance practitioner accountant in the knowledge that the information will not be disclosed to a third party. Nevertheless, the following are circumstances where sustainability assurance practitioners professional accountants might be required or have the duty or right to disclose confidential information:

- (a) Disclosure is required by law or regulation, for example:
 - (i) Production of documents or other provision of evidence in the course of legal proceedings; or
 - (ii) Disclosure to the appropriate public authorities of infringements of the law that come to light; and
- (b) There is a professional duty or right to disclose or use, when not prohibited by law or regulation:

- (i) To comply with the quality review, practice assessment or equivalent monitoring activity of a professional body;
- (ii) To respond to an inquiry or investigation by a professional or regulatory body;
- (iii) To protect the professional interests of a practitioner ~~professional accountant~~ in legal proceedings; or
- (iv) To comply with technical and professional standards, including ethics requirements.

5114.3 A2 In deciding whether to disclose or use confidential information, factors to consider, depending on the circumstances, include:

- Whether the interests of any parties, including third parties whose interests might be affected, could be harmed if the sustainability assurance client ~~or employing organization~~ authorizes the disclosure or use of information by the sustainability assurance practitioner ~~professional accountant~~.
- Whether all the relevant information is known and substantiated, to the extent practicable. Factors affecting the decision to disclose or use, the information include:
 - Unsubstantiated facts.
 - Incomplete information.
 - Unsubstantiated conclusions.
- The proposed means of communicating the information.
- Whether the parties to whom the information is to be provided or access is to be granted are appropriate recipients.
- Any applicable law or regulation (including those governing privacy) in a jurisdiction where disclosure might take place and, if different, the jurisdiction where the confidential information originates.

5114.3 A3 The circumstances in which a firm ~~or employing organization~~ seeks authorization to use or disclose confidential information, include where the information is to be used for training purposes, in the development of products or technology, in research or as source material for industry or other benchmarking data or studies. Such authorization might be general in its application (for example, in relation to use of the information for internal training purposes or quality enhancement initiatives). When obtaining the authorization of the individual or entity that provided such information for use in specific circumstances, relevant considerations to be communicated (preferably in writing) might include:

- The nature of the information to be used or disclosed.
- The purpose for which the information is to be used or disclosed (for example, technology development, research or benchmarking data or studies).
- The individual or entity who will undertake the activity for which the information is to be used or disclosed.
- Whether the identity of the individual or entity that provided such information or any individuals or entities to which such information relates will be identifiable from the output of the activity for which the information is to be used or disclosed.

R5114.4 A ~~sustainability assurance practitioner professional accountant~~ shall continue to comply with the principle of confidentiality even after the end of the relationship between the ~~practitioneraccountant~~ and a ~~sustainability assurance client or employing organization~~. When ~~changing employment or~~ acquiring a new ~~sustainability assurance~~ client, the ~~practitioneraccountant~~ is entitled to use prior experience but shall not use or disclose any confidential information acquired or received in the course of a professional or business relationship.

SUBSECTION **5115** – PROFESSIONAL BEHAVIOR

R5115.1 A ~~sustainability assurance practitioner professional accountant~~ shall comply with the principle of professional behavior, which requires an ~~practitioneraccountant~~ to:

- (a) Comply with relevant laws and regulations;
- (b) Behave in a manner consistent with ~~the profession's responsibility to acting~~ in the public interest in all professional activities and business relationships relating to sustainability assurance clients; and
- (c) Avoid any conduct that the ~~practitioneraccountant~~ knows or should know might affect public trust in sustainability information that is subject to assurance ~~discredit the profession~~.

A ~~sustainability assurance practitioner professional accountant~~ shall not knowingly engage in any business, occupation or activity that impairs or might impair public trust in sustainability information that is subject to assurance ~~the integrity, objectivity or good reputation of the profession~~, and as a result would be incompatible with the fundamental principles.

5115.1 A1 Conduct that might affect public trust in sustainability information that is subject to assurance ~~discredit the profession~~ includes conduct that a reasonable and informed third party would be likely to conclude to have such effect ~~adversely affects the good reputation of the profession~~.

R5115.2 When undertaking marketing or promotional activities, a ~~sustainability assurance practitioner professional accountant shall not bring the profession into disrepute~~. A ~~professional accountant~~ shall be honest and truthful and shall not make:

- (a) Exaggerated claims for the services offered by, or the qualifications or experience of, the ~~practitioneraccountant~~; or
- (b) Disparaging references or unsubstantiated comparisons to the work of others.

5115.2 A1 If a ~~sustainability assurance practitioner professional accountant~~ is in doubt about whether a form of advertising or marketing is appropriate, the ~~practitioneraccountant~~ is encouraged to consult with an appropriate body, for example the relevant professional body.

SECTION 5120 THE CONCEPTUAL FRAMEWORK

Introduction

- 5120.1** The circumstances in which ~~sustainability assurance practitioners professional accountants~~ operate might create threats to compliance with the fundamental principles. Section 5120 sets out requirements and application material, including a conceptual framework, to assist ~~practitioners accountants~~ in complying with the fundamental principles and ~~meeting their responsibility to acting~~ in the public interest ~~when performing sustainability assurance engagements~~. Such requirements and application material accommodate the wide range of facts and circumstances, including the various professional activities, interests and relationships, that create threats to compliance with the fundamental principles. In addition, they deter ~~practitioners accountants~~ from concluding that a situation is permitted solely because that situation is not specifically prohibited by ~~this Part the Code~~.
- 5120.2** The conceptual framework specifies an approach for a ~~sustainability assurance practitioner professional accountant~~ to:
- Identify threats to compliance with the fundamental principles;
 - Evaluate the threats identified; and
 - Address the threats by eliminating or reducing them to an acceptable level.

Requirements and Application Material

General

- R5120.3** The ~~sustainability assurance practitioner professional accountant~~ shall apply the conceptual framework to identify, evaluate and address threats to compliance with the fundamental principles set out in Section 5110.
- ~~120.3 A1~~ **[Paragraph 5120.3 A1 is intentionally left blank]** ~~Additional requirements and application material that are relevant to the application of the conceptual framework are set out in:~~
- ~~Part 2 — Professional Accountants in Business;~~
 - ~~Part 3 — Professional Accountants in Public Practice; and~~
 - ~~International Independence Standards, as follows:~~
 - ~~Part 4A — Independence for Audit and Review Engagements; and~~
 - ~~Part 4B — Independence for Assurance Engagements Other than Audit and Review Engagements.~~
- R120.4** **[Paragraph R5120.4 is intentionally left blank]** ~~When dealing with an ethics issue, the professional accountant shall consider the context in which the issue has arisen or might arise. Where an individual who is a professional accountant in public practice is performing professional activities pursuant to the accountant's relationship with the firm, whether as a contractor, employee or owner, the individual shall comply with the provisions in Part 2 that apply to these circumstances.~~
- R5120.5** When applying the conceptual framework, the ~~sustainability assurance practitioner professional accountant~~ shall:

- (a) Have an inquiring mind;
- (b) Exercise professional judgment; and
- (c) Use the reasonable and informed third party test described in paragraph 5120.5 A9.

Having an Inquiring Mind

5120.5 A1 An inquiring mind is a prerequisite to obtaining an understanding of known facts and circumstances necessary for the proper application of the conceptual framework. Having an inquiring mind involves:

- (a) Considering the source, relevance and sufficiency of information obtained, taking into account the nature, scope and outputs of the professional activity being undertaken; and
- (b) Being open and alert to a need for further investigation or other action.

5120.5 A2 When considering the source, relevance and sufficiency of information obtained, the sustainability assurance practitioner ~~professional accountant~~ might consider, among other matters, whether:

- New information has emerged or there have been changes in facts and circumstances.
- The information or its source might be influenced by bias or self-interest.
- There is reason to be concerned that potentially relevant information might be missing from the facts and circumstances known to the practitioner ~~accountant~~.
- There is an inconsistency between the known facts and circumstances and the practitioner's ~~accountant's~~ expectations.
- The information provides a reasonable basis on which to reach a conclusion.
- There might be other reasonable conclusions that could be reached from the information obtained.

5120.5 A3 Paragraph R5120.5 requires all sustainability assurance practitioners ~~professional accountants~~ to have an inquiring mind when identifying, evaluating and addressing threats to the fundamental principles. This prerequisite for applying the conceptual framework applies to all practitioners ~~accountants~~ regardless of the professional activity undertaken. Under auditing, review and other sustainability assurance standards, including those issued by the IAASB, practitioners ~~accountants~~ are also required to exercise professional skepticism, which includes a critical assessment of evidence.

Exercising Professional Judgment

5120.5 A4 Professional judgment involves the application of relevant training, professional knowledge, skill and experience commensurate with the facts and circumstances, taking into account the nature and scope of the particular professional activities, and the interests and relationships involved.

5120.5 A5 Professional judgment is required when the sustainability assurance practitioner ~~professional accountant~~ applies the conceptual framework in order to make informed decisions about the courses of actions available, and to determine whether such decisions are appropriate in the circumstances. In making this determination, the practitioner ~~accountant~~ might consider matters such as whether:

- The practitioner's ~~accountant's~~ expertise and experience are sufficient to reach a conclusion.
- There is a need to consult with others with relevant expertise or experience.

- The ~~practitioner's accountant's~~ own preconception or bias might be affecting the ~~practitioner's accountant's~~ exercise of professional judgment.

5120.5 A6 The circumstances in which ~~sustainability assurance practitioners~~ ~~professional accountants~~ carry out professional activities and the factors involved vary considerably in their range and complexity. The professional judgment exercised by ~~practitioners accountants~~ might need to take into account the complexity arising from the compounding effect of the interaction between, and changes in, elements of the facts and circumstances that are uncertain and variables and assumptions that are interconnected or interdependent.

5120.5 A7 Managing complexity involves:

- Making the firm ~~or employing organization~~ and, if appropriate, relevant stakeholders aware of the inherent uncertainties or difficulties arising from the facts and circumstances. (Ref: Para. R5113.3)
- Being alert to any developments or changes in the facts and circumstances and assessing whether they might impact any judgments the ~~sustainability assurance practitioner accountant~~ has made. (Ref: Para. R5120.5 to 5120.5 A3, and R5120.9 to 5120.9 A2)

5120.5 A8 Managing complexity might also involve:

- Analyzing and investigating as relevant, any uncertain elements, the variables and assumptions and how they are connected or interdependent.
- Using technology to analyze relevant data to inform the ~~sustainability assurance practitioner's professional accountant's~~ judgment.
- Consulting with others, including experts, to ensure appropriate challenge and additional input as part of the evaluation process.

Reasonable and Informed Third Party

5120.5 A9 The reasonable and informed third party test is a consideration by the ~~sustainability assurance practitioner professional accountant~~ about whether the same conclusions would likely be reached by another party. Such consideration is made from the perspective of a reasonable and informed third party, who weighs all the relevant facts and circumstances that the ~~practitioner accountant~~ knows, or could reasonably be expected to know, at the time the conclusions are made. The reasonable and informed third party does not need to be ~~a sustainability assurance practitioner accountant~~, but would possess the relevant knowledge and experience to understand and evaluate the appropriateness of the ~~practitioner's accountant's~~ conclusions in an impartial manner.

Identifying Threats

R5120.6 The ~~sustainability assurance practitioner professional accountant~~ shall identify threats to compliance with the fundamental principles.

5120.6 A1 An understanding of the facts and circumstances, including any professional activities, interests and relationships that might compromise compliance with the fundamental principles, is a prerequisite to the ~~sustainability assurance practitioner's professional accountant's~~ identification of threats to such compliance. The existence of certain conditions, policies and procedures established by the ~~practitioner's~~ profession, legislation, regulation, ~~or~~ the firm, ~~or the employing organization~~ that can enhance the ~~practitioner accountant~~ acting ethically might also help identify threats to compliance with the fundamental principles. Paragraph 5120.8 A2 includes general examples of such conditions, policies and procedures which are also factors that are relevant in evaluating the level of threats.

5120.6 A2 Threats to compliance with the fundamental principles might be created by a broad range of facts and circumstances. It is not possible to define every situation that creates threats. In addition, the nature of engagements and work assignments might differ and, consequently, different types of threats might be created.

5120.6 A3 Threats to compliance with the fundamental principles fall into one or more of the following categories:

- (a) Self-interest threat – the threat that a financial or other interest will inappropriately influence a sustainability assurance practitioner's ~~professional accountant's~~ judgment or behavior;
- (b) Self-review threat – the threat that a sustainability assurance practitioner ~~professional accountant~~ will not appropriately evaluate the results of a previous judgment made, or an activity performed by the ~~practitioner~~ ~~accountant~~ or by another individual within the practitioner's ~~accountant's~~ firm ~~or employing organization~~, on which the ~~practitioner~~ ~~accountant~~ will rely when forming a judgment as part of performing a current activity;
- (c) Advocacy threat – the threat that a sustainability assurance practitioner ~~professional accountant~~ will promote a sustainability assurance client's ~~or employing organization's~~ position to the point that the ~~practitioner's~~ ~~accountant's~~ objectivity is compromised;
- (d) Familiarity threat – the threat that due to a long or close relationship with a sustainability assurance client, ~~or employing organization~~, a sustainability assurance practitioner ~~professional accountant~~ will be too sympathetic to their interests or too accepting of their work; and
- (e) Intimidation threat – the threat that a sustainability assurance practitioner ~~professional accountant~~ will be deterred from acting objectively because of actual or perceived pressures, including attempts to exercise undue influence over the ~~practitioner~~ ~~accountant~~.

5120.6 A4 A circumstance might create more than one threat, and a threat might affect compliance with more than one fundamental principle.

Evaluating Threats

R5120.7 When the sustainability assurance practitioner ~~professional accountant~~ identifies a threat to compliance with the fundamental principles, the ~~practitioner~~ ~~accountant~~ shall evaluate whether such a threat is at an acceptable level.

Acceptable Level

5120.7 A1 An acceptable level is a level at which a sustainability assurance practitioner ~~professional accountant~~ using the reasonable and informed third party test would likely conclude that the ~~practitioner~~ ~~accountant~~ complies with the fundamental principles.

Factors Relevant in Evaluating the Level of Threats

5120.8 A1 The consideration of qualitative as well as quantitative factors is relevant in the sustainability assurance practitioner's ~~professional accountant's~~ evaluation of threats, as is the combined effect of multiple threats, if applicable.

5120.8 A2 The existence of conditions, policies and procedures described in paragraph 5120.6 A1 might also be factors that are relevant in evaluating the level of threats to compliance with the fundamental principles. Examples of such conditions, policies and procedures include:

- Corporate governance requirements.
- Educational, training and experience requirements ~~for the profession~~.

- Effective complaint systems which enable the sustainability assurance practitioner professional accountant and the general public to draw attention to unethical behavior.
- An explicitly stated duty to report breaches of ethics requirements.
- Professional or regulatory monitoring and disciplinary procedures.

Consideration of New Information or Changes in Facts and Circumstances

R5120.9 If the sustainability assurance practitioner professional accountant becomes aware of new information or changes in facts and circumstances that might impact whether a threat has been eliminated or reduced to an acceptable level, the practitioner accountant shall re-evaluate and address that threat accordingly.

5120.9 A1 Remaining alert throughout the professional activity assists the sustainability assurance practitioner professional accountant in determining whether new information has emerged or changes in facts and circumstances have occurred that:

- (a) Impact the level of a threat; or
- (b) Affect the practitioner's accountant's conclusions about whether safeguards applied continue to be appropriate to address identified threats.

5120.9 A2 If new information results in the identification of a new threat, the sustainability assurance practitioner professional accountant is required to evaluate and, as appropriate, address this threat. (Ref: Paras. R5120.7 and R5120.10).

Addressing Threats

R5120.10 If the sustainability assurance practitioner professional accountant determines that the identified threats to compliance with the fundamental principles are not at an acceptable level, the practitioner accountant shall address the threats by eliminating them or reducing them to an acceptable level. The practitioner accountant shall do so by:

- (a) Eliminating the circumstances, including interests or relationships, that are creating the threats;
- (b) Applying safeguards, where available and capable of being applied, to reduce the threats to an acceptable level; or
- (c) Declining or ending the specific professional activity.

Actions to Eliminate Threats

5120.10 A1 Depending on the facts and circumstances, a threat might be addressed by eliminating the circumstance creating the threat. However, there are some situations in which threats can only be addressed by declining or ending the specific professional activity. This is because the circumstances that created the threats cannot be eliminated and safeguards are not capable of being applied to reduce the threat to an acceptable level.

Safeguards

5120.10 A2 Safeguards are actions, individually or in combination, that the sustainability assurance practitioner professional accountant takes that effectively reduce threats to compliance with the fundamental principles to an acceptable level.

Consideration of Significant Judgments Made and Overall Conclusions Reached

R5120.11 The ~~sustainability assurance practitioner professional accountant~~ shall form an overall conclusion about whether the actions that the ~~practitioner accountant~~ takes, or intends to take, to address the threats created will eliminate those threats or reduce them to an acceptable level. In forming the overall conclusion, the ~~practitioner accountant~~ shall:

- (a) Review any significant judgments made or conclusions reached; and
- (b) Use the reasonable and informed third party test.

Other Considerations when Applying the Conceptual Framework*Bias*

5120.12 A1 Conscious or unconscious bias affects the exercise of professional judgment when identifying, evaluating and addressing threats to compliance with the fundamental principles.

5120.12 A2 Examples of potential bias to be aware of when exercising professional judgment include:

- Anchoring bias, which is a tendency to use an initial piece of information as an anchor against which subsequent information is inadequately assessed.
- Automation bias, which is a tendency to favor output generated from automated systems, even when human reasoning or contradictory information raises questions as to whether such output is reliable or fit for purpose.
- Availability bias, which is a tendency to place more weight on events or experiences that immediately come to mind or are readily available than on those that are not.
- Confirmation bias, which is a tendency to place more weight on information that corroborates an existing belief than information that contradicts or casts doubt on that belief.
- Groupthink, which is a tendency for a group of individuals to discourage individual creativity and responsibility and as a result reach a decision without critical reasoning or consideration of alternatives.
- Overconfidence bias, which is a tendency to overestimate one's own ability to make accurate assessments of risk or other judgments or decisions.
- Representation bias, which is a tendency to base an understanding on a pattern of experiences, events or beliefs that is assumed to be representative.
- Selective perception, which is a tendency for a person's expectations to influence how the person views a particular matter or person.

5120.12 A3 Actions that might mitigate the effect of bias include:

- Seeking advice from experts to obtain additional input.
- Consulting with others to ensure appropriate challenge as part of the evaluation process.
- Receiving training related to the identification of bias as part of professional development.

Firm Organizational Culture

5120.13 A1 The effective application of the conceptual framework by a ~~sustainability assurance practitioner professional accountant~~ is enhanced when the importance of ethical values that align with the fundamental principles and other provisions set out in ~~this Part the Code~~ is promoted through the

internal culture of the ~~firm~~~~accountant's organization~~.

- 5120.13 A2 The promotion of an ethical culture within a ~~an~~ ~~firm~~~~organization~~ is most effective when:
- (a) Leaders and those in managerial roles promote the importance of, and hold themselves and others accountable for demonstrating, the ethical values of the ~~firm~~~~organization~~;
 - (b) Appropriate education and training programs, management processes, and performance evaluation and reward criteria that promote an ethical culture are in place;
 - (c) Effective policies and procedures are in place to encourage and protect those who report actual or suspected illegal or unethical behavior, including whistle-blowers; and
 - (d) The ~~firm~~~~organization~~ adheres to ethical values in its dealings with third parties.

5120.13 A3 ~~Sustainability assurance practitioners~~ ~~Professional accountants~~ are expected to:

- (a) Encourage and promote an ethics-based culture in their ~~firm~~~~organization~~, taking into account their position and seniority; and
- (b) Exhibit ethical behavior in dealings with individuals with whom, and entities with which, the ~~practitioners~~~~accountants~~, ~~or~~ the firm ~~or the employing organization~~ has a professional or business relationship.

Considerations for ~~Sustainability Audits, Reviews, Other Assurance and Related Services~~ Engagements

Additional Consideration for Firm Culture

5120.14 A1 ~~Quality management standards, such as ISQM 1, might address sets out requirements and application material relating to~~ firm culture in the context of a firm's responsibilities to design, implement and operate a system of quality management for ~~audits or reviews of financial statements, sustainability assurance or other assurance or related services engagements~~.

Independence

5120.15 A1 ~~Sustainability assurance practitioners~~ ~~Professional accountants in public practice~~ are required by ~~Sections 5400 to 5700 and Part 4B, as applicable, International Independence Standards~~ to be independent when performing ~~sustainability audits, reviews, or other~~ assurance engagements. Independence is linked to the fundamental principles of objectivity and integrity. It comprises:

- (a) Independence of mind – the state of mind that permits the expression of a conclusion without being affected by influences that compromise professional judgment, thereby allowing an individual to act with integrity, and exercise objectivity and professional skepticism.
- (b) Independence in appearance – the avoidance of facts and circumstances that are so significant that a reasonable and informed third party would be likely to conclude that a firm's or a ~~sustainability audit or~~ assurance team member's integrity, objectivity or professional skepticism has been compromised.

5120.15 A2 ~~Sections 5400 to 5700 and Part 4B, International Independence Standards~~ set out requirements and application material on how to apply the conceptual framework to maintain independence when performing ~~sustainability audits, reviews or other~~ assurance engagements. ~~Sustainability assurance practitioners~~ ~~Professional accountants~~ and firms are required to comply with these ~~requirements and application material~~ standards in order to be independent when conducting such engagements. The conceptual framework to identify, evaluate and address threats to compliance with the fundamental principles applies in the same way to compliance with independence requirements.

The categories of threats to compliance with the fundamental principles described in paragraph [5120.6 A3](#) are also the categories of threats to compliance with independence requirements.

[5120.15 A3](#) Conditions, policies and procedures described in paragraphs [5120.6 A1](#) and [5120.8 A2](#) that might assist in identifying and evaluating threats to compliance with the fundamental principles might also be factors relevant to identifying and evaluating threats to independence. In the context of ~~sustainability audits, reviews and other~~ assurance engagements, a system of quality management designed, implemented and operated by a firm in accordance with the quality management standards issued by the IAASB is an example of such conditions, policies and procedures.

Professional Skepticism

[5120.16 A1](#) Under ~~sustainability auditing, review and other~~ assurance standards, including those issued by the IAASB, ~~sustainability assurance practitioners professional accountants in public practice~~ are required to exercise professional skepticism when planning and performing ~~sustainability audits, reviews and other~~ assurance engagements. Professional skepticism and the fundamental principles that are described in Section [5110](#) are inter-related concepts.

[5120.16 A2](#) In a ~~sustainability assurance engagement that is within the scope of the International Independence Standards in this Part~~ sustainability assurance engagement that is within the scope of the *International Independence Standards in this Part* ~~audit of financial statements~~, compliance with the fundamental principles, individually and collectively, supports the exercise of professional skepticism, as shown in the following examples:

- *Integrity* requires the ~~sustainability assurance practitioner professional accountant~~ to be straightforward and honest. For example, the ~~practitioner accountant~~ complies with the principle of integrity by:
 - Being straightforward and honest when raising concerns about a position taken by a sustainability assurance client.
 - Pursuing inquiries about inconsistent information and seeking further ~~audit~~ evidence to address concerns about statements that might be materially false or misleading in order to make informed decisions about the appropriate course of action in the circumstances.
 - Having the strength of character to act appropriately, even when facing pressure to do otherwise or when doing so might create potential adverse personal or organizational consequences. Acting appropriately involves:
 - (a) Standing one's ground when confronted by dilemmas and difficult situations; or
 - (b) Challenging others as and when circumstances warrant,
 in a manner appropriate to the circumstances.

In doing so, the ~~practitioner accountant~~ demonstrates the critical assessment of ~~audit~~ evidence that contributes to the exercise of professional skepticism.

- *Objectivity* requires the ~~sustainability assurance practitioner professional accountant~~ to exercise professional or business judgment without being compromised by:
 - (a) Bias;
 - (b) Conflict of interest; or
 - (c) Undue influence of, or undue reliance on, individuals, organizations, technology or other factors.

For example, the ~~practitioner~~~~accountant~~ complies with the principle of objectivity by:

- (a) Recognizing circumstances or relationships such as familiarity with the sustainability assurance client, that might compromise the ~~practitioner's~~~~accountant's~~ professional or business judgment; and
- (b) Considering the impact of such circumstances and relationships on the ~~practitioner's~~~~accountant's~~ judgment when evaluating the sufficiency and appropriateness of ~~audit~~ evidence related to a matter material to the client's sustainability information~~financial statements~~.

In doing so, the ~~practitioner~~~~accountant~~ behaves in a manner that contributes to the exercise of professional skepticism.

- *Professional competence and due care* requires the sustainability assurance practitioner~~professional accountant~~ to have professional knowledge and skill at the level required to ensure the provision of competent professional service, and to act diligently in accordance with applicable standards, laws and regulations. For example, the ~~practitioner~~~~accountant~~ complies with the principle of professional competence and due care by:

- (a) Applying knowledge that is relevant to a particular sustainability assurance client's industry and business activities in order to properly identify risks of material misstatement;
- (b) Designing and performing appropriate ~~assurance~~~~audit~~ procedures; and
- (c) Applying relevant knowledge when critically assessing whether ~~audit~~ evidence is sufficient and appropriate in the circumstances.

In doing so, the ~~practitioner~~~~accountant~~ behaves in a manner that contributes to the exercise of professional skepticism.

SECTION 5270**PRESSURE TO BREACH THE FUNDAMENTAL PRINCIPLES****Introduction**

- 5270.1 ~~Sustainability assurance practitioners~~ Professional accountants are required to comply with the fundamental principles and apply the conceptual framework set out in Section 5120 to identify, evaluate and address threats.
- 5270.2 Pressure exerted on, or by, a sustainability assurance practitioner ~~professional accountant~~ might create an intimidation or other threat to compliance with one or more of the fundamental principles. This section sets out specific requirements and application material relevant to applying the conceptual framework in such circumstances.

Requirements and Application Material**General**

- R5270.3** A sustainability assurance practitioner ~~professional accountant~~ shall not:
- (a) Allow pressure from others to result in a breach of compliance with the fundamental principles; or
 - (b) Place pressure on others that the practitioner ~~accountant~~ knows, or has reason to believe, would result in the other individuals breaching the fundamental principles.
- 5270.3 A1 A sustainability assurance practitioner ~~professional accountant~~ might face pressure that creates threats to compliance with the fundamental principles, for example an intimidation threat, when undertaking a professional activity for a sustainability assurance client. Pressure might be explicit or implicit and might come from:
- Within the firm ~~employing organization~~, for example, from a colleague or superior.
 - An external individual or organization such as the sustainability assurance client or a vendor, customer or lender of the firm.
 - Internal or external targets and expectations.
- 5270.3 A2 Examples of pressure that might result in threats to compliance with the fundamental principles include:
- Pressure related to conflicts of interest:
 - Pressure from a family member bidding to act as a counterparty ~~vendor~~ to a transaction involving a sustainability assurance client ~~the professional accountant's employing organization~~ to select the family member over another ~~counterparties~~ prospective vendor.

See also Section 25310, *Conflicts of Interest*.
 - ~~Pressure to influence preparation or presentation of information:~~
 - ~~Pressure to report misleading financial results to meet investor, analyst or lender expectations.~~
 - ~~Pressure from elected officials on public sector accountants to misrepresent programs or projects to voters.~~

~~○ Pressure from colleagues to misstate income, expenditure or rates of return to bias decision-making on capital projects and acquisitions.~~

~~○ Pressure from superiors to approve or process expenditures that are not legitimate business expenses.~~

~~○ Pressure to suppress internal audit reports containing adverse findings.~~

~~See also Section 220, *Preparation and Presentation of Information*.~~

- Pressure to act without sufficient expertise or due care:

- Pressure from superiors to inappropriately reduce the extent of work performed.

- ~~○ Pressure from superiors to perform a task without sufficient skills or training or within unrealistic deadlines.~~

- Pressure from a sustainability assurance client not to enquire about strategy-related assumptions used in the forward-looking information prepared by the client and subject to assurance procedures.

~~See also Section 230, *Acting with Sufficient Expertise*.~~

- ~~• Pressure related to financial interests:~~

- ~~- Pressure from superiors, colleagues or others, for example, those who might benefit from participation in compensation or incentive arrangements to manipulate performance indicators.~~

~~See also Section 240, *Financial Interests, Compensation and Incentives Linked to Financial Reporting and Decision Making*.~~

- Pressure related to inducements:

- ~~○ Pressure from others, either internal or external to the employing organization, to offer inducements to influence inappropriately the judgment or decision making process of an individual or organization.~~

- Pressure from colleagues to accept a bribe or other inducement, for example to accept inappropriate gifts or entertainment from potential or existing sustainability assurance clients/vendors in a bidding process.

See also Section ~~250~~ 5340, *Inducements, Including Gifts and Hospitality*.

- Pressure related to non-compliance with laws and regulations:

- Pressure to overlook potential breaches of environmental or safety regulations applicable to a sustainability assurance client/structure a transaction to evade tax.

See also Section ~~5360~~ 260, *Responding to Non-compliance with Laws and Regulations*.

- Pressure related to level of fees

- Pressure exerted by a superior or a colleague of a sustainability assurance practitioner professional accountant on another professional accountant to provide professional services at a fee level that does not allow for sufficient and appropriate resources (including human, technological and intellectual resources) to perform the services in accordance with technical and professional standards.

See also Section 5330, *Fees and Other Types of Remuneration*

- 5270.3 A3 Factors that are relevant in evaluating the level of threats created by pressure include:
- The intent of the individual who is exerting the pressure and the nature and extent of the pressure.
 - The application of laws, regulations, and professional standards to the circumstances.
 - The culture and leadership of the ~~employing organization~~firm including the extent to which they reflect or emphasize the importance of ethical behavior and the expectation that ~~personnel~~employees will act ethically. For example, a corporate culture that tolerates unethical behavior might increase the likelihood that the pressure would result in a threat to compliance with the fundamental principles.
 - Policies and procedures, if any, that the ~~employing organization~~firm has established, such as ethics or human resources policies that address pressure.

- 5270.3 A4 Discussing the circumstances creating the pressure and consulting with others about those circumstances might assist the ~~sustainability assurance practitioner~~professional accountant to evaluate the level of the threat. Such discussion and consultation, which requires being alert to the principle of confidentiality, might include:

- Discussing the matter with the individual who is exerting the pressure to seek to resolve it.
- Discussing the matter with the ~~practitioner~~accountant's superior, if the superior is not the individual exerting the pressure.
- Escalating the matter within the ~~firm~~employing organization, including when appropriate, explaining any consequential risks to the ~~firm~~organization, for example with:
 - Higher levels of management.
 - Internal or external auditors.
 - Those charged with governance.
- Disclosing the matter in line with the ~~firm~~employing organization's policies, including ethics and whistleblowing policies, using any established mechanism, such as a confidential ethics hotline.
- Consulting with:
 - A colleague, superior, human resources personnel, or another ~~sustainability assurance practitioner~~professional accountant;
 - Relevant professional or regulatory bodies or industry associations; or
 - Legal counsel.

- 5270.3 A5 An example of an action that might eliminate threats created by pressure is the ~~sustainability assurance practitioner~~professional accountant's request for a restructure of, or segregation of, certain responsibilities and duties relating to the professional services performed for a sustainability assurance client so that the ~~practitioner~~accountant is no longer involved with the individual or entity exerting the pressure.

Documentation

5270.4 A1 The sustainability assurance practitioner~~professional accountant~~ is encouraged to document:

- The facts.
- The communications and parties with whom these matters were discussed.
- The courses of action considered.
- How the matter was addressed.

~~**PART 3 – PROFESSIONAL ACCOUNTANTS IN PUBLIC PRACTICE**~~

SECTION 5300

~~**APPLYING THE CONCEPTUAL FRAMEWORK – PROFESSIONAL ACCOUNTANTS IN PUBLIC PRACTICE**~~

Introduction

5300.1 This ~~Part of the Code~~ Sections 5300 to 5390 sets out requirements and application material for sustainability assurance practitioners~~professional accountants in public practice~~ when applying the conceptual framework set out in Section 5120. ~~They do it does~~ not describe all of the facts and circumstances, including professional activities, interests and relationships, that could be encountered by practitioners~~professional accountants in public practice~~, which create or might create threats to compliance with the fundamental principles. Therefore, the conceptual framework requires sustainability assurance practitioners~~professional accountants in public practice~~ to be alert for such facts and circumstances.

~~300.2~~ ~~[Paragraph 5300.2 is intentionally left blank]~~ The requirements and application material that apply to professional accountants in public practice are set out in:

- ~~• Part 3 – Professional Accountants in Public Practice, Sections 300 to 399, which applies to all professional accountants in public practice, whether they provide assurance services or not.~~
- ~~• International Independence Standards as follows:~~
 - ~~○ Part 4A – Independence for Audit and Review Engagements, Sections 400 to 899, which applies to professional accountants in public practice when performing audit and review engagements.~~
 - ~~○ Part 4B – Independence for Assurance Engagements Other than Audit and Review Engagements, Sections 900 to 999, which applies to professional accountants in public practice when performing assurance engagements other than audit or review engagements.~~

~~300.3~~ ~~[Paragraph 5300.3 is intentionally left blank]~~ In this Part, the term “professional accountant” refers to individual professional accountants in public practice and their firms.

Requirements and Application Material

General

R5300.4 A sustainability assurance practitioner~~professional accountant~~ shall comply with the fundamental principles set out in Section 5110 and apply the conceptual framework set out in Section 5120 to identify, evaluate and address threats to compliance with the fundamental principles.

~~**R300.5** [Paragraph R5300.5 is intentionally left blank] When dealing with an ethics issue, the professional accountant shall consider the context in which the issue has arisen or might arise. Where an individual who is a professional accountant in public practice is performing professional activities pursuant to the accountant’s relationship with the firm, whether as a contractor, employee or owner, the individual shall comply with the provisions in Part 2 that apply to these circumstances.~~

~~300.5 A1 [Paragraph 5300.5 A1 is intentionally left blank] Examples of situations in which the provisions in Part 2 apply to a professional accountant in public practice include:~~

- ~~Facing a conflict of interest when being responsible for selecting a vendor for the firm when an immediate family member of the accountant might benefit financially from the contract. The requirements and application material set out in Section 210 apply in these circumstances.~~
- ~~Preparing or presenting financial information for the accountant's client or firm. The requirements and application material set out in Section 220 apply in these circumstances.~~
- ~~Being offered an inducement such as being regularly offered complimentary tickets to attend sporting events by a supplier of the firm. The requirements and application material set out in Section 250 apply in these circumstances.~~
- ~~Facing pressure from an engagement partner to report chargeable hours inaccurately for a client engagement. The requirements and application material set out in Section 270 apply in these circumstances.~~

5300.5 A2 The more senior the position of a sustainability assurance practitioner~~professional accountant~~, the greater will be the ability and opportunity to access information, and to influence policies, decisions made and actions taken by others involved with the firm. To the extent that they are able to do so, taking into account their position and seniority in the firm, ~~practitioners~~accountants are expected to encourage and promote an ethics-based culture in the firm and exhibit ethical behavior in dealings with individuals with whom, and entities with which, the ~~practitioner~~accountant or the firm has a professional or business relationship in accordance with paragraph 5120.13 A3. Examples of actions that might be taken include the introduction, implementation and oversight of:

- Ethics education and training programs.
- Firm processes and performance evaluation and reward criteria that promote an ethical culture.
- Ethics and whistle-blowing policies.
- _____ Policies and procedures designed to prevent non-compliance with laws and regulations.

(Ref: Paras. 5120.13 A1 to 5120.13 A3).

Identifying Threats

5300.6 A1 Threats to compliance with the fundamental principles might be created by a broad range of facts and circumstances. The categories of threats are described in paragraph 5120.6 A3. The following are examples of facts and circumstances within each of those categories of threats that might create threats for a sustainability assurance practitioner~~professional accountant~~ when undertaking a professional service for a sustainability assurance client:

(a) Self-interest Threats

- A sustainability assurance practitioner~~professional accountant~~ having a direct financial interest in a sustainability assurance client.
- A sustainability assurance practitioner~~professional accountant~~ quoting a low fee to obtain a new engagement and the fee is so low that it might be difficult to perform the professional service in accordance with applicable technical and professional standards for that price.
- A sustainability assurance practitioner~~professional accountant~~ having a close business relationship with a sustainability assurance client.

- ~~A professional accountant having access to confidential information that might be used for personal gain.~~ A sustainability assurance practitioner having incentives linked to the outcome of a sustainability assurance engagement.
- A sustainability assurance practitioner ~~professional accountant~~ discovering a significant error when evaluating the results of a previous professional service performed by a member of the ~~accountant's-practitioner's~~ firm.

(b) Self-review Threats

- A sustainability assurance practitioner ~~professional accountant~~ issuing an assurance report on the effectiveness of the operation of ~~financial~~ systems that generate sustainability information after designing or implementing the systems.
- A sustainability assurance practitioner ~~professional accountant~~ ~~having prepared~~ contributed to the preparation of the original data used to generate ~~records~~ information that ~~is are the~~ subject to procedures in matter of the sustainability assurance engagement.
- A sustainability assurance practitioner having provided sustainability-related services other than sustainability assurance engagements for an entity in a sustainability assurance client's value chain, the outcome of which is subject to procedures in the sustainability assurance engagement for the client.
- A sustainability assurance practitioner having provided a valuation or forecasting service the outcome of which is subject to procedures in the sustainability assurance engagement for the sustainability assurance client.

(c) Advocacy Threats

- A sustainability assurance practitioner ~~professional accountant~~ promoting the interests of, ~~or shares in,~~ a sustainability assurance client.
- A sustainability assurance practitioner ~~professional accountant~~ acting as an advocate on behalf of a sustainability assurance client in litigation or disputes with third parties.
- A sustainability assurance practitioner ~~professional accountant~~ lobbying in favor of legislation on behalf of a sustainability assurance client.
- A sustainability assurance practitioner promoting a particular sustainability-related initiative, product or service on behalf of a sustainability assurance client.

(d) Familiarity Threats

- A sustainability assurance practitioner ~~professional accountant~~ having a close or immediate family member who is a director or officer of the sustainability assurance client.
- A director or officer of the sustainability assurance client, or an employee in a position to exert significant influence over the subject matter of the engagement, having recently served as the engagement ~~leader~~ partner.
- ~~An~~ sustainability assurance ~~audit~~ team member having a long association with the ~~audit~~ sustainability assurance client.

- An individual who is being considered to serve as an appropriate reviewer, as a safeguard to address a threat, having a close relationship with an individual who performed the work.

(e) Intimidation Threats

- A ~~sustainability assurance practitioner professional accountant~~ being threatened with dismissal from a professional service performed for a sustainability assurance client engagement or the firm because of a disagreement about a professional matter.
- A ~~sustainability assurance practitioner professional accountant~~ feeling pressured to agree with the judgment of a sustainability assurance client because the client has more expertise on the matter in question.
- A ~~sustainability assurance practitioner professional accountant~~ being informed that a planned promotion will not occur unless the ~~practitioner accountant~~ agrees with an inappropriate sustainability-related analysis or conclusion accounting treatment.
- A ~~sustainability assurance practitioner professional accountant~~ having accepted a significant gift from a sustainability assurance client and being threatened that acceptance of this gift will be made public.

Identifying Threats Associated with the Use of Technology

5300.6 A2 The following are examples of facts and circumstances relating to the use of technology that might create threats for a ~~sustainability assurance practitioner professional accountant~~ when undertaking a professional activity for a sustainability assurance client:

- Self-interest Threats
 - The data available might not be sufficient for the effective use of the technology.
 - The technology might not be appropriate for the purpose for which it is to be used.
 - The ~~practitioner accountant~~ might not have sufficient information and expertise, or access to an expert with sufficient understanding, to use and explain the technology and its appropriateness for the purpose intended.
- ~~(Ref: Para. 230.2).~~
- Self-review Threats
 - The technology was designed or developed using the knowledge, expertise or judgment of the ~~practitioner accountant~~ or firm.

Evaluating Threats

5300.7 A1 The conditions, policies and procedures described in paragraphs 5120.6 A1 and 5120.8 A2 might impact the evaluation of whether a threat to compliance with the fundamental principles is at an acceptable level. Such conditions, policies and procedures might relate to:

- (a) The sustainability assurance client and its operating environment; and
- (b) The firm and its operating environment.

5300.7 A2 The ~~sustainability assurance practitioner's professional accountant's~~ evaluation of the level of a threat is also impacted by the nature and scope of the professional service.

The Sustainability Assurance Client and its Operating Environment

5300.7 A3 The ~~sustainability assurance practitioner's professional accountant's~~ evaluation of the level of a threat might be impacted by whether the sustainability assurance client is:

- (a) ~~An audit client and whether the audit client is a~~ public interest entity;
- (b) An ~~assurance client that is not an~~ audit client; or
- (c) A non-assurance client.

For example, providing a non-assurance service to an ~~audit~~ sustainability assurance client that is a public interest entity might be perceived to result in a higher level of threat to compliance with the principle of objectivity with respect to the sustainability assurance engagement~~audit~~.

5300.7 A4 The corporate governance structure, including the leadership of a sustainability assurance client, might promote compliance with the fundamental principles. Accordingly, a ~~sustainability assurance practitioner's professional accountant's~~ evaluation of the level of a threat might also be impacted by a client's operating environment. For example:

- The client requires appropriate individuals other than management to ratify or approve the appointment of a firm to perform an engagement.
- The client has competent employees with experience and seniority to make managerial decisions.
- The client has implemented internal procedures that facilitate objective choices in tendering non-assurance engagements.
- The client has a corporate governance structure that provides appropriate oversight and communications regarding the firm's services.

5300.7 A4a The sustainability assurance practitioner's evaluation of the level of a threat to compliance with the fundamental principles might be impacted by the quantitative and qualitative characteristics of a sustainability assurance client's value chain. For example, a threat to compliance with the principle of professional competence and due care might be created if the sustainability information that is subject to assurance comes from multiple suppliers that are geographically dispersed or is prepared in accordance with different reporting frameworks.

The Firm and its Operating Environment

5300.7 A5 A ~~sustainability assurance practitioner's professional accountant's~~ evaluation of the level of a threat might be impacted by the work environment within the ~~practitioner's accountant's~~ firm and its operating environment. For example:

- Leadership of the firm that promotes compliance with the fundamental principles and establishes the expectation that sustainability assurance team members will act in the public interest when providing sustainability assurance.
- Policies or procedures for establishing and monitoring compliance with the fundamental principles by all personnel.
- Compensation, performance appraisal and disciplinary policies and procedures that promote compliance with the fundamental principles.
- Management of the reliance on revenue received from a single sustainability assurance client.

- The engagement ~~leaderpartner~~ having authority within the firm for decisions concerning compliance with the fundamental principles, including any decisions about accepting or providing services to a sustainability assurance client.
- Educational, training and experience requirements.
- Processes to facilitate and address internal and external concerns or complaints.

5300.7 A6 The sustainability assurance practitioner's professional accountant's evaluation of the level of a threat associated with the use of technology might also be impacted by the work environment within the practitioner's accountant's firm and its operating environment. For example:

- Level of corporate oversight and internal controls over the technology.
- Assessments of the quality and functionality of technology that are undertaken by a third-party.
- Training that is provided regularly to all relevant employees so they obtain and maintain the professional competence to sufficiently understand, use and explain the technology and its appropriateness for the purpose intended.

Consideration of New Information or Changes in Facts and Circumstances

5300.7 A7 New information or changes in facts and circumstances might:

- (a) Impact the level of a threat; or
- (b) Affect the sustainability assurance practitioner's professional accountant's conclusions about whether safeguards applied continue to address identified threats as intended.

In these situations, actions that were already implemented as safeguards might no longer be effective in addressing threats. Accordingly, the application of the conceptual framework requires that the sustainability assurance practitioner professional accountant re-evaluate and address the threats accordingly. (Ref: Paras. R5120.9 and R5120.10).

5300.7 A8 Examples of new information or changes in facts and circumstances that might impact the level of a threat include:

- When the scope of a professional service is expanded.
- When the sustainability assurance client becomes a publicly traded entity or acquires another business unit.
- When the firm merges with another firm.
- When the sustainability assurance practitioner professional accountant is jointly engaged by ~~two a sustainability assurance~~ clients and another client and a dispute emerges between the two clients.
- When there is a change in the sustainability assurance practitioner's professional accountant's personal or immediate family relationships.

Addressing Threats

5300.8 A1 Paragraphs R5120.10 to 5120.10 A2 set out requirements and application material for addressing threats that are not at an acceptable level.

Examples of Safeguards

5300.8 A2 Safeguards vary depending on the facts and circumstances. Examples of actions that in certain circumstances might be safeguards to address threats include:

- Assigning additional time and qualified personnel to required tasks when an engagement has been accepted might address a self-interest threat.
- Having an appropriate reviewer who was not a member of the team review the work performed or advise as necessary might address a self-review threat.
- Using different leaderspartners and teams with separate reporting lines for the provision of non-assurance services to a sustainability assurance client might address self-review, advocacy or familiarity threats.
- Involving another firm to perform or re-perform part of the engagement might address self-interest, self-review, advocacy, familiarity or intimidation threats.
- Disclosing to sustainability assurance clients any referral fees or commission arrangements received for recommending services or products might address a self-interest threat.
- Separating teams when dealing with matters of a confidential nature might address a self-interest threat.

5300.8 A3 The remaining sections of this Part 3 and International Independence Standards describe certain threats that might arise during the course of performing professional services for sustainability assurance clients and include examples of actions that might address threats.

Appropriate Reviewer

5300.8 A4 An appropriate reviewer is a professional with the necessary knowledge, skills, experience and authority to review, in an objective manner, the relevant work performed or service provided to a sustainability assurance client. Such an individual might be a sustainability assurance practitionerprofessional accountant.

Communicating with Those Charged with Governance

R5300.9 When communicating with those charged with governance in accordance with this Partthe Code, a sustainability assurance practitioner professional accountant shall determine the appropriate individual(s) within the sustainability assurance client'sentity's governance structure with whom to communicate. If the practitioneraccountant communicates with a subgroup of those charged with governance, the practitioneraccountant shall determine whether communication with all of those charged with governance is also necessary so that they are adequately informed.

5300.9 A1 In determining with whom to communicate, a sustainability assurance practitioner professional accountant might consider:

- (a) The nature and importance of the circumstances; and
- (b) The matter to be communicated.

5300.9 A2 Examples of a subgroup of those charged with governance include an audit committee or another committee tasked with oversight of sustainability information, or an individual member of those charged with governance.

R5300.10 If a sustainability assurance practitioner ~~professional accountant~~ communicates with individuals who have management responsibilities as well as governance responsibilities, the practitioner ~~accountant~~ shall be satisfied that communication with those individuals adequately informs all of those in a governance role with whom the practitioner ~~accountant~~ would otherwise communicate.

5300.10 A1 In some circumstances, all of those charged with governance are involved in managing the sustainability assurance client ~~entity~~, for example, a small business where a single owner manages the entity and no one else has a governance role. In these cases, if matters are communicated to individual(s) with management responsibilities, and those individual(s) also have governance responsibilities, the sustainability assurance practitioner ~~professional accountant~~ has satisfied the requirement to communicate with those charged with governance.

SECTION 5310 CONFLICTS OF INTEREST

Introduction

- 5310.1 ~~Sustainability assurance practitioners~~ ~~Professional accountants~~ are required to comply with the fundamental principles and apply the conceptual framework set out in Section 5120 to identify, evaluate and address threats.
- 5310.2 A conflict of interest creates threats to compliance with the principle of objectivity and might create threats to compliance with the other fundamental principles. Such threats might be created when:
- A ~~sustainability assurance practitioner~~ ~~professional accountant~~ provides a professional service related to a particular matter for ~~a two or more sustainability assurance clients and another client~~ whose interests with respect to that matter are in conflict; or
 - The interests of a ~~sustainability assurance practitioner~~ ~~professional accountant~~ with respect to a particular matter and the interests of the ~~sustainability assurance~~ ~~practitioner~~ ~~accountant~~ client for whom the ~~practitioner~~ ~~accountant~~ provides a professional service related to that matter are in conflict.
- 5310.3 This section sets out specific requirements and application material relevant to applying the conceptual framework to conflicts of interest. When a ~~sustainability assurance practitioner~~ ~~professional accountant~~ ~~performs~~ ~~provides~~ ~~an audit, review or other sustainability assurance engagements~~ ~~service~~, independence is also required in accordance with ~~this Part or Part 4B, as applicable~~ ~~International Independence Standards~~.

Requirements and Application Material

General

- R**5310.4 A ~~sustainability assurance practitioner~~ ~~professional accountant~~ shall not allow a conflict of interest to compromise professional or business judgment.
- 5310.4 A1 Examples of circumstances that might create a conflict of interest include:
- Providing a transaction advisory service to a client seeking to acquire a ~~an audit~~ ~~sustainability assurance~~ client, where the firm has obtained confidential information during the course of the ~~audit~~ ~~sustainability assurance engagement~~ that might be relevant to the transaction.
 - Providing advice to ~~a two~~ ~~sustainability assurance~~ ~~clients and another client~~ at the same time where the clients are competing to acquire the same company and the advice might be relevant to the parties' competitive positions.
 - ~~Providing services to a seller and a buyer in relation to the same transaction.~~
 - ~~Preparing valuations of assets for two parties who are in an adversarial position with respect to the assets.~~
 - Representing ~~two a~~ ~~sustainability assurance~~ ~~clients and another client~~ in the same matter who are in a legal dispute with each other, ~~such as during divorce proceedings, or the dissolution of a partnership.~~
 - ~~In relation to a license agreement, providing an assurance report for a licensor on the royalties due while advising the licensee on the amounts payable.~~

- Advising a sustainability assurance client to invest in a business in which, for example, the spouse of the ~~professional accountant~~practitioner has a financial interest.
- Providing strategic advice to a sustainability assurance client on its competitive position while having a joint venture or similar interest with a major competitor of the client.
- Advising a sustainability assurance client on acquiring a business which the firm is also interested in acquiring.
- Advising a sustainability assurance client on buying a product or service while having a royalty or commission agreement with a potential seller of that product or service.

Conflict Identification

General

R5310.5 Before accepting a new sustainability assurance client relationship, engagement, or business relationship, a sustainability assurance practitioner ~~professional accountant~~ shall take reasonable steps to identify circumstances that might create a conflict of interest, and therefore a threat to compliance with one or more of the fundamental principles. Such steps shall include identifying:

- (a) The nature of the relevant interests and relationships between the parties involved; and
- (b) The service and its implication for relevant parties.

5310.5 A1 An effective conflict identification process assists a sustainability assurance practitioner ~~professional accountant~~ when taking reasonable steps to identify interests and relationships that might create an actual or potential conflict of interest, both before determining whether to accept an engagement and throughout the engagement. Such a process includes considering matters identified by external parties, for example clients or potential clients. The earlier an actual or potential conflict of interest is identified, the greater the likelihood of the ~~practitioner~~accountant being able to address threats created by the conflict of interest.

5310.5 A2 An effective process to identify actual or potential conflicts of interest will take into account factors such as:

- The nature of the professional services provided.
- The size of the firm.
- The size and nature of the client base.
- The structure of the firm, for example, the number and geographic location of offices.

5310.5 A3 More information on client acceptance is set out in Section **5320**, *Professional Appointments*.

Changes in Circumstances

R5310.6 A sustainability assurance practitioner ~~professional accountant~~ shall remain alert to changes over time in the nature of services, interests and relationships that might create a conflict of interest while performing an engagement.

5310.6 A1 The nature of services, interests and relationships might change during the engagement. This is particularly true when a sustainability assurance practitioner ~~professional accountant~~ is asked to conduct an engagement in a situation that might become adversarial, even though the parties who engage the ~~practitioner~~accountant initially might not be involved in a dispute.

Network Firms

R5310.7 If the firm is a member of a network, a ~~sustainability assurance practitioner professional accountant~~ shall consider conflicts of interest that the ~~practitioner accountant~~ has reason to believe might exist or arise due to interests and relationships of a network firm.

5310.7 A1 Factors to consider when identifying interests and relationships involving a network firm include:

- The nature of the professional services provided.
- The clients served by the network.
- The geographic locations of all relevant parties.

Threats Created by Conflicts of Interest

5310.8 A1 In general, the more direct the connection between the professional service and the matter on which the parties' interests conflict, the more likely the level of the threat is not at an acceptable level.

5310.8 A2 Factors that are relevant in evaluating the level of a threat created by a conflict of interest include measures that prevent unauthorized disclosure of confidential information when performing professional services related to a particular matter for ~~two or more a sustainability assurance clients and another client~~ whose interests with respect to that matter are in conflict. These measures include:

- The existence of separate practice areas for specialty functions within the firm, which might act as a barrier to the passing of confidential client information between practice areas.
- Policies and procedures to limit access to client files.
- Confidentiality agreements signed by personnel and ~~leaders partners~~ of the firm.
- Separation of confidential information physically and electronically.
- Specific and dedicated training and communication.

5310.8 A3 Examples of actions that might be safeguards to address threats created by a conflict of interest include:

- Having separate teams who are provided with clear policies and procedures on maintaining confidentiality.
- Having an appropriate reviewer, who is not involved in providing the service or otherwise affected by the conflict, review the work performed to assess whether the key judgments and conclusions are appropriate.

Disclosure and Consent*General*

R5310.9 A ~~sustainability assurance practitioner professional accountant~~ shall exercise professional judgment to determine whether the nature and significance of a conflict of interest are such that specific disclosure and explicit consent are necessary when addressing the threat created by the conflict of interest.

5310.9 A1 Factors to consider when determining whether specific disclosure and explicit consent are necessary include:

- The circumstances creating the conflict of interest.
- The parties that might be affected.
- The nature of the issues that might arise.
- The potential for the particular matter to develop in an unexpected manner.

5310.9 A2 Disclosure and consent might take different forms, for example:

- General disclosure to clients of circumstances where, as is common commercial practice, the sustainability assurance practitioner professional accountant does not provide professional services exclusively to any one client (for example, in a particular professional service and market sector). This enables the client to provide general consent accordingly. For example, a practitioner accountant might make general disclosure in the standard terms and conditions for the engagement.
- Specific disclosure to affected clients of the circumstances of the particular conflict in sufficient detail to enable the client to make an informed decision about the matter and to provide explicit consent accordingly. Such disclosure might include a detailed presentation of the circumstances and a comprehensive explanation of any planned safeguards and the risks involved.
- Consent might be implied by clients' conduct in circumstances where the sustainability assurance practitioner professional accountant has sufficient evidence to conclude that clients know the circumstances at the outset and have accepted the conflict of interest if they do not raise an objection to the existence of the conflict.

5310.9 A3 It is generally necessary:

- (a) To disclose the nature of the conflict of interest and how any threats created were addressed to clients affected by a conflict of interest; and
- (b) To obtain consent of the affected clients to perform the professional services when safeguards are applied to address the threat.

5310.9 A4 If such disclosure or consent is not in writing, the sustainability assurance practitioner professional accountant is encouraged to document:

- (a) The nature of the circumstances giving rise to the conflict of interest;
- (b) The safeguards applied to address the threats when applicable; and
- (c) The consent obtained.

When Explicit Consent is Refused

R5310.10 If a sustainability assurance practitioner professional accountant has determined that explicit consent is necessary in accordance with paragraph R5310.9 and the sustainability assurance client has refused to provide consent, the practitioner accountant shall either:

- (a) End or decline to perform professional services that would result in the conflict of interest; or
- (b) End relevant relationships or dispose of relevant interests to eliminate the threat or reduce it to an acceptable level.

Confidentiality

General

R5310.11 A sustainability assurance practitioner ~~professional accountant~~ shall remain alert to the principle of confidentiality, including when making disclosures or sharing information within the firm or network and seeking guidance from third parties.

5310.11 A1 Subsection **5114** sets out requirements and application material relevant to situations that might create a threat to compliance with the principle of confidentiality.

When Disclosure to Obtain Consent would Breach Confidentiality

R5310.12 When making specific disclosure for the purpose of obtaining explicit consent would result in a breach of confidentiality, and such consent cannot therefore be obtained, the firm shall only accept or continue an engagement if:

- (a) The firm does not act in an advocacy role for ~~one a sustainability assurance~~ client in an adversarial position against another client in the same matter;
- (b) Specific measures are in place to prevent disclosure of confidential information between the teams serving the ~~two sustainability assurance client and the other~~ clients; and
- (c) The firm is satisfied that a reasonable and informed third party would be likely to conclude that it is appropriate for the firm to accept or continue the engagement because a restriction on the firm's ability to provide the professional service would produce a disproportionate adverse outcome for the clients or other relevant third parties.

5310.12 A1 A breach of confidentiality might arise, for example, when seeking consent to perform:

- A transaction-related service for a sustainability assurance client in a hostile takeover of another client of the firm.
- A forensic investigation for a client regarding a suspected fraud, where the firm has confidential information from its work for ~~a sustainability assurance another~~ client who might be involved in the fraud.

Documentation

R5310.13 In the circumstances set out in paragraph **R5310.12**, the sustainability assurance practitioner ~~professional accountant~~ shall document:

- (a) The nature of the circumstances, including the role that the ~~practitioner accountant~~ is to undertake;
- (b) The specific measures in place to prevent disclosure of information between the teams serving the ~~two sustainability assurance client and the other~~ clients; and
- (c) Why it is appropriate to accept or continue the engagement.

SECTION 5320 PROFESSIONAL APPOINTMENTS

Introduction

- 5320.1 Sustainability assurance practitioners ~~Professional accountants~~ are required to comply with the fundamental principles and apply the conceptual framework set out in Section 5120 to identify, evaluate and address threats.
- 5320.2 Acceptance of a new sustainability assurance client relationship or changes in an existing engagement might create a threat to compliance with one or more of the fundamental principles. This section sets out specific requirements and application material relevant to applying the conceptual framework in such circumstances.

Requirements and Application Material

Client and Engagement Acceptance

General

- 5320.3 A1 Threats to compliance with the principles of integrity or professional behavior might be created, for example, from questionable issues associated with the sustainability assurance client (its owners, management or activities). Issues that, if known, might create such a threat include client involvement in illegal activities, dishonesty, questionable financial or non-financial, including sustainability, reporting practices or other unethical behavior.
- 5320.3 A2 Factors that are relevant in evaluating the level of such a threat include:
- Knowledge and understanding of the sustainability assurance client, its owners, management and those charged with governance and business activities.
 - The sustainability assurance client's commitment to address the questionable issues, for example, through improving corporate governance practices or internal controls.
- 5320.3 A3 A self-interest threat to compliance with the principle of professional competence and due care is created if the team does not possess, or cannot acquire, the competencies to perform the professional services.
- 5320.3 A4 Factors that are relevant in evaluating the level of such a threat include:
- An appropriate understanding of:
 - The nature of the sustainability assurance client's business;
 - The complexity of its operations;
 - The quantitative and qualitative characteristics of the sustainability assurance client's value chain;
 - The requirements of the engagement; and
 - The purpose, nature and scope of the work to be performed.
 - Knowledge of relevant industries or subject matter.
 - Experience with relevant regulatory or reporting requirements.
 - Policies and procedures that the firm has implemented, as part of a system of quality management in accordance with quality management standards such as ISQM 1, that respond

to quality risks relating to the firm's ability to perform the engagement in accordance with professional standards and applicable legal and regulatory requirements.

- The level of fees and the extent to which they have regard to the resources required, taking into account the ~~sustainability assurance practitioner~~~~professional accountant~~'s commercial and market priorities.

5320.3 A5 Examples of actions that might be safeguards to address a self-interest threat include:

- Assigning sufficient engagement personnel with the necessary competencies.
- Agreeing on a realistic time frame for the performance of the engagement.
- Using experts where necessary.

Changes in a Professional Appointment

General

R5320.4 A ~~sustainability assurance practitioner~~~~professional accountant~~ shall determine whether there are any reasons for not accepting an engagement when the ~~practitioner~~~~accountant~~:

- (a) Is asked by a potential ~~sustainability assurance~~ client to replace another ~~sustainability assurance practitioner~~~~accountant~~;
- (b) Considers tendering for an engagement held by ~~another a different practitioner~~~~accountant for a sustainability assurance client~~; or
- (c) Considers undertaking work ~~for a sustainability assurance client~~ that is complementary or additional to that of ~~another a different practitioner~~~~accountant~~.

5320.4 A1 There might be reasons for not accepting an engagement. One such reason might be if a threat created by the facts and circumstances cannot be addressed by applying safeguards. For example, there might be a self-interest threat to compliance with the principle of professional competence and due care if a ~~sustainability assurance practitioner~~~~professional accountant~~ accepts the engagement before knowing all the relevant facts.

5320.4 A2 If a ~~sustainability assurance practitioner~~~~professional accountant~~ is asked ~~by a sustainability assurance client~~ to undertake work that is complementary or additional to the work of an existing or predecessor ~~practitioner~~~~accountant~~, a self-interest threat to compliance with the principle of professional competence and due care might be created, for example, as a result of incomplete information.

5320.4 A3 A factor that is relevant in evaluating the level of such a threat is whether tenders state that, before accepting the engagement, contact with the existing or predecessor ~~practitioner~~~~accountant~~ will be requested. This contact gives the proposed ~~practitioner~~~~accountant~~ the opportunity to inquire whether there are any reasons why the engagement should not be accepted.

5320.4 A4 Examples of actions that might be safeguards to address such a self-interest threat include:

- Asking the existing or predecessor ~~practitioner~~~~accountant~~ to provide any known information of which, in the existing or predecessor ~~practitioner~~~~accountant~~'s opinion, the proposed ~~practitioner~~~~accountant~~ needs to be aware before deciding whether to accept the engagement. For example, inquiry might reveal previously undisclosed pertinent facts and might indicate disagreements with the existing or predecessor ~~practitioner~~~~accountant~~ that might influence the decision to accept the appointment.

- Obtaining information from other sources such as through inquiries of third parties or background investigations regarding senior management or those charged with governance of the sustainability assurance client.

Communicating with the Existing or Predecessor ~~Practitioner~~Accountant

5320.5 A1 A proposed ~~practitioner~~accountant will usually need the sustainability assurance client's permission, preferably in writing, to initiate discussions with the existing or predecessor ~~practitioner~~accountant.

R~~5320.6~~ If unable to communicate with the existing or predecessor ~~practitioner~~accountant, the proposed ~~practitioner~~accountant shall take other reasonable steps to obtain information about any possible threats.

Communicating with the Proposed ~~Practitioner~~Accountant

R~~5320.7~~ When an existing or predecessor ~~practitioner~~accountant is asked to respond to a communication from a proposed ~~practitioner~~accountant, the existing or predecessor ~~practitioner~~accountant shall:

- (a) Comply with relevant laws and regulations governing the request; and
- (b) Provide any information honestly and unambiguously.

5320.7 A1 An existing or predecessor ~~practitioner~~accountant is bound by confidentiality. Whether the existing or predecessor ~~practitioner~~accountant is permitted or required to discuss the affairs of a sustainability assurance client with a proposed ~~practitioner~~accountant will depend on the nature of the engagement and:

- (a) Whether the existing or predecessor ~~practitioner~~accountant has permission from the sustainability assurance client for the discussion; and
- (b) The legal and ethics requirements relating to such communications and disclosure, which might vary by jurisdiction.

5320.7 A2 Circumstances where a sustainability assurance ~~practitioner~~professional-accountant is or might be required to disclose confidential information, or when disclosure might be appropriate, are set out in paragraph 5114.3 A1 ~~of the Code~~.

Changes in Sustainability Assurance Audit or Review Appointments

R~~5320.8~~ In the case of an sustainability assurance engagement within the scope of the *International Independence Standards* in this Part ~~audit or review of financial statements~~, a sustainability assurance ~~practitioner~~professional-accountant shall request the existing or predecessor ~~practitioner~~accountant to provide known information regarding any facts or other information of which, in the existing or predecessor ~~practitioner~~accountant's opinion, the proposed ~~practitioner~~accountant needs to be aware before deciding whether to accept the engagement. Except for the circumstances involving non-compliance or suspected non-compliance with laws and regulations set out in paragraphs R~~5360.21~~ and R~~5360.22~~:

- (a) If the sustainability assurance client consents to the existing or predecessor ~~practitioner~~accountant disclosing any such facts or other information, the existing or predecessor ~~practitioner~~accountant shall provide the information honestly and unambiguously; and
- (b) If the sustainability assurance client fails or refuses to grant the existing or predecessor ~~practitioner~~accountant permission to discuss the client's affairs with the proposed ~~practitioner~~accountant

~~practitioneraccountant~~, the existing or predecessor ~~practitioneraccountant~~ shall disclose this fact to the proposed ~~practitioneraccountant~~, who shall carefully consider such failure or refusal when determining whether to accept the appointment.

Client and Engagement Continuance

R5320.9 For a recurring ~~client~~ engagement for a sustainability assurance client, a sustainability assurance practitionerprofessionalaccountant shall periodically review whether to continue with the engagement.

5320.9 A1 Potential threats to compliance with the fundamental principles might be created after acceptance which, had they been known earlier, would have caused the sustainability assurance practitionerprofessionalaccountant to decline the engagement. For example, a self-interest threat to compliance with the principle of integrity might be created by improper sustainability reporting, such as changes in measurement methodology to create the appearance of a positive trend in a key performance indicator, earnings management or balance sheet valuations.

Using the Work of an Expert

~~R320.10~~ — ~~When a professional accountant intends to use the work of an expert in the course of undertaking a professional activity, the accountant shall determine whether the use is appropriate for the intended purpose.~~

~~320.10 A1~~ — ~~Factors to consider when a professional accountant intends to use the work of an expert include:~~

- ~~• The reputation and expertise of, and the resources available, to the expert.~~
- ~~• Whether the expert is subject to applicable professional and ethics standards.~~

~~Such information might be gained from prior association with, or from consulting others about, the expert.~~

Using the Output of Technology

R5320.104 When a sustainability assurance practitionerprofessionalaccountant intends to use the output of technology in the course of undertaking a professional activity for a sustainability assurance client, the ~~practitioneraccountant~~ shall determine whether the use is appropriate for the intended purpose.

5320.104 A1 Factors to consider when a sustainability assurance practitionerprofessionalaccountant intends to use the output of technology include:

- The nature of the activity to be performed by the technology.
- The expected use of, or extent of reliance on, the output of the technology.
- Whether the ~~practitioneraccountant~~ has the ability, or access to an expert with the ability, to understand, use and explain the technology and its appropriateness for the purpose intended.
- Whether the technology used has been appropriately tested and evaluated for the purpose intended.
- Prior experience with the technology and whether its use for specific purposes is generally accepted.
- The firm's oversight of the design, development, implementation, operation, maintenance, monitoring, updating or upgrading of the technology.

- The controls relating to the use of the technology, including procedures for authorizing user access to the technology and overseeing such use.
- The appropriateness of the inputs to the technology, including data and any related decisions, and decisions made by individuals in the course of using the technology.

Other Considerations

5320.11~~2~~ A1 When a sustainability assurance practitioner~~professional accountant~~ is considering using ~~the work of experts or~~ the output of technology, a consideration is whether the practitioner~~accountant~~ is in a position within the firm to obtain information in relation to the factors necessary to determine whether such use is appropriate.

5320.11 A2 When a sustainability assurance practitioner intends to use the work of an external expert, the requirements and application material set out in Section 5390 apply.

SECTION 5325

OBJECTIVITY OF AN ENGAGEMENT QUALITY REVIEWER AND OTHER APPROPRIATE REVIEWERS

Introduction

- 5325.1 ~~Sustainability assurance practitioners~~~~Professional accountants~~ are required to comply with the fundamental principles and apply the conceptual framework set out in Section 5120 to identify, evaluate and address threats.
- 5325.2 Appointing an engagement quality reviewer who has involvement in the work being reviewed or close relationships with those responsible for performing that work might create threats to compliance with the principle of objectivity.
- 5325.3 This section sets out specific application material relevant to applying the conceptual framework in relation to the objectivity of an engagement quality reviewer for a sustainability assurance client.
- 5325.4 An engagement quality reviewer is also an example of an appropriate reviewer as described in paragraph 5300.8 A4. Therefore, the application material in this section might apply in circumstances where a sustainability assurance practitioner~~professional accountant~~ appoints an appropriate reviewer to review work performed as a safeguard to address identified threats.

Application Material

General

- 5325.5 A1 Quality engagements are achieved through planning and performing engagements and reporting on them in accordance with professional standards and applicable legal and regulatory requirements. For example, ISQM 1 establishes the firm's responsibilities for its system of quality management and requires the firm to design and implement responses to address quality risks related to engagement performance. Such responses include establishing policies or procedures addressing engagement quality reviews in accordance with ISQM 2.
- 5325.5 A2 An engagement quality reviewer is a leader, partner, or other individual in the firm, or an external individual, appointed by the firm to perform the engagement quality review.

Identifying Threats

- 5325.6 A1 The following are examples of circumstances where threats to the objectivity of an individual~~professional accountant~~ appointed as an engagement quality reviewer might be created:
- (a) Self-interest threat
 - Two engagement leaders~~partners~~ each serving as an engagement quality reviewer for the other's engagement.
 - (b) Self-review threat
 - An individual~~accountant~~ serving as an engagement quality reviewer on an audit sustainability assurance engagement after previously serving as the engagement leader~~partner~~.
 - (c) Familiarity threat

- An ~~individual accountant~~ serving as an engagement quality reviewer has a close relationship with or is an immediate family member of another individual who is involved in the engagement.
- (d) Intimidation threat
- An ~~individual accountant~~ serving as an engagement quality reviewer for an engagement has a direct reporting line to the ~~leader partner~~ responsible for the engagement.

Evaluating Threats

- 5325.7 A1 Factors that are relevant in evaluating the level of threats to the objectivity of an individual appointed as an engagement quality reviewer include:
- The role and seniority of the individual.
 - The nature of the individual's relationship with others involved on the engagement.
 - The length of time the individual was previously involved with the engagement and the individual's role.
 - When the individual was last involved in the engagement prior to being appointed as engagement quality reviewer and any subsequent relevant changes to the circumstances of the engagement.
 - The nature and complexity of issues that required significant judgment from the individual in any previous involvement in the engagement.

Addressing Threats

- 5325.8 A1 An example of an action that might eliminate an intimidation threat is reassigning reporting responsibilities within the firm.
- 5325.8 A2 An example of an action that might be a safeguard to address a self-review threat is implementing a period of sufficient duration (a cooling-off period) before the individual who was on the engagement is appointed as an engagement quality reviewer.

Cooling-off Period

- 5325.8 A3 ~~Quality management standards ISQM 2 might~~ requires the firm to establish policies or procedures that specify, as a condition for eligibility, a cooling-off period ~~of two years~~ before the engagement ~~leader partner~~ can assume the role of engagement quality reviewer. This serves to enable compliance with the principle of objectivity and the consistent performance of quality engagements. For example, ISQM 2 requires a cooling-off period of two years.
- 5325.8 A4 The cooling-off period ~~that might be~~ required by quality management standards such as ISQM 2 is distinct from, and does not modify, the ~~leader partner~~ rotation requirements in Section 5540, which are designed to address threats to independence created by long association with a ~~sustainability assurance audit~~ client.

SECTION 5330

FEES AND OTHER TYPES OF REMUNERATION

Introduction

5330.1 ~~Sustainability assurance practitioners~~~~Professional accountants~~ are required to comply with the fundamental principles and apply the conceptual framework set out in Section 5120 to identify, evaluate and address threats.

5330.2 The level and nature of fee and other remuneration arrangements might create a self-interest threat to compliance with one or more of the fundamental principles. This section sets out specific application material relevant to applying the conceptual framework in such circumstances.

Application Material

Level of Fees

5330.3 A1 The level of fees might impact a ~~sustainability assurance practitioner~~~~professional accountant~~'s ability to perform professional services for sustainability assurance clients in accordance with technical and professional standards.

5330.3 A2 A ~~sustainability assurance practitioner~~~~professional accountant~~ might quote whatever fee is considered appropriate. Quoting a fee lower than ~~another a different practitioner~~~~accountant~~ is not in itself unethical. However, the level of fees quoted creates a self-interest threat to compliance with the principle of professional competence and due care if the fee quoted is so low that it might be difficult to perform the engagement in accordance with applicable technical and professional standards.

5330.3 A3 Factors that are relevant in evaluating the level of such a threat include:

- Whether the sustainability assurance client is aware of the terms of the engagement and, in particular, the basis on which fees are determined and which professional services are covered.
- Whether the level of the fee is set by an independent third party such as a regulatory body.

5330.3 A4 Examples of actions that might be safeguards to address such a self-interest threat include:

- Adjusting the level of fees or the scope of the engagement.
- Having an appropriate reviewer review the work performed.

Contingent Fees

5330.4 A1 Contingent fees are used for certain types of non-assurance services. However, contingent fees might create threats to compliance with the fundamental principles, particularly a self-interest threat to compliance with the principle of objectivity, in certain circumstances.

5330.4 A2 Factors that are relevant in evaluating the level of such threats include:

- The nature of the engagement.
- The range of possible fee amounts.
- The basis or metrics for determining the fee.
- Disclosure to intended users of the work performed by the sustainability assurance practitioner~~professional accountant~~ and the basis of remuneration.
- Quality management policies and procedures.

- Whether an independent third party is to review the outcome or result of the worktransaction.
- Whether the level of the fee is set by an independent third party such as a regulatory body.

5330.4 A3 Examples of actions that might be safeguards to address such a self-interest threat include:

- Having an appropriate reviewer who was not involved in performing the ~~non-assurance~~ service review the work performed by the sustainability assurance practitioner~~professional accountant~~.
- Obtaining an advance written agreement with the sustainability assurance client on the basis of remuneration.

5330.4 A4 Requirements and application material related to contingent fees for services provided to sustainability assurance audit or review clients and other assurance clients are set out in Section 5410 and Section 905 International Independence Standards.

Referral Fees or Commissions

5330.5 A1 A self-interest threat to compliance with the principles of objectivity and professional competence and due care is created if a sustainability assurance practitioner~~professional accountant~~ pays or receives a referral fee or receives a commission relating to a sustainability assurance client. Such referral fees or commissions include, for example:

- A fee paid to a third party for that party referring a sustainability assurance client to the practitioner~~another professional accountant for the purposes of obtaining new client work when the client continues as a client of the existing accountant but requires specialist services not offered by that accountant~~.
- A fee received from a third party for the practitioner referring a continuing sustainability assurance client to that party~~for referring a continuing client to another professional accountant or other expert where the existing accountant does not provide the specific professional service required by the client~~.
- A commission received from a third party (for example, a software vendor) in connection with the sale of goods or services to a sustainability assurance client.

5330.5 A2 Examples of actions that might be safeguards to address such a self-interest threat include:

- Obtaining an advance agreement from the sustainability assurance client for commission arrangements in connection with the sale by another party of goods or services to the client might address a self-interest threat.
- Disclosing to sustainability assurance clients any referral fees or commission arrangements paid to, or received from, another sustainability assurance practitioner~~professional accountant~~ or third party for recommending services or products might address a self-interest threat.

Purchase or Sale of a Firm

5330.6 A1 A sustainability assurance practitioner~~professional accountant~~ may purchase all or part of another firm on the basis that payments will be made to individuals formerly owning the firm or to their heirs or estates. Such payments are not referral fees or commissions for the purposes of this section.

SECTION 5340

INDUCEMENTS, INCLUDING GIFTS AND HOSPITALITY

Introduction

- 5340.1 ~~Sustainability assurance practitioners~~ ~~Professional accountants~~ are required to comply with the fundamental principles and apply the conceptual framework set out in Section 5120 to identify, evaluate and address threats.
- 5340.2 Offering or accepting inducements might create a self-interest, familiarity or intimidation threat to compliance with the fundamental principles, particularly the principles of integrity, objectivity and professional behavior.
- 5340.3 This section sets out requirements and application material relevant to applying the conceptual framework in relation to the offering and accepting of inducements when performing professional services for sustainability assurance clients that does not constitute non-compliance with laws and regulations. This section also requires a ~~sustainability assurance practitioner~~ ~~professional accountant~~ to comply with relevant laws and regulations when offering or accepting inducements.

Requirements and Application Material

General

- 5340.4 A1 An inducement is an object, situation, or action that is used as a means to influence another individual's behavior, but not necessarily with the intent to improperly influence that individual's behavior. Inducements can range from minor acts of hospitality between sustainability assurance practitioners ~~professional accountants~~ and existing or prospective sustainability assurance clients to acts that result in non-compliance with laws and regulations. An inducement can take many different forms, for example:
- Gifts.
 - Hospitality.
 - Entertainment.
 - Political or charitable donations.
 - Appeals to friendship and loyalty.
 - Employment or other commercial opportunities.
 - Preferential treatment, rights or privileges.

Inducements Prohibited by Laws and Regulations

- R5340.5** In many jurisdictions, there are laws and regulations, such as those related to bribery and corruption, that prohibit the offering or accepting of inducements in certain circumstances. The sustainability assurance practitioner ~~professional accountant~~ shall obtain an understanding of relevant laws and regulations and comply with them when the ~~practitioner~~ ~~accountant~~ encounters such circumstances.

Inducements Not Prohibited by Laws and Regulations

5340.6 A1 The offering or accepting of inducements that is not prohibited by laws and regulations might still create threats to compliance with the fundamental principles.

Inducements with Intent to Improperly Influence Behavior

R5340.7 A ~~sustainability assurance practitioner professional accountant~~ shall not offer, or encourage others to offer, any inducement that is made, or which the ~~practitioner accountant~~ considers a reasonable and informed third party would be likely to conclude is made, with the intent to improperly influence the behavior of the recipient or of another individual.

R5340.8 A ~~sustainability assurance practitioner professional accountant~~ shall not accept, or encourage others to accept, any inducement that the ~~practitioner accountant~~ concludes is made, or considers a reasonable and informed third party would be likely to conclude is made, with the intent to improperly influence the behavior of the recipient or of another individual.

5340.9 A1 An inducement is considered as improperly influencing an individual's behavior if it causes the individual to act in an unethical manner. Such improper influence can be directed either towards the recipient or towards another individual who has some relationship with the recipient. The fundamental principles are an appropriate frame of reference for a ~~sustainability assurance practitioner professional accountant~~ in considering what constitutes unethical behavior on the part of the ~~practitioner accountant~~ and, if necessary by analogy, other individuals.

5340.9 A2 A breach of the fundamental principle of integrity arises when a ~~sustainability assurance practitioner professional accountant~~ offers or accepts, or encourages others to offer or accept, an inducement where the intent is to improperly influence the behavior of the recipient or of another individual.

5340.9 A3 The determination of whether there is actual or perceived intent to improperly influence behavior requires the exercise of professional judgment. Relevant factors to consider might include:

- The nature, frequency, value and cumulative effect of the inducement.
- Timing of when the inducement is offered relative to any action or decision that it might influence.
- Whether the inducement is a customary or cultural practice in the circumstances, for example, offering a gift on the occasion of a religious holiday or wedding.
- Whether the inducement is an ancillary part of a professional service, for example, offering or accepting lunch in connection with a business meeting.
- Whether the offer of the inducement is limited to an individual recipient or available to a broader group. The broader group might be internal or external to the firm, such as other suppliers to the sustainability assurance client.
- The roles and positions of the individuals at the firm or the sustainability assurance client offering or being offered the inducement.
- Whether the ~~sustainability assurance practitioner professional accountant~~ knows, or has reason to believe, that accepting the inducement would breach the policies and procedures of the sustainability assurance client.
- The degree of transparency with which the inducement is offered.
- Whether the inducement was required or requested by the recipient.

- The known previous behavior or reputation of the offeror.

Consideration of Further Actions

5340.10 A1 If the sustainability assurance practitioner ~~professional accountant~~ becomes aware of an inducement offered with actual or perceived intent to improperly influence behavior, threats to compliance with the fundamental principles might still be created even if the requirements in paragraphs R5340.7 and R5340.8 are met.

5340.10 A2 Examples of actions that might be safeguards to address such threats include:

- Informing senior management of the firm or those charged with governance of the sustainability assurance client regarding the offer.
- Amending or terminating the business relationship with the sustainability assurance client.

Inducements with No Intent to Improperly Influence Behavior

5340.11 A1 The requirements and application material set out in the conceptual framework apply when a sustainability assurance practitioner ~~professional accountant~~ has concluded there is no actual or perceived intent to improperly influence the behavior of the recipient or of another individual.

5340.11 A2 If such an inducement is trivial and inconsequential, any threats created will be at an acceptable level.

5340.11 A3 Examples of circumstances where offering or accepting such an inducement might create threats even if the sustainability assurance practitioner ~~professional accountant~~ has concluded there is no actual or perceived intent to improperly influence behavior include:

- Self-interest threats
 - A sustainability assurance practitioner ~~professional accountant~~ is offered hospitality from the prospective acquirer of a sustainability assurance client while providing corporate finance services to the client.
- Familiarity threats
 - A sustainability assurance practitioner ~~professional accountant~~ regularly takes an existing or prospective sustainability assurance client to sporting events.
- Intimidation threats
 - A sustainability assurance practitioner ~~professional accountant~~ accepts hospitality from a sustainability assurance client, the nature of which could be perceived to be inappropriate were it to be publicly disclosed.

5340.11 A4 Relevant factors in evaluating the level of such threats created by offering or accepting such an inducement include the same factors set out in paragraph 5340.9 A3 for determining intent.

5340.11 A5 Examples of actions that might eliminate threats created by offering or accepting such an inducement include:

- Declining or not offering the inducement.
- Transferring responsibility for the provision of any professional services to the sustainability assurance client to another individual who the sustainability assurance practitioner ~~professional accountant~~ has no reason to believe would be, or would be perceived to be, improperly influenced when providing the services.

5340.11 A6 Examples of actions that might be safeguards to address such threats created by offering or accepting such an inducement include:

- Being transparent with senior management of the firm or of the sustainability assurance client about offering or accepting an inducement.
- Registering the inducement in a log monitored by senior management of the firm or another individual responsible for the firm's ethics compliance or maintained by the sustainability assurance client.
- Having an appropriate reviewer, who is not otherwise involved in providing the professional service to the sustainability assurance client, review any work performed or decisions made by the sustainability assurance practitioner professional accountant with respect to the client from which the practitioner accountant accepted the inducement.
- Donating the inducement to charity after receipt and appropriately disclosing the donation, for example, to a member of senior management of the firm or the individual who offered the inducement.
- Reimbursing the cost of the inducement, such as hospitality, received.
- As soon as possible, returning the inducement, such as a gift, after it was initially accepted.

Immediate or Close Family Members

R5340.12 A sustainability assurance practitioner professional accountant shall remain alert to potential threats to the practitioner accountant's compliance with the fundamental principles created by the offering of an inducement:

- (a) By an immediate or close family member of the practitioner accountant to an existing or prospective sustainability assurance client ~~of the accountant~~.
- (b) To an immediate or close family member of the practitioner accountant by an existing or prospective sustainability assurance client ~~of the accountant~~.

R5340.13 Where the sustainability assurance practitioner professional accountant becomes aware of an inducement being offered to or made by an immediate or close family member and concludes there is intent to improperly influence the behavior of the practitioner accountant or of an existing or prospective sustainability assurance client ~~of the accountant~~, or considers a reasonable and informed third party would be likely to conclude such intent exists, the practitioner accountant shall advise the immediate or close family member not to offer or accept the inducement.

5340.13 A1 The factors set out in paragraph **5340.9 A3** are relevant in determining whether there is actual or perceived intent to improperly influence the behavior of the sustainability assurance practitioner professional accountant or of the existing or prospective sustainability assurance client. Another factor that is relevant is the nature or closeness of the relationship, between:

- (a) The practitioner accountant and the immediate or close family member;
- (b) The immediate or close family member and the existing or prospective client; and
- (c) The practitioner accountant and the existing or prospective client.

For example, the offer of employment, outside of the normal recruitment process, to the spouse of the practitioner accountant by a client for whom the practitioner accountant is performing a sustainability assurance engagement ~~providing a business valuation for a prospective sale~~ might indicate such intent.

5340.13 A2 The application material in paragraph 5340.10 A2 is also relevant in addressing threats that might be created when there is actual or perceived intent to improperly influence the behavior of the sustainability assurance practitioner~~professional accountant~~, or of the existing or prospective sustainability assurance client even if the immediate or close family member has followed the advice given pursuant to paragraph R5340.13.

Application of the Conceptual Framework

5340.14 A1 Where the sustainability assurance practitioner ~~professional accountant~~ becomes aware of an inducement offered in the circumstances addressed in paragraph R5340.12, threats to compliance with the fundamental principles might be created where:

- (a) The immediate or close family member offers or accepts the inducement contrary to the advice of the ~~practitioner~~accountant pursuant to paragraph R5340.13; or
- (b) The ~~practitioner~~accountant does not have reason to believe an actual or perceived intent to improperly influence the behavior of the ~~practitioner~~accountant or of the existing or prospective sustainability assurance client exists.

5340.14 A2 The application material in paragraphs 5340.11 A1 to 5340.11 A6 is relevant for the purposes of identifying, evaluating and addressing such threats. Factors that are relevant in evaluating the level of threats in these circumstances also include the nature or closeness of the relationships set out in paragraph 5340.13 A1.

Other Considerations

5340.15 A1 If a sustainability assurance practitioner ~~professional accountant~~ encounters or is made aware of inducements that might result in non-compliance or suspected non-compliance with laws and regulations by a sustainability assurance client or individuals working for or under the direction of the sustainability assurance client, the requirements and application material in Section 5360 apply.

5340.15 A2 If a firm, network firm or a ~~an~~ audit-sustainability assurance team member is being offered gifts or hospitality from a ~~an~~ audit-sustainability assurance client, the requirement and application material set out in Section 5420 apply.

~~340.15 A3 — [Paragraph 5340.15 A3 is intentionally left blank] If a firm or an assurance team member is being offered gifts or hospitality from an assurance client, the requirement and application material set out in Section 906 apply.~~

SECTION 5350 CUSTODY OF CLIENT ASSETS

Introduction

- 5350.1 ~~Sustainability assurance practitioners~~ ~~Professional accountants~~ are required to comply with the fundamental principles and apply the conceptual framework set out in Section 5120 to identify, evaluate and address threats.
- 5350.2 Holding client assets creates a self-interest or other threat to compliance with the principles of professional behavior and objectivity. This section sets out specific requirements and application material relevant to applying the conceptual framework in such circumstances.

Requirements and Application Material

Before Taking Custody

- R5350.3** A ~~sustainability assurance practitioner~~ ~~professional accountant~~ shall not assume custody of ~~client~~ money or other assets belonging to a sustainability assurance client unless permitted to do so by law and in accordance with any conditions under which such custody may be taken.
- R5350.4** As part of client and engagement acceptance procedures related to assuming custody of ~~client~~ money or assets belonging to a sustainability assurance client, a sustainability assurance practitioner ~~professional accountant~~ shall:
- (a) Make inquiries about the source of the assets; and
 - (b) Consider related legal and regulatory obligations.
- 5350.4 A1 Inquiries about the source of ~~client~~ assets belonging to a sustainability assurance client might reveal, for example, that the assets were derived from illegal activities, such as money laundering. In such circumstances, a threat would be created and the provisions of Section 5360 would apply.

After Taking Custody

- R5350.5** A ~~sustainability assurance practitioner~~ ~~professional accountant~~ entrusted with money or other assets belonging to a sustainability assurance client ~~others~~ shall:
- (a) Comply with the laws and regulations relevant to holding and accounting for the assets;
 - (b) Keep the assets separately from personal or firm assets;
 - (c) Use the assets only for the purpose for which they are intended; and
 - (d) Be ready at all times to account for the assets and any income, dividends, or gains generated, to any individuals entitled to that accounting.

SECTION 5360 RESPONDING TO NON-COMPLIANCE WITH LAWS AND REGULATIONS

Introduction

- 5360.1 ~~Sustainability assurance practitioners~~ ~~Professional accountants~~ are required to comply with the fundamental principles and apply the conceptual framework set out in Section 5120 to identify, evaluate and address threats.
- 5360.2 A self-interest or intimidation threat to compliance with the principles of integrity and professional behavior is created when a ~~sustainability assurance practitioner~~ ~~professional accountant~~ becomes aware of non-compliance or suspected non-compliance with laws and regulations.
- 5360.3 A ~~sustainability assurance practitioner~~ ~~professional accountant~~ might encounter or be made aware of non-compliance or suspected non-compliance in the course of providing a professional service to a sustainability assurance client. This section guides the ~~practitioner~~ ~~accountant~~ in assessing the implications of the matter and the possible courses of action when responding to non-compliance or suspected non-compliance with:
- (a) Laws and regulations generally recognized to have a direct effect on the determination of material amounts, impacts and disclosures in the client's financial statements or sustainability information; and
 - (b) Other laws and regulations that do not have a direct effect on the determination of the amounts, impacts and disclosures in the client's financial statements or sustainability information, but compliance with which might be fundamental to the operating aspects of the client's business, to its ability to continue its business, or to avoid material penalties.

Objectives of the Sustainability Assurance Practitioner ~~Professional Accountant~~ in Relation to Non-compliance with Laws and Regulations

- 5360.4 ~~A distinguishing mark of the accountancy profession is its acceptance of the responsibility to act in the public interest. It is of public interest that sustainability assurance practitioners act ethically in order to maintain public trust and confidence in sustainability information that is subject to assurance.~~ When responding to non-compliance or suspected non-compliance, the objectives of the ~~practitioner~~ ~~professional accountant~~ are:
- (a) To comply with the principles of integrity and professional behavior;
 - (b) By alerting management or, where appropriate, those charged with governance of the sustainability assurance client, to seek to:
 - (i) Enable them to rectify, remediate or mitigate the consequences of the identified or suspected non-compliance; or
 - (ii) Deter the commission of the non-compliance where it has not yet occurred; and
 - (c) To take such further action as appropriate in the public interest.

Requirements and Application Material

General

5360.5 A1 Non-compliance with laws and regulations (“non-compliance”) comprises acts of omission or commission, intentional or unintentional, which are contrary to the prevailing laws or regulations committed by the following parties:

- (a) A sustainability assurance client;
- (b) Those charged with governance of a sustainability assurance client;
- (c) Management of a sustainability assurance client; or
- (d) Other individuals working for or under the direction of a sustainability assurance client.

5360.5 A2 Examples of laws and regulations which this section addresses include those that deal with:

- Environmental protection.
- Public health and safety.
- Protection of human rights.
- Labor conditions and rights of employees.
- Consumer rights.
- Data protection.
- Fraud, corruption and bribery.
- Money laundering, terrorist financing and proceeds of crime.
- Securities markets and trading.
- Banking and other financial products and services.
- ~~Data protection.~~
- Tax and pension liabilities and payments.
- ~~Environmental protection.~~
- ~~Public health and safety.~~

5360.5 A3 Non-compliance might result in fines, litigation or other consequences for the sustainability assurance client, potentially materially affecting its financial statements or sustainability information. Importantly, such non-compliance might have wider public interest implications in terms of potentially substantial harm to investors, creditors, employees or the general public. For the purposes of this section, an act that causes substantial harm is one that results in serious adverse consequences to any of these parties in financial or non-financial terms. Examples include the perpetration of a fraud resulting in significant financial losses to investors, and breaches of environmental laws and regulations endangering the health or safety of employees or the public.

R5360.6 In some jurisdictions, there are legal or regulatory provisions governing how sustainability assurance practitioners ~~professional accountants~~ should address non-compliance or suspected non-compliance. These legal or regulatory provisions might differ from or go beyond the provisions in this section. When encountering such non-compliance or suspected non-compliance, the ~~practitioner~~ accountant shall obtain an understanding of those legal or regulatory provisions and comply with them, including:

(a) Any requirement to report the matter to an appropriate authority; and

(b) Any prohibition on alerting the sustainability assurance client.

5360.6 A1 A prohibition on alerting the client might arise, for example, pursuant to anti-money laundering legislation.

5360.7 A1 This section applies regardless of the nature of the sustainability assurance client, including whether or not it is a public interest entity.

5360.7 A2 A sustainability assurance practitioner ~~professional accountant~~ who encounters or is made aware of matters that are clearly inconsequential is not required to comply with this section. Whether a matter is clearly inconsequential is to be judged with respect to its nature and its impact, financial or otherwise, on the sustainability assurance client, its stakeholders and the general public.

5360.7 A3 This section does not address:

(a) Personal misconduct unrelated to the business activities of the sustainability assurance client; and

(b) Non-compliance by parties other than those specified in paragraph 5360.5 A1. This includes, for example, ~~when the identified or suspected non-compliance has been committed by an entity in the sustainability assurance client's value chain circumstances where a professional accountant has been engaged by a client to perform a due diligence assignment on a third party entity and the identified or suspected non-compliance has been committed by that third party.~~

The sustainability assurance practitioner~~accountant~~ might nevertheless find the guidance in this section helpful in considering how to respond in these situations.

Responsibilities of Management and Those Charged with Governance

5360.8 A1 Management, with the oversight of those charged with governance, is responsible for ensuring that the sustainability assurance client's business activities are conducted in accordance with laws and regulations. Management and those charged with governance are also responsible for identifying and addressing any non-compliance by:

(a) The sustainability assurance client;

(b) An individual charged with governance of the sustainability assurance client~~entity~~;

(c) A member of management of the sustainability assurance client; or

(d) Other individuals working for or under the direction of the sustainability assurance client.

Responsibilities of Sustainability Assurance Practitioners ~~All Professional Accountants~~

R5360.9 Where a sustainability assurance practitioner ~~professional accountant~~ becomes aware of a matter to which this section applies, the steps that the practitioner~~accountant~~ takes to comply with this section shall be taken on a timely basis. In taking timely steps, the practitioner~~accountant~~ shall have regard to the nature of the matter and the potential harm to the interests of the sustainability assurance client~~entity~~, investors, creditors, employees or the general public.

Sustainability Assurance Engagements Within the Scope of the *International Independence Standards in this Part Audits of Financial Statements*

Obtaining an Understanding of the Matter

- R5360.10** If a ~~sustainability assurance practitioner professional accountant~~ engaged to perform a sustainability assurance engagement that is within the scope of the *International Independence Standards in this Part an audit of financial statements* becomes aware of information concerning non-compliance or suspected non-compliance, the ~~practitioner accountant~~ shall obtain an understanding of the matter. This understanding shall include the nature of the non-compliance or suspected non-compliance and the circumstances in which it has occurred or might occur.
- 5360.10 A1** The ~~sustainability assurance practitioner professional accountant~~ might become aware of the non-compliance or suspected non-compliance in the course of performing the sustainability assurance engagement or through information provided by other parties.
- 5360.10 A2** The ~~sustainability assurance practitioner professional accountant~~ is expected to apply knowledge and expertise, and exercise professional judgment. However, the ~~practitioner accountant~~ is not expected to have a level of knowledge of laws and regulations greater than that which is required to undertake the sustainability assurance engagement. Whether an act constitutes non-compliance is ultimately a matter to be determined by a court or other appropriate adjudicative body.
- 5360.10 A3** Depending on the nature and significance of the matter, the sustainability assurance practitioner professional accountant might consult on a confidential basis with others within the firm, a network firm or a professional body, or with legal counsel.
- R5360.11** If the ~~sustainability assurance practitioner professional accountant~~ identifies or suspects that non-compliance has occurred or might occur, the ~~practitioner accountant~~ shall discuss the matter with the appropriate level of management and, where appropriate, those charged with governance.
- 5360.11 A1** The purpose of the discussion is to clarify the ~~sustainability assurance practitioner's professional accountant's~~ understanding of the facts and circumstances relevant to the matter and its potential consequences. The discussion also might prompt management or those charged with governance to investigate the matter.
- 5360.11 A2** The appropriate level of management with whom to discuss the matter is a question of professional judgment. Relevant factors to consider include:
- The nature and circumstances of the matter.
 - The individuals actually or potentially involved.
 - The likelihood of collusion.
 - The potential consequences of the matter.
 - Whether that level of management is able to investigate the matter and take appropriate action.
- 5360.11 A3** The appropriate level of management is usually at least one level above the individual or individuals involved or potentially involved in the matter. In the context of a group, the appropriate level might be management at an entity that controls the sustainability assurance client.
- 5360.11 A4** The ~~sustainability assurance practitioner professional accountant~~ might also consider discussing the matter with internal auditors, where applicable.

R5360.12 If the ~~sustainability assurance practitioner professional accountant~~ believes that management is involved in the non-compliance or suspected non-compliance, the ~~practitioner accountant~~ shall discuss the matter with those charged with governance.

Addressing the Matter

R5360.13 In discussing the non-compliance or suspected non-compliance with management and, where appropriate, those charged with governance, the ~~sustainability assurance practitioner professional accountant~~ shall advise them to take appropriate and timely actions, if they have not already done so, to:

- (a) Rectify, remediate or mitigate the consequences of the non-compliance;
- (b) Deter the commission of the non-compliance where it has not yet occurred; or
- (c) Disclose the matter to an appropriate authority where required by law or regulation or where considered necessary in the public interest.

R5360.14 The ~~sustainability assurance practitioner professional accountant~~ shall consider whether management and those charged with governance understand their legal or regulatory responsibilities with respect to the non-compliance or suspected non-compliance.

5360.14 A1 If management and those charged with governance do not understand their legal or regulatory responsibilities with respect to the matter, the ~~sustainability assurance practitioner professional accountant~~ might suggest appropriate sources of information or recommend that they obtain legal advice.

R5360.15 The ~~sustainability assurance practitioner professional accountant~~ shall comply with applicable:

- (a) Laws and regulations, including legal or regulatory provisions governing the reporting of non-compliance or suspected non-compliance to an appropriate authority; and
- (b) Requirements under ~~sustainability assurance auditing~~ standards, including those relating to:
 - Identifying and responding to non-compliance, including fraud.
 - Communicating with those charged with governance.
 - Considering the implications of the non-compliance or suspected non-compliance for the ~~sustainability assurance auditor's~~ report.

5360.15 A1 Some laws and regulations might stipulate a period within which reports of non-compliance or suspected non-compliance are to be made to an appropriate authority.

Communication with Respect to Groups

R5360.16 Where ~~the sustainability assurance practitioner professional accountant~~ becomes aware of non-compliance or suspected non-compliance in either of the following two situations in the context of a group, the ~~practitioner accountant~~ shall communicate the matter to the group engagement ~~leader partner~~ unless prohibited from doing so by law or regulation:

- (a) The ~~practitioner accountant~~ performs ~~audit sustainability assurance~~ work related to a component for purposes of the group's ~~sustainability assurance engagement audit~~; or
- (b) The ~~practitioner accountant~~ is engaged to perform ~~a sustainability assurance engagement audit of for~~ the ~~sustainability information financial statements~~ of a legal entity or business unit

that is part of a group for purposes other than the group's sustainability assurance engagement~~audit, for example, a statutory audit~~.

The communication to the group engagement ~~leaderpartner~~ shall be in addition to responding to the matter in accordance with the provisions of this section.

5360.16 A1 The purpose of the communication is to enable the group engagement ~~leaderpartner~~ to be informed about the matter and to determine, in the context of the group's sustainability assurance engagement~~audit~~, whether and, if so, how to address it in accordance with the provisions in this section. The communication requirement in paragraph R5360.16 applies regardless of whether the group engagement ~~leaderpartner~~'s firm or network is the same as or different from the sustainability assurance practitioner's professional accountant's firm or network.

R5360.17 Where the group engagement ~~leaderpartner~~ becomes aware of non-compliance or suspected non-compliance in the course of a group's sustainability assurance engagement~~audit~~, the group engagement ~~leaderpartner~~ shall consider whether the matter might be relevant to:

- (a) One or more components subject to audit-sustainability assurance work for purposes of the group's sustainability assurance engagement~~audit~~; or
- (b) One or more legal entities or business units that are part of the group and whose sustainability information~~financial statements~~ is~~are~~ subject to assurance~~audit~~ for purposes other than the group's sustainability assurance engagement~~audit, for example, a statutory audit~~.

This consideration shall be in addition to responding to the matter in the context of the group's sustainability assurance engagement~~audit~~ in accordance with the provisions of this section.

R5360.18 If the non-compliance or suspected non-compliance might be relevant to one or more of the components specified in paragraph R5360.17(a) and legal entities or business units specified in paragraph R5360.17(b), the group engagement ~~leaderpartner~~ shall take steps to have the matter communicated to those performing audit-sustainability assurance work at the components, legal entities or business units, unless prohibited from doing so by law or regulation. If necessary, the group engagement ~~leaderpartner~~ shall arrange for appropriate inquiries to be made (either of management or from publicly available information) as to whether the relevant legal entities or business units specified in paragraph R5360.17(b) are subject to sustainability assurance~~audit~~ and, if so, to ascertain to the extent practicable the identity of the practitioners~~auditors~~.

5360.18 A1 The purpose of the communication is to enable those responsible for audit-sustainability assurance work at the components, legal entities or business units to be informed about the matter and to determine whether and, if so, how to address it in accordance with the provisions in this section. The communication requirement applies regardless of whether the group engagement ~~leaderpartner~~'s firm or network is the same as or different from the firms or networks of those performing sustainability assurance~~audit~~ work at the components, legal entities or business units.

Communicating the Matter to the Sustainability Assurance Client's External Auditor

R5360.18a The sustainability assurance practitioner shall consider whether to communicate the non-compliance or suspected non-compliance to the sustainability assurance client's external auditor, if any.

Relevant Factors to Consider

5360.18a A1 Factors relevant to considering the communication in accordance with paragraph R5360.18a include:

- Whether doing so would be contrary to law or regulation.

- Whether there are restrictions about disclosure imposed by a regulatory agency or prosecutor in an ongoing investigation into the non-compliance or suspected non-compliance.
- Whether the purpose of the engagement is to investigate potential non-compliance within the sustainability assurance client to enable it to take appropriate action.
- Whether management or those charged with governance have already informed the sustainability assurance client's external auditor about the matter.
- Whether and, if so, how the firm's or network firm's protocols or procedures address communication of non-compliance or suspected non-compliance within the firm or network firm.

Purpose of Communication

5360.18a A2 In the circumstances addressed in paragraph R5360.18a, the purpose of the communication is to enable the audit engagement partner to be informed about the non-compliance or suspected non-compliance and to determine whether and, if so, how to address it in accordance with the provisions of the Code.

Determining Whether Further Action Is Needed

R5360.19 The sustainability assurance practitioner ~~professional accountant~~ shall assess the appropriateness of the response of management and, where applicable, those charged with governance.

5360.19 A1 Relevant factors to consider in assessing the appropriateness of the response of management and, where applicable, those charged with governance include whether:

- The response is timely.
- The non-compliance or suspected non-compliance has been adequately investigated.
- Action has been, or is being, taken to rectify, remediate or mitigate the consequences of any non-compliance.
- Action has been, or is being, taken to deter the commission of any non-compliance where it has not yet occurred.
- Appropriate steps have been, or are being, taken to reduce the risk of re-occurrence, for example, additional controls or training.
- The non-compliance or suspected non-compliance has been disclosed to an appropriate authority where appropriate and, if so, whether the disclosure appears adequate.

R5360.20 In light of the response of management and, where applicable, those charged with governance, the sustainability assurance practitioner ~~professional accountant~~ shall determine if further action is needed in the public interest.

5360.20 A1 The determination of whether further action is needed, and the nature and extent of it, will depend on various factors, including:

- The legal and regulatory framework.
- The urgency of the situation.
- The pervasiveness of the matter throughout the sustainability assurance client.

- Whether the ~~sustainability assurance practitioner professional accountant~~ continues to have confidence in the integrity of management and, where applicable, those charged with governance.
- Whether the non-compliance or suspected non-compliance is likely to recur.
- Whether there is credible evidence of actual or potential substantial harm to the interests of the ~~sustainability assurance client entity~~, investors, creditors, employees or the general public.

5360.20 A2 Examples of circumstances that might cause the ~~sustainability assurance practitioner professional accountant~~ no longer to have confidence in the integrity of management and, where applicable, those charged with governance include situations where:

- The ~~practitioner accountant~~ suspects or has evidence of their involvement or intended involvement in any non-compliance.
- The ~~practitioner accountant~~ is aware that they have knowledge of such non-compliance and, contrary to legal or regulatory requirements, have not reported, or authorized the reporting of, the matter to an appropriate authority within a reasonable period.

R5360.21 The ~~sustainability assurance practitioner professional accountant~~ shall exercise professional judgment in determining the need for, and nature and extent of, further action. In making this determination, the ~~practitioner accountant~~ shall take into account whether a reasonable and informed third party would be likely to conclude that the ~~practitioner accountant~~ has acted appropriately in the public interest.

5360.21 A1 Further action that the ~~sustainability assurance practitioner professional accountant~~ might take includes:

- Disclosing the matter to an appropriate authority even when there is no legal or regulatory requirement to do so.
- Withdrawing from the engagement and the professional relationship where permitted by law or regulation.

5360.21 A2 Withdrawing from the engagement and the professional relationship is not a substitute for taking other actions that might be needed to achieve the ~~sustainability assurance practitioner's professional accountant's~~ objectives under this section. In some jurisdictions, however, there might be limitations as to the further actions available to the ~~practitioner accountant~~. In such circumstances, withdrawal might be the only available course of action.

R5360.22 Where the ~~sustainability assurance practitioner professional accountant~~ has withdrawn from the professional relationship pursuant to paragraphs R5360.20 and 5360.21 A1, the ~~practitioner accountant~~ shall, on request by the proposed ~~practitioner accountant~~ pursuant to paragraph R5320.8, provide all relevant facts and other information concerning the identified or suspected non-compliance to the proposed ~~practitioner accountant~~. The predecessor ~~practitioner accountant~~ shall do so, even in the circumstances addressed in paragraph R5320.8(b) where the ~~sustainability assurance client~~ fails or refuses to grant the predecessor ~~practitioner accountant~~ permission to discuss the client's affairs with the proposed ~~practitioner accountant~~, unless prohibited by law or regulation.

5360.22 A1 The facts and other information to be provided are those that, in the predecessor ~~practitioner's accountant's~~ opinion, the proposed ~~practitioner accountant~~ needs to be aware of before deciding whether to accept the ~~audit~~ appointment. Section 5320 addresses communications from

proposed ~~practitioners~~accountants.

R5360.23 If the proposed ~~practitioner accountant~~ is unable to communicate with the predecessor ~~practitioner accountant~~, the proposed ~~practitioner accountant~~ shall take reasonable steps to obtain information about the circumstances of the change of appointment by other means.

5360.23 A1 Other means to obtain information about the circumstances of the change of appointment include inquiries of third parties or background investigations of management or those charged with governance.

5360.24 A1 As assessment of the matter might involve complex analysis and judgments, the ~~practitioner professional accountant~~ might consider:

- Consulting internally.
- Obtaining legal advice to understand the ~~practitioner's~~accountant's options and the professional or legal implications of taking any particular course of action.
- Consulting on a confidential basis with a regulatory or professional body.

Determining Whether to Disclose the Matter to an Appropriate Authority

5360.25 A1 Disclosure of the matter to an appropriate authority would be precluded if doing so would be contrary to law or regulation. Otherwise, the purpose of making disclosure is to enable an appropriate authority to cause the matter to be investigated and action to be taken in the public interest.

5360.25 A2 The determination of whether to make such a disclosure depends in particular on the nature and extent of the actual or potential harm that is or might be caused by the matter to investors, creditors, employees or the general public. For example, the ~~sustainability assurance practitioner professional accountant~~ might determine that disclosure of the matter to an appropriate authority is an appropriate course of action if:

- The ~~sustainability assurance client entity~~ is engaged in bribery (for example, of local or foreign government officials for purposes of securing large contracts).
- The ~~sustainability assurance client entity~~ is regulated and the matter is of such significance as to threaten its license to operate.
- The ~~sustainability assurance client entity~~ is listed on a securities exchange and the matter might result in adverse consequences to the fair and orderly market in the ~~client's~~entity's securities or pose a systemic risk to the financial markets.
- It is likely that the ~~sustainability assurance client entity~~ would sell products that are harmful to public health or safety.
- The ~~sustainability assurance client entity~~ is promoting a scheme to its clients to assist them in evading taxes.

5360.25 A3 The determination of whether to make such a disclosure will also depend on external factors such as:

- Whether there is an appropriate authority that is able to receive the information, and cause the matter to be investigated and action to be taken. The appropriate authority will depend on the nature of the matter. For example, the appropriate authority would be a securities regulator in the case of fraudulent financial reporting or an environmental protection agency in the case of a breach of environmental laws and regulations.

- Whether there exists robust and credible protection from civil, criminal or professional liability or retaliation afforded by legislation or regulation, such as under whistle-blowing legislation or regulation.
- Whether there are actual or potential threats to the physical safety of the sustainability assurance practitioner ~~professional accountant~~ or other individuals.

R5360.26 If the sustainability assurance practitioner ~~professional accountant~~ determines that disclosure of the non-compliance or suspected non-compliance to an appropriate authority is an appropriate course of action in the circumstances, that disclosure is permitted pursuant to paragraph R5114.3 ~~of the Code~~. When making such disclosure, the practitioner ~~accountant~~ shall act in good faith and exercise caution when making statements and assertions. The practitioner ~~accountant~~ shall also consider whether it is appropriate to inform the sustainability assurance client of the practitioner's ~~accountant's~~ intentions before disclosing the matter.

Imminent Breach

R5360.27 In exceptional circumstances, the sustainability assurance practitioner ~~professional accountant~~ might become aware of actual or intended conduct that the practitioner ~~accountant~~ has reason to believe would constitute an imminent breach of a law or regulation that would cause substantial harm to investors, creditors, employees or the general public. Having first considered whether it would be appropriate to discuss the matter with management or those charged with governance of the sustainability assurance client ~~entity~~, the practitioner ~~accountant~~ shall exercise professional judgment and determine whether to disclose the matter immediately to an appropriate authority in order to prevent or mitigate the consequences of such imminent breach. If disclosure is made, that disclosure is permitted pursuant to paragraph R5114.3 ~~of the Code~~.

Documentation

R5360.28 In relation to non-compliance or suspected non-compliance that falls within the scope of this section, the sustainability assurance practitioner ~~professional accountant~~ shall document:

- How management and, where applicable, those charged with governance have responded to the matter.
- The courses of action the practitioner ~~accountant~~ considered, the judgments made and the decisions that were taken, having regard to the reasonable and informed third party test.
- How the practitioner ~~accountant~~ is satisfied that the practitioner ~~accountant~~ has fulfilled the responsibility set out in paragraph R5360.20.

5360.28 A1 This documentation is in addition to complying with the documentation requirements in relation to non-compliance or suspected non-compliance under applicable sustainability assurance auditing standards. ~~ISAs, for example, require a professional accountant performing an audit of financial statements to:-~~

- ~~Prepare documentation sufficient to enable an understanding of significant matters arising during the audit, the conclusions reached, and significant professional judgments made in reaching these conclusions;-~~
- ~~Document discussions of significant matters with management, those charged with governance, and others, including the nature of the significant matters discussed and when and with whom the discussions took place; and~~

- ~~Document identified or suspected non-compliance, and the results of discussion with management and, where applicable, those charged with governance and other parties outside the entity.~~

Sustainability Assurance Engagements Not Within the Scope of the *International Independence Standards* in this Part and Other Professional Services ~~Other than Audits of Financial Statements~~

Obtaining an Understanding of the Matter and Addressing It with Management and Those Charged with Governance

R5360.29 If a ~~sustainability assurance practitioner professional accountant~~ engaged to ~~provide~~perform a ~~sustainability assurance engagement that is not within the scope of the *International Independence Standards* in this Part or another a professional service for a sustainability assurance client other than an audit of financial statements~~ becomes aware of information concerning non-compliance or suspected non-compliance, the ~~practitioner~~accountant shall seek to obtain an understanding of the matter. This understanding shall include the nature of the non-compliance or suspected non-compliance and the circumstances in which it has occurred or might be about to occur.

5360.29 A1 The ~~sustainability assurance practitioner professional accountant~~ is expected to apply knowledge and expertise, and exercise professional judgment. However, the ~~practitioner~~accountant is not expected to have a level of understanding of laws and regulations beyond that which is required for the professional service for which the ~~practitioner~~accountant was engaged. Whether an act constitutes actual non-compliance is ultimately a matter to be determined by a court or other appropriate adjudicative body.

5360.29 A2 Depending on the nature and significance of the matter, the ~~sustainability assurance practitioner professional accountant~~ might consult on a confidential basis with others within the firm, a network firm or a professional body, or with legal counsel.

R5360.30 If the ~~sustainability assurance practitioner professional accountant~~ identifies or suspects that non-compliance has occurred or might occur, the ~~practitioner~~accountant shall discuss the matter with the appropriate level of management. If the ~~practitioner~~accountant has access to those charged with governance, the ~~practitioner~~accountant shall also discuss the matter with them where appropriate.

5360.30 A1 The purpose of the discussion is to clarify the ~~sustainability assurance practitioner's~~professional accountant's understanding of the facts and circumstances relevant to the matter and its potential consequences. The discussion also might prompt management or those charged with governance to investigate the matter.

5360.30 A2 The appropriate level of management with whom to discuss the matter is a question of professional judgment. Relevant factors to consider include:

- The nature and circumstances of the matter.
- The individuals actually or potentially involved.
- The likelihood of collusion.
- The potential consequences of the matter.
- Whether that level of management is able to investigate the matter and take appropriate action.

Communicating the Matter to the Sustainability Assurance Client's Entity's External Auditor

R5360.31 If the sustainability assurance practitioner professional accountant is performing a sustainability assurance engagement that is not within the scope of the International Independence Standards in this Part or another professional non-audit service for a sustainability assurance client that is:

- (a) An audit client of the firm; or
- (b) A component of an audit client of the firm,

the practitioner accountant shall communicate the non-compliance or suspected non-compliance within the firm, unless prohibited from doing so by law or regulation. The communication shall be made in accordance with the firm's protocols or procedures. In the absence of such protocols and procedures, it shall be made directly to the audit engagement partner.

R5360.32 If the sustainability assurance practitioner professional accountant is performing a sustainability assurance engagement that is not within the scope of the International Independence Standards in this Part or another professional non-audit service for a sustainability assurance client that is:

- (a) An audit client of a network firm; or
- (b) A component of an audit client of a network firm,

the practitioner accountant shall consider whether to communicate the non-compliance or suspected non-compliance to the network firm. Where the communication is made, it shall be made in accordance with the network's protocols or procedures. In the absence of such protocols and procedures, it shall be made directly to the audit engagement partner.

R5360.33 If the sustainability assurance practitioner professional accountant is performing a sustainability assurance engagement that is not within the scope of the International Independence Standards in this Part or another professional non-audit service for a sustainability assurance client that is not:

- (a) An audit client of the firm or a network firm; or
- (b) A component of an audit client of the firm or a network firm,

the practitioner accountant shall consider whether to communicate the non-compliance or suspected non-compliance to the firm that is the sustainability assurance client's external auditor, if any.

Relevant Factors to Consider

5360.34 A1 Factors relevant to considering the communication in accordance with paragraphs R5360.31 to R5360.33 include:

- Whether doing so would be contrary to law or regulation.
- Whether there are restrictions about disclosure imposed by a regulatory agency or prosecutor in an ongoing investigation into the non-compliance or suspected non-compliance.
- Whether the purpose of the engagement is to investigate potential non-compliance within the sustainability assurance client entity to enable it to take appropriate action.
- Whether management or those charged with governance have already informed the entity's external auditor about the matter.
- ~~The likely materiality of the matter to the audit of the client's financial statements or, where the matter relates to a component of a group, its likely materiality to the audit of the group financial statements.~~

Purpose of Communication

5360.35 A1 In the circumstances addressed in paragraphs R5360.31 to R5360.33, the purpose of the communication is to enable the audit engagement partner to be informed about the non-compliance or suspected non-compliance and to determine whether and, if so, how to address it in accordance with the provisions of the ~~is~~ Code section.

Considering Whether Further Action Is Needed

R5360.36 The sustainability assurance practitioner ~~professional accountant~~ shall also consider whether further action is needed in the public interest.

5360.36 A1 Whether further action is needed, and the nature and extent of it, will depend on factors such as:

- The legal and regulatory framework.
- The appropriateness and timeliness of the response of management and, where applicable, those charged with governance.
- The urgency of the situation.
- The involvement of management or those charged with governance in the matter.
- The likelihood of substantial harm to the interests of the sustainability assurance client, investors, creditors, employees or the general public.

5360.36 A2 Further action by the sustainability assurance practitioner ~~professional accountant~~ might include:

- Disclosing the matter to an appropriate authority even when there is no legal or regulatory requirement to do so.
- Withdrawing from the engagement and the professional relationship where permitted by law or regulation.

5360.36 A3 In considering whether to disclose to an appropriate authority, relevant factors to take into account include:

- Whether doing so would be contrary to law or regulation.
- Whether there are restrictions about disclosure imposed by a regulatory agency or prosecutor in an ongoing investigation into the non-compliance or suspected non-compliance.
- Whether the purpose of the engagement is to investigate potential non-compliance within the sustainability assurance client ~~entity~~ to enable it to take appropriate action.

R5360.37 If the sustainability assurance practitioner ~~professional accountant~~ determines that disclosure of the non-compliance or suspected non-compliance to an appropriate authority is an appropriate course of action in the circumstances, that disclosure is permitted pursuant to paragraph R5114.3 ~~of the Code~~. When making such disclosure, the practitioner ~~accountant~~ shall act in good faith and exercise caution when making statements and assertions. The practitioner ~~accountant~~ shall also consider whether it is appropriate to inform the sustainability assurance client of the practitioner's ~~accountant's~~ intentions before disclosing the matter.

Imminent Breach

R5360.38 In exceptional circumstances, the sustainability assurance practitioner ~~professional accountant~~ might become aware of actual or intended conduct that the practitioner ~~accountant~~ has reason to believe would constitute an imminent breach of a law or regulation that would cause substantial harm to

investors, creditors, employees or the general public. Having first considered whether it would be appropriate to discuss the matter with management or those charged with governance of the sustainability assurance client~~entity~~, the practitioner~~accountant~~ shall exercise professional judgment and determine whether to disclose the matter immediately to an appropriate authority in order to prevent or mitigate the consequences of such imminent breach of law or regulation. If disclosure is made, that disclosure is permitted pursuant to paragraph R5114.3 ~~of the Code~~.

Seeking Advice

5360.39 A1 The sustainability assurance practitioner ~~professional accountant~~ might consider:

- Consulting internally.
- Obtaining legal advice to understand the professional or legal implications of taking any particular course of action.
- Consulting on a confidential basis with a regulatory or professional body.

Documentation

5360.40 A1 In relation to non-compliance or suspected non-compliance that falls within the scope of this section, the sustainability assurance practitioner ~~professional accountant~~ is encouraged to document:

- The matter.
- The results of discussion with management and, where applicable, those charged with governance and other parties.
- How management and, where applicable, those charged with governance have responded to the matter.
- The courses of action the practitioner~~accountant~~ considered, the judgments made and the decisions that were taken.
- How the practitioner~~accountant~~ is satisfied that the practitioner~~accountant~~ has fulfilled the responsibility set out in paragraph R5360.36.

SECTION 5380

TAX PLANNING SERVICES

Introduction

- 5380.1 ~~Sustainability assurance practitioners~~ ~~Professional accountants~~ are required to comply with the fundamental principles and apply the conceptual framework set out in Section 5120 to identify, evaluate and address threats.
- 5380.2 Providing tax planning services might create self-interest, self-review, advocacy, or intimidation threats to compliance with the fundamental principles.
- 5380.3 This section sets out requirements and application material relevant to applying the conceptual framework in relation to the provision of tax planning services to a sustainability assurance client. This section also requires a sustainability assurance practitioner ~~professional accountant~~ to comply with relevant tax laws and regulations when providing such services.

Requirements and Application Material

General

~~Professional Accountants'~~ *Public Interest Role* of Sustainability Assurance Practitioners *in Relation to Tax Planning Services*

- 5380.4 A1 Sustainability assurance practitioners providing tax planning services to sustainability assurance clients ~~Professional accountants~~ play an important role ~~in tax planning~~ by contributing their expertise and experience to assist those clients in meeting their tax planning goals while complying with tax laws and regulations. In doing so, ~~practitioners~~ ~~accountants~~ help to facilitate a more efficient and effective operation of a jurisdiction's tax system, which is in the public interest.
- 5380.4 A2 Clients are entitled to organize their affairs for tax planning purposes. While there are a variety of ways to achieve such purposes, clients have a responsibility to pay taxes as determined by the relevant tax laws and regulations. In this regard, sustainability assurance practitioners ~~professional accountants'~~ role is to use their expertise and experience to assist their sustainability assurance clients in achieving their tax planning goals and meeting their tax obligations. However, when ~~accountants~~ ~~practitioners~~ provide such assistance, it might involve certain tax minimization arrangements that, although not prohibited by tax laws and regulations, might create threats to compliance with the fundamental principles.
- 5380.4 A3 It is ultimately for a tribunal, court or other appropriate adjudicative body to determine whether a tax planning arrangement complies with the relevant tax laws and regulations.

Description of Tax Planning Services

- 5380.5 A1 Tax planning services are advisory services designed to assist a sustainability assurance client, ~~whether an individual or an entity~~, in planning or structuring the client's affairs in a tax-efficient manner.
- 5380.5 A2 Tax planning services cover a broad range of topics or areas. Examples of such services include:
- Advising an individual ~~entity~~ to structure its ~~their~~ tax affairs to achieve investment, ~~retirement or estate planning~~ goals.
 - Advising an entity ~~individual business owner~~ on structuring its ~~their~~ ownership of, and income from, the separate ~~businesses~~ to minimize its ~~their~~ overall taxes.

- Advising an entity on structuring its international operations to minimize its overall taxes.
- Advising on the structuring of transfer pricing arrangements, taking into account tax-related transfer pricing guidelines.
- Advising on the utilization of losses in a tax-efficient manner.
- Advising an entity on the structuring of its capital distribution strategy in a tax-efficient manner.
- Advising an entity on structuring its compensation strategy for senior executives to optimize the tax benefits.

5380.5 A3 Tax planning services do not include services that are generally referred to as tax compliance or tax preparation, which are services to assist the sustainability assurance client in fulfilling the client's filing, reporting, payment and other obligations under tax laws and regulations. However, if a tax service comprises both tax planning and tax compliance, the portion that relates to tax planning is covered by this section.

5380.5 A4 This section applies regardless of the nature of the sustainability assurance client, including whether it is a public interest entity.

Related Services

5380.6 A1 There might be circumstances where a sustainability assurance practitioner ~~professional accountant~~ is engaged to provide a related service to a sustainability assurance client that is based on or linked to a tax planning arrangement developed by the client or a third-party provider. In such circumstances, the provisions of this section apply to the underlying tax planning arrangement.

5380.6 A2 Examples of such related services include:

- Assisting the sustainability assurance client in resolving a dispute with the tax authority on the tax planning arrangement.
- Representing the sustainability assurance client in administrative or court proceedings regarding the tax planning arrangement.
- Implementing the tax planning arrangement for the sustainability assurance client.
- Advising the sustainability assurance client on an acquisition where the valuation depends on the tax planning arrangement established by the target.
- ~~Advising the client on estate planning based on a tax planning arrangement established for the client's business.~~

Compliance with Laws and Regulations

5380.7 A1 This section does not address tax evasion, which is illegal.

Anti-avoidance Laws and Regulations

R5380.8 Where there are laws and regulations, including those that might be referred to as anti-avoidance rules, that limit or prohibit certain tax planning arrangements, a sustainability assurance practitioner ~~professional accountant~~ shall obtain an understanding of those laws and regulations and advise the sustainability assurance client to comply with them when providing tax planning services.

Non-compliance with Tax Laws and Regulations

5380.8 A1 If, in the course of providing tax planning services, a ~~sustainability assurance practitioner professional accountant~~ becomes aware of tax evasion or suspected tax evasion, or other non-compliance or suspected non-compliance with tax laws and regulations by a sustainability assurance client, management, those charged with governance or other individuals working for or under the direction of the client, the requirements and application material set out in Section 5360 apply.

Responsibilities of Management and Those Charged with Governance

5380.9 A1 In relation to tax planning, management, with the oversight of those charged with governance, has a number of responsibilities, including:

- Ensuring that the sustainability assurance client's tax affairs are conducted in accordance with the relevant tax laws and regulations.
- Maintaining all the books and records and implementing the systems of internal control necessary to enable the sustainability assurance client to fulfill its tax compliance obligations.
- Making available all the facts and other relevant information needed to enable the ~~sustainability assurance practitioner professional accountant~~ to perform the tax planning service.
- Engaging experts to advise on relevant aspects of the tax planning arrangement.
- Deciding whether to accept and implement the ~~sustainability assurance practitioner professional accountant~~'s recommendation or advice on a tax planning arrangement.
- Authorizing the submission of the sustainability assurance client's tax returns and ensuring that any matters raised by the relevant tax authorities are addressed in a timely manner.
- Making such disclosures to the relevant tax authorities as might be required by tax laws and regulations or as might be necessary to support a tax position, including details of any tax planning arrangements.
- Making appropriate disclosure of tax strategy, policies or other tax-related matters in the financial statements, sustainability disclosures or other relevant public documents in accordance with applicable reporting requirements.
- Ensuring that the sustainability assurance client's tax planning arrangements are consistent with any publicly disclosed tax strategy or policies.

Responsibilities of All Sustainability Assurance Practitioners Professional Accountants

R5380.10 As part of providing a tax planning service, a ~~sustainability assurance practitioner professional accountant~~ shall obtain an understanding of the nature of the engagement, including:

- (a) Knowledge and understanding of the sustainability assurance client, its owners, management and those charged with governance, and its business activities;
- (b) The purpose, facts and circumstances of the tax planning arrangement; and
- (c) The relevant tax laws and regulations.

5380.10 A1 The requirements and application material in Section 5320 apply with respect to client and engagement acceptance.

~~380.10 A2~~ **[Paragraph 5380.10 A2 is intentionally left blank]**~~A professional accountant might be engaged to provide a second opinion on a tax planning arrangement. In addition to the provisions in this section,~~

~~the requirements and application material in Section 321 also apply in such circumstances.~~

5380.11 A1 A ~~sustainability assurance practitioner professional accountant~~ is expected to apply professional competence and due care in accordance with Subsection 5113 when providing a tax planning service. The ~~accountant-practitioner~~ is also expected to have an inquiring mind and exercise professional judgment in accordance with Section 5120 when considering the specific facts and circumstances relating to the tax planning service.

Basis for Recommending or otherwise Advising on a Tax Planning Arrangement

R5380.12 A ~~sustainability assurance practitioner professional accountant~~ shall recommend or otherwise advise on a tax planning arrangement to a sustainability assurance client only if the ~~accountant-practitioner~~ has determined that there is a credible basis in laws and regulations for the arrangement.

5380.12 A1 The determination of whether there is a credible basis involves the exercise of professional judgment by the ~~sustainability assurance practitioner professional accountant~~. This determination will vary from jurisdiction to jurisdiction based on the relevant laws and regulations at the time.

5380.12 A2 If the ~~sustainability assurance practitioner professional accountant~~ determines that the tax planning arrangement does not have a credible basis in laws and regulations, paragraph R5380.12 does not preclude the ~~accountant-practitioner~~ from explaining to the sustainability assurance client the ~~practitioner accountant~~'s rationale for the determination or advising on an alternative arrangement that has a credible basis.

5380.12 A3 Paragraph R5380.12 also does not preclude the ~~sustainability assurance practitioner professional accountant~~ from being engaged by the sustainability assurance client, or otherwise assisting the client, to remediate or rectify a tax planning arrangement which lacks a credible basis. Such type of service is a related service as described in paragraphs 5380.6 A1 and A2. This includes, for example:

- Assisting the client to restructure a tax planning arrangement to achieve a credible basis as part of a tax dispute resolution service.
- Agreeing with the client appropriate changes to the tax planning arrangement to achieve a credible basis as part of representing the client in administrative or court proceedings.

5380.12 A4 Examples of actions that a ~~sustainability assurance practitioner professional accountant~~ might take to determine that there is a credible basis in relation to a particular tax planning arrangement include:

- Reviewing the relevant facts and circumstances, including the economic purpose and substance of the arrangement.
- Assessing the reasonableness of any assumptions.
- Reviewing the relevant tax legislation.
- Reviewing legislative proceedings that discuss the intent of the relevant tax legislation.
- Reviewing relevant literature such as court decisions, professional or industry journals, and tax authority rulings or guidance.
- Considering whether the basis used for the proposed arrangement is an established practice that has not been challenged by the relevant tax authorities.
- Considering how likely the proposed arrangement would be accepted by the relevant tax authorities if all the relevant facts and circumstances were disclosed.

- Consulting with legal counsel or other experts within or outside the sustainability assurance practitioner~~professional accountant~~'s firm regarding what a reasonable interpretation of the relevant laws and regulations might be.
- Consulting with the relevant tax authorities, where applicable.

R5380.13 If, during the course of the engagement, the sustainability assurance practitioner~~professional accountant~~ becomes aware of circumstances that might impact the previous determination of the credible basis, the practitioner~~accountant~~ shall re-assess the validity of that basis.

Consideration of the Overall Tax Planning Recommendation or Advice

R5380.14 In addition to determining that there is a credible basis for the tax planning arrangement, the sustainability assurance practitioner~~professional accountant~~ shall exercise professional judgment and consider the reputational, commercial and wider economic consequences that could arise from the way stakeholders might view the arrangement.

5380.14 A1 The reputational and commercial consequences might relate to ~~personal or~~ business implications to the sustainability assurance client or implications to the reputation of the client ~~or a relevant and the profession or a group of practitioners to which the sustainability assurance practitioner might belong~~ from a prolonged dispute with the relevant tax or other authorities. The implications to the client might involve adverse publicity, costs, fines or penalties, loss of management time over a significant period, and potential adverse consequences for the client's business.

5380.14 A2 An awareness of the wider economic consequences might take into account the sustainability assurance practitioner~~professional accountant~~'s general understanding of the current economic environment and the impact of the tax planning arrangement on the tax base of the jurisdiction, or the relative impacts of the arrangement on the tax bases of multiple jurisdictions, where the sustainability assurance client operates.

R5380.15 If, having considered the matters set out in paragraph R5380.14, the sustainability assurance practitioner~~professional accountant~~ decides not to recommend or otherwise advise on a tax planning arrangement that the sustainability assurance client would like to pursue, the ~~accountant-practitioner~~ shall inform the client of this and explain the basis for the practitioner~~accountant~~'s conclusion.

Tax Planning Arrangements Involving Multiple Jurisdictions

5380.16 A1 There might be circumstances where a sustainability assurance practitioner~~professional accountant~~ becomes aware that a sustainability assurance client is obtaining a tax benefit from accounting for the same transaction in more than one jurisdiction, especially if there is no tax treaty between the jurisdictions. In such circumstances, while the client might be in compliance with the tax laws and regulations of each jurisdiction, the ~~accountant-practitioner~~ might advise the client to disclose to the relevant tax authorities the particular facts and circumstances and the tax benefits derived from the transaction in the different jurisdictions.

5380.16 A2 Relevant factors the sustainability assurance practitioner~~professional accountant~~ might consider in determining whether to advise the sustainability assurance client to make such disclosure include:

- The significance of the tax benefits in the relevant jurisdictions.
- Stakeholders' perceptions of the client if the facts and circumstances were known to the stakeholders.
- Whether there are globally or nationally accepted principles or practices regarding disclosure of similar situations to the tax authorities in the relevant jurisdictions.

Circumstances of Uncertainty

5380.17 A1 In determining whether there is a credible basis for the tax planning arrangement, a sustainability assurance practitioner ~~professional accountant~~ might encounter circumstances giving rise to uncertainty as to whether a proposed tax planning arrangement will be in compliance with the relevant tax laws and regulations. Such uncertainty makes it more challenging for the ~~accountant practitioner~~ to determine that there is a credible basis in laws and regulations for the tax planning arrangement and might, therefore, create threats to compliance with the fundamental principles.

5380.17 A2 Circumstances that might give rise to uncertainty include:

- Difficulty in establishing an adequate factual basis.
- Difficulty in establishing an adequate basis of assumptions.
- Lack of clarity in the tax laws and regulations and their interpretation, including:
 - Gaps in the tax laws and regulations.
 - Challenges to previous court rulings.
 - Conflicting tax laws and regulations in different jurisdictions in circumstances involving cross-border transactions.
 - Innovative business models not addressed by the current tax laws and regulations.
 - Recent court or tax authority rulings or positions that cast doubt on similar tax planning arrangements.
 - Complexity in interpreting or applying the tax laws and regulations from a technical or legal point of view.
 - Lack of a legal precedent, ruling or position.
- Lack of clarity regarding the economic purpose and substance of the tax planning arrangement.
- Lack of clarity about the ultimate beneficiaries of the tax planning arrangement.

R5380.18 Where there is uncertainty as to whether a tax planning arrangement is or will be in compliance with the relevant tax laws and regulations, a sustainability assurance practitioner ~~professional accountant~~ shall discuss the uncertainty with the sustainability assurance client.

5380.18 A1 The discussion serves a number of purposes, including:

- Explaining the sustainability assurance practitioner ~~professional accountant~~'s assessment about how likely the relevant tax authorities are to have a view that supports the tax planning arrangement where there is a lack of clarity in the interpretation of the relevant tax laws and regulations.
- Considering any assumptions made when establishing the basis on which the tax planning advice is provided.
- Obtaining any additional information from the sustainability assurance client that might reduce the uncertainty.
- Discussing any reputational, commercial or wider economic consequences in pursuing the tax planning arrangement.

- Discussing potential courses of action to mitigate the possibility of adverse consequences for the sustainability assurance client, including consideration of disclosure to the relevant tax authorities.

Potential Threats Arising from Providing a Tax Planning Service

5380.19 A1 Providing a tax planning service to a sustainability assurance client might create a self-interest, self-review, advocacy or intimidation threat. For example:

- A self-review threat might be created when a sustainability assurance practitioner professional accountant has recently provided a valuation service to a client for tax purposes, the output of which is then relied upon or is a key input to a tax planning service for the client.
- A self-interest threat might be created when a sustainability assurance practitioner professional accountant has a direct financial interest in a client and the accountant is involved in designing a tax planning arrangement that has an impact on the client's financial situation.
- Self-interest and advocacy threats might be created when a sustainability assurance practitioner professional accountant actively promotes a particular tax position a client should adopt.
- A self-interest threat might be created when a sustainability assurance practitioner professional accountant is in possession of confidential information obtained from the practitioner's accountant's involvement in formulating or drafting tax policy, laws or regulations for a government agency and the confidential information would be valuable to the practitioner accountant in advising other clients on their tax planning arrangements.
- A self-interest threat might be created when a sustainability assurance practitioner professional accountant accepts a fee that might be perceived to be excessive for an engagement to develop a tax planning arrangement for which the interpretation of the relevant tax laws and regulations is uncertain or unclear.
- Self-interest and advocacy threats might be created when a sustainability assurance practitioner professional accountant advocates a client's position in a tax planning arrangement which the accountant practitioner previously advised on before a tax authority when there are indications that the arrangement might not have a credible basis in laws and regulations.
- Self-interest and intimidation threats might be created when a sustainability assurance practitioner professional accountant provides services to a client who exerts significant influence over the design of a particular tax arrangement, in a way that might influence the practitioner accountant's determination that there is a credible basis for the arrangement in laws and regulations.
- Self-interest and intimidation threats might be created when a sustainability assurance practitioner professional accountant is threatened with dismissal from the engagement or the practitioner accountant's firm concerning the position a client is insisting on pursuing regarding a tax planning arrangement.

5380.19 A2 Factors that are relevant in evaluating the level of such threats include:

- The degree of transparency of the sustainability assurance client, including, where applicable, the identity of the ultimate beneficiaries.
- Whether the tax planning arrangement has a clear economic purpose and substance based on the underlying business transaction or circumstances.

- The nature and complexity of the underlying business transaction or circumstances.
- The complexity or clarity of the relevant tax laws and regulations.
- Whether the sustainability assurance practitioner ~~professional accountant~~ knows, or has reason to believe, that the tax planning arrangement would be contrary to the intent of the relevant tax legislation.
- The number of jurisdictions involved and the nature of their tax regimes.
- The extent of the sustainability assurance practitioner ~~professional accountant~~'s expertise and experience in the relevant tax areas.
- The significance of the potential tax savings.
- The nature and amount of the fee for the tax planning service.
- The extent to which the sustainability assurance practitioner ~~professional accountant~~ is aware that the tax planning arrangement reflects an established practice that has not been challenged by the relevant tax authorities.
- Whether there is pressure being exerted by the sustainability assurance client or another party on the sustainability assurance practitioner ~~professional accountant~~.
- The degree of urgency in implementing the tax planning arrangement.
- Whether it is a tax planning arrangement used for multiple sustainability assurance clients with little modification for the client's specific circumstances.
- The known previous behavior or reputation of the sustainability assurance client, including its organizational culture.

5380.19 A3 Examples of actions that might eliminate such threats include:

- Referring the sustainability assurance client to an expert outside the sustainability assurance practitioner ~~professional accountant~~'s firm who has the necessary expertise and experience to advise the client on the tax planning arrangement.
- Advising the sustainability assurance client to structure the tax planning arrangement so that it is consistent with an existing interpretation or ruling issued by the relevant tax authorities.
- Obtaining an advance ruling from the relevant tax or other authorities, where possible.
- Advising the sustainability assurance client not to pursue the tax planning arrangement.

5380.19 A4 Examples of actions that might be safeguards to address such threats include:

- Establishing the identity of the ultimate beneficiaries.
- Advising the sustainability assurance client to structure the tax planning arrangement so that it better aligns with the underlying economic purpose and substance.
- Advising the sustainability assurance client to structure the tax planning arrangement based on an established practice that is currently not subject to challenge by the relevant tax authorities or is known to have been accepted by the relevant tax authorities.
- Consulting with a legal counsel or other expert within or outside the sustainability assurance practitioner ~~professional accountant~~'s firm in the relevant tax areas.

- Obtaining an opinion from an appropriately qualified professional (such as legal counsel or ~~a another~~ professional accountant) regarding the interpretation of the relevant tax laws and regulations as applied to the particular circumstances.
- Having an appropriate reviewer, who is not otherwise involved in providing the tax planning service, review any work performed or conclusions reached by the ~~sustainability assurance practitioner professional accountant~~ with respect to the tax planning arrangement.
- Having the ~~sustainability assurance~~ client provide full transparency about the tax planning arrangement to the relevant tax authorities, including the goals, business and legal aspects, and ultimate beneficiaries of the tax planning arrangement.

5380.19 A5 Examples of steps a ~~sustainability assurance practitioner professional accountant~~ might take to establish the identity of the ultimate beneficiaries include:

- Making inquiries of management and others within the ~~sustainability assurance~~ client.
- Making inquiries of others within or outside the firm who have dealt with the ~~sustainability assurance~~ client, having regard to the principle of confidentiality.
- Reviewing the ~~sustainability assurance~~ client's tax records, financial statements and other relevant corporate records.
- Making inquiries of registrars where the ~~sustainability assurance~~ client or entities within its legal structure are incorporated concerning the relevant shareholders.
- Researching relevant public records.

Communication of Basis of the Tax Planning Recommendation or Advice

R5380.20 A ~~sustainability assurance practitioner professional accountant~~ shall explain the basis on which the ~~accountant-practitioner~~ recommended or otherwise advised on a tax planning arrangement to the ~~sustainability assurance~~ client.

Disagreement with the **Sustainability Assurance** Client

R5380.21 If the ~~sustainability assurance practitioner professional accountant~~ disagrees that a tax planning arrangement that a ~~sustainability assurance~~ client would like to pursue has a credible basis, the ~~practitioner accountant~~ shall:

- (a) Inform the client of the basis of the ~~practitioner accountant~~'s assessment;
- (b) Communicate to the client the potential consequences of pursuing the arrangement; and
- (c) Advise the client not to pursue the arrangement.

R5380.22 If the ~~sustainability assurance~~ client decides to pursue the tax planning arrangement despite the ~~sustainability assurance practitioner professional accountant~~'s advice to the contrary, the ~~accountant practitioner~~ shall advise the client to:

- (a) Communicate internally to the appropriate level of management the details of the arrangement and the difference of views;
- (b) Consider making full disclosure of the arrangement to the relevant tax authorities; and
- (c) Consider communicating the details of the arrangement and the difference of views to the external auditor, if any.

5380.22 A1 As part of communicating the matters set out in paragraphs R5380.21 and R5380.22, a sustainability assurance practitioner professional accountant might consider it appropriate to raise the relevant matters with those charged with governance of the sustainability assurance client.

R5380.23 In light of the sustainability assurance client's response to the sustainability assurance practitioner professional accountant's advice, the accountant-practitioner shall consider whether there is a need to withdraw from the engagement and the professional relationship.

Tax Planning Products or Arrangements Developed by a Third Party

R5380.24 If a sustainability assurance client engages a sustainability assurance practitioner professional accountant to advise on a tax planning product or arrangement developed by a third party, the accountant-practitioner shall:

- (a) Inform the client of any professional or business relationship the sustainability assurance practitioner accountant has with the third-party provider; and
- (b) Apply the provisions in this section with respect to the tax planning product or arrangement.

R5380.25 If a sustainability assurance practitioner professional accountant recommends or refers a sustainability assurance client to a third-party provider of tax planning services, the accountant practitioner shall inform the client of any professional or business relationship the accountant practitioner has with the third-party provider.

5380.25 A1 Where the sustainability assurance practitioner professional accountant only recommends or refers a sustainability assurance client to a third-party provider of tax planning services, the provisions of this section do not apply.

5380.25 A2 If a sustainability assurance practitioner professional accountant receives a referral fee or commission from the third-party provider, the provisions in Section 5330 apply.

Documentation

5380.26 A1 When providing a tax planning service, a sustainability assurance practitioner professional accountant is encouraged to document on a timely basis:

- The purpose, circumstances and substance of the tax planning arrangement.
- The identity of the ultimate beneficiaries.
- The nature of any uncertainties.
- The accountant's-practitioner's analysis, the courses of action considered, the judgments made, and the conclusions reached in advising the sustainability assurance client on the tax planning arrangement.
- The results of discussions with the sustainability assurance client and other parties.
- The sustainability assurance client's response to the practitioner accountant's advice.
- Any disagreement with the sustainability assurance client.

5380.26 A2 Preparing such documentation assists the accountant sustainability assurance practitioner to:

- Consider the reputational, commercial and wider economic consequences that could arise from the way stakeholders might view the arrangement.

- Develop the ~~practitioner~~accountant's analysis of the facts, circumstances, relevant tax laws and regulations and any assumptions made or changed.
- Record the basis of the professional judgments at the time they were made or changed.
- Support the position if the tax planning arrangement is challenged by the relevant tax authorities.
- Demonstrate that the ~~accountant~~practitioner has complied with the provisions in this section.

SECTION 5390

USING THE WORK OF AN EXTERNAL EXPERT

Introduction

5390.1 Sustainability assurance practitioners are required to comply with the fundamental principles and apply the conceptual framework set out in Section 5120 to identify, evaluate and address threats.

5390.2 Using the work of an external expert might create threats to compliance with the fundamental principles, particularly the principles of integrity, objectivity and professional competence and due care.

5390.3 This section sets out requirements and application material relevant to applying the conceptual framework in relation to using the work of an external expert.

Requirements and Application Material

General

5390.4 A1 A self-interest threat to compliance with the principles of integrity and professional competence and due care is created if a sustainability assurance practitioner performs a professional service for which the practitioner has insufficient expertise.

5390.4 A2 An action that might be a safeguard to address such a threat is to use the work of an external expert for the professional service who has the competence, capabilities and objectivity to deliver the work needed for such service.

5390.4 A3 An external expert might be used to undertake specific work to support a professional service provided by a sustainability assurance practitioner. Such work can be in a field that is well-established or emerging. Examples of such work include:

- The valuation of assets such as complex financial instruments, land and buildings, plant and machinery, jewelry, works of art, antiques, intangible assets, assets acquired in business combinations, and assets that may have been impaired.
- The valuation of liabilities such as those assumed in business combinations, those from actual or threatened litigation, environmental liabilities, site clean-up liabilities, and those associated with insurance contracts or employee benefit plans.
- The calculation of greenhouse gas emissions.
- The measurement of pollutants emitted to air, water and soil.
- The valuation of products and materials designed along principles for a sustainable economy.
- The estimation of oil and gas reserves.
- The interpretation of contracts, laws and regulations, including tax laws and regulations, tax treaties and bilateral agreements.
- Assessment and evaluation of IT systems, including those related to cybersecurity.
- The accounting for specific matters such as financial instruments or carbon credits.

5390.4 A4 This section does not apply to:

- (a) The use of the work of an expert employed or engaged by the sustainability assurance client to assist the client in preparing the financial or non-financial information. Such work is deemed to be information provided by management; and
- (b) The use of information provided by individuals or organizations that are external information sources for general use. They include, for example, those that provide industry or other benchmarking data or studies, such as information about employment statistics including hours worked and compensation per week by geographical area, real estate prices, carbon emissions by vehicle type, mortality tables, or other datasets for general use.

Agreeing the Terms of Engagement with an External Expert

All Professional Services

R5390.5 If the sustainability assurance practitioner has identified an external expert to use for a professional service, the practitioner shall, to the extent not otherwise addressed by law, regulation or other professional standards, agree the terms of engagement with the external expert, including:

- (a) The nature, scope and objectives of the work to be performed by the external expert; and
- (b) In the context of sustainability or other assurance engagements, the provision of information needed from the external expert for purposes of assisting the practitioner's evaluation of the external expert's competence, capabilities and objectivity.

5390.5 A1 In agreeing the terms of engagement, matters that the sustainability assurance practitioner might discuss with the external expert include:

- The intended use and timing of the external expert's work.
- The external expert's general approach to the work.
- Expectations regarding confidentiality of the external expert's work and the inputs to that work.
- The expected content and format of the external expert's completed work, including any assumptions made and limitations to that work.
- Expectations regarding the external expert's communication of any non-compliance or suspected non-compliance with laws and regulations committed by the sustainability assurance client, or those working for or under the direction of the client, of which the external expert becomes aware when performing the work.

Evaluating the External Expert's Competence, Capabilities, and Objectivity

All Professional Services

R5390.6 The sustainability assurance practitioner shall evaluate whether the external expert has the necessary competence, capabilities and objectivity for the practitioner's purpose.

5390.6 A1 A self-interest, self-review or advocacy threat to compliance with the principles of integrity, objectivity and professional competence and due care might be created if a sustainability assurance practitioner uses an external expert who does not have the competence, capabilities or objectivity to deliver the work needed for the particular professional service.

5390.6 A2 Factors that are relevant in evaluating the competence of the external expert include:

- Whether the external expert's credentials, education, training, experience and reputation are relevant to, or consistent with, the nature of the work to be performed.
- Whether the external expert belongs to a relevant professional body and, if so, whether the external expert is in good standing.
- Whether the external expert's work is subject to professional standards issued by a recognized body, or follows generally accepted principles or practices, in the external expert's field or area of expertise.
- Whether the external expert can explain their work, including the inputs, assumptions and methodologies used.
- Whether the external expert has a history of performing similar work for the sustainability assurance practitioner's firm or other clients.

5390.6 A3 Factors that are relevant in evaluating the capabilities of the external expert include:

- The resources available to the external expert.
- Whether the external expert has sufficient time to perform the work.

5390.6 A4 Factors that are relevant in evaluating the objectivity of the external expert include:

- Whether the external expert is subject to ethics standards issued by a body responsible for issuing such standards in the external expert's field of expertise.
- Whether the external expert or their employing organization has a conflict of interest in relation to the work the external expert is performing at the entity.
- Whether the sustainability assurance practitioner knows or is aware of any bias that might affect the external expert's work.
- Whether the external expert will evaluate or rely on any previous judgments made or activities performed by the external expert or their employing organization in undertaking the work.

5390.6 A5 Examples of previous judgments made or activities performed by an external expert or their employing organization that might create a self-review threat to the external expert's objectivity include:

- Having advised the entity on the matter for which the external expert is performing the work.
- Having produced data or other information for the entity which is then used by the external expert in performing the work or is the subject of that work.

5390.6 A6 Information about the external expert's competence, capabilities and objectivity might be obtained from various sources, including:

- Personal association or experience with previous work undertaken by the external expert.
- Inquiry of others within or outside the sustainability assurance practitioner's firm who are familiar with the external expert's work.
- Discussion with the external expert about their background, including their field of expertise and business activities.
- Inquiry of the external expert's professional body or industry association.

- Articles, papers or books written by the external expert and published by a recognized publisher or in a recognized journal or other medium.
- Published records, such as legal proceedings involving the external expert.
- Inquiry of the sustainability assurance client and, if different, the entity at which the external expert is performing the work regarding any interests and relationships between the external expert and the client or the entity.
- The system of quality management of the sustainability assurance practitioner's firm.

Sustainability or Other Assurance Engagements

5390.7 A1 Stakeholders have heightened expectations regarding the objectivity of an external expert whose work is used in a sustainability or other assurance engagement. Therefore, paragraphs R5390.8 to R5390.11 set out further actions in evaluating the objectivity of an external expert in a sustainability or other assurance engagement pursuant to paragraph R5390.6.

R5390.8 The sustainability assurance practitioner shall request the external expert to provide, in relation to the entity at which the external expert is performing the work and with respect to the period covered by the assurance report and the engagement period, information about:

- (a) Any direct financial interest or material indirect financial interest held by the external expert, their immediate family, or the external expert's employing organization in the entity;
- (b) Any loan, or guarantee of a loan, made to the entity by the external expert, their immediate family, or the external expert's employing organization, other than where the loan or guarantee is immaterial to the external expert, their immediate family or the external expert's employing organization, as applicable, and the entity;
- (c) Any loan, or a guarantee of a loan, accepted by the external expert, their immediate family, or the external expert's employing organization from the entity if it is a bank or similar institution, other than where the loan or guarantee is made under normal lending procedures, terms and conditions;
- (d) Any loan, or a guarantee of a loan, accepted by the external expert, their immediate family, or the external expert's employing organization from the entity if it is not a bank or similar institution, other than where the loan or guarantee is immaterial to the external expert, their immediate family or the external expert's employing organization, as applicable, and the entity;
- (e) Any close business relationship between the external expert, their immediate family, or the external expert's employing organization and the entity or its management, other than where the financial interest, if any, is immaterial and the business relationship is insignificant to the external expert, their immediate family or the external expert's employing organization, as applicable, and the entity or its management;
- (f) Any previous or current engagements between the external expert or their employing organization and the entity;
- (g) How long the external expert and their employing organization have been associated with the entity;
- (h) Any position as a director or officer of the entity, or an employee in a position to exert significant influence over the preparation of the entity's financial or non-financial information, or the records

underlying such information:

(i) Held by the external expert or their immediate family;

(ii) Held or previously held by the external expert; or

(iii) Held or previously held by management of the external expert's employing organization;

(i) Any previous public statements by the external expert or their employing organization which advocated for the entity;

(j) Any fee or contingent fee or dependency on fees or other types of remuneration due to or received by the external expert or their employing organization from the entity;

(k) Any benefits received by the external expert, their immediate family or the external expert's employing organization from the entity;

(l) Any conflict of interest the external expert or their employing organization might have in relation to the work the external expert is performing at the entity; and

(m) The nature and extent of any interests and relationships between the controlling owners of the external expert's employing organization and the entity.

R5390.9 Where the external expert uses a team to carry out the work, the sustainability assurance practitioner shall request the external expert to have all members of the external expert's team provide the information set out in paragraph R5390.8, in relation to the entity at which the external expert is performing the work and with respect to the period covered by the assurance report and the engagement period.

R5390.10 The sustainability assurance practitioner shall request the external expert to communicate any changes in facts or circumstances regarding the matters set out in paragraph R5390.8 that might arise during the period covered by the assurance report and the engagement period.

R5390.11 Where the sustainability assurance client is not the entity at which the external expert is performing the work, the sustainability assurance practitioner shall also request the external expert to disclose, in relation to the period covered by the assurance report and the engagement period, information about interests, relationships or circumstances of which they are aware between the external expert, their immediate family or the external expert's employing organization and the client.

5390.11 A1 Examples of interests, relationships or circumstances between the external expert and the sustainability assurance client that might be included in the evaluation of the external expert's objectivity include:

- Any direct financial interest or material indirect financial interest in the sustainability assurance client held by the external expert, their immediate family, or the external expert's employing organization.
- Any interests or relationships of the external expert, their immediate family or the external expert's employing organization with the sustainability assurance client and those entities over which it has direct or indirect control.
- Any conflicts of interest the external expert, their immediate family or the external expert's employing organization might have with the sustainability assurance client.

5390.11 A2 Information about interests, relationships or circumstances between an external expert or their

employing organization and the sustainability assurance client might be obtained from inquiry of the client, if the circumstances of the engagement permit disclosure of the use of the external expert to the client.

All Professional Services

R5390.12 The sustainability assurance practitioner shall not use the work of the external expert if:

- (a) The practitioner is unable to obtain the information needed for the practitioner's evaluation of the external expert's competence, capabilities and objectivity; or
- (b) The practitioner determines that the external expert is not competent, capable or objective.

Potential Threats Arising from Using the Work of an External Expert

All Professional Services

5390.13 A1 Threats to compliance with the fundamental principles might still be created from using the work of an external expert even if a sustainability assurance practitioner has satisfactorily concluded that the external expert has the necessary competence, capabilities and objectivity for the practitioner's purpose.

Identifying Threats

5390.14 A1 Examples of facts and circumstances that might create threats to a sustainability assurance practitioner's compliance with the fundamental principles when using an external expert's work include:

(a) Self-interest threats

- A sustainability assurance practitioner has insufficient expertise to understand and explain the external expert's conclusions and findings.
- A sustainability assurance practitioner has undue influence from, or undue reliance on, the external expert or multiple external experts when performing a professional service.
- A sustainability assurance practitioner has insufficient time or resources to evaluate the external expert's work.

(b) Advocacy threats

- A sustainability assurance practitioner promotes the use of an external expert who has known bias towards conclusions potentially advantaging or disadvantaging the sustainability assurance client.

(c) Familiarity threats

- A sustainability assurance practitioner has a close personal relationship with the external expert.

(d) Intimidation threats

- A sustainability assurance practitioner feels pressure to defer to the external expert's opinion due to the external expert's perceived authority.

Evaluating Threats

5390.15 A1 Factors that are relevant in evaluating the level of such threats include:

- The scope and purpose of the external expert's work.
- The impact of the external expert's work on the sustainability assurance practitioner's engagement.
- The nature of the professional service for which the external expert's work is intended to be used.
- The sustainability assurance practitioner's oversight relating to the use of the external expert and the external expert's work.
- The appropriateness of, and transparency over, the data, assumptions and other inputs and methods used by the external expert.
- The sustainability assurance practitioner's ability to understand and explain the external expert's work and its appropriateness for the intended purpose.
- Whether the external expert's work is subject to technical performance standards or other professional or industry generally accepted practices, or law or regulation.
- Whether the external expert's work, if it were to be performed by two or more parties, is not likely to be materially different.
- The consistency of the external expert's work, including the external expert's conclusions or findings, with other information.
- The availability of other evidence, including peer-reviewed academic research, to support the external expert's approach.
- Whether there is pressure being exerted by the sustainability assurance practitioner's firm to accept the external expert's conclusions or findings due to the time or cost spent by the external expert in performing the work.

Addressing Threats

5390.16 A1 An example of an action that might eliminate a familiarity threat is identifying a different external expert to use.

5390.16 A2 Examples of actions that might be safeguards to address threats include:

- Consulting with qualified personnel who have the necessary expertise and experience to evaluate the external expert's work, obtaining additional input, or challenging the appropriateness of the external expert's work for the intended purpose.
- Using another external expert to reperform the external expert's work.
- Agreeing with the sustainability assurance client additional time or resources to complete the engagement.

Other Matters

External Experts in Emerging Fields or Areas

5390.17 A1 Expertise in emerging fields or areas might evolve depending on how laws, regulations and generally

accepted practices develop. Emerging fields might also involve multiple areas of expertise. There might therefore be limited availability of external experts in emerging fields or areas.

5390.17 A2 Information relating to some of the factors relevant to evaluating the competence of an external expert in paragraph 5390.6 A2 might not be available in an emerging field or area. For example, there might not be public recognition of the external expert, professional standards might not have been developed, or professional bodies might not have been established in the emerging field. In such circumstances, a factor that might assist the sustainability assurance practitioner in evaluating an external expert's competence is the external expert's experience in a similar field to the emerging field, or in an established field, that provides a reasonable basis for the external expert's work in the emerging field.

Using the Work of Multiple External Experts

R5390.18 When a sustainability assurance practitioner uses the work of more than one external expert in the performance of a professional service, the practitioner shall consider whether, in addition to the threats that might be created by using each external expert individually, the combined effect of using the work of the external experts might create additional threats or impact the level of threats.

Inherent Limitations in Evaluating an External Expert's Competence, Capabilities or Objectivity

5390.19 A1 Paragraph R5113.3 sets out communication responsibilities for the sustainability assurance practitioner with respect to limitations inherent in the practitioner's professional services. When using the work of an external expert, such communication might be especially relevant when there is a lack of information to evaluate the external expert's competence, capabilities or objectivity, and there is no available alternative to that external expert.

Communicating with Management and Those Charged with Governance When Using the Work of an External Expert

5390.20 A1 The sustainability assurance practitioner is encouraged to communicate with management, and where appropriate, those charged with governance:

- The purpose of using an external expert and the scope of the external expert's work.
- The respective roles and responsibilities of the sustainability assurance practitioner and the external expert in the performance of the professional service.
- Any threats to the practitioner's compliance with the fundamental principles created by using the external expert's work and how they have been addressed.

Documentation

5390.21 A1 The sustainability assurance practitioner is encouraged to document:

- The results of any discussions with the external expert.
- The steps taken by the practitioner to evaluate the external expert's competence, capabilities and objectivity, and the resulting conclusions.
- Any significant threats identified by the practitioner in using the external expert's work and the actions taken to address the threats.

INTERNATIONAL INDEPENDENCE STANDARDS FOR SUSTAINABILITY ASSURANCE ENGAGEMENTS

SECTION 5400

APPLYING THE CONCEPTUAL FRAMEWORK TO INDEPENDENCE FOR ~~AUDIT AND REVIEW~~ SUSTAINABILITY ASSURANCE ENGAGEMENTS

Introduction

General

5400.1 It is in the public interest and required by the Code that ~~professional accountants in public practice~~ sustainability assurance practitioners be independent when performing ~~audit or review engagements~~ sustainability assurance engagements.

~~400.2~~ [Paragraph 5400.2 is intentionally left blank] ~~This Part applies to both audit and review engagements unless otherwise stated. The terms “audit,” “audit team,” “audit engagement,” “audit client,” and “audit report” apply equally to review, review team, review engagement, review client, and review engagement report.~~ —

5400.3 In this Part, the term ~~“professional accountant”~~ refers to individual professional accountants in public practice and their firms. ~~“sustainability assurance practitioner”~~ refers to individuals and their firms conducting sustainability assurance engagements.

Scope of the International Independence Standards in Part 5

5400.3a The International Independence Standards in this Part only apply to a sustainability assurance engagement where the sustainability information on which the sustainability assurance practitioner expresses an opinion:

(a) Is reported in accordance with a general purpose framework; and

(b) Is

i. Required to be provided in accordance with law or regulation; or

ii. Publicly disclosed to support decision-making by investors or other stakeholders.

5400.3b Law or regulation might also require the application of the International Independence Standards in Part 5 to sustainability assurance engagements other than those described in paragraph 5400.3a.

5400.3c The International Independence Standards in Part 5 apply to both reasonable assurance and limited assurance sustainability assurance engagements. In this Part, references are made to a firm expressing an opinion on the sustainability information in the context of a reasonable assurance sustainability assurance engagement. In the context of a limited assurance engagement, those references mean a firm expressing a conclusion on the sustainability information.

5400.3d An assurance engagement might be either an attestation engagement or a direct engagement. The International Independence Standards in this Part cover only sustainability assurance engagements that are attestation engagements.

5400.3e Part 4B of the Code sets out International Independence Standards for other sustainability assurance engagements that are not within the scope of the International Independence Standards in this Part. These include, for example:

- A sustainability assurance engagement where the sustainability information on which the sustainability assurance practitioner expresses an opinion is reported solely in accordance with:
 - A framework designed to meet the information needs of specified users; or
 - Entity-developed criteria.
- A sustainability assurance engagement for which the sustainability assurance report is a restricted use and distribution report.

Quality Management

5400.3f Quality management within firms that perform sustainability assurance engagements is an integral part of high-quality sustainability assurance engagements. Sustainability assurance standards are based on an expectation that the sustainability assurance practitioner has a system of quality management designed, implemented and operated in accordance with applicable quality management standards. For example, ISSA 5000 requires compliance with ISQM 1 or other legal, regulatory or professional requirements that are at least as demanding as ISQM 1.

5400.4 Legal, regulatory or professional requirements that deal with the firm's responsibilities to design, implement, and operate a system of quality management might require the firm to address the fulfilment of responsibilities in accordance with relevant ethical requirements, including those related to independence. Relevant ethical requirements are those related to the firm, its personnel and, when applicable, others subject to the independence requirements to which the firm and the firm's engagements are subject. The allocation of responsibilities within a firm will depend on its size, structure and organization. Many of the provisions of the International Independence Standards in this Part do not prescribe the specific responsibilities of individuals within the firm for actions related to independence, instead referring to "firm" for ease of reference. ~~ISQM 1 requires a firm to design implement and operate a system of quality management for audits or reviews of financial statements performed by the firm. As part of this system of quality management, ISQM 1 requires the firm to establish quality objectives that address the fulfilment of responsibilities in accordance with relevant ethical requirements, including those related to independence. Under ISQM 1, relevant ethical requirements are those related to the firm, its personnel and, when applicable, others subject to the independence requirements to which the firm and the firm's engagements are subject. ISAs and ISREs establish responsibilities for engagement partners and engagement teams at the level of the engagement for audits and reviews respectively. The allocation of responsibilities within a firm will depend on its size, structure and organization. Many of the provisions of this Part do not prescribe the specific responsibility of individuals within the firm for actions related to independence, instead referring to "firm" for ease of reference. A firm assigns operational responsibility for compliance with independence requirements to an individual(s) in accordance with ISQM 1. In addition, an individual professional accountant remains responsible for compliance with any provisions that apply to that accountant's activities, interests or relationships.~~

5400.5 Independence is linked to the principles of objectivity and integrity. It comprises:

- (a) Independence of mind – the state of mind that permits the expression of a conclusion without being affected by influences that compromise professional judgment, thereby allowing an individual to act with integrity, and exercise objectivity and professional skepticism.
- (b) Independence in appearance – the avoidance of facts and circumstances that are so significant that a reasonable and informed third party would be likely to conclude that a firm's, or an ~~n-audit~~

sustainability assurance team member's, integrity, objectivity, or professional skepticism has been compromised.

In the International Independence Standards in this Part, references to an individual or firm being "independent" mean that the individual or firm has complied with the provisions of this Part.

5400.6 When performing ~~audit~~-sustainability assurance engagements, the Code requires firms to comply with the fundamental principles and be independent. This Part sets out specific requirements and application material on how to apply the conceptual framework to maintain independence when performing such engagements. The conceptual framework set out in Section 5120 applies to independence as it does to the fundamental principles set out in Section 5110. Section 5405 sets out specific requirements and application material applicable in a group sustainability assurance engagement-audit.

5400.7 The International Independence Standards in this Part describe:

- (a) Facts and circumstances, including professional activities, interests and relationships, that create or might create threats to independence;
- (b) Potential actions, including safeguards, that might be appropriate to address any such threats; and
- (c) Some situations where the threats cannot be eliminated or there can be no safeguards to reduce them to an acceptable level.

Engagement Team and ~~Audit~~ Sustainability Assurance Team

5400.8 The International Independence Standards in tThis Part ~~applies-apply~~ to all ~~audit-and-sustainability assurance~~ team members, including engagement team members.

5400.9 An engagement team for a ~~n-audit~~ sustainability assurance engagement includes all leaders partners and staff in the firm who perform ~~audit-assurance~~ procedures on the engagement, and any other individuals who perform such procedures who are from within or outside the firm's network.:

~~(a) — A network firm; or~~

~~(b) — A firm that is not a network firm, or another service provider.~~

~~For example, an individual from a component auditor firm who performs audit procedures on the financial information of a component for purposes of a group audit is a member of the engagement team for the group audit.~~

~~400.10 — [Paragraph 5400.10 is intentionally left blank] In ISQM 1, a service provider includes an individual or organization external to the firm that provides a resource that is used in the performance of engagements. Service providers exclude the firm, a network firm or other structures or organizations in the network.—~~

5400.10a If the firm intends to use the work of another sustainability assurance practitioner and the firm is able to direct, supervise and review the practitioner's work, that practitioner is a member of the engagement team. For example, an individual from a component sustainability assurance firm who performs assurance procedures on the sustainability information of a component for purposes of a group sustainability assurance engagement is a member of the engagement team for the group sustainability assurance engagement.

5400.11 Sustainability assurance engagements might be performed on a wide range of sustainability matters that require specialized skills and knowledge beyond those possessed by the engagement team. An ~~audit sustainability assurance~~ engagement might therefore involve experts within, or engaged by, the firm, a network firm, or a component ~~auditor sustainability assurance~~ firm ~~outside a group auditor firm's network~~, who assist in the engagement. Depending on the role of the individuals, they might be engagement team or ~~audit sustainability assurance~~ team members. For example:

- ~~Individuals with expertise in a specialized area of accounting or auditing who perform audit procedures are engagement team members. These include, for example, individuals with expertise in accounting for income taxes or in analyzing complex information produced by automated tools and techniques for the purpose of identifying unusual or unexpected relationships~~ Individuals with expertise in a specialized area of sustainability reporting or assurance who perform assurance procedures are engagement team members. These include, for example, individuals with expertise in the measurement of specific sustainability matters or in analyzing complex information produced by automated tools and techniques for the purpose of identifying unusual or unexpected relationships.
- Individuals within, or engaged by, the firm who have direct influence over the outcome of the ~~audit sustainability assurance~~ engagement through consultation regarding technical or industry-specific issues, transactions or events for the engagement are ~~audit sustainability assurance~~ team members but not engagement team members.

However, individuals who are external experts are neither engagement team nor ~~audit sustainability assurance~~ team members. [Ref.: Section 5390]

5400.12 If the ~~audit sustainability assurance~~ engagement is subject to an engagement quality review, the engagement quality reviewer and any other individuals performing the engagement quality review are ~~audit sustainability assurance~~ team members but not engagement team members.

Involvement of Another Practitioner in a Sustainability Assurance Engagement

5400.12a Although a sustainability assurance client's sustainability information and financial statements might relate to the same reporting entity, the reporting boundary for sustainability information might differ from that for purposes of preparing the financial statements. For example, the reporting boundary might include activities, operations, relationships or resources up and down the entity's value chain.

5400.12b There might be other practitioners who perform assurance work related to the engagement whose work the firm might be unable to direct, supervise and review. For example, another practitioner might already have completed their engagement, or that practitioner might be unable to cooperate with the firm because there are restrictions on access to information or people due to law, regulation or other conditions.

5400.12c When another practitioner performs assurance work related to the engagement and the firm is unable to direct, supervise and review that work, that practitioner is not a member of the engagement team. Section 5406 of this Part sets out specific requirements and application material when a firm plans to use the work of such a practitioner.

Public Interest Entities

~~5400.13~~ Some of the requirements and application material set out in this Part are applicable only to the ~~audit of financial statements~~ sustainability assurance engagements of public interest entities. An entity is a public interest entity in this Part if it has been determined as such for the purposes of the audit of its financial statements in accordance with the relevant provisions in Part 4A, reflecting significant public interest in the financial condition of these entities due to the potential impact of their financial well-being on stakeholders.

~~5400.13a~~ A firm performing the audit of an entity's financial statements might decide to voluntarily treat the entity as a public interest entity. In such circumstances, this does not mean that another firm performing a sustainability assurance engagement for that entity is required to treat that entity as a public interest entity for the purposes of the sustainability assurance engagement.

~~400.14~~ **[Paragraph 5400.14 is intentionally left blank]** ~~Factors to consider in evaluating the extent of public interest in the financial condition of an entity include:~~

- ~~• The nature of the business or activities, such as taking on financial obligations to the public as part of the entity's primary business.~~
- ~~• Whether the entity is subject to regulatory supervision designed to provide confidence that the entity will meet its financial obligations.~~
- ~~• Size of the entity.~~
- ~~• The importance of the entity to the sector in which it operates including how easily replaceable it is in the event of financial failure.~~
- ~~• Number and nature of stakeholders including investors, customers, creditors and employees.~~
- ~~• The potential systemic impact on other sectors and the economy as a whole in the event of financial failure of the entity.~~

~~5400.15~~ Stakeholders have heightened expectations regarding the independence of a firm performing an ~~audit engagement~~ sustainability assurance engagement for a public interest entity ~~because of the significance of the public interest in the financial condition of the entity.~~ The purpose of the requirements and application material for public interest entities ~~as described in paragraph 400.13~~ is to meet these expectations, thereby enhancing stakeholders' confidence in the entity's ~~financial statements~~ sustainability information that can be used ~~for their decision-making purposes when assessing the entity's financial condition.~~

~~Reports that Include a Restriction on Use and Distribution~~

~~400.16~~ **[Paragraph 5400.16 is intentionally left blank]** ~~An audit or report might include a restriction on use and distribution. If it does and the conditions set out in Section 800 are met, then the independence requirements in this Part may be modified as provided in Section 800.~~

Firms Performing Both Audit and Sustainability Assurance Engagements

~~5400.16a~~ Independence standards for audit and review engagements are set out in Part 4A – Independence for Audit and Review Engagements. If a firm performs both a sustainability assurance engagement and an audit or review engagement for the same client, the provisions in the Code applicable to audit and review engagements, including Part 4A, and this Part apply to the firm, a network firm and the audit team members.

~~Assurance Engagements other than Audit and Review Engagements~~

~~400.17 [Paragraph 5400.17 is intentionally left blank] Independence standards for assurance engagements that are not audit or review engagements are set out in Part 4B—Independence for Assurance Engagements Other than Audit and Review Engagement.~~

Requirements and Application Material

General

R5400.18 A firm performing an ~~audit~~ sustainability assurance engagement shall be independent.

R5400.19 A firm shall apply the conceptual framework set out in Section 5120 to identify, evaluate and address threats to independence in relation to an ~~audit~~ sustainability assurance engagement.

Prohibition on Assuming Management Responsibilities

R5400.20 A firm or a network firm shall not assume a management responsibility for a ~~audit~~ sustainability assurance client.

5400.20 A1 Management responsibilities involve controlling, leading and directing an entity, including making decisions regarding the acquisition, deployment and control of human, financial, technological, physical and intangible resources.

5400.20 A2 When a firm or a network firm assumes a management responsibility for a ~~audit~~ sustainability assurance client, self-review, self-interest and familiarity threats are created. Assuming a management responsibility might also create an advocacy threat because the firm or network firm becomes too closely aligned with the views and interests of management.

5400.20 A3 Determining whether an activity is a management responsibility depends on the circumstances and requires the exercise of professional judgment. Examples of activities that would be considered a management responsibility include:

- Setting policies and strategic direction, for example, setting sustainable policies and goals.
- Hiring or dismissing employees.
- Directing and taking responsibility for the actions of employees in relation to the employees' work for the entity.
- Authorizing transactions.
- ~~Controlling or managing bank accounts or investments.~~
- Deciding which recommendations of the firm or network firm or other third parties to implement.
- Reporting to those charged with governance on behalf of management.
- Taking responsibility for:
 - Developing criteria used by the client for reporting sustainability information.
 - ~~The preparation and fair presentation of the financial statements in accordance with the applicable financial reporting framework.~~The preparation and presentation of the sustainability information in accordance with the applicable sustainability reporting framework, including identifying material sustainability matters to be reported.

- Designing, implementing, monitoring or maintaining internal control.
- Supply chain management.
- Designing or implementing software to collect or produce sustainability data for the client.
- Reporting on environmental credits or offsets.
- Resource allocation for sustainability initiatives.
- Controlling or managing bank accounts or investments.

5400.20 A4 Subject to compliance with paragraph R5400.21, providing advice and recommendations to assist the management of an ~~an-audit~~ sustainability assurance client in discharging its responsibilities is not assuming a management responsibility. The provision of advice and recommendations to an ~~an-audit~~ sustainability assurance client might create a self-review threat and is addressed in Section 5600.

R5400.21 When performing a professional activity for an ~~an-audit~~ sustainability assurance client, the firm shall be satisfied that client management makes all judgments and decisions that are the proper responsibility of management. This includes ensuring that the client's management:

- (a) Designates an individual who possesses suitable skill, knowledge and experience to be responsible at all times for the client's decisions and to oversee the activities. Such an individual, preferably within senior management, would understand:
 - (i) The objectives, nature and results of the activities; and
 - (ii) The respective client and firm or network firm responsibilities.

However, the individual is not required to possess the expertise to perform or re-perform the activities.

- (b) Provides oversight of the activities and evaluates the adequacy of the results of the activities performed for the client's purpose.
- (c) Accepts responsibility for the actions, if any, to be taken arising from the results of the activities.

5400.21 A1 When technology is used in performing a professional activity for an ~~an-audit~~ sustainability assurance client, the requirements in paragraphs R5400.20 and R5400.21 apply regardless of the nature or extent of such use of the technology.

Public Interest Entities

~~R400.22~~ — ~~[Paragraph R5400.22 is intentionally left blank] For the purposes of this Part, a firm shall treat an entity as a public interest entity when it falls within any of the following categories:~~

- ~~(a) A publicly traded entity;~~
- ~~(b) An entity one of whose main functions is to take deposits from the public;~~
- ~~(c) An entity one of whose main functions is to provide insurance to the public; or~~
- ~~(d) An entity specified as such by law, regulation or professional standards to meet the purpose described in paragraph 400.15.~~

~~400.22 A1~~ — ~~[Paragraph 5400.22 A1 is intentionally left blank] When terms other than public interest entity are applied to entities by law, regulation or professional standards to meet the purpose described in~~

~~paragraph 400.15, such terms are regarded as equivalent terms. However, if law, regulation or professional standards designate entities as “public interest entities” for reasons unrelated to the purpose described in paragraph 400.15, that designation does not necessarily mean that such entities are public interest entities for the purposes of the Code.~~

~~**R400.23** — **[Paragraph R5400.23 is intentionally left blank]** In complying with the requirement in paragraph R400.22, a firm shall take into account more explicit definitions established by law, regulation or professional standards for the categories set out in paragraph R400.22 (a) to (c).~~

~~400.23 A1 — **[Paragraph 5400.23 A1 is intentionally left blank]** The categories set out in paragraph R400.22 (a) to (c) are broadly defined and no recognition is given to any size or other factors that can be relevant in a specific jurisdiction. The Code therefore provides for those bodies responsible for setting ethics standards for professional accountants to more explicitly define these categories by, for example:—~~

- ~~• — Making reference to specific public markets for trading securities.~~
- ~~• — Making reference to the local law or regulation defining banks or insurance companies.~~
- ~~• — Incorporating exemptions for specific types of entities, such as an entity with mutual ownership.~~
- ~~• — Setting size criteria for certain types of entities.~~

~~400.23 A2 — **[Paragraph 5400.23 A2 is intentionally left blank]** Paragraph R400.22 (d) anticipates that those bodies responsible for setting ethics standards for professional accountants will add categories of public interest entities to meet the purpose described in paragraph 400.15, taking into account factors such as those set out in paragraph 400.14. Depending on the facts and circumstances in a specific jurisdiction, such categories could include:—~~

- ~~• — Pension funds.~~
- ~~• — Collective investment vehicles.~~
- ~~• — Private entities with large numbers of stakeholders (other than investors).~~
- ~~• — Not-for-profit organizations or governmental entities.~~
- ~~• — Public utilities.~~

~~400.24 A1 — **[Paragraph 5400.24 A1 is intentionally left blank]** A firm is encouraged to determine whether to treat other entities as public interest entities for the purposes of this Part. When making this determination, the firm might consider the factors set out in paragraph 400.14 as well as the following factors:—~~

- ~~• — Whether the entity is likely to become a public interest entity in the near future.~~
- ~~• — Whether in similar circumstances, a predecessor firm has applied independence requirements for public interest entities to the entity.—~~
- ~~• — Whether in similar circumstances, the firm has applied independence requirements for public interest entities to other entities.—~~
- ~~• — Whether the entity has been specified as not being a public interest entity by law, regulation or professional standards.~~

- ~~Whether the entity or other stakeholders requested the firm to apply independence requirements for public interest entities to the entity and, if so, whether there are any reasons for not meeting this request.~~
- ~~The entity's corporate governance arrangements, for example, whether those charged with governance are distinct from the owners or management.~~

Public Disclosure—Application of Independence Requirements for Public Interest Entities

R5400.25 Subject to paragraph R5400.26, when a firm has applied the independence requirements for public interest entities as described in paragraph 5400.13 in performing an ~~audit of the financial statements of an entity, sustainability assurance engagement,~~ the firm shall publicly disclose that fact in a manner deemed appropriate, taking into account the timing and accessibility of the information to stakeholders.

R5400.26 As an exception to paragraph R5400.25, a firm may not make such a disclosure if doing so will result in disclosing confidential future plans of the entity.

Related Entities

R5400.27 As defined, an ~~audit sustainability assurance~~ client that is a publicly traded entity ~~in accordance with paragraphs R400.22 and R400.23~~ includes all of its related entities. For all other entities, references to an ~~audit sustainability assurance~~ client in this Part include related entities over which the client has direct or indirect control. When the ~~audit sustainability assurance~~ team knows, or has reason to believe, that a relationship or circumstance involving any other related entity of the client is relevant to the evaluation of the firm's independence from the client, the ~~audit sustainability assurance~~ team shall include that related entity when identifying, evaluating and addressing threats to independence.

[Paragraphs 5400.28 to 5400.29 are intentionally left blank]

Period During which Independence is Required

R5400.30 Independence, as required by the International Independence Standards in this Part, shall be maintained during both:

- (a) The engagement period; and
- (b) The reporting period for the engagement. ~~The period covered by the financial statements.~~

5400.30 A1 The engagement period starts when the engagement team begins to perform the ~~audit sustainability assurance engagement.~~ The engagement period ends when the ~~audit sustainability assurance~~ report is issued. When the engagement is of a recurring nature, it ends at the later of the notification by either party that the professional relationship has ended or the issuance of the final ~~audit sustainability assurance~~ report.

5400.30 A2 The reporting period for the engagement might be the same as the period covered by the financial statements. The reporting period for the engagement does not refer to the period covered by the sustainability information from the start of historical information to the end of any forward-looking information.

R5400.31 If an entity becomes an ~~audit sustainability assurance~~ client during or after the reporting period for the engagement covered by the financial statements on which the firm will express an opinion, the firm shall determine whether any threats to independence are created by:

- (a) Financial or business relationships with the ~~audit sustainability assurance~~ client during or after the reporting period for the engagement covered by the financial statements but before accepting the ~~audit sustainability assurance~~ engagement; or
- (b) Previous services provided to the ~~audit sustainability assurance~~ client by the firm or a network firm.

5400.31 A1 Threats to independence are created if a non-assurance service was provided to an ~~audit sustainability assurance~~ client during, or after the reporting period for the engagement covered by the financial statements, but before the engagement team begins to perform the ~~audit sustainability assurance engagement~~, and the service would not be permitted during the engagement period.

5400.31 A2 A factor to be considered in such circumstances is whether the results of the service provided might form part of or affect the ~~accounting records, records underlying the sustainability information,~~ the internal controls over financial sustainability reporting, or the ~~financial statements sustainability information~~ on which the firm will express an opinion.

5400.31 A3 Examples of actions that might be safeguards to address threats to independence include:

- Not assigning professionals who performed the non-assurance service to be members of the engagement team.
- Having an appropriate reviewer review the ~~audit sustainability assurance~~ work or non-assurance service as appropriate.
- Engaging another firm outside of the network to evaluate the results of the non-assurance service or having another firm outside of the network re-perform the non-assurance service to the extent necessary to enable the other firm to take responsibility for the service.

5400.31 A4 A threat to independence created by the provision of a non-assurance service by a firm or a network firm prior to the ~~audit sustainability assurance~~ engagement period or prior to the reporting period for the engagement covered by the financial statements on which the firm will express an opinion is eliminated or reduced to an acceptable level if the results of such service have been used or implemented in a period ~~audited by another firm for which a sustainability assurance engagement has been undertaken by another firm~~.

Audit Sustainability Assurance Clients that are Public Interest Entities

R5400.32 A firm shall not accept appointment ~~as auditor to perform a sustainability assurance engagement for~~ a public interest entity to which the firm or the network firm has provided a non-assurance service prior to such appointment that might create a self-review threat in relation to the ~~financial statements sustainability information~~ on which the firm will express an opinion unless:

- (a) The provision of such service ceases before the commencement of the ~~audit sustainability assurance~~ engagement period;
- (b) The firm takes action to address any threats to its independence; and
- (c) The firm determines that, in the view of a reasonable and informed third party, any threats to the firm's independence have been or will be eliminated or reduced to an acceptable level.

5400.32 A1 Actions that might be regarded by a reasonable and informed third party as eliminating or reducing to an acceptable level any threats to independence created by the provision of non-assurance services

to a public interest entity prior to appointment ~~to provide a as auditor sustainability assurance of service to~~ that entity include:

- The results of the service had been subject to ~~auditing sustainability assurance~~ procedures in the course of the ~~audit sustainability assurance engagement~~ of the prior ~~year's period's financial statements sustainability information~~ by a predecessor firm.
- The firm engages a ~~professional accountant practitioner~~, who is not a member of the firm expressing the opinion on the ~~financial statements sustainability information~~, to perform a review of the first ~~audit sustainability assurance~~ engagement affected by the self-review threat consistent with the objective of an engagement quality review.
- The public interest entity engages another firm outside of the network to:
 - (i) Evaluate the results of the non-assurance service; or
 - (ii) Re-perform the service,
 to the extent necessary to enable the other firm to take responsibility for the result of the service.

[Paragraphs 5400.33 to 5400.39 are intentionally left blank]

Communication with those Charged with Governance

5400.40 A1 Paragraphs R5300.9 and R5300.10 set out requirements with respect to communicating with those charged with governance.

5400.40 A2 Even when not required by the Code, applicable professional standards, laws or regulations, regular communication is encouraged between a firm and those charged with governance of the client regarding relationships and other matters that might, in the firm's opinion, reasonably bear on independence. Such communication enables those charged with governance to:

- (a) Consider the firm's judgments in identifying and evaluating threats;
- (b) Consider how threats have been addressed including the appropriateness of safeguards when they are available and capable of being applied; and
- (c) Take appropriate action.

Such an approach can be particularly helpful with respect to intimidation and familiarity threats.

[Paragraphs 5400.41 to 5400.49 are intentionally left blank]

Network Firms

5400.50 A1 Firms frequently form larger structures with other firms and entities to enhance their ability to provide professional services. Whether these larger structures create a network depends on the particular facts and circumstances. It does not depend on whether the firms and entities are legally separate and distinct.

R5400.51 A network firm shall be independent of the ~~audit sustainability assurance~~ clients of the other firms within the network as required by this Part.

5400.51 A1 The independence requirements in this Part that apply to a network firm apply to any entity that meets the definition of a network firm. It is not necessary for the entity also to meet the definition of a firm. For example, a consulting practice or professional law practice might be a network firm but not a firm.

- R5400.52** When associated with a larger structure of other firms and entities, a firm shall:
- (a) Exercise professional judgment to determine whether a network is created by such a larger structure;
 - (b) Consider whether a reasonable and informed third party would be likely to conclude that the other firms and entities in the larger structure are associated in such a way that a network exists; and
 - (c) Apply such judgment consistently throughout such a larger structure.

- R5400.53** When determining whether a network is created by a larger structure of firms and other entities, a firm shall conclude that a network exists when such a larger structure is aimed at co-operation and:
- (a) It is clearly aimed at profit or cost sharing among the entities within the structure. (Ref: Para. [5400.53 A2](#));
 - (b) The entities within the structure share common ownership, control or management. (Ref: Para. [5400.53 A3](#));
 - (c) The entities within the structure share common quality management policies and procedures. (Ref: Para. [5400.53 A4](#));
 - (d) The entities within the structure share a common business strategy. (Ref: Para. [5400.53 A5](#));
 - (e) The entities within the structure share the use of a common brand name. (Ref: Para. [5400.53 A6](#), [5400.53 A7](#)); or
 - (f) The entities within the structure share a significant part of professional resources. (Ref: Para. [5400.53 A8](#), [5400.53 A9](#)).

[5400.53 A1](#) There might be other arrangements between firms and entities within a larger structure that constitute a network, in addition to those arrangements described in paragraph R5400.53. However, a larger structure might be aimed only at facilitating the referral of work, which in itself does not meet the criteria necessary to constitute a network.

[5400.53 A2](#) The sharing of immaterial costs does not in itself create a network. In addition, if the sharing of costs is limited only to those costs related to the development of ~~audit-sustainability assurance~~ methodologies, manuals or training courses, this would not in itself create a network. Further, an association between a firm and an otherwise unrelated entity jointly to provide a service or develop a product does not in itself create a network. (Ref: Para. R5400.53(a)).

[5400.53 A3](#) Common ownership, control or management might be achieved by contract or other means. (Ref: Para. R5400.53(b)).

[5400.53 A4](#) Common quality management policies and procedures are those designed, implemented and operated across the larger structure. (Ref: Para. R5400.53(c)).

[5400.53 A5](#) Sharing a common business strategy involves an agreement by the entities to achieve common strategic objectives. An entity is not a network firm merely because it co-operates with another entity solely to respond jointly to a request for a proposal for the provision of a professional service. (Ref: Para. R5400.53(d)).

5400.53 A6 A common brand name includes common initials or a common name. A firm is using a common brand name if it includes, for example, the common brand name as part of, or along with, its firm name when a ~~leader partner~~ of the firm signs an ~~audit sustainability assurance~~ report. (Ref: Para. R5400.53(e)).

5400.53 A7 Even if a firm does not belong to a network and does not use a common brand name as part of its firm name, it might appear to belong to a network if its stationery or promotional materials refer to the firm being a member of an association of firms. Accordingly, if care is not taken in how a firm describes such membership, a perception might be created that the firm belongs to a network. (Ref: Para. R5400.53(e)).

5400.53 A8 Professional resources include:

- Common systems that enable firms to exchange information such as client data, billing and time records.
- ~~Leaders Partners~~ and other personnel.
- Technical departments that consult on technical or industry specific issues, transactions or events for assurance engagements.
- ~~Audit-Sustainability assurance~~ methodology or ~~audit-sustainability assurance~~ manuals.
- Training courses and facilities. (Ref: Para. R5400.53(f)).

5400.53 A9 Whether the shared professional resources are significant depends on the circumstances. For example:

- The shared resources might be limited to common ~~audit-sustainability assurance~~ methodology or ~~audit-sustainability assurance~~ manuals, with no exchange of personnel or client or market information. In such circumstances, it is unlikely that the shared resources would be significant. The same applies to a common training endeavor.
- The shared resources might involve the exchange of personnel or information, such as where personnel are drawn from a shared pool, or where a common technical department is created within the larger structure to provide participating firms with technical advice that the firms are required to follow. In such circumstances, a reasonable and informed third party is more likely to conclude that the shared resources are significant. (Ref: Para. R5400.53(f)).

R5400.54 If a firm or a network sells a component of its practice, and the component continues to use all or part of the firm's or network's name for a limited time, the relevant entities shall determine how to disclose that they are not network firms when presenting themselves to outside parties.

5400.54 A1 The agreement for the sale of a component of a practice might provide that, for a limited period of time, the sold component can continue to use all or part of the name of the firm or the network, even though it is no longer connected to the firm or the network. In such circumstances, while the two entities might be practicing under a common name, the facts are such that they do not belong to a larger structure aimed at cooperation. The two entities are therefore not network firms.

[Paragraphs 5400.55 to 5400.59 are intentionally left blank]

General Documentation of Independence for Sustainability Assurance Audit and Review Engagements

R5400.60 A firm shall document conclusions regarding compliance with the International Independence Standards in this Part, and the substance of any relevant discussions that support those conclusions. In particular:

- (a) When safeguards are applied to address a threat, the firm shall document the nature of the threat and the safeguards in place or applied; and
- (b) When a threat required significant analysis and the firm concluded that the threat was already at an acceptable level, the firm shall document the nature of the threat and the rationale for the conclusion.

5400.60 A1 Documentation provides evidence of the firm's judgments in forming conclusions regarding compliance with the International Independence Standards in this Part. However, a lack of documentation does not determine whether a firm considered a particular matter or whether the firm is independent.

[Paragraphs **5400.61** to **5400.69** are intentionally left blank]

Mergers and Acquisitions

When a Client Merger Creates a Threat

5400.70 A1 An entity might become a related entity of an ~~n-audit~~ sustainability assurance client because of a merger or acquisition. A threat to independence and, therefore, to the ability of a firm to continue an ~~n-audit~~ sustainability assurance engagement might be created by previous or current interests or relationships between a firm or network firm and such a related entity.

R5400.71 In the circumstances set out in paragraph **5400.70 A1**,

- (a) The firm shall identify and evaluate previous and current interests and relationships with the related entity that, taking into account any actions taken to address the threat, might affect its independence and therefore its ability to continue the ~~audit~~-sustainability assurance engagement after the effective date of the merger or acquisition; and
- (b) Subject to paragraph **R5400.72**, the firm shall take steps to end any interests or relationships that are not permitted by the Code by the effective date of the merger or acquisition.

R5400.72 As an exception to paragraph **R5400.71(b)**, if the interest or relationship cannot reasonably be ended by the effective date of the merger or acquisition, the firm shall:

- (a) Evaluate the threat that is created by the interest or relationship; and
- (b) Discuss with those charged with governance the reasons why the interest or relationship cannot reasonably be ended by the effective date and the evaluation of the level of the threat.

5400.72 A1 In some circumstances, it might not be reasonably possible to end an interest or relationship creating a threat by the effective date of the merger or acquisition. This might be because the firm provides a non-assurance service to the related entity, which the entity is not able to transition in an orderly manner to another provider by that date.

5400.72 A2 Factors that are relevant in evaluating the level of a threat created by mergers and acquisitions when there are interests and relationships that cannot reasonably be ended include:

- The nature and significance of the interest or relationship.
- The nature and significance of the related entity relationship (for example, whether the related entity is a subsidiary or parent).
- The length of time until the interest or relationship can reasonably be ended.

R5400.73 If, following the discussion set out in paragraph R5400.72(b), those charged with governance request the firm to continue ~~as the auditor~~ sustainability assurance engagement, the firm shall do so only if:

- (a) The interest or relationship will be ended as soon as reasonably possible but no later than six months after the effective date of the merger or acquisition;
- (b) Any individual who has such an interest or relationship, including one that has arisen through performing a non-assurance service that would not be permitted by Section 5600 and its subsections, will not be a member of the engagement team for the audit-sustainability assurance engagement or the individual responsible for the engagement quality review; and
- (c) Transitional measures will be applied, as necessary, and discussed with those charged with governance.

5400.73 A1 Examples of such transitional measures include:

- Having a ~~professional accountant sustainability assurance practitioner~~ review the audit sustainability assurance or non-assurance work as appropriate.
- Having a ~~professional accountant sustainability assurance practitioner~~, who is not a member of the firm expressing the opinion on the ~~financial statements sustainability information~~, perform a review that is consistent with the objective of an engagement quality review.
- Engaging another firm to evaluate the results of the non-assurance service or having another firm re-perform the non-assurance service to the extent necessary to enable the other firm to take responsibility for the service.

R5400.74 The firm might have completed a significant amount of work on the ~~audit sustainability assurance engagement~~ prior to the effective date of the merger or acquisition and might be able to complete the remaining audit-assurance procedures within a short period of time. In such circumstances, if those charged with governance request the firm to complete the audit-sustainability assurance engagement while continuing with an interest or relationship identified in paragraph 5400.70 A1, the firm shall only do so if it:

- (a) Has evaluated the level of the threat and discussed the results with those charged with governance;
- (b) Complies with the requirements of paragraph R5400.73(b) to (c); and
- (c) Ceases to ~~perform~~ ~~be~~ the auditor-sustainability assurance engagement no later than the date that the audit-sustainability assurance report is issued.

If Objectivity Remains Compromised

R5400.75 Even if all the requirements of paragraphs R5400.71 to R5400.74 could be met, the firm shall determine whether the circumstances identified in paragraph 5400.70 A1 create a threat that cannot be addressed such that objectivity would be compromised. If so, the firm shall cease to ~~be perform~~ the auditor-sustainability assurance engagement.

Documentation

R5400.76 The firm shall document:

- (a) Any interests or relationships identified in paragraph 5400.70 A1 that will not be ended by the effective date of the merger or acquisition and the reasons why they will not be ended;
- (b) The transitional measures applied;
- (c) The results of the discussion with those charged with governance; and
- (d) The reasons why the previous and current interests and relationships do not create a threat such that objectivity would be compromised.

[Paragraphs 5400.77 to 5400.79 are intentionally left blank.]

Breach of an Independence Provision for ~~Audit and Review~~ Sustainability Assurance Engagements

When a Firm Identifies a Breach

R5400.80 If a firm concludes that a breach of an independence requirement in this Part has occurred, the firm shall:

- (a) End, suspend or eliminate the interest or relationship that created the breach and address the consequences of the breach;
- (b) Consider whether any legal or regulatory requirements apply to the breach and, if so:
 - (i) Comply with those requirements; and
 - (ii) Consider reporting the breach to a professional or regulatory body or oversight authority if such reporting is common practice or expected in the relevant jurisdiction;
- (c) Promptly communicate the breach in accordance with its policies and procedures to:
 - (i) The engagement ~~leader~~partner;
 - (ii) The individual with operational responsibility for compliance with independence requirements;
 - (iii) Other relevant personnel in the firm and, where appropriate, the network; and
 - (iv) Those subject to the independence requirements in Part 54A who need to take appropriate action;
- (d) Evaluate the significance of the breach and its impact on the firm's objectivity and ability to issue an ~~audit~~ sustainability assurance report; and
- (e) Depending on the significance of the breach, determine:
 - (i) Whether to end the ~~audit~~ sustainability assurance engagement; or
 - (ii) Whether it is possible to take action that satisfactorily addresses the consequences of the breach and whether such action can be taken and is appropriate in the circumstances.

In making this determination, the firm shall exercise professional judgment and take into account whether a reasonable and informed third party would be likely to conclude that the firm's objectivity would be compromised, and therefore, the firm would be unable to issue an ~~audit~~ sustainability assurance report.

5400.80 A1 A breach of an independence provision of this Part might occur despite the firm having a system of quality management designed to address independence requirements. It might be necessary to end the ~~audit-sustainability assurance~~ engagement because of the breach.

5400.80 A2 The significance and impact of a breach on the firm's objectivity and ability to issue an ~~audit sustainability assurance~~ report will depend on factors such as:

- The nature and duration of the breach.
- The number and nature of any previous breaches with respect to the current ~~audit sustainability assurance~~ engagement.
- Whether an ~~audit sustainability assurance~~ team member had knowledge of the interest or relationship that created the breach.
- Whether the individual who created the breach is an ~~audit sustainability assurance~~ team member or another individual for whom there are independence requirements.
- If the breach relates to an ~~audit sustainability assurance~~ team member, the role of that individual.
- If the breach was created by providing a professional service, the impact of that service, if any, on the ~~accounting records or the amounts recorded in the financial statements, records underlying, or data comprising, the sustainability information,~~ on which the firm will express an opinion.
- The extent of the self-interest, advocacy, intimidation or other threats created by the breach.

5400.80 A3 Depending upon the significance of the breach, examples of actions that the firm might consider to address the breach satisfactorily include:

- Removing the relevant individual from the ~~audit-sustainability assurance~~ team.
- Using different individuals to conduct an additional review of the affected ~~audit-assurance~~ work or to re-perform that work to the extent necessary.
- Recommending that the ~~audit-sustainability assurance~~ client engage another firm to review or re-perform the affected ~~audit-assurance~~ work to the extent necessary.
- If the breach relates to a non-assurance service that affects the ~~accounting records or an amount recorded in the financial statements, records underlying, or data comprising, the sustainability information on which the firm will express an opinion,~~ engaging another firm to evaluate the results of the non-assurance service or having another firm re-perform the non-assurance service to the extent necessary to enable the other firm to take responsibility for the service.

R5400.81 If the firm determines that action cannot be taken to address the consequences of the breach satisfactorily, the firm shall inform those charged with governance as soon as possible and take the steps necessary to end the ~~audit-sustainability assurance~~ engagement in compliance with any applicable legal or regulatory requirements. Where ending the engagement is not permitted by laws or regulations, the firm shall comply with any reporting or disclosure requirements.

R5400.82 If the firm determines that action can be taken to address the consequences of the breach satisfactorily, the firm shall discuss with those charged with governance:

- (a) The significance of the breach, including its nature and duration;
- (b) How the breach occurred and how it was identified;
- (c) The action proposed or taken and why the action will satisfactorily address the consequences of the breach and enable the firm to issue a an audit-sustainability assurance report;
- (d) The conclusion that, in the firm's professional judgment, objectivity has not been compromised and the rationale for that conclusion; and
- (e) Any steps proposed or taken by the firm to reduce or avoid the risk of further breaches occurring.

Such discussion shall take place as soon as possible unless an alternative timing is specified by those charged with governance for reporting less significant breaches.

Communication of Breaches to Those Charged with Governance

5400.83 A1 Paragraphs R5300.9 and R5300.10 set out requirements with respect to communicating with those charged with governance.

R5400.84 With respect to breaches, the firm shall communicate in writing to those charged with governance:

- (a) All matters discussed in accordance with paragraph R5400.82 and obtain the concurrence of those charged with governance that action can be, or has been, taken to satisfactorily address the consequences of the breach; and
- (b) A description of:
 - (i) The firm's policies and procedures relevant to the breach designed to provide it with reasonable assurance that independence is maintained; and
 - (ii) Any steps that the firm has taken, or proposes to take, to reduce or avoid the risk of further breaches occurring.

R5400.85 If those charged with governance do not concur that the action proposed by the firm in accordance with paragraph R5400.80(e)(ii) satisfactorily addresses the consequences of the breach, the firm shall take the steps necessary to end the audit-sustainability assurance engagement in accordance with paragraph R5400.81.

Breaches Before the Previous Audit-Sustainability Assurance Report Was Issued

R5400.86 If the breach occurred prior to the issuance of the previous audit-sustainability assurance report, the firm shall comply with the independence provisions of this Part 4A in evaluating the significance of the breach and its impact on the firm's objectivity and its ability to issue a an audit-sustainability assurance report in the current period.

R5400.87 The firm shall also:

- (a) Consider the impact of the breach, if any, on the firm's objectivity in relation to any previously issued audit-sustainability assurance reports, and the possibility of withdrawing such audit reports; and
- (b) Discuss the matter with those charged with governance.

Documentation

R5400.88 In complying with the requirements in paragraphs R5400.80 to R5400.87, the firm shall document:

- (a) The breach;
- (b) The actions taken;
- (c) The key decisions made;
- (d) All the matters discussed with those charged with governance; and
- (e) Any discussions with a professional or regulatory body or oversight authority.

R5400.89 If the firm continues with the audit sustainability assurance engagement, it shall document:

- (a) The conclusion that, in the firm's professional judgment, objectivity has not been compromised; and
- (b) The rationale for why the action taken satisfactorily addressed the consequences of the breach so that the firm could issue a n-audit sustainability assurance report.

SECTION 5405**GROUP ~~AUDITS~~ SUSTAINABILITY ASSURANCE ENGAGEMENTS****Introduction**

5405.1 Section 5400 requires a firm to be independent when performing a ~~an~~ audit sustainability assurance engagement, and to apply the conceptual framework set out in Section 5120 to identify, evaluate and address threats to independence. This section sets out specific requirements and application material relevant to applying the conceptual framework when performing a group ~~audit~~ sustainability assurance engagement.

Requirements and Application Material**General**

5405.2 A1 ~~ISAs apply to an audit of group financial statements. ISA 600 (Revised) deals with special considerations that apply to an audit of group financial statements, including when component auditors are involved. ISA 600 (Revised) requires the group engagement partner to take responsibility for confirming whether the component auditors understand and will comply with the relevant ethical requirements, including those related to independence, that apply to the group audit. The independence requirements referred to in ISA 600 (Revised), or other relevant auditing standards applicable to group audits that are equivalent to ISA 600 (Revised), are those specified in this section. Depending on the sustainability reporting framework, the firm might express an opinion on group sustainability information that includes information about components within the group. The firm might use the work of a component sustainability assurance firm for the purpose of the group sustainability assurance engagement. In such circumstances, the applicable sustainability assurance standard might require the group engagement leader to be sufficiently and appropriately involved in the work of that component sustainability assurance firm, including directing, supervising and reviewing that work.~~

5405.2 A1a ~~This section sets out requirements and application material that are applicable to the group sustainability assurance firm, component sustainability assurance firms and members of the group sustainability assurance team.~~

5405.2 A1b ~~Where the group sustainability assurance firm uses the work of another firm, which performs assurance work at the sustainability assurance client, for purposes of the group sustainability assurance engagement, this section only applies where the group sustainability assurance firm is able to direct, supervise and review the work of that firm.~~

5405.2 A2 A component ~~auditor~~ sustainability assurance firm that participates in a group ~~audit~~ sustainability assurance engagement might separately issue an ~~audit~~ assurance opinion on the ~~financial statements~~ sustainability information of the component ~~audit~~ sustainability assurance client. Depending on the circumstances, the component ~~auditor~~ sustainability assurance firm might need to comply with different independence requirements when performing ~~audit~~ assurance work for a group ~~audit~~ sustainability assurance engagement and separately issuing an ~~audit~~ assurance opinion on the ~~financial statements~~ sustainability information of the component ~~audit~~ sustainability assurance client for statutory, regulatory or other reasons.

Communication Between a Group ~~Auditor Sustainability Assurance~~ Firm and a Component ~~Auditor Sustainability Assurance~~ Firm

R5405.3 ~~ISA 600 (Revised) requires that~~ The group engagement ~~leader partner to shall~~ take responsibility to make a component ~~auditor sustainability assurance firm~~ aware of the relevant ethical ~~sa~~, ~~including independence, requirements provisions in this Part~~ that are applicable given the nature and the circumstances of the group ~~audit sustainability assurance~~ engagement. When making the component ~~auditor sustainability assurance~~ firm aware of the relevant ethical ~~sa~~, ~~including independence, requirements provisions~~, the group ~~auditor sustainability assurance~~ firm shall communicate at appropriate times the necessary information to enable the component ~~auditor sustainability assurance~~ firm to meet its responsibilities under this section.

5405.3 A1 Examples of matters the group ~~auditor sustainability assurance~~ firm might communicate include:

- Whether the group ~~audit sustainability assurance~~ client is a public interest entity and the relevant ethical ~~sa~~, ~~including independence, requirements provisions~~ applicable to the group ~~audit sustainability assurance~~ engagement.
- The related entities and other components within the group ~~audit sustainability assurance~~ client that are relevant to the independence considerations applicable to the component ~~auditor sustainability assurance~~ firm and the group ~~audit sustainability assurance~~ team members within, or engaged by, that firm.
- The period during which the component ~~auditor sustainability assurance~~ firm is required to be independent.
- Whether an ~~audit sustainability assurance partner leader~~ who performs work at the component for purposes of the group ~~audit sustainability assurance engagement~~ is a key ~~audit sustainability assurance partner leader~~ for the group ~~audit sustainability assurance engagement~~.

R5405.4 ~~ISA 600 (Revised) also requires that~~ The group engagement ~~partner leader to request the component auditor to communicate whether the component auditor has complied with the relevant ethical requirements, including those related to independence, that apply to the group audit engagement shall take responsibility for requesting the component sustainability assurance firm to confirm whether it understands and will comply with the relevant provisions of this Part that apply to the group sustainability assurance engagement. The group engagement leader shall also request the component sustainability assurance firm to communicate: For the purposes of this section, such a request shall include the communication of~~

- (a) Any independence matters that require significant judgment; and
- (b) In relation to those matters, the component ~~auditor sustainability assurance~~ firm's conclusion whether the threats to its independence are at an acceptable level, and the rationale for that conclusion.

R5405.4a-A1 If a matter comes to the attention of the group engagement ~~partner leader~~ that indicates that a threat to independence exists, ~~ISA 220 (Revised) requires~~ the group engagement ~~partner leader to shall~~ evaluate the threat and take appropriate action.

Independence Considerations Applicable to Individuals

Members of the Group ~~Audit-Sustainability Assurance~~ Team Within, or Engaged by, a Group ~~Auditor-Sustainability Assurance~~ Firm and Its Network Firms

R5405.5 Members of the group ~~audit-sustainability assurance~~ team within, or engaged by, the group ~~auditor sustainability assurance~~ firm and its network firms shall be independent of the group ~~audit sustainability assurance~~ client in accordance with the requirements of this Part that are applicable to the ~~audit sustainability assurance~~ team.

Other Members of the Group ~~Audit-Sustainability Assurance~~ Team

R5405.6 Members of the group ~~audit-sustainability assurance~~ team within, or engaged by, a component ~~auditor-sustainability assurance~~ firm outside the group ~~auditor-sustainability assurance~~ firm's network shall be independent of:

- (a) The component ~~audit-sustainability assurance~~ client;
- (b) The entity on whose group ~~financial statements sustainability information~~ the group ~~auditor sustainability assurance~~ firm expresses an opinion; and
- (c) Any entity over which the entity in subparagraph (b) has direct or indirect control, provided that such entity has direct or indirect control over the component ~~audit-sustainability assurance~~ client,

in accordance with the requirements of this Part that are applicable to the ~~audit-sustainability assurance~~ team.

R5405.7 In relation to related entities or components within the group ~~audit-sustainability assurance~~ client other than those covered in paragraph R5405.6, a member of the group ~~audit-sustainability assurance~~ team within, or engaged by, a component ~~auditor-sustainability assurance~~ firm outside the group ~~auditor-sustainability assurance~~ firm's network shall notify the component ~~auditor-sustainability assurance~~ firm about any relationship or circumstance the individual knows, or has reason to believe, might create a threat to the individual's independence in the context of the group ~~audit sustainability assurance engagement~~.

5405.7A1 Examples of relationships or circumstances involving the individual or any of the individual's immediate family members, as applicable, that are relevant to the individual's consideration when complying with paragraph R5405.7 include:

- A direct or material indirect financial interest in an entity that has control over the group ~~audit sustainability assurance~~ client if the group ~~audit-sustainability assurance~~ client is material to that entity (see Section 5510).
- A loan or guarantee involving: (see Section 5511)
 - An entity that is not a bank or similar institution unless the loan or guarantee is immaterial; or
 - A bank or similar institution unless the loan or guarantee is made under normal lending procedures, terms and conditions.
- A business relationship that is significant or involves a material financial interest (see Section

5520).

- An immediate family member who is: (see Section 5521)
 - A director or officer of an entity; or
 - An employee in a position to exert significant influence over the preparation of an entity's ~~accounting—sustainability information data or records~~ or ~~financial—statements sustainability information~~.
- The individual serving as, or having recently served as: (see Section 5522 and Section 5523)
 - A director or officer of an entity; or
 - An employee in a position to exert significant influence over the preparation of an entity's ~~accounting—sustainability information data or records~~ or ~~financial—statements sustainability information~~.

R5405.8 Upon receiving the notification as set out in paragraph R5405.7, the component ~~auditor-sustainability assurance~~ firm shall evaluate and address any threats to independence created by the individual's relationship or circumstance.

Independence Considerations Applicable to a Group ~~Auditor-Sustainability Assurance~~ Firm

R5405.9 A group ~~auditor-sustainability assurance~~ firm shall be independent of the group ~~audit-sustainability assurance~~ client in accordance with the requirements of this Part that are applicable to a firm.

Independence Considerations Applicable to Network Firms of a Group ~~Auditor-Sustainability Assurance~~ Firm

R5405.10 A network firm of the group ~~auditor-sustainability assurance~~ firm shall be independent of the group ~~audit-sustainability assurance~~ client in accordance with the requirements of this Part that are applicable to a network firm.

Independence Considerations Applicable to Component ~~Auditor-Sustainability Assurance~~ Firms outside a Group ~~Auditor-Sustainability Assurance~~ Firm's Network

All Group ~~Audit-Sustainability Assurance~~ Clients

- R5405.11** A component ~~auditor-sustainability assurance~~ firm outside the group ~~auditor-sustainability assurance~~ firm's network shall:
- (a) Be independent of the component ~~audit-sustainability assurance~~ client in accordance with the requirements set out in this Part that are applicable to a firm with respect to all ~~audit sustainability assurance~~ clients;
 - (b) Apply the relevant requirements in paragraphs R5510.4(a), R5510.7 and R5510.9 with respect to financial interests in the entity on whose group ~~financial-statements-sustainability information~~ the group ~~auditor-sustainability assurance~~ firm expresses an opinion; and
 - (c) Apply the relevant requirements in Section 5511 with respect to loans and guarantees involving the entity on whose group ~~financial-statements-sustainability information~~ the group ~~auditor-sustainability assurance~~ firm expresses an opinion.

- R5405.12** When a component ~~auditor sustainability assurance~~ firm outside the group ~~auditor sustainability assurance~~ firm's network knows, or has reason to believe, that a relationship or circumstance involving the group ~~audit sustainability assurance~~ client, beyond those addressed in paragraph R5405.11(b) and (c), is relevant to the evaluation of the component ~~auditor sustainability assurance~~ firm's independence from the component ~~audit sustainability assurance~~ client, the component ~~auditor sustainability assurance~~ firm shall include that relationship or circumstance when identifying, evaluating and addressing threats to independence.
- R5405.13** When a component ~~auditor sustainability assurance~~ firm outside the group ~~auditor sustainability assurance~~ firm's network knows, or has reason to believe, that a relationship or circumstance of a firm within the component ~~auditor sustainability assurance~~ firm's network with the component ~~audit sustainability assurance~~ client or the group ~~audit sustainability assurance~~ client creates a threat to the component ~~auditor sustainability assurance~~ firm's independence, the component ~~auditor sustainability assurance~~ firm shall evaluate and address any such threat.

Period During which Independence is Required

~~405.14 A1 — [Paragraph 5405.14 A1 is intentionally left blank] The references to the financial statements and the audit report in paragraphs R400.30 and 400.30 A1 mean the group financial statements and the audit report on the group financial statements respectively when applied in this section.~~

Group ~~Audit Sustainability Assurance~~ Clients that are Not Public Interest Entities

- R5405.15** When the group ~~audit sustainability assurance~~ client is not a public interest entity, a component ~~auditor sustainability assurance~~ firm outside the group ~~auditor sustainability assurance~~ firm's network shall be independent of the component ~~audit sustainability assurance~~ client in accordance with the requirements set out in this Part that are applicable to ~~audit sustainability assurance~~ clients that are not public interest entities for the purposes of the group ~~audit sustainability assurance engagement~~.
- ~~5405.15 A1~~ Where a component ~~auditor sustainability assurance~~ firm outside the group ~~auditor sustainability assurance~~ firm's network also performs an ~~audit sustainability assurance~~ engagement for a component ~~audit sustainability assurance~~ client that is a public interest entity for reasons other than the group ~~audit sustainability assurance engagement~~, for example, a statutory ~~audit sustainability assurance engagement~~, the independence requirements that are relevant to ~~audit sustainability assurance~~ clients that are public interest entities apply to that engagement.

Group ~~Audit Sustainability Assurance~~ Clients that are Public Interest Entities

Non-Assurance Services

- R5405.16** Subject to paragraph R5405.17, when the group ~~audit sustainability assurance~~ client is a public interest entity, a component ~~auditor sustainability assurance~~ firm outside the group ~~auditor sustainability assurance~~ firm's network shall comply with the provisions in Section 5600 that are applicable to public interest entities with respect to provision of non-assurance services to the component ~~audit sustainability assurance~~ client.
- ~~5405.16 A1~~ Where the group ~~audit sustainability assurance~~ client is a public interest entity, a component ~~auditor sustainability assurance~~ firm outside the group ~~auditor sustainability assurance~~ firm's network is prohibited from, for example:

- Providing ~~accounting and bookkeeping sustainability data and information~~ services that might affect the sustainability information on which the component sustainability assurance firm performs assurance work to a component ~~audit-sustainability assurance~~ client that is not a public interest entity (see Subsection 5601).
- Designing the information technology system, or an aspect of it, for a component ~~audit sustainability assurance~~ client that is not a public interest entity where such information technology system generates information for the component ~~audit-sustainability assurance~~ client's ~~accounting sustainability~~ records or ~~financial statements~~ the sustainability information on which the component sustainability assurance firm will perform assurance work (see Subsection 5606).
- Acting in an advocacy role for a component ~~audit-sustainability assurance~~ client that is not a public interest entity in resolving a dispute or litigation before a tribunal or court (see Subsection 5608).

5405.16 A2 The ~~financial-sustainability~~ information on which a component ~~auditor-sustainability assurance~~ firm outside the group ~~auditor-sustainability assurance~~ firm's network performs ~~audit-assurance~~ procedures is relevant to the evaluation of the self-review threat that might be created by the component ~~auditor-sustainability assurance~~ firm's provision of a non-assurance service, and therefore the application of Section 5600. For example, if the component ~~auditor-sustainability assurance~~ firm's ~~audit-assurance~~ procedures are limited to a specific item such as ~~inventory greenhouse gas emissions~~, the results of any non-assurance service that form part of or affect the ~~accounting-sustainability~~ records or the ~~financial-sustainability~~ information related to the ~~accounting for reporting on~~, or the internal controls over, ~~inventory-greenhouse gas emissions~~ are relevant to the evaluation of the self-review threat.

R5405.17 As an exception to paragraph R5405.16, a component ~~auditor-sustainability assurance~~ firm outside the group ~~auditor-sustainability assurance~~ firm's network may provide a non-assurance service that is not prohibited under Section 5600 to a component ~~audit-sustainability assurance~~ client without communicating information about the proposed non-assurance service to those charged with governance of the group ~~audit-sustainability assurance~~ client or obtaining their concurrence regarding the provision of that service as addressed by paragraphs R5600.21 to R5600.24.

Key ~~Audit-Sustainability Assurance Partners Leaders~~

R5405.18 The group engagement ~~partner-leader~~ shall determine whether an ~~an~~ ~~audit-sustainability assurance partner-leader~~ who performs ~~audit-assurance~~ work at a component for purposes of the group ~~audit sustainability assurance engagement~~ is a key ~~audit-sustainability assurance partner-leader~~ for the group ~~audit sustainability assurance engagement~~. If so, the group engagement ~~partner-leader~~ shall:

- (a) Communicate that determination to that individual; and
- (b) Indicate:
 - (i) In the case of all group ~~audit-sustainability assurance~~ clients, that the individual is subject to paragraph R5411.4; and
 - (ii) In the case of group ~~audit-sustainability assurance~~ clients that are public interest entities, that the individual is also subject to paragraphs R5524.6, R5540.5(c) and R5540.20.

5405.18 A1 A key ~~audit sustainability assurance partner leader~~ makes key decisions or judgments on significant matters with respect to the ~~audit sustainability assurance engagement~~ of the group ~~financial statements sustainability information~~ on which the group ~~auditor sustainability assurance~~ firm expresses an opinion in the group ~~audit sustainability assurance engagement~~.

Changes in Components

All ~~Group Audit-Group Sustainability Assurance~~ Clients

R5405.19 When an entity that is not a related entity becomes a component within the group ~~audit sustainability assurance~~ client, the group ~~auditor sustainability assurance~~ firm shall apply paragraphs R5400.71 to R5400.76.

Changes in Component ~~Auditor Sustainability Assurance~~ Firms

All Group ~~Audit Sustainability Assurance~~ Clients

5405.20 A1 There might be circumstances in which the group ~~auditor sustainability assurance~~ firm requests another firm to perform ~~audit assurance~~ work as a component ~~auditor sustainability assurance~~ firm during or after the ~~reporting period for the engagement covered by the group financial statements~~, for example, due to a client merger or acquisition. A threat to the component ~~auditor sustainability assurance~~ firm's independence might be created by:

- (a) Financial or business relationships of the component ~~auditor sustainability assurance~~ firm with the component ~~audit sustainability assurance~~ client during or after the ~~reporting period for the engagement covered by the group financial statements~~ but before the component ~~auditor sustainability assurance~~ firm agrees to perform the ~~audit assurance~~ work; or
- (b) Previous services provided to the component ~~audit sustainability assurance~~ client by the component ~~auditor sustainability assurance~~ firm.

5405.20 A2 Paragraphs 5400.31 A1 to A3 set out application material that is applicable for a component ~~auditor sustainability assurance~~ firm's assessment of threats to independence if a non-assurance service was provided by the component ~~auditor sustainability assurance~~ firm to the component ~~audit sustainability assurance~~ client during or after the ~~reporting period for the engagement covered by the group financial statements~~, but before the component ~~auditor sustainability assurance~~ firm begins to perform the ~~audit assurance~~ work for the purposes of the group ~~audit sustainability assurance engagement~~, and the service would not be permitted during the engagement period.

5405.20 A3 Paragraph 5400.31 A4 sets out application material that is applicable for a component ~~auditor sustainability assurance~~ firm's assessment of threats to independence if a non-assurance service was provided by the component ~~auditor sustainability assurance~~ firm to the component ~~audit sustainability assurance~~ client prior to the ~~reporting period for the engagement covered by the group financial statements~~.

Group ~~Audit~~ Sustainability Assurance Clients that are Public Interest Entities

- 5405.21 A1 Paragraphs R~~5400.32~~ and 5400.32 A1 are applicable when a component ~~auditor-sustainability assurance~~ firm agrees to perform ~~audit-assurance~~ work for group ~~audit-sustainability assurance~~ purposes in relation to a group ~~audit-sustainability assurance~~ client that is a public interest entity if the component ~~auditor-sustainability assurance~~ firm has previously provided a non-assurance service to the component ~~audit-sustainability assurance~~ client.
- 5405.21 A2 Paragraphs R~~5600.25~~ and 5600.25 A1 are applicable in relation to a non-assurance service provided, either currently or previously, by a component ~~auditor-sustainability assurance~~ firm to a component ~~audit-sustainability assurance~~ client when the group ~~audit-sustainability assurance~~ client subsequently becomes a public interest entity.

Breach of an Independence Provision at a Component ~~Auditor~~ Sustainability Assurance Firm

- 5405.22 A1 A breach of a provision of this section might occur despite a component ~~auditor-sustainability assurance~~ firm having a system of quality management designed to address independence requirements. Paragraphs R~~5405.23~~ to R~~5405.29~~ are relevant to a group ~~auditor-sustainability assurance~~ firm's determination as to whether it would be able to use a component ~~auditor-sustainability assurance~~ firm's work if a breach has occurred at the component ~~auditor-sustainability assurance~~ firm.
- 5405.22 A2 In the case of a breach at a component ~~auditor-sustainability assurance~~ firm within the group ~~auditor-sustainability assurance~~ firm's network, paragraphs R~~5400.80~~ to R~~5400.89~~ also apply to the group ~~auditor-sustainability assurance~~ firm in relation to the group ~~audit-sustainability assurance engagement~~, as applicable.

When a Component ~~Auditor~~ Sustainability Assurance Firm Identifies a Breach

- R~~5405.23~~** If a component ~~auditor-sustainability assurance~~ firm concludes that a breach of this section has occurred, the component ~~auditor-sustainability assurance~~ firm shall:
- (a) End, suspend or eliminate the interest or relationship that created the breach and address the consequences of the breach;
 - (b) Evaluate the significance of the breach and its impact on the component ~~auditor-sustainability assurance~~ firm's objectivity and ability to perform ~~audit-assurance~~ work for the purposes of the group ~~audit-sustainability assurance engagement~~;
 - (c) Depending on the significance of the breach, determine whether it is possible to take action that satisfactorily addresses the consequences of the breach and whether such action can be taken and is appropriate in the circumstances; and
 - (d) Promptly communicate in writing the breach to the group engagement ~~partner leader~~, including the component ~~auditor-sustainability assurance~~ firm's assessment of the significance of the breach and any actions proposed or taken to address the consequences of the breach.
- 5405.23 A1 Paragraphs 5400.80 A2 and A3 set out application material relevant to the component ~~auditor-sustainability assurance~~ firm's evaluation of the significance and impact of the breach on the component ~~auditor-sustainability assurance~~ firm's objectivity and ability to issue an opinion or conclusion on the ~~audit-assurance~~ work performed at the component for purposes of the group ~~audit~~

sustainability assurance engagement, and its consideration of any actions that might be taken to address the consequences of the breach satisfactorily.

R5405.24 Upon receipt of the component ~~auditor-sustainability assurance~~ firm's communication of the breach, the group engagement ~~partner-leader~~ shall:

- (a) Review the component ~~auditor-sustainability assurance~~ firm's assessment of the significance of the breach and its impact on the component ~~auditor-sustainability assurance~~ firm's objectivity, and any action that can be or has been taken to address the consequences of the breach;
- (b) Evaluate the group ~~auditor-sustainability engagement~~ firm's ability to use the work of the component ~~auditor-sustainability assurance~~ firm for the purposes of the group ~~audit-sustainability assurance engagement~~; and
- (c) Determine the need for any further action.

R5405.25 In applying paragraph R5405.24, the group engagement ~~partner-leader~~ shall exercise professional judgment and take into account whether a reasonable and informed third party would be likely to conclude that the component ~~auditor-sustainability assurance~~ firm's objectivity is compromised, and therefore, the group ~~auditor-sustainability assurance~~ firm is unable to use the work of the component ~~auditor-sustainability assurance~~ firm for the purposes of the group ~~audit-sustainability assurance engagement~~.

5405.25 A1 If the group engagement ~~partner-leader~~ determines that the consequences of the breach have been satisfactorily addressed by the component ~~auditor-sustainability assurance~~ firm and does not compromise the component ~~auditor-sustainability assurance~~ firm's objectivity, the group ~~auditor-sustainability assurance~~ firm may continue to use the work of the component ~~auditor-sustainability assurance~~ firm for the group ~~audit-sustainability assurance engagement~~. In certain circumstances, the group engagement ~~partner-leader~~ might determine that additional actions are needed to satisfactorily address the breach in order to use the component ~~auditor-sustainability assurance~~ firm's work. Examples of such action include the group ~~auditor-sustainability assurance~~ firm performing specific procedures on the areas impacted by the breach or requesting the component ~~auditor-sustainability assurance~~ firm to perform appropriate remedial work on the affected areas.

5405.25 A2 ~~ISA 600 (Revised) sets out that if~~ if there has been a breach by a component ~~auditor-sustainability assurance firm~~ and the breach has not been satisfactorily addressed, the group ~~auditor-sustainability assurance firm~~ cannot use the work of that component ~~auditor-sustainability assurance firm~~. In those circumstances, the group engagement ~~partner-leader~~ might find other means to obtain the necessary ~~audit-assurance~~ evidence on the component ~~audit-sustainability assurance~~ client's ~~financial-sustainability~~ information. Examples of such means include the group ~~auditor-sustainability assurance~~ firm performing the necessary ~~audit-assurance~~ work on the component ~~audit-sustainability assurance~~ client's ~~financial-sustainability~~ information or requesting another component ~~auditor-sustainability assurance~~ firm to perform such ~~audit-assurance~~ work.

Discussion with Those Charged with Governance of the Group ~~Audit-Sustainability Assurance~~ Client

5405.26 A1 With respect to breaches by a component ~~auditor-sustainability assurance~~ firm within the group ~~auditor-sustainability assurance~~ firm's network, paragraph R5400.84 applies.

R5405.27 With respect to breaches by a component ~~auditor-sustainability assurance~~ firm outside the group ~~auditor-sustainability assurance~~ firm's network, the group ~~auditor-sustainability assurance~~ firm shall discuss with those charged with governance of the group ~~audit-sustainability assurance~~ client:

- (a) The component ~~auditor-sustainability assurance~~ firm's assessment of the significance and impact of the breach on the component ~~auditor-sustainability assurance~~ firm's objectivity, including the nature and duration of the breach, and the action that can be or has been taken; and
- (b) Whether
 - (i) The action will satisfactorily address, or has addressed, the consequences of the breach; or
 - (ii) The group ~~auditor-sustainability assurance~~ firm will use other means to obtain the necessary ~~audit-assurance~~ evidence on the component ~~audit-sustainability assurance~~ client's ~~financial-sustainability~~ information.

Such discussion shall take place as soon as possible unless an alternative timing is specified by those charged with governance for reporting less significant breaches.

R5405.28 The group ~~auditor-sustainability assurance~~ firm shall communicate in writing to those charged with governance of the group ~~audit-sustainability assurance~~ client all matters discussed in accordance with paragraph R5405.27 and obtain the concurrence of those charged with governance that the action can be or has been taken to satisfactorily address the consequences of the breach.

R5405.29 If those charged with governance do not concur that the action that can be or has been taken would satisfactorily address the consequences of the breach at the component ~~auditor-sustainability assurance~~ firm, the group ~~auditor-sustainability assurance~~ firm shall not use the work performed by the component ~~auditor-sustainability assurance~~ firm for the purposes of the group ~~audit-sustainability assurance engagement~~.

SECTION 5406

ANOTHER PRACTITIONER INVOLVED IN A SUSTAINABILITY ASSURANCE ENGAGEMENT FOR A SINGLE ENTITY OR GROUP

Introduction

5406.1 Section 5400 requires a firm to be independent when performing a sustainability assurance engagement, and to apply the conceptual framework set out in Section 5120 to identify, evaluate and address threats to independence. This section sets out specific requirements and application material relevant to applying the conceptual framework when a firm uses the work of another practitioner that performs assurance work at the firm’s sustainability assurance client and whose work the firm is unable to direct, supervise and review. Such a practitioner is referred to in this section as “another practitioner.”

Requirements and Application Material

General

5406.2 A1 The sustainability information, prepared on a standalone or group basis, might include information that has been or will be assured by another practitioner. An example of such circumstance is where the client chooses to engage another practitioner in relation to certain sustainability information.

5406.2 A2 As a firm may use the work of another practitioner for standalone or group sustainability assurance engagements, the references in this section to firm, engagement leader, sustainability assurance engagement, sustainability assurance team and sustainability assurance client also mean group sustainability assurance firm, group engagement leader, group sustainability assurance engagement, group sustainability assurance team and group sustainability assurance client, as applicable.

Communication Between the Firm and Another Practitioner

R5406.3 If the firm determines to use the work of another practitioner for purposes of the sustainability assurance engagement, the engagement leader shall take responsibility to make that practitioner aware of the relevant ethics, including independence, provisions in this Part that are applicable to the sustainability assurance client given the nature and the circumstances of the sustainability assurance engagement. When making another practitioner aware of the relevant provisions in this Part, the firm shall communicate at appropriate times the necessary information to enable that practitioner to confirm their compliance with those provisions.

5406.3 A1 Examples of matters the firm might communicate include:

- Whether the sustainability assurance client is a public interest entity and the relevant provisions applicable to the sustainability assurance engagement.
- The related entities within the sustainability assurance client that are relevant to the independence considerations applicable to the other practitioner.
- The period during which independence is required.

R5406.4 If the firm intends to use the work of another practitioner, the engagement leader shall take responsibility for requesting that practitioner to confirm whether:

(a) Where the work has yet to be carried out, the practitioner understands and will comply with the relevant ethics, including independence, provisions; or

(b) Where the work has already been carried out, the practitioner understands and has complied with the relevant ethics, including independence, provisions.

Independence Considerations When the Firm Intends to Use the Work of Another Practitioner

R5406.5 If the firm intends to use the work of another practitioner, the firm shall request that practitioner to confirm that:

(a) The practitioner is independent of the entity on whose sustainability information the other practitioner performs assurance work in accordance with the independence requirements of this Part that are applicable to a firm with respect to a sustainability assurance client; and

(b) The individuals from that other practitioner who perform the assurance work are independent of that entity in accordance with the independence requirements of this Part that are applicable to a member of the sustainability assurance team with respect to a sustainability assurance client.

SECTION 5407

INDEPENDENCE CONSIDERATIONS RELATING TO ASSURANCE WORK AT, OR WITH RESPECT TO, A VALUE CHAIN ENTITY

Introduction

5407.1 Section 5400 requires a firm to be independent when performing a sustainability assurance engagement, and to apply the conceptual framework set out in Section 5120 to identify, evaluate and address threats to independence. This section sets out specific requirements and application material relevant to applying the conceptual framework when a firm performs assurance work, or uses assurance work performed, at, or with respect to, a value chain entity for the purposes of the sustainability assurance engagement.

Requirements and Application Material

General

5407.2 A1 The sustainability information on which a firm expresses an opinion might include information from a value chain entity. In performing the sustainability assurance engagement in accordance with the relevant sustainability assurance standards, the firm might determine that assurance procedures need to be performed at, or with respect to, that value chain entity. In such circumstances, the firm might:

- (a) Perform the assurance work at the value chain entity;
- (b) Use the work of a sustainability assurance practitioner who separately performs the assurance work at the value chain entity; or
- (c) Perform the assurance work on the sustainability information of the value chain entity provided by the sustainability assurance client without carrying out assurance work at that entity.

5407.2 A2 As information from value chain entities may be included in both standalone or group sustainability information, the references in this section to firm, engagement leader, sustainability assurance engagement, sustainability assurance team and sustainability assurance client also mean group sustainability assurance firm, group engagement leader, group sustainability assurance engagement, group sustainability assurance team and group sustainability assurance client, as applicable.

Independence Considerations When a Firm Performs Assurance Work at a Value Chain Entity

R5407.3 If the firm performs assurance work at a value chain entity for the purposes of the sustainability assurance engagement, the firm and members of the sustainability assurance team shall be independent of the value chain entity in accordance with the independence requirements of this Part that are applicable to a firm and a sustainability assurance team member, as applicable, with respect to a sustainability assurance client.

Independence Considerations When a Firm Intends to Use the Work of a Sustainability Assurance Practitioner at a Value Chain Entity

R5407.4 If the firm intends to use the work of a sustainability assurance practitioner who performs assurance work at a value chain entity, the firm shall be satisfied that that practitioner is independent of the value chain entity in accordance with the independence requirements of this Part that are applicable to a

firm with respect to that entity.

5407.4 A1 For the purposes of meeting the requirement in paragraph R5407.4, the firm may rely on a statement of independence in the sustainability assurance practitioner's report.

R5407.5 If the sustainability assurance practitioner has not provided a statement of independence in relation to the assurance work performed at the value chain entity, the engagement leader shall take responsibility for requesting the practitioner to confirm whether:

(a) Where the work has yet to be carried out, the practitioner will comply with the relevant ethics, including independence, provisions of this Part; or

(b) Where the work has already been carried out, the practitioner understands and has complied with the relevant ethics, including independence, provisions of this Part.

Independence Considerations When a Firm Performs Assurance work on Sustainability Information of a Value Chain Entity Provided by the Sustainability Assurance Client Without Carrying out Assurance Work at that Entity

R5407.6 If the firm performs the assurance work on the sustainability information of the value chain entity provided by the sustainability assurance client without carrying out assurance work at that entity, the firm and members of the sustainability assurance team shall be independent of the sustainability assurance client in accordance with the independence requirements of this Part.

SECTION 5410 FEES

Introduction

- 5410.1 Firms are required to comply with the fundamental principles, be independent and apply the conceptual framework set out in Section 5120 to identify, evaluate and address threats to independence.
- 5410.2 Section 5330 sets out application material relevant to applying the conceptual framework where the level and nature of fee and other remuneration arrangements might create a self-interest threat to compliance with one or more of the fundamental principles. This section sets out specific requirements and application material relevant to applying the conceptual framework to identify, evaluate and address threats to independence arising from fees charged to audit-sustainability assurance clients.

Requirements and Application Material

General

- 5410.3 A1 Fees for professional services are usually negotiated with and paid by an audit sustainability assurance client and might create threats to independence. This practice is generally recognized and accepted by intended users of financial statements sustainability information.
- 5410.3 A2 When the audit-sustainability assurance client is a public interest entity, stakeholders have heightened expectations regarding the firm's independence. As transparency can serve to better inform the views and decisions of those charged with governance and a wide range of stakeholders, this section provides for disclosure of fee-related information to both those charged with governance and stakeholders more generally for audit-sustainability assurance clients that are public interest entities.
- 5410.3 A3 For the purposes of this section, audit fees comprise fees or other types of remuneration for an audit or review of financial statements. sustainability assurance fees comprise fees or other types of remuneration for a sustainability assurance engagement. Where reference is made to the fee for the audit of the financial statements, this does not include any fee for an audit of special purpose financial statements or a review of financial statements. (Ref: Para. R410.23(a), 410.25 A1 and R410.31(a))
- 5410.3 A4 If the firm also performs the audit engagement for the same client, the audit fees and fees for the sustainability assurance engagement are a matter for the firm and the client to agree. If the sustainability assurance engagement is a separate engagement, the provisions in this Part apply, in addition to the relevant provisions in Part 4A that apply to the separate audit engagement.

Fees Paid by an Audit Sustainability Assurance Client

- 5410.4 A1 When fees are negotiated with and paid by an audit sustainability assurance client, this creates a self-interest threat and might create an intimidation threat to independence.
- 5410.4 A2 The application of the conceptual framework requires that before a firm or network firm accepts an audit sustainability assurance engagement, or any other engagement for an audit sustainability assurance client, the firm determines whether the threats to independence created by the fees proposed to the client are at an acceptable level. The application of the conceptual framework also requires the firm to re-evaluate such threats when facts and circumstances change during the engagement period for the audit sustainability assurance engagement.

5410.4 A3 Factors that are relevant in evaluating the level of threats created when fees for an ~~an~~ audit sustainability assurance engagement, or any other engagement, are paid by the ~~audit sustainability assurance~~ audit sustainability assurance client include:

- The level of the fees and the extent to which they have regard to the resources required, taking into account the firm's commercial and market priorities.
- Any linkage between fees for the ~~audit sustainability assurance engagement~~ audit sustainability assurance engagement and those for services other than ~~audit sustainability assurance~~ audit sustainability assurance and the relative size of both elements.
- The extent of any dependency between the level of the fee for, and the outcome of, the service.
- Whether the fee is for services to be provided by the firm or a network firm.
- The level of the fee in the context of the service to be provided by the firm or a network firm.
- The operating structure and the compensation arrangements of the firm and network firms.
- The significance of the client, or a third party referring the client, to the firm, network firm, ~~partner engagement leader~~ partner engagement leader or office.
- The nature of the client, for example whether the client is a public interest entity.
- The relationship of the client to the related entities to which the services other than ~~audit sustainability assurance~~ audit sustainability assurance are provided, for example when the related entity is a sister entity.
- The involvement of those charged with governance in appointing the ~~auditor firm providing the sustainability assurance service~~ auditor firm providing the sustainability assurance service and agreeing fees, and the apparent emphasis they and client management place on the quality of the ~~audit sustainability assurance engagement~~ audit sustainability assurance engagement and the overall level of the fees.
- Whether the level of the fee is set by an independent third party, such as a regulatory body.
- Whether the quality of the firm's ~~audit sustainability assurance~~ audit sustainability assurance work is subject to the review of an independent third party, such as an oversight body.

5410.4 A4 The conditions, policies and procedures described in paragraph 5120.15 A3 (particularly a system of quality management designed, ~~and~~ implemented and operated by the firm in accordance with applicable quality management standards ~~issued by the IAASB~~) might also impact the evaluation of whether the threats to independence are at an acceptable level.

5410.4 A5 The requirements and application material that follow identify circumstances which might need to be further evaluated when determining whether the threats are at an acceptable level. For those circumstances, application material includes examples of additional factors that might be relevant in evaluating the threats.

Level of Audit Sustainability Assurance Fees

5410.5 A1 Determining the fees to be charged to an ~~an~~ audit sustainability assurance client, whether for ~~audit sustainability assurance~~ audit sustainability assurance or other services, is a business decision of the firm taking into account the facts and circumstances relevant to that specific engagement, including the requirements of technical and professional standards.

5410.5 A2 Factors that are relevant in evaluating the level of self-interest and intimidation threats created by the level of the ~~audit sustainability assurance~~ audit sustainability assurance fee paid by the ~~audit sustainability assurance~~ audit sustainability assurance client include:

- The firm's commercial rationale for the ~~audit sustainability assurance~~ audit sustainability assurance fee.

- Whether undue pressure has been, or is being, applied by the client to reduce the audit sustainability assurance fee.

5410.5 A3 Examples of actions that might be safeguards to address such threats include:

- Having an appropriate reviewer who does not take part in the audit-sustainability assurance engagement assess the reasonableness of the fee proposed, having regard to the scope and complexity of the engagement.
- Having an appropriate reviewer who did not take part in the audit-sustainability assurance engagement review the work performed.

Impact of Other Services Provided to an ~~audit-~~ Sustainability Assurance Client

R5410.6 Subject to paragraph R5410.7, a firm shall not allow the audit-sustainability assurance fee to be influenced by the provision of services other than audit-sustainability assurance to an ~~audit sustainability assurance~~ client by the firm or a network firm.

5410.6 A1 The audit-sustainability assurance fee ordinarily reflects a combination of matters, such as those identified in paragraph 5410.23 A1. However, the provision of other services to an ~~audit sustainability assurance~~ client is not an appropriate consideration in determining the audit-sustainability assurance fee.

R5410.7 As an exception to paragraph R5410.6, when determining the audit-sustainability assurance fee, the firm may take into consideration the cost savings achieved as a result of experience derived from the provision of services other than audit-sustainability assurance to an ~~audit sustainability assurance~~ client.

Contingent Fees

5410.8 A1 Contingent fees are fees calculated on a predetermined basis relating to the outcome of a transaction or the result of the services performed. A contingent fee charged through an intermediary is an example of an indirect contingent fee. In this section, a fee is not regarded as being contingent if established by a court or other public authority.

R5410.9 A firm shall not charge directly or indirectly a contingent fee for an ~~audit sustainability assurance~~ engagement.

R5410.10 A firm or network firm shall not charge directly or indirectly a contingent fee for a non-assurance service provided to an ~~audit-~~ sustainability assurance client, if:

- (a) The fee is charged by the firm expressing the opinion on the ~~financial statements~~ sustainability information and the fee is material or expected to be material to that firm;
- (b) The fee is charged by a network firm that participates in a significant part of the audit sustainability assurance engagement and the fee is material or expected to be material to that firm; or
- (c) The outcome of the non-assurance service, and therefore the amount of the fee, is dependent on a future or contemporary judgment related to the ~~audit of a material amount in the financial statements~~ assurance of material information in the sustainability information on which the firm will express an opinion.

5410.10 A1 Paragraphs R5410.9 and R5410.10 preclude a firm or a network firm from entering into certain contingent fee arrangements with an ~~audit sustainability assurance~~ client. Even if a contingent fee arrangement is not precluded when providing a non-assurance service to an ~~audit sustainability~~

assurance client, it might still impact the level of the self-interest threat.

5410.10 A2 Factors that are relevant in evaluating the level of such a threat include:

- The range of possible fee amounts.
- Whether an appropriate authority determines the outcome on which the contingent fee depends.
- Disclosure to intended users of the work performed by the firm and the basis of remuneration.
- The nature of the service.
- The effect of the event or transaction on the financial statements sustainability information on which the firm will express an opinion.

5410.10 A3 Examples of actions that might be safeguards to address such a self-interest threat include:

- Having an appropriate reviewer who was not involved in performing the non-assurance service review the work performed.
- Obtaining an advance written agreement with the client on the basis of remuneration.

Total Fees – Proportion of Fees for Services Other than Audit Sustainability Assurance to Audit Sustainability Assurance Fee

5410.11 A1 Where a firm performs both an audit engagement and a sustainability assurance engagement for a sustainability assurance client, paragraphs 410.11 A1 to 410.11 A3 in Part 4A apply in the context of the fees charged by the firm and network firms to the sustainability assurance client. Where the firm is not engaged to perform an audit engagement for the client, paragraphs 5410.11 A2 to A4 apply.

5410.11 A2⁴ The level of the self-interest threat might be impacted when a large proportion of fees charged by the firm or network firms to a non-audit sustainability assurance client is generated by providing services other than audit-sustainability assurance to the client, due to concerns about the potential loss of either the audit-sustainability assurance engagement or other services. Such circumstances might also create an intimidation threat. A further consideration is a perception that the firm or network firm focuses on the non-audit non-sustainability assurance relationship, which might create a threat to the auditor's sustainability assurance provider's independence.

5410.11 A3² Factors that are relevant in evaluating the level of such threats include:

- The ratio of fees for services other than audit-sustainability assurance to the audit-sustainability assurance fee.
- The length of time during which a large proportion of fees for services other than audit-sustainability assurance to the audit-sustainability assurance fee has existed.
- The nature, scope and purposes of the services other than audit-sustainability assurance, including:
 - Whether they are recurring services.
 - Whether law or regulation mandates the services to be performed by the firm.

5410.11 A4³ Examples of actions that might be safeguards to address such self-interest or intimidation threats include:

- Having an appropriate reviewer who was not involved in the audit-sustainability assurance engagement or the service other than audit-sustainability assurance review the relevant audit

sustainability assurance work.

- Reducing the extent of services other than audit-sustainability assurance provided to the audit-sustainability assurance client.

Total Fees – Overdue Fees

5410.12 A1 The level of the self-interest threat might be impacted if fees payable by a an-audit-sustainability assurance client for the audit-sustainability assurance engagement or services other than audit-sustainability assurance are overdue during the period of the audit-sustainability assurance engagement.

5410.12 A2 It is generally expected that the firm will obtain payment of such fees before the audit-sustainability assurance report is issued.

5410.12 A3 Factors that are relevant in evaluating the level of such a self-interest threat include:

- The significance of the overdue fees to the firm.
- The length of time the fees have been overdue.
- The firm's assessment of the ability and willingness of the audit-sustainability assurance client to pay the overdue fees.

5410.12 A4 Examples of actions that might be safeguards to address such a threat include:

- Obtaining partial payment of overdue fees.
- Having an appropriate reviewer who did not take part in the audit-sustainability assurance engagement review the audit-sustainability assurance work.

R5410.13 When a significant part of the fees due from a an-audit-sustainability assurance client remains unpaid for a long time, the firm shall determine:

- (a) Whether the overdue fees might be equivalent to a loan to the client, in which case the requirements and application material set out in Section 5511 are applicable; and
- (b) Whether it is appropriate for the firm to be re-appointed or continue the audit-sustainability assurance engagement.

Total Fees – Fee Dependency

All Audit-Sustainability Assurance Clients

5410.14 A1 When the total fees generated from a an-audit-sustainability assurance client by the firm expressing the audit-sustainability assurance opinion represent a large proportion of the total fees of that firm, the dependence on, and concern about the potential loss of, fees from audit-sustainability assurance and other services from that client impact the level of the self-interest threat and create an intimidation threat.

5410.14 A2 In calculating the total fees of the firm, the firm might use financial information available from the previous financial year and estimate the proportion based on that information if appropriate.

5410.14 A3 Factors that are relevant in evaluating the level of such self-interest and intimidation threats include:

- The operating structure of the firm.
- Whether the firm is expected to diversify such that any dependence on the audit-sustainability assurance client is reduced.

- 5410.14 A4** Examples of actions that might be safeguards to address such threats include:
- Having an appropriate reviewer who is not a member of the firm review the audit-sustainability assurance work.
 - Reducing the extent of services other than audit-sustainability assurance provided to the audit-sustainability assurance client.
 - Increasing the client base of the firm to reduce dependence on the client.
 - Increasing the extent of services provided to other clients.
- 5410.14 A5** A self-interest or intimidation threat is created when the fees generated by a firm from an audit-sustainability assurance client represent a large proportion of the revenue of one partner-leader or one office of the firm.
- 5410.14 A6** Factors that are relevant in evaluating the level of such threats include:
- The qualitative and quantitative significance of the audit-sustainability assurance client to the partner-leader or office.
 - The extent to which the compensation of the partner-leader, or the partners-leaders in the office, is dependent upon the fees generated from the client.
- 5410.14 A7** Examples of actions that might be safeguards to address such self-interest or intimidation threats include:
- Having an appropriate reviewer who was not involved in the audit-sustainability assurance engagement review the audit-sustainability assurance work.
 - Ensuring that the compensation of the partner-leader is not significantly influenced by the fees generated from the client.
 - Reducing the extent of services other than audit-sustainability assurance provided by the partner-leader or office to the audit-sustainability assurance client.
 - Increasing the client base of the partner-leader or the office to reduce dependence on the client.
 - Increasing the extent of services provided by the partner-leader or the office to other clients.

Audit-Sustainability Assurance Clients that are Not Public Interest Entities

- R5410.15** When for each of five consecutive years total fees from an audit-sustainability assurance client that is not a public interest entity represent, or are likely to represent, more than 30% of the total fees received by the firm, the firm shall determine whether either of the following actions might be a safeguard to reduce the threats created to an acceptable level, and if so, apply it:
- (a) Prior to the audit-assurance opinion being issued on the fifth year's financial-statements-sustainability information, have a professional-accountant-sustainability assurance practitioner, who is not a member of the firm expressing the opinion on the financial-statements-sustainability information, review the fifth year's audit-sustainability assurance work; or
 - (b) After the audit-assurance opinion on the fifth year's financial-statements-sustainability information has been issued, and before the audit-assurance opinion is issued on the sixth year's financial-statements-sustainability information, have a professional-accountant-sustainability assurance practitioner, who is not a member of the firm expressing the opinion on the financial-statements-sustainability information, or a professional body review the fifth year's audit-sustainability assurance work.

- R5410.16** If the total fees described in paragraph R5410.15 continue to exceed 30%, the firm shall each year determine whether either of the actions in paragraph R5410.15 applied to the relevant year's engagement might be a safeguard to address the threats created by the total fees received by the firm from the client, and if so, apply it.
- R5410.17** When two or more firms are engaged to conduct a ~~n-audit sustainability assurance engagement with respect to of~~ the client's ~~financial statements sustainability information~~, the involvement of the other firm in the ~~audit-sustainability assurance engagement~~ may be regarded each year as an action equivalent to that in paragraph R5410.15 (a), if:
- (a) The circumstances addressed by paragraph R5410.15 apply to only one of the firms expressing the ~~audit-assurance~~ opinion; and
 - (b) Each firm performs sufficient work to take full individual responsibility for the ~~audit-assurance~~ opinion.

~~Audit~~Sustainability Assurance Clients that are Public Interest Entities

- R5410.18** When for each of two consecutive years the total fees from a ~~n-audit sustainability assurance~~ client that is a public interest entity represent, or are likely to represent, more than 15% of the total fees received by the firm, the firm shall determine whether, prior to the ~~audit-assurance~~ opinion being issued on the second year's ~~financial statements sustainability information~~, a review, consistent with the objective of an engagement quality review, performed by a ~~professional accountant-sustainability assurance practitioner~~ who is not a member of the firm expressing the opinion on the ~~financial statements-sustainability information~~ ("pre-issuance review") might be a safeguard to reduce the threats to an acceptable level, and if so, apply it.
- R5410.19** When two or more firms are engaged to conduct a ~~n-audit sustainability assurance engagement with respect to of~~ the client's ~~financial statements-sustainability information~~, the involvement of the other firm in the ~~audit-sustainability assurance engagement~~ may be regarded each year as an action equivalent to that in paragraph R5410.18, if:
- (a) The circumstances addressed by paragraph R5410.18 apply to only one of the firms expressing the ~~audit-assurance~~ opinion; and
 - (b) Each firm performs sufficient work to take full individual responsibility for the ~~audit-assurance~~ opinion.
- R5410.20** Subject to paragraph R5410.21, if the circumstances described in paragraph R5410.18 continue for five consecutive years, the firm shall cease to be the ~~auditor-sustainability assurance provider~~ after the ~~audit-assurance~~ opinion for the fifth year is issued.
- R5410.21** As an exception to paragraph R5410.20, the firm may continue to be the ~~auditor-sustainability assurance practitioner~~ after five consecutive years if there is a compelling reason to do so having regard to the public interest, provided that:
- (a)
 - (i) Where there is a designated regulatory or professional body in the relevant jurisdiction, ~~The firm consults with that body a regulatory or professional body in the relevant jurisdiction and it that body~~ concurs that having the firm continue to provide the as the auditor-sustainability assurance service would be in the public interest; or and
 - (ii) Where there is no designated regulatory or professional body in the relevant jurisdiction, the firm consults with and obtains concurrence from those charged with governance of

the sustainability assurance client that having the firm continue to provide the sustainability assurance service would be in the public interest; and

- (b) Before the audit assurance opinion on the sixth and any subsequent year's financial statements sustainability information is issued, the firm engages a ~~professional accountant sustainability assurance practitioner~~, who is not a member of the firm expressing the opinion on the ~~financial statements sustainability information~~, to perform a pre-issuance review.

5410.21 A1 A factor which might give rise to a compelling reason is the lack of viable alternative firms to carry out the audit sustainability assurance engagement, having regard to the nature and location of the client's business.

Transparency of Information Regarding Fees for Audit Sustainability Assurance Clients that are Public Interest Entities

Communication About Fee-related Information with Those Charged with Governance

5410.22 A1 Communication by the firm of fee-related information (for both audit sustainability assurance and services other than ~~audit sustainability assurance~~) with those charged with governance assists in their assessment of the firm's independence. Effective communication in this regard also allows for a two-way open exchange of views and information about, for example, the expectations that those charged with governance might have regarding the scope and extent of audit sustainability assurance work and impact on the audit sustainability assurance fee.

Fees for the Audit of the Financial Statements Sustainability Assurance Engagement

R5410.23 Subject to paragraph R5410.24, the firm shall communicate in a timely manner with those charged with governance of an ~~audit sustainability assurance~~ client that is a public interest entity:

- (a) Fees paid or payable to the firm or network firms for the ~~audit of the financial statements on which the firm expresses an opinion sustainability assurance engagement~~; and
- (b) Whether the threats created by the level of those fees are at an acceptable level, and if not, any actions the firm has taken or proposes to take to reduce such threats to an acceptable level.

5410.23 A1 The objective of such communication is to provide the background and context to the fees for the ~~audit of the financial statements on which the firm expresses an opinion sustainability assurance engagement~~ to enable those charged with governance to consider the independence of the firm. The nature and extent of matters to be communicated will depend on the facts and circumstances and might include for example:

- Considerations affecting the level of the fees such as:
 - The scale, complexity and geographic spread of the audit sustainability assurance client's operations.
 - The time spent or expected to be spent commensurate with the scope and complexity of the ~~audit sustainability assurance engagement~~.
 - The cost of other resources utilized or expended in performing the ~~audit sustainability assurance engagement~~.
 - The quality of record keeping and processes for ~~financial statements sustainability information~~ preparation.

- Adjustments to the fees quoted or charged during the period of the ~~audit sustainability assurance engagement~~, and the reasons for any such adjustments.
- Changes to laws and regulations and professional standards relevant to the ~~audit sustainability assurance engagement~~ that impacted the fees.

5410.23 A2 The firm is encouraged to provide such information as soon as practicable and communicate proposed adjustments as appropriate.

R5410.24 As an exception to paragraph R5410.23, the firm may determine not to communicate the information set out in paragraph R5410.23 to those charged with governance of an entity that is (directly or indirectly) wholly-owned by another public interest entity provided that:

- (a) The entity is consolidated into group ~~financial statements sustainability information~~ prepared by that other public interest entity; and
- (b) The firm or a network firm expresses an opinion on ~~these group financial statements that group sustainability information~~.

Fees for Other Services

R5410.25 Subject to paragraph R5410.27, the firm shall communicate in a timely manner with those charged with governance of an ~~audit sustainability assurance~~ client that is a public interest entity:

- (a) The fees, other than those disclosed under paragraph R5410.23(a), charged to the client for the provision of services by the firm or a network firm during the ~~reporting period for the engagement covered by the financial statements on which the firm expresses an opinion~~. For this purpose, such fees shall only include fees charged to the client and its related entities over which the client has direct or indirect control that are consolidated in the ~~financial statements sustainability information~~ on which the firm will express an opinion; and
- (b) As set out in paragraph 5410.11 A1, where the firm has identified that there is an impact on the level of the self-interest threat or that there is an intimidation threat to independence created by the proportion of fees for services other than ~~audit sustainability assurance~~ relative to the ~~audit sustainability assurance~~ fee:
 - (i) Whether such threats are at an acceptable level; and
 - (ii) If not, any actions that the firm has taken or proposes to take to reduce such threats to an acceptable level.

5410.25 A1 The objective of such communication is to provide the background and context to the fees for other services to enable those charged with governance to consider the independence of the firm. The nature and extent of matters to be communicated will depend on the facts and circumstances and might include for example:

- The amount of fees for other services that are required by law or regulation.
- The nature of other services provided and their associated fees.
- Information on the nature of the services provided under a general policy approved by those charged with governance and associated fees.
- The proportion of fees referred to in paragraph R5410.25(a) to the aggregate of the fees charged by the firm and network firms for the ~~audit of the financial statements on which the firm expresses an opinion sustainability assurance engagement~~.

R5410.26 The firm shall include in the communication required by paragraph R5410.25(a) the fees, other than those disclosed under paragraph R5410.23(a), charged to any other related entities over which the audit-sustainability assurance client has direct or indirect control for the provision of services by the firm or a network firm, when the firm knows, or has reason to believe, that such fees are relevant to the evaluation of the firm's independence.

5410.26 A1 Factors the firm might consider when determining whether the fees, other than those disclosed under paragraph R5410.23(a), charged to such other related entities, individually and in the aggregate, for the provision of services by the firm or a network firm are relevant to the evaluation of the firm's independence include:

- The extent of the audit-sustainability assurance client's involvement in the appointment of the firm or network firm for the provision of such services, including the negotiation of fees.
- The significance of the fees paid by the other related entities to the firm or a network firm.
- The proportion of fees from the other related entities to the fees paid by the client.

R5410.27 As an exception to paragraph R5410.25, the firm may determine not to communicate the information set out in paragraph R5410.25 to those charged with governance of an entity that is (directly or indirectly) wholly-owned by another public interest entity provided that:

- (a) The entity's sustainability information is consolidated into group ~~financial statements~~ sustainability information prepared by that other public interest entity; and
- (b) The firm or a network firm expresses an opinion on ~~those that~~ group ~~financial statements~~ sustainability information.

Fee Dependency

R5410.28 Where the total fees from an ~~an~~ audit sustainability assurance client that is a public interest entity represent, or are likely to represent, more than 15% of the total fees received by the firm, the firm shall communicate with those charged with governance:

- (a) That fact and whether this situation is likely to continue;
- (b) The safeguards applied to address the threats created, including, where relevant, the use of a pre-issuance review (Ref: Para R5410.18); and
- (c) Any proposal to continue ~~as the~~ auditor sustainability assurance engagement under paragraph R5410.21.

Public Disclosure of Fee-related Information

5410.29 A1 In view of the public interest in the audits assurance of sustainability information of disclosed by public interest entities, it is beneficial for stakeholders to have visibility about the professional relationships between the firm and the audit-sustainability assurance client which might reasonably be thought to be relevant to the evaluation of the firm's independence. ~~In a wide number of jurisdictions, there already exist requirements regarding the disclosure of fees by an audit client for both audit and services other than audit paid and payable to the firm and network firms. Such disclosures often require the disaggregation of fees for services other than audit into different categories.~~

R5410.30 If laws and regulations do not require a ~~n-audit sustainability assurance~~ client to disclose ~~audit sustainability assurance~~ fees, fees for services other than ~~audit-sustainability assurance~~ paid or payable to the firm and network firms and information about fee dependency, the firm shall discuss with those charged with governance of a ~~n-audit sustainability assurance~~ client that is a public interest entity:

- (a) The benefit to the client's stakeholders of the client making such disclosures that are not required by laws and regulations in a manner deemed appropriate, taking into account the timing and accessibility of the information; and
- (b) The information that might enhance the users' understanding of the fees paid or payable and their impact on the firm's independence.

5410.30 A1 Examples of information relating to fees that might enhance the users' understanding of the fees paid or payable and their impact on the firm's independence include:

- Comparative information of the prior year's fees for ~~audit-sustainability assurance~~ and services other than ~~audit sustainability assurance~~.
- The nature of services and their associated fees as disclosed under paragraph R5410.31(b).
- Safeguards applied when the total fees from the client represent or are likely to represent more than 15% of the total fees received by the firm.

R5410.31 After the discussion with those charged with governance as set out in paragraph R5410.30, to the extent that the ~~audit-sustainability assurance~~ client that is a public interest entity does not make the relevant disclosure, subject to paragraph R5410.32, the firm shall publicly disclose:

- (a) Fees paid or payable to the firm and network firms for the ~~audit of the financial statements on which the firm expresses an opinion~~ ~~sustainability assurance engagement~~;
- (b) Fees, other than those disclosed under (a), charged to the client for the provision of services by the firm or a network firm during the ~~reporting period for the engagement~~ ~~financial statements on which the firm expresses an opinion~~. For this purpose, such fees shall only include fees charged to the client and its related entities over which the client has direct or indirect control ~~that are where the sustainability information of those entities is~~ consolidated in the ~~financial statements~~ ~~sustainability information~~ on which the firm will express an opinion;
- (c) Any fees, other than those disclosed under (a) and (b), charged to any other related entities over which the ~~audit-sustainability assurance~~ client has direct or indirect control for the provision of services by the firm or a network firm when the firm knows, or has reason to believe, that such fees are relevant to the evaluation of the firm's independence; and
- (d) If applicable, the fact that the total fees received by the firm from the ~~audit-sustainability assurance~~ client represent, or are likely to represent, more than 15% of the total fees received by the firm for two consecutive years, and the year that this situation first arose.

5410.31 A1 The firm might also disclose other information relating to fees that will enhance the users' understanding of the fees paid or payable and the firm's independence, such as the examples described in paragraph 5410.30 A1.

5410.31 A2 Factors the firm might consider when making the determination required by paragraph R5410.31(c) are set out in paragraph 5410.26 A1.

5410.31 A3 When disclosing fee-related information in compliance with paragraph R5410.31, the firm might disclose the information in a manner deemed appropriate taking into account the timing and accessibility of the information to stakeholders, for example:

- On the firm's website.
- In the firm's transparency report.
- ~~In an audit quality report.~~
- Through targeted communication to specific stakeholders, for example a letter to the shareholders.
- In the auditor's sustainability assurance report.

R5410.32 As an exception to paragraph R5410.31, the firm may determine not to publicly disclose the information set out in paragraph R5410.31 relating to:

- (a) A parent entity that also prepares group ~~financial statements~~ sustainability information provided that the firm or a network firm expresses an opinion on the group ~~financial statements~~ sustainability information; or
- (b) An entity (directly or indirectly) wholly-owned by another public interest entity provided that:
 - (i) ~~The That~~ entity's sustainability information is consolidated into group ~~financial statements~~ sustainability information prepared by that other public interest entity; and
 - (ii) The firm or a network firm expresses an opinion on ~~those that~~ group ~~financial statements~~ sustainability information.

Considerations for Review Clients

R410.33 ~~[Paragraph R5410.33 is intentionally left blank] This section sets out requirements for a firm to communicate fee-related information of an audit client that is a public interest entity and to disclose publicly fee-related information to the extent that the client does not disclose such information. As an exception to those requirements, the firm may determine not to communicate or pursue disclosure of such information where a review client is not also an audit client.~~

SECTION 5411 COMPENSATION AND EVALUATION POLICIES

Introduction

- 5411.1 Firms are required to comply with the fundamental principles, be independent and apply the conceptual framework set out in Section 5120 to identify, evaluate and address threats to independence.
- 5411.2 A firm's evaluation or compensation policies might create a self-interest threat. This section sets out specific requirements and application material relevant to applying the conceptual framework in such circumstances.

Requirements and Application Material

General

- 5411.3 A1 When an ~~an~~ audit sustainability assurance team member for a particular audit sustainability assurance client is evaluated on or compensated for selling non-assurance services to that audit sustainability assurance client, the level of the self-interest threat will depend on:
- What proportion of the compensation or evaluation is based on the sale of such services;
 - The role of the individual on the ~~audit sustainability assurance~~ team; and
 - Whether the sale of such non-assurance services influences promotion decisions.
- 5411.3 A2 Examples of actions that might eliminate such a self-interest threat include:
- Revising the compensation plan or evaluation process for that individual.
 - Removing that individual from the audit sustainability assurance team.
- 5411.3 A3 An example of an action that might be a safeguard to address such a self-interest threat is having an appropriate reviewer review the work of the audit sustainability assurance team member.
- R5411.4** A firm shall not evaluate or compensate a key audit sustainability assurance partner leader based on that partner's leader's success in selling non-assurance services to the partner's leader's audit sustainability assurance client. This requirement does not preclude normal profit-sharing arrangements between ~~partners leaders~~ of a firm.

SECTION **5420** GIFTS AND HOSPITALITY

Introduction

- 5420.1** Firms are required to comply with the fundamental principles, be independent and apply the conceptual framework set out in Section **5120** to identify, evaluate and address threats to independence.
- 5420.2** Accepting gifts and hospitality from an ~~audit~~ sustainability assurance client might create a self-interest, familiarity or intimidation threat. This section sets out a specific requirement and application material relevant to applying the conceptual framework in such circumstances.

Requirement and Application Material

- R5420.3** A firm, network firm or an ~~audit~~ sustainability assurance team member shall not accept gifts and hospitality from an ~~audit~~ sustainability assurance client, unless the value is trivial and inconsequential.
- 5420.3 A1** Where a firm, network firm or ~~audit~~ sustainability assurance team member is offering or accepting an inducement to or from an ~~audit~~ sustainability assurance client, the requirements and application material set out in Section **5340** apply and non-compliance with these requirements might create threats to independence.
- 5420.3 A2** The requirements set out in Section **5340** relating to offering or accepting inducements do not allow a firm, network firm or ~~audit~~ sustainability assurance team member to accept gifts and hospitality where the intent is to improperly influence behavior even if the value is trivial and inconsequential.

SECTION **5430**

ACTUAL OR THREATENED LITIGATION

Introduction

- 5430.1** Firms are required to comply with the fundamental principles, be independent and apply the conceptual framework set out in Section **5120** to identify, evaluate and address threats to independence.
- 5430.2** When litigation with an ~~an~~ audit sustainability assurance client occurs, or appears likely, self-interest and intimidation threats are created. This section sets out specific application material relevant to applying the conceptual framework in such circumstances.

Application Material

General

- 5430.3 A1** The relationship between client management and ~~audit~~ sustainability assurance team members must be characterized by complete candor and full disclosure regarding all aspects of a client's operations. Adversarial positions might result from actual or threatened litigation between an ~~an~~ audit sustainability assurance client and the firm, a network firm or an ~~an~~ audit sustainability assurance team member. Such adversarial positions might affect management's willingness to make complete disclosures and create self-interest and intimidation threats.
- 5430.3 A2** Factors that are relevant in evaluating the level of such threats include:
- The materiality of the litigation.
 - Whether the litigation relates to a prior ~~audit~~ sustainability assurance engagement.
- 5430.3 A3** If the litigation involves an ~~an~~ audit sustainability assurance team member, an example of an action that might eliminate such self-interest and intimidation threats is removing that individual from the ~~audit~~ sustainability assurance team.
- 5430.3 A4** An example of an action that might be a safeguard to address such self-interest and intimidation threats is to have an appropriate reviewer review the work performed.

SECTION **5510**

FINANCIAL INTERESTS

Introduction

- 5510.1** Firms are required to comply with the fundamental principles, be independent and apply the conceptual framework set out in Section **5120** to identify, evaluate and address threats to independence.
- 5510.2** Holding a financial interest in an ~~an-audit~~ sustainability assurance client might create a self-interest threat. This section sets out specific requirements and application material relevant to applying the conceptual framework in such circumstances.

Requirements and Application Material

General

- 5510.3 A1** A financial interest might be held directly or indirectly through an intermediary such as a collective investment vehicle, an estate or a trust. When a beneficial owner has control over the intermediary or ability to influence its investment decisions, the Code defines that financial interest to be direct. Conversely, when a beneficial owner has no control over the intermediary or ability to influence its investment decisions, the Code defines that financial interest to be indirect.
- 5510.3 A2** This section contains references to the “materiality” of a financial interest. In determining whether such an interest is material to an individual, the combined net worth of the individual and the individual’s immediate family members may be taken into account.
- 5510.3 A3** Factors that are relevant in evaluating the level of a self-interest threat created by holding a financial interest in an ~~an-audit~~ sustainability assurance client include:
- The role of the individual holding the financial interest.
 - Whether the financial interest is direct or indirect.
 - The materiality of the financial interest.

Financial Interests in a Sustainability Assurance Client Held by the Firm, a Network Firm, Audit Sustainability Assurance Team Members and Others

- R5510.4** Subject to paragraph R**5510.5**, a direct financial interest or a material indirect financial interest in the ~~audit-sustainability assurance~~ sustainability assurance client shall not be held by:
- (a) The firm or a network firm;
 - (b) An ~~an-audit~~ sustainability assurance team member, or any of that individual’s immediate family;
 - (c) Any other ~~partner-leader~~ in the office in which an engagement ~~partner-leader~~ practices in connection with the ~~audit-sustainability assurance~~ sustainability assurance engagement, or any of that other ~~partner’s leader’s~~ immediate family; or
 - (d) Any other ~~partner-leader~~ or managerial employee who provides ~~non-audit~~ services other than sustainability assurance to the ~~audit-sustainability assurance~~ sustainability assurance client, except for any whose involvement is minimal, or any of that individual’s immediate family.
- 5510.4 A1** The office in which the engagement ~~partner-leader~~ practices in connection with an ~~an-audit~~ sustainability assurance engagement is not necessarily the office to which that ~~partner-engagement leader~~ is assigned. When the engagement ~~partner-leader~~ is located in a different office from that of the other

~~audit-sustainability assurance~~ team members, professional judgment is needed to determine the office in which the ~~partner-engagement leader~~ practices in connection with the engagement.

R5510.5 As an exception to paragraph R5510.4, an immediate family member identified in subparagraphs R5510.4(c) or (d) may hold a direct or material indirect financial interest in a ~~an-audit-sustainability assurance~~ client, provided that:

- (a) The family member received the financial interest because of employment rights, for example through pension or share option plans, and, when necessary, the firm addresses the threat created by the financial interest; and
- (b) The family member disposes of or forfeits the financial interest as soon as practicable when the family member has or obtains the right to do so, or in the case of a stock option, when the family member obtains the right to exercise the option.

Financial Interests in an Entity Controlling an ~~Audit Sustainability Assurance~~ Client

R5510.6 When an entity has a controlling interest in a ~~an-audit-sustainability assurance~~ client and the client is material to the entity, neither the firm, nor a network firm, nor a ~~an-audit-sustainability assurance~~ team member, nor any of that individual's immediate family shall hold a direct or material indirect financial interest in that entity.

Financial Interests in a Sustainability Assurance Client Held as Trustee

R5510.7 Paragraph R5510.4 shall also apply to a financial interest in a ~~an-audit-sustainability assurance~~ client held in a trust for which the firm, network firm or individual acts as trustee, unless:

- (a) None of the following is a beneficiary of the trust: the trustee, the ~~audit-sustainability assurance~~ team member or any of that individual's immediate family, the firm or a network firm;
- (b) The interest in the ~~audit-sustainability assurance~~ client held by the trust is not material to the trust;
- (c) The trust is not able to exercise significant influence over the ~~audit-sustainability assurance~~ client; and
- (d) None of the following can significantly influence any investment decision involving a financial interest in the ~~audit-sustainability assurance~~ client: the trustee, the ~~audit-sustainability assurance~~ team member or any of that individual's immediate family, the firm or a network firm.

Financial Interests in Common with the Audit Sustainability Assurance Client

R5510.8 (a) A firm, or a network firm, or a ~~an-audit-sustainability assurance~~ team member, or any of that individual's immediate family shall not hold a financial interest in an entity when a ~~an-audit-sustainability assurance~~ client also has a financial interest in that entity, unless:

- (i) The financial interests are immaterial to the firm, the network firm, the ~~audit-sustainability assurance~~ team member and that individual's immediate family member and the ~~audit-sustainability assurance~~ client, as applicable; or
 - (ii) The ~~audit-sustainability assurance~~ client cannot exercise significant influence over the entity.
- (b) Before an individual who has a financial interest described in paragraph R5510.8(a) can become a ~~an-audit-sustainability assurance~~ team member, the individual or that individual's immediate family member shall either:

- (i) Dispose of the interest; or
- (ii) Dispose of enough of the interest so that the remaining interest is no longer material.

Financial Interests in a Sustainability Assurance Client Received Unintentionally

R510.9 If a firm, a network firm or a ~~partner-leader~~ or employee of the firm or a network firm, or any of that individual's immediate family, receives a direct financial interest or a material indirect financial interest in an ~~n-audit sustainability assurance~~ client by way of an inheritance, gift, as a result of a merger or in similar circumstances and the interest would not otherwise be permitted to be held under this section, then:

- (a) If the interest is received by the firm or a network firm, or an ~~n-audit sustainability assurance~~ team member or any of that individual's immediate family, the financial interest shall be disposed of immediately, or enough of an indirect financial interest shall be disposed of so that the remaining interest is no longer material; or
- (b) (i) If the interest is received by an individual who is not an ~~n-audit sustainability assurance~~ team member, or by any of that individual's immediate family, the financial interest shall be disposed of as soon as possible, or enough of an indirect financial interest shall be disposed of so that the remaining interest is no longer material; and
- (ii) Pending the disposal of the financial interest, when necessary the firm shall address the threat created.

Financial Interests – Other Circumstances

Immediate Family

510.10 A1 A self-interest, familiarity, or intimidation threat might be created if a ~~n-audit sustainability assurance~~ team member, or any of that individual's immediate family, or the firm or a network firm has a financial interest in an entity when a director or officer or controlling owner of the ~~audit-sustainability assurance~~ client is also known to have a financial interest in that entity.

510.10 A2 Factors that are relevant in evaluating the level of such threats include:

- The role of the individual on the ~~audit-sustainability assurance~~ team.
- Whether ownership of the entity is closely or widely held.
- Whether the interest allows the investor to control or significantly influence the entity.
- The materiality of the financial interest.

510.10 A3 An example of an action that might eliminate such a self-interest, familiarity, or intimidation threat is removing the ~~audit-sustainability assurance~~ team member with the financial interest from the ~~audit sustainability assurance~~ team.

510.10 A4 An example of an action that might be a safeguard to address such a self-interest threat is having an appropriate reviewer review the work of the ~~audit-sustainability assurance~~ team member.

Close Family

510.10 A5 A self-interest threat might be created if an ~~n-audit sustainability assurance~~ team member knows that a close family member has a direct financial interest or a material indirect financial interest in the ~~audit-sustainability assurance~~ client.

- 5510.10 A6 Factors that are relevant in evaluating the level of such a threat include:
- The nature of the relationship between the ~~audit-sustainability assurance~~ team member and the close family member.
 - Whether the financial interest is direct or indirect.
 - The materiality of the financial interest to the close family member.

- 5510.10 A7 Examples of actions that might eliminate such a self-interest threat include:
- Having the close family member dispose, as soon as practicable, of all of the financial interest or dispose of enough of an indirect financial interest so that the remaining interest is no longer material.
 - Removing the individual from the ~~audit-sustainability assurance~~ team.

- 5510.10 A8 An example of an action that might be a safeguard to address such a self-interest threat is having an appropriate reviewer review the work of the ~~audit-sustainability assurance~~ team member.

Other Individuals

- 5510.10 A9 A self-interest threat might be created if an ~~audit sustainability assurance~~ team member knows that a financial interest in the ~~audit-sustainability assurance~~ client is held by individuals such as:

- ~~Partners-leaders~~ and professional employees of the firm or network firm, apart from those who are specifically not permitted to hold such financial interests by paragraph R5510.4, or their immediate family members.
- Individuals with a close personal relationship with an ~~audit sustainability assurance~~ team member.

- 5510.10 A10 Factors that are relevant in evaluating the level of such a threat include:
- The firm's organizational, operating and reporting structure.
 - The nature of the relationship between the individual and the ~~audit-sustainability assurance~~ team member.

- 5510.10 A11 An example of an action that might eliminate such a self-interest threat is removing the ~~audit sustainability assurance~~ team member with the personal relationship from the ~~audit-sustainability assurance~~ team.

- 5510.10 A12 Examples of actions that might be safeguards to address such a self-interest threat include:
- Excluding the ~~audit sustainability assurance~~ team member from any significant decision-making concerning the ~~audit-sustainability assurance~~ engagement.
 - Having an appropriate reviewer review the work of the ~~audit-sustainability assurance~~ team member.

Retirement Benefit Plan of a Firm or Network Firm

- 5510.10 A13 A self-interest threat might be created if a retirement benefit plan of a firm or a network firm holds a direct or material indirect financial interest in an ~~audit sustainability assurance~~ client.

SECTION 511 LOANS AND GUARANTEES

Introduction

- 511.1** Firms are required to comply with the fundamental principles, be independent and apply the conceptual framework set out in Section 5120 to identify, evaluate and address threats to independence.
- 511.2** A loan or a guarantee of a loan with an ~~n-audit~~ sustainability assurance client might create a self-interest threat. This section sets out specific requirements and application material relevant to applying the conceptual framework in such circumstances.

Requirements and Application Material

General

- 511.3 A1** This section contains references to the “materiality” of a loan or guarantee. In determining whether such a loan or guarantee is material to an individual, the combined net worth of the individual and the individual's immediate family members may be taken into account.

Loans and Guarantees with an ~~Audit~~ Sustainability Assurance Client

- R511.4** A firm, a network firm, an ~~n-audit~~ sustainability assurance team member, or any of that individual's immediate family shall not make or guarantee a loan to a sustainability assurance~~n-audit~~ client unless the loan or guarantee is immaterial to:
- (a) The firm, the network firm or the individual making the loan or guarantee, as applicable; and
 - (b) The client.

Loans and Guarantees with an ~~Audit~~ Sustainability Assurance Client that is a Bank or Similar Institution

- R511.5** A firm, a network firm, an ~~n-audit~~ sustainability assurance team member, or any of that individual's immediate family shall not accept a loan, or a guarantee of a loan, from an ~~n-audit~~ sustainability assurance client that is a bank or a similar institution unless the loan or guarantee is made under normal lending procedures, terms and conditions.
- 511.5 A1** Examples of loans include mortgages, bank overdrafts, car loans, and credit card balances.
- 511.5 A2** Even if a firm or network firm receives a loan from an ~~n-audit~~ sustainability assurance client that is a bank or similar institution under normal lending procedures, terms and conditions, the loan might create a self-interest threat if it is material to the ~~audit~~-sustainability assurance client or firm receiving the loan.
- 511.5 A3** An example of an action that might be a safeguard to address such a self-interest threat is having the work reviewed by an appropriate reviewer, who is not an ~~n-audit~~-sustainability assurance team member, from a network firm that is not a beneficiary of the loan.

Deposits or Brokerage Accounts

- R511.6** A firm, a network firm, an ~~n-audit~~ sustainability assurance team member, or any of that individual's immediate family shall not have deposits or a brokerage account with an ~~n-audit~~ sustainability assurance client that is a bank, broker or similar institution, unless the deposit or account is held under normal commercial terms.

Loans and Guarantees with an ~~Audit~~ Sustainability Assurance Client that is Not a Bank or Similar Institution

R511.7 A firm, a network firm, a ~~an audit~~ sustainability assurance team member, or any of that individual's immediate family shall not accept a loan from, or have a borrowing guaranteed by, a ~~an audit~~ sustainability assurance client that is not a bank or similar institution, unless the loan or guarantee is immaterial to:

- (a) The firm, the network firm, or the individual receiving the loan or guarantee, as applicable; and
- (b) The client.

SECTION 520

BUSINESS RELATIONSHIPS

Introduction

- 520.1** Firms are required to comply with the fundamental principles, be independent and apply the conceptual framework set out in Section 5120 to identify, evaluate and address threats to independence.
- 520.2** A close business relationship with an ~~an-audit~~ sustainability assurance client or its management might create a self-interest or intimidation threat. This section sets out specific requirements and application material relevant to applying the conceptual framework in such circumstances.

Requirements and Application Material

General

- 520.3 A1** This section contains references to the “materiality” of a financial interest and the “significance” of a business relationship. In determining whether such a financial interest is material to an individual, the combined net worth of the individual and the individual’s immediate family members may be taken into account.
- 520.3 A2** Examples of a close business relationship arising from a commercial relationship or common financial interest include:
- Having a financial interest in a joint venture with either the client or a controlling owner, director or officer or other individual who performs senior managerial activities for that client.
 - Arrangements to combine one or more services or products of the firm or a network firm with one or more services or products of the client and to market the package with reference to both parties.
 - Arrangements under which the firm or a network firm sells, resells, distributes or markets the client’s products or services, or the client sells, resells, distributes or markets the firm’s or a network firm’s products or services.
 - Arrangements under which the firm or network firm develops jointly with the client, products or services which one or both parties sell or license to third parties.
- 520.3 A3** An example that might create a close business relationship, depending on the facts and circumstances, is an arrangement under which the firm or a network firm licenses products or solutions to or from a client.

Firm, Network Firm, ~~Audit-Sustainability Assurance~~ Team Member or Immediate Family Business Relationships with a Sustainability Assurance Client

- R520.4** A firm, a network firm or an ~~an-audit~~ sustainability assurance team member shall not have a close business relationship with an ~~an-audit~~ sustainability assurance client or its management unless any financial interest is immaterial and the business relationship is insignificant to the client or its management and the firm, the network firm or the audit-sustainability assurance team member, as applicable.
- 520.4 A1** A self-interest or intimidation threat might be created if there is a close business relationship between the audit-sustainability assurance client or its management and the immediate family of an ~~an-audit~~ sustainability assurance team member.

Common Interests in Closely-Held Entities

R520.5 A firm, a network firm, a ~~n-audit sustainability assurance~~ team member, or any of that individual's immediate family shall not have a business relationship involving the holding of an interest in a closely-held entity when a ~~n-audit sustainability assurance~~ client or a director or officer of the client, or any group thereof, also holds an interest in that entity, unless:

- (a) The business relationship is insignificant to the firm, the network firm, or the individual as applicable, and the client;
- (b) The financial interest is immaterial to the investor or group of investors; and
- (c) The financial interest does not give the investor, or group of investors, the ability to control the closely-held entity.

Buying Goods or Services

520.6 A1 The purchase of goods and services, including the licensing of technology, from a ~~n-audit sustainability assurance~~ client by a firm, a network firm, a ~~n-audit sustainability assurance~~ team member, or any of that individual's immediate family does not usually create a threat to independence if the transaction is in the normal course of business and at arm's length. However, such transactions might be of such a nature and magnitude that they create a self-interest threat.

520.6 A2 Examples of actions that might eliminate such a self-interest threat include:

- Eliminating or reducing the magnitude of the transaction.
- Removing the individual from the ~~audit sustainability assurance~~ team.

Providing, Selling, Reselling or Licensing Technology

520.7 A1 Where a firm or a network firm provides, sells, resells or licenses technology:

- (a) To a ~~n-audit sustainability assurance~~ client; or
- (b) To an entity that provides services using such technology to ~~audit sustainability assurance~~ clients of the firm or network firm,

depending on the facts and circumstances, the requirements and application material in Section **5600** apply.

SECTION 521

FAMILY AND PERSONAL RELATIONSHIPS

Introduction

- 521.1 Firms are required to comply with the fundamental principles, be independent and apply the conceptual framework set out in Section 5120 to identify, evaluate and address threats to independence.
- 521.2 Family or personal relationships with client personnel might create a self-interest, familiarity or intimidation threat. This section sets out specific requirements and application material relevant to applying the conceptual framework in such circumstances.

Requirements and Application Material

General

- 521.3 A1 A self-interest, familiarity or intimidation threat might be created by family and personal relationships between an ~~an~~ audit sustainability assurance team member and a director or officer or, depending on their role, certain employees of the ~~audit~~ sustainability assurance client.
- 521.3 A2 Factors that are relevant in evaluating the level of such threats include:
- The individual's responsibilities on the ~~audit~~ sustainability assurance team.
 - The role of the family member or other individual within the client, and the closeness of the relationship.

Immediate Family of an ~~an~~ Audit Sustainability Assurance Team Member

- 521.4 A1 A self-interest, familiarity or intimidation threat is created when an immediate family member of an ~~an~~ audit sustainability assurance team member is an employee in a position to exert significant influence over the client's ~~financial position, financial performance or cash flows~~ sustainability information on which the firm will express an opinion.
- 521.4 A2 Factors that are relevant in evaluating the level of such threats include:
- The position held by the immediate family member.
 - The role of the ~~audit~~ sustainability assurance team member.
- 521.4 A3 An example of an action that might eliminate such a self-interest, familiarity or intimidation threat is removing the individual from the ~~audit~~ sustainability assurance team.
- 521.4 A4 An example of an action that might be a safeguard to address such a self-interest, familiarity or intimidation threat is structuring the responsibilities of the ~~audit~~ sustainability assurance team so that the ~~audit~~ sustainability assurance team member does not deal with matters that are within the responsibility of the immediate family member.
- 521.5** An individual shall not participate as an ~~an~~ audit sustainability assurance team member when any of that individual's immediate family:
- (a) Is a director or officer of the ~~audit~~ sustainability assurance client;
 - (b) Is an employee in a position to exert significant influence over the preparation of the client's records underlying the sustainability information or the sustainability information accounting records or the financial statements on which the firm will express an opinion; or

- (c) Was in such position during any period covered by the engagement or the reporting period for the engagement financial statements.

Close Family of an ~~Audit~~ Sustainability Assurance Team Member

5521.6 A1 A self-interest, familiarity or intimidation threat is created when a close family member of an ~~audit~~ sustainability assurance team member is:

- (a) A director or officer of the ~~audit~~ sustainability assurance client; or
- (b) An employee in a position to exert significant influence over the preparation of the client's records underlying the sustainability information or the sustainability information accounting records or the financial statements on which the firm will express an opinion.

5521.6 A2 Factors that are relevant in evaluating the level of such threats include:

- The nature of the relationship between the ~~audit~~ sustainability assurance team member and the close family member.
- The position held by the close family member.
- The role of the ~~audit~~ sustainability assurance team member.

5521.6 A3 An example of an action that might eliminate such a self-interest, familiarity or intimidation threat is removing the individual from the ~~audit~~ sustainability assurance team.

5521.6 A4 An example of an action that might be a safeguard to address such a self-interest, familiarity or intimidation threat is structuring the responsibilities of the ~~audit~~ sustainability assurance team so that the ~~audit~~ sustainability assurance team member does not deal with matters that are within the responsibility of the close family member.

Other Close Relationships of an ~~Audit~~ Sustainability Assurance Team Member

R5521.7 An ~~audit~~ sustainability assurance team member shall consult in accordance with firm policies and procedures if the ~~audit~~ sustainability assurance team member has a close relationship with an individual who is not an immediate or close family member, but who is:

- (a) A director or officer of the ~~audit~~ sustainability assurance client; or
- (b) An employee in a position to exert significant influence over the preparation of the client's records underlying the sustainability information or the sustainability information accounting records or the financial statements on which the firm will express an opinion.

5521.7 A1 Factors that are relevant in evaluating the level of a self-interest, familiarity or intimidation threat created by such a relationship include:

- The nature of the relationship between the individual and the ~~audit~~ sustainability assurance team member.
- The position the individual holds with the client.
- The role of the ~~audit~~ sustainability assurance team member.

5521.7 A2 An example of an action that might eliminate such a self-interest, familiarity or intimidation threat is removing the individual from the ~~audit~~ sustainability assurance team.

5521.7 A3 An example of an action that might be a safeguard to address such a self-interest, familiarity or intimidation threat is structuring the responsibilities of the ~~audit~~ sustainability assurance team so that the ~~audit~~ sustainability assurance team member does not deal with matters that are within the

responsibility of the individual with whom the audit sustainability assurance team member has a close relationship.

Relationships of Partners-Leaders and Employees of the Firm

R521.8 Partners-Leaders and employees of the firm shall consult in accordance with firm policies and procedures if they are aware of a personal or family relationship between:

- (a) A partner-leader or employee of the firm or network firm who is not an audit sustainability assurance team member; and
- (b) A director or officer of the audit sustainability assurance client or an employee of the audit sustainability assurance client in a position to exert significant influence over the preparation of the client's records underlying the sustainability information or the sustainability information~~accounting records or the financial statements~~ on which the firm will express an opinion.

521.8 A1 Factors that are relevant in evaluating the level of a self-interest, familiarity or intimidation threat created by such a relationship include:

- The nature of the relationship between the partner-leader or employee of the firm and the director or officer or employee of the client.
- The degree of interaction of the partner-leader or employee of the firm with the audit sustainability assurance team.
- The position of the partner-leader or employee within the firm.
- The position the individual holds with the client.

521.8 A2 Examples of actions that might be safeguards to address such self-interest, familiarity or intimidation threats include:

- Structuring the partner's-leader's or employee's responsibilities to reduce any potential influence over the audit sustainability assurance engagement.
- Having an appropriate reviewer review the relevant audit sustainability assurance work performed.

SECTION 5522

RECENT SERVICE WITH AN ~~AUDIT~~ AUDIT SUSTAINABILITY ASSURANCE CLIENT

Introduction

5522.1 Firms are required to comply with the fundamental principles, be independent and apply the conceptual framework set out in Section 5120 to identify, evaluate and address threats to independence.

5522.2 If an ~~audit~~ sustainability assurance team member has recently served as a director or officer, or employee of the ~~audit~~ sustainability assurance client, a self-interest, self-review or familiarity threat might be created. This section sets out specific requirements and application material relevant to applying the conceptual framework in such circumstances.

Requirements and Application Material

Service During Period Covered by the ~~Audit~~ Audit Sustainability Assurance Report

R5522.3 The ~~audit~~ sustainability assurance team shall not include an individual who, during the period covered by the ~~audit~~ sustainability assurance report:

- (a) Had served as a director or officer of the ~~audit~~ sustainability assurance client; or
- (b) Was an employee in a position to exert significant influence over the preparation of the client's records underlying the sustainability information or the sustainability information accounting records or the financial statements on which the firm will express an opinion.

Service Prior to Period Covered by the ~~Audit~~ Audit Sustainability Assurance Report

5522.4 A1 A self-interest, self-review or familiarity threat might be created if, before the period covered by the ~~audit~~ sustainability assurance report, an ~~audit~~ sustainability assurance team member:

- (a) Had served as a director or officer of the ~~audit~~ sustainability assurance client; or
- (b) Was an employee in a position to exert significant influence over the preparation of the client's records underlying the sustainability information or the sustainability information accounting records or financial statements on which the firm will express an opinion.

For example, a threat would be created if a decision made or work performed by the individual in the prior period, while employed by the client, is to be evaluated in the current period as part of the current ~~audit~~ sustainability assurance engagement.

5522.4 A2 Factors that are relevant in evaluating the level of such threats include:

- The position the individual held with the client.
- The length of time since the individual left the client.
- The role of the ~~audit~~ sustainability assurance team member.

5522.4 A3 An example of an action that might be a safeguard to address such a self-interest, self-review or familiarity threat is having an appropriate reviewer review the work performed by the ~~audit~~ sustainability assurance team member.

SECTION 5523**SERVING AS A DIRECTOR OR OFFICER OF AN ~~AUDIT~~ SUSTAINABILITY ASSURANCE CLIENT****Introduction**

- 5523.1** Firms are required to comply with the fundamental principles, be independent and apply the conceptual framework set out in Section **5120** to identify, evaluate and address threats to independence.
- 5523.2** Serving as a director or officer of an ~~audit~~ sustainability assurance client creates self-review and self-interest threats. This section sets out specific requirements and application material relevant to applying the conceptual framework in such circumstances.

Requirements and Application Material**Service as Director or Officer**

- R5523.3** A ~~partner leader~~ or employee of the firm or a network firm shall not serve as a director or officer of an ~~audit~~ sustainability assurance client of the firm.

Service as Company Secretary

- R5523.4** A ~~partner leader~~ or employee of the firm or a network firm shall not serve as Company Secretary for an ~~audit~~ sustainability assurance client of the firm, unless:
- (a) This practice is specifically permitted under local law, professional rules or practice;
 - (b) Management makes all relevant decisions; and
 - (c) The duties and activities performed are limited to those of a routine and administrative nature, such as preparing minutes and maintaining statutory returns.
- 5523.4 A1** The position of Company Secretary has different implications in different jurisdictions. Duties might range from: administrative duties (such as personnel management and the maintenance of company records and registers) to duties as diverse as ensuring that the company complies with regulations or providing advice on corporate governance matters. Usually this position is seen to imply a close association with the entity. Therefore, a threat is created if a ~~partner leader~~ or employee of the firm or a network firm serves as Company Secretary for an ~~audit~~ sustainability assurance client. (More information on providing non-assurance services to an ~~audit~~ sustainability assurance client is set out in Section **5600**, *Provision of Non-assurance Services to an ~~Audit~~ Sustainability Assurance Client.*)

SECTION 524**EMPLOYMENT WITH AN ~~AUDIT~~ SUSTAINABILITY ASSURANCE CLIENT****Introduction**

524.1 Firms are required to comply with the fundamental principles, be independent and apply the conceptual framework set out in Section 5120 to identify, evaluate and address threats to independence.

524.2 Employment relationships with an ~~an audit~~ sustainability assurance client might create a self-interest, familiarity or intimidation threat. This section sets out specific requirements and application material relevant to applying the conceptual framework in such circumstances.

Requirements and Application Material**All ~~Audit~~ Sustainability Assurance Clients**

524.3 A1 A familiarity or intimidation threat might be created if any of the following individuals have been an ~~an audit~~ sustainability assurance team member or ~~partner~~ leader of the firm or a network firm:

- A director or officer of the ~~audit~~ sustainability assurance client.
- An employee in a position to exert significant influence over the preparation of the client's ~~records underlying the sustainability information or the sustainability information accounting records or the financial statements~~ records underlying the sustainability information or the sustainability information accounting records or the financial statements on which the firm will express an opinion.

Former ~~Partner Leader~~ or ~~Audit~~ Sustainability Assurance Team Member Restrictions

R524.4 The firm shall ensure that no significant connection remains between the firm or a network firm and:

- (a) A former ~~partner~~ leader who has joined an ~~an audit~~ sustainability assurance client of the firm; or
- (b) A former ~~audit~~ sustainability assurance team member who has joined the ~~audit~~ sustainability assurance client, if either has joined the ~~audit~~ sustainability assurance client as:
 - (i) A director or officer; or
 - (ii) An employee in a position to exert significant influence over the preparation of the client's ~~records underlying the sustainability information or the sustainability information accounting records or the financial statements~~ records underlying the sustainability information or the sustainability information accounting records or the financial statements on which the firm will express an opinion.

A significant connection remains between the firm or a network firm and the individual, unless:

- (a) The individual is not entitled to any benefits or payments from the firm or network firm that are not made in accordance with fixed pre-determined arrangements;
- (b) Any amount owed to the individual is not material to the firm or the network firm; and
- (c) The individual does not continue to participate or appear to participate in the firm's or the network firm's business or professional activities.

524.4 A1 Even if the requirements of paragraph R524.4 are met, a familiarity or intimidation threat might still be created.

524.4 A2 A familiarity or intimidation threat might also be created if a former ~~partner~~ leader of the firm or network firm has joined an entity in one of the positions described in paragraph 524.3 A1 and the entity subsequently becomes an ~~an audit~~ a sustainability assurance client of the firm.

- 5524.4 A3** Factors that are relevant in evaluating the level of such threats include:
- The position the individual has taken at the client.
 - Any involvement the individual will have with the audit-sustainability assurance team.
 - The length of time since the individual was an ~~an~~ audit-sustainability assurance team member or partner-leader of the firm or network firm.
 - The former position of the individual within the audit-sustainability assurance team, firm or network firm. An example is whether the individual was responsible for maintaining regular contact with the client's management or those charged with governance.

- 5524.4 A4** Examples of actions that might be safeguards to address such familiarity or intimidation threats include:
- Modifying the plan for the audit-sustainability assurance engagement-plan.
 - Assigning to the audit-sustainability assurance team individuals who have sufficient experience relative to the individual who has joined the client.
 - Having an appropriate reviewer review the work of the former audit-sustainability assurance team member.

Audit-Sustainability Assurance Team Members Entering Employment with a Client

R5524.5 A firm or network firm shall have policies and procedures that require audit-sustainability assurance team members to notify the firm or network firm when entering employment negotiations with an ~~an~~ audit-sustainability assurance client.

5524.5 A1 A self-interest threat is created when an ~~an~~ audit-sustainability assurance team member participates in the audit-sustainability assurance engagement while knowing that the audit-sustainability assurance team member will, or might, join the client at some time in the future.

5524.5 A2 An example of an action that might eliminate such a self-interest threat is removing the individual from the audit-sustainability assurance team.

5524.5 A3 An example of an action that might be a safeguard to address such a self-interest threat is having an appropriate reviewer review any significant judgments made by that individual while on the team.

Audit-Sustainability Assurance Clients that are Public Interest Entities

Key Audit-Sustainability Assurance ~~Partners~~ Leaders

R5524.6 Subject to paragraph R5524.8, if an individual who was a key audit-sustainability assurance ~~partner~~ leader with respect to an ~~an~~ audit-sustainability assurance client that is a public interest entity joins the client as:

- (a) A director or officer; or
 - (b) An employee in a position to exert significant influence over the preparation of the client's records underlying the sustainability information or the sustainability information accounting records or the financial statements on which the firm will express an opinion, independence is compromised unless, subsequent to the individual ceasing to be a key audit-sustainability assurance ~~partner~~ leader:
- (i) The audit-sustainability assurance client has issued ~~audited financial statements~~ assured sustainability information covering a period of not less than twelve months; and

- (ii) The individual was not ~~an audit a sustainability assurance~~ team member with respect to the ~~audit assurance of those financial statements that sustainability information~~.

~~Senior or Managing Partner~~ (Chief Executive or Equivalent) of the Firm

R524.7 Subject to paragraph R524.8, if an individual who was the ~~Senior or Managing Partner~~ (Chief Executive or equivalent) of the firm joins an ~~audit sustainability assurance~~ client that is a public interest entity as:

- (a) A director or officer; or
- (b) An employee in a position to exert significant influence over the preparation of the client's ~~records underlying the sustainability information or the sustainability information accounting records or the financial statements~~ on which the firm will express an opinion,

independence is compromised, unless twelve months have passed since the individual was the ~~Senior or Managing Partner~~ (Chief Executive or equivalent) of the firm.

Business Combinations

R524.8 As an exception to paragraphs R524.6 and R524.7, independence is not compromised if the circumstances set out in those paragraphs arise as a result of a business combination and:

- (a) The position was not taken in contemplation of the business combination;
- (b) Any benefits or payments due to the former ~~partner key sustainability assurance leader or Chief Executive~~ from the firm or a network firm have been settled in full, unless made in accordance with fixed pre-determined arrangements and any amount owed to the ~~partner key sustainability assurance leader or Chief Executive~~ is not material to the firm or network firm as applicable;
- (c) The former ~~partner key sustainability assurance leader or Chief Executive~~ does not continue to participate or appear to participate in the firm's or network firm's business or professional activities; and
- (d) The firm discusses the former ~~partner's key sustainability assurance leader's or Chief Executive's~~ position held with the ~~audit sustainability assurance~~ client with those charged with governance.

SECTION 525

TEMPORARY PERSONNEL ASSIGNMENTS

Introduction

- 525.1** Firms are required to comply with the fundamental principles, be independent and apply the conceptual framework set out in Section 5120 to identify, evaluate and address threats to independence.
- 525.2** The loan of personnel to an ~~n-audit sustainability assurance~~ client might create a self-review, advocacy or familiarity threat. This section sets out specific requirements and application material relevant to applying the conceptual framework in such circumstances.

Requirements and Application Material

General

- 525.3 A1** Examples of actions that might be safeguards to address threats created by the loan of personnel by a firm or a network firm to an ~~n-audit sustainability assurance~~ client include:
- Conducting an additional review of the work performed by the loaned personnel might address a self-review threat.
 - Not including the loaned personnel as an ~~n-audit sustainability assurance~~ team member might address a familiarity or advocacy threat.
 - Not giving the loaned personnel ~~audit-sustainability assurance~~ responsibility for any function or activity that the personnel performed during the loaned personnel assignment might address a self-review threat.
- 525.3 A2** When familiarity and advocacy threats are created by the loan of personnel by a firm or a network firm to an ~~n-audit sustainability assurance~~ client, such that the firm or the network firm becomes too closely aligned with the views and interests of management, safeguards are often not available.
- R525.4** A firm or network firm shall not loan personnel to an ~~n-audit sustainability assurance~~ client unless the firm or network firm is satisfied that:
- (a) Such assistance is provided only for a short period of time;
 - (b) Such personnel will not assume management responsibilities and the ~~audit-sustainability assurance~~ client will be responsible for directing and supervising the activities of the personnel;
 - (c) Any threat to the independence of the firm or network firm arising from the professional services undertaken by such personnel is eliminated or safeguards are applied to reduce such threat to an acceptable level; and
 - (d) Such personnel will not undertake or be involved in professional services that the firm or network firm is prohibited from performing by the Code.

SECTION 5540 LONG ASSOCIATION OF PERSONNEL (INCLUDING ~~PARTNER LEADER~~ ROTATION) WITH AN ~~AUDIT SUSTAINABILITY ASSURANCE~~ CLIENT

Introduction

- 5540.1 Firms are required to comply with the fundamental principles, be independent and apply the conceptual framework set out in Section 5120 to identify, evaluate and address threats to independence.
- 5540.2 When an individual is involved in an ~~audit sustainability assurance~~ engagement, or a combination of sustainability assurance and audit engagements for the same client, over a long period of time, familiarity and self-interest threats might be created. This section sets out requirements and application material relevant to applying the conceptual framework in such circumstances.

Requirements and Application Material

General

[Paragraph 5540.3 A1 is intentionally left blank]

All ~~Audit Sustainability Assurance~~ Clients

- 5540.43 A1 Although an understanding of an ~~audit sustainability assurance~~ client and its environment is fundamental to ~~audit-assurance~~ quality, a familiarity threat might be created as a result of an individual's long association as an ~~audit sustainability assurance~~ team member or audit team member with:
- (a) The ~~audit-sustainability assurance~~ client and its operations;
 - (b) The ~~audit-sustainability assurance~~ client's senior management; or
 - (c) The ~~sustainability information financial statements~~ on which the firm will express an opinion or the financial or non-financial information which forms the basis of the sustainability information financial statements.
- 5540.43 A2 A self-interest threat might be created as a result of an individual's concern about losing a longstanding client or an interest in maintaining a close personal relationship with a member of senior management or those charged with governance. Such a threat might influence the individual's judgment inappropriately.
- 5540.43 A3 Factors that are relevant to evaluating the level of such familiarity or self-interest threats include:
- (a) In relation to the individual:
 - The overall length of the individual's relationship with the client, including if such relationship existed while the individual was at a prior firm.
 - How long the individual has been an engagement team member for the sustainability assurance engagement or the audit engagement, and the nature of the roles performed.
 - The extent to which the work of the individual is directed, reviewed and supervised by more senior personnel.
 - The extent to which the individual, due to the individual's seniority, has the ability to influence the outcome of the ~~audit sustainability assurance engagement~~, for example, by

making key decisions or directing the work of other engagement team members.

- The closeness of the individual's personal relationship with senior management or those charged with governance.
- The nature, frequency and extent of the interaction between the individual and senior management or those charged with governance.

(b) In relation to the audit-sustainability assurance client:

- The nature or complexity of the client's accounting and financial-sustainability reporting issues and whether they have changed.
- Whether there have been any recent changes in senior management or those charged with governance.
- Whether there have been any structural changes in the client's organization which impact the nature, frequency and extent of interactions the individual might have with senior management or those charged with governance.

5540.43 A4 The combination of two or more factors might increase or reduce the level of the threats. For example, familiarity threats created over time by the increasingly close relationship between an individual and a member of the client's senior management would be reduced by the departure of that member of the client's senior management.

5540.43 A5 An example of an action that might eliminate the familiarity and self-interest threats created by an individual being involved in an-audit sustainability assurance engagement, or a combination of sustainability assurance and audit engagements for the same client, over a long period of time would be rotating the individual off the audit-sustainability assurance team.

5540.43 A6 Examples of actions that might be safeguards to address such familiarity or self-interest threats include:

- Changing the role of the individual on the audit-sustainability assurance team or the nature and extent of the tasks the individual performs.
- Having an appropriate reviewer who was not an audit sustainability assurance team member review the work of the individual.
- Performing regular independent internal, or external, quality reviews of the engagement.

R5540.54 If a firm decides that the level of the threats created can only be addressed by rotating the individual off the audit-sustainability assurance team, the firm shall determine an appropriate period during which the individual shall not:

- (a) Be a member of the engagement team for the audit sustainability assurance engagement;
- (b) Perform an engagement quality review, or a review consistent with the objective of an engagement quality review, for the engagement; or
- (c) Exert direct influence on the outcome of the audit-sustainability assurance engagement.

The period shall be of sufficient duration to allow the familiarity and self-interest threats to be addressed. In the case of a public interest entity, paragraphs R5540.75 to R5540.20-22 also apply.

R5540.6 Where an individual is a member of both the sustainability assurance team and the audit team for the same client and the firm decides that the level of the threats created can only be addressed by rotating the individual off both the sustainability assurance team and the audit team, the firm shall, in addition

to complying with paragraph R5540.5, determine an appropriate period during which the individual shall not:

- (a) Be a member of the engagement team for the audit engagement;
- (b) Perform an engagement quality review, or a review consistent with the objective of an engagement quality review, for the audit engagement; or
- (c) Exert direct influence on the outcome of the audit engagement.

The period shall be of sufficient duration to allow the familiarity and self-interest threats to be addressed. In the case of a public interest entity, paragraphs R5540.7 to R5540.22 also apply.

Audit Sustainability Assurance Clients that are Public Interest Entities

R5540.75 Subject to paragraphs R5540.97 to R5540.119, in respect of an audit sustainability assurance engagement of a public interest entity, an individual shall not act in any of the following roles, or a combination of such roles, for a period of more than seven cumulative years (the “time-on” period):

- (a) The engagement leader-partner;
- (b) The individual appointed as responsible for performing the engagement quality review; or
- (c) Any other key audit sustainability assurance partner-leader role; or
- (d) A key audit partner.

After the time-on period, the individual shall serve a “cooling-off” period in accordance with the provisions in paragraphs R5540.134 to R5540.2149.

R5540.86 In calculating the time-on period, the count of years shall not be restarted unless the individual ceases to act in any one of the roles in paragraph R5540.75(a) to (ed) for a minimum period. This minimum period is a consecutive period equal to at least the cooling-off period determined in accordance with paragraphs R5540.134 to R5540.153 as applicable to the role in which the individual served in the year immediately before ceasing such involvement.

5540.86 A1 For example:

- An individual who served as engagement partner-leader for four years followed by three years off can only act thereafter as a key audit sustainability assurance partner-leader on the same audit sustainability assurance engagement for three further years (making a total of seven cumulative years). Thereafter, that individual is required to cool off in accordance with paragraph R5540.175.
- An individual who served as engagement partner for two years for the audit of the sustainability assurance client’s financial statements might be appointed as the individual responsible for performing the engagement quality review for the sustainability assurance engagement for five further years. Thereafter, that individual is required to cool off in accordance with paragraph R5540.18.

R5540.97 As an exception to paragraph R5540.75, key audit sustainability assurance partners-leaders whose continuity is especially important to audit assurance quality may, in rare cases due to unforeseen circumstances outside the firm’s control, and with the concurrence of those charged with governance, be permitted to serve an additional year as a key audit sustainability assurance partner-leader as long as the threat to independence can be eliminated or reduced to an acceptable level.

5540.97 A1 For example, a key sustainability assurance audit partner leader may remain in that role on the audit sustainability assurance team for up to one additional year in circumstances where, due to unforeseen events, a required rotation was not possible, as might be the case due to serious illness of the intended engagement ~~partner leader~~. In such circumstances, this will involve the firm discussing with those charged with governance the reasons why the planned rotation cannot take place and the need for any safeguards to reduce any threat created.

R5540.108 If an ~~audit sustainability assurance~~ client becomes a public interest entity, a firm shall take into account the length of time an individual has served the audit sustainability assurance client as a key sustainability assurance audit partner leader or key audit partner before the client becomes a public interest entity in determining the timing of the rotation. If the individual has served the audit sustainability assurance client as a key sustainability assurance audit partner leader or key audit partner for a period of five cumulative years or less when the client becomes a public interest entity, the number of years the individual may continue to serve the client in ~~that the~~ capacity of a key sustainability assurance leader before rotating off the sustainability assurance engagement is seven years less the number of years already served. As an exception to paragraph R5540.75, if the individual has served the audit sustainability assurance client as a key sustainability assurance audit partner leader or key audit partner for a period of six or more cumulative years when the client becomes a public interest entity, the individual may continue to serve in ~~that the~~ capacity of a key sustainability assurance leader with the concurrence of those charged with governance for a maximum of two additional years before rotating off the sustainability assurance engagement.

R5540.119 When a firm has only a few people with the necessary knowledge and experience to serve as a key sustainability assurance audit partner leader on the audit sustainability assurance engagement of a public interest entity, rotation of key sustainability assurance audit partners leaders might not be possible. As an exception to paragraph R5540.75, if an independent regulatory body in the relevant jurisdiction has provided an exemption from partner leader rotation in such circumstances, an individual may remain a key sustainability assurance audit partner leader for more than seven years, in accordance with such exemption. This is provided that the independent regulatory body has specified other requirements which are to be applied, such as the length of time that the key sustainability assurance audit partner leader may be exempted from rotation or a regular independent external review.

Other Considerations Relating to the Time-on Period

R5540.120 In evaluating the threats created by an individual's long association with a ~~an audit sustainability assurance~~ engagement, a firm shall give particular consideration to the roles undertaken and the length of an individual's association with the audit sustainability assurance engagement or the audit engagement for the same client prior to the individual becoming a key sustainability assurance audit partner leader.

5540.120 A1 There might be situations where the firm, in applying the conceptual framework, concludes that it is not appropriate for an individual who is a key sustainability assurance audit partner leader to continue in that role even though the length of time served as a key sustainability assurance audit partner leader is less than seven years.

Cooling-off Period

R5540.134 If the individual acted as the engagement partner leader for seven cumulative years, the cooling-off period shall be five consecutive years.

R5540.142 Where the individual has been appointed as responsible for the engagement quality review and has acted in that capacity for seven cumulative years, the cooling-off period shall be three consecutive years.

R5540.153 If the individual has acted as a key ~~audit partner~~ sustainability assurance leader other than in the capacities set out in paragraphs R5540.134 and R5540.142 for seven cumulative years, the cooling-off period shall be two consecutive years.

5540.164 A1 The ~~partner leader~~ rotation requirements in this section are distinct from, and do not modify, the cooling-off period required by ISQM 2 as a condition for eligibility before the engagement ~~partner leader~~ leader can assume the role of engagement quality reviewer (see paragraph 5325.8 A4).

Service in a combination of key sustainability assurance ~~audit partner leader~~ or key audit partner roles

R5540.175 If the individual acted in a combination of key sustainability assurance ~~audit partner leader~~ or key audit partner roles and served as the ~~engagement partner engagement leader or engagement partner~~ for four or more cumulative years, the cooling-off period shall be five consecutive years.

R5540.186 Subject to paragraph R5540.197(a), if the individual acted in a combination of key sustainability assurance ~~audit partner leader~~ or key audit partner roles and served as the key sustainability assurance ~~audit partner leader~~ or key audit partner responsible for the engagement quality review for four or more cumulative years, the cooling-off period shall be three consecutive years.

R5540.197 If an individual has acted in a combination of engagement leader, engagement partner and engagement quality reviewer roles for four or more cumulative years during the time-on period, the cooling-off period shall:

- (a) As an exception to paragraph R5540.186, be five consecutive years where the individual has been the ~~engagement partner engagement leader or engagement partner~~ for three or more years; or
- (b) Be three consecutive years in the case of any other combination.

R5540.2018 If the individual acted in any combination of key sustainability assurance ~~audit partner leader~~ and key audit partner roles other than those addressed in paragraphs R5540.175 to R5540.197, the cooling-off period shall be two consecutive years.

Service at a Prior Firm

R5540.2119 In determining the number of years that an individual has been a key sustainability assurance ~~audit partner leader~~ or a key audit partner as set out in paragraph R5540.75, the length of the relationship shall, where relevant, include time while the individual was a key ~~audit sustainability assurance partner leader on the sustainability assurance engagement or a key audit partner on that the audit engagement~~ for the same client at a prior firm.

R540.20 — [Paragraph R5540.22 is intentionally left blank]

Restrictions on Activities During the Cooling-off Period

R5540.231 For the duration of the relevant cooling-off period, the individual shall not:

- (a) Be an engagement team member or perform an engagement quality review, or a review consistent with the objective of an engagement quality review, for the ~~audit sustainability assurance~~ engagement or the audit engagement;

- (b) Consult with the engagement team or the client regarding technical or industry-specific issues, transactions or events affecting the ~~audit-sustainability assurance~~ engagement or the audit engagement (other than discussions with the engagement team limited to work undertaken or conclusions reached in the last year of the individual's time-on period where this remains relevant to the ~~audit-sustainability assurance engagement or the audit engagement~~);
- (c) Be responsible for leading or coordinating the professional services provided by the firm or a network firm to the ~~audit-sustainability assurance~~ client, or overseeing the relationship of the firm or a network firm with the ~~audit-sustainability assurance~~ client; or
- (d) Undertake any other role or activity not referred to above with respect to the ~~audit-sustainability assurance~~ client, including the provision of non-assurance services, that would result in the individual:
 - (i) Having significant or frequent interaction with senior management or those charged with governance; or
 - (ii) Exerting direct influence on the outcome of the ~~audit-sustainability assurance~~ engagement or the audit engagement.

~~540.231~~ A1 The provisions of paragraph R~~540.2324~~ are not intended to prevent the individual from assuming a leadership role in the firm or a network firm, such as that of the ~~Senior or Managing Partner~~ (Chief Executive or equivalent).

SECTION 5600

PROVISION OF NON-ASSURANCE SERVICES TO AN ~~AUDIT~~ SUSTAINABILITY ASSURANCE CLIENT

Introduction

- 5600.1 Firms are required to comply with the fundamental principles, be independent, and apply the conceptual framework set out in Section 5120 to identify, evaluate and address threats to independence.
- 5600.2 Firms and network firms might provide a range of non-assurance services to their ~~audit~~ sustainability assurance clients, consistent with their skills and expertise. Providing non-assurance services to ~~audit~~ sustainability assurance clients might create threats to compliance with the fundamental principles and threats to independence.
- 5600.3 This section sets out requirements and application material relevant to applying the conceptual framework to identify, evaluate and address threats to independence when providing non-assurance services to ~~audit~~ sustainability assurance clients. The subsections that follow set out specific requirements and application material that are relevant when a firm or a network firm provides certain types of non-assurance services to ~~audit~~ sustainability assurance clients and indicate the types of threats that might be created as a result.
- 5600.4 Some subsections include requirements that expressly prohibit a firm or a network firm from providing certain services to an ~~audit~~ sustainability assurance client because the threats created cannot be eliminated and safeguards are not capable of being applied to reduce the threats to an acceptable level.
- 5600.5 New business practices, the developing sustainability landscape, the evolution of financial markets and changes in technology are some developments that make it impossible to draw up an all-inclusive list of non-assurance services that firms and network firms might provide to an ~~audit~~ sustainability assurance client. The conceptual framework and the general provisions in this section apply when a firm proposes to a client to provide a non-assurance service for which there are no specific requirements and application material.
- 5600.6 The requirements and application material in this section apply where a firm or a network firm:
- (a) Uses technology to provide a non-assurance service to an ~~audit~~ sustainability assurance client; or
 - (b) Provides, sells, resells or licenses technology resulting in the provision of a non- assurance service by the firm or a network firm:
 - (i) To an ~~audit~~ sustainability assurance client; or
 - (ii) To an entity that provides services using such technology to ~~audit~~ sustainability assurance clients of the firm or network firm.

Requirements and Application Material

General

Non-Assurance Services Provisions in Laws or Regulations

- 5600.7 A1 Paragraphs R5100.6 to 5100.7 A1 set out requirements 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 sustainability assurance~~ 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.

Risk of Assuming Management Responsibilities when Providing a Non-Assurance Service

5600.8 A1 When a firm or a network firm provides a non-assurance service to an ~~audit sustainability assurance~~ client, there is a risk that the firm or network firm will assume a management responsibility unless the firm or network firm is satisfied that the requirements in paragraph R5400.21 have been complied with.

Accepting an Engagement to Provide a Non-Assurance Service

R5600.9 Before a firm or a network firm accepts an engagement to provide a non-assurance service to an ~~audit sustainability assurance~~ client, the firm shall apply the conceptual framework to identify, evaluate and address any threat to independence that might be created by providing that service.

Identifying and Evaluating Threats

All ~~Audit-Sustainability Assurance~~ Clients

5600.10 A1 A description of the categories of threats that might arise when a firm or a network firm provides a non-assurance service to an ~~audit sustainability assurance~~ client is set out in paragraph 5120.6 A3.

5600.10 A2 Factors that are relevant in identifying the different threats that might be created by providing a non-assurance service to an ~~audit sustainability assurance~~ client, and evaluating the level of such threats include:

- The nature, scope, intended use and purpose of the service.
- The manner in which the service will be provided, such as the personnel to be involved and their location.
- The client's dependency on the service, including the frequency with which the service will be provided.
- The legal and regulatory environment in which the service is provided.
- Whether the client is a public interest entity.
- The level of expertise of the client's management and employees with respect to the type of service provided.
- The extent to which the client determines significant matters of judgment. (Ref: Para. R5400.20 to R5400.21).
- Whether the outcome of the service will affect the ~~accounting~~-records underlying the sustainability information or matters reflected in the sustainability information financial statements-on which the firm will express an opinion, and, if so:
 - The extent to which the outcome of the service will have a material effect on the ~~financial statements~~ sustainability information.
 - The degree of subjectivity involved in determining the appropriate amounts, disclosures or treatment for those matters reflected in the sustainability information-~~financial statements~~.

- The nature and extent of the impact of the service, if any, on the systems that generate information that forms a significant part of the client's:
 - ~~Accounting records or financial statements on which the firm will express an opinion.~~ Records underlying the sustainability information or the sustainability information on which the firm will express an opinion.
 - Internal controls over ~~financial reporting~~ sustainability reporting.
- The degree of reliance that will be placed on the outcome of the service as part of the ~~audit~~ sustainability assurance engagement.
- The fee relating to the provision of the non-assurance service.

5600.10 A3 Subsections 5601 to 5610 include examples of additional factors that are relevant in identifying threats to independence created by providing certain non-assurance services, and evaluating the level of such threats.

Materiality in relation to sustainability information

5600.11 A1 Materiality is a factor that is relevant in evaluating threats created by providing a non-assurance service to an ~~an audit sustainability assurance~~ client. Subsections 5601 to 5610 refer to materiality in relation to an ~~an audit sustainability assurance~~ client's ~~financial statements sustainability information on which the firm will express an opinion~~. The concept of materiality in relation to ~~an audit is addressed in ISA 320, Materiality in Planning and Performing an Audit, and in relation to a review in ISRE 2400 (Revised), Engagements to Review Historical Financial Statements~~ sustainability assurance engagement is addressed in the relevant reporting and assurance frameworks. The determination of materiality involves the exercise of professional judgment and is impacted by both quantitative and qualitative factors. It is also affected by perceptions of the ~~financial-sustainability~~ information needs of users. The applicable reporting and assurance frameworks might include principles or guidance to assist the sustainability assurance client in identifying information that might be material to users.

5600.11 A2 Where the Code expressly prohibits the provision of a non-assurance service to an ~~an audit sustainability assurance~~ client, a firm or a network firm is not permitted to provide that service, regardless of the materiality of the outcome or results of the non-assurance service on the ~~financial statements sustainability information~~ on which the firm will express an opinion.

Providing advice and recommendations

5600.12 A1 Providing advice and recommendations might create a self-review threat. Whether providing advice and recommendations creates a self-review threat involves making the determination set out in paragraph R600.154. Where the ~~audit-sustainability assurance~~ client is not a public interest entity and a self-review threat is identified, the firm is required to apply the conceptual framework to evaluate and address the threat. If the ~~audit-sustainability assurance~~ client is a public interest entity, paragraphs R5600.17 and R5600.18 apply.

Multiple non-assurance services provided to the same ~~audit sustainability assurance~~ client

R5600.13 When a firm or a network firm provides multiple non-assurance services to an ~~an audit sustainability assurance~~ client, the firm shall consider whether, in addition to the threats created by each service individually, the combined effect of such services creates or impacts threats to independence.

5600.13 A1 In addition to paragraph 5600.10 A2, factors that are relevant in a firm's evaluation of the level of threats to independence created where multiple non-assurance services are provided to an ~~an audit~~

sustainability assurance client might include whether:

- The combined effect of providing multiple services increases the level of threat created by each service assessed individually.
- The combined effect of providing multiple services increases the level of any threat arising from the overall relationship with the audit-sustainability assurance client.

5600.13 A2 When the sustainability assurance practitioner is also the auditor, paragraphs R600.13 and 600.13 A1 in Part 4A apply in relation to multiple non-assurance services provided to the same client.

Self-review threats

5600.14 A1 When a firm or a network firm provides a non-assurance service to an n-audit sustainability assurance client, there might be a risk of the firm auditing-carrying out assurance procedures on its own or the network firm's work, thereby giving rise to a self-review threat. A self-review threat is the threat that a firm or a network firm will not appropriately evaluate the results of a previous judgment made or an activity performed by an individual within the firm or network firm as part of a non-assurance service on which the audit-sustainability assurance team will rely when forming a judgment as part of an n-audit sustainability assurance engagement.

R5600.15 Before providing a non-assurance service to an n-audit sustainability assurance client, a firm or a network firm shall determine whether the provision of that service might create a self-review threat by evaluating whether there is a risk that:

- (a) The results of the service will form part of or affect the accounting records underlying the sustainability information, the internal controls over sustainability reporting financial reporting, or the sustainability information financial statements on which the firm will express an opinion; and
- (b) In the course of the performing assurance work on the sustainability information audit of these financial statements on which the firm will express an opinion, the sustainability assurance audit team will evaluate or rely on any judgments made or activities performed by the firm or network firm when providing the service.

Audit-Sustainability Assurance Clients that are Public Interest Entities

5600.16 A1 When the audit-sustainability assurance client is a public interest entity, stakeholders have heightened expectations regarding the firm's independence. These heightened expectations are relevant to the reasonable and informed third party test used to evaluate a self-review threat created by providing a non-assurance service to an n-audit sustainability assurance client that is a public interest entity.

5600.16 A2 Where the provision of a non-assurance service to an n-audit sustainability assurance client that is a public interest entity creates a self-review threat, that threat cannot be eliminated, and safeguards are not capable of being applied to reduce that threat to an acceptable level.

Self-review threats

R5600.17 A firm or a network firm shall not provide a non-assurance service to an n-audit sustainability assurance client that is a public interest entity if the provision of that service might create a self-review threat in relation to the audit of the financial statements-assurance work on the sustainability information on which the firm will express an opinion. (Ref: Para. 5600.14 A1 and R5600.15).

Providing advice and recommendations

R5600.18 As an exception to paragraph R5600.17, a firm or a network firm may provide advice and recommendations to an ~~an~~ audit sustainability assurance client that is a public interest entity in relation to information or matters arising in the course of an ~~an~~ audit sustainability assurance engagement provided that the firm:

- (a) Does not assume a management responsibility (Ref: Para. R5400.20 and R5400.21); and
- (b) Applies the conceptual framework to identify, evaluate and address threats, other than self-review threats, to independence that might be created by the provision of that advice.

5600.18 A1 Examples of advice and recommendations that might be provided in relation to information or matters arising in the course of an sustainability assurance engagement audit include:

- Advising on ~~sustainability accounting and financial~~ reporting standards or policies and sustainability information financial statement disclosure requirements.
- Advising on the appropriateness of ~~financial and accounting~~ controls related to sustainability information and the methods used in determining or establishing the sustainability information to be reported~~stated amounts in the financial statements and related disclosures~~.
- Proposing an adjustment to sustainability information adjusting journal entries arising from the sustainability assurance engagement audit findings.
- Discussing findings on internal controls over sustainability financial reporting and processes and recommending improvements.
- ~~Discussing how to resolve account reconciliation problems.~~
- Advising on compliance with group sustainability reporting accounting policies.

Addressing Threats

All ~~Audit~~ Sustainability Assurance Clients

5600.19 A1 Paragraphs R5120.10 to 5120.10 A2 include a requirement and application material that are relevant when addressing threats to independence, including a description of safeguards.

5600.19 A2 Threats to independence created by providing a non-assurance service or multiple services to an ~~an~~ audit sustainability assurance client vary depending on the facts and circumstances of the ~~an~~ audit sustainability assurance engagement and the nature of the service. Such threats might be addressed by applying safeguards or by adjusting the scope of the proposed service.

5600.19 A3 Examples of actions that might be safeguards to address such threats include:

- Using professionals who are not ~~an~~ audit sustainability assurance team members to perform the service.
- Having an appropriate reviewer who was not involved in providing the service review the ~~an~~ audit sustainability assurance work or service performed.
- Obtaining pre-clearance of the outcome of the service from an appropriate authority (for example, a tax authority).

5600.19 A4 Safeguards might not be available to reduce the threats created by providing a non-assurance service to an ~~an~~ audit sustainability assurance client to an acceptable level. In such a situation, the application of the conceptual framework requires the firm or network firm to:

- (a) Adjust the scope of the proposed service to eliminate the circumstances that are creating the threats;
- (b) Decline or end the service that creates the threats that cannot be eliminated or reduced to an acceptable level; or
- (c) End the audit-sustainability assurance engagement.

Communication with Those Charged With Governance Regarding Non-Assurance Services

All Audit-Sustainability Assurance Clients

5600.20 A1 Paragraphs 5400.40 A1 and 5400.40 A2 are relevant to a firm's communication with those charged with governance in relation to the provision of non-assurance services.

Audit-Sustainability Assurance Clients that are Public Interest Entities

5600.21 A1 Paragraphs R5600.22 to R5600.24 require a firm to communicate with those charged with governance of a public interest entity before the firm or network firm provides non-assurance services to entities within the corporate structure of which the public interest entity forms part that might create threats to the firm's independence from the public interest entity. The purpose of the communication is to enable those charged with governance of the public interest entity to have effective oversight of the independence of the firm that ~~audits the financial statements~~ assures the sustainability information of that public interest entity.

5600.21 A2 To facilitate compliance with such requirements, a firm might agree with those charged with governance of the public interest entity a process that addresses when and with whom the firm is to communicate. Such a process might:

- Establish the procedure for the provision of information about a proposed non-assurance service which might be on an individual engagement basis, under a general policy, or on any other agreed basis.
- Identify the entities to which the process would apply, which might include other public interest entities within the corporate structure.
- Identify any services that can be provided to the entities identified in paragraph R5600.22 without specific approval of those charged with governance if they agree as a general policy that these services are not prohibited under this section and would not create threats to the firm's independence or, if any such threats are created, they would be at an acceptable level.
- Establish how those charged with governance of multiple public interest entities within the same corporate structure have determined that authority for approving services is to be allocated.
- Establish a procedure to be followed where the provision of information necessary for those charged with governance to evaluate whether a proposed service might create a threat to the firm's independence is prohibited or limited by professional standards, laws or regulations, or might result in the disclosure of sensitive or confidential information.
- Specify how any issues not covered by the process might be resolved.

R5600.22 Before a firm that undertakes assurance work on the sustainability information that audits the financial statements of a public interest entity; or a network firm accepts an engagement to provide a non-assurance service to:

- (A) That public interest entity;

(B) Any entity that controls, directly or indirectly, that public interest entity; or

(C) Any entity that is controlled directly or indirectly by that public interest entity,

the firm shall, unless already addressed when establishing a process agreed with those charged with governance:

(a) Inform those charged with governance of the public interest entity that the firm has determined that the provision of the service:

(i) Is not prohibited; and

(ii) Will not create a threat to the firm's independence ~~as auditor~~ as sustainability assurance practitioner of the public interest entity or that any identified threat is at an acceptable level or, if not, will be eliminated or reduced to an acceptable level; and

(b) Provide those charged with governance of the public interest entity with information to enable them to make an informed assessment about the impact of the provision of the service on the firm's independence.

5600.22 A1 Examples of information that might be provided to those charged with governance of the public interest entity in relation to a particular non-assurance service include:

- The nature and scope of the service to be provided.
- The basis and amount of the proposed fee.
- Where the firm has identified any threats to independence that might be created by the provision of the proposed service, the basis for the firm's assessment that the threats are at an acceptable level or, if not, the actions the firm or network firm will take to eliminate or reduce any threats to independence to an acceptable level.
- Whether the combined effect of providing multiple services creates threats to independence or changes the level of previously identified threats.

R5600.23 A firm or a network firm shall not provide a non-assurance service to any of the entities referred to in paragraph R5600.22 unless those charged with governance of the public interest entity have concurred either under a process agreed with those charged with governance or in relation to a specific service with:

(a) The firm's conclusion that the provision of the service will not create a threat to the firm's independence ~~as auditor in providing the sustainability assurance service to~~ of the public interest entity, or that any identified threat is at an acceptable level or, if not, will be eliminated, or reduced to an acceptable level; and

(b) The provision of that service.

R5600.24 As an exception to paragraphs R5600.22 and R5600.23, where a firm is prohibited by applicable professional standards, laws or regulations from providing information about the proposed non-assurance service to those charged with governance of the public interest entity, or where the provision of such information would result in disclosure of sensitive or confidential information, the firm may provide the proposed service provided that:

(a) The firm provides such information as it is able without breaching its legal or professional obligations;

(b) The firm informs those charged with governance of the public interest entity that the provision of the service will not create a threat to the firm's independence from the public interest entity,

or that any identified threat is at an acceptable level or, if not, will be eliminated or reduced to an acceptable level; and

- (c) Those charged with governance do not disagree with the firm's conclusion in (b).

R5600.25 The firm or the network firm, having taken into account any matters raised by those charged with governance of the audit-sustainability assurance client that is a public interest entity or by the entity referred to in paragraph R5600.22 that is the recipient of the proposed service, shall decline the non-assurance service or the firm shall end the audit-sustainability assurance engagement if:

- (a) The firm or the network firm is not permitted to provide any information to those charged with governance of the audit-sustainability assurance client that is a public interest entity, unless such a situation is addressed in a process agreed in advance with those charged with governance; or
- (b) Those charged with governance of an ~~audit-sustainability assurance~~ client that is a public interest entity disagree with the firm's conclusion that the provision of the service will not create a threat to the firm's independence from the client or that any identified threat is at an acceptable level or, if not, will be eliminated or reduced to an acceptable level.

Audit-Sustainability Assurance Client that Later Becomes a Public Interest Entity

R5600.26 A non-assurance service provided, either currently or previously, by a firm or a network firm to an ~~audit-sustainability assurance~~ client compromises the firm's independence when the client becomes a public interest entity unless:

- (a) The previous non-assurance service complies with the provisions of this section that relate to audit-sustainability assurance clients that are not public interest entities;
- (b) Non-assurance services currently in progress that are not permitted under this section for ~~audit-sustainability assurance~~ clients that are public interest entities are ended before or, if that is not possible, as soon as practicable after, the client becomes a public interest entity; and
- (c) The firm and those charged with governance of the client that becomes a public interest entity agree and take further actions to address any threats to independence that are not at an acceptable level.

5600.26 A1 Examples of actions that the firm might recommend to the audit-sustainability assurance client include engaging another firm to:

- Review or re-perform the affected audit-sustainability assurance work to the extent necessary.
- Evaluate the results of the non-assurance service or re-perform the non-assurance service to the extent necessary to enable the other firm to take responsibility for the service.

Considerations for Certain Related Entities

R5600.27 This section includes requirements that prohibit firms and network firms from providing certain non-assurance services to audit-sustainability assurance clients. As an exception to those requirements and the requirement in paragraph R5400.2015, a firm or a network firm may assume management responsibilities or provide certain non-assurance services that would otherwise be prohibited to the following related entities of the client on whose sustainability information financial statements the firm will express an opinion:

- (a) An entity that has direct or indirect control over the client;

- (b) An entity with a direct financial interest in the client if that entity has significant influence over the client and the interest in the client is material to such entity; or
- (c) An entity which is under common control with the client,
- provided that all of the following conditions are met:
- (i) The firm or a network firm does not express an opinion on the ~~financial statements~~ sustainability information of the related entity;
- (ii) The firm or a network firm does not assume a management responsibility, directly or indirectly, for the entity on whose ~~financial statements~~ sustainability information the firm will express an opinion;
- (iii) The services do not create a self-review threat; and
- (iv) The firm addresses other threats created by providing such services that are not at an acceptable level.

Documentation

5600.28 A1 Documentation of the firm's conclusions regarding compliance with this section in accordance with paragraphs R5400.60 and 5400.60 A1 might include:

- Key elements of the firm's understanding of the nature of the non-assurance service to be provided and whether and how the service might impact the ~~financial statements~~ sustainability information on which the firm will express an opinion.
- The nature of any threat to independence that is created by providing the service to the ~~audit~~ sustainability assurance client, including whether the results of the service will be subject to ~~audit~~ sustainability assurance procedures.
- The extent of management's involvement in the provision and oversight of the proposed non-assurance service.
- Any safeguards that are applied, or other actions taken to address a threat to independence.
- The firm's rationale for determining that the service is not prohibited and that any identified threat to independence is at an acceptable level.
- In relation to the provision of a proposed non-assurance service to the entities referred to in paragraph R5600.22, the steps taken to comply with paragraphs R5600.22 to R5600.24.

SUBSECTION 5601 – ACCOUNTING AND BOOKKEEPING SUSTAINABILITY DATA AND INFORMATION SERVICES

Introduction

5601.1 In addition to the specific requirements and application material in this subsection, the requirements and application material in paragraphs 5600.1 to 5600.28 A1 are relevant to applying the conceptual framework when providing ~~accounting and bookkeeping services~~ sustainability data and information services for the preparation or maintenance of sustainability data, records or information to an ~~audit~~ sustainability assurance client.

Requirements and Application Material

General

- 5601.2 A1** Management is responsible for the preparation and ~~fair~~ presentation of the ~~financial statements~~ sustainability information in accordance with the ~~applicable financial~~ applicable sustainability reporting framework. These responsibilities include:
- Determining accounting sustainability reporting policies and the accounting reporting treatment in accordance with those policies.
 - Preparing or changing source documents or originating data, in electronic or other form, evidencing ~~the occurrence of a transaction~~ the occurrence of a transaction, event or other matter included in the sustainability information. ~~Examples include:~~
 - ~~Purchase orders.~~
 - ~~Payroll time records.~~
 - ~~Customer orders.~~
 - Originating or changing journal sustainability data entries or records.
 - Determining or approving ~~the account~~ sustainability information classifications ~~of transactions~~.

Description of Service

- 5601.3 A1** ~~Accounting and bookkeeping~~ Sustainability data and information services comprise a broad range of services including:
- Preparing accounting sustainability data records or ~~financial statements~~ sustainability information that is reported.
 - Recording data transactions, events or other matters included in the sustainability information.
 - ~~Providing payroll services.~~
 - Resolving account sustainability information inaccuracies ~~reconciliation problems~~.
 - ~~Converting existing~~ financial statements sustainability information from one financial sustainability reporting framework to another.
 - Accounting and bookkeeping services that might affect the sustainability information on which the firm expresses an opinion.

Potential Threats Arising from the Provision of Accounting and Bookkeeping Sustainability Data and Information Services

All Audit Sustainability Assurance Clients

- 5601.4 A1** Providing sustainability data and information ~~accounting and bookkeeping~~ services to an audit sustainability assurance client creates a self-review threat when there is a risk that the results of the services will affect the accounting sustainability data or information records or the ~~financial statements~~ sustainability information on which the firm will express an opinion.

Audit Sustainability Assurance Clients that are Not Public Interest Entities

- R5601.5** A firm or a network firm shall not provide to an audit sustainability assurance client that is not a public interest entity ~~accounting and bookkeeping sustainability data and information~~ services that might

~~affect the sustainability information on which the firm expresses an opinion, including preparing financial statements on which the firm will express an opinion or financial information which forms the basis of such financial statements,~~ unless:

- (a) The services are of a routine or mechanical nature; and
- (b) The firm addresses any threats that are not at an acceptable level.

5601.5 A1 ~~Sustainability data and information Accounting and bookkeeping~~ services that are routine or mechanical:

- (a) Involve information, data or material in relation to which the client has made any judgments or decisions that might be necessary; and
- (b) Require little or no professional judgment.

5601.5 A2 ~~Accounting and bookkeeping~~ Sustainability data and information services can either be manual or automated. In determining whether an automated service is routine or mechanical, factors to be considered include the activities performed by, and the output of, the technology, and whether the technology provides an automated service that is based on or requires the expertise or judgment of the firm or network firm.

5601.5 A3 Examples of services, whether manual or automated, that might be regarded as routine or mechanical include:

- Preparing ~~payroll~~ calculations or reports based on client or third party-originated data for approval ~~and payment~~ by the client.
- Recording recurring ~~transactions for data~~ which ~~amounts~~ are easily determinable from source documents ~~or originating data, such as a utility bill~~ where the client has determined or approved the appropriate ~~account~~ classification.
- ~~Calculating depreciation on fixed assets when the client determines the accounting policy and estimates of useful life and residual values.~~
- Posting ~~transactions data~~ coded by the client or received from third parties to the ~~general ledger~~ sustainability information records.
- ~~Posting client-approved entries to the trial balance.~~
- Preparing ~~financial statements~~ sustainability information to be reported based on information in the client-approved ~~trial balance records~~ and preparing related notes based on client-approved records.

The firm or a network firm may provide such services to audit-sustainability assurance clients that are not public interest entities provided that the firm or network firm complies with the requirements of paragraph R5400.21 to ensure that it does not assume a management responsibility in connection with the service and with the requirement in paragraph R5601.5(b).

5601.5 A4 Examples of actions that might be safeguards to address a self-review threat created when providing ~~sustainability data and information accounting and bookkeeping~~ services of a routine or mechanical nature to an audit-sustainability assurance client that is not a public interest entity include:

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

Audit Sustainability Assurance Clients that are Public Interest Entities

R5601.6 A firm or a network firm shall not provide ~~sustainability data and information accounting and bookkeeping~~ services ~~that might affect the sustainability information on which the firm expresses an opinion~~ to an ~~audit sustainability assurance~~ client that is a public interest entity.

~~**R601.7** [Paragraph R5601.7 is intentionally left blank] As an exception to paragraph R601.6, a firm or a network firm may prepare statutory financial statements for a related entity of a public interest entity audit client included in subparagraph (c) or (d) of the definition of a related entity provided that:~~

- ~~(a) The audit report on the group financial statements of the public interest entity has been issued;~~
- ~~(b) The firm or network firm does not assume management responsibility and applies the conceptual framework to identify, evaluate and address threats to independence;~~
- ~~(c) The firm or network firm does not prepare the accounting records underlying the statutory financial statements of the related entity and those financial statements are based on client approved information; and~~
- ~~(d) The statutory financial statements of the related entity will not form the basis of future group financial statements of that public interest entity.~~

SUBSECTION 5602 – ADMINISTRATIVE SERVICES**Introduction**

5602.1 In addition to the specific application material in this subsection, the requirements and application material in paragraphs 5600.1 to 5600.28 A1 are relevant to applying the conceptual framework when providing administrative services.

Application Material**Description of Service**

5602.2 A1 Administrative services involve assisting clients with their routine or mechanical tasks within the normal course of operations.

5602.2 A2 Examples of administrative services include:

- Word processing or document formatting.
- Preparing administrative or statutory forms for client approval.
- Submitting such forms as instructed by the client.
- Monitoring statutory filing dates and advising an ~~audit sustainability assurance~~ client of those dates.

Potential Threats Arising from the Provision of Administrative Services*All ~~Audit Sustainability Assurance~~ Clients*

5602.3 A1 Providing administrative services to an ~~audit sustainability assurance~~ client does not usually create a threat when such services are clerical in nature and require little to no professional judgment.

SUBSECTION 5603 – VALUATION, FORECASTING AND SIMILAR SERVICES

Introduction

5603.1 In addition to the specific requirements and application material in this subsection, the requirements and application material in paragraphs 5600.1 to 5600.28 A1 are relevant to applying the conceptual framework when providing valuation, forecasting or similar services to an ~~audit~~ sustainability assurance client.

Requirements and Application Material

Description of Service

5603.2 A1 A valuation, forecasting or similar service ~~comprises~~ includes the making of assumptions with regard to future developments, the application of appropriate methodologies and techniques and the combination of both to compute a certain value, or range of values, for an asset, a liability or for the whole or part of an entity. For such services, the values might be non-monetary, for example, forecasting estimates of materials reserves or the amounts of hazardous substances produced by a manufacturing process.

5603.2 A2 If a firm or a network firm is requested to perform a valuation, forecasting or similar service to assist an ~~audit~~ sustainability assurance client with its tax reporting obligations or for tax planning purposes and the results of the ~~valuation service~~ have no effect on the ~~accounting~~ records underlying the sustainability information or the ~~financial statements~~ sustainability information on which the firm will express an opinion other than through ~~accounting~~ entries related to tax, the requirements and application material set out in paragraphs 5604.17 A1 to 5604.19 A1, relating to such services, apply.

Potential Threats Arising from the Provision of Valuation, Forecasting or Similar Services

All ~~Audit~~ Sustainability Assurance Clients

5603.3 A1 Providing a valuation, forecasting or similar service to an ~~audit client~~ sustainability assurance client might create a self-review threat when there is a risk that the results of the service will affect the ~~accounting records or the financial statements~~ records underlying the sustainability information or the sustainability information on which the firm will express an opinion. Such a service might also create an advocacy threat.

5603.3 A2 Factors that are relevant in identifying self-review or advocacy threats created by providing valuation, forecasting or similar services to an ~~audit~~ sustainability assurance client, and evaluating the level of such threats include:

- The use and purpose of the ~~valuation~~ results of the service or its inclusion in a report.
- Whether the ~~valuation report~~ results of the service will be made public.
- The extent to which the ~~valuation service~~ methodology is supported by law or regulation, other precedent or established practice.
- The extent of the client's involvement in determining and approving the ~~valuation service~~ methodology and other significant matters of judgment.
- The degree of subjectivity inherent in the item for ~~valuations~~ the service involving standard or established methodologies.
- Whether the ~~valuation service~~ will have a material effect on the ~~financial statements~~ sustainability information.

- The extent of the disclosures related to the ~~valuation item covered by the service~~ in the ~~financial statements sustainability information~~.
- The volatility of the ~~amounts-values~~ involved as a result of dependence on future events.

When a self-review threat for an ~~audit sustainability assurance~~ client that is a public interest entity has been identified, paragraph R~~5~~603.5 applies.

~~Audit Sustainability Assurance~~ Clients that are Not Public Interest Entities

~~5~~603.3 A3 Examples of actions that might be safeguards to address self-review or advocacy threats created by providing a valuation, ~~forecasting or similar~~ service to an ~~audit sustainability assurance~~ client that is not a public interest entity include:

- Using professionals who are not ~~audit sustainability assurance~~ team members to perform the service might address self-review or advocacy threats.
- Having an appropriate reviewer who was not involved in providing the service review the ~~audit sustainability assurance~~ work or service performed might address a self-review threat.

~~R~~~~5~~603.4 A firm or a network firm shall not provide a valuation, ~~forecasting or similar~~ service to an ~~audit sustainability assurance~~ client that is not a public interest entity if:

- (a) The ~~valuation-service~~ involves a significant degree of subjectivity; and
- (b) The ~~valuation-service~~ will have a material effect on the ~~financial statements-sustainability information~~ on which the firm will express an opinion.

~~5~~603.4 A1 Certain valuations, ~~forecasts and similar information~~ do not involve a significant degree of subjectivity. This is likely to be the case when the underlying assumptions are established by law or regulation or when the techniques and methodologies to be used are based on generally accepted standards or prescribed by law or regulation. In such circumstances, the results of a valuation, ~~forecasting or similar service~~ performed by two or more parties are not likely to be materially different.

~~Audit Sustainability Assurance~~ Clients that are Public Interest Entities

Self-review Threats

~~R~~~~5~~603.5 A firm or a network firm shall not provide a valuation, ~~forecasting or similar~~ service to an ~~audit sustainability assurance~~ client that is a public interest entity if the provision of ~~such valuation-the~~ service might create a self-review threat. (Ref: Para. R~~5~~600.15 and R~~5~~600.17).

Advocacy Threats

~~5~~603.5 A1 An example of an action that might be a safeguard to address an advocacy threat created by providing a valuation, ~~forecasting or similar~~ service to an ~~audit sustainability assurance~~ client that is a public interest entity is using professionals who are not ~~audit sustainability assurance~~ team members to perform the service.

SUBSECTION ~~5~~604 – TAX SERVICES

Introduction

~~5~~604.1 In addition to the specific requirements and application material in this subsection, the requirements and application material in paragraphs ~~5~~600.1 to ~~5~~600.28 A1 are relevant to applying the conceptual framework when providing a tax service to an ~~audit sustainability assurance~~ client.

Requirements and Application Material

Description of Service

5604.2 A1 Tax services comprise a broad range of services. This subsection deals specifically with:

- Tax return preparation.
- Tax calculations for the purpose of preparing accounting entries.
- Tax advisory services.
- Tax planning services.
- Tax services involving valuations.
- Assistance in the resolution of tax disputes.

5604.2 A2 It is possible to consider tax services under broad headings, such as tax planning or compliance. However, such services are often interrelated in practice and might be combined with other types of non-assurance services provided by the firm such as corporate finance services. It is, therefore, impracticable to categorize generically the threats to which specific tax services give rise.

Potential Threats Arising from the Provision of Tax Services

5604.3 A1 Providing tax services to an ~~audit sustainability assurance~~ client might create a self-review threat when there is a risk that the results of the services will affect the ~~accounting records or the financial statements records underlying the sustainability information or the sustainability information~~ on which the firm will express an opinion. Such services might also create an advocacy threat.

5604.3 A2 Factors that are relevant in identifying self-review or advocacy threats created by providing any tax service to an ~~audit sustainability assurance~~ client, and evaluating the level of such threats include:

- The particular characteristics of the engagement.
- The level of tax expertise of the client's employees.
- The system by which the tax authorities assess and administer the tax in question and the role of the firm or network firm in that process.
- The complexity of the relevant tax regime and the degree of judgment necessary in applying it.

All ~~Audit Sustainability Assurance~~ Clients

R5604.4 A firm or a network firm shall not provide a tax service or recommend a transaction to an ~~audit sustainability assurance~~ client if the service or transaction relates to marketing, planning, or opining in favor of a tax treatment that was initially recommended, directly or indirectly, by the firm or network firm, and a significant purpose of the tax treatment or transaction is tax avoidance, unless the firm is confident that the proposed treatment has a basis in applicable tax law or regulation that is likely to prevail.

5604.4 A1 Unless the tax treatment has a basis in applicable tax law or regulation that the firm is confident is likely to prevail, providing the non-assurance service described in paragraph R5604.4 creates self-interest, self-review and advocacy threats that cannot be eliminated and safeguards are not capable of being applied to reduce such threats to an acceptable level.

A. Tax Return Preparation

Description of Service

5604.5 A1 Tax return preparation services include:

- Assisting clients with their tax reporting obligations by drafting and compiling information, including the amount of tax due (usually on standardized forms) required to be submitted to the applicable tax authorities.
- Advising on the tax return treatment of past transactions.
- Responding on behalf of the ~~audit~~ sustainability assurance client to the tax authorities' requests for additional information and analysis (for example, providing explanations of and technical support for the approach being taken).

Potential Threats Arising from the Provision of Tax Return Preparation Services

All ~~Audit~~ Sustainability Assurance Clients

5604.6 A1 Providing tax return preparation services does not usually create a threat because:

- (a) Tax return preparation services are based on historical information and principally involve analysis and presentation of such historical information under existing tax law, including precedents and established practice; and
- (b) Tax returns are subject to whatever review or approval process the tax authority considers appropriate.

B. Tax Calculations for the Purpose of Preparing Accounting Entries or Sustainability Information

Description of Service

5604.7 A1 Tax calculation services involves the preparation of calculations of current and deferred tax liabilities or assets for the purpose of preparing accounting entries supporting tax assets or liabilities in the financial statements of the sustainability assurance ~~audit~~-client. In some cases those services might also affect the sustainability information of the client.

Potential Threats Arising from the Provision of Tax Calculation Services

All ~~Audit~~ Sustainability Assurance Clients

5604.8 A1 Preparing tax calculations of current and deferred tax liabilities (or assets) for an ~~audit~~ sustainability assurance client for the purpose of preparing accounting entries that support such balances creates a self-review threat where the results of those calculations affect the sustainability information on which the firm expresses an opinion.

Audit Sustainability Assurance Clients that are Not Public Interest Entities

5604.9 A1 In addition to the factors in paragraph 5604.3 A2, a factor that is relevant in evaluating the level of self-review threat created when preparing such calculations for an ~~audit~~ sustainability assurance client is whether the calculation might have a material effect on the ~~financial statements~~ sustainability information on which the firm will express an opinion.

5604.9 A2 Examples of actions that might be safeguards to address such a self-review threat when the ~~audit~~ sustainability assurance client is not a public interest entity include:

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

~~Audit-Sustainability Assurance~~ Clients that are Public Interest Entities

R5604.10 A firm or a network firm shall not prepare tax calculations of current and deferred tax liabilities (or assets) for an ~~audit sustainability assurance~~ client that is a public interest entity if the results of the services will affect the sustainability information on which the firm will express an opinion. (Ref: Para. R5600.15 and R5600.17).

C. Tax Advisory and Tax Planning Services

Description of Service

5604.11 A1 Tax advisory and tax planning services comprise a broad range of services, such as advising the ~~audit sustainability assurance~~ client how to structure its affairs in a tax efficient manner or advising on the application of a tax law or regulation.

Potential Threats Arising from the Provision of Tax Advisory and Tax Planning Services

All ~~Audit-Sustainability Assurance~~ Clients

5604.12 A1 Providing tax advisory and tax planning services to an ~~audit sustainability assurance~~ client might create a self-review threat when there is a risk that the results of the services will affect the ~~accounting records or the financial statements~~ records underlying the sustainability information or the sustainability information on which the firm will express an opinion. Such services might also create an advocacy threat.

5604.12 A2 Providing tax advisory and tax planning services will not create a self-review threat if such services:

- Are supported by a tax authority or other precedent;
- Are based on an established practice (being a practice that has been commonly used and has not been challenged by the relevant tax authority); or
- Have a basis in tax law that the firm is confident is likely to prevail.

5604.12 A3 In addition to paragraph **5604.3 A2**, factors that are relevant in identifying self-review or advocacy threats created by providing tax advisory and tax planning services to ~~audit-sustainability assurance~~ clients, and evaluating the level of such threats include:

- The degree of subjectivity involved in determining the appropriate treatment for the tax advice in the ~~financial statements~~ sustainability information on which the firm will express an opinion.
- Whether the tax treatment is supported by a ruling or has otherwise been cleared by the tax authority before the preparation of the ~~financial statements~~ sustainability information on which the firm will express an opinion.
- The extent to which the outcome of the tax advice might have a material effect on the ~~financial statements~~ sustainability information on which the firm will express an opinion.

When a self-review threat for an ~~audit sustainability assurance~~ client that is a public interest entity has been identified, paragraph R5604.15 applies.

When Effectiveness of Tax Advice Is Dependent on a Particular Accounting Treatment or Presentation

R5604.13 A firm or a network firm shall not provide tax advisory and tax planning services to a ~~n-audit~~ sustainability assurance client when:

- (a) The effectiveness of the tax advice depends on a particular ~~accounting~~ treatment or presentation in the ~~financial statements~~ sustainability information on which the firm will express an opinion; and
- (b) The ~~audit-sustainability assurance~~ team has doubt as to the appropriateness of the related ~~accounting~~ treatment or presentation under the relevant ~~financial reporting framework~~ sustainability reporting framework.

Audit-Sustainability Assurance Clients that are Not Public Interest Entities

5604.14 A1 Examples of actions that might be safeguards to address self-review or advocacy threats created by providing tax advisory and tax planning services to a ~~n-audit-~~ sustainability assurance client that is not a public interest entity include:

- Using professionals who are not audit-sustainability assurance team members to perform the service might address self-review or advocacy threats.
- Having an appropriate reviewer, who was not involved in providing the service, review the audit sustainability assurance work or service performed might address a self-review threat.
- Obtaining pre-clearance from the tax authorities might address self-review or advocacy threats.

Audit-Sustainability Assurance Clients that are Public Interest Entities

Self-review Threats

R5604.15 A firm or a network firm shall not provide tax advisory and tax planning services to a ~~n-audit~~ sustainability assurance client that is a public interest entity if the provision of such services might create a self-review threat. (Ref: Para. R5600.15, R5600.17, 5604.12 A2).

Advocacy Threats

5604.15 A1 Examples of actions that might be safeguards to address an advocacy threat created by providing tax advisory and tax planning services to a ~~n-audit-~~ sustainability assurance client that is a public interest entity include:

- Using professionals who are not audit-sustainability assurance team members to perform the service.
- Obtaining pre-clearance from the tax authorities.

D. Tax Services Involving Valuations**Description of Service**

5604.16 A1 The provision of tax services involving valuations might arise in a range of circumstances including:

- Merger and acquisition transactions.
- Group restructurings and corporate reorganizations.
- Transfer pricing studies.
- Stock-based compensation arrangements.

Potential Threats Arising from the Provision of Tax Services involving Valuations

All ~~Audit-Sustainability Assurance~~ Clients

- 5604.17 A1 Providing a valuation for tax purposes to a ~~n-audit sustainability assurance~~ client might create a self-review threat when there is a risk that the results of the service will affect the ~~accounting records or the financial statements records underlying the sustainability information or the sustainability information~~ on which the firm will express an opinion. Such a service might also create an advocacy threat.
- 5604.17 A2 When a firm or a network firm performs a valuation for tax purposes to assist a ~~n-audit sustainability assurance~~ client with its tax reporting obligations or for tax planning purposes, the result of the valuation might:
- Have no effect on the ~~accounting records or the financial statements records underlying the sustainability information or the sustainability information on which the firm will express an opinion~~ other than through accounting entries related to tax. In such situations, the requirements and application material set out in this subsection apply.
 - Affect the ~~accounting records or the financial statements records underlying the sustainability information or the sustainability information on which the firm will express an opinion~~ in ways not limited to accounting entries related to tax, for example, if the valuation leads to a revaluation of assets. In such situations, the requirements and application material set out in subsection 5603 relating to valuation services apply.
- 5604.17 A3 Performing a valuation for tax purposes for a ~~n-audit sustainability assurance~~ client will not create a self-review threat if:
- The underlying assumptions are either established by law or regulation, or are widely accepted; or
 - The techniques and methodologies to be used are based on generally accepted standards or prescribed by law or regulation, and the valuation is subject to external review by a tax authority or similar regulatory authority.

~~Audit-Sustainability Assurance~~ Clients that are Not Public Interest Entities

- 5604.18 A1 A firm or a network firm might perform a valuation for tax purposes for a ~~n-audit sustainability assurance~~ client that is not a public interest entity where the result of the valuation only affects the ~~accounting records or the financial statements records underlying the sustainability information or the sustainability information on which the firm will express an opinion~~ through ~~accounting entries adjustments~~ related to tax. This would not usually create threats if the effect on the ~~financial statements sustainability information~~ is immaterial or the valuation, as incorporated in a tax return or other filing, is subject to external review by a tax authority or similar regulatory authority.
- 5604.18 A2 If the valuation that is performed for tax purposes is not subject to an external review and the effect is material to the ~~financial statements sustainability information on which the firm expresses an opinion~~, in addition to paragraph 5604.3 A2, the following factors are relevant in identifying self-review or advocacy threats created by providing those services to a ~~n-audit sustainability assurance~~ client that is not a public interest entity, and evaluating the level of such threats:
- The extent to which the valuation methodology is supported by tax law or regulation, other precedent or established practice.
 - The degree of subjectivity inherent in the valuation.

- The reliability and extent of the underlying data.

5604.18 A3 Examples of actions that might be safeguards to address such threats for an ~~audit~~ sustainability assurance client that is not a public interest entity include:

- Using professionals who are not audit-sustainability assurance team members to perform the service might address self-review or advocacy threats.
- Having an appropriate reviewer who was not involved in providing the service review the audit sustainability assurance work or service performed might address a self-review threat.
- Obtaining pre-clearance from the tax authorities might address self-review or advocacy threats.

Audit-Sustainability Assurance Clients that are Public Interest Entities

Self-review Threats

R5604.19 A firm or a network firm shall not perform a valuation for tax purposes for a ~~audit~~ sustainability assurance client that is a public interest entity if the provision of that service might create a self-review threat. (Ref: Para. R5600.15, R5600.17, 5604.17 A3).

Advocacy Threats

5604.19 A1 Examples of actions that might be safeguards to address an advocacy threat created by providing a valuation for tax purposes for a ~~audit~~ sustainability assurance client that is a public interest entity include:

- Using professionals who are not audit-sustainability assurance team members to perform the service.
- Obtaining pre-clearance from the tax authorities.

E. Assistance in the Resolution of Tax Disputes

Description of Service

5604.20 A1 A non-assurance service to provide assistance to a ~~audit~~ sustainability assurance client in the resolution of tax disputes might arise from a tax authority's consideration of tax calculations and treatments. Such a service might include, for example, providing assistance when the tax authorities have notified the client that arguments on a particular issue have been rejected and either the tax authority or the client refers the matter for determination in a formal proceeding before a tribunal or court.

Potential Threats Arising from the Provision of Assistance in the Resolution of Tax Disputes

All-Audit Sustainability Assurance Clients

5604.21 A1 Providing assistance in the resolution of a tax dispute to a ~~audit~~ sustainability assurance client might create a self-review threat when there is a risk that the results of the service will affect the ~~accounting records or the financial statements records underlying the sustainability information or the sustainability information~~ –on which the firm will express an opinion. Such a service might also create an advocacy threat.

5604.22 A1 In addition to those identified in paragraph 5604.3 A2, factors that are relevant in identifying self-review or advocacy threats created by assisting a ~~audit~~ sustainability assurance client in the resolution of tax disputes, and evaluating the level of such threats include:

- The role management plays in the resolution of the dispute.
- The extent to which the outcome of the dispute will have a material effect on the ~~financial statements~~ sustainability information on which the firm will express an opinion.
- Whether the firm or network firm provided the advice that is the subject of the tax dispute.
- The extent to which the matter is supported by tax law or regulation, other precedent, or established practice.
- Whether the proceedings are conducted in public.

When a self-review threat for an ~~n-audit sustainability assurance~~ client that is a public interest entity has been identified, paragraph R~~5~~604.24 applies.

~~Audit-Sustainability Assurance~~ Clients that are Not Public Interest Entities

~~5~~604.23 A1 Examples of actions that might be safeguards to address self-review or advocacy threats created by assisting an ~~n-audit sustainability assurance~~ client that is not a public interest entity in the resolution of tax disputes include:

- Using professionals who are not ~~audit-sustainability assurance~~ team members to perform the service might address self-review or advocacy threats.
- Having an appropriate reviewer who was not involved in providing the service review the ~~audit sustainability assurance~~ work or the service performed might address a self-review threat.

~~Audit-Sustainability Assurance~~ Clients that are Public Interest Entities

Self-review Threats

~~R~~5604.24 A firm or a network firm shall not provide assistance in the resolution of tax disputes to an ~~n-audit sustainability assurance~~ client that is a public interest entity if the provision of that assistance might create a self-review threat. (Ref: Para. R~~5~~600.15 and R~~5~~600.17).

Advocacy Threats

~~5~~604.24 A1 An example of an action that might be a safeguard to address an advocacy threat for an ~~n-audit sustainability assurance~~ client that is a public interest entity is using professionals who are not ~~audit sustainability assurance~~ team members to perform the service.

Resolution of Tax Matters Including Acting as an Advocate Before a Tribunal or Court

~~Audit-Sustainability Assurance~~ Clients that are Not Public Interest Entities

~~R~~5604.25 A firm or a network firm shall not provide tax services that involve assisting in the resolution of tax disputes to an ~~n-audit sustainability assurance~~ client that is not a public interest entity if:

- (a) The services involve acting as an advocate for the ~~audit-sustainability assurance~~ client before a tribunal or court in the resolution of a tax matter; and
- (b) The amounts involved are material to the ~~financial statements~~ sustainability information on which the firm will express an opinion.

Audit Sustainability Assurance Clients that are Public Interest Entities

R5604.26 A firm or a network firm shall not provide tax services that involve assisting in the resolution of tax disputes to an ~~an~~ audit sustainability assurance client that is a public interest entity if the services involve acting as an advocate for the audit sustainability assurance client before a tribunal or court.

5604.27 A1 Paragraphs R5604.25 and R5604.26 do not preclude a firm or a network firm from having a continuing advisory role in relation to the matter that is being heard before a tribunal or court, for example:

- Responding to specific requests for information.
- Providing factual accounts or testimony about the work performed.
- Assisting the client in analyzing the tax issues related to the matter.

5604.27 A2 What constitutes a “tribunal or court” depends on how tax proceedings are heard in the particular jurisdiction.

SUBSECTION 5605 – INTERNAL AUDIT SERVICES

Introduction

5605.1 In addition to the specific requirements and application material in this subsection, the requirements and application material in paragraphs 5600.1 to 5600.28 A1 are relevant to applying the conceptual framework when providing an internal audit service to an ~~an~~ audit sustainability assurance client.

Requirements and Application Material

Description of Service

5605.2 A1 Internal audit services comprise a broad range of activities and might involve assisting the audit sustainability assurance client in the performance of one or more aspects of its internal audit activities. Internal audit activities might include:

- Monitoring of internal control – reviewing controls, monitoring their operation and recommending improvements to them.
- Examining financial and operating information relevant to sustainability by:
 - Reviewing the means used to identify, measure, classify and report that financial and operating information.
 - Inquiring specifically into individual items including detailed testing of transactions, balances and procedures.
- Reviewing the economy, efficiency and effectiveness of operating activities relevant to sustainability including non-financial activities of an entity.
- Reviewing compliance with:
 - Laws, regulations and other external requirements.
 - Management policies, directives and other internal requirements.

5605.2 A2 The scope and objectives of internal audit activities vary widely and depend on the size and structure of the entity and the requirements of those charged with governance as well as the needs and expectations of management. ~~As+T~~hey might involve matters that are operational in nature, ~~they do not necessarily relate to matters~~ that will be subject to consideration in relation to the ~~audit of the financial statements~~ assurance of sustainability information.

Risk of Assuming Management Responsibility When Providing an Internal Audit Service

R5605.3 Paragraph R5400.20 precludes a firm or a network firm from assuming a management responsibility. When providing an internal audit service to an ~~audit~~ sustainability assurance client, the firm shall be satisfied that:

- (a) The client designates an appropriate and competent resource, who reports to those charged with governance to:
 - (i) Be responsible at all times for internal audit activities; and
 - (ii) Acknowledge responsibility for designing, implementing, monitoring and maintaining internal control;
- (b) The client reviews, assesses and approves the scope, risk and frequency of the internal audit services;
- (c) The client evaluates the adequacy of the internal audit services and the findings resulting from their performance;
- (d) The client evaluates and determines which recommendations resulting from internal audit services to implement and manages the implementation process; and
- (e) The client reports to those charged with governance the significant findings and recommendations resulting from the internal audit services.

5605.3 A1 Performing part of the client's internal audit activities increases the possibility that individuals within the firm or the network firm providing internal audit services will assume a management responsibility.

5605.3 A2 Examples of internal audit services that involve assuming management responsibilities include:

- Setting internal audit policies or the strategic direction of internal audit activities.
- Directing and taking responsibility for the actions of the entity's internal audit employees.
- Deciding which recommendations resulting from internal audit activities to implement.
- Reporting the results of the internal audit activities to those charged with governance on behalf of management.
- Performing procedures that form part of the internal control, such as reviewing and approving changes to employee data access privileges.
- Taking responsibility for designing, implementing, monitoring and maintaining internal control.
- Performing outsourced internal audit services, comprising all or a substantial portion of the internal audit function, where the firm or network firm is responsible for determining the scope of the internal audit work; and might have responsibility for one or more of the matters noted above.

Potential Threats Arising from the Provision of Internal Audit Services

All ~~Audit~~ Sustainability Assurance Clients

5605.4 A1 Providing internal audit services to an ~~audit~~ sustainability assurance client might create a self-review threat when there is a risk that the results of the services impact the ~~audit of the financial statements~~ assurance of the sustainability information on which the firm will express an opinion.

5605.4 A2 When a firm uses the work of an internal audit function in an ~~an audit~~ sustainability assurance engagement, the applicable assurance standards ordinarily ISAs require the performance of procedures to evaluate the adequacy of that work. Similarly, when a firm or a network firm accepts an engagement to provide internal audit services to an ~~an audit~~ sustainability assurance client, the results of those services might be used in conducting the external ~~audit~~ assurance of sustainability information. This might create a self-review threat because it is possible that the engagement team will use the results of the internal audit service for purposes of the ~~audit~~ sustainability assurance engagement without:

- (a) Appropriately evaluating those results; or
- (b) Exercising the same level of professional skepticism as would be exercised when the internal audit work is performed by individuals who are not members of the firm.

5605.4 A3 Factors that are relevant in identifying a self-review threat created by providing internal audit services to an ~~an audit~~ sustainability assurance client, and evaluating the level of such a threat include:

- The materiality of the related ~~sustainability information~~ financial statements amounts.
- The risk of misstatement of the assertions related to ~~that sustainability information~~ these financial statement amounts.
- The degree of reliance that the engagement team will place on the work of the internal audit service.

When a self-review threat for an ~~an audit~~ sustainability assurance client that is a public interest entity has been identified, paragraph R5605.6 applies.

Audit-Sustainability Assurance Clients that are Not Public Interest Entities

5605.5 A1 An example of an action that might be a safeguard to address a self-review threat created by the provision of an internal audit service to an ~~an audit~~ sustainability assurance client that is not a public interest entity is using professionals who are not ~~audit~~ sustainability assurance team members to perform the service.

Audit-Sustainability Assurance Clients that are Public Interest Entities

R5605.6 A firm or a network firm shall not provide internal audit services to an ~~an audit~~ sustainability assurance client that is a public interest entity if the provision of such services might create a self-review threat. (Ref: Para. R5600.15 and R5600.17).

5605.6 A1 Examples of the services that are prohibited under paragraph R5605.6 include internal audit services that relate to:

- The internal controls over ~~sustainability reporting~~ financial reporting.
- ~~Sustainability information~~ Financial accounting systems that generate information for the client's ~~accounting~~ records underlying the sustainability information or the sustainability information of financial statements on which the firm will express an opinion.
- Amounts or disclosures that relate to the ~~financial statements~~ sustainability information on which the firm will express an opinion.

SUBSECTION **5606** – INFORMATION TECHNOLOGY SYSTEMS SERVICES

Introduction

5606.1 In addition to the specific requirements and application material in this subsection, the requirements and application material in paragraphs **5600.1** to **5600.28 A1** are relevant to applying the conceptual framework when providing an information technology (IT) systems service to an ~~audit~~ sustainability assurance client.

Requirements and Application Material

Description of Service

5606.2 A1 IT systems services comprise a broad range of services including:

- Designing or developing hardware or software IT systems.
- Implementing IT systems, including installation, configuration, interfacing, or customization.
- Operating, maintaining, monitoring, updating or upgrading IT systems.
- Collecting or storing data or managing (directly or indirectly) the hosting of data.

5606.2 A2 The IT systems might:

- (a) Aggregate source data;
- (b) Form part of the internal control over financial-sustainability reporting; or
- (c) Generate information that affects the ~~accounting records or financial statements,~~ sustainability information records or sustainability information reported, including related disclosures.

However, the IT systems might also involve matters that are unrelated to the audit-sustainability assurance client's ~~accounting records or the internal control over financial reporting or financial statements,~~ records underlying the sustainability information or the internal control over sustainability reporting.

Risk of Assuming Management Responsibility When Providing an IT Systems Service

R5606.3 Paragraph **R5400.20** precludes a firm or a network firm from assuming a management responsibility. When providing IT systems services to an ~~audit-~~ sustainability assurance client, the firm or network firm shall be satisfied that:

- (a) The client acknowledges its responsibility for establishing and monitoring a system of internal controls;
- (b) The client, through a competent individual (or individuals), preferably within senior management, makes all management decisions that are the proper responsibility of management with respect to the design, development, implementation, operation, maintenance, monitoring, updating or upgrading of the IT systems;
- (c) The client evaluates the adequacy and results of the design, development, implementation, operation, maintenance, monitoring, updating or upgrading of the IT system; and
- (d) The client is responsible for operating the IT system and for the data it generates and uses.

5606.3 A1 Examples of IT systems services that result in the assumption of a management responsibility include where a firm or a network firm:

- Stores data or manages (directly or indirectly) the hosting of data on behalf of the ~~audit~~ sustainability assurance client. Such services include:
 - Acting as the only access to a financial or non-financial information system of the ~~audit~~ sustainability assurance client.
 - Taking custody of or storing the ~~audit~~ sustainability assurance client's data or records such that the ~~audit~~ sustainability assurance client's data or records are otherwise incomplete.
 - Providing electronic security or back-up services, such as business continuity or a disaster recovery function, for the ~~audit~~ sustainability assurance client's data or records.
- Operates, maintains, or monitors the ~~audit~~ sustainability assurance client's IT systems, network or website.

5606.3 A2 The collection, receipt, transmission and retention of data provided by an ~~audit~~ sustainability assurance client in the course of an ~~audit~~ sustainability assurance engagement or to enable the provision of a permissible service to that client does not result in an assumption of management responsibility.

Potential Threats Arising from the Provision of IT Systems Services

~~All Audit~~ Sustainability Assurance Clients

5606.4 A1 Providing IT systems services to an ~~audit~~ sustainability assurance client might create a self-review threat when there is a risk that the results of the services will affect the ~~audit of the financial statements~~ assurance of the sustainability information on which the firm will express an opinion.

5606.4 A2 Factors that are relevant in identifying a self-review threat created by providing an IT systems service to an ~~audit~~ sustainability assurance client, and evaluating the level of such a threat include:

- The nature of the service.
- The nature of the client's IT systems and the extent to which the IT systems service impacts or interacts with the client's ~~accounting~~ sustainability information records, internal controls over ~~financial~~ sustainability reporting or ~~financial statements~~ sustainability information on which the firm will express an opinion.
- The degree of reliance that will be placed on the particular IT systems as part of the ~~audit~~ sustainability assurance engagement.

When a self-review threat for an ~~audit~~ sustainability assurance client that is a public interest entity has been identified, paragraph R5606.6 applies.

5606.4 A3 Examples of IT systems services that create a self-review threat when they form part of or affect an ~~audit~~ sustainability assurance client's ~~accounting~~ sustainability information records or system of internal control over ~~financial~~ sustainability reporting include:

- Designing, developing, implementing, operating, maintaining, monitoring, updating or upgrading IT systems, including those related to cybersecurity.
- Supporting an ~~audit~~ sustainability assurance client's IT systems, including network and software applications.

- Implementing ~~sustainability information management systems or sustainability accounting or financial~~ information reporting software, whether or not it was developed by the firm or a network firm.

~~Audit-Sustainability Assurance~~ Clients that are Not Public Interest Entities

~~5606.5~~ A1 An example of an action that might be a safeguard to address a self-review threat created by the provision of an IT systems service to a ~~n-audit sustainability assurance~~ client that is not a public interest entity is using professionals who are not ~~audit-sustainability assurance~~ team members to perform the service.

~~Audit-Sustainability Assurance~~ Clients that are Public Interest Entities

~~R5606.6~~ A firm or a network firm shall not provide IT systems services to a ~~n-audit- sustainability assurance~~ client that is a public interest entity if the provision of such services might create a self-review threat (Ref: Para. ~~R5600.15~~ and ~~R5600.17~~).

SUBSECTION ~~5607~~ – LITIGATION SUPPORT SERVICES

Introduction

~~5607.1~~ 1 In addition to the specific requirements and application material in this subsection, the requirements and application material in paragraphs ~~5600.1~~ to ~~5600.28~~ A1 are relevant to applying the conceptual framework when providing a litigation support service to a ~~n-audit sustainability assurance~~ client.

Requirements and Application Material

Description of Service

~~5607.2~~ A1 Litigation support services might include activities such as:

- Assisting with document management and retrieval.
- Acting as a witness, including an expert witness.
- Calculating estimated damages or other amounts that might become receivable or payable as the result of litigation or other legal dispute.
- Forensic or investigative services.

Potential Threats Arising from the Provision of Litigation Support Services

All ~~Audit-Sustainability Assurance~~ Clients

~~5607.3~~ A1 Providing litigation support services to a ~~n-audit sustainability assurance~~ client might create a self-review threat when there is a risk that the results of the services will affect the ~~accounting records or the financial statements records underlying the sustainability information or the sustainability information~~ on which the firm will express an opinion. Such services might also create an advocacy threat.

~~5607.4~~ A1 Factors that are relevant in identifying self-review or advocacy threats created by providing litigation support services to a ~~n-audit sustainability assurance~~ client, and evaluating the level of such threats include:

- The legal and regulatory environment in which the service is provided.
- The nature and characteristics of the service.
- The extent to which the outcome of the litigation support service might involve estimating, or might affect the estimation of, damages or other amounts that might have a material effect on the ~~financial statements~~ sustainability information on which the firm will express an opinion.

When a self-review threat for an ~~n-audit~~ sustainability assurance client that is a public interest entity has been identified, paragraph R5607.6 applies.

5607.4 A2 If a firm or a network firm provides a litigation support service to an ~~n-audit~~ sustainability assurance client and the service might involve estimating, or might affect the estimation of, damages or other amounts that affect the ~~financial statements~~ sustainability information on which the firm will express an opinion, the requirements and application material set out in Subsection 5603 related to valuation services apply.

Audit-Sustainability Assurance Clients that are Not Public Interest Entities

5607.5 A1 An example of an action that might be a safeguard to address a self-review or advocacy threat created by providing a litigation support service to an ~~n-audit~~ sustainability assurance client that is not a public interest entity is using a professional who was not an ~~n-audit~~ sustainability assurance team member to perform the service.

Audit-Sustainability Assurance Clients that are Public Interest Entities

Self-review Threats

R5607.6 A firm or a network firm shall not provide litigation support services to an ~~n-audit~~ sustainability assurance client that is a public interest entity if the provision of such services might create a self-review threat. (Ref: Para. R5600.15 and R5600.17).

5607.6 A1 An example of a service that is prohibited because it might create a self-review threat is providing advice in connection with a legal proceeding where there is a risk that the outcome of the service affects the quantification of any provision or other amount in the ~~financial statements~~ sustainability information on which the firm will express an opinion.

Advocacy Threats

5607.6 A2 An example of an action that might be a safeguard to address an advocacy threat created by providing a litigation support service to an ~~n-audit~~ sustainability assurance client that is a public interest entity is using a professional who was not an ~~n-audit~~ sustainability assurance team member to perform the service.

Acting as a Witness

All-Audit-Sustainability Assurance Clients

5607.7 A1 A professional within the firm or the network firm might give evidence to a tribunal or court as a witness of fact or as an expert witness.

- (a) A witness of fact is an individual who gives evidence to a tribunal or court based on his or her direct knowledge of facts or events.
- (b) An expert witness is an individual who gives evidence, including opinions on matters, to a tribunal or court based on that individual's expertise.

5607.7 A2 A threat to independence is not created when an individual, in relation to a matter that involves an ~~an~~ audit sustainability assurance client, acts as a witness of fact and in the course of doing so provides an opinion within the individual's area of expertise in response to a question asked in the course of giving factual evidence.

5607.7 A3 The advocacy threat created when acting as an expert witness on behalf of an ~~an~~ audit sustainability assurance client is at an acceptable level if a firm or a network firm is:

- (a) Appointed by a tribunal or court to act as an expert witness in a matter involving a client; or
- (b) Engaged to advise or act as an expert witness in relation to a class action (or an equivalent group representative action) provided that:
 - (i) The firm's audit sustainability assurance clients constitute less than 20% of the members of the class or group (in number and in value);
 - (ii) No audit sustainability assurance client is designated to lead the class or group; and
 - (iii) No audit sustainability assurance client is authorized by the class or group to determine the nature and scope of the services to be provided by the firm or the terms on which such services are to be provided.

Audit Sustainability Assurance Clients that are Not Public Interest Entities

5607.8 A1 An example of an action that might be a safeguard to address an advocacy threat for an ~~an~~ audit sustainability assurance client that is not a public interest entity is using a professional to perform the service who is not, and has not been, an ~~an~~ audit sustainability assurance team member.

Audit Sustainability Assurance Clients that are Public Interest Entities

R5607.9 A firm or a network firm, or an individual within a firm or a network firm, shall not act for an ~~an~~ audit sustainability assurance client that is a public interest entity as an expert witness in a matter unless the circumstances set out in paragraph 5607.7 A3 apply.

SUBSECTION 5608 – LEGAL SERVICES

Introduction

5608.1 In addition to the specific requirements and application material in this subsection, the requirements and application material in paragraphs 5600.1 to 5600.28 A1 are relevant to applying the conceptual framework when providing a legal service to an ~~an~~ audit sustainability assurance client.

Requirements and Application Material

Description of Service

5608.2 A1 Legal services are defined as any services for which the individual providing the services must either:

- (a) Have the required legal training to practice law; or
- (b) Be admitted to practice law before the courts of the jurisdiction in which such services are to be provided.

5608.2 A2 This subsection deals specifically with:

- Providing legal advice.
- Acting as general counsel.
- Acting in an advocacy role.

Potential Threats Arising from Providing Legal Services

All ~~Audit~~ Sustainability Assurance Clients

5608.3 A1 Providing legal services to an ~~an audit sustainability assurance~~ client might create a self-review threat when there is a risk that the results of the services will affect the ~~accounting records or the financial statements~~ records underlying the sustainability information or the sustainability information on which the firm will express an opinion. Such services might also create an advocacy threat.

A. Providing Legal Advice

Description of Service

5608.4 A1 Depending on the jurisdiction, providing legal advice might include a wide and diversified range of service areas including both corporate and commercial services to ~~audit sustainability assurance~~ clients, such as:

- Contract support.
- Supporting an ~~an audit sustainability assurance~~ client in executing a transaction.
- Mergers and acquisitions.
- Supporting and assisting an ~~an audit sustainability assurance~~ client's internal legal department.
- Legal due diligence and restructuring.

Potential Threats Arising from Providing Legal Advice

All ~~Audit~~ Sustainability Assurance Clients

5608.5 A1 Factors that are relevant in identifying self-review or advocacy threats created by providing legal advice to an ~~an audit sustainability assurance~~ client, and evaluating the level of such threats include:

- The materiality of the specific matter in relation to the client's ~~financial statements~~ sustainability information reported.
- The complexity of the legal matter and the degree of judgment necessary to provide the service.

When a self-review threat for an ~~an audit sustainability assurance~~ client that is a public interest entity has been identified, paragraph R5608.7 applies.

5608.5 A2 Examples of legal advice that might create a self-review threat include:

- Estimating a potential loss arising from a lawsuit ~~for the purpose of recording a provision in the client's financial statements that will be disclosed in the sustainability information on which the firm will express an opinion.~~
- Interpreting provisions in contracts that might ~~give rise to liabilities reflected in the client's financial statements affect information disclosed in the sustainability information on which the firm will express an opinion.~~

5608.5 A3 Negotiating on behalf of a ~~n-audit sustainability assurance~~ client might create an advocacy threat or might result in the firm or network firm assuming a management responsibility.

~~Audit-Sustainability Assurance~~ Clients that are Not Public Interest Entities

5608.6 A1 Examples of actions that might be safeguards to address self-review or advocacy threats created by providing legal advice to a ~~n-audit sustainability assurance~~ client that is not a public interest entity include:

- Using professionals who are not ~~audit-sustainability assurance~~ team members to perform the service might address a self-review or advocacy threat.
- Having an appropriate reviewer who was not involved in providing the service review the ~~audit sustainability assurance~~ work or the service performed might address a self-review threat.

~~Audit-Sustainability Assurance~~ Clients that are Public Interest Entities

Self-review Threats

R5608.7 A firm or a network firm shall not provide legal advice to a ~~n-audit sustainability assurance~~ client that is a public interest entity if the provision of such a service might create a self-review threat. (Ref: Para. R5600.15 and R5600.17).

Advocacy Threats

5608.8 A1 The considerations in paragraphs 5608.5 A1 and 5608.5 A3 to 5608.6 A1 are also relevant to evaluating and addressing advocacy threats that might be created by providing legal advice to a ~~n-audit sustainability assurance~~ client that is a public interest entity.

B. Acting as General Counsel

All ~~Audit-Sustainability Assurance~~ Clients

R5608.9 An ~~engagement leader partner~~ or employee of the firm or the network firm shall not serve as General Counsel of a ~~n-audit- sustainability assurance~~ client.

5608.9 A1 The position of General Counsel is usually a senior management position with broad responsibility for the legal affairs of a company.

C. Acting in an Advocacy Role

Potential Threats Arising from Acting in an Advocacy Role Before a Tribunal or Court

~~Audit-Sustainability Assurance~~ Clients that are Not Public Interest Entities

R5608.10 A firm or a network firm shall not act in an advocacy role for a ~~n-audit- sustainability assurance~~ client that is not a public interest entity in resolving a dispute or litigation before a tribunal or court when the amounts ~~or the information~~ involved are material to the ~~financial statements-sustainability information~~ on which the firm will express an opinion.

5608.10 A1 Examples of actions that might be safeguards to address a self-review or advocacy threat created when acting in an advocacy role for a ~~n-audit- sustainability assurance~~ client that is not a public interest entity include:

- Using professionals who are not ~~audit-sustainability assurance~~ team members to perform the service.

- Having an appropriate reviewer who was not involved in providing the service review the ~~audit~~ sustainability assurance work or the service performed.

~~Audit-Sustainability Assurance~~ *Clients that are Public Interest Entities*

R5608.11 A firm or a network firm shall not act in an advocacy role for a ~~an audit-~~ sustainability assurance client that is a public interest entity in resolving a dispute or litigation before a tribunal or court.

SUBSECTION 5609 – RECRUITING SERVICES

Introduction

5609.1 In addition to the specific requirements and application material in this subsection, the requirements and application material in paragraphs 5600.1 to 5600.28 A1 are relevant to applying the conceptual framework when providing a recruiting service to a ~~an audit-~~ sustainability assurance client.

Requirements and Application Material

Description of Service

5609.2 A1 Recruiting services might include activities such as:

- Developing a job description.
- Developing a process for identifying and selecting potential candidates.
- Searching for or seeking out candidates.
- Screening potential candidates for the role by:
 - Reviewing the professional qualifications or competence of applicants and determining their suitability for the position.
 - Undertaking reference checks of prospective candidates.
 - Interviewing and selecting suitable candidates and advising on candidates' competence.
- Determining employment terms and negotiating details, such as salary, hours and other compensation.

Risk of Assuming Management Responsibility When Providing a Recruiting Service

R5609.3 Paragraph R5400.20 precludes a firm or a network firm from assuming a management responsibility. When providing a recruiting service to a ~~an audit-~~ sustainability assurance client, the firm shall be satisfied that:

- (a) The client assigns the responsibility to make all management decisions with respect to hiring the candidate for the position to a competent employee, preferably within senior management; and
- (b) The client makes all management decisions with respect to the hiring process, including:
 - Determining the suitability of prospective candidates and selecting suitable candidates for the position.
 - Determining employment terms and negotiating details, such as salary, hours and other compensation.

Potential Threats Arising from Providing Recruiting Services

All ~~Audit-Sustainability Assurance~~ Clients

- 5609.4 A1** Providing recruiting services to an ~~audit sustainability assurance~~ client might create a self-interest, familiarity or intimidation threat.
- 5609.4 A2** Providing the following services does not usually create a threat as long as individuals within the firm or the network firm do not assume a management responsibility:
- Reviewing the professional qualifications of a number of applicants and providing advice on their suitability for the position.
 - Interviewing candidates and advising on a candidate's competence for ~~financial-accounting sustainability reporting~~, administrative or control positions.
- 5609.4 A3** Factors that are relevant in identifying self-interest, familiarity or intimidation threats created by providing recruiting services to an ~~audit sustainability assurance~~ client, and evaluating the level of such threats include:
- The nature of the requested assistance.
 - The role of the individual to be recruited.
 - Any conflicts of interest or relationships that might exist between the candidates and the firm providing the advice or service.
- 5609.4 A4** An example of an action that might be a safeguard to address such a self-interest, familiarity or intimidation threat is using professionals who are not ~~audit sustainability assurance~~ team members to perform the service.

Recruiting Services that are Prohibited

- R5609.5** When providing recruiting services to an ~~audit sustainability assurance~~ client, the firm or the network firm shall not act as a negotiator on the client's behalf.
- R5609.6** A firm or a network firm shall not provide a recruiting service to an ~~audit sustainability assurance~~ client if the service relates to:
- (a) Searching for or seeking out candidates;
 - (b) Undertaking reference checks of prospective candidates;
 - (c) Recommending the person to be appointed; or
 - (d) Advising on the terms of employment, remuneration or related benefits of a particular candidate, with respect to the following positions:
 - (i) A director or officer of the entity; or
 - (ii) A member of senior management in a position to exert significant influence over the preparation of the client's ~~accounting records or the financial statements records underlying the sustainability information or the sustainability information~~ on which the firm will express an opinion.

SUBSECTION **5610** – CORPORATE FINANCE SERVICES

Introduction

5610.1 In addition to the specific requirements and application material in this subsection, the requirements and application material in paragraphs **5600.1** to **5600.28 A1** are relevant to applying the conceptual framework when providing a corporate finance service to an ~~an~~ audit sustainability assurance client.

Requirements and Application Material

Description of Service

5610.2 A1 Examples of corporate finance services include:

- Assisting an ~~an~~ audit sustainability assurance client in developing corporate strategies.
- Identifying possible targets for the ~~audit sustainability assurance~~ client to acquire.
- Advising on the potential purchase or disposal price of an asset.
- Assisting in finance raising transactions.
- Providing structuring advice.
- Providing advice on the structuring of a corporate finance transaction or on financing arrangements.

Potential Threats Arising from the Provision of Corporate Finance Services

All ~~Audit Sustainability Assurance~~ Clients

5610.3 A1 Providing corporate finance services to an ~~an~~ audit sustainability assurance client might create a self-review threat when there is a risk that the results of the services will affect the ~~accounting records or the financial statements records underlying the sustainability information or the sustainability information~~ on which the firm will express an opinion. Such services might also create an advocacy threat.

5610.4 A1 Factors that are relevant in identifying self-review or advocacy threats created by providing corporate finance services to an ~~an~~ audit sustainability assurance client, and evaluating the level of such threats include:

- The degree of subjectivity involved in determining the appropriate treatment for the outcome or consequences of the corporate finance advice in the ~~financial statements sustainability information on which the firm will express an opinion~~.
- The extent to which:
 - The outcome of the corporate finance advice will directly affect amounts recorded in the ~~financial statements sustainability information on which the firm will express an opinion~~.
 - The outcome of the corporate finance service might have a material effect on the ~~financial statements sustainability information on which the firm will express an opinion~~.

When a self-review threat for an ~~an~~ audit sustainability assurance client that is a public interest entity has been identified, paragraph **R5610.8** applies.

Corporate Finance Services that are Prohibited

R5610.5 A firm or a network firm shall not provide corporate finance services that involve promoting, dealing in, or underwriting the shares, debt or other financial instruments issued by the ~~audit sustainability assurance~~ client or providing advice on investment in such shares, debt or other financial instruments.

R5610.6 A firm or a network firm shall not provide advice in relation to corporate finance services to an ~~audit sustainability assurance~~ client where:

- (a) The effectiveness of such advice depends on a particular ~~accounting treatment method of measurement~~ or presentation in the ~~financial statements~~ sustainability information on which the firm will express an opinion; and
- (b) The ~~audit sustainability assurance~~ team has doubt as to the appropriateness of the related ~~accounting treatment method of measurement~~ or presentation under the relevant financial or sustainability reporting framework.

~~Audit Sustainability Assurance~~ Clients that are Not Public Interest Entities

5610.7 A1 Examples of actions that might be safeguards to address self-review or advocacy threats created by providing corporate finance services to an ~~audit sustainability assurance~~ client that is not a public interest entity include:

- Using professionals who are not ~~audit sustainability assurance~~ team members to perform the service might address self-review or advocacy threats.
- Having an appropriate reviewer who was not involved in providing the service review the ~~audit sustainability assurance~~ work or service performed might address a self-review threat.

~~Audit Sustainability Assurance~~ Clients that are Public Interest Entities

Self-review Threats

R5610.8 A firm or a network firm shall not provide corporate finance services to an ~~audit sustainability assurance~~ client that is a public interest entity if the provision of such services might create a self-review threat. (Ref: Para. R5600.154 and R5600.176).

Advocacy Threats

5610.8 A1 An example of an action that might be a safeguard to address advocacy threats created by providing corporate finance services to an ~~audit sustainability assurance~~ client that is a public interest entity is using professionals who are not ~~audit sustainability assurance~~ team members to perform the service.

SECTION 5700

INTERESTS, RELATIONSHIPS OR CIRCUMSTANCES INVOLVING VALUE CHAIN ENTITIES

Introduction

5700.1 Firms are required to comply with the fundamental principles, be independent and apply the conceptual framework set out in Section 5120 to identify, evaluate and address threats to independence.

5700.2 When a firm uses the work of a sustainability assurance practitioner at a value chain entity whose sustainability information is included in sustainability information on which the firm expresses an opinion, interests, relationships or circumstances between the firm, a network firm or a member of the sustainability assurance team and the value chain entity might create threats to independence. This section sets out application material relevant to applying the conceptual framework in such circumstances.

Requirement and Application Material

General

5700.3 A1 The applicable reporting framework might require a sustainability assurance client to include information from value chain entities in its sustainability information. Depending on the reporting framework and the client's business and operations, this information might relate to multiple entities.

Interests, Relationships or Circumstances Involving a Value Chain Entity

R5700.4 When the sustainability assurance team knows, or has reason to believe, that an interest, relationship or circumstance between the firm, a network firm or a member of the sustainability assurance team and the value chain entity is relevant to the evaluation of the firm's independence from the client, the sustainability assurance team shall include that interest, relationship or circumstance when identifying, evaluating and addressing threats to independence.

CHAPTER 2 – PROPOSED REVISED GLOSSARY (MARK-UP)

Acceptable level	A level at which a professional accountant <u>or sustainability assurance practitioner</u> using the reasonable and informed third party test would likely conclude that the accountant <u>or the practitioner</u> complies with the fundamental principles.
Advertising	The communication to the public of information as to the services or skills provided by professional accountants in public practice <u>or sustainability assurance practitioners</u> with a view to procuring professional business.
<u>Another Practitioner</u>	<p><u>A sole practitioner, partnership or corporation of practitioners that performs assurance work relevant to a sustainability assurance engagement, and the sustainability assurance practitioner is unable to direct, supervise and review their work.</u></p> <p><u>An individual from another practitioner who performs the assurance work is not a member of the engagement team.</u></p>
Appropriate reviewer	<p><i>An appropriate reviewer is a professional with the necessary knowledge, skills, experience and authority to review, in an objective manner, the relevant work performed or service provided. Such an individual might be a professional accountant <u>or a sustainability assurance practitioner.</u></i></p> <p><i>This term is described in paragraphs 300.8 A4 <u>and 5300.8 A4.</u></i></p>
Assurance client	<p>The responsible party and also, in an attestation engagement, the party taking responsibility for the subject matter information (who might be the same as the responsible party).</p> <p><u>In the case of a sustainability assurance engagement addressed in Part 5, see the definition of "sustainability assurance client."</u></p>
Assurance engagement	<p>An engagement in which a professional accountant in public practice aims to obtain sufficient appropriate evidence in order to express a conclusion designed to enhance the degree of confidence of the intended users other than the responsible party about the subject matter information.</p> <p>(ISAE 3000 (Revised) describes the elements and objectives of an assurance engagement conducted under that Standard and the Assurance Framework provides a general description of assurance engagements to which <i>International Standards on Auditing (ISAs), International Standards on Review Engagements (ISREs) and International Standards on Assurance Engagements (ISAEs) <u>and International Standards on Sustainability Assurance (ISSAs)</u></i> apply.)</p>

In Part 4B, the term "assurance engagement" addresses assurance engagements other than audit engagements, ~~or~~ review engagements, or sustainability assurance engagements addressed in Part 5.

Assurance team

- (a) All members of the engagement team for the assurance engagement;
- (b) All others within, or engaged by, the firm who can directly influence the outcome of the assurance engagement, including:
 - (i) Those who recommend the compensation of, or who provide direct supervisory, management or other oversight of the assurance engagement partner in connection with the performance of the assurance engagement;
 - (ii) Those who provide consultation regarding technical or industry specific issues, transactions or events for the assurance engagement; and
 - (iii) Those who perform an engagement quality review, or a review consistent with the objective of an engagement quality review, for the engagement.

In the case of sustainability assurance engagements addressed in Part 5, see the definition of "sustainability assurance team."

Attestation engagement

An assurance engagement in which a party other than the professional accountant in public practice or the sustainability assurance practitioner, as applicable, measures or evaluates the underlying subject matter against the criteria.

A party other than the accountant or the practitioner also often presents the resulting subject matter information in a report or statement. In some cases, however, the subject matter information may be presented by the accountant or the practitioner in the assurance report. In an attestation engagement, the accountant's or the practitioner's conclusion addresses whether the subject matter information is free from material misstatement.

The accountant's or the practitioner's conclusion may be phrased in terms of:

- (i) The underlying subject matter and the applicable criteria;
- (ii) The subject matter information and the applicable criteria; or
- (iii) A statement made by the appropriate party.

In Part 4A, the term "audit" applies equally to "review."

Audit client

An entity in respect of which a firm conducts an audit engagement. When the client is a publicly traded entity, in accordance with paragraphs R400.22 and R400.23, audit client will always include its related entities. When the audit client is not a publicly traded entity, audit client includes those related

entities over which the client has direct or indirect control. (See also paragraph R400.27.)

In Part 4A, the term "audit client" applies equally to "review client."

In the case of a group audit, see the definition of group audit client.

Audit engagement

A reasonable assurance engagement in which a professional accountant in public practice expresses an opinion whether financial statements are prepared, in all material respects (or give a true and fair view or are presented fairly, in all material respects), in accordance with an applicable financial reporting framework, such as an engagement conducted in accordance with *International Standards on Auditing*. This includes a Statutory Audit, which is an audit required by legislation or other regulation.

In Part 4A, the term "audit engagement" applies equally to "review engagement."

Audit report

In Part 4A, the term "audit report" applies equally to "review report."

Audit team

- (a) All members of the engagement team for the audit engagement;
- (b) All others within, or engaged by, the firm who can directly influence the outcome of the audit engagement, including:
 - (i) Those who recommend the compensation of, or who provide direct supervisory, management or other oversight of the engagement partner in connection with the performance of the audit engagement, including those at all successively senior levels above the engagement partner through to the individual who is the firm's Senior or Managing Partner (Chief Executive or equivalent);
 - (ii) Those who provide consultation regarding technical or industry-specific issues, transactions or events for the engagement; and
 - (iii) Those who perform an engagement quality review, or a review consistent with the objective of an engagement quality review, for the engagement; and
- (c) Any other individuals within a network firm who can directly influence the outcome of the audit engagement.

In Part 4A, the term "audit team" applies equally to "review team." In the case of a group audit, see the definition of group audit team.

Component

For a group audit, An entity, business unit, function or business activity, or some combination thereof, determined by the group auditor for purposes of planning and performing audit procedures in a-the group audit.

For a group sustainability assurance engagement, an entity, business unit, function or business activity, or some combination thereof, determined by the group sustainability assurance firm for purposes of planning and

performing assurance procedures in the group sustainability assurance engagement. This excludes entities within the value chain.

Component audit client A component in respect of which a group auditor firm or component auditor firm performs audit work for purposes of a group audit. When a component is:

- (a) A legal entity, the component audit client is the entity and any related entities over which the entity has direct or indirect control; or
- (b) A business unit, function or business activity (or some combination thereof), the component audit client is the legal entity or entities to which the business unit belongs or in which the function or business activity is being performed.

Component auditor firm The firm performing audit work related to a component for purposes of a group audit.

Component sustainability assurance client A component in respect of which a group sustainability assurance firm or component sustainability assurance firm performs assurance work for purposes of a group sustainability assurance engagement. When a component is:

- (a) A legal entity, the component sustainability assurance client is the entity and any related entities over which the entity has direct or indirect control; or
- (b) A business unit, function or business activity (or some combination thereof), the component sustainability assurance client is the legal entity or entities to which the business unit belongs or in which the function or business activity is being performed.

Component sustainability assurance firm The firm performing assurance work related to a component for purposes of a group sustainability assurance engagement.

Close family A parent, child or sibling who is not an immediate family member.

Conceptual framework *This term is described in Sections 120 and 5120.*

Confidential information Any information, data or other material in whatever form or medium (including written, electronic, visual or oral) that is not publicly available.

Contingent fee A fee calculated on a predetermined basis relating to the outcome of a transaction or the result of the services performed by the firm. A fee that is established by a court or other public authority is not a contingent fee.

Cooling-off period *This term is described in paragraphs R540.75 and R5540.7 for the purposes of paragraphs R540.134 to R540.2149 and R5540.13 to R5540.21.*

Criteria In an assurance engagement, including a sustainability assurance engagement, the benchmarks used to measure or evaluate the underlying subject matter. The "applicable criteria" are the criteria used for the particular engagement.

Direct engagement An assurance engagement in which the professional accountant in public practice measures or evaluates the underlying subject matter against the applicable criteria and the accountant presents the resulting subject matter information as part of, or accompanying, the assurance report. In a direct engagement, the accountant's conclusion addresses the reported outcome of the measurement or evaluation of the underlying subject matter against the criteria.

Direct financial interest A financial interest:

- (a) Owned directly by and under the control of an individual or entity (including those managed on a discretionary basis by others); or
- (b) Beneficially owned through a collective investment vehicle, estate, trust or other intermediary over which the individual or entity has control, or the ability to influence investment decisions.

Director or officer Those charged with the governance of an entity, or acting in an equivalent capacity, regardless of their title, which might vary from jurisdiction to jurisdiction.

Eligible audit engagement *This term is described in paragraph 800.2 for the purposes of Section 800.*

Eligible assurance engagement *This term is described in paragraph 990.2 for the purposes of Section 990.*

Engagement leader An individual, appointed by the firm, who is responsible for the sustainability assurance engagement and its performance, and for the sustainability assurance report that is issued on behalf of the firm, and who, where required, has the appropriate authority from a professional, legal or regulatory body. "Engagement leader" should be read as referring to its public sector equivalent where relevant.
In the case of audit and review engagements, see the definition of "engagement partner."

Engagement partner The partner or other person in the firm who is responsible for the engagement and its performance, and for the report that is issued on behalf of the firm, and who, where required, has the appropriate authority from a professional, legal or regulatory body.

In the case of a sustainability assurance engagement addressed in Part 5, see the definition of "engagement leader."

Engagement period (Audit and Review Engagements) The engagement period starts when the audit team begins to perform the audit. The engagement period ends when the audit report is issued. When the engagement is of a recurring nature, it ends at the later of the notification by either party that the professional relationship has ended or the issuance of the final audit report.

Engagement period (Sustainability Assurance Engagements Addressed in Part 5) The engagement period starts when the sustainability assurance team begins to perform the sustainability assurance engagement. The engagement period ends when the sustainability assurance report is issued. When the engagement is of a recurring nature, it ends at the later of the notification by either party that the professional relationship has ended or the issuance of the final sustainability assurance report.

Engagement period (Assurance Engagements Other than Audit Engagements, and Review Engagements, and Sustainability Assurance Engagements Addressed in Part 5) The engagement period starts when the assurance team begins to perform assurance services with respect to the particular engagement. The engagement period ends when the assurance report is issued. When the engagement is of a recurring nature, it ends at the later of the notification by either party that the professional relationship has ended or the issuance of the final assurance report.

Engagement quality review An objective evaluation of the significant judgments made by the engagement team and the conclusions reached thereon, performed by the engagement quality reviewer and completed on or before the date of the engagement report.

Engagement quality reviewer A leader or partner, other individual in the firm, or an external individual, appointed by the firm to perform the engagement quality review.

Engagement team	<p>All leaders or partners and staff performing the engagement, and any other individuals who perform procedures on the engagement, excluding external experts and internal auditors who provide direct assistance on the engagement.</p> <p><i>In Part 4A, the term "engagement team" refers to individuals performing audit or review procedures on the audit or review engagement, respectively. This term is further described in paragraph 400.9.</i></p> <p><i>ISA 220 (Revised) provides further guidance on the definition of engagement team in the context of an audit of financial statements.</i></p> <p><i>ISA 620 defines an auditor's expert as an individual or organization possessing expertise in a field other than accounting or auditing, whose work in that field is used by the auditor to assist the auditor in obtaining sufficient appropriate audit evidence. ISA 620 deals with the auditor's responsibilities relating to the work of such experts.</i></p> <p><i>ISA 610 (Revised 2013) deals with the auditor's responsibilities if using the work of internal auditors, including using internal auditors to provide direct assistance on the audit engagement.</i></p> <p><i>In Part 4B, the term "engagement team" refers to individuals performing assurance procedures on the assurance engagement.</i></p> <p><u><i>In Part 5, the term "engagement team" refers to individuals performing assurance procedures on the sustainability assurance engagement. This excludes individuals whose work the sustainability assurance practitioner is not able to direct, supervise and review (e.g., individuals from "another practitioner"). This term is further described in paragraph 5400.9 in Part 5.</i></u></p>
Existing accountant	<p>A professional accountant in public practice currently holding an audit appointment or carrying out accounting, tax, consulting or similar professional services for a client.</p>
<u>Existing practitioner</u>	<p><u><i>An individual or an entity currently holding an appointment to perform a sustainability assurance engagement or carrying out other professional services for a sustainability assurance client.</i></u></p>
Financial interest	<p>An interest in an equity or other security, debenture, loan or other debt instrument of an entity, including rights and obligations to acquire such an interest and derivatives directly related to such interest.</p>
Financial statements	<p>A structured representation of historical financial information, including related notes, intended to communicate an entity's economic resources or obligations at a point in time or the changes therein for a period of time in accordance with a financial reporting framework. The related notes ordinarily comprise a summary of significant accounting policies and other explanatory</p>

information. The term can relate to a complete set of financial statements, but it can also refer to a single financial statement, for example, a balance sheet, or a statement of revenues and expenses, and related explanatory notes.

The term does not refer to specific elements, accounts or items of a financial statement.

Financial statements on which the firm will express an opinion

In the case of a single entity, the financial statements of that entity. In the case of consolidated financial statements, also referred to as group financial statements, the consolidated financial statements.

Firm

- (a) A sole practitioner, partnership or corporation of professional accountants or sustainability assurance practitioners;
- (b) An entity that controls such parties, through ownership, management or other means; and
- (c) An entity controlled by such parties, through ownership, management or other means.

Paragraphs 400.4 and 900.3 explain how the word "firm" is used to address the responsibility of professional accountants and firms for compliance with Parts 4A and 4B, respectively.

Paragraph 5400.4 explains how the word "firm" is used to address the responsibility of individual sustainability assurance practitioners and firms for compliance with Part 5.

Fundamental principles

This term is described in paragraphs 110.1 A1 and 5110.1 A1. Each of the fundamental principles is, in turn, described in the following paragraphs:

<i>Integrity</i>	<i>R111.1 <u>and R5111.1</u></i>
<i>Objectivity</i>	<i>R112.1 <u>and R5112.1</u></i>
<i>Professional competence and due care</i>	<i>R113.1 <u>and R5113.1</u></i>
<i>Confidentiality</i>	<i>R114.1 to R114.3 <u>and R5114.1 to R5114.3</u></i>
<i>Professional behavior</i>	<i>R115.1 <u>and R5115.1</u></i>

General purpose framework

A reporting framework designed to meet the common information needs of a wide range of users. The framework may be a fair presentation framework or a compliance framework.

The term "fair presentation framework" is used to refer to a reporting framework that requires compliance with the requirements of the framework and:

(a) Acknowledges explicitly or implicitly that, to achieve fair presentation of the reported information, it may be necessary for management to provide disclosures beyond those specifically required by the framework; or

(b) Acknowledges explicitly that it may be necessary for management to depart from a requirement of the framework to achieve fair presentation of the reported information. Such departures are expected to be necessary only in extremely rare circumstances.

The term “compliance framework” is used to refer to a reporting framework that requires compliance with the requirements of the framework, but does not contain the acknowledgments in (a) or (b) above.

In Part 5, general purpose framework refers to general purpose sustainability reporting frameworks.

Group A reporting entity for which group financial statements or group sustainability information are is prepared.

Group audit The audit of group financial statements.

Group audit client The entity on whose group financial statements the group auditor firm conducts an audit engagement. When the entity is a publicly traded entity, the group audit client will always include its related entities and any other components at which audit work is performed. When the entity is not a publicly traded entity, the group audit client includes related entities over which such entity has direct or indirect control and any other components at which audit work is performed.

See also paragraph R400.27.

Group auditor firm The firm that expresses the opinion on the group financial statements.

Group audit team (a) All members of the engagement team for the group audit, including individuals within, or engaged by, component auditor firms who perform audit procedures related to components for purposes of the group audit;

(b) All others within, or engaged by, the group auditor firm who can directly influence the outcome of the group audit, including:

(i) Those who recommend the compensation of, or who provide direct supervisory, management or other oversight of the group engagement partner in connection with the performance of the group audit, including those at all successively senior levels above the group engagement partner through to the individual

who is the firm's Senior or Managing Partner (Chief Executive or equivalent);

- (ii) Those who provide consultation regarding technical or industry-specific issues, transactions or events for the group audit; and
 - (iii) Those who perform an engagement quality review, or a review consistent with the objective of an engagement quality review, for the group audit;
- (c) Any other individuals within a network firm of the group auditor firm's network who can directly influence the outcome of the group audit; and
- (d) Any other individuals within a component auditor firm outside the group auditor firm's network who can directly influence the outcome of the group audit.

Group engagement leader The engagement leader who is responsible for the group sustainability assurance engagement.

Group engagement partner The engagement partner who is responsible for the group audit.

Group financial statements Financial statements that include the financial information of more than one entity or business unit through a consolidation process.

Group sustainability assurance client The entity on whose group sustainability information the group sustainability assurance firm conducts a sustainability assurance engagement. When the entity is a publicly traded entity, the group sustainability assurance client will always include its related entities and any other components at which assurance work is performed. When the entity is not a publicly traded entity, the group sustainability assurance client includes related entities over which such entity has direct or indirect control and any other components at which assurance work is performed.
See also paragraph R5400.27.

Group sustainability assurance engagement The sustainability assurance engagement to report on group sustainability information.

Group sustainability assurance firm The firm that expresses the opinion on the group sustainability information.

- Group sustainability assurance team
- (a) All members of the engagement team for the group sustainability assurance engagement, including individuals within, or engaged by, component sustainability assurance firms who perform assurance procedures related to components for purposes of the group sustainability assurance engagement;
 - (b) All others within, or engaged by, the group sustainability assurance firm who can directly influence the outcome of the group sustainability assurance engagement, including:
 - (i) Those who recommend the compensation of, or who provide direct supervisory, management or other oversight of the group engagement leader in connection with the performance of the group sustainability assurance engagement, including those at all successively senior levels above the group engagement leader through to the individual who is the firm's Chief Executive or equivalent;
 - (ii) Those who provide consultation regarding technical or industry-specific issues, transactions or events for the group sustainability assurance engagement; and
 - (iii) Those who perform an engagement quality review, or a review consistent with the objective of an engagement quality review, for the group sustainability assurance engagement;
 - (c) Any other individuals within a network firm of the group sustainability assurance firm's network who can directly influence the outcome of the group sustainability assurance engagement; and
 - (d) Any other individuals within a component sustainability assurance firm outside the group sustainability assurance firm's network who can directly influence the outcome of the group sustainability assurance engagement.

Group sustainability information Sustainability information that includes the sustainability information of more than one entity or business unit.

Historical financial information Information expressed in financial terms in relation to a particular entity, derived primarily from that entity's accounting system, about economic events occurring in past time periods or about economic conditions or circumstances at points in time in the past.

Immediate family A spouse (or equivalent) or dependent.

Independence Independence comprises:

- (a) Independence of mind – the state of mind that permits the expression of a conclusion without being affected by influences that compromise professional judgment, thereby allowing an individual to act with integrity, and exercise objectivity and professional skepticism.
- (b) Independence in appearance – the avoidance of facts and circumstances that are so significant that a reasonable and informed third party would be likely to conclude that a firm's, or an audit, ~~or~~ assurance, or sustainability assurance team member's, integrity, objectivity or professional skepticism has been compromised.

As set out in paragraphs 400.5, ~~and~~ 900.4, and 5400.5 references to an individual or firm being "independent" mean that the individual or firm has complied with Parts 4A, ~~and~~ 4B and 5, as applicable.

Indirect financial interest A financial interest beneficially owned through a collective investment vehicle, estate, trust or other intermediary over which the individual or entity has no control or ability to influence investment decisions.

Inducement An object, situation, or action that is used as a means to influence another individual's behavior, but not necessarily with the intent to improperly influence that individual's behavior.

Inducements can range from minor acts of hospitality between business colleagues (for professional accountants in business), ~~or~~ between professional accountants and existing or prospective clients (for professional accountants in public practice), or between sustainability assurance practitioners and existing or prospective sustainability assurance clients, to acts that result in non-compliance with laws and regulations. An inducement can take many different forms, for example:

- *Gifts.*
- *Hospitality.*
- *Entertainment.*
- *Political or charitable donations.*
- *Appeals to friendship and loyalty.*
- *Employment or other commercial opportunities.*
- *Preferential treatment, rights or privileges.*

Key audit partner The engagement partner, the individual responsible for the engagement quality review, and other audit partners, if any, on the engagement team who make key decisions or judgments on significant matters with respect to the audit of the financial statements on which the firm will express an opinion. Depending upon the circumstances and the role of the individuals on the audit, "other audit partners" might include, for example, engagement partners for certain components in a group audit such as significant subsidiaries or divisions.

Key sustainability assurance leader The engagement leader, the individual responsible for the engagement quality review, and other leaders, if any, on the engagement team who make key decisions or judgments on significant matters with respect to the sustainability assurance engagement. Depending upon the circumstances and the role of the individuals on the sustainability assurance engagement, "other leaders" might include, for example, engagement leaders for certain components in a group sustainability assurance engagement such as significant subsidiaries or divisions.

Leader Any individual with authority to bind a firm with respect to the performance of a professional service.
This term is used in the context of sustainability assurance engagements in Part 5.

May *This term is used in the Code to denote permission to take a particular action in certain circumstances, including as an exception to a requirement. It is not used to denote possibility.*

Might *This term is used in the Code to denote the possibility of a matter arising, an event occurring or a course of action being taken. The term does not ascribe any particular level of possibility or likelihood when used in conjunction with a threat, as the evaluation of the level of a threat depends on the facts and circumstances of any particular matter, event or course of action.*

Network A larger structure:
(a) That is aimed at co-operation; and
(b) That is clearly aimed at profit or cost sharing or shares common ownership, control or management, common quality management policies and procedures, common business strategy, the use of a common brand-name, or a significant part of professional resources.

Network firm A firm or entity that belongs to a network.
For further information, see paragraphs 400.50 A1 to 400.54 A1 in Part 4A and paragraphs 5400.50 A1 to 5400.54 A1 in Part 5.

Non-compliance with laws and regulations

Non-compliance with laws and regulations ("non-compliance") comprises acts of omission or commission, intentional or unintentional, which are contrary to the prevailing laws or regulations committed by the following parties:

(Professional Accountants in Business)

- (a) *The professional accountant's employing organization;*
- (b) *Those charged with governance of the employing organization;*
- (c) *Management of the employing organization; or*
- (d) *Other individuals working for or under the direction of the employing organization.*

This term is described in paragraph 260.5 A1.

Non-compliance with laws and regulations

Non-compliance with laws and regulations ("non-compliance") comprises acts of omission or commission, intentional or unintentional, which are contrary to the prevailing laws or regulations committed by the following parties:

(Professional Accountants in Public Practice)

- (a) *A client;*
- (b) *Those charged with governance of a client;*
- (c) *Management of a client; or*
- (d) *Other individuals working for or under the direction of a client.*

This term is described in paragraph 360.5 A1.

Non-compliance with laws and regulations

Non-compliance with laws and regulations ("non-compliance") comprises acts of omission or commission, intentional or unintentional, which are contrary to the prevailing laws or regulations committed by the following parties:

(Sustainability Assurance Practitioners)

- (a) A sustainability assurance client;*
- (b) Those charged with governance of a sustainability assurance client;*
- (c) Management of a sustainability assurance client; or*
- (d) Other individuals working for or under the direction of a sustainability assurance client.*

This term is described in paragraph 5360.5 A1.

Office

A distinct sub-group, whether organized on geographical or practice lines.

Predecessor accountant

A professional accountant in public practice who most recently held an audit appointment or carried out accounting, tax, consulting or similar professional services for a client, where there is no existing accountant.

Predecessor practitioner An individual or an entity who most recently held an appointment to perform a sustainability assurance engagement or carried out other professional services for a sustainability assurance client, where there is no existing practitioner.

Professional accountant An individual who is a member of an IFAC member body.
In Part 1, the term "professional accountant" refers to individual professional accountants in business and to professional accountants in public practice and their firms.
In Part 2, the term "professional accountant" refers to professional accountants in business.
In Parts 3, 4A and 4B, the term "professional accountant" refers to professional accountants in public practice and their firms.

Professional accountant in business A professional accountant working in areas such as commerce, industry, service, the public sector, education, the not-for-profit sector, or in regulatory or professional bodies, who might be an employee, contractor, partner, director (executive or non-executive), owner-manager or volunteer.

Professional accountant in public practice A professional accountant, irrespective of functional classification (for example, audit, tax or consulting) in a firm that provides professional services.
The term "professional accountant in public practice" is also used to refer to a firm of professional accountants in public practice.

Professional activity An activity requiring ~~professional accountancy or related~~ skills undertaken by a professional accountant or a sustainability assurance practitioner, including accounting, auditing, sustainability reporting or assurance, tax, ~~management~~ consulting, and financial management.

Professional judgment *Professional judgment involves the application of relevant training, professional knowledge, skill and experience commensurate with the facts and circumstances, taking into account the nature and scope of the particular professional activities, and the interests and relationships involved.*
This term is described in paragraphs 120.5 A4 and 5120.5 A4.

Professional services Professional activities performed for clients.

Proposed accountant A professional accountant in public practice who is considering accepting an audit appointment or an engagement to perform accounting, tax, consulting or similar professional services for a prospective client (or in some cases, an existing client).

Proposed practitioner A sustainability assurance practitioner who is considering accepting an appointment to perform a sustainability assurance engagement or carry out other professional services for a prospective sustainability assurance client (or in some cases, an existing sustainability assurance client).

Public interest entity For the purposes of Part 4A, an entity is a public interest entity when it falls within any of the following categories:

- (a) A publicly traded entity;
- (b) An entity one of whose main functions is to take deposits from the public;
- (c) An entity one of whose main functions is to provide insurance to the public; or
- (d) An entity specified as such by law, regulation or professional standards to meet the purpose described in paragraph 400.15.

The Code provides for the categories to be more explicitly defined or added to as described in paragraphs 400.23 A1 and 400.23 A2.

Publicly traded entity An entity that issues financial instruments that are transferrable and traded through a publicly accessible market mechanism, including through listing on a stock exchange.

A listed entity as defined by relevant securities law or regulation is an example of a publicly traded entity.

Reasonable and informed third party *The reasonable and informed third party test is a consideration by the professional accountant or the sustainability assurance practitioner about whether the same conclusions would likely be reached by another party. Such consideration is made from the perspective of a reasonable and informed third party, who weighs all the relevant facts and circumstances that the accountant or the sustainability assurance practitioner knows, or could reasonably be expected to know, at the time that the conclusions are made. The reasonable and informed third party does not need to be an accountant or a sustainability assurance practitioner, but would possess the relevant knowledge and experience to understand and evaluate the appropriateness of the accountant's or sustainability assurance practitioner's conclusions in an impartial manner.*

These terms are described in paragraphs 120.5 A9 and 5120.5 A9.

Related entity An entity that has any of the following relationships with the client:

- (a) An entity that has direct or indirect control over the client if the client is material to such entity;
- (b) An entity with a direct financial interest in the client if that entity has significant influence over the client and the interest in the client is

material to such entity;

- (c) An entity over which the client has direct or indirect control;
- (d) An entity in which the client, or an entity related to the client under (c) above, has a direct financial interest that gives it significant influence over such entity and the interest is material to the client and its related entity in (c); and
- (e) An entity which is under common control with the client (a "sister entity") if the sister entity and the client are both material to the entity that controls both the client and sister entity

Responsible party In an assurance engagement, the party responsible for the underlying subject matter.

Review client An entity in respect of which a firm conducts a review engagement.

Review engagement An assurance engagement, conducted in accordance with *International Standards on Review Engagements* or equivalent, in which a professional accountant in public practice expresses a conclusion on whether, on the basis of the procedures which do not provide all the evidence that would be required in an audit, anything has come to the accountant's attention that causes the accountant to believe that the financial statements are not prepared, in all material respects, in accordance with an applicable financial reporting framework.

Review team

- (a) All members of the engagement team for the review engagement; and
- (b) All others within, or engaged by, the firm who can directly influence the outcome of the review engagement, including:
 - (i) Those who recommend the compensation of, or who provide direct supervisory, management or other oversight of the engagement partner in connection with the performance of the review engagement, including those at all successively senior levels above the engagement partner through to the individual who is the firm's Senior or Managing Partner (Chief Executive or equivalent);
 - (ii) Those who provide consultation regarding technical or industry-specific issues, transactions or events for the engagement; and
 - (iii) Those who perform an engagement quality review, or a review consistent with the objective of an engagement quality review, for the engagement; and
- (c) Any other individuals within a network firm who can directly influence the outcome of the review engagement.

Safeguards *Safeguards are actions, individually or in combination, that the professional accountant or the sustainability assurance practitioner takes that effectively reduce threats to compliance with the fundamental principles to an acceptable level.*

This term is described in paragraphs 120.10 A2 and 5120.10 A2.

Senior professional accountant in business *Senior professional accountants in business are directors, officers or senior employees able to exert significant influence over, and make decisions regarding, the acquisition, deployment and control of the employing organization's human, financial, technological, physical and intangible resources.*

This term is described in paragraph 260.11 A1.

Special purpose financial statements Financial statements prepared in accordance with a financial reporting framework designed to meet the financial information needs of specified users.

Subject matter information The outcome of the measurement or evaluation of the underlying subject matter against the criteria, i.e., the information that results from applying the criteria to the underlying subject matter.

Substantial harm *This term is described in paragraphs 260.5 A3, ~~and 360.5 A3~~ and 5360.5 A3.*

Sustainability assurance client *An entity in respect of which a firm conducts a sustainability assurance engagement. When the client is a publicly traded entity, sustainability assurance client will always include its related entities. When the sustainability assurance client is not a publicly traded entity, sustainability assurance client includes those related entities over which the client has direct or indirect control. (See also paragraph R5400.27.)*

Sustainability assurance engagement *An engagement in which a sustainability assurance practitioner aims to obtain sufficient appropriate evidence in order to express a conclusion designed to enhance the degree of confidence of the intended users about the sustainability information.*

A sustainability assurance engagement can be either a:

- Reasonable assurance engagement – An assurance engagement in which the practitioner reduces engagement risk to an acceptably low level in the circumstances of the engagement as the basis for the practitioner's conclusion. The practitioner's conclusion is expressed in a form that conveys the practitioner's opinion on the outcome of the measurement or evaluation, including presentation and disclosure, of

the underlying subject matter against applicable criteria; or

- Limited assurance engagement – An assurance engagement in which the practitioner reduces engagement risk to a level that is acceptable in the circumstances of the engagement but where that risk is greater than for a reasonable assurance engagement as the basis for expressing a conclusion in a form that conveys whether, based on the procedures performed and evidence obtained, a matter(s) has come to the practitioner’s attention to cause the practitioner to believe the sustainability information is materially misstated. The nature, timing and extent of procedures performed in a limited assurance engagement is limited compared with that necessary in a reasonable assurance engagement but is planned to obtain a level of assurance that is, in the practitioner’s professional judgment, meaningful. To be meaningful, the level of assurance obtained by the practitioner is likely to enhance the intended users’ confidence about the sustainability information to a degree that is clearly more than inconsequential.

Sustainability assurance practitioner The individual(s) conducting a sustainability assurance engagement (usually the engagement leader or other members of the engagement team, or, as applicable, the firm).

- Sustainability assurance team
- (a) All members of the engagement team for the sustainability assurance engagement;
 - (b) All others within, or engaged by, the firm who can directly influence the outcome of the sustainability assurance engagement, including:
 - (i) Those who recommend the compensation of, or who provide direct supervisory, management or other oversight of the engagement leader in connection with the performance of the sustainability assurance engagement, including those at all successively senior levels above the engagement leader through to the individual who is the firm’s Chief Executive;
 - (ii) Those who provide consultation regarding technical or industry-specific issues, transactions or events for the engagement; and
 - (iii) Those who perform an engagement quality review, or a review consistent with the objective of an engagement quality review, for the engagement; and
 - (c) Any other individuals within a network firm who can directly influence the outcome of the sustainability assurance engagement.

- Sustainability information
- (a) Information about the opportunities, risks or impacts of:
- (i) Economic, environmental, social, governance or other sustainability factors on an entity’s activities, services or products; or
- (ii) An entity’s activities, services or products on the economy, the environment or the public; or
- (b) Information defined by law, regulation or the relevant reporting or assurance framework as “sustainability information” or equivalent terms or descriptions.

Sustainability information includes information that may be:

- Expressed in financial or non-financial terms.
- Historical or forward-looking.
- Prepared for internal purposes or for mandatory or voluntary disclosure.
- Obtained from an entity or its value chain.
- Related to the quantitative or qualitative evaluation of an entity’s past or expected performance over the short, medium or long term.
- Described in an entity’s policies, plans, goals, commitments or representations.

Those charged with governance

The person(s) or organization(s) (for example, a corporate trustee) with responsibility for overseeing the strategic direction of the entity and obligations related to the accountability of the entity. This includes overseeing the financial reporting process or the sustainability reporting process, as applicable. For some entities in some jurisdictions, those charged with governance might include management personnel, for example, executive members of a governance board of a private or public sector entity, or an owner-manager.

Threats

This term is described in paragraphs 120.6 A3 and 5120.6 A3 and includes the following categories:

- | | |
|----------------------|-------------------------------------|
| <i>Self-interest</i> | 120.6 A3(a) <u>and 5120.6 A3(a)</u> |
| <i>Self-review</i> | 120.6 A3(b) <u>and 5120.6 A3(b)</u> |
| <i>Advocacy</i> | 120.6 A3(c) <u>and 5120.6 A3(c)</u> |
| <i>Familiarity</i> | 120.6 A3(d) <u>and 5120.6 A3(d)</u> |
| <i>Intimidation</i> | 120.6 A3(e) <u>and 5120.6 A3(e)</u> |

Time-on period *This term is described in paragraphs R540.75 in Part 4A and R5540.7 in Part 5*

Underlying subject matter The phenomenon that is measured or evaluated by applying criteria.

Value Chain *The value chain is a reporting concept that is defined, described or otherwise specified in the applicable sustainability reporting framework.*

The value chain might include, for example, a sustainability assurance client's customers and suppliers that are material for sustainability reporting purposes.

The value chain does not include components.

CHAPTER 3 – PROPOSED CONSEQUENTIAL AND CONFORMING AMENDMENTS TO INTERNATIONAL CODE OF ETHICS FOR PROFESSIONAL ACCOUNTANTS (INCLUDING INTERNATIONAL INDEPENDENCE STANDARDS) (MARK-UP FROM 2024 VERSION)

PART 1 – COMPLYING WITH THE CODE, FUNDAMENTAL PRINCIPLES AND CONCEPTUAL FRAMEWORK

SECTION 100

COMPLYING WITH THE CODE

(....)

Breaches of the Code

R100.8 Paragraphs R400.80 to R400.89, 405.22 A1 to R405.29, ~~and~~ R900.50 to R900.55, R5400.80 to R5400.89 and 5405.22 A1 to R5405.29 address a breach of *International Independence Standards*. A professional accountant who identifies a breach of any other provision of the Code shall evaluate the significance of the breach and its impact on the accountant’s ability to comply with the fundamental principles. The accountant shall also:

- (a) Take whatever actions might be available, as soon as possible, to address the consequences of the breach satisfactorily; and
- (b) Determine whether to report the breach to the relevant parties.

100.8 A1 Relevant parties to whom such a breach might be reported include those who might have been affected by it, a professional or regulatory body or an oversight authority.

(....)

SECTION 120

THE CONCEPTUAL FRAMEWORK

(....)

Requirements and Application Material

General

R120.3 The professional accountant shall apply the conceptual framework to identify, evaluate and address threats to compliance with the fundamental principles set out in Section 110.

120.3 A1 Additional requirements and application material that are relevant to the application of the conceptual framework are set out in:

- (a) Part 2 – *Professional Accountants in Business*;
- (b) Part 3 – *Professional Accountants in Public Practice*; ~~and~~
- (c) *International Independence Standards*, as follows:

- (i) Part 4A – *Independence for Audit and Review Engagements*; and
- (ii) Part 4B – *Independence for Assurance Engagements Other than Audit ~~Engagements~~, and Review Engagements and Sustainability Assurance Engagements Addressed in Part 5; and-*

(d) Part 5 – International Ethics Standards for Sustainability Assurance (including International Independence Standards).

R120.4

When dealing with an ethics issue, the professional accountant shall consider the context in which the issue has arisen or might arise. Where an individual who is a professional accountant in public practice is performing professional activities pursuant to the accountant's relationship with the firm, whether as a contractor, employee or owner, the individual shall comply with the provisions in Part 2 that apply to these circumstances.

(....)

PART 2 – PROFESSIONAL ACCOUNTANTS IN BUSINESS

SECTION 260

RESPONDING TO NON-COMPLIANCE WITH LAWS AND REGULATIONS

Introduction

- 260.1 Professional accountants are required to comply with the fundamental principles and apply the conceptual framework set out in Section 120 to identify, evaluate and address threats.
- 260.2 A self-interest or intimidation threat to compliance with the principles of integrity and professional behavior is created when a professional accountant becomes aware of non-compliance or suspected non-compliance with laws and regulations.
- 260.3 A professional accountant might encounter or be made aware of non-compliance or suspected non-compliance in the course of carrying out professional activities. This section guides the accountant in assessing the implications of the matter and the possible courses of action when responding to non-compliance or suspected non-compliance with:
- (a) Laws and regulations generally recognized to have a direct effect on the determination of material amounts, impacts and disclosures in the employing organization's financial statements or sustainability information; and
 - (b) Other laws and regulations that do not have a direct effect on the determination of the amounts, impacts and disclosures in the employing organization's financial statements or sustainability information, but compliance with which might be fundamental to the operating aspects of the employing organization's business, to its ability to continue its business, or to avoid material penalties.

Objectives of the Professional Accountant in Relation to Non-compliance with Laws and Regulations

- 260.4 A distinguishing mark of the accountancy profession is its acceptance of the responsibility to act in the public interest. When responding to non-compliance or suspected non-compliance, the objectives of the professional accountant are:
- (a) To comply with the principles of integrity and professional behavior;
 - (b) By alerting management or, where appropriate, those charged with governance of the employing organization, to seek to:
 - (i) Enable them to rectify, remediate or mitigate the consequences of the identified or suspected non-compliance; or
 - (ii) Deter the non-compliance where it has not yet occurred; and
 - (c) To take such further action as appropriate in the public interest.

Requirements and Application Material

General

260.5 A1 Non-compliance with laws and regulations (“non-compliance”) comprises acts of omission or commission, intentional or unintentional, which are contrary to the prevailing laws or regulations committed by the following parties:

- (a) The professional accountant’s employing organization;
- (b) Those charged with governance of the employing organization;
- (c) Management of the employing organization; or
- (d) Other individuals working for or under the direction of the employing organization.

260.5 A2 Examples of laws and regulations which this section addresses include those that deal with:

- Fraud, corruption and bribery.
- Money laundering, terrorist financing and proceeds of crime.
- Securities markets and trading.
- Banking and other financial products and services.
- Data protection.
- Tax and pension liabilities and payments.
- Environmental protection.
- Public health and safety.
- Protection of human rights.
- Labor conditions and rights of employees.
- Consumer rights.

260.5 A3 Non-compliance might result in fines, litigation or other consequences for the employing organization, potentially materially affecting its financial statements or sustainability information. Importantly, such non-compliance might have wider public interest implications in terms of potentially substantial harm to investors, creditors, employees or the general public. For the purposes of this section, non-compliance that causes substantial harm is one that results in serious adverse consequences to any of these parties in financial or non-financial terms. Examples include the perpetration of a fraud resulting in significant financial losses to investors, and breaches of environmental laws and regulations endangering the health or safety of employees or the public.

R260.6 In some jurisdictions, there are legal or regulatory provisions governing how professional accountants are required to address non-compliance or suspected non-compliance. These legal or regulatory provisions might differ from or go beyond the provisions in this section. When encountering such non-compliance or suspected non-compliance, the accountant shall obtain an understanding of those legal or regulatory provisions and comply with them, including:

- (a) Any requirement to report the matter to an appropriate authority; and
- (b) Any prohibition on alerting the relevant party.

(....)

Responsibilities of Senior Professional Accountants in Business

(....)

Addressing the Matter

(....)

260.14 A2 Some laws and regulations might stipulate a period within which reports of non-compliance or suspected non-compliance are to be made to an appropriate authority.

R260.15 In addition to responding to the matter in accordance with the provisions of this section, the senior professional accountant shall determine whether disclosure of the matter to the employing organization's external auditor or sustainability assurance practitioner performing a sustainability assurance engagement that is within the scope of the *International Independence Standards* in Part 5, if any, is needed.

260.15 A1 Such disclosure would be pursuant to the senior professional accountant's duty or legal obligation to provide all information necessary to enable the auditor to perform the audit or the sustainability assurance practitioner to perform the sustainability assurance engagement that is within the scope of the *International Independence Standards* in Part 5.

Determining Whether Further Action Is Needed

R260.16 The senior professional accountant shall assess the appropriateness of the response of the accountant's superiors, if any, and those charged with governance.

(....)

PART 3 – PROFESSIONAL ACCOUNTANTS IN PUBLIC PRACTICE

SECTION 300

APPLYING THE CONCEPTUAL FRAMEWORK – PROFESSIONAL ACCOUNTANTS IN PUBLIC PRACTICE

Introduction

300.1 This Part of the Code sets out requirements and application material for professional accountants in public practice when applying the conceptual framework set out in Section 120. It does not describe all of the facts and circumstances, including professional activities, interests and relationships, that could be encountered by professional accountants in public practice, which create or might create threats to compliance with the fundamental principles. Therefore, the conceptual framework requires professional accountants in public practice to be alert for such facts and circumstances.

300.2 The requirements and application material that apply to professional accountants in public practice are set out in:

- Part 3 – *Professional Accountants in Public Practice*, Sections 300 to 399, which applies to all professional accountants in public practice, whether they provide assurance services or not.
- *International Independence Standards* as follows:
 - Part 4A – *Independence for Audit and Review Engagements*, Sections 400 to 899, which applies to professional accountants in public practice when performing audit and review engagements.
 - Part 4B – *Independence for Assurance Engagements Other than Audit Engagements, and Review Engagements, and Sustainability Assurance Engagements Addressed in Part 5*, Sections 900 to 999, which applies to professional accountants in public practice when performing assurance engagements other than audit engagements, ~~or~~ review engagements, or sustainability assurance engagements that are within the scope of the *International Independence Standards* in Part 5.
- Part 5 – *International Ethics Standards for Sustainability Assurance (including International Independence Standards)*, Sections 5100 to 5700, which applies to professional accountants in public practice when performing sustainability assurance engagements.

300.3 In this Part, the term “professional accountant” refers to individual professional accountants in public practice and their firms.

(....)

SECTION 360

RESPONDING TO NON-COMPLIANCE WITH LAWS AND REGULATIONS

Introduction

- 360.1 Professional accountants are required to comply with the fundamental principles and apply the conceptual framework set out in Section 120 to identify, evaluate and address threats.
- 360.2 A self-interest or intimidation threat to compliance with the principles of integrity and professional behavior is created when a professional accountant becomes aware of non-compliance or suspected non-compliance with laws and regulations.
- 360.3 A professional accountant might encounter or be made aware of non-compliance or suspected non-compliance in the course of providing a professional service to a client. This section guides the accountant in assessing the implications of the matter and the possible courses of action when responding to non-compliance or suspected non-compliance with:
- (a) Laws and regulations generally recognized to have a direct effect on the determination of material amounts, impacts and disclosures in the client's financial statements or sustainability information; and
 - (b) Other laws and regulations that do not have a direct effect on the determination of the amounts, impacts and disclosures in the client's financial statements or sustainability information, but compliance with which might be fundamental to the operating aspects of the client's business, to its ability to continue its business, or to avoid material penalties.

Objectives of the Professional Accountant in Relation to Non-compliance with Laws and Regulations

- 360.4 A distinguishing mark of the accountancy profession is its acceptance of the responsibility to act in the public interest. When responding to non-compliance or suspected non-compliance, the objectives of the professional accountant are:
- (a) To comply with the principles of integrity and professional behavior;
 - (b) By alerting management or, where appropriate, those charged with governance of the client, to seek to:
 - (i) Enable them to rectify, remediate or mitigate the consequences of the identified or suspected non-compliance; or
 - (ii) Deter the commission of the non-compliance where it has not yet occurred; and
 - (c) To take such further action as appropriate in the public interest.

Requirements and Application Material

General

- 360.5 A1 Non-compliance with laws and regulations ("non-compliance") comprises acts of omission or commission, intentional or unintentional, which are contrary to the prevailing laws or regulations committed by the following parties:
- (a) A client;
 - (b) Those charged with governance of a client;
 - (c) Management of a client; or

(d) Other individuals working for or under the direction of a client.

360.5 A2 Examples of laws and regulations which this section addresses include those that deal with:

- Fraud, corruption and bribery.
- Money laundering, terrorist financing and proceeds of crime.
- Securities markets and trading.
- Banking and other financial products and services.
- Data protection.
- Tax and pension liabilities and payments.
- Environmental protection.
- Public health and safety.
- Protection of human rights.
- Labor conditions and rights of employees.
- Consumer rights.

360.5 A3 Non-compliance might result in fines, litigation or other consequences for the client, potentially materially affecting its financial statements or sustainability information. Importantly, such non-compliance might have wider public interest implications in terms of potentially substantial harm to investors, creditors, employees or the general public. For the purposes of this section, an act that causes substantial harm is one that results in serious adverse consequences to any of these parties in financial or non-financial terms. Examples include the perpetration of a fraud resulting in significant financial losses to investors, and breaches of environmental laws and regulations endangering the health or safety of employees or the public.

R360.6 In some jurisdictions, there are legal or regulatory provisions governing how professional accountants should address non-compliance or suspected non-compliance. These legal or regulatory provisions might differ from or go beyond the provisions in this section. When encountering such non-compliance or suspected non-compliance, the accountant shall obtain an understanding of those legal or regulatory provisions and comply with them, including:

- (a) Any requirement to report the matter to an appropriate authority; and
- (b) Any prohibition on alerting the client.

(....)

Audits of Financial Statements

(....)

360.18 A1 The purpose of the communication is to enable those responsible for audit work at the components, legal entities or business units to be informed about the matter and to determine whether and, if so, how to address it in accordance with the provisions in this section. The communication requirement applies regardless of whether the group engagement partner's firm or network is the same as or different from the firms or networks of those performing audit work at the components, legal entities or business units.

Communicating the Matter to the Client's Sustainability Assurance Practitioner

R360.18a The professional accountant shall consider whether to communicate the non-compliance or suspected non-compliance to the client's sustainability assurance practitioner(s) performing a sustainability assurance engagement that is within the scope of the *International Independence Standards* in Part 5, if any.

Relevant Factors to Consider

360.18a A1 Factors relevant to considering the communication in accordance with paragraph R360.18a include:

- Whether doing so would be contrary to law or regulation.
- Whether there are restrictions about disclosure imposed by a regulatory agency or prosecutor in an ongoing investigation into the non-compliance or suspected non-compliance.
- Whether the purpose of the engagement is to investigate potential non-compliance within the entity to enable it to take appropriate action.
- Whether management or those charged with governance have already informed the client's sustainability assurance practitioner about the matter.
- Whether and, if so, how the firm's or network firm's protocols or procedures address communication of non-compliance or suspected non-compliance within the firm or network firm.

Purpose of Communication

360.18a A2 In the circumstances addressed in paragraph R360.18a, the purpose of the communication is to enable the engagement leader to be informed about the non-compliance or suspected non-compliance and to determine whether and, if so, how to address it in accordance with the provisions of Part 5.

Determining Whether Further Action Is Needed

R360.19 The professional accountant shall assess the appropriateness of the response of management and, where applicable, those charged with governance.

(....)

PART 4A – INDEPENDENCE FOR AUDIT AND REVIEW ENGAGEMENTS

SECTION 400

APPLYING THE CONCEPTUAL FRAMEWORK TO INDEPENDENCE FOR AUDIT AND REVIEW ENGAGEMENTS

(....)

Assurance Engagements other than Audit and Review Engagements

400.17 Independence standards for assurance engagements that are not audit or review engagements are set out in:

- Part 4B – Independence for Assurance Engagements Other than Audit Engagements, and Review Engagements, and Sustainability Assurance Engagements Addressed in Part 5.
- Part 5 – International Ethics Standards for Sustainability Assurance (including International Independence Standards)

SECTION 410

FEES

Introduction

(....)

Total Fees – Proportion of Fees for Services Other than Audit to Audit Fee

410.11 A1 The level of the self-interest threat might be impacted when a large proportion of fees charged by the firm or network firms to an audit client is generated by providing services other than audit to the client, due to concerns about the potential loss of either the audit engagement or other services. Such circumstances might also create an intimidation threat. A further consideration is a perception that the firm or network firm focuses on the non-audit relationship, which might create a threat to the auditor's independence.

410.11 A2 Factors that are relevant in evaluating the level of such threats include:

- The ratio of fees for services other than audit to the audit fee.
- The length of time during which a large proportion of fees for services other than audit to the audit fee has existed.
- The nature, scope and purposes of the services other than audit, including:
 - Whether they are recurring services.
 - Whether law or regulation mandates the services, including sustainability assurance engagements, to be performed by the firm.

410.11 A3 Examples of actions that might be safeguards to address such self-interest or intimidation threats include:

- Having an appropriate reviewer who was not involved in the audit or the service other than audit review the relevant audit work.
- Reducing the extent of services other than audit provided to the audit client.

(...)

SECTION 540

LONG ASSOCIATION OF PERSONNEL (INCLUDING PARTNER ROTATION) WITH AN AUDIT CLIENT

(...)

Introduction

540.1 Firms are required to comply with the fundamental principles, be independent and apply the conceptual framework set out in Section 120 to identify, evaluate and address threats to independence.

540.2 When an individual is involved in an audit engagement, or a combination of audit and sustainability assurance engagements for the same client, over a long period of time, familiarity and self-interest threats might be created. This section sets out requirements and application material relevant to applying the conceptual framework in such circumstances.

Requirements and Application Material

General

540.3 A1 References in this Section to key sustainability assurance leader, sustainability assurance team and sustainability assurance engagement are in the context of sustainability assurance engagements within the scope of the International Independence Standards in Part 5.

All Audit Clients

540.~~3~~4 A1 Although an understanding of an audit client and its environment is fundamental to audit quality, a familiarity threat might be created as a result of an individual's long association as an audit team member or sustainability assurance team member with:

- (a) The audit client and its operations;
- (b) The audit client's senior management; or
- (c) The financial statements on which the firm will express an opinion or the financial information which forms the basis of the financial statements.

540.~~3~~4 A2 A self-interest threat might be created as a result of an individual's concern about losing a longstanding client or an interest in maintaining a close personal relationship with a member of senior management or those charged with governance. Such a threat might influence the individual's judgment inappropriately.

- 540.43 A3 Factors that are relevant to evaluating the level of such familiarity or self-interest threats include:
- (a) In relation to the individual:
- The overall length of the individual's relationship with the client, including if such relationship existed while the individual was at a prior firm.
 - How long the individual has been an engagement team member for the audit engagement or sustainability assurance engagement, and the nature of the roles performed.
 - The extent to which the work of the individual is directed, reviewed and supervised by more senior personnel.
 - The extent to which the individual, due to the individual's seniority, has the ability to influence the outcome of the audit, for example, by making key decisions or directing the work of other engagement team members.
 - The closeness of the individual's personal relationship with senior management or those charged with governance.
 - The nature, frequency and extent of the interaction between the individual and senior management or those charged with governance.
- (b) In relation to the audit client:
- The nature or complexity of the client's accounting and financial reporting issues and whether they have changed.
 - Whether there have been any recent changes in senior management or those charged with governance.
 - Whether there have been any structural changes in the client's organization which impact the nature, frequency and extent of interactions the individual might have with senior management or those charged with governance.
- 540.43 A4 The combination of two or more factors might increase or reduce the level of the threats. For example, familiarity threats created over time by the increasingly close relationship between an individual and a member of the client's senior management would be reduced by the departure of that member of the client's senior management.
- 540.43 A5 An example of an action that might eliminate the familiarity and self-interest threats created by an individual being involved in an audit engagement or a combination of audit and sustainability assurance engagements for the same client, over a long period of time would be rotating the individual off the audit team.
- 540.43 A6 Examples of actions that might be safeguards to address such familiarity or self-interest threats include:
- Changing the role of the individual on the audit team or the nature and extent of the tasks the individual performs.
 - Having an appropriate reviewer who was not an audit team member review the work of the individual.
 - Performing regular independent internal or external quality reviews of the engagement.

R540.54 If a firm decides that the level of the threats created can only be addressed by rotating the individual off the audit team, the firm shall determine an appropriate period during which the individual shall not:

- (a) Be a member of the engagement team for the audit engagement;
- (b) Perform an engagement quality review, or a review consistent with the objective of an engagement quality review, for the engagement; or
- (c) Exert direct influence on the outcome of the audit engagement.

The period shall be of sufficient duration to allow the familiarity and self-interest threats to be addressed. In the case of a public interest entity, paragraphs R540.75 to R540.229 also apply.

R540.6 Where an individual is a member of both the audit team and the sustainability assurance –team for the same client and the firm decides that the level of the threats created can only be addressed by rotating the individual off both the audit team and the sustainability assurance team, the firm shall, in addition to complying with paragraph R540.5, determine an appropriate period during which the individual shall not:

- (a) Be a member of the engagement team for the sustainability assurance engagement;
- (b) Perform an engagement quality review, or a review consistent with the objective of an engagement quality review, for the sustainability assurance engagement; or
- (c) Exert direct influence on the outcome of the sustainability assurance engagement.

The period shall be of sufficient duration to allow the familiarity and self-interest threats to be addressed. In the case of a public interest entity, paragraphs R540.7 to R540.22 also apply.

Audit Clients that are Public Interest Entities

R540.75 Subject to paragraphs R540.97 to R540.119, in respect of an audit of a public interest entity, an individual shall not act in any of the following roles, or a combination of such roles, for a period of more than seven cumulative years (the “time-on” period):

- (a) The engagement partner;
- (b) The individual appointed as responsible for performing the engagement quality review; ~~or~~
- (c) Any other key audit partner role; ~~or~~
- (d) A key sustainability assurance leader.

After the time-on period, the individual shall serve a “cooling-off” period in accordance with the provisions in paragraphs R540.134 to R540.2149.

R540.86 In calculating the time-on period, the count of years shall not be restarted unless the individual ceases to act in any one of the roles in paragraph R540.75(a) to (d) for a minimum period. This minimum period is a consecutive period equal to at least the cooling-off period determined in accordance with paragraphs R540.134 to R540.153 as applicable to the role in which the individual served in the year immediately before ceasing such involvement.

540.86 A1 For example,

- An individual who served as engagement partner for four years followed by three years off can only act thereafter as a key audit partner on the same audit engagement for three further years (making a total of seven cumulative years). Thereafter, that individual is required to cool off in accordance with paragraph R540.175.

- An individual who served as engagement partner for two years for the audit of the sustainability assurance client's financial statements might be appointed as the individual responsible for performing the engagement quality review for the sustainability assurance engagement for five further years. Thereafter, that individual is required to cool off in accordance with paragraph R540.18.

R540.97 As an exception to paragraph R540.75, key audit partners whose continuity is especially important to audit quality may, in rare cases due to unforeseen circumstances outside the firm's control, and with the concurrence of those charged with governance, be permitted to serve an additional year as a key audit partner as long as the threat to independence can be eliminated or reduced to an acceptable level.

540.97 A1 For example, a key audit partner may remain in that role on the audit team for up to one additional year in circumstances where, due to unforeseen events, a required rotation was not possible, as might be the case due to serious illness of the intended engagement partner. In such circumstances, this will involve the firm discussing with those charged with governance the reasons why the planned rotation cannot take place and the need for any safeguards to reduce any threat created.

R540.108 If an audit client becomes a public interest entity, a firm shall take into account the length of time an individual has served the audit client as a key audit partner or a key sustainability assurance leader before the client becomes a public interest entity in determining the timing of the rotation. If the individual has served the audit client as a key audit partner or a key sustainability assurance leader for a period of five cumulative years or less when the client becomes a public interest entity, the number of years the individual may continue to serve the client in ~~that the~~ capacity of a key audit partner before rotating off the audit engagement is seven years less the number of years already served. As an exception to paragraph R540.75, if the individual has served the audit client as a key audit partner or a key sustainability assurance leader for a period of six or more cumulative years when the client becomes a public interest entity, the individual may continue to serve in ~~that the~~ capacity of a key audit partner with the concurrence of those charged with governance for a maximum of two additional years before rotating off the audit engagement.

R540.119 When a firm has only a few people with the necessary knowledge and experience to serve as a key audit partner on the audit of a public interest entity, rotation of key audit partners might not be possible. As an exception to paragraph R540.75, if an independent regulatory body in the relevant jurisdiction has provided an exemption from partner rotation in such circumstances, an individual may remain a key audit partner for more than seven years, in accordance with such exemption. This is provided that the independent regulatory body has specified other requirements which are to be applied, such as the length of time that the key audit partner may be exempted from rotation or a regular independent external review.

Other Considerations Relating to the Time-on Period

R540.120 In evaluating the threats created by an individual's long association with an audit engagement, a firm shall give particular consideration to the roles undertaken and the length of an individual's association with the audit engagement or the sustainability assurance engagement for the same client prior to the individual becoming a key audit partner.

540.120 A1 There might be situations where the firm, in applying the conceptual framework, concludes that it is not appropriate for an individual who is a key audit partner to continue in that role even though the length of time served as a key audit partner is less than seven years.

Cooling-off Period

- R540.1~~31~~** If the individual acted as the engagement partner for seven cumulative years, the cooling-off period shall be five consecutive years.
- R540.1~~42~~** Where the individual has been appointed as responsible for the engagement quality review and has acted in that capacity for seven cumulative years, the cooling-off period shall be three consecutive years.
- R540.1~~53~~** If the individual has acted as a key audit partner other than in the capacities set out in paragraphs R540.1~~31~~ and R540.1~~42~~ for seven cumulative years, the cooling-off period shall be two consecutive years.
- 540.1~~64~~ A1 The partner rotation requirements in this section are distinct from, and do not modify, the cooling-off period required by ISQM 2 as a condition for eligibility before the engagement partner can assume the role of engagement quality reviewer (see paragraph 325.8 A4).

Service in a combination of key audit partner or key sustainability assurance leader roles

- R540.1~~75~~** If the individual acted in a combination of key audit partner or key sustainability assurance leader roles and served as the engagement partner or engagement leader for four or more cumulative years, the cooling-off period shall be five consecutive years.
- R540.1~~86~~** Subject to paragraph R540.1~~97~~(a), if the individual acted in a combination of key audit partner or key sustainability assurance leader roles and served as the key audit partner or key sustainability assurance leader responsible for the engagement quality review for four or more cumulative years, the cooling-off period shall be three consecutive years.
- R540.1~~97~~** If an individual has acted in a combination of engagement partner, engagement leader and engagement quality reviewer roles for four or more cumulative years during the time-on period, the cooling-off period shall:
- (a) As an exception to paragraph R540.1~~86~~, be five consecutive years where the individual has been the engagement partner or engagement leader for three or more years; or
 - (b) Be three consecutive years in the case of any other combination.
- R540.2~~018~~** If the individual acted in any combination of key audit partner or key sustainability assurance leader roles other than those addressed in paragraphs R540.1~~75~~ to R540.1~~97~~, the cooling-off period shall be two consecutive years.

Service at a Prior Firm

- R540.2~~119~~** In determining the number of years that an individual has been a key audit partner or a key sustainability assurance leader as set out in paragraph R540.7~~5~~, the length of the relationship shall, where relevant, include time while the individual was a key audit partner on ~~that the audit~~ engagement or a key sustainability assurance leader on the sustainability assurance engagement for the same client at a prior firm.

[Paragraph R540.220 Intentionally left blank]

Restrictions on Activities During the Cooling-off Period

R540.234 For the duration of the relevant cooling-off period, the individual shall not:

- (a) Be an engagement team member or perform an engagement quality review, or a review consistent with the objective of an engagement quality review for the audit engagement or the sustainability assurance engagement;
- (b) Consult with the engagement team or the client regarding technical or industry-specific issues, transactions or events affecting the audit engagement or sustainability assurance engagement (other than discussions with the engagement team limited to work undertaken or conclusions reached in the last year of the individual's time-on period where this remains relevant to the audit engagement or sustainability assurance engagement);
- (c) Be responsible for leading or coordinating the professional services provided by the firm or a network firm to the audit client, or overseeing the relationship of the firm or a network firm with the audit client; or
- (d) Undertake any other role or activity not referred to above with respect to the audit client, including the provision of non-assurance services, that would result in the individual:
 - (i) Having significant or frequent interaction with senior management or those charged with governance; or
 - (ii) Exerting direct influence on the outcome of the audit engagement or sustainability assurance engagement.

540.234 A1 The provisions of paragraph R540.234 are not intended to prevent the individual from assuming a leadership role in the firm or a network firm, such as that of the Senior or Managing Partner (Chief Executive or equivalent).

PART 4B – INDEPENDENCE FOR ASSURANCE ENGAGEMENTS OTHER THAN AUDIT ENGAGEMENTS, AND REVIEW ENGAGEMENTS, AND SUSTAINABILITY ASSURANCE ENGAGEMENTS ADDRESSED IN PART 5

SECTION 900

APPLYING THE CONCEPTUAL FRAMEWORK TO INDEPENDENCE FOR ASSURANCE ENGAGEMENTS OTHER THAN AUDIT ENGAGEMENTS, AND REVIEW ENGAGEMENTS, AND SUSTAINABILITY ASSURANCE ENGAGEMENTS WITHIN THE SCOPE OF THE INTERNATIONAL INDEPENDENCE STANDARDS IN PART 5

Introduction

General

900.1 This Part applies to assurance engagements other than audit engagements, ~~and~~ review engagements, and sustainability assurance engagements within the scope of the International Independence Standards in Part 5. Examples of such engagements include:

- Assurance on an entity's key performance indicators.
- Assurance on an entity's compliance with law or regulation.
- Assurance on performance criteria, such as value for money, achieved by a public sector body.
- Assurance on the effectiveness of an entity's system of internal control.
- Assurance on an entity's non-financial information, other than assurance on sustainability information within the scope of the International Independence Standards in Part 5.
- An audit of specific elements, accounts or items of a financial statement.
- A sustainability assurance engagement that is not within the scope of the International Independence Standards in Part 5, for example:
 - A sustainability assurance engagement where the sustainability information on which the sustainability assurance practitioner expresses an opinion is reported in accordance with a framework designed to meet the information needs of specified users.
 - A sustainability assurance engagement where the sustainability information on which the sustainability assurance practitioner expresses an opinion is reported in accordance with entity-developed criteria.
 - A sustainability assurance engagement for which the sustainability assurance report is a restricted use and distribution report.

(...)

Audit and Review Engagements

900.10 Independence standards for audit and review engagements are set out in Part 4A – Independence for Audit and Review Engagements. If a firm performs both an assurance engagement and an audit or review engagement for the same client, the requirements in Part 4A continue to apply to the firm, a network firm and the audit or review team members.

Sustainability Assurance Engagements Addressed in Part 5

900.11 Part 5 sets out independence standards for certain sustainability assurance engagements. If a firm performs both a sustainability assurance engagement within the scope of the International Independence Standards in Part 5 and another assurance engagement within the scope of this Part for the same client, the requirements in Part 5 continue to apply to the firm, a network firm and the sustainability assurance team members.

CHAPTER 4 – PROPOSED SUSTAINABILITY REPORTING-RELATED REVISIONS TO PARTS 1 TO 3 OF INTERNATIONAL CODE OF ETHICS FOR PROFESSIONAL ACCOUNTANTS (INCLUDING INTERNATIONAL INDEPENDENCE STANDARDS) (MARK-UP FROM 2024 VERSION)

PART 1 – COMPLYING WITH THE CODE, FUNDAMENTAL PRINCIPLES AND CONCEPTUAL FRAMEWORK

SECTION 100

COMPLYING WITH THE CODE

Introduction

100.1 A distinguishing mark of the accountancy profession is its acceptance of the responsibility to act in the public interest.

100.2 Confidence in the accountancy profession is a reason why businesses, governments and other organizations involve professional accountants in a broad range of areas, including financial, non-financial and corporate reporting, assurance and other professional activities. Accountants understand and acknowledge that such confidence is based on the skills and values that accountants bring to the professional activities they undertake, including:

- (a) Adherence to ethical principles and professional standards;
- (b) Use of business acumen;
- (c) Application of expertise on technical and other matters; and
- (d) Exercise of professional judgment.

The application of these skills and values enables accountants to provide advice or other output that meets the purpose for which it was provided, and which can be relied upon by the intended users of such output.

100.3 The Code sets out high quality standards of ethical behavior expected of professional accountants for adoption by professional accountancy organizations which are members of the International Federation of Accountants (IFAC), or for use by such members as a basis for their codes of ethics. The Code may also be used or adopted by those responsible for setting ethics (including independence) standards for professional accountants in particular sectors or jurisdictions and by firms in developing their ethics and independence policies.

100.4 The Code establishes five fundamental principles to be complied with by all professional accountants. It also includes a conceptual framework that sets out the approach to be taken to identify, evaluate and address threats to compliance with those fundamental principles and, for audits and other assurance engagements, threats to independence. The Code also applies the fundamental principles and the conceptual framework to a range of facts and circumstances that accountants might encounter, whether in business or in public practice.

(....)

PART 2 – PROFESSIONAL ACCOUNTANTS IN BUSINESS

SECTION 200

APPLYING THE CONCEPTUAL FRAMEWORK – PROFESSIONAL ACCOUNTANTS IN BUSINESS

Introduction

- 200.1 This Part of the Code sets out requirements and application material for professional accountants in business when applying the conceptual framework set out in Section 120. It does not describe all of the facts and circumstances, including professional activities, interests and relationships, that could be encountered by professional accountants in business, which create or might create threats to compliance with the fundamental principles. Therefore, the conceptual framework requires professional accountants in business to be alert for such facts and circumstances.
- 200.2 Investors, creditors, employing organizations and other sectors of the business community, as well as governments and the general public, might rely on the work of professional accountants in business. Professional accountants in business might be solely or jointly responsible for the preparation and reporting of financial and ~~non-financial~~ ~~other~~ information, including sustainability information, on which both their employing organizations and third parties might rely. They might also be responsible for providing effective financial management and competent advice on a variety of business-related matters.
- 200.3 A professional accountant in business might be an employee, contractor, partner, director (executive or non-executive), owner-manager, or volunteer of an employing organization. The legal form of the relationship of the accountant with the employing organization has no bearing on the ethical responsibilities placed on the accountant.

(....)

Identifying Threats

- 200.6 A1 Threats to compliance with the fundamental principles might be created by a broad range of facts and circumstances. The categories of threats are described in paragraph 120.6 A3. The following are examples of facts and circumstances within each of those categories that might create threats for a professional accountant when undertaking a professional activity:
- (a) Self-interest Threats
- A professional accountant holding a financial interest in, or receiving a loan or guarantee from, the employing organization.
 - A professional accountant participating in incentive compensation arrangements offered by the employing organization.
 - A professional accountant holding a financial interest in a supplier of the employing organization and that supplier is impacted by the employing organization's sustainability targets or practices.
 - A professional accountant having access to corporate assets for personal use.
 - A professional accountant being offered a gift or special treatment from a supplier of the employing organization.

(b) Self-review Threats

- A professional accountant determining the appropriate accounting treatment for a business combination after performing the feasibility study supporting the purchase decision.
- A professional accountant determining the appropriate methodology to calculate emission reductions after performing the feasibility study supporting a capital project to reduce emissions.

(c) Advocacy Threats

- A professional accountant having the opportunity to manipulate information in a prospectus, including in relation to a sustainability or sustainability-linked bond, in order to obtain favorable financing.

(d) Familiarity Threats

- A professional accountant being responsible for the financial or non-financial, including sustainability, reporting of the employing organization when an immediate or close family member employed by the organization makes decisions that affect the financial or non-financial reporting of the organization.
- A professional accountant having a long association with individuals influencing business decisions.

(e) Intimidation Threats

- A professional accountant or immediate or close family member facing the threat of dismissal or replacement over a disagreement about:
 - The application of an accounting principle or a sustainability reporting principle.
 - The determination of measurement methods, metrics, targets, estimation criteria or assumptions for sustainability information.
 - The way in which financial or non-financial information is to be reported.
- An individual attempting to influence the decision-making process of the professional accountant, for example with regard to the awarding of contracts or the application of an accounting principle or a sustainability reporting principle.

Identifying Threats Associated with the Use of Technology

200.6 A2 The following are examples of facts and circumstances relating to the use of technology that might create threats for a professional accountant when undertaking a professional activity:

- Self-interest Threats
 - The data available might not be sufficient for the effective use of the technology.
 - The technology might not be appropriate for the purpose for which it is to be used.
 - The accountant might not have sufficient information and expertise, or access to an expert with sufficient understanding, to use and explain the technology and its appropriateness for the purpose intended.

(Ref: Para. 230.2).

- Self-review Threats
 - The technology was designed or developed using the knowledge, expertise or judgment of the accountant or employing organization.

(....)

Communicating with Those Charged with Governance

R200.9 When communicating with those charged with governance in accordance with the Code, a professional accountant shall determine the appropriate individual(s) within the employing organization's governance structure with whom to communicate. If the accountant communicates with a subgroup of those charged with governance, the accountant shall determine whether communication with all of those charged with governance is also necessary so that they are adequately informed.

200.9 A1 In determining with whom to communicate, a professional accountant might consider:

- (a) The nature and importance of the circumstances; and
- (b) The matter to be communicated.

200.9 A2 Examples of a subgroup of those charged with governance include an audit committee, another committee tasked with oversight of sustainability information, or an individual member of those charged with governance.

R200.10 If a professional accountant communicates with individuals who have management responsibilities as well as governance responsibilities, the accountant shall be satisfied that communication with those individuals adequately informs all of those in a governance role with whom the accountant would otherwise communicate.

200.10 A1 In some circumstances, all of those charged with governance are involved in managing the employing organization, for example, a small business where a single owner manages the organization and no one else has a governance role. In these cases, if matters are communicated with individual(s) with management responsibilities, and those individual(s) also have governance responsibilities, the professional accountant has satisfied the requirement to communicate with those charged with governance.

SECTION 210

CONFLICTS OF INTEREST

(....)

Requirements and Application Material

General

R210.4 A professional accountant shall not allow a conflict of interest to compromise professional or business judgment.

210.4 A1 Examples of circumstances that might create a conflict of interest include:

- Serving in a management or governance position for two employing organizations and acquiring confidential information from one organization that might be used by the professional accountant to the advantage or disadvantage of the other organization.
- Undertaking a professional activity for each of two parties in a partnership, where both parties are employing the accountant to assist them to dissolve their partnership.
- Preparing financial or non-financial information for certain members of management of the accountant's employing organization who are seeking to undertake a management buy-out.
- Being responsible for selecting a vendor for the employing organization when an immediate family member of the accountant might benefit financially from the transaction.
- Serving in a governance capacity in an employing organization that is approving certain investments for the company where one of those investments will increase the value of the investment portfolio of the accountant or an immediate family member.

Conflict Identification

R210.5 A professional accountant shall take reasonable steps to identify circumstances that might create a conflict of interest, and therefore a threat to compliance with one or more of the fundamental principles. Such steps shall include identifying:

- (a) The nature of the relevant interests and relationships between the parties involved; and
- (b) The activity and its implication for relevant parties.

(....)

SECTION 220

PREPARATION AND PRESENTATION OF INFORMATION

Introduction

- 220.1 Professional accountants are required to comply with the fundamental principles and apply the conceptual framework set out in Section 120 to identify, evaluate and address threats.
- 220.2 Preparing or presenting information might create a self-interest, intimidation or other threats to compliance with one or more of the fundamental principles. This section sets out specific requirements and application material relevant to applying the conceptual framework in such circumstances.

Requirements and Application Material

General

220.3 A1 Professional accountants at all levels in an employing organization are involved in the preparation or presentation of information both within and outside the organization.

220.3 A2 Stakeholders to whom, or for whom, such information is prepared or presented, include:

- Management and those charged with governance.
- Investors and lenders or other creditors.
- Regulatory bodies.

This information might assist stakeholders in understanding and evaluating aspects of the employing organization's operations and state of affairs and in making decisions concerning the organization. Information can include financial and non-financial information that might be made public or used for internal purposes.

Examples include:

- Operating and performance reports.
- Decision support analyses.
- Budgets and forecasts.
- Information provided to the internal and external auditors.
- Sustainability information, including information provided to the sustainability assurance practitioner.
- Risk and impact analyses.
- General and special purpose financial statements.
- Tax returns.
- Reports filed with regulatory bodies for legal and compliance purposes.

220.3 A3 For the purposes of this section, preparing or presenting information includes collecting, recording, measuring, maintaining and approving information.

R220.4 When preparing or presenting information, a professional accountant shall:

- (a) Prepare or present the information in accordance with a relevant reporting framework, where applicable;
- (b) Prepare or present the information in a manner that is intended neither to mislead others nor to influence contractual or regulatory outcomes inappropriately;
- (c) Exercise professional judgment to:
 - (i) Represent the facts accurately and completely in all material respects;
 - (ii) Describe clearly the true nature and impacts of business transactions or activities; and
 - (iii) Collect, Classify, and record or measure information in a timely and proper manner;
- (d) Not omit anything with the intention of rendering the information misleading or of influencing contractual or regulatory outcomes inappropriately;
- (e) Avoid undue influence of, or undue reliance on, individuals, organizations or technology; and
- (f) Be aware of the risk of bias.

220.4 A1 An example of preparing or presenting the information in a manner that is intended to mislead others is deliberately giving a false impression in sustainability information about how well an organization or an investment is aligned with or achieving its sustainability goals, through practices such as:

- Omitting relevant information to misrepresent the nature and impacts of business activities.
- Including false information.
- Inappropriately applying or reporting metrics.
- Placing excessive emphasis on certain information while understating other information.

220.4 A~~2~~⁴ An example of influencing a contractual or regulatory outcome inappropriately is using an unrealistic estimate with the intention of avoiding violation of a contractual requirement such as a debt covenant or of a regulatory requirement such as a capital requirement for a financial institution.

220.4 A3 An example of placing undue reliance on an organization is using the data provided by a large supplier within the entity's value chain to prepare or present the entity's sustainability information, without considering the source, relevance and sufficiency of that supplier's data.

Use of Discretion in Preparing or Presenting Information

R220.5 Preparing or presenting information might require the exercise of discretion in making professional judgments. The professional accountant shall not exercise such discretion with the intention of misleading others or influencing contractual or regulatory outcomes inappropriately.

220.5 A1 Examples of ways in which discretion might be misused to achieve inappropriate outcomes include:

- Determining estimates, for example, determining fair value estimates in order to misrepresent profit or loss.
- Selecting or changing an accounting policy or method among two or more alternatives permitted under the applicable financial reporting framework, for example, selecting a policy for accounting for long-term contracts in order to misrepresent profit or loss.
- Selecting or changing measurement methods among two or more alternatives permitted under the applicable sustainability reporting framework in order to misrepresent information.

- Performing a materiality assessment on opportunities, risks or impacts in order to misrepresent or omit sustainability information.
- Determining the timing of transactions, for example, timing the sale of an asset near the end of the fiscal year in order to mislead.
- Determining the timing of disclosures of sustainability information to achieve a more favorable presentation or outcome in order to mislead.
- Determining the structuring of transactions, for example, structuring financing transactions in order to misrepresent assets and liabilities or classification of cash flows.
- Selecting disclosures, for example, omitting or obscuring information relating to financial, sustainability or operating risk in order to mislead.
- Preparing forward-looking information by relying on assumptions that are unrealistic or inconsistent with management's decisions or objectives in order to mislead.

R220.6 When performing professional activities, especially those that do not require compliance with a relevant reporting framework, the professional accountant shall exercise professional judgment to identify and consider:

- (a) The purpose for which the information is to be used;
- (b) The context within which it is given; and
- (c) The audience to whom it is addressed.

220.6 A1 For example, when preparing or presenting sustainability information or pro forma reports, budgets or forecasts, the inclusion of relevant estimates, approximations and assumptions, where appropriate, would enable those who might rely on such information to form their own judgments.

220.6 A2 The professional accountant might also consider clarifying the intended audience, context and purpose of the information to be presented.

Using the Work of Others

R220.7 A professional accountant who intends to use the work of others, whether internal or external to the employing organization, or other organizations, shall exercise professional judgment to determine the appropriate steps to take, if any, in order to fulfill the responsibilities set out in paragraph R220.4.

220.7 A1 For the purposes of this section, the work of others excludes the work of an external expert. When a professional accountant intends to use the work of an external expert, the requirements and application material set out in Section 290 apply.

220.7 A~~2~~⁴ Factors to consider when a professional accountant intends to use the work of others include:

- The reputation and expertise~~competence~~ of, and resources available to, the other individual or organization.
- Whether the other individual is subject to applicable professional and ethics standards.

Such information might be gained from prior association with, or from consulting others about, the other individual or organization.

Using the Output of Technology

R220.8 A professional accountant who intends to use the output of technology, whether that technology was developed internally or provided by third parties, shall exercise professional judgment to determine the appropriate steps to take, if any, in order to fulfill the responsibilities set out in paragraph R220.4.

220.8 A1 Factors to consider when a professional accountant intends to use the output of technology include:

- The nature of the activity to be performed by the technology.
- The expected use of, or extent of reliance on, the output of the technology.
- Whether the accountant has the ability, or has access to an expert with the ability, to understand, use and explain the technology and its appropriateness for the purpose intended.
- Whether the technology used has been appropriately tested and evaluated for the purpose intended.
- Prior experience with the technology and whether its use for specific purposes is generally accepted.
- The employing organization's oversight of the design, development, implementation, operation, maintenance, monitoring, updating or upgrading of the technology.
- The controls relating to the use of the technology, including procedures for authorizing user access to the technology and overseeing such use.
- The appropriateness of the inputs to the technology, including data and any related decisions, and decisions made by individuals in the course of using the technology.

Addressing Information that Is or Might be Misleading

R220.9 When the professional accountant knows or has reason to believe that the information with which the accountant is associated is misleading, the accountant shall take appropriate actions to seek to resolve the matter.

220.9 A1 Actions that might be appropriate include:

- Discussing concerns that the information is misleading with the professional accountant's superior and/or the appropriate level(s) of management within the accountant's employing organization or those charged with governance, and requesting such individuals to take appropriate action to resolve the matter. Such action might include:
 - Having the information corrected.
 - If the information has already been disclosed to the intended users, informing them of the correct information.
- Consulting the policies and procedures of the employing organization (for example, an ethics or whistle-blowing policy) regarding how to address such matters internally.

220.9 A2 The professional accountant might determine that the employing organization has not taken appropriate action. If the accountant continues to have reason to believe that the information is misleading, the following further actions might be appropriate provided that the accountant remains alert to the principle of confidentiality:

- Consulting with:
 - A relevant professional body.
 - The internal or external auditor or sustainability assurance practitioner of the employing organization.
 - Legal counsel.
- Determining whether any requirements exist to communicate to:
 - Third parties, including users of the information.
 - Regulatory and oversight authorities.

R220.10 If after exhausting all feasible options, the professional accountant determines that appropriate action has not been taken and there is reason to believe that the information is still misleading, the accountant shall refuse to be or to remain associated with the information.

220.10 A1 In such circumstances, it might be appropriate for a professional accountant to resign from the employing organization.

Documentation

220.11 A1 The professional accountant is encouraged to document:

- The facts.
- The accounting or reporting principles or other relevant professional standards involved.
- The communications and parties with whom matters were discussed.
- The accountant's analysis, assumptions, courses of action considered, and judgments and decisions made in preparing or presenting the information.
- How the accountant attempted to address the matter(s).

Other Considerations

220.12 A1 Where threats to compliance with the fundamental principles relating to the preparation or presentation of information arise from a financial interest, including compensation and incentives linked to financial or non-financial, including sustainability, reporting and decision making, the requirements and application material set out in Section 240 apply.

220.12 A2 Where the misleading information might involve non-compliance with laws and regulations, the requirements and application material set out in Section 260 apply.

220.12 A3 Where threats to compliance with the fundamental principles relating to the preparation or presentation of information arise from pressure, the requirements and application material set out in Section 270 apply.

220.12 A4 When a professional accountant is considering using the work of others or the output of technology, a consideration is whether the accountant is in a position within the employing organization to obtain information in relation to the factors necessary to determine whether such use is appropriate.

SECTION 240

FINANCIAL INTERESTS, COMPENSATION AND INCENTIVES LINKED TO FINANCIAL OR NON-FINANCIAL REPORTING AND DECISION MAKING

(....)

Requirements and Application Material

General

R240.3 A professional accountant shall not manipulate information or use confidential information for personal gain or for the financial gain of others.

240.3 A1 Professional accountants might have financial interests or might know of financial interests of immediate or close family members that, in certain circumstances, might create threats to compliance with the fundamental principles. Financial interests include those arising from compensation or incentive arrangements linked to financial or non-financial, including sustainability, reporting and decision making.

240.3 A2 Examples of circumstances that might create a self-interest threat include situations in which the professional accountant or an immediate or close family member:

- Has a motive and opportunity to manipulate price-sensitive information in order to gain financially.
- Holds a direct or indirect financial interest in the employing organization and the value of that financial interest might be directly affected by decisions made by the accountant.
- Is eligible for a ~~profit-related~~-bonus or incentive based on financial or non-financial performance goals and the value of that bonus or incentive might be directly affected by decisions made by the accountant.
- Holds, directly or indirectly, deferred bonus share rights or share options in the employing organization, the value of which might be affected by decisions made by the accountant.
- Participates in compensation arrangements which provide incentives to achieve targets or to support efforts to maximize the value of the employing organization's shares. An example of such an arrangement might be through participation in incentive plans which are linked to certain financial or non-financial performance conditions being met.

240.3 A3 Factors that are relevant in evaluating the level of such a threat include:

- The significance of the financial interest. What constitutes a significant financial interest will depend on personal circumstances and the materiality of the financial interest to the individual.
- Policies and procedures for a committee independent of management to determine the level or form of senior management remuneration.
- In accordance with any internal policies, disclosure to those charged with governance of:
 - All relevant interests.
 - Any plans to exercise entitlements or trade in relevant shares.
- Internal and external audit procedures that are specific to address issues that give rise to the financial interest.

240.3 A4 Threats created by compensation or incentive arrangements might be compounded by explicit or implicit pressure from superiors or colleagues. See Section 270, *Pressure to Breach the Fundamental Principles*.

SECTION 270

PRESSURE TO BREACH THE FUNDAMENTAL PRINCIPLES

Introduction

- 270.1 Professional accountants are required to comply with the fundamental principles and apply the conceptual framework set out in Section 120 to identify, evaluate and address threats.
- 270.2 Pressure exerted on, or by, a professional accountant might create an intimidation or other threat to compliance with one or more of the fundamental principles. This section sets out specific requirements and application material relevant to applying the conceptual framework in such circumstances.

Requirements and Application Material

General

- R270.3** A professional accountant shall not:
- (a) Allow pressure from others to result in a breach of compliance with the fundamental principles; or
 - (b) Place pressure on others that the accountant knows, or has reason to believe, would result in the other individuals breaching the fundamental principles.
- 270.3 A1 A professional accountant might face pressure that creates threats to compliance with the fundamental principles, for example an intimidation threat, when undertaking a professional activity. Pressure might be explicit or implicit and might come from:
- Within the employing organization, for example, from a colleague or superior.
 - An external individual or organization such as a vendor, customer or lender.
 - Internal or external targets and expectations.
- 270.3 A2 Examples of pressure that might result in threats to compliance with the fundamental principles include:
- Pressure related to conflicts of interest:
 - Pressure from a family member bidding to act as a vendor to the professional accountant's employing organization to select the family member over another prospective vendor.

See also Section 210, *Conflicts of Interest*.
 - Pressure to influence preparation or presentation of information:
 - Pressure to report misleading financial or non-financial results to meet investor, analyst, ~~or~~ lender or other stakeholder expectations.
 - Pressure from elected officials on public sector accountants to misrepresent programs or projects to voters.
 - Pressure to misrepresent, through labeling or otherwise, how certain programs, projects or products are aligned to or achieving sustainability goals.
 - Pressure from colleagues to misstate income, expenditure, ~~or~~ rates of return or sustainability information to bias decision-making on capital projects and acquisitions.

- Pressure from superiors to approve or process expenditures that are not legitimate business expenses.

- Pressure to suppress internal audit reports containing adverse findings.

See also Section 220, *Preparation and Presentation of Information*.

- Pressure to act without sufficient expertise or due care:

- Pressure from superiors to inappropriately reduce the extent of work performed.

- Pressure from superiors to perform a task without sufficient skills or training or within unrealistic deadlines.

- Pressure from superiors to prepare sustainability information with insufficient data or deficiencies in the quality and accuracy of data available.

See also Section 230, *Acting with Sufficient Expertise*.

- Pressure related to financial interests:

- Pressure from superiors, colleagues or others, for example, those who might benefit from participation in compensation or incentive arrangements to manipulate financial or non-financial performance indicators.

See also Section 240, *Financial Interests, Compensation and Incentives Linked to Financial or Non-Financial Reporting and Decision Making*.

- Pressure related to inducements:

- Pressure from others, either internal or external to the employing organization, to offer inducements to influence inappropriately the judgment or decision making process of an individual or organization.

- Pressure from colleagues to accept a bribe or other inducement, for example to accept inappropriate gifts or entertainment from potential vendors in a bidding process.

See also Section 250, *Inducements, Including Gifts and Hospitality*.

- Pressure related to non-compliance with laws and regulations:

- Pressure to structure a transaction to evade tax.

- Pressure to manipulate sustainability information to avoid fines for breaches of environmental laws and regulations.

See also Section 260, *Responding to Non-compliance with Laws and Regulations*.

- Pressure related to level of fees:

- Pressure exerted by a professional accountant on another professional accountant to provide professional services at a fee level that does not allow for sufficient and appropriate resources (including human, technological and intellectual resources) to perform the services in accordance with technical and professional standards.

See also Section 330, *Fees and Other Types of Remuneration*

- 270.3 A3 Factors that are relevant in evaluating the level of threats created by pressure include:
- The intent of the individual who is exerting the pressure and the nature and extent of the pressure.
 - The application of laws, regulations, and professional standards to the circumstances.
 - The culture and leadership of the employing organization including the extent to which they reflect or emphasize the importance of ethical behavior and the expectation that employees will act ethically. For example, a corporate culture that tolerates unethical behavior might increase the likelihood that the pressure would result in a threat to compliance with the fundamental principles.
 - Policies and procedures, if any, that the employing organization has established, such as ethics or human resources policies that address pressure.
- 270.3 A4 Discussing the circumstances creating the pressure and consulting with others about those circumstances might assist the professional accountant to evaluate the level of the threat. Such discussion and consultation, which requires being alert to the principle of confidentiality, might include:
- Discussing the matter with the individual who is exerting the pressure to seek to resolve it.
 - Discussing the matter with the accountant's superior, if the superior is not the individual exerting the pressure.
 - Escalating the matter within the employing organization, including when appropriate, explaining any consequential risks to the organization, for example with:
 - Higher levels of management.
 - Internal or external auditors or the sustainability assurance practitioner.
 - Those charged with governance.
 - Disclosing the matter in line with the employing organization's policies, including ethics and whistleblowing policies, using any established mechanism, such as a confidential ethics hotline.
 - Consulting with:
 - A colleague, superior, human resources personnel, or another professional accountant;
 - Relevant professional or regulatory bodies or industry associations; or
 - Legal counsel.
- 270.3 A5 An example of an action that might eliminate threats created by pressure is the professional accountant's request for a restructure of, or segregation of, certain responsibilities and duties so that the accountant is no longer involved with the individual or entity exerting the pressure.

Documentation

- 270.4 A1 The professional accountant is encouraged to document:
- The facts.
 - The communications and parties with whom these matters were discussed.
 - The courses of action considered.
 - How the matter was addressed.

PART 3 – PROFESSIONAL ACCOUNTANTS IN PUBLIC PRACTICE

SECTION 300

APPLYING THE CONCEPTUAL FRAMEWORK – PROFESSIONAL ACCOUNTANTS IN PUBLIC PRACTICE

(....)

Requirements and Application Material

General

R300.4 A professional accountant shall comply with the fundamental principles set out in Section 110 and apply the conceptual framework set out in Section 120 to identify, evaluate and address threats to compliance with the fundamental principles.

R300.5 When dealing with an ethics issue, the professional accountant shall consider the context in which the issue has arisen or might arise. Where an individual who is a professional accountant in public practice is performing professional activities pursuant to the accountant's relationship with the firm, whether as a contractor, employee or owner, the individual shall comply with the provisions in Part 2 that apply to these circumstances.

300.5 A1 Examples of situations in which the provisions in Part 2 apply to a professional accountant in public practice include:

- Facing a conflict of interest when being responsible for selecting a vendor for the firm when an immediate family member of the accountant might benefit financially from the contract. The requirements and application material set out in Section 210 apply in these circumstances.
- Preparing or presenting financial or non-financial information, including sustainability information, for the accountant's client or firm. The requirements and application material set out in Section 220 apply in these circumstances.
- Being offered an inducement such as being regularly offered complimentary tickets to attend sporting events by a supplier of the firm. The requirements and application material set out in Section 250 apply in these circumstances.
- Facing pressure from an engagement partner to report chargeable hours inaccurately for a client engagement. The requirements and application material set out in Section 270 apply in these circumstances.

300.5 A2 The more senior the position of a professional accountant, the greater will be the ability and opportunity to access information, and to influence policies, decisions made and actions taken by others involved with the firm. To the extent that they are able to do so, taking into account their position and seniority in the firm, accountants are expected to encourage and promote an ethics-based culture in the firm and exhibit ethical behavior in dealings with individuals with whom, and entities with which, the accountant or the firm has a professional or business relationship in accordance with paragraph 120.13 A3. Examples of actions that might be taken include the introduction, implementation and oversight of:

- Ethics education and training programs.
- Firm processes and performance evaluation and reward criteria that promote an ethical culture.

- Ethics and whistle-blowing policies.
- Policies and procedures designed to prevent non-compliance with laws and regulations.

Identifying Threats

300.6 A1 Threats to compliance with the fundamental principles might be created by a broad range of facts and circumstances. The categories of threats are described in paragraph 120.6 A3. The following are examples of facts and circumstances within each of those categories of threats that might create threats for a professional accountant when undertaking a professional service:

(a) Self-interest Threats

- A professional accountant having a direct financial interest in a client.
- A professional accountant quoting a low fee to obtain a new engagement and the fee is so low that it might be difficult to perform the professional service in accordance with applicable technical and professional standards for that price.
- A professional accountant having a close business relationship with a client.
- A professional accountant having access to confidential information that might be used for personal gain.
- A professional accountant discovering a significant error when evaluating the results of a previous professional service performed by a member of the accountant's firm.
- A professional accountant having incentives linked to the outcome of a professional service to prepare sustainability information.

(b) Self-review Threats

- A professional accountant issuing an assurance report on the effectiveness of the operation of financial systems after implementing the systems.
- A professional accountant having contributed to the preparation of the original data used to generate records that are the subject matter of the assurance engagement.

(c) Advocacy Threats

- A professional accountant promoting the interests of, or shares in, a client.
- A professional accountant acting as an advocate on behalf of a client in litigation or disputes with third parties.
- A professional accountant lobbying in favor of legislation on behalf of a client.
- A professional accountant promoting a particular sustainability-related initiative, product or service on behalf of a client.

(d) Familiarity Threats

- A professional accountant having a close or immediate family member who is a director or officer of the client.
- A director or officer of the client, or an employee in a position to exert significant influence over the subject matter of the engagement, having recently served as the engagement partner.

- An audit team member having a long association with the audit client.
 - An individual who is being considered to serve as an appropriate reviewer, as a safeguard to address a threat, having a close relationship with an individual who performed the work.
- (e) Intimidation Threats
- A professional accountant being threatened with dismissal from a client engagement or the firm because of a disagreement about a professional matter.
 - A professional accountant feeling pressured to agree with the judgment of a client because the client has more expertise on the matter in question.
 - A professional accountant being informed that a planned promotion will not occur unless the accountant agrees with an inappropriate accounting treatment or sustainability-related analysis.
 - A professional accountant having accepted a significant gift from a client and being threatened that acceptance of this gift will be made public.

Identifying Threats Associated with the Use of Technology

300.6 A2 The following are examples of facts and circumstances relating to the use of technology that might create threats for a professional accountant when undertaking a professional activity:

- Self-interest Threats
 - The data available might not be sufficient for the effective use of the technology.
 - The technology might not be appropriate for the purpose for which it is to be used.
 - The accountant might not have sufficient information and expertise, or access to an expert with sufficient understanding, to use and explain the technology and its appropriateness for the purpose intended.
- (Ref: Para. 230.2).
- Self-review Threats
 - The technology was designed or developed using the knowledge, expertise or judgment of the accountant or firm.

Evaluating Threats

(....)

The Client and its Operating Environment

(....)

300.7 A4 The corporate governance structure, including the leadership of a client might promote compliance with the fundamental principles. Accordingly, a professional accountant's evaluation of the level of a threat might also be impacted by a client's operating environment. For example:

- The client requires appropriate individuals other than management to ratify or approve the appointment of a firm to perform an engagement.

- The client has competent employees with experience and seniority to make managerial decisions.
- The client has implemented internal procedures that facilitate objective choices in tendering non-assurance engagements.
- The client has a corporate governance structure that provides appropriate oversight and communications regarding the firm's services.

300.7 A4a When preparing or presenting sustainability information, the professional accountant's evaluation of the level of a threat to compliance with the fundamental principles might be impacted by the quantitative and qualitative characteristics of a client's value chain. For example, a threat to compliance with the principle of professional competence and due care might be created if the sustainability information relevant to the service comes from multiple suppliers that are geographically dispersed or is prepared in accordance with different reporting frameworks.

The Firm and its Operating Environment

300.7 A5 A professional accountant's evaluation of the level of a threat might be impacted by the work environment within the accountant's firm and its operating environment. For example:

- Leadership of the firm that promotes compliance with the fundamental principles and establishes the expectation that assurance team members will act in the public interest.
- Policies or procedures for establishing and monitoring compliance with the fundamental principles by all personnel.
- Compensation, performance appraisal and disciplinary policies and procedures that promote compliance with the fundamental principles.
- Management of the reliance on revenue received from a single client.
- The engagement partner having authority within the firm for decisions concerning compliance with the fundamental principles, including any decisions about accepting or providing services to a client.
- Educational, training and experience requirements.
- Processes to facilitate and address internal and external concerns or complaints.

(....)

Communicating with Those Charged with Governance

R300.9 When communicating with those charged with governance in accordance with the Code, a professional accountant shall determine the appropriate individual(s) within the entity's governance structure with whom to communicate. If the accountant communicates with a subgroup of those charged with governance, the accountant shall determine whether communication with all of those charged with governance is also necessary so that they are adequately informed.

300.9 A1 In determining with whom to communicate, a professional accountant might consider:

- (a) The nature and importance of the circumstances; and
- (b) The matter to be communicated.

300.9 A2 Examples of a subgroup of those charged with governance include an audit committee, another committee tasked with oversight of sustainability information, or an individual member of those charged with governance.

R300.10 If a professional accountant communicates with individuals who have management responsibilities as well as governance responsibilities, the accountant shall be satisfied that communication with those individuals adequately informs all of those in a governance role with whom the accountant would otherwise communicate.

300.10 A1 In some circumstances, all of those charged with governance are involved in managing the entity, for example, a small business where a single owner manages the entity and no one else has a governance role. In these cases, if matters are communicated to individual(s) with management responsibilities, and those individual(s) also have governance responsibilities, the professional accountant has satisfied the requirement to communicate with those charged with governance.

SECTION 310

CONFLICTS OF INTEREST

(....)

Requirements and Application Material

General

R310.4 A professional accountant shall not allow a conflict of interest to compromise professional or business judgment.

310.4 A1 Examples of circumstances that might create a conflict of interest include:

- Providing a transaction advisory service to a client seeking to acquire an audit client, where the firm has obtained confidential information during the course of the audit that might be relevant to the transaction.
- Providing advice to two clients at the same time where the clients are competing to acquire the same company and the advice might be relevant to the parties' competitive positions.
- Providing services to a seller and a buyer in relation to the same transaction.
- Preparing valuations of assets for two parties who are in an adversarial position with respect to the assets.
- Representing two clients in the same matter who are in a legal dispute with each other, such as during divorce proceedings, or the dissolution of a partnership.
- In relation to a license agreement, providing an assurance report for a licensor on the royalties due while advising the licensee on the amounts payable.
- Advising a client to invest in a business in which, for example, the spouse of the professional accountant has a financial interest.
- Providing strategic advice to a client on its competitive position while having a joint venture or similar interest with a major competitor of the client.
- Advising a client on acquiring a business which the firm is also interested in acquiring.
- Advising a client on buying a product or service while having a royalty or commission agreement with a potential seller of that product or service.
- Preparing or presenting sustainability information for a client while also being in a leadership position at a sustainability advocacy group that publicly challenges the client's sustainability targets or practices.

Conflict Identification

General

(....)

SECTION 320

PROFESSIONAL APPOINTMENTS

(....)

Requirements and Application Material

Client and Engagement Acceptance

General

320.3 A1 Threats to compliance with the principles of integrity or professional behavior might be created, for example, from questionable issues associated with the client (its owners, management or activities). Issues that, if known, might create such a threat include client involvement in illegal activities, dishonesty, questionable financial or non-financial, including sustainability, reporting practices or other unethical behavior.

320.3 A2 Factors that are relevant in evaluating the level of such a threat include:

- Knowledge and understanding of the client, its owners, management and those charged with governance and business activities.
- The client's commitment to address the questionable issues, for example, through improving corporate governance practices or internal controls.

320.3 A3 A self-interest threat to compliance with the principle of professional competence and due care is created if the team does not possess, or cannot acquire, the competencies to perform the professional services.

320.3 A4 Factors that are relevant in evaluating the level of such a threat include:

- An appropriate understanding of:
 - The nature of the client's business;
 - The complexity of its operations;
 - The quantitative and qualitative characteristics of the client's value chain, where applicable;
 - The requirements of the engagement; and
 - The purpose, nature and scope of the work to be performed.
- Knowledge of relevant industries or subject matter.
- Experience with relevant regulatory or reporting requirements.
- Policies and procedures that the firm has implemented, as part of a system of quality management in accordance with quality management standards such as ISQM 1, that respond to quality risks relating to the firm's ability to perform the engagement in accordance with professional standards and applicable legal and regulatory requirements.
- The level of fees and the extent to which they have regard to the resources required, taking into account the professional accountant's commercial and market priorities.

320.3 A5 Examples of actions that might be safeguards to address a self-interest threat include:

- Assigning sufficient engagement personnel with the necessary competencies.
- Agreeing on a realistic time frame for the performance of the engagement.
- Using experts where necessary.

(....)

Client and Engagement Continuance

R320.9 For a recurring client engagement, a professional accountant shall periodically review whether to continue with the engagement.

320.9 A1 Potential threats to compliance with the fundamental principles might be created after acceptance which, had they been known earlier, would have caused the professional accountant to decline the engagement. For example, a self-interest threat to compliance with the principle of integrity might be created by improper earnings management, ~~or~~ balance sheet valuations or sustainability materiality assessments.

Using the Work of an Expert

~~**R320.10** When a professional accountant intends to use the work of an expert in the course of undertaking a professional activity, the accountant shall determine whether the use is appropriate for the intended purpose.~~

~~320.10 A1 Factors to consider when a professional accountant intends to use the work of an expert include:~~

- ~~• The reputation and expertise of, and the resources available to, the expert.~~
- ~~• Whether the expert is subject to applicable professional and ethics standards.~~

~~Such information might be gained from prior association with, or from consulting others about, the expert.~~

Using the Output of Technology

(....)

SECTION 330

FEES AND OTHER TYPES OF REMUNERATION

(....)

Contingent Fees

330.4 A1 Contingent fees are used for certain types of non-assurance services. However, contingent fees might create threats to compliance with the fundamental principles, particularly a self-interest threat to compliance with the principle of objectivity, in certain circumstances.

330.4 A2 Factors that are relevant in evaluating the level of such threats include:

- The nature of the engagement.
- The range of possible fee amounts.
- The basis or metrics for determining the fee.
- Disclosure to intended users of the work performed by the professional accountant and the basis of remuneration.
- Quality management policies and procedures.
- Whether an independent third party is to review the outcome or result of the transaction.
- Whether the level of the fee is set by an independent third party such as a regulatory body.

330.4 A3 Examples of actions that might be safeguards to address such a self-interest threat include:

- Having an appropriate reviewer who was not involved in performing the non-assurance service review the work performed by the professional accountant.
- Obtaining an advance written agreement with the client on the basis of remuneration.

(....)

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**International
Ethics Standards
Board for Accountants®**

529 Fifth Avenue, New York, NY 10017
T + 1 (212) 286-9344 F +1 (212) 286-9570
www.ethicsboard.org

IESBA update

Reason for agenda item

To provide project summaries for IESBA's key projects and task forces. IESBA's projects on sustainability and use of experts are in agenda items 9 and 10.

The December 2023 [meeting highlights and decisions](#) were issued by IESBA.

Division staff welcomes input on any of the projects.

Materials presented

- Agenda item 12B: IESBA strategy and work plan
- Agenda item 12C: Tax planning and related services
- Agenda item 12D: IESBA monitoring: Collective investment vehicles, pension funds and investment company complexes

IESBA strategy and work plan

Project description

To seek stakeholder input on what key trends, developments, or issues IESBA should consider as it develops its Strategy and Work Plan 2024–2027 (SWP).

Status

In April 2023, IESBA released its [proposed IESBA Strategy and Work Plan 2024-2027](#), and the comment period closed on July 7, 2023. IESBA received a total of [44 comment letters](#) to its SWP. During its September 2023 meeting, IESBA considered [significant comments](#) raised by respondents to the SWP and the planning committee’s responses.

Project update

In December 2023, IESBA approved its revised SWP 2024–2027. The major revisions to the SWP include addition of the following new work streams:

- Exploring extending the impact of the code to all preparers of sustainability information
- Development of profession-agnostic independence standards for sustainability assurance engagements not within the scope of part 5
- Firm culture and governance

The potential projects and priority are as follows.

Projects	Priority
Firm culture and governance	High
Exploring extending the impact of the code to all preparers of sustainability information	High
Development of profession-agnostic independence standards for sustainability assurance engagements not within the scope of part 5	High
Role of CFOs and other senior professional accountants in business	High
Business relationships	Medium

Audit firms – Audit client relationships	Medium
Post-Implementation Review – Engagement team – Group audit	Medium
Definitions and descriptions of terms	Low (subject to capacity and resources)
Custody of data	Low (subject to capacity and resources)
Communication with those charged with governance	Low (subject to capacity and resources)

Ongoing and pre-committed projects

There was no significant discussion about the following ongoing and pre-committed projects.

Ongoing projects:

- Tax planning
- Sustainability
- Use of experts
- Collective investment vehicles/Pension funds/Investment company complexes

Pre-committed projects:

- Post-implementation review (PIR) – NOCLAR
- PIR – Long association phase 2
- PIR – Restructured code
- PIR – Nonattest services and fees
- PIR – Definitions of public interest entities

Timeline

Subject to confirmation by the Public Interest Oversight Board (PIOB) that due process has been followed, the SWP is expected to be issued by mid-April 2024.

Tax planning and related services

Project description

To develop a principles-based framework, leveraging the fundamental principles and the conceptual framework, to guide professional accountants' ethical conduct when providing tax planning (TP) services to employing organizations and clients, thereby maintaining the IESBA code's robustness and relevance as a cornerstone of public trust in the global accountancy profession.

Status

The [Tax Planning and Related Services exposure draft](#) (ED) was issued in February 2023. PEEC and the Tax Executive Committee (TEC) sent a [joint comment letter](#) on May 22, 2023. IESBA has received [50 comment letters](#). The task force gave IESBA a high-level overview of significant comments raised in the comment letters at the board's June 2023 meeting and presented its first revisions to the ED at the board's September 2023 meeting.

Project update

The task force considered comments at the September meeting from board members, additional comments received from IESBA participants on the advance draft circulated to the board in October, comments raised by the PIOB in November 2023, as well as discussion at the IESBA-National Standards Setters meeting in November 2023.

The task force presented its updated revisions to [proposed section 380](#) and [proposed section 280](#) at the board's December 2023 meeting. The revisions were primarily editorial in nature, with no substantial changes to the core requirements of the standards. There were a number of updates for clarification of certain requirements and application guidance paragraphs, as well as some rearrangement of content for better flow.

The AICPA has expressed concerns throughout the process regarding the requirement in proposed paragraphs R380.14 and R280.14 to consider the reputational, commercial, and wider economic consequences that stakeholders might view the tax planning arrangement, also referred to as the "stand-back test." The task force said it considered additional language to soften the requirement from its September version, but no further changes were ultimately made.

The AICPA also reiterated its concerns with the requirements in proposed paragraphs R380.15 and R280.15 to explain to management and, if appropriate, those charged with governance why a tax planning arrangement did not pass the stand-back test, as well as the requirements in proposed paragraphs R380.19 and R280.20 for the PA to disclose the basis of the PAs assessment when the PA disagrees with a client regarding whether a tax planning arrangement has credible basis. This was due to the concerns of PAs having limited protections regarding

communications with taxpayers in the United States. Providing the proposed level of detail could expose the client to unintended consequences. The task force considered additional language to allow practitioners to exercise professional judgement in these areas subsequent to the September meeting, but the proposed revisions in December did not include any of the proposed changes to those respective requirements.

The task force met after the first session with the board, made minor editorial changes, and then presented the final revised standards at the end of the December meeting. The standards were then adopted by the board. The task force proposed, and the board approved, that Sections 280 and 380 become effective for tax planning engagements or activities beginning after June 30, 2025, subject to certification of the final pronouncement by the PIOB in April 2024.

AICPA staff is awaiting the issuance of the final pronouncement and the basis for conclusion documents and is starting to look at the proposed revised code sections in the context of convergence. An ongoing concern is IESBA's introduction of additional performance standards, as opposed to ethical standards, in the proposed code sections whereas the United States has well-established tax performance standards in place via the AICPA Statements on Standards for Tax Services (SSTS) as well as through federal and state governmental regulatory structures.

IESBA Monitoring: Collective investment vehicles, pension funds, and investment company complexes

Project description

To monitor IESBA's project as follows:

- Review collective investment vehicles (CIV) and pension fund arrangements and their relationships with trustees, managers and advisors to gain a comprehensive understanding of these arrangements to ensure that the independence provisions and the application of the “related entity” definition in the International Independence Standards in Part 4A of the Code remain fit for purpose.
- Review investment company complexes (ICC) and consider whether the Code should be enhanced to address these structures, such as establishing new terms and definitions, and clarifying which entities or arrangements within such a complex should be considered as related entities of an audit client.
- Develop a report and recommendations to IESBA.

This will be IESBA's first staff-led project and staff will report to the board quarterly with a final report on research in December 2024. The staff-led model empowers a project team made up of IESBA staff to undertake research, identify issues, define the scope of a potential project or initiative, and develop and execute a plan to achieve IESBA's strategic objectives with respect to the particular topic.

The project team will also engage with experts and a broad range of stakeholders. A baseline understanding of CIVs, pension funds and ICCs in different jurisdictions will be important, but the team will focus on the relationships of these vehicles, funds and complexes with trustees, managers, and advisors to ensure that the independence provisions and the application of the “related entity” definition in the Code remain fit for purpose with respect to these arrangements.

Background

IESBA's 2021 exposure draft on revisions to the definitions of Listed Entity and Public Interest Entity (PIE project) included CIVs and pension and other post-employment benefit entities (PEB) as proposed mandatory PIE categories. After obtaining feedback from stakeholders, IESBA removed CIVs and PEBs from the mandatory PIE categories list as IESBA determined that inclusion in the list may inadvertently impose a disproportionate burden on local regulators and national standard setters to determine what should be scoped in or out of their local PIE definitions. However, the need to address the public interest associated with these entities remained and IESBA committed to undertake a holistic review of CIVs and PEBs as well as ICCs as part of IESBA's 2024–2027 strategy and work plan.

Status

AICPA staff has met to brainstorm the publications and other resources (including experts) on these entities that can be shared with IESBA's project team as they perform their research and outreach. AICPA staff facilitated a meeting in January 2024 with IESBA's project team and staff of the AICPA Employee Benefit Plan Audit Quality Center and other staff who have insight into CIVs and ICCs.

Open meeting minutes — November 8–9, 2023

Professional Ethics Division

Professional Ethics Executive Committee

The Professional Ethics Executive Committee (PEEC or committee) held a duly called meeting November 8–9, 2023. Day 1 of the in-person meeting convened at 9 a.m. ET on November 8 and adjourned at 3:20 p.m. Day 2 convened at 8:30 a.m. ET on November 9 and adjourned at 11:10 a.m.

Agenda materials for this meeting were sent to PEEC members and registered observers on October 27, 2023. ([Register here](#) to attend future meetings.)

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IESBA convergence: NAS — Tax services

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Digital assets

Future meeting dates

Appendix

Attendance

<p>Members</p> <p>Anna Dourdourekas, Chair</p> <p>Catherine Allen</p> <p>Brian Bluhm</p> <p>Jack A. Bonner, Jr.</p> <p>Thomas Campbell</p> <p>Robert Denham</p> <p>Anika Heard</p> <p>Jennifer Kary</p> <p>Clare Levison</p> <p>Nancy Miller</p> <p>Randy Milligan</p> <p>Karen Moncrieff</p> <p>Donald Murphy</p> <p>Kenneth Omoruyi</p> <p>Brian Powers</p> <p>Katherine Savage</p> <p>Lisa Snyder</p> <p>Daniel Vuckovich</p> <p>Kenya Watts</p> <p>Michael Womble</p> <p>Guests</p> <p>See exhibit 1 in the appendix of this document.</p>	<p>AICPA Professional Ethics Division staff</p> <p>James Brackens, Vice President – Ethics & Firm Quality</p> <p>Toni Lee-Andrews, Director</p> <p>Ellen Gorla, Associate Director</p> <p>Jennifer Clayton, Associate Director</p> <p>Elaine Bagley</p> <p>Sarah Brack</p> <p>Emily Daly</p> <p>Liese Faircloth</p> <p>Joan Farris</p> <p>Jennifer Kappler</p> <p>Iryna Klepcha</p> <p>Hanna Mayle</p> <p>Kelly Mullins</p> <p>Melissa Powell</p> <p>Karen Puntch</p> <p>Michael Schertzinger</p> <p>John Wiley</p> <p>Summer Young</p>
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Key votes in this meeting

Motion approved

Adopt the new definition of publicly traded entity and revised definition of public interest entities.

Interim business

Between the August and November meetings, the committee approved the August meeting minutes by email.

Welcome

Ms. Dourdourekas welcomed committee members and attendees and discussed administrative matters.

IESBA convergence: Public interest entities

Ms. Snyder reported the task force's analysis of and recommended revisions based on comment letters received in response to the June 15, 2023, exposure draft ([agenda items 1A–1D](#)).

Discussion

The committee discussed the comment letter summary and the task force's recommendations and came to the following conclusions:

- AICPA guidance in the Code of the Professional Conduct (code) will defer to the relevant U.S. regulators for determining the independence requirements for public interest entities (PIEs), and use objective criteria such as asset size, premiums, or public trading status to identify PIEs.
- PIEs will include only those entities whose auditors are subject to the SEC issuer independence rules, and the definition of publicly traded entity will clarify that an entity is not a publicly traded entity until its registration statement with the SEC becomes effective.
- The definition of PIEs will include only those depository institutions that
 - meet the requirements imposed by the FDIC Part 363
 - have total consolidated assets of \$1B or more. This threshold reflects the heightened risk and public interest for these entities.
- The definition of PIEs will include only those insurance entities that

- are subject to the NAIC Model Audit Rule
- have annual direct written and assumed premiums of \$500M or more. This threshold reflects the heightened risk and public interest for these entities.
- The definition of PIEs will include only those investment companies that are registered with the SEC under the Investment Company Act of 1940 and the Securities Act of 1933. This refinement excludes non-traded and private funds that are not publicly available and do not have a public interest component.
- Other entities, such as credit unions, will not be included in the definition of PIEs, and a second set of more restrictive independence standards for PIEs will not be added to the code. Regulators should determine the risk and public interest for these entities; adding a separate set of independence standards for these entities will add unnecessary complexity to the code.

The task force plans to prepare a basis for conclusions document for this project that should be helpful to members in the future.

Vote

The committee voted to release the new guidance and approved a two-tiered effective date to facilitate transition into implementing the new and revised definitions:

- The effective date for the new definition of publicly traded entity and for an entity no longer considered to be a public interest entity under the revised definition is December 15, 2023.
- The revised definition for public interest entity is effective for periods beginning on or after December 15, 2024, with early implementation allowed.

IESBA convergence: Quality management-related conforming amendments to the code

Ms. Young presented the task force's work on this project. The committee discussed and ultimately decided to defer changes to the code until the International Ethics Standards Board for Accountants' (IESBA's) standards are effective in 2025 ([agenda items 2A–2D](#)).

Simultaneous employment or association with an attest client

Ms. Allen presented the task force's draft definition and interpretation and asked for feedback from the committee on several questions ([agenda items 3A–3C](#)).

Background

The task force's charge is to address the issues of military employment and other employment situations that may not impair independence. The task force developed a framework that distinguishes between covered members, non-covered members in key positions, and non-

covered members in other positions, and applies different guidance and safeguards accordingly. The task force also looked at factors to consider when applying the conceptual framework, and exceptions for adjunct faculty, government audit organizations, and protected employment rights.

Discussion

The committee generally supported the direction and the approach of the proposed revisions. Some revisions and clarifications to the draft definition and interpretation were suggested for consideration:

- The definition should be clear and consistent with the use of the term in the code and avoid creating the impression that the list of associations is exhaustive or exclusive.
- The reference to the period covered by the financial statements should be removed. It creates confusion and inconsistency with the notion of simultaneous employment or association and may preclude new audit opportunities.
- The factors to consider when applying the conceptual framework should be relevant and helpful and not create undue burden or complexity for firms and individuals.
- The safeguards to reduce or eliminate threats to independence should be effective and reasonable and should not rely solely on communication with the audit committee or the client.
- The exceptions to the rule for adjunct faculty, government audit organizations, and employment protected by law or regulation should be clarified and justified and should consider the potential effects on independence and public perception.

The task force plans to present new versions of the definition and interpretation at the February 2024 meeting.

Reporting of an independence breach to an affiliate that is also an attest client

Ms. Kary presented the task force's proposed Q&As and sought input from the committee ([agenda items 4A–4B](#)).

Discussion

- The Q&A document covers four questions:
 - Whether communication is necessary if the breach affects an attest client affiliate
 - Whether communication is necessary if the breach does not affect an attest client affiliate

- Whether communication to an attest client affiliate violates the confidential client information rule
 - What type of communication should be provided to those charged with governance
- The Q&A document provides general guidance and examples but does not address every possible scenario or detail.
 - Some committee members raised concerns and suggestions about the wording and implications of the Q&As, especially regarding the balance between confidentiality and disclosure.

The task force plans to revise the Q&A document based on the feedback received and add a link to the interpretation.

Private equity investment in firms

Ms. Dourdourekas and Ms. Snyder presented the conclusions reached when noncontrolling and controlling private equity (PE) investment scenarios were compared with the current “Alternative Practice Structures” (APS) interpretation (1.220.020) and sought the committee’s input on next steps. ([agenda item 5](#) and [exhibit 2](#) in the appendix of this document).

Task force activities

- The task force analyzed the independence implications of alternative practice structures involving PE investments in nonattest entities.
- The task force has focused on two scenarios: non-controlling and controlling investments by PE firms.
- There are individuals and entities that may not be covered members, but may pose independence threats, such as board members or general partners of the fund that holds the investment in the nonattest entity, contractors hired by the PE firm, or portfolio companies that provide prohibited services to attest clients.
- Individuals and entities were considered that do not have influence over the fund, the PE firm, or the nonattest entity and generally do not pose independence threats.

The task force plans to continue analyzing the controlling PE scenario and consider the applicability of the covered member and conceptual framework approach. The need for revisions to the APS interpretation or nonauthoritative guidance will be discussed.

IESBA convergence: NAS — Legal services

Mr. Vuckovich presented the conclusions related to convergence and sought the committee’s

concurrence ([agenda items 6A-6C](#)).

Discussion

- The task force concluded the AICPA code is substantially converged with the IESBA code with respect to legal services, based on the following:
 - Legal services definition
 - Legal services examples
 - Legal services restrictions
 - Legal services framework
- Some committee members raised the following:
 - Legal services scenarios where legal services may be provided by a CPA firm or a network firm, and how to apply state law and the conceptual framework to assess independence implications
 - Legal services guidance that may be needed or examples, either in the code or in a nonauthoritative form, to assist practitioners navigate the complex and diverse legal landscape
 - Legal services convergence and whether there are any gaps or inconsistencies that need to be addressed

The committee concurred that the AICPA code is substantially converged with the IESBA code with respect to legal services.

IESBA convergence: Fees

Ms. Brack updated the committee indicating that the nonauthoritative guidance related to fees will be added to the 2024 version of the Plain English Guide to Independence.

Conflicts of interest

Ms. Farris presented recommendations for the direction of the project and sought input from the committee ([exhibit 3](#) in the appendix of this document).

Discussion

- Staff recommended that new nonauthoritative guidance on conflicts of interest be developed.
- The committee supported an article in the Journal of Accountancy to highlight the new nonauthoritative guidance.

- Staff requested committee members provide examples for inclusion in the article.

Section 529 plans

Mr. Milligan updated the committee indicating that the main issue being considered is whether the account owner has a direct or indirect financial interest in the 529 savings plan's underlying investments, or no financial interest at all.

The task force is working on a draft interpretation that will reflect the current practices and structures of section 529 plans, especially the savings plans, to present at the February 2024 PEEC meeting.

Engagements subject to the Statements on Standards for Attestation Engagements (SSAEs)

Ms. Miller provided an update.

Task force activities

- The task force plans to review the applicability of nonattest services (NAS) provisions to attestation engagements, especially those that might create an advocacy threat or be prohibited for financial statement audit clients.
- The impact of the sustainability assurance project on attestation engagements, and the potential need for convergence with the IESBA code will also be considered in this project.
- The task force plans to evaluate the existing agreed-upon procedures (AUP) standard and whether it should remain less restrictive than other attestation standards.

IESBA monitoring: Sustainability

Ms. Powell updated the committee as follows on monitoring group activities ([agenda item 7](#)).

- Discussed the proposed revisions to the ethics and independence requirements of IESBA for sustainability assurance engagements
- Reviewed the feedback provided to the IESBA work streams on certain sections of the proposed revisions
- Discussed the potential implications of the proposed revisions for U.S. practitioners and the AICPA code
- Expressed concerns about the following aspects of the proposed revisions:
 - The application of PIE and related entity requirements to sustainability assurance clients, regardless of whether they are also financial statement audit clients.

- The inconsistency and confusion that may arise from having different independence requirements for sustainability assurance engagements and other assurance engagements at the same level of assurance.
 - The lack of explanation and justification for the proposed independence requirements for value chain entities, which are entities outside the client's organizational boundary but within the reporting boundary.
 - The lack of assurance standards for group sustainability assurance engagements and the inclusion of independence requirements for group assurance and another practitioner scenarios in the code.
- Discussed the possible approaches to converge or diverge with the IESBA code in an agnostic way to allow for sustainability assurance to be performed by individuals who are not public accountants

An exposure draft is expected to be released in Q1 of 2024 and committee members were encouraged to communicate any feedback to IESBA.

IESBA monitoring: Use of experts

Ms. Daly updated the committee as follows on monitoring group discussions ([agenda items 8A–8D](#)).

- The applicability of the requirements to internal experts, and whether there are controls in place to address threats to compliance with the fundamental principles
- The overlap and alignment of the requirements with existing performance standards that address using an expert or a specialist
- The possibility of providing relief or a carve-out for PA's who follow performance standards that address competence, capabilities, and objectivity
- The broader issue of IESBA's encroachment into practice standards and the need for more coordination with other standard setting bodies

The monitoring group did not reach any conclusions, but agreed to attend the December IESBA meeting and review the exposure draft expected in Q1 of 2024.

IESBA update

Mr. Wiley and Ms. Klepcha updated the committee on IESBA's Tax Planning and Related Services and Technology Working Group projects ([agenda items 9A–9D](#)).

- The IESBA Tax Planning and Related Services working group will continue monitoring

and provide feedback on the final standards that are expected to be approved at the IESBA December meeting.

- The IESBA Technology Working Group will continue to monitor the transformative effects of technology and provide input on potential guidance or case studies that might need to be developed.
- The IESBA planning committee proposed that its strategy and work plan highlight a strategic direction of revising the full code to be profession-agnostic. The planning committee also proposed to add a work stream on the topic of firm culture and governance. The IESBA plans to approve its strategy and work plan in December 2023.

IESBA convergence: NAS — General

Mr. Bonner updated the committee as follows on task force activities and sought PEEC's input on direction ([agenda item 10](#) and [exhibit 4](#) in the appendix of this document).

Discussion

- Findings on the convergence of the AICPA Code and the IESBA Code of ethics regarding non-audit services were presented on
 - Self-review threat – The *Management Responsibilities and General Requirements* interpretations of the AICPA Code covers convergence.
 - Administrative services - The *Management Responsibilities and General Requirements* interpretations of the AICPA Code covers convergence.
 - Corporate finance services – Convergence considerations are still under review.
 - Recruiting services - Convergence considerations are still under review.
- The task force sought feedback from committee members on areas of divergence and convergence, and the possible implications for the AICPA code.
- Committee members discussed the following:
 - The difference between searching or seeking out candidates and soliciting candidates for key positions
 - The nature and extent of reference checks for prospective candidates, and whether they are a management responsibility or create a self-review threat
 - The communication and coordination between the advisory team and audit team when providing corporate finance services that depend on a particular accounting

treatment or presentation, and whether that increases the self-review threat or business risk for the firm

- The applicability and scope of the prohibition on recommending a particular candidate or advising on the terms of employment for key positions, and whether it should be limited to key positions or apply to all positions

The task force plans to take committee feedback and continue deliberations on convergence considerations and bring proposals to the February 2024 PEEC meeting.

IESBA monitoring: Technology task force

Ms. Dourdourekas sought approval from the committee to form task forces to discuss convergence considerations for the technology-related revisions to the IESBA code issued April 2023 ([agenda item 11](#)).

Task force activities

- The task force discussed the following topics and made the following recommendations:
 - *Confidentiality* – Appoint a new task force to consider convergence, as IESBA does not allow any sharing of confidential information within the firm or after it becomes public.
 - *Using the Output of Technology by Accountants in Business* – Appoint a new task force, Using the Output of Technology, to consider convergence, as IEBSA requires accountants in business who intend to use the output from technology to determine the appropriate steps to take to fulfill the requirements related to preparation and presentation of information.
 - *Using the Output of Technology by Accountants in Public Practice* – Staff will conduct additional research, including outreach to other AICPA committees, and will report the results to the newly appointed Using the Output of Technology Task Force.
 - *Providing, Selling, or Licensing Technology* – Have the Business Relationships Task Force consider convergence, as arrangements could result in a business relationship that impairs independence.
 - *Independence for Assurance Engagements Other than Audit and Review* – Have the SSAE Task Force consider convergence.
 - *Threats Associated with the Use of Technology and Prohibition of Assuming Management Responsibilities* – Have the Artificial Intelligence Task Force consider convergence.

- *Routine Activities* – Have staff explore the inconsistency of the use of the word “routine” in the AICPA Code and determine how to address it.

The committee approved the recommendations and the creation of new task forces.

Protecting client confidentiality and data security

Mr. Campbell updated the committee on task force activities and sought the committee’s input on direction ([exhibit 5](#) in the appendix of this document).

Discussion

The committee concluded that the AICPA and IESBA codes are substantially converged as it relates to Subsection R114.1 Confidentiality of the IESBA code.

With respect to the new application paragraph 114.1 A1, the committee concluded that no further convergence steps should be taken. In reaching this conclusion, the following factors were considered:

1. The committee noted that the Confidential Client Information Rule in the AICPA code does not include “affirmative” obligations with respect to protection of confidentiality information. Rather, this rule requires that members not disclose such information without client consent. Accordingly, to converge with the IESBA application guidance, the AICPA rule would need to be changed and would require a successful membership vote. The committee determined that it did not want to pursue a membership vote to amend the rule, as it believes the extant Confidential Client Information Rule provides sufficient protections.
2. Also, for the application guidance in paragraph 114.1 A1 of the IESBA code to be properly applied, it would need to be applicable broadly to the firm and employing organizations. Since the AICPA code is only applicable to individuals, it would not be possible to operationalize this specific guidance.
3. The task force reviewed updates to the [CPA cyber obligations and breach response](#) article.
4. Additional practice guidance on this topic by the AICPA includes:
 - [HACKED! Building defenses against and responses to intrusion](#)
 - [CPA cybersecurity checklist](#)

IESBA convergence: NAS — Tax services

Mr. Wiley updated the committee on task force activities and sought approval of the project charge ([agenda item 12](#)).

Discussion

- The task force discussed the gap analysis of the IESBA code and the AICPA code regarding tax services. The task force focused on two areas that additional guidance would likely be needed for convergence:
 - General tax services prohibition
 - Tax advisory and planning services
- The committee agreed that the AICPA code was substantially converged in the other areas of the tax services subsection.

The committee approved the task force charge related to tax advisory and planning services and evaluating the minimum likelihood of success thresholds that can be used to still maintain independence.

IESBA monitoring: Engagement team/Group audits

Ms. Gorla indicated to the committee that the task force had not yet scheduled a meeting so there were no activities to report.

Digital assets

Ms. Dourdourekas sought committee approval for the project charge and proposed nonauthoritative Q&As ([agenda items 13A–13B](#)).

Task force activities

- The task force's charge would be to consider the potential impacts on independence related to digital assets, and whether changes to the AICPA Code or nonauthoritative guidance, or a combination of both is required.
- The draft Q&A on operating node software on a blockchain for the purpose of obtaining information from an attest client and whether this would impair independence was presented.

The committee approved the project charge. Also, committee members and observers recommended suggestions to the Q&A. The task force plans to consider the suggestions and bring back to the committee for a fatal flaw review before sharing with the Digital Assets Working Group, a joint working group under the Financial Reporting Executive Committee (FinREC) and the Assurance Services Executive Committee (ASEC).

Future meeting dates

The following quarterly PEEC meeting dates are set:

- February 20–21, 2024
- May 9–10, 2024
- August 13–14, 2024
- November 12–13, 2024

Appendix

Guests in attendance at the November 2023 meeting

	Name	Organization
1.	Adell Battle	AICPA, Senior Manager — Exam Content
2.	Linda Delahanty	AICPA, Senior Manager — Audit & Attest Standards • Audit and Attest Standards
3.	Michael Glynn	AICPA, Senior Manager — Audit & Attest Standards • Audit and Attest Standards
4.	Henry Grzes	AICPA, Lead Manager — Tax Practice and Ethics
5.	Jordyn Joseph	AICPA Consultant — Audit and Attest Standards
6.	Carrie Kostelec	AICPA, Lead Manager — SOC & Related Services • Assurance & Advisory Innovation
7.	Diana Krupica	AICPA, Senior Manager — Emerging Assurance Technologies • Assurance & Advisory Innovation
8.	Brian Wilson	AICPA, Director — Audit & Attest Standards
9.	Kent Absec	Idaho State Board of Accountancy
10.	Tara Adams	Adams & Delp, P.C.
11.	Sonia Araujo	PwC
12.	Janice Ashman	RSM US LLP
13.	Arthur Auerbach	Arthur Auerbach, CPA
14.	Nancy Beacham	PwC
15.	Laura Billingsley	Thomson Reuters
16.	Susan Bos	Washtenaw County
17.	David Kirklan Cloniger	RSM US LLP
18.	Gwen Combs	U.S. Department of Energy

	Name	Organization
19.	Karen Cookson	U.S. Department of Housing and Urban Development
20.	Kelly Costanzo	RSM US LLP
21.	Monique Cote	MNP LLP
22.	Michele Craig	BakerTilly US, LLP
23.	Melissa Critcher	Chair — AICPA Enforcement Subcommittee
24.	Debra Cutler	Debra A. Cutler CPA PC
25.	James Dalkin	U.S. Government Accountability Office
26.	James Denney	RSM US LLP
27.	Daniel Dustin	NASBA
28.	Shimon Einhorn	S Einhorn and Company LLC
29.	Jennifer Elder	Moss Adams LLP
30.	Suzanne Esterlis	RSM US LLP
31.	Jason Evans	BakerTilly US, LLP
32.	Jessica Fracassi	EY
33.	Yuto Fukushima	Plante Moran
34.	Wendy Garvin	Tennessee State Board of Accountancy
35.	Mike Genova	RSM US LLP
36.	Scott Graham	Deloitte
37.	Andrew Gripp	Crowe LLP

	Name	Organization
38.	Elaine Helsloot	Hellman & Friedman
39.	Michael Hillman	Idaho Environmental Coalition, LLC
40.	Kelly Hnatt	External Counsel
41.	Lauren Horneff	RSM US LLP
42.	Claire Horneffer	Thomson Reuters
43.	Amanda Hulien	RSM US LLP
44.	Frank Jakosz	CapinCrouse LLP
45.	Adam Jeffress	RSM US LLP
46.	Diane Jules	CohnReznick LLP
47.	John Kane	Whitinger & Company, LLC
48.	Vassilios Karapanos	U.S. Securities and Exchange Commission
49.	Jennifer Kartychak	Arend Advisory Group LLC
50.	Elizabeth Pittelkow Kittner	Knowingly Corporation
51.	Linda Kuersten	Fermi Research Alliance, LLC
52.	Kimberly Kuhl	KPMG
53.	Michele Mark Levine	Government Finance Officers Association
54.	G. Alan Long	Baldwin CPAs, PLLC
55.	Moussa Maiga	U.S. Department of Energy
56.	Joe Marchbein	Rice Sullivan, LLC

	Name	Organization
57.	Rebecca McCray	Deloitte
58.	Brandon Mercer	Deloitte
59.	Paul Meyer	Cherry Bekaert LLP
60.	Tessa Milner	RSM US LLP
61.	Angela Miratsky	FORVIS, LLP
62.	Jan Neal	Deloitte
63.	James Newhard	James J. Newhard, CPA
64.	David Olmore	Deloitte
65.	Mariola Oscarson	Fermi Research Alliance, LLC
66.	Christa Papageorge	RSM US LLP
67.	Reena Patel	Moss Adams LLP
68.	Glenna Pound	Glenna L. Pound, CPA
69.	Renee Rampulla	Rampulla Advisory Services, LLC
70.	Brandon Rigby	Idaho National Laboratory
71.	Bella Rivshin	Deloitte
72.	John Robinson	RSM US LLP
73.	Sharon Romere-Nix	Thomson Reuters
74.	Paul Russo	Deloitte
75.	Madison Sabat	RSM US LLP
76.	Dylan Sanzo	RSM US LLP

	Name	Organization
77.	Anna Seto	KPMG
78.	April Sherman	CliftonLarsonAllen
79.	Kaylee Shorter	Deloitte
80.	Richard Spiegel	Wipfli LLP
81.	Joseph Tapajna	University of Notre Dame
82.	Shelly Van Dyne	BDO
83.	Bruce Webb	RSM US LLP
84.	Karen Weidner	PwC
85.	Mandy Whittington	EY
86.	Ellen Wisbar	CBIZ, Inc.
87.	Shana Wolfson	U.S. Securities and Exchange Commission
88.	Karen Zeilhofer	Deloitte
89.	Shannon Ziemba	CliftonLarsonAllen

IESBA convergence: Public interest entities

Task force members

Lisa Snyder (chair), Cathy Allen, Greg Collins, Nancy Miller, Andrew Prather, Katherine Savage

Observers

Alina Kalachnyuk, Brandon Mercer

AICPA staff

Jennifer Clayton, Ellen Gorla

AICPA monitoring staff

Jason Brodmerkel, Mary Foelster, Ahava Goldman, Sue Hicks, Kim Kushmerick, Melinda Nolen, Brian Wilson

Task force charge

To determine convergence needs related to the International Ethics Standards Board for Accountants (IESBA) [Revisions to the Definitions of Listed Entity and Public Interest Entity in the Code](#).

The revised definitions and related standard are effective for audits of financial statements for periods beginning on or after December 15, 2024, and early adoption is permitted. IESBA also issued a related [basis for conclusion document](#) and [Q&As](#).

Reason for agenda item

To seek adoption of the proposal from the exposure draft on the "[Proposed new definition of publicly traded entity and revised definition of public interest entity](#)."

Task force activities

PEEC received 14 comment letters in response to this exposure draft. The following links are to the letters in agenda item 1D:

- [CL 1](#): RSM US LLP
- [CL 2](#): PricewaterhouseCoopers LLP (PWC)
- [CL 3](#): Ernst & Young LLP (EY)
- [CL 4](#): KPMG LLP
- [CL 5](#): NASBA
- [CL 6](#): Crowe LLP

- [CL 7](#): Grant Thornton LLP
- [CL 8](#): AICPA PCPS Technical Issues Committee (TIC)
- [CL 9](#): CliftonLarsonAllen LLP
- [CL 10](#): BDO USA LLP
- [CL 11](#): Deloitte LLP
- [CL 12](#): Baker Tilly US, LLP
- [CL 13](#): Pennsylvania Institute of CPAs (PICPA)
- [CL 14](#): New York State Society of CPAs (NYSSCPA)

Overall, commenters were supportive of the proposals. The task force discussed all comments and recommends certain revisions as outlined in the following sections. Details of commenters views are in agenda item 1B.

Summary of general comments for proposed new and revised definitions

Thirteen commenters support the overall approach with CL 8 stating the entities discussed in the exposure draft are strongly regulated in the United States and regulators are best able to set appropriate independence requirements. CL 6 states convergence with other standard setters and making standards uniform wherever possible helps to avoid confusion and potential misapplication and aids in enforcement from a regulator perspective.

CL 14, however, expressed concerns that PEEC’s continuing effort to converge with IESBA often seems to place the goal of convergence ahead of the need for clear, meaningful, and appropriate standards for professionals in the United States. They believe a more appropriate goal would be to eliminate the differences between standards promulgated by the AICPA and the various regulatory bodies which may apply. They also believe the explanation of the proposed new and revised definitions is in many instances difficult to understand, even after several readings. This in part may be the result of trying to “arm wrestle” definitions to converge with IESBA’s approach.

Task force response

As a member body of IFAC, PEEC must attempt to converge with the IESBA code to assist our members with functioning in a global economy.

IESBA’s new definition of public interest entity (PIE) contains three mandatory categories and local bodies responsible for setting ethics standards are expected to refine these categories more explicitly to align with their jurisdiction. Without the AICPA refinements, some firms in the

United States would have to consider all publicly traded entities, all entities whose main function is to take deposits from the public and all entities whose main function is to provide insurance to the public as a PIE.

These three mandatory categories covered by the new IESBA PIE definition are already heavily regulated in the United States by the SEC, PCAOB, FDIC, and the National Association of Insurance Commissioners (NAIC). These regulators have established robust and appropriate independence requirements for the entities they oversee. As such, PEEC's new definition of "publicly traded entity" and revised definition of "public interest entity" includes IESBA's mandatory categories but defers to the relevant regulators for purposes of the specific independence requirements. This approach avoids the need to add a separate set of independence standards for PIEs which would introduce significant complexity to the AICPA code, which could, in turn, lead to inconsistencies between the AICPA code and the rules of a particular regulator.

[Summary of comments for question a: Do you agree with the decision to defer to the relevant regulators for purposes of the specific independence requirements applicable to each PIE category? If not, please explain why.](#)

Twelve commenters agree with the decision to defer to the relevant regulators for purposes of the specific independence requirements applicable to each PIE category. CL 2 offered no response but based on the overall response did not appear to disagree with this approach. CL 14 did not indicate support or nonsupport but indicated it is not clear what other options exist.

[Summary of comments for question b: Do you agree with the refinement to the "publicly traded entity" category to include only those entities whose auditors are subject to Regulation S-X, SEC Rule 2-01? If not, please explain why.](#)

Eleven commenters agree with the proposed refinement to the "publicly traded entity" category.

Three commenters (CL1, CL 2, and CL14) believe the category should be clarified with two commenters (CL 1 and CL 2) requesting the refinement specifically clarify that it only applies to entities whose auditors are subject to the SEC issuer independence rules.

- CL 1 agrees with the stated intention in paragraph 12 of the exposure draft to limit the publicly traded category of PIEs to entities whose auditors are subject to the SEC issuer independence rules. However, they are concerned that there may be some publicly traded entities (PTEs) whose auditors are subject to Rule 2-01 of SEC Regulation S-X that are not subject to the "issuer" rules within Rule 2-01. To avoid confusion, they suggest this category be revised to specifically limit the category to PTEs that are "issuers" rather than referencing Rule 2-01 of SEC Regulation S-X which applies to many entities other than issuers, some of which could, potentially, be publicly traded entities. They suggest the following revision to the definition.

A publicly traded entity that is an ‘issuer’ (as defined in Section 3 of the Securities Exchange Act of 1934), the securities of which are registered under Section 12 of that Act or that is required to file reports under Section 15(d) of that Act (excluding Stock Purchase, Savings and Similar Plans), or that files or has filed a registration statement that has not yet become effective under the Securities Act of 1933, and that it has not withdrawn.

- CL 2 believes that category (a), as written appears to scope a broader population of entities into the PIE definition (that is, any PTE whose auditor is subject to SEC Rule 2-01) rather than what is described in paragraph 12 (that is, issuers only). They requested that the committee clarify category (a) of the proposed definition to reflect the refinement in paragraph 12 that a PIE is a PTE whose auditor is subject to SEC *issuer* independence rules. If category (a) is not clarified, the commenter believes the committee should, at a minimum, issue application guidance that incorporates the guidance contained in paragraph 12 and any other relevant paragraphs of the explanatory memorandum.

Task force recommendations

The intention of the task force, as explained in the exposure draft, is that refined category (a) capture only those entities whose auditors are subject to the SEC *issuer* independence rules. Those rules that apply to issuer audits are in many respects considered to be substantially similar to IESBA independence requirements for PIEs. This conclusion is supported by IESBA’s [benchmarking report](#).

The task force recommends adding language to category (a) to make clear that only entities whose auditors are subject to the issuer independence rules are considered a PIE.

A publicly traded entity whose auditor is subject to **provisions of** Regulation S-X, SEC Rule 2-01, “Qualifications of Accountants” **that are applicable to auditors of issuers**.

To address the issue raised by CL 1 related to entities that have filed a registration statement with the SEC that has not become effective, the task force recommends adding language to the definition of “publicly traded entity” to make clear that an entity is not considered a PTE until its registration statement becomes effective.

An entity that issues financial instruments that are transferable and traded through a publicly accessible market mechanism, including through listing on a stock exchange. **Where an entity is required to file a registration statement with the SEC, it will be considered a publicly traded entity when the registration statement becomes effective.**

Questions for the committee

1. Does the committee agree with the task force's recommended edits to category (a) of the refined PIE definition?
2. Does the committee agree with the task force's recommended edits to the definition of "publicly traded entity"?

Summary of comments for question c: Do you agree with the refinement to the "deposits from the public" category to include only those entities that have consolidated total assets of \$1 billion or more and meet the annual audit requirement imposed by Part 363 of FDIC regulations (12 CFR 363 – "Annual Independent Audits and Reporting requirements")? If not, please explain why.

Ten commenters agree with the refinement proposed to the "deposits from the public" category and one did not comment.

One of these commenters (CL 5) generally agrees with the refinement proposed but suggests the committee consider if the \$1 billion or more threshold should be increased to a higher amount. This commenter noted that a bank with \$1 billion in deposits from the public may generate \$25 - \$40 million in annual revenue which is significantly lower than the threshold applied to those entities providing insurance to the public.

Three commenters (CL 6, CL 9, and CL 14) believe that the "deposits from the public" category should include those entities that have consolidated total assets of \$500 million or more (and not \$1 billion or more), which is consistent with the FDIC regulations.

- CL 6 agrees the refinement should be aligned with the FDIC Part 363 regulations since those regulations impose restrictive independence requirements that are substantially aligned with IESBA independence requirements for PIEs. They understand the reasoning for trying to apply this category to larger institutions which have heightened FDIC restrictions but noted the FDIC's heightened restrictions do not include more restrictive independence requirements. Accordingly, they believe it is more consistent with the FDIC's independence regulations to remove the limitation to financial institutions with total assets of more than \$1 billion (that is, the threshold should be placed at \$500 million or more).

CL 6 states that another consideration for not limiting the "deposits from the public" category to entities with total assets of \$1 billion or more is that financial institutions with total assets under \$1 billion may issue brokered certificates of deposit and fall within a category that meets the definition of PTE. For financial institutions that have total assets of more than \$500 million and meet the definition of PTE due to the issuance of brokered certificates of deposit, the financial institution will be considered a PIE because their

auditor is subject to SEC independence. However, a member might inappropriately apply 0.400.43(b) to that situation believing the financial institution is not a PIE because the financial institution has total assets below \$1 billion.

- CL 9 believes from an independence standpoint there is no reason to increase the consolidated total assets from \$500 million to \$1 billion. They note that the “IESBA code prohibits members from providing non-assurance services to a PIE audit or review client if such services might create a self-review threat,” and the FDIC regulations also have the same rules regarding providing non-assurance services to financial institutions regardless of whether the financial institution has consolidated total assets of \$500 million or more or \$1 billion or more, so the AICPA should align with the extant FDIC threshold.

Task force recommendations

The task force continues to believe the threshold for refinement to the “deposits from the public” category should remain at consolidated total assets of \$1 billion or more. The FDIC has recognized a heightened risk for financial institutions with total assets of more than \$1 billion where several requirements of Part 363 are triggered. Financial institutions with greater than \$1 billion in total assets represent approximately 96 percent of the total assets held by financial institutions as of December 31, 2022. On the other hand, financial institutions with greater than \$500 million in total assets represent approximately 98 percent of the total assets held by financial institutions as of December 31, 2022.

The task force recommends adding language to the definition of “public interest entity” to clarify that if an entity falls within any “one” of the PIE categories, it meets the definition of a PIE. This is recommended to address the issue noted by CL 6 where the additional refinement of the threshold to \$1 billion or more of consolidated total assets may cause confusion if the financial institution has less than \$1 billion but is publicly traded (that is, the member might only consider category (b) and not properly consider the entity as a PIE under category (a).)

An entity is a public interest entity when it falls within any **one** of the following categories:

Questions for the committee

3. Does the committee agree with the task force’s recommendation not to change the refinement to the “deposits from the public” category from a threshold of \$1 billion or more consolidated total assets to \$500 million or more?
4. Does the committee agree with the edit to the “public interest entity” definition?

Summary of comments for question d: Do you agree with the refinement to the “insurance to the public” category to include only those entities that are subject to the NAIC Model Audit Rule that meet or exceed \$500 million in annual direct written and assumed premiums? If not, please explain why.

Eleven commenters agree with the refinement proposed to the “insurance to the public” category and one did not comment.

Two of these commenters (CL 4 and CL 11) generally agree with the refinement but note that paragraph 28 in the explanatory materials identifies certain entities that are not included in the AICPA’s refined insurance category because of inconsistent application of the Model Audit Rule (MAR) or varied state regulations. They believe that if the intention is to exempt these entities from the definition of PIE, it should be explicitly stated in the interpretation.

CL 6 agrees the refinement should be aligned with the MAR since those regulations impose restrictive independence requirements that are substantially aligned with IESBA independence requirements for PIEs. However, they do not believe the category should be limited to entities that meet or exceed \$500 million in annual direct written and assumed premiums. While they understand the reasoning for trying to apply this category to larger insurers which have heightened NAIC restrictions, they noted the NAIC’s heightened restrictions do not include more restrictive independence requirements. Accordingly, they believe it is more consistent with the NAIC’s independence regulations to remove the limitation to entities that meet or exceed \$500 million in annual direct written and assumed premiums.

CL 14 believes it is not clear why a lower threshold should not apply and that a consistent standard would seem appropriate.

Task force recommendations

Threshold

The task force continues to believe the threshold for refinement to the “insurance to the public” category should remain at \$500 million or more in annual direct written and assumed premiums. The NAIC has recognized a heightened risk for insurers with direct and assumed premiums over \$500 million. Reaching that threshold triggers several MAR requirements related to the insurer. This approach is also consistent to the approach noted in the “deposits from the public” category with additional requirements at an increased threshold.

Entities included within the refined scope

The task force discussed the confusion noted by the commenters of the treatment of other identified insurance entities that do not have uniform application of MAR-specific requirements or regulations. The entities noted in the exposure draft include the following:

- a. Health maintenance organizations, managed care organizations, health care

entities

- b. Warranty companies
- c. Captives
- d. Risk retention groups

The task force further discussed these entities and whether or not they should be excluded from the refined PIE category and noted the following:

- Captives and risk retention groups in some instances might be subject to the MAR but typically don't provide insurance to the public.
- Warranty companies are not always considered licensed and regulated insurance companies. If the state considers them a licensed and regulated insurance company they may subject them to the MAR.
- Health maintenance organizations, managed care organizations, and health care entities do not have consistent treatment under the MAR. The respective state regulators (typically through either a state health department or a state insurance department), determine whether they are licensed under the department of health or insurance and which independence rules auditors of these entities must follow.

The task force believes the regulators should determine the risk to the public and whether the above noted entities should be subject to the MAR. The approach for this project was to defer to the relevant regulators to determine the requirements for their respective entities. For insurance entities the NAIC MAR contains independence requirements for auditors of insurers that are comparable to those of the SEC issuer independence rules. Auditors should also know if their client is subject to the MAR.

If these entities were specifically excluded from the definition of PIE, the task force believes the definition would override the regulators which is inconsistent with the aforementioned approach for this project. Therefore, the task force does not recommend any edits to the proposed definition and believes that if an entity is subject to the MAR and has \$500 million or more in annual direct written and assumed premiums it would be considered a PIE.

A member who does not belong to a firm that is part of the Forum of Firms would continue to comply with the AICPA code and rules of the applicable regulators. With this approach, no additional requirements are being created in these categories.

Questions for the committee

5. Does the committee agree with the task force's conclusion that the specified entities should not be excluded from the definition of PIE?
6. Does the committee agree with the recommendation not to change the refinement to the "insurance to the public" category?

Summary of comments for question e: Do you agree with the "investment company" category PEEC proposes to include in the PIE definition? If not, please explain why.

Nine commenters agree with the refinement proposed to the "investment company" category and one did not comment.

Four commenters (CL 1, CL 3, CL 4, and CL 11) agree with the category of investment companies but believe the category should be further refined.

- CL 1 believes the category should be expanded to include investment companies that file or have filed a registration statement that has not yet become effective under the Securities Act of 1940, and that it has not withdrawn. They suggest the following revision to the definition.

An investment company, other than an insurance company product, that is registered with the SEC pursuant to the Investment Company Act of 1940 or that files or has filed a registration statement that has not yet become effective under the Securities Act of 1940, and that it has not withdrawn.

- CL 3 agrees with the statement in paragraph 15 of the exposure draft's explanatory memo that publicly available mutual funds are considered PIEs if their auditors are subject to SEC issuer independence rules. However, they believe that paragraph 32 contradicts paragraph 15, as not all funds that are solely registered with the SEC pursuant to the Investment Company Act of 1940 (1940 Act) are offered to the public and therefore are not all publicly available or have significant public interest. They recommend that the proposed investment company category be revised as follows:

An investment company, other than an insurance company product, that is registered with the SEC pursuant to the Investment Company Act of 1940 **and the Securities Act of 1933**.

They believe this change would provide further clarifications that entities such as nontraded and private business development companies (BDCs), in addition to nontraded real estate investment trusts (REITs) and insurance separate accounts, as identified in paragraphs 32 and 33, respectively, of the exposure draft's explanatory memo, would not be considered PIEs.

They also believe nonauthoritative guidance summarizing the U.S. entity types that are excluded from the new and revised definitions, such as those noted above, as well as others identified in the exposure draft's explanatory memo, including credit unions and 11-k filers, as identified in paragraphs 22 and 34, respectively, would be beneficial.

- Two commenters (CL 4 and CL 11) agree that it is appropriate to treat investment companies that have significant public interest as PIEs. The explanatory materials indicate that entities such as nontraded REITs would not be included within this category and therefore should not be considered PIEs. They believe that similar nontraded investment companies that are registered under the 1940 Act but not the Securities Act of 1933 should also be excluded from the definition of PIE because there is no publicly accessible market mechanism on which these investment companies can trade. As such, these entities do not represent broad public interest that triggers the incremental PIE independence requirements. They recommend that category (d) be refined to make this distinction and enable consistent application. They suggest the following edit for consideration (change shown in bold):

An investment company, other than an insurance company product, that is registered with the SEC pursuant to the Investment Company Act of 1940 **and the Securities Act of 1933**.

Task force recommendations

The task force believes entities that have not had their registration statement become effective should not be considered a PIE since until it becomes effective, these entities are not allowed to trade publicly. The task force recommends including additional language in the definition of "publicly traded entity" to make clear when an entity will be considered a PTE. See discussion above and question 2. to the committee.

The task force discussed the fact that not all funds that are solely registered with the SEC pursuant to the 1940 Act are publicly available. They believe these types of funds are limited and solicited to investors and not the general public and therefore, should not be considered a PIE. This approach is consistent with what was described in the exposure draft but further analysis by commenters provided additional examples of potential funds that could be captured by this category. The task force therefore recommends adding language to the "investment company" category to make clear the types of entities that are intended to be captured, i.e., those that are registered with the SEC and publicly available. The task force believes the addition of "the Securities Act of 1933" will accomplish this.

An investment company, other than an insurance company product, that is registered with the SEC pursuant to the Investment Company Act of 1940 **and the Securities Act of 1933**.

Question for the committee

7. Does the committee agree with the task force's recommended edit to the "investment company" category?

Summary of comments for question f: Do you believe other entities, such as credit unions, should be included as PIEs and thus subject to the more restrictive independence requirements consistent with those for IESBA PIEs? If so, which entities and why? If so, should the AICPA code incorporate a second set of more restrictive independence standards (i.e., consistent with IESBA PIEs), applicable to these other entities? If not, please explain an alternative approach.

Ten commenters do not believe other entities, such as credit unions, should be included as a PIE and three did not comment.

CL 5 believes that credit unions should be included as a PIE and thus subject to more restrictive independence requirements consistent with those for IESBA PIEs.

The commenter notes that credit unions have grown significantly both organically and through acquisitions including acquisitions of non-credit union financial institutions. They state that the Navy Federal Credit Union with \$144 billion in assets and 12 million members is the largest credit union in the United States. It is larger than many other regional and national banks. The largest 250 credit unions in the United States all have over \$1.5 billion in assets. From a public interest perspective, they believe credit unions are comparable to banks in both substance and form and should be considered as PIEs and thus subject to more restrictive independence requirements.

They believe that the AICPA code should incorporate a second set of more restrictive independence standards (i.e., consistent with IESBA PIEs) for credit unions. Consistent with their comment for exposure draft question c above, they believe the committee should consider whether a \$1 billion threshold is appropriate for these entities.

Task force recommendations

The task force discussed the National Credit Union Administration (NCUA), which protects the interest of credit union members. The intended approach was to defer to the relevant regulators for purposes of the specific independence requirements. Adding a separate set of independence standards for PIEs would introduce significant complexity to the AICPA code, which could in turn lead to inconsistencies between the AICPA code and the rules of a particular regulator. The task force did note that there is nothing in the standards that prohibits the member from treating a credit union as a PIE if the member determines such treatment would be appropriate.

Given that commenters generally agreed with the exposure draft, the task force is not proposing revisions to the revised definition of PIE to include any additional entities.

Question for the committee

8. Does the committee agree with the task force's recommendation not to add any further entities to the revised definition of PIE?

[Summary of comments for question g: Is the definition of publicly traded entity clear? If not, please explain how it should be clarified.](#)

Eleven commenters believe the definition of PTE is clear and one did not comment.

CL 5 believes the definition of PTE is not clear. They state that paragraph 13 of the explanation section states that a PTE includes financial instruments of certain nonissuers such as government bonds. However, the definition of PTE (0.400 Definitions par. .45) refers only to "an entity." Misinterpretation of the definition by a member could lead to the application of greater restrictions than required. At a minimum, they suggest that the explanation be wholly consistent with the definition.

CL 14 believes the phrase "traded through a publicly accessible market mechanism" needs to be expanded, with illustrations provided. The proliferation of new types of entities and means of communication requires more complete and clear guidance.

Task force recommendations

The task force discussed the context of paragraph 13 from the exposure draft and understands the possible confusion in the wording. The language should have been clarified to indicate the following:

13 The AICPA's proposed new definition of *publicly traded entity* includes financial instruments of certain nonissuers, such as a governmental **entity that issues** bonds, as well as certain entities listed on OTC trading platforms.

The task force believes the proposed definition of "publicly traded entity" with the refinement in category (a) will continue to capture only entities for which the auditors are subject to the SEC issuer independence rules.

The task force believes most practitioners would understand "traded through a publicly accessible market mechanism" and does not recommend any modifications.

The task force does recommend changes to this definition to address issues noted above related to registration statements that have not become effective and whether those types of

entities would be considered a PIE. See question 2, above, to the committee.

Question for the committee

9. Does the committee agree with the task force's recommendation not to provide further clarification about "traded through a publicly available market mechanism"?

Summary of comments for question h: If an entity does not otherwise meet the definition of a PIE, are you aware of situations in which a member would treat an entity as a PIE when an engagement is subject to AICPA Statements on Auditing Standards, Statements on Standards for Accounting and Review Services, or Statements on Standards for Attestation Engagements? If so, describe such situations and which independence standards are typically applied. Do you believe it would be helpful to have guidance related to such situations? If so, should that guidance be authoritative (that is, included in the AICPA code) or nonauthoritative (for example, a Q&A or practice aid)? Do you believe that in such situations the member should be required to disclose that the independence requirements for PIEs have been applied? If so, how do you believe such disclosure should be achieved when the regulator's transparency requirement is not applicable?

Four commenters are not aware of situations in which a member would treat an entity as a PIE and two did not comment.

- CL 3 does not believe additional guidance (authoritative or nonauthoritative) is necessary. They state that if the intent of the disclosure is to indicate a level of audit quality, they do not believe such disclosure is warranted. PIE classification should not be the trigger for a different level of audit quality, and the audit report already discloses the audit or attest standards being applied. If the intent of the disclosure is to enhance the confidence in the independence of the audit firm or engagement team providing the service, they believe such objective is met via a firm's transparency report, website or other disclosures regarding its system of effective quality management.

Eight commenters are aware of situations in which a member would treat an entity as a PIE. Most commenters agree that nonauthoritative guidance could be helpful.

- CL 1 is aware of situations in which, due to regulatory requirements, members perform audit engagements in accordance with both AICPA Statements on Auditing Standards and PCAOB Auditing Standards ("dual standards engagements"). In those cases, the independence rules of the SEC and the PCAOB must be complied with. They believe auditors who agree to conduct dual standards engagements understand the independence standards and rules applicable to such engagements and do not need

additional guidance to apply them. Further, they believe disclosure of those standards is unnecessary because it is inherent in the disclosure of the auditing standards applied.

- CL 2 did not mention any specific situations when a member would treat an entity as a PIE but agrees that, with or without the list of factors from the IESBA code's application guidance, the AICPA code allows a member to apply enhanced independence requirements and to treat a client as a PIE, when appropriate. As a result, they support not including the application guidance and do not believe any additional guidance is necessary.
- CL 5 notes entities that are about to go public, about to be purchased by a PTE, or if the member knows the financial statements will be included in a U.S. Securities & Exchange Commission filing are situations where a member should treat the entity as a PIE when an engagement is subject to AICPA Statements on Auditing Standards.

They believe that the guidance related to such situations could be nonauthoritative either in a Q&A or practice aid.

They believe that in such situations the member should be required to disclose that the independence requirements for PIEs have been applied. In these situations, the disclosure should be achieved through inclusion in the engagement letter and the communication to those charged with governance.

- CL 6 is aware of situations where members may voluntarily apply more restrictive independence requirements to an entity and treat the entity as a PIE, typically in advance of a company becoming a public company. However, they do not believe this category needs to be included in the AICPA's definition of PIE as members have independence rules they can apply in those situations and do not need for these to be included in the AICPA's definition.
- CL 8 and CL 9 believe the primary example of a situation in which a member would treat an entity as a PIE, when the entity does not otherwise meet the definition of a PIE, is when the entity is expecting to file an initial public offering. They do not believe that there would be any situations under the Statements on Standards for Accounting and Review Services.

They believe it would be helpful to have guidance related to such situations and believe such guidance would be sufficiently addressed in the form of a Q&A or practice aid.

In situations that the member is not required to treat an entity as a PIE, they do not believe the member should be required to disclose that the independence requirements for PIEs have been applied.

- CL 11 agrees there may be rare situations where an entity is not a PIE as defined by the

AICPA code but the entity's financial position is nevertheless significant to the public interest. They believe the baseline PIE factors presented at 400.9 supplemented by 400.19 A1 of the IESBA code are appropriate as a base for any AICPA guidance for these scenarios.

They believe nonauthoritative guidance could be helpful in addressing situations where a member concludes it is appropriate to treat an entity as a PIE although the entity is not a PIE as defined by the AICPA code. This approach would align with 400.19 A1 of the IESBA code.

They understand the intent of transparency is to provide the investor community with information that could aid in decision-making and improve trust, however when members apply the PIE independence requirements voluntarily, they do not believe members should be required to disclose such application for the following reasons:

- Where the entity is already subject to a regulator's independence requirements and the regulator has taken public interest into consideration when promulgating its independence requirements, it is unlikely that a transparency requirement would offer any incremental benefit to the public interest.
- If the application of PIE independence requirements is voluntary, members should take the same approach to the related transparency requirement. Firms could be encouraged to consider transparency but allow the client to make the ultimate decision. Just as a non-PIE client can choose to be treated as a PIE, it is reasonable to allow the same ability to use judgement when considering transparency.
- Any mandated transparency in such situations is likely to raise costs for clients and firms with limited incremental benefit, which is counter to the public interest. This might create unintended consequences, such as inadvertently discouraging clients and firms from applying the PIE requirements voluntarily.

Though they do not support the inclusion of a transparency requirement in the AICPA code for these situations, if a transparency requirement is included in the final revisions, they suggest the committee coordinate and consult with the Audit Standards Board (ASB) regarding the most appropriate methods and mechanisms for disclosures, if any, in this context to clarify the implementation of the transparency requirements when a regulator's transparency requirement is not applicable. These discussions should further consider the appropriateness of disclosures related to reports restricted in use or otherwise not made publicly available.

- CL 13 describes when the practitioner is serving as a component auditor of a subsidiary subject to international standards and the parent is a PIE, a practitioner could be subject to the international ethics standards. They do not believe that additional guidance is necessary and do not support disclosures in such situations.

Task force recommendations

The situation of an entity planning to go public described by many of the commenters was one that was also identified by the task force. The task force believes the recommended language to be added to the definition of “publicly traded entity” will help address this issue. The task force believes an entity should not be considered a PIE until their registration statement is effective.

The situation described related to a component auditor is a group audit matter and would not be addressed with the proposed definitions.

The commenters were split on the need for additional guidance when these situations arise. The task force discussed various alternatives to address these situations including items noted by commenters regarding additional guidance in the form of a practice aid, Q&As, or other nonauthoritative guidance. The task force also discussed issuing a basis for conclusion document as a possible way to address these requests. The task force noted that the proposed revisions will have significant effects on firms who are members of the Forum of Firms performing these types of engagements. The basis for how the committee reached the conclusions on the definitions and approach to convergence with IESBA only appears in the explanation section of the exposure draft which will not reside in the Online Ethics Library (OEL). A basis for conclusion document would be beneficial as it would be searchable and easily located in the OEL.

The task force, along with other key stakeholders, supports the development of a basis of conclusion document.

Questions for the committee

10. Does the committee believe a basis for conclusion document should be prepared for this project?
11. Does the committee have any additional suggestions for nonauthoritative guidance?

Summary of comments for question i: Do you agree that the effective date provides adequate time to implement the proposals? If you disagree, please explain why.

All commenters agree the proposal should be effective for periods beginning on or after December 15, 2024, with early adoption allowed, as this aligns with the effective date of the IESBA revised definitions of PIE and PTE. However, several commenters recommended a two-pronged approach (CL 3, CL 4 and CL 11) similar to the approach used by accounting standard setters to permit different effective dates based on entity type, such as public versus private companies.

Some PIEs under the current definition in the AICPA code will no longer be considered PIEs under the proposed revised definition. Such entities may temporarily be required to comply with the new IESBA pre-concurrence and fee disclosure requirements, effective starting in 2023, until such requirements are no longer applicable on the effective date for the AICPA's revised PIE definition. Such disclosure being made for only a short period of time and then being subsequently removed may create confusion for the public and stakeholders.

Although early adoption of the revised definition may be permitted, it may not be feasible for a firm to early adopt all categories of the revised definition since sufficient time will be needed to implement the requirements for entities not previously considered PIEs, such as non-publicly traded insurance companies, that will become PIEs under the revised definition.

A recommended approach could be as follows:

- For current PIE entities, the effective date would be immediately upon publication.
- For new PIE entities, the effective date would be for periods beginning on or after December 15, 2024, with early adoption allowed.

Task force recommendations

The task force discussed the issues identified by certain commenters regarding concerns related to entities being considered a PIE under the current definition and then would no longer be a PIE once the revised definition is adopted. This is an issue that will be encountered by the firms who are members of the Forum of Firms. Insurance separate accounts, employee benefit plans that file a Form 11-K, and banks that are more than \$500 million in total net assets but less than \$1 billion were discussed as potential entities having this issue. Certain new IESBA pre-concurrence and fee disclosure requirements, effective starting in 2023 will be required for these specific entities until the AICPA effective date of December 15, 2024.

Early adoption is allowed so the firms that are affected can early adopt but the task force believes they would not be able to “piecemeal” their adoption. For instance, a firm would have to early adopt for these specific entities noted above and then adopt at the effective date (December 15, 2024) for private insurance entities. The firms who are impacted believe they will need more time to sufficiently implement the requirements for entities not previously considered PIEs.

The task force believes a phased approach is reasonable to avoid confusion in the marketplace and with stakeholders.

The task force recommends:

The proposed revisions are effective for periods beginning on or after December 15, 2024 for new PIEs covered under the revised definition, with early adoption allowed. For

entities no longer considered to be PIEs under the revised definition, the effective date is the date published in the *Journal of Accountancy*.

Question for the committee

12. Does the committee agree with the recommended modifications to the effective date?

Additional discussion of proposal

After the issuance of their standard, IESBA clarified that their definitions do cover audit and review engagements for PIEs. The task force also incorporated into the proposed revised definition that a member would need to comply with independence requirements of the applicable regulators identified in the definition when they are performing a financial statement audit or review.

The task force is not aware of any regulator identified in the proposal that requires a review engagement of an entity that would be considered a PIE when an audit is also not already performed for that entity. The committee's approach is more akin to an "engagement approach" versus an "entity approach" as adopted by IESBA.

To avoid confusion and unintended consequences, the task force recommends removing the requirement in the definition to apply the definition when a member performs a review engagement. It was noted that if the regulator requires a review engagement, the member would need to comply with "Governmental Bodies, Commissions, or Other Regulatory Agencies" interpretation [1.400.050] of the "Acts Discreditable Rule" [1.400.001].

Action needed

The committee is asked to adopt the proposed new and revised definitions as amended and that they be effective for periods beginning on or after December 15, 2024 for new PIEs covered by the revised definition, with early implementation allowed. For entities no longer considered to be PIEs under the revised definition, the effective date would be upon publication in the *Journal of Accountancy*.

Materials presented

- Agenda item 1B: Comment letter summary
- Agenda item 1C: Text of new definition *publicly traded entity* and revised definition *public interest entity*
- Agenda item 1D: Comment letters

Comment letter summary

Proposed new definition of *publicly traded entity* and revised definition of *public interest entity* (ET sec. 0.400)

Exposure draft dated June 15, 2023

Commenters that support, support with comments, or do not support the convergence needs related to the International Ethics Standards Board for Accountants (IESBA) Revisions to the Definitions of Listing Entity and Public Interest Entity in the Code:		
Support: 14 (several commenters had suggestions or comments as detailed herein)		
Do not support: 0		
CL 1	RSM US LLP	Support
CL 2	PricewaterhouseCoopers LLP (PWC)	Support
CL 3	Ernst & Young LLP (EY)	Support They are supportive of PEEC’s efforts to converge the AICPA’s Code of Professional Conduct definitions of publicly traded entity and public interest entity with ethics standards promulgated by IESBA. Overall, they believe that the proposal better aligns the classification of entities as PIEs.

CL 4	KPMG LLP	Support
CL 5	NASBA	Support They are supportive of convergence with other standard setters as making standards uniform wherever possible helps to avoid confusion and potential misapplication by the CPA and aids in enforcement from a regulatory perspective. They especially liked the references to SEC rules or other rules in the proposed revisions instead of repeating the language. Consistency among standards setters is in the public interest.
CL 6	Crowe LLP	Support
CL 7	Grant Thornton LLP	Support
CL 8	AICPA PCPS Technical Issues Committee (TIC)	Support They believe that the types of entities discussed in the ED are strongly regulated in the U.S. and regulators are best able to set appropriate independence requirements. Additionally, they believe additional guidance for firms that voluntarily join the IFAC Form of Firms is needed given these Firms have committed to comply with the Form of Firms Constitution and, as a condition of their membership, should consider the IESBA PIE requirements applicable to financial statement audit and review engagements performed for a PIE.
CL 9	CliftonLarsonAllen LLP	Support
CL 10	BDO USA LLP	Support

CL 11	Deloitte LLP	Support
CL 12	Baker Tilly US, LLP	Support
CL 13	Pennsylvania Institute of CPAs (PICPA)	Support
CL 14	New York State Society of CPAs (NYSSCPA)	<p>Support</p> <p>They support the efforts of PEEC to provide needed guidance with respect to the critical issues facing accounting professionals. The PEEC’s continuing effort to converge with the International Ethics Standards Board for Accountants (IESBA), however, often seems to place the goal of convergence ahead of the need for clear, meaningful and appropriate standards for professionals in the United States. A more appropriate goal would seem to be eliminating the differences between standards promulgated by the AICPA and the various regulatory bodies which may apply.</p> <p>The exposure draft in certain instances distinguishes entities based on size, for example financial institutions that have more than \$1 billion of assets. This distinction may be important to a regulator, but not necessarily to a depositor who has been relying on the institution’s financial statements. Another example is excluding insurers that do not meet or exceed \$500 million in direct and assumed premiums.</p> <p>In both these situations the smaller entities may more likely need the oversight that would follow not being excluded.</p> <p>Also, how not-for-profit entities will be affected is not clear, nor is it clear how much consideration has been given to such entities, which often raise money from the general public but in many cases are very small with few assets.</p> <p>The explanation of the proposed new and revised definitions is in many instances difficult to understand, even after several readings. This in part may be the result of trying to arm wrestle definitions to converge with the IESBA approach. More helpful would be an approach that deals with the US multiplicity of regulatory authorities with varying rules, and the US professional’s continuing effort to meet all these requirements.</p>

Question a: Do you agree with the decision to defer to the relevant regulators for purposes of the specific independence requirements applicable to each PIE category? If not, please explain why.

Yes: 12 No: 0 No response: 2

CL 1	RSM US LLP	Yes
CL 2	PricewaterhouseCoopers LLP (PWC)	No response
CL 3	Ernst & Young LLP (EY)	Yes
CL 4	KPMG LLP	Yes
CL 5	NASBA	Yes They generally agree with the decision to defer to the relevant regulators for the purposes of the specific independence requirements applicable to each PIE category. They are concerned that while certain regulators do consider auditor independence as part of their oversight others do not. Guidance should be provided to address those situations where an entity is deemed to be a PIE however their oversight entities do not address auditor independence.
CL 6	Crowe LLP	Yes
CL 7	Grant Thornton LLP	Yes
CL 8	AICPA PCPS Technical Issues Committee (TIC)	Yes

CL 9	CliftonLarsonAllen LLP	Yes
CL 10	BDO USA LLP	Yes All the entities included in the proposed PIE categories are regulated entities where the relevant regulators have established robust independence requirements. Therefore, they agree with the decision to defer to the relevant regulators for purposes of the specific independence requirements applicable to each PIE category.
CL 11	Deloitte LLP	Yes They agree with the proposed approach of deferring to the independence requirements of the relevant regulators applicable to each proposed public interest entity (“PIE”) category. While they have concerns as noted in their comments, they believe the proposed approach best protects the public interest and properly refines the IESBA baseline categories in alignment with IESBA’s expectations of local bodies and the IESBA PIE framework, while minimizing the amount of additional complexity in the AICPA Code.
CL 12	Baker Tilly US, LLP	Yes They agree with the decision to defer to the relevant regulators for purposes of the specific independence requirements applicable to each PIE category. They believe each relevant regulator noted in the Exposure Draft has robust independence requirements for the entities they oversee. Further, deferring to said regulators avoids adding additional independence requirements to the Code, which could create unnecessary complexity.
CL 13	Pennsylvania Institute of CPAs (PICPA)	Yes They support the PEEC’s decision to converge with the International Ethics Standards Board for Accountants’ (IESBA) guidance on PIEs by factoring in the

		impact of regulatory oversight for each category included in the IESBA's PIE guidance.
CL 14	New York State Society of CPAs (NYSSCPA)	It is not clear what other option exists.
Question b: Do you agree with the refinement to the "publicly traded entity" category to include only those entities whose auditors are subject to Regulation S-X, SEC Rule 2-01? If not, please explain why.		
Yes: 11 No: 3 No response: 0		
CL 1	RSM US LLP	<p>No</p> <p>They agree with the stated intention in paragraph 12 of the Exposure Draft to limit the publicly traded entity category of public interest entities to entities whose auditors are subject to the SEC "issuer independence rules." However, they are concerned that there may be some <i>publicly traded entities</i> whose auditors are subject to Rule 2-01 of SEC Regulation S-X that are not subject to the "issuer" rules within Rule 2-01. To avoid confusion, they suggest this category be revised to specifically limit the category to publicly traded entities that are "issuers" rather than referencing Rule 2-01 of SEC Regulation S-X which applies to many entities other than issuers, some of which could, potentially, be publicly traded entities. They suggest the following revision to the definition.</p> <p>A publicly traded entity that is an 'issuer' (as defined in Section 3 of the Securities Exchange Act of 1934), the securities of which are registered under Section 12 of that Act or that is required to file reports under Section 15(d) of that Act (excluding Stock Purchase, Savings and Similar Plans), or that files or has filed a registration statement that has not yet become</p>

		effective under the Securities Act of 1933, and that it has not withdrawn.
CL 2	PricewaterhouseCoopers LLP (PWC)	<p>No</p> <p>PEEC’s proposed revised PIE definition refers to “a publicly traded entity whose auditor is subject to Regulation S-X Rule 2-01, ‘Qualifications of Accountants’” (“SEC Rue 201”). However, paragraph 12 of the explanatory memorandum in the exposure draft states that the IESBA Code’s category of a PTE has been refined in the Committee’s proposal to extend only to those entities whose auditors are subject to the SEC issuer independence rules. Paragraph 12 also provides examples of SEC Rule 2-01 provisions that apply to both issuer and nonissuer audits as well as examples of provisions that apply to issuer audits only. The refinement in paragraph 12 regarding the PTE category only extending to auditors subject to the SEC issuer independence rules is not reflected in prong (a) of the proposed revised PIE definition. Therefore, as written, prong (a) appears to scope a broader population of entities into the PIE definition (i.e., any PTE whose auditor is subject to SEC rule 2-01) rather than what is described in paragraph 12 (i.e., issuers only). They requested that the committee clarify prong (a) of the proposed revised PIE definition to reflect the refinement in paragraph 12 that a PIE is a PTE whose auditor is subject to SEC issuer independence rules. If prong (a) is not clarified, we believe the committee should, at a minimum, issue application guidance that incorporates the guidance contained in paragraph 12 and any other relevant paragraphs of the explanatory memorandum.</p>
CL 3	Ernst & Young LLP (EY)	Yes
CL 4	KPMG LLP	Yes

CL 5	NASBA	Yes
CL 6	Crowe LLP	Yes
CL 7	Grant Thornton LLP	Yes
CL 8	AICPA PCPS Technical Issues Committee (TIC)	Yes They agree with the refinement to the “publicly traded entity” category in so far as the refinement extends only to those entities whose auditors are subject to the SEC issuer independence rules as the rules that apply to issuer audits are similar to IESBA independence requirements for PIEs. Their understanding is that the refinement to the publicly traded entity category only includes “issuer” entities.
CL 9	CliftonLarsonAllen LLP	Yes
CL 10	BDO USA LLP	Yes They agree with the refinement to the “publicly traded entity” category to include only those entities whose auditors are subject to Regulation S-X, SEC Rule 2-01. They believe the additional independence requirements applicable to a PIE should only apply to those entities where the SEC has already determined that “SEC issuer” rules should apply.
CL 11	Deloitte LLP	Yes
CL 12	Baker Tilly US, LLP	Yes They agree with the refinement to the “publicly traded entity” category to include only those entities whose auditors are subject to Regulation S-X, SEC Rule 2-01. They believe that those publicly traded entities not subject to the SEC’s independence rules for auditors of issuers, such as governmental bonds and certain entities traded on the OTC, are appropriately excluded from the PIE definition. They

		believe the SEC's independence rules appropriately address heightened expectations regarding the independence of auditors for this PIE category.
CL 13	Pennsylvania Institute of CPAs (PICPA)	Yes
CL 14	New York State Society of CPAs (NYSSCPA)	No It is not clear which entities in this category would have auditors not subject to this rule? A clarification would be helpful in understanding the excluded entities.

Question c: Do you agree with the refinement to the “deposits from the public” category to include only those entities that have consolidated total assets of \$1 billion or more and meet the annual audit requirement imposed by Part 363 of FDIC regulations (12 CFR 363 – “Annual Independent Audits and Reporting Requirements”)? If not, please explain why.		
Yes: 10 No: 3 No response: 1		
CL 1	RSM US LLP	Yes
CL 2	PricewaterhouseCoopers LLP (PWC)	No response
CL 3	Ernst & Young LLP (EY)	Yes
CL 4	KPMG LLP	Yes
CL 5	NASBA	Yes They generally agree with the refinement to the “deposits from the public” category; however they suggest the PEEC consider if the \$1 billion or more threshold should be increased to a higher number. A bank with \$1 billion in deposits from the public

		may generate \$25 - \$40 million in annual revenue which is significantly lower than the threshold applied to those entities providing insurance to the public.
CL 6	Crowe LLP	<p>No</p> <p>They agree the refinement should be aligned with the FDIC Part 363 regulations since those regulations impose restrictive independence requirements that are substantially aligned with IESBA independence requirements for PIEs. However, we do not believe the category should be limited to financial institutions that have total assets of more than \$1 billion. While we understand the PEEC’s reasoning for trying to apply this category to larger institutions which have heightened FDIC restrictions, we noted the FDIC’s heightened restrictions did not include more restrictive independence requirements. Accordingly, we believe it is more consistent with the FDIC’s independence regulations to remove the limitation to financial institutions with total assets of more than \$1 billion.</p> <p>Another consideration for not limiting the “deposits from the public” category to entities with total assets of \$1 billion or more is financial institutions under \$1 billion may issue brokered certificates of deposit and fall within a category that meets the definition of publicly traded entity. For financial institutions that have total assets of more than \$500 million and meet the definition of publicly traded entity due to the issuance of brokered certificates of deposit, the financial institution will be considered a PIE because their auditor is subject to SEC independence. However, member might inappropriately apply 0.400.43(b) to that situation believing the financial institution is not a PIE because the financial institution has total assets below \$1 billion.</p>
CL 7	Grant Thornton LLP	Yes
CL 8	AICPA PCPS Technical Issues Committee (TIC)	Yes

CL 9	CliftonLarsonAllen LLP	<p>No</p> <p>They believe that the “deposits from the public” category should include those entities that have consolidated total assets of \$500 million or more (and not \$1 billion or more), which is consistent with the FDIC regulations. The AICPA contends and they agree that the FDIC already adequately regulates financial institutions’ “deposits from the public.” From an independence standpoint, they do not believe that there is a reason to increase the consolidated total assets from \$500 million to \$1 billion. The “IESBA code prohibits members from providing non-assurance – or nonattest – services to a PIE audit or review client if such services might create a self-review threat,” and the FDIC regulations also have the same rules regarding providing non-assurance or nonattest services to the financial institutions whether the financial institution has consolidated total assets of \$400 million or more or \$1 billion or more, so the AICPA should align with the extant FDIC threshold.</p>
CL 10	BDO USA LLP	<p>Yes</p> <p>They agree with the refinement to the “deposits from the public” category to include only those entities that have consolidated total assets of \$1 billion or more and meet the annual audit requirement imposed by Part 363 of FDIC regulations (12 CFR 363 – “Annual Independent Audits and Reporting Requirements”). They agree with PEEC’s reasoning that this is the level at which the FDIC recognized a heightened risk and the level at which they determined additional requirements such as the establishment of an audit committee, and reporting on internal control over financial reporting would also apply.</p>
CL 11	Deloitte LLP	<p>Yes</p>
CL 12	Baker Tilly US, LLP	<p>Yes</p> <p>They agree with the refinement to the “deposits from the public” category to include only those entities that have consolidated total assets of \$1 billion or more and meet the annual requirements imposed by Part 363 of FDIC regulations. They believe it is</p>

		appropriate to align the PIE definition with the FDIC’s “heightened risk” threshold of \$1 billion.
CL 13	Pennsylvania Institute of CPAs (PICPA)	Yes
CL 14	New York State Society of CPAs (NYSSCPA)	No It is not clear why a lower threshold than \$1 billion in consolidated total assets should not apply. A consistent standard would seem appropriate.

Question d: Do you agree with the refinement to the “insurance to the public” category to include only those entities that are subject to the NAIC Model Audit Rule that meet or exceed \$500 million in annual direct written and assumed premiums? If not, please explain why.		
Yes: 9 No: 3 No response: 1		
CL 1	RSM US LLP	Yes
CL 2	PricewaterhouseCoopers LLP (PWC)	No response
CL 3	Ernst & Young LLP (EY)	Yes
CL 4	KPMG LLP	No They generally agree with the AICPA’s refinement to the “insurance to the public” category. Paragraph 28 of the explanatory materials identifies certain entities that are not included in the AICPA’s refined insurance category because of inconsistent application of the Model Audit Rule or varied state regulations among them. They believe that if PEEC’s intention is to exempt these entities from the definition of PIE,

		it should be explicitly stated in the interpretation.
CL 5	NASBA	Yes
CL 6	Crowe LLP	No They agree the refinement should be aligned with the NAICA Model Audit Rule since those regulations impose restrictive independence requirements that are substantially aligned with IESBA independence requirements for PIEs. However, they do not believe the category should be limited to entities that meet or exceed \$500 million in annual direct written and assumed premiums. While they understand the PEEC’s reasoning for trying to apply this category to larger insurers which have heightened NAICA restrictions, they noted the NAIC’s heightened restrictions did not include more restrictive independence requirements. Accordingly, they believe it is more consistent with the NAIC’s independence regulations to remove the limitation to entities that meet or exceed \$500 million in annual direct written and assumed premiums.
CL 7	Grant Thornton LLP	Yes
CL 8	AICPA PCPS Technical Issues Committee (TIC)	Yes
CL 9	CliftonLarsonAllen LLP	Yes
CL 10	BDO USA LLP	Yes They agree with the refinement to the “insurance to the public” category to include only those entities that are subject to the NAIC Model Audit Rule that meet or exceed \$500 million in annual direct written and assumed premiums. They agree with PEEC’s reasoning that this is the level at which the NAIC recognized a heightened risk and the level at which they determined additional requirements such as the establishment of an audit committee, and reporting on internal control over

		financial reporting would also apply.
CL 11	Deloitte LLP	<p>Yes</p> <p>They agree with the refinement to the “insurance to the public” category to include only those entities subject to the NAIC Model Audit Rule that meet or exceed \$500 million in annual direct written and assumed premiums.</p> <p>As written, the category includes any insurance company which is subject to MAR and exceeds the \$500 million threshold, with no specific exceptions for certain types of insurance entities. In contrast, paragraphs 28-29 of the exposure draft explanatory material specifically exclude other insurance entities due to the lack of uniform application of MAR. They agree with providing exceptions and recommend PEEC consider such exceptions in the definition itself rather than solely in nonauthoritative guidance or basis for conclusions documents.</p>
CL 12	Baker Tilley US, LLP	<p>Yes</p> <p>They agree with the refinement to the “insurance to the public” category to include only those entities that are subject to the NAIC Model Audit Rule and exceed \$500 million in annual direct written and assumed premiums.</p>
CL 13	Pennsylvania Institute of CPAs (PICPA)	<p>Yes</p>
CL 14	New York State Society of CPAs (NYSSCPA)	<p>No</p> <p>Same response as question c. It is not clear why a lower threshold should not apply. A consistent standard would seem appropriate.</p>

Question e: Do you agree with the “investment company” category PEEC proposes to include in the PIE definition? If not, please explain why.

Yes: 9 No: 4 No response: 1		
CL 1	RSM US LLP	<p>No</p> <p>They agree with the category of investment companies that PEEC proposes to include in the PIE definition. However, they believe the category should be expanded to include investment companies that file or have filed a registration statement that has not yet become effective under the Securities Act of 1940, and that it has not withdrawn. They suggest the following revision to the definition.</p> <p style="padding-left: 40px;">An investment company, other than an insurance company product, that is registered with the SEC pursuant to the Investment Company Act of 1940 or that files or has filed a registration statement that has not yet become effective under the Securities Act of 1940, and that it has not withdrawn.</p>
CL 2	PricewaterhouseCoopers LLP (PWC)	No response
CL 3	Ernst & Young LLP (EY)	<p>No</p> <p>They agree with PEEC's statement in paragraph 15 of the exposure draft's explanatory memo that publicly available mutual funds are considered PIEs if their auditors are subject to SEC issuer independence rules. However, they believe that paragraph 32 contradicts paragraph 15, as not all funds that are solely registered with the SEC pursuant to the Investment Company Act of 1940 (1940 Act) are offered to the public and therefore are not all publicly available or have significant public interest. They recommend that PEEC revise the proposed investment company category as follows:</p> <p style="padding-left: 40px;">An investment company, other than an insurance company product, that is registered with the SEC pursuant to the Investment Company Act of 1940 and the Securities Act of 1933.</p>

		<p>They believe this change would provide further clarifications that entities such as nontraded and private business development companies (BDCs), in addition to nontraded real estate investment trusts (REITs) and insurance separate accounts, as identified in paragraphs 32 and 33, respectively, of the exposure draft's explanatory memo, would not be considered PIEs.</p> <p>They also believe nonauthoritative guidance summarizing the US entity types that are excluded from the new and revised definitions, such as those noted above, as well as others identified in the exposure draft's explanatory mem, including credit unions and 11-k filers, as identified in paragraphs 22 and 34, respectively, would be beneficial.</p>
CL 4	KPMG LLP	<p>No</p> <p>They agree that it is appropriate to treat investment companies that have significant public interest as PIEs. The explanatory materials indicate that entities such as nontraded real estate investment trusts (REITs) would not be included within this category and therefore should not be considered PIEs. They believe that similar non-traded investment companies that are registered under the Investment Company Act of 1940 but not the Securities Act of 1933 should also be excluded from the definition of PIE because there is no publicly accessible market mechanism on which these investment companies can trade. As such, these entities do not represent broad public interest that triggers the incremental PIE independence requirements. They recommend that PEEC refine category (d) to make this distinction and enable consistent application. They suggest the following edit for PEEC's consideration (change shown in bold):</p> <p style="padding-left: 40px;">An investment company, other than an insurance company product, that is registered with the SEC pursuant to the Investment Company Act of 1940 and the Securities Act of 1933.</p>
CL 5	NASBA	Yes

CL 6	Crowe LLP	Yes
CL 7	Grant Thornton LLP	Yes
CL 8	AICPA PCPS Technical Issues Committee (TIC)	Yes
CL 9	CliftonLarsonAllen LLP	Yes
CL 10	BDO USA LLP	Yes They agree with the “investment company” category PEEC proposes to include in the PIE definition. They believe these entities fall within the definition of publicly traded entity and it is in the public interest to apply more restrictive independence requirements to these entities.
CL 11	Deloitte LLP	No They agree with the “investment company” category proposed by PEEC and support the intended exclusions as stated in the exposure draft explanation. However, in addition to the 1940 Investment Company Act (“the 1940 Act”), PEEC should consider citing the Securities Act of 1933 (“1933 Act”). Adding the 1933 Act would clarify that entities not registered under both acts, such as nontraded real estate investment trusts (REITs) and nontraded business development companies (BDCs), are not significant to the public interest and thus are not PIEs under the revised definition. We are not aware of any entity types that PEEC would inappropriately exclude from the definition by adding a reference to the 1933 Act. They suggest revising the category as show below (additions are in bold italic): An investment company, other than an insurance company product, that is registered with the SEC pursuant to the Investment Company Act of 1940 and the Securities Act of 1933.

CL 12	Baker Tilley US, LLP	Yes
CL 13	Pennsylvania Institute of CPAs (PICPA)	Yes
CL 14	New York State Society of CPAs (NYSSCPA)	Yes They agree with the proposal, which should include a definition that investment companies comprise mutual funds, closed-ed funds and unit investment trusts, and similar vehicles.

Question f: Do you believe other entities, such as credit unions, should be included as PIEs and thus subject to the more restrictive independence requirements consistent with those for IESBA PIEs?

- i. If so, which entities and why?
- ii. If so, should the AICPA code incorporate a second set of more restrictive independence standards (that is, consistent with IESBA PIEs), applicable to these other entities? If not, please explain an alternative approach.

Yes: 1 No: 10 No response: 3

CL 1	RSM US LLP	No For the reasons set forth in paragraphs 22–23 and 34–50, they agree with PEEC’s conclusion not to include credit unions, pension plans (including those required to file form 11-K with the SEC), other employee benefit plans required to have an annual financial statement audit under the Employee Retirement Income Security Act of 1974, non-issuer broker-dealers, private funds advised by an SEC-registered investment adviser that choose to rely on the audit exception under the custody rule, and not-for-profit and governmental entities within the definition of public interest entities. Although not specifically addressed in the Exposure Draft, they also agree with excluding non-issuer futures commission merchants from the definition of public
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		interest entities.
CL 2	PricewaterhouseCoopers LLP (PWC)	No response
CL 3	Ernst & Young LLP (EY)	<p>No</p> <p>They do not believe other entities, such as credit unions, should be included as PIEs. The three mandatory categories covered by the new IESBA PIE definition are heavily regulated in the United States. As noted in paragraph 22 of the exposure draft's explanatory memo, the regulator for credit unions, National Credit Union Administration (NCUA), has determined that the independence requirements of the current AICPA code, are the appropriate independence standards for auditors of credit unions. NCUA previously considered the FDIC's independence requirement for auditors of large banks and solicited public comment (71 FR 9278 (February 23, 2006)) on whether to require auditors of credit unions to meet the SEC independence requirements, but it ultimately determined not to implement such a requirement.</p>
CL 4	KPMG LLP	No response
CL 5	NASBA	<p>Yes</p> <p>They believe that credits unions should be included as a PIE and thus subject to more restrictive independence requirements consistent with those for IESBA PIEs.</p> <p>Credit unions have grown significantly both organically and through acquisitions including acquisitions of non-credit union financial institutions. The Navy Federal Credit Union with \$144 billion in assets and 12 million members is the largest credit union in the United States. It is larger than many other regional and national banks. The largest 250 credit unions in the United States all have over \$1.5 billion in assets. From a public interest perspective, credit unions are comparable to banks in both substance and form and should be considered as PIEs and thus subject to</p>

		<p>more restrictive independence requirements.</p> <p>They believe that the AICPA code should incorporate a second set of more restrictive independence standards (that is, consistent with IESBA PIEs) for credit unions. Consistent with their comment in (c) above, PEEC should consider whether a \$1 billion threshold is appropriate for these entities.</p>
CL 6	Crowe LLP	<p>No</p> <p>Other than their recommendations above for changes to the deposit and insurance categories, they do not believe there are other entities that should be included as PIEs as they believe the PEEC's definitions sufficiently capture entities that currently have more restrictive independence requirements.</p>
CL 7	Grant Thornton LLP	<p>No</p> <p>They do not believe other entities, such as credit unions, should be included as PIEs. They agree with PEEC's rationale and decision to exclude credit unions from the PIE definition as discussed in the Exposure Draft, since this would allow members the ability to consider regulators' input and that the regulator overseeing the credit unions allows auditors to apply AICPA independence. They do not have any further comment regarding other entities to be included in the PIE definition.</p>
CL 8	AICPA PCPS Technical Issues Committee (TIC)	<p>No</p> <p>Because other entities, such as credit unions, are strongly regulated in the U.S. (e.g., National Credit Union Administration (NCUA)), they believe that regulators are best able to determine which independence standards are appropriate for auditors of their regulated entities to follow.</p>
CL 9	CliftonLarsonAllen LLP	<p>No</p> <p>They do not believe that credit unions should be included in the PIE definition. Credit unions already have oversight from the National Credit Union Administration</p>

		(NCUA).
CL 10	BDO USA LLP	<p>No</p> <p>They do not believe other entities, such as credit unions, should be included as PIEs. Specifically, regarding credit unions, in addition to considering the characteristics of credit unions that distinguish them from banks (e.g., being member owned and controlled), they agree with PEEC's reasoning that credit unions are regulated by the National Credit Union Administration (NCUA), which has determined that the AICPA independence standards are the appropriate independence standards auditors of credit unions should follow.</p>
CL 11	Deloitte LLP	<p>No</p> <p>They are not aware of other entities, such as credit unions, which PEEC should include as PIEs at this time. If IESBA revises its PIE definition in the future to mandate additional categories or consideration of other specific categories, PEEC should consider those revisions for convergence as they occur.</p>
CL 12	Baker Tilley US, LLP	<p>No - They do not believe other entities should be included as PIEs. They believe the proposed definition of a PIE appropriately includes those entities of significant public interest. Entities such as credit unions are already subject to regulatory oversight by the National Credit Union Administration that protects the interests of the public.</p>
CL 13	Pennsylvania Institute of CPAs (PICPA)	<p>No</p> <p>They do not believe that the entities included in the PIE definition should be expanded to credit unions or other similar entities.</p>
CL 14	New York State Society of CPAs (NYSSCPA)	<p>No response</p>

Question g: Is the definition of publicly traded entity clear? If not, please explain how it should be clarified.

Yes: 11 No: 2 No response: 1

CL 1	RSM US LLP	Yes
CL 2	PricewaterhouseCoopers LLP (PWC)	No response
CL 3	Ernst & Young LLP (EY)	Yes
CL 4	KPMG LLP	Yes
CL 5	NASBA	No They do not believe the definition of publicly traded entity is clear. Paragraph .13 of the Explanation Section states that a publicly traded entity includes financial instruments of certain non-issuers such as government bonds. However, the definition of publicly traded entity (0.400 Definition .45) refers only to “an entity”. Misinterpretation of the definition by a member could lead to the application of greater restrictions than required. At a minimum, they suggest that the explanation be wholly consistent with the definition.
CL 6	Crowe LLP	Yes
CL 7	Grant Thornton LLP	Yes
CL 8	AICPA PCPS Technical Issues Committee (TIC)	Yes
CL 9	CliftonLarsonAllen LLP	Yes

CL 10	BDO USA LLP	Yes
CL 11	Deloitte LLP	Yes They believe the proposed definition of publicly traded entity is clear and properly refined based on the IESBA baseline definition of the same term.
CL 12	Baker Tilley US, LLP	Yes
CL 13	Pennsylvania Institute of CPAs (PICPA)	Yes
CL 14	New York State Society of CPAs (NYSSCPA)	No The proposed new definition includes “traded through a publicly accessible market mechanism.” That phrase needs to be expanded, with illustrations provided. The proliferation of new types of entities and means of communication requires more complete and clear guidance.

Question h: If an entity does not otherwise meet the definition of a PIE, are you aware of situations in which a member would treat an entity as a PIE when an engagement is subject to AICPA Statements on Auditing Standards, Statements on Standards for Accounting and Review Services, or Statements on Standards for Attestation Engagements?

- i. If so, describe such situations and which independence standards are typically applied.
- ii. Do you believe it would be helpful to have guidance related to such situations? If so, should that guidance be authoritative (that is, included in the AICPA code) or nonauthoritative (for example, a Q&A or practice aid)?
- iii. Do you believe that in such situations the member should be required to disclose that the independence requirements for PIEs have been applied? If so, how do you believe such disclosure should be achieved when the regulator’s transparency requirement is not applicable?

Yes: 8 No: 4 No response: 2		
CL 1	RSM US LLP	<p>Yes</p> <p>They are aware of situations in which, due to regulatory requirements, members perform audit engagements in accordance with both AICPA Statements on Auditing Standards and PCAOB Auditing Standards (“dual standards engagements”). In those cases, the independence rules of the SEC and the PCAOB must be complied with. They believe auditors who agree to conduct dual-standards engagements understand the independence standards and rules applicable to such engagements and do not need additional guidance to apply them. Further, they believe disclosure of those standards is unnecessary because it is inherent in the disclosure of the auditing standards applied.</p>
CL 2	PricewaterhouseCoopers LLP (PWC)	<p>Yes</p> <p>The PEEC’s proposed PIE definition does not include language from the IESBA application guidance, which lists factors for firms to consider in evaluating whether to treat additional entities as PIEs. PEEC’s view for not including the factors is explained in paragraph 53 of the exposure draft’s explanatory memorandum, which states, in part, that the Code of Conduct, with or without the list of factors from the IESBA Code’s application guidance, allows a member to apply enhanced independence requirements and to treat a client as a PIE, when appropriate. They agree that, with or without the factors listed in the Code of Conduct, members can apply the enhanced independence requirements and treat a client as a PIE. As a result, they support PEEC not including the application guidance and do not believe any additional guidance is necessary.</p>
CL 3	Ernst & Young LLP (EY)	<p>No</p> <p>They are not aware of any such situations and do not believe additional guidance (authoritative or nonauthoritative) is necessary.</p>

		<p>If the intent of the disclosure is to indicate a level of audit quality, they do not believe such disclosure is warranted. PIE classification should not be the trigger for a different level of audit quality, and the audit report already discloses the audit or attest standards being applied. If the intent of the disclosure is to enhance the confidence in the independence of the audit firm and/or engagement team providing the service, they believe such objective is met via a firm's Transparency Report, website or other disclosures regarding its system of effective quality management.</p>
CL 4	KPMG LLP	No response
CL 5	NASBA	<p>Yes</p> <p>They believe there are situations in which a member would treat an entity as a PIE when an engagement is subject to AICPA Statements on Auditing Standards, Statements on Standards for Accounting and Review Services, or Statements on Standards for Attestation Engagements.</p> <p>Entities that are about to go public, about to be purchased by a publicly traded entity, or if the member knows the financial statements will be included in a U.S. Securities & Exchange Commission filing are situations where a member should treat the entity as a PIE when an engagement is subject to AICPA Statements on Auditing Standards.</p> <p>They believe that the guidance related to such situations could be nonauthoritative either in a Q&A or practice aid.</p> <p>They believe that in such situations the member should be required to disclose that the independence requirements for PIEs have been applied. In these situations, the disclosure should be achieved through inclusion in the engagement letter and the letter to those charged with governance.</p>
CL 6	Crowe LLP	<p>Yes</p> <p>They are aware of situations where members may voluntarily apply more restrictive</p>

		<p>independence requirements to an entity and treat as a PIE, typically in advance of a company becoming a public company. However, they do not believe this category needs to be included in the AICPA's definition of PIE as members have independence rules they can apply in those situations and do not need for these to be included in the AICPA's definition.</p>
CL 7	Grant Thornton LLP	<p>No</p> <p>They are not aware of situations in which a member would treat an entity as a PIE when an engagement is not subject to AICPA Statements on Auditing Standards, Statements on Standards for Accounting and Review Services, or Statements on Standards for Attestation Engagements and where the entity does not meet the PIE definition as proposed in the Exposure Draft. However, if there are other situations for members to consider, they believe PEEC should consider providing nonauthoritative guidance providing examples and explanations related to such situations in the format of a frequently asked questions (FAQs) document or practice aid. Further, they agree with PEEC's decision to not incorporate the transparency requirement, such that members would not be required to disclose that the independence requirements for PIEs have been applied to the attest engagement as this requirement would be achieved through the issuance of the auditor's opinion on the financial statements, as discussed in the Exposure Draft.</p>
CL 8	AICPA PCPS Technical Issues Committee (TIC)	<p>Yes</p> <p>They believe the primary example of a situation in which a member would treat an entity as a PIE, when the entity does not otherwise meet the definition of a PIE, is when the entity is expecting to file an initial public offering. They do not believe that there would be any situations under the Statements on Standards for Accounting and Review Services.</p> <p>They believe it would be helpful to have guidance related to such situations and believe such guidance would be sufficiently addressed in the form of a Q&A or</p>

		<p>practice aid.</p> <p>In situations that the member is not required to treat an entity as a PIE, they do not believe the member should be required to disclose that the independence requirements for PIEs have been applied.</p>
CL 9	CliftonLarsonAllen LLP	<p>Yes</p> <p>An entity is planning to go public within three years, then on might treat the entity as a PIE.</p> <p>They believe it would be helpful for the AICPA to provide nonauthoritative guidance by providing examples.</p> <p>They do not believe it is necessary to disclose that PIE independence rules have been applied.</p>
CL 10	BDO USA LLP	<p>No</p> <p>They are no aware of any situations in which a member would treat an entity as a PIE when an engagement is subject to AICPA Statements on Auditing Standards, Statements on Standards for Accounting and Review Services, or Statements on Standards for Attestation Engagements.</p> <p>If such situations were to arise, they do not believe it would be necessary to disclose that the independence requirements for PIEs have been applied. They believe any requirements related to disclosure of the independence standards should be determined by the applicable regulator.</p>
CL 11	Deloitte LLP	<p>Yes</p> <p>They agree there may be rare situations where an entity is not a PIE as defined by the AICPA Code while the entity's financial position is nevertheless significant to the public interest. They believe the baseline PIE factors presented at 400.9 supplemented by 400.19 A1 of the IESBA Code are appropriate as a base for any</p>

		<p>AICPA guidance for these scenarios.</p> <p>They believe nonauthoritative guidance could be helpful in addressing situations where a member concludes it is appropriate to treat an entity as a PIE although the entity is not a PIE as defined by the AICPA Code. This approach would align with 400.19 A1 of the IESBA Code.</p> <p>They understand the intent of transparency is to provide the investor community with information that could aid in decision-making and improve trust, however when members apply the PIE independence requirements voluntarily, we do not believe PEEC should require members to disclose such application for the following reasons:</p> <ul style="list-style-type: none">• Where the entity is already subject to a regulator’s independence requirements and the regulator has taken public interest into consideration when promulgating its independence requirements, it is unlikely that a transparency requirement would offer any incremental benefit to the public interest.• If the application of PIE independence requirements is voluntary, members should take the same approach to the related transparency requirement. PEEC could encourage firms to consider transparency but allow the client to make the ultimate decision. Just as a non-PIE client can choose to be treated as a PIE, it is reasonable to allow the same ability to use judgement when considering transparency.• Any mandated transparency in such situations is likely to raise costs for clients and firms with limited incremental benefit, which is counter to the public interest. This might create unintended consequences, such as inadvertently discouraging clients and firms from applying the PIE requirements voluntarily. <p>While they do not support the inclusion of a transparency requirement in the AICPA Code for these situations, if PEEC includes a transparency requirement in the final</p>
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		revisions, we suggest PEEC coordinate and consult with the Audit Standards Board (ASB) regarding the most appropriate methods and mechanisms for disclosures, if any, in this context to clarify the implementation of the transparency requirements when a regulator's transparency requirement is not applicable. These discussions should further consider the appropriateness of disclosures related to reports restricted in use or otherwise not made publicly available.
CL 12	Baker Tilley US, LLP	No
CL 13	Pennsylvania Institute of CPAs (PICPA)	Yes If the practitioner is serving as a component auditor of a subsidiary subject to international standards and the parent is a PIE, then a practitioner could be subject to the international ethics standards. They do not believe that additional guidance is necessary. They do not support separate disclosures in such situations.
CL 14	New York State Society of CPAs (NYSSCPA)	No response.

Question i: Do you agree that the effective date provides adequate time to implement the proposals? If you disagree, please explain why.		
Yes: 13 No: 0 No response: 1		
CL 1	RSM US LLP	Yes
CL 2	PricewaterhouseCoopers LLP (PWC)	No response

CL 3	Ernst & Young LLP (EY)	<p>Yes</p> <p>They agree with the alignment of the effective date for both the AICPA and IESBA definitions, and believe such date provides sufficient time for implementation.</p> <p>However, some that are PIEs under the current definition in the AICPA code will no longer be considered PIEs under the proposed revised definition. Such entities may temporarily be required to comply with the new IESBA pre-concurrence and fee disclosure requirements, effective starting in 2023, until such requirements are no longer applicable on the effective date for the AICPA’s revised PIE definition. Such disclosure being made for only a short period of time and then being subsequently removed may create confusion for the public and stakeholders.</p> <p>Although early adoption of the revised definition may be permitted, it may not be feasible for a firm to early adopt all categories of the revised definition since sufficient time will be needed to implement the requirements for entities not previously considered PIEs, such as non-publicly traded insurance companies, that will become PIEs under the revised definition paragraph 43.c.</p> <p>PEEC might consider the approach used by accounting standard setters to permit different effective dates based on entity type, such as public versus private companies. A possible approach may be staggering the effective date as follows:</p> <p>For all entities that are treated as Public Interest Entities (PIEs) as defined on the date prior to publication of these revisions, the new and revised definitions are effective immediately.</p> <p>For all other entities, the new and revised definitions will be effective for periods beginning on or after December 15, 2024, with early implementation allowed.</p>
CL 4	KPMG LLP	<p>Yes</p> <p>They propose a two-pronged approach for the effective date to allow entities that will no longer be PIEs under the new definition to be treated as non-PIEs as of the date of adoption by PEEC. IESBA’s effective date for its revised definitions of listed</p>

		<p>entities and PIEs creates incongruity with the IESBA <i>Revisions to the Non-Assurance Services Provisions of the Code and Revisions to the Fee-Related Provisions of the Code</i>, both of which were effective for periods beginning on or after December 15, 2022. For example, entities that will be non-PIEs under the AICPA revised definition (i.e., benefit plans filing Form 11-K, banking institutions that meet the annual audit requirement imposed by Part 363 of the FDIC’s regulations that have between \$500 million and \$1 billion in consolidated total assets, and insurance company separate accounts) will be required to apply PIE requirements for the periods between December 15, 2022 and December 15, 2024. Due to the timing difference amongst the standards, for members of firms that fully apply all IESBA standards, these entities will be required to apply PIE requirements that go beyond the US regulatory standards, such as public fee disclosures, for only one or two periods, creating an operational burden for entities that will be non-PIEs under the new definition. They propose that the effective date for existing PIE entities (i.e., those that will be non-PIEs under the revised definition) be as of the adoption date, and for all other entities, for periods beginning on or after December 15, 2024.</p>
CL 5	NASBA	Yes
CL 6	Crowe LLP	<p>Yes</p> <p>they believe the effective date, with early implementation allowed, provides sufficient time and flexibility for firms to develop policies or modify existing policies and provide training as necessary to implement the proposal.</p>
CL 7	Grant Thornton LLP	Yes
CL 8	AICPA PCPS Technical Issues Committee (TIC)	Yes
CL 9	CliftonLarsonAllen LLP	Yes

CL 10	BDO USA LLP	Yes
CL 11	Deloitte LLP	<p>Yes</p> <p>Notwithstanding their additional comments, they agree the proposal should be effective for periods beginning on or after December 15, 2024, with early adoption allowed, as this aligns with the effective date of the IESBA revised definitions of PIE and Publicly Traded Entity. However, similar to FASB's "two-bucket" approach that staggers the effective dates for new major accounting standards, they strongly recommend PEEC consider staggered effective dates for the revised PIE definition as follows:</p> <ul style="list-style-type: none"> • For current PIE entities, the effective date would be immediately upon publication. • For new PIE entities, the effective date would be for periods beginning on or after December 15, 2024, with early adoption allowed. <p>Using a two-bucket approach will provide more consistency and continuity to better support the public interest while balancing the costs of implementation.</p>
CL 12	Baker Tilley US, LLP	Yes
CL 13	Pennsylvania Institute of CPAs (PICPA)	<p>Yes</p> <p>They support the proposed effective date as the impact is expected to be minimal.</p>
CL 14	New York State Society of CPAs (NYSSCPA)	<p>Yes</p> <p>The proposed effective date appears reasonable.</p>

Additions to the proposed new definition since the exposure draft are highlighted in yellow.

Terms defined in the AICPA Code of Professional Conduct are italicized in this document. If you'd like to see the definitions, you can find them in "Definitions" ([ET sec. 0.400](#)).

Text of new definition *publicly traded entity* and revised definition *public interest entity*

0.400 Definitions

.45 Publicly traded entity. An entity that issues financial instruments that are transferable and traded through a publicly accessible market mechanism, including through listing on a stock exchange. ***Where an entity is required to file a registration statement with the SEC, it will be considered a publicly traded entity when the registration statement becomes effective.***

.43 Public interest entityentities. ***An entity is a public interest entity when it falls within any one of the All of the following categories:***

- a. ~~All listed entities, including entities that are outside the United States whose shares, stock, or debt are quoted or listed on a recognized stock exchange or marketed under the regulations of a recognized stock exchange or other equivalent body. A publicly traded entity whose auditor is subject to provisions of Regulation S-X, SEC Rule 2-01, "Qualifications of Accountants" that are applicable to auditors of issuers~~
- b. ***An entity one of whose main functions is to take deposits from the public***
 - i. ***that meets the annual audit requirement imposed by Part 363 of the FDIC's regulations (12 CFR 363, Annual Independent Audits and Reporting Requirements) and***
 - ii. ***that has consolidated total assets of \$1 billion or more as of the beginning of the fiscal year.***

- c. **An entity one of whose main functions is to provide insurance to the public**
 - i. **that is subject to the National Association of Insurance Commissioners Annual Financial Reporting Model Regulation (Model Audit Rule), and**
 - ii. **that has \$500 million or more in annual direct written and assumed premiums.**
- d. **An investment company, other than an insurance company product, that is registered with the SEC pursuant to the Investment Company Act of 1940 and the Securities Act of 1933**
- b. ~~Any entity for which an audit is required by regulation or legislation to be conducted in compliance with the same independence requirements that apply to an audit of listed entities (for example, requirements of the SEC, the PCAOB, or other similar regulators or standard setters).~~

~~Members may wish to consider whether additional entities should also be treated as public interest entities because they have a large number and wide range of stakeholders. Factors to be considered may include~~

- ~~• the nature of the business, such as the holding of assets in a fiduciary capacity for a large number of stakeholders;~~
- ~~• size; and~~
- ~~• number of employees.~~

When a member performs a financial statement audit or review subject to the regulatory requirements described in (a)–(d), a member ~~Members~~ **should comply with the applicable independence requirements as required by the “Governmental Bodies, Commissions, or Other Regulatory Agencies” interpretation [1.400.050] of the “Acts Discreditable Rule” [1.400.001] refer to the independence regulations of applicable authoritative regulatory bodies when a member performs attest services and is required to be independent of the attest client under such regulations. [Prior reference: paragraph .20 of ET section 100-1]**

Comment letters



August 21, 2023

Professional Ethics Division
American Institute of Certified Public Accountants
1211 Avenue of the Americas, 19th Floor
New York, NY 10036

Via email to ethics-exposuredraft@aicpa.org

Re: Exposure Draft, *Proposed new definition of publicly traded entity and revised definition of public interest entity*, AICPA Professional Ethics Division – June 15, 2023

RSM US LLP (RSM) appreciates the opportunity to comment on the American Institute of Certified Public Accountants (AICPA) Professional Ethics Division's June 15, 2023, Exposure Draft, *Proposed new definition of publicly traded entity and revised definition of public interest entity* (the Exposure Draft). RSM is a leading provider of audit, tax and consulting services focused on the middle market.

As requested, we are providing the following responses to the questions on the specific aspects of the proposed interpretations and revisions upon which PEEC is seeking feedback:

- a. *Do you agree with the decision to defer to the relevant regulators for purposes of the specific independence requirements applicable to each PIE category? If not, please explain why.*

We agree with the decision to defer to the relevant regulators for purposes of the specific independence requirements applicable to each PIE category.

- b. *Do you agree with the refinement to the "publicly traded entity" category to include only those entities whose auditors are subject to Regulation S-X, SEC Rule 2-01? If not, please explain why.*

We agree with the stated intention in paragraph 12 of the Exposure Draft to limit the *publicly traded entity* category of *public interest entities* to entities whose auditors are subject to the SEC "issuer" independence rules. However, we are concerned that there may be some *publicly traded entities* whose auditors are subject to Rule 2-01 of SEC Regulation S-X that are not subject to the "issuer" rules within Rule 2-01. See our comment on how category a. of the definition of *public interest entity* could be revised to make it clear that only *publicly traded entities* that are "issuers" are included in this category of PIEs.

- c. *Do you agree with the refinement to the “deposits from the public” category to include only those entities that have consolidated total assets of \$1 billion or more and meet the annual audit requirement imposed by Part 363 of FDIC regulations (12 CFR 363 – “Annual Independent Audits and Reporting Requirements”)? If not, please explain why.*

We agree with this refinement.

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Are more restrictive independence requirements consistent with those for IESBA PIEs:

- i. *If so, which entities and why?*
- ii. *If so, should the AICPA code incorporate a second set of more restrictive independence standards (that is, consistent with IESBA PIEs), applicable to these other entities? If not, please explain an alternative approach.*

For the reasons set forth in paragraphs 22–23 and 34–50, we agree with PEEC’s conclusion not to include credit unions, pension plans (including those required to file form 11-K with the SEC), other employee benefit plans required to have an annual financial statement audit under the Employee Retirement Income Security Act of 1974, non-issuer broker-dealers, private funds advised by an SEC-registered investment adviser that choose to rely on the audit exception under the custody rule, and not-for-profit and governmental entities within the definition of *public interest entities*. Although not specifically addressed in the Exposure Draft, we also agree with excluding non-issuer futures commission merchants from the definition of *public interest entities*.

- g. *Is the definition of “publicly traded entity” clear? If not, please explain how it should be clarified.*

We believe the definition of *publicly traded entity* is clear.

- h. *If an entity does not otherwise meet the definition of a PIE, are you aware of situations in which a member would treat an entity as a PIE when an engagement is subject to AICPA Statements on Auditing Standards, Statements on Standards for Accounting and Review Services, or Statements on Standards for Attestation Engagements?*
- i. *If so, describe such situations and which independence standards are typically applied.*
 - ii. *Do you believe it would be helpful to have guidance related to such situations? If so, should that guidance be authoritative (that is, included in the AICPA code) or nonauthoritative (for example, a Q&A or practice aid)?*
 - iii. *Do you believe that in such situations the member should be required to disclose that the independence requirements for PIEs have been applied? If so, how do you believe such disclosure should be achieved when the regulator’s transparency requirement is not applicable?*

We are aware of situations in which, due to regulatory requirements, members perform audit engagements in accordance with both AICPA Statements on Auditing Standards and PCAOB

Auditing Standards (“dual standards engagements”). In those cases, the independence rules of the SEC and the PCAOB must be complied with. We believe auditors who agree to conduct dual-standards engagements understand the independence standards and rules applicable to such engagements and do not need additional guidance to apply them. Further, we believe disclosure of those standards is unnecessary because it is inherent in the disclosure of the auditing standards applied.

- i. *Do you agree that the effective date provides adequate time to implement the proposals? If you disagree, please explain why.*

Because PEEC proposes to defer to the relevant regulators for the specific independence requirements applicable to each PIE category, we agree that the proposed effective date provides adequate time to implement the proposals.

We also offer the following comments on categories a. and d. of the proposed definition of *Public interest entity* (ET Section 400.43):

Category a.

To avoid confusion, we suggest this category be revised to specifically limit the category to publicly traded entities that are “issuers” rather than referencing Rule 2-01 of SEC Regulation S-X which applies to many entities other than issuers, some of which could, potentially, be publicly traded entities. We suggest revising the definition as follows:

“A publicly traded entity that is an ‘issuer’ (as defined in Section 3 of the Securities Exchange Act of 1934), the securities of which are registered under Section 12 of that Act or that is required to file reports under Section 15(d) of that Act (excluding Stock Purchase, Savings and Similar Plans), or that files or has filed a registration statement that has not yet become effective under the Securities Act of 1933, and that it has not withdrawn.”

Category d.

Since investment companies file registration statements under the Investment Company Act of 1940, we suggest revising this definition as follows:

“An investment company, other than an insurance company product, that is registered with the SEC pursuant to the Investment Company Act of 1940 or that files or has filed a registration statement that has not yet become effective under the Securities Act of 1940, and that it has not withdrawn.”

We appreciate this opportunity to provide feedback on the Exposure Draft and would be pleased to respond to any questions you may have. Please direct any questions regarding this letter to Claire Blanton, National Director of Independence, Compliance and Ethics, at 704.206.7271.

Sincerely,

RSM US LLP

RSM US LLP



September 14, 2023

Ms. Toni Lee-Andrews
Director, Professional Ethics Division
AICPA Professional Ethics Executive Committee
1345 Avenue of the Americas, 27th Floor
New York, NY 10105

Re: AICPA Professional Ethics Executive Committee proposed new definition of publicly traded entity and revised definition of public interest entity

Dear Ms. Lee-Andrews:

PricewaterhouseCoopers LLP appreciates the opportunity to provide comments on the proposal of the AICPA Professional Ethics Executive Committee (the “PEEC” or the “Committee”) to adopt a new definition of “publicly traded entity” and revised definition of “public interest entity” (the “proposed revisions”) under ET sec. 0.400 (“Definitions”) of the AICPA *Code of Professional Conduct* (the “Code of Conduct”).

We agree with the new definition of a publicly traded entity (PTE) and revised definition of a public interest entity (PIE), as proposed. We also agree with the proposed revisions to align with the provisions adopted by the International Ethics Standards Board for Accountants (IESBA) *International Code of Ethics for Professional Accountants (including International Independence Standards)* (the “IESBA Code”) with one suggestion for clarification.

Prong (a) of the PEEC’s proposed revised PIE definition refers to “a publicly traded entity whose auditor is subject to Regulation S-X, SEC Rule 2-01, ‘Qualifications of Accountants’” (“SEC Rule 2-01”). However, paragraph 12 of the explanatory memorandum in the exposure draft states that the IESBA Code’s category of a PTE has been refined in the Committee’s proposal to extend only to those entities whose auditors are subject to the SEC **issuer** independence rules. Paragraph 12 also provides examples of SEC Rule 2-01 provisions that apply to both issuer and nonissuer audits as well as examples of provisions that apply to issuer audits only. The refinement in paragraph 12 regarding the PTE category only extending to auditors subject to the SEC issuer independence rules is not reflected in prong (a) of the proposed revised PIE definition. Therefore, as written, prong (a) appears to scope a broader population of entities into the PIE definition (i.e., any PTE whose auditor is subject to SEC Rule 2-01) rather than what is described in paragraph 12 (i.e., issuers only). We request that the Committee clarify prong (a) of the proposed revised PIE definition to reflect the refinement in paragraph 12 that a PIE is a PTE whose auditor is subject to SEC issuer independence rules. If prong (a) is not clarified, we believe the Committee should, at a minimum, issue application guidance that incorporates the guidance contained in paragraph 12 and any other relevant paragraphs of the explanatory memorandum.



Finally, the PEEC’s proposed PIE definition does not include language from the IESBA application guidance, which lists factors for firms to consider in evaluating whether to treat additional entities as PIEs. PEEC’s view for not including the factors is explained in paragraph 53 of the exposure draft’s explanatory memorandum, which states, in part, that the Code of Conduct, with or without the list of factors from the IESBA Code’s application guidance, allows a member to apply enhanced independence requirements and to treat a client as a PIE, when appropriate. We agree that, with or without the factors listed in the Code of Conduct, members can apply the enhanced independence requirements and treat a client as a PIE. As a result, we support PEEC not including the application guidance and do not believe any additional guidance is necessary.

* * * * *

We would be pleased to discuss our comments and to answer any questions that you or the PEEC may have. If you have any questions regarding this submission, please contact Marc Panucci at marc.panucci@pwc.com or Anika Heard at anika.heard@pwc.com.

Sincerely,

A handwritten signature in black ink that reads "PricewaterhouseCoopers LLP". The signature is written in a cursive, flowing style.

PricewaterhouseCoopers LLP



Ernst & Young LLP
One Manhattan West
New York, NY 10001-8604

Tel: +1 212 773 3000
ey.com

CL 3

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Ms. Toni Lee-Andrews, Director - Professional Ethics Division
American Institute of Certified Public Accountants
1345 Avenue of the Americas, 27th Floor
New York, NY 10105

September 14, 2023

Mail to: ethics-exposedraft@aicpa.org

Proposed new definition of publicly traded entity and revised definition of public interest entity

Dear Ms. Lee-Andrews:

Ernst & Young LLP ("EY US") is pleased to provide comments on the American Institute of Certified Public Accountants ("AICPA") Professional Ethics Executive Committee's ("PEEC") June 2023 Exposure Draft, *Proposed new definition of publicly traded entity and revised definition of public interest entity* (the "proposed changes" or "proposal").

We are supportive of PEEC's efforts to converge the AICPA's Code of Professional Conduct (the "Code") definitions of publicly traded entity ("PTE") and public interest entity ("PIE") with ethics standards promulgated by the International Ethics Standards Board for Accountants ("IESBA"). Overall, we believe that the proposal better aligns the classification of entities as PIEs.

We agree with the view that adding a separate set of independence standards for PIEs would introduce significant complexity to the AICPA code and potential inconsistencies with the rules of U.S. regulators. We agree with the refinement to the PIE category for PTEs to include only those publicly traded entities whose auditors are subject to the Securities and Exchange Commission ("SEC") Regulation S-X, Rule 2-01 as the SEC independence rules for issuers are substantially similar to the IESBA requirements for PIEs. We also agree with the trigger and thresholds to be applied to entities whose main functions are to take deposits from or provide insurance to the public. Finally, we agree with alignment of the effective date with IESBA for both definitions and believe that such date provides sufficient time for implementation.

Overall, we support the proposed changes; however, as more fully explained in our comments attached, there are certain proposed changes that we believe warrant further consideration by PEEC, and we hope our comments will aid PEEC in its efforts.

We would be pleased to discuss our comments with you. If you have any questions regarding this submission, please contact Karen Moncrieff at karen.moncrieff@ey.com.

Yours sincerely,



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Appendix – Detailed comments and recommendations

We are not including responses to questions a., b., c., d., and g. below because we agree with the proposal and the reasoning as outlined in the exposure draft's explanatory memo.

- e. *Do you agree with the “investment company” category PEEC proposes to include in the PIE definition? If not, please explain why.*

Response:

We agree with PEEC's statement in paragraph 15 of the exposure draft's explanatory memo that publicly available mutual funds are considered PIEs if their auditors are subject to SEC issuer independence rules. However, we believe that paragraph 32 contradicts paragraph 15, as not all funds that are solely registered with the SEC pursuant to the Investment Company Act of 1940 (1940 Act) are offered to the public and therefore are not all publicly available or have significant public interest. We recommend that PEEC revise the proposed investment company category as follows:

d. An investment company, other than an insurance company product, that is registered with the SEC pursuant to the Investment Company Act of 1940 and the Securities Act of 1933.

We believe this change would provide further clarification that entities such as nontraded and private business development companies (BDCs), in addition to nontraded real estate investment trusts (REITs) and insurance separate accounts, as identified in paragraphs 32 and 33, respectively, of the exposure draft's explanatory memo, would not be considered PIEs.

We also believe nonauthoritative guidance summarizing the US entity types that are excluded from the new and revised definitions, such as those noted above, as well as others identified in the exposure draft's explanatory memo, including credit unions and 11-K filers, as identified in paragraphs 22 and 34, respectively, would be beneficial.

- f. *Do you believe other entities, such as credit unions, should be included as PIEs and thus subject to the more restrictive independence requirements consistent with those for IESBA PIEs?*
- i. If so, which entities and why?*
 - ii. If so, should the AICPA code incorporate a second set of more restrictive independence standards (that is, consistent with IESBA PIEs), applicable to these other entities? If not, please explain an alternative approach.*



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Response:

We do not believe other entities, such as credit unions, should be included as PIEs. The three mandatory categories covered by the new IESBA PIE definition are heavily regulated in the United States. As noted in paragraph 22 of the exposure draft's explanatory memo, the regulator for credit unions, National Credit Union Administration (NCUA), has determined that the independence requirements of the current AICPA code, are the appropriate independence standards for auditors of credit unions. NCUA previously considered the FDIC's independence requirement for auditors of large banks and solicited public comment (71 FR 9278 (February 23, 2006)) on whether to require auditors of credit unions to meet the SEC independence requirements, but it ultimately determined not to implement such a requirement.

- h. If an entity does not otherwise meet the definition of a PIE, are you aware of situations in which a member would treat an entity as a PIE when an engagement is subject to AICPA Statements on Auditing Standards, Statements on Standards for Accounting and Review Services, or Statements on Standards for Attestation Engagements?*
- i. If so, describe such situations and which independence standards are typically applied.*

Response:

We are not aware of any such situations.

- ii. Do you believe it would be helpful to have guidance related to such situations? If so, should that guidance be authoritative (that is, included in the AICPA code) or nonauthoritative (for example, a Q&A or practice aid)?*

Response:

As we are not aware of any such situations, we do not believe additional guidance (authoritative or nonauthoritative) is necessary.

- iii. Do you believe that in such situations the member should be required to disclose that the independence requirements for PIEs have been applied? If so, how do you believe such disclosure should be achieved when the regulator's transparency requirement is not applicable?*

Response:

If the intent of the disclosure is to indicate a level of audit quality, we do not believe such disclosure is warranted. PIE classification should not be the trigger



for a different level of audit quality, and the audit report already discloses the audit or attest standards being applied.

If the intent of the disclosure is to enhance the confidence in the independence of the audit firm and/or engagement team providing the service, we believe such objective is met via a firm's Transparency Report, website or other disclosures regarding its system of effective quality management.

i. Do you agree that the effective date provides adequate time to implement the proposals? If you disagree, please explain why.

Response:

We agree with alignment of the effective date for both the AICPA and IESBA definitions, and believe such date provides sufficient time for implementation.

However, some that are PIEs under the current definition in the AICPA Code will no longer be considered PIEs under the proposed revised definition. Such entities may temporarily be required to comply with the new IESBA pre-concurrence and fee disclosure requirements, effective starting in 2023, until such requirements are no longer applicable on the effective date for the AICPA's revised PIE definition. Such disclosure being made for only a short period of time and then being subsequently removed may create confusion for the public and stakeholders.

Although early adoption of the revised definition may be permitted, it may not be feasible for a firm to early adopt all categories of the revised definition since sufficient time will be needed to implement the requirements for entities not previously considered PIEs, such as non-publicly traded insurance companies, that will become PIEs under the revised definition paragraph 43. c.

PEEC might consider the approach used by accounting standard setters to permit different effective dates based on entity type, such as public versus private companies. A possible approach may be staggering the effective date as follows:

For all entities that are treated as Public Interest Entities (PIEs) as defined on the date prior to publication of these revisions, the new and revised definitions are effective immediately.

For all other entities, the new and revised definitions will be effective for periods beginning on or after December 15, 2024, with early implementation allowed.



KPMG LLP
345 Park Avenue
New York, NY 10154-0102

September 15, 2023

Ms. Toni Lee Andrews
Director of the AICPA Professional Ethics Division
American Institute of Certified Public Accountants
220 Leigh Farm Road
Durham, North Carolina 27707

RE: AICPA Professional Ethics Executive Committee Exposure Draft: Proposed New Definition of Publicly Traded Entity and Revised Definition of Public Interest Entity

Dear Ms. Lee-Andrews,

KPMG LLP (“KPMG,” “our,” or “we”) is pleased to respond to the request for public comment on the American Institute of Certified Public Accountants (AICPA) Professional Ethics Executive Committee’s (PEEC) Exposure Draft, *Proposed New Definition of Publicly Traded Entity and Revised Definition of Public Interest Entity*.

Overall, we are supportive of PEEC’s proposed new and revised definitions as part of its convergence efforts with ethics standards promulgated by the International Ethics Standards Board for Accountants (IESBA). Unless otherwise noted in this letter, we concur with PEEC’s position regarding the questions presented for specific comment, so we did not respond to each question individually.

(d) Do you agree with the refinement to the “insurance to the public” category to include only those entities that are subject to the NAIC Model Audit Rule that meet or exceed \$500 million in annual direct written and assumed premiums? If not, please explain why.

We generally agree with the AICPA’s refinement to the “insurance to the public” category. Paragraph 28 of the explanatory materials identifies certain entities that are not included in the AICPA’s refined insurance category because of inconsistent application of the Model Audit Rule or varied state regulations among them. We believe that if PEEC’s intention is to exempt these entities from the definition of PIE, it should be explicitly stated in the interpretation.

(e) Do you agree with the “investment company” category PEEC proposes to include in the PIE definition? If not, please explain why.

We agree that it is appropriate to treat investment companies that have significant public interest as PIEs. The explanatory materials indicate that entities such as nontraded real estate investment trusts (REITs) would not be included within this category and therefore should not be considered PIEs. We believe that similar non-traded investment companies that are registered under the Investment Company Act of 1940 but not the Securities Act of 1933 should also be excluded from the definition of PIE because there is no publicly accessible market mechanism on which these investment companies can trade. As such, these entities do not represent broad public interest that triggers the incremental PIE independence requirements. We recommend that PEEC refine category (d) to make this distinction and enable consistent application. We suggest the following edit for PEEC’s consideration (change shown in bold):

An investment company, other than an insurance company product, that is registered with the SEC pursuant to the Investment Company Act of 1940 **and the Securities Act of 1933.**



Ms. Toni Lee Andrews
American Institute of Certified Public Accountants
September 15, 2023
Page 2 of 2

(i) Do you agree that the effective date provides adequate time to implement the proposals? If you disagree, please explain why.

We propose a two-pronged approach for the effective date to allow entities that will no longer be PIEs under the new definition to be treated as non-PIEs as of the date of adoption by PEEC. IESBA's effective date for its revised definitions of listed entities and PIEs creates incongruity with the IESBA *Revisions to the Non-Assurance Services Provisions of the Code* and *Revisions to the Fee-Related Provisions of the Code*, both of which were effective for periods beginning on or after December 15, 2022. For example, entities that will be non-PIEs under the AICPA revised definition (i.e., benefit plans filing Form 11-K, banking institutions that meet the annual audit requirement imposed by Part 363 of the FDIC's regulations that have between \$500 million and \$1 billion in consolidated total assets, and insurance company separate accounts) will be required to apply PIE requirements for the periods between December 15, 2022 and December 15, 2024. Due to the timing difference amongst the standards, for members of firms that fully apply all IESBA standards, these entities will be required to apply PIE requirements that go beyond the US regulatory standards, such as public fee disclosures, for only one or two periods, creating an operational burden for entities that will be non-PIEs under the new definition. We propose that the effective date for existing PIE entities (i.e., those that will be non-PIEs under the revised definition) be as of the adoption date, and for all other entities, for periods beginning on or after December 15, 2024.

* * * * *

We appreciate PEEC's consideration of our feedback. If you have any questions regarding our comments included in this letter, please do not hesitate to contact Nancy Miller at nancymiller@kpmg.com.

Very truly yours,

KPMG LLP

CC: Anna Dourdourekas, Chair
Professional Ethics Executive Committee



National Association of State Boards of Accountancy

150 Fourth Avenue North ♦ Suite 700 ♦ Nashville, TN 37219-2417 ♦ Tel 615/880-4200 ♦ Fax 615/880-4290 ♦ Web www.nasba.org

September 11, 2023

Professional Ethics Executive Committee
American Institute of Certified Public Accountants
1345 Avenue of the Americas
New York, NY 10105

Via e-mail: ethics-exposedraft@aicpa.org

Re: Exposure Draft: Proposed New Definition of Publicly Traded Entity and Revised Definition of Public Interest Entity (ET Sec. 0.400)

Dear Members and Staff of the AICPA Professional Ethics Executive Committee (PEEC):

The National Association of State Boards of Accountancy (NASBA) appreciates the opportunity to comment on the above-referenced Exposure Draft, *Proposed New Definition of Publicly Traded Entity and Revised Definition of Public Interest Entity (ET Sec. 0.400)* (the Exposure Draft). NASBA's mission is to enhance the effectiveness and advance the common interests of State Boards of Accountancy (State Boards) that regulate all Certified Public Accountants (CPAs) and their firms in the United States and its territories, which includes all audit, attest and other services provided by CPAs. State Boards are charged by law with protecting the public.

In furtherance of that objective, NASBA supports the PEEC in this initiative. We have reviewed the Exposure Draft and have the following suggestions for improving the understandability and applicability of the proposals.

General Comments

NASBA is supportive of convergence with other standard setters as making standards uniform wherever possible helps to avoid confusion and potential misapplication by the CPA and aids in enforcement from a regulatory perspective. We especially liked the references to SEC rules or other rules in the proposed revisions instead of repeating the language. Consistency among standard setters is in the public interest.

We are concerned about whether PEEC fully considered how the definitions may impact smaller issuers and small/medium-sized accounting firms. The definitions extend to all entities that issue debt that can be traded. This would include special taxing districts, private water utilities, private universities and developers that create planned unit developments and issue property tax funded bonds. Many of these issuers are located in small and/or underserved communities in rural areas. These bonds are traded through market makers and, as written, the definition leaves open the

fact that there are many types of financial instruments that are traded, but not necessarily on the NASDAQ or NYSE.

Given the population of entities that could be considered to be PIEs and the varied facts and circumstances which could result in an entity being considered to be a PIE, we are concerned that there may be situations where an entity could be determined to be a PIE yet does not fit within any of the categories in the proposed definitions. Additional application guidance should be provided including the factors that the IESBA identified for voluntarily designating an entity as a PIE for independence purposes.

The term “publicly accessible market mechanism” is utilized as a key element of the new definition of the term “publicly traded entity”. There does not appear to be any definition of the term “publicly accessible market mechanism” within the Exposure Draft. A definition of the term should be provided to allow practitioners to better comply with the proposal if adopted.

Comments on Specific Questions

a. Do you agree with the decision to defer to the relevant regulators for purposes of the specific independence requirements applicable to each PIE category? If not, please explain why.

NASBA generally agrees with the decision to defer to the relevant regulators for the purposes of the specific independence requirements applicable to each PIE category. We are concerned that while certain regulators do consider auditor independence as part of their oversight others do not. Guidance should be provided to address those situations where an entity is deemed to be a PIE however their oversight entities do not address auditor independence.

b. Do you agree with the refinement to the “publicly traded entity” category to include only those entities whose auditors are subject to Regulation S-X, SEC Rule 2-01? If not, please explain why.

NASBA agrees with the refinement to the “publicly traded entity” category to include only those entities whose auditors are subject to Regulation S-X, SEC Rule 2-01.

c. Do you agree with the refinement to the “deposits from the public” category to include only those entities that have consolidated total assets of \$1 billion or more and meet the annual audit requirement imposed by Part 363 of FDIC regulations (12 CFR 363 – “Annual Independent Audits and Reporting Requirements”)? If not, please explain why.

NASBA generally agrees with the refinement to the “deposits from the public” category; however, NASBA suggests the PEEC consider if the \$1 billion or more threshold should be increased to a higher number. A bank with \$1 billion in deposits from the public may generate \$25-\$40 million in

annual revenue which is significantly lower than the threshold applied to those entities providing insurance to the public.

d. Do you agree with the refinement to the “insurance to the public” category to include only those entities that are subject to the NAIC Model Audit Rule that meet or exceed \$500 million in annual direct written and assumed premiums? If not, please explain why.

NASBA agrees with the refinement to the “insurance to the public” category to include only those entities that are subject to the NAIC Model Audit Rule that meet or exceed \$500 million in annual direct written and assumed premiums.

e. Do you agree with the “investment company” category PEEC proposes to include in the PIE definition? If not, please explain why.

NASBA agrees with the “investment company” category PEEC proposes to include on the PIE definition.

f. Do you believe other entities, such as credit unions, should be included as PIEs and thus subject to the more restrictive independence requirements consistent with those for IESBA PIEs?

NASBA believes that credit unions should be included as a PIE and thus subject to more restrictive independence requirements consistent with those for IESBA PIEs.

i. If so, which entities and why?

Credit unions have grown significantly both organically and through acquisitions including acquisitions of non-credit union financial institutions. The Navy Federal Credit Union with \$144 billion in assets and 12 million members is the largest credit union in the United States. It is larger than many other regional and national banks. The largest 250 credit unions in the United States all have over \$1.5 billion in assets. From a public interest perspective, credit unions are comparable to banks in both substance and form and should be considered as PIEs and thus subject to more restrictive independence requirements.

ii. If so, should the AICPA code incorporate a second set of more restrictive independence standards (that is, consistent with IESBA PIEs), applicable to these other entities? If not, please explain an alternative approach.

NASBA believes that the AICPA code should incorporate a second set of more restrictive independence standards (that is, consistent with IESBA PIEs) for credit unions. Consistent with our comment in (c) above, PEEC should consider whether a \$1 billion threshold is appropriate for these entities.

g. Is the definition of publicly traded entity clear? If not, please explain how it should be clarified.

NASBA does not believe the definition of publicly traded entity is clear. Paragraph .13 of the Explanation Section states that a publicly traded entity includes financial instruments of certain non-issuers such as government bonds. However, the definition of publicly traded entity (0.400 Definition .45) refers only to “an entity”. Misinterpretation of the definition by a member could lead to the application of greater restrictions than required. At a minimum, NASBA suggests that the explanation be wholly consistent with the definition.

h. If an entity does not otherwise meet the definition of a PIE, are you aware of situations in which a member would treat an entity as a PIE when an engagement is subject to AICPA Statements on Auditing Standards, Statements on Standards for Accounting and Review Services, or Statements on Standards for Attestation Engagements?

NASBA believes that there are situations in which a member would treat an entity as a PIE when an engagement is subject to AICPA Statements on Auditing Standards, Statements on Standards for Accounting and Review Services, or Statements on Standards for Attestation Engagements.

i. If so, describe such situations and which independence standards are typically applied.

Entities that are about to go public, about to be purchased by a publicly traded entity, or if the member knows the financial statements will be included in a U.S. Securities & Exchange Commission filing are situations where a member should treat the entity as a PIE when an engagement is subject to AICPA Statements on Auditing Standards.

ii. Do you believe it would be helpful to have guidance related to such situations? If so, should that guidance be authoritative (that is, included in the AICPA code) or nonauthoritative (for example, a Q&A or practice aid)?

NASBA believes that the guidance related to such situations could be nonauthoritative either in a Q&A or practice aid.

iii. Do you believe that in such situations the member should be required to disclose that the independence requirements for PIEs have been applied? If so, how do you believe such disclosure should be achieved when the regulator’s transparency requirement is not applicable?

NASBA believes that in such situations the member should be required to disclose that the independence requirements for PIEs have been applied. In these situations, the disclosure should be achieved through inclusion in the engagement letter and the letter to those charged with governance.

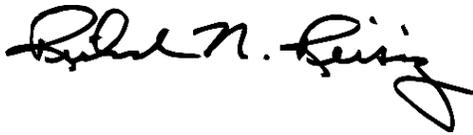
iv. Do you agree that the effective date provides adequate time to implement the proposals? If you disagree, please explain why.

NASBA agrees that the effective date provides adequate time to implement the proposals.

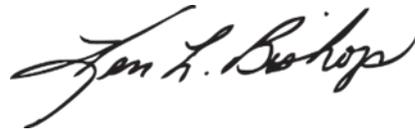
* * * * *

We appreciate the opportunity to comment on the Exposure Draft.

Very truly yours,



Richard N. Reisig, CPA
NASBA Chair



Ken L. Bishop
NASBA President and CEO

September 15, 2023

Professional Ethics Executive Committee
Professional Ethics Division
American Institute of Certified Public Accountants
1211 Avenue of the Americas, 19th Floor
New York, NY 10036

Via e-mail: Ethics-ExposureDraft@aicpa.org

Re: Comments on Exposure Draft, *Proposed New Definition of Publicly Traded Entity and Revised Definition of Public Interest Entity*, AICPA Professional Ethics Division dated June 15, 2023

Dear Committee Members:

Crowe LLP appreciates the opportunity to comment on the American Institute of Certified Public Accountants (“AICPA”) Professional Ethics Executive Committee’s (“PEEC”) June 2023 Exposure Draft, *Proposed New Definition of Publicly Traded Entity and Revised Definition of Public Interest Entity* (Exposure Draft) which provides a new definition and a revised definition for members in public practice.

We support the PEEC’s efforts to converge the AICPA code with the International Ethics Standards Board for Accountants (IESBA). Answers to the specific questions in the Exposure Draft are included in our response.

Response to Request for Specific Comment

1. Do you agree with the decision to defer to the relevant regulators for purposes of the specific independence requirements applicable to each public interest entity (PIE) category? If not, please explain why.

We agree with the PEEC’s decision to align the three mandatory categories with existing regulations in the United States related to independence requirements. We believe these requirements are sufficiently robust and aligned to cover the greatest threats to independence.

2. Do you agree with the refinement to the “publicly traded entity” category to include only those entities whose auditors are subject to Regulation S-X, SEC Rule 2-01? If not, please explain why.

We agree with the refinement to the “publicly traded entity” category to only include entities whose auditors are subject to Regulation S-X, SEC Rule 2-01. We agree with the PEEC’s assessment that SEC independence applicable to publicly traded entities are substantially similar to IESBA independence requirements for PIEs.

3. Do you agree with the refinement to the “deposits from the public” category to include only those entities that have consolidated total assets of \$1 billion or more and meet the annual audit requirements imposed by Part 363 of FDIC regulations (12 CFR 363 – “Annual Independent Audits and Reporting Requirements”)? If not, please explain why.

We agree the refinement should be aligned with the FDIC Part 363 regulations since those regulations impose restrictive independence requirements that are substantially aligned with IESBA independence

requirements for PIEs. However, we do not believe the category should be limited to financial institutions that have total assets of more than \$1 billion. While we understand the PEEC's reasoning for trying to apply this category to larger institutions which have heightened FDIC restrictions, we noted the FDIC's heightened restrictions did not include more restrictive independence requirements. Accordingly, we believe it is more consistent with the FDIC's independence regulations to remove the limitation to financial institutions with total assets of more than \$1 billion.

Another consideration for not limiting the "deposits from the public" category to entities with total assets of \$1 billion or more is financial institutions under \$1 billion may issue brokered certificates of deposit and fall within a category that meets the definition of publicly traded entity. For financial institutions that have total assets of more than \$500 million and meet the definition of publicly traded entity due to the issuance of brokered certificates of deposit, the financial institution will be considered a PIE because their auditor is subject to SEC independence. However, members might inappropriately apply 0.400.43(b) to that situation believing the financial institution is not a PIE because the financial institution has total assets below \$1 billion.

4. Do you agree with the refinement to the "insurance to the public" category to include only those entities that are subject to the NAIC Model Audit Rule that meet or exceed \$500 million in annual direct written and assumed premiums? If not, please explain why.

We agree the refinement should be aligned with the NAIC Model Audit Rule since those regulations impose restrictive independence requirements that are substantially aligned with IESBA independence requirements for PIEs. However, we do not believe the category should be limited to entities that meet or exceed \$500 million in annual direct written and assumed premiums. While we understand the PEEC's reasoning for trying to apply this category to larger insurers which have heightened NAIC restrictions, we noted the NAIC's heightened restrictions did not include more restrictive independence requirements. Accordingly, we believe it is more consistent with the NAIC's independence regulations to remove the limitation to entities that meet or exceed \$500 million in annual direct written and assumed premiums.

5. Do you agree with the "investment company" category PEEC proposes to include in the PIE definition? If not, please explain why.

We agree with the investment category as this aligns with the SEC independence requirements, which are substantially similar to IESBA independence requirements for PIEs.

6. Do you believe other entities, such as credit unions, should be included as PIEs and thus subject to the more restrictive independence requirements consistent with those for IESBA PIEs?

Other than our recommendations above for changes to the deposit and insurance categories, we do not believe there are other entities that should be included as PIEs as we believe the PEEC's definitions sufficiently capture entities that currently have more restrictive independence requirements.

7. Is the definition of publicly traded entity clear? If not, please explain how it should be clarified.

Yes, we believe the definition is sufficiently clear.

8. If any entity does not otherwise meet the definition of a PIE, are you aware of situations in which a member would treat an entity as a PIE when an engagement is subject to AICPA Statements on Auditing Standards, Statements on Standards for Accounting and Review Services, or Statements on Standards for Attestation Engagements?

We are aware of situations where members may voluntarily apply more restrictive independence requirements to an entity and treat as a PIE, typically in advance of a company becoming a public company. However, we do not believe this category needs to be included in the AICPA's definition of PIE

as members have independence rules they can apply in those situations and do not need for those to be included in the AICPA's definition.

9. Do you agree that the effective date provides adequate time to implement the proposals? If you disagree, please explain why.

We believe the effective date, with early implementation allowed, provides sufficient time and flexibility for firms to develop policies or modify existing policies and provide training as necessary to implement the proposal.

Crowe LLP appreciates the PEEC's efforts in providing the new and revised definition. We would be pleased to respond to any questions regarding our responses. Should you have any questions please contact Jennifer Kary or Andy Gripp.

Cordially,

A handwritten signature in black ink that reads "Crowe LLP". The letters are cursive and slightly slanted to the right.

Crowe LLP

cc: Matthew Schell, Crowe LLP

GRANT THORNTON LLP

Grant Thornton Tower
171 N. Clark Street, Suite 200
Chicago, IL 60601-3370

D +1 312 856 0200
S [linkd.in/grantthorntonus](https://www.linkedin.com/company/grantthorntonus)
twitter.com/grantthorntonus

September 15, 2023

Professional Ethics Executive Committee
Professional Ethics Division
American Institute of Certified Public Accountants
1211 Avenue of the Americas, 19th Floor
New York, NY 10036

Via Email to ethics-exposedraft@aicpa.org

Re: Comments on Exposure Draft, Proposed new definition of publicly traded entity and revised definition of public interest entity

Dear Committee Members:

Grant Thornton LLP appreciates the opportunity to comment on the American Institute of Certified Public Accountants (“AICPA”) Professional Ethics Executive Committee’s (“PEEC”) June 2023 Exposure Draft (“Exposure Draft”) proposing a new definition of publicly traded entity and a revised definition of public interest entity (ET sec. 0.400) as part of PEEC’s project to converge with ethics standards promulgated by the International Ethics Standards Board for Accountants (“IESBA”).

Grant Thornton supports PEEC’s proposal for a new definition of publicly traded entity and a revised definition of public interest entity (“PIE”) to substantially converge with the related IESBA revisions. We agree the proposed revisions and additions provide members with additional guidance to identify publicly traded entities and public interest entities and will assist in the consistent application of the independence requirements for these entities by members in practice.

While Grant Thornton supports the new and revised definitions set forth in the Exposure Draft, we have provided the following comments for PEEC’s consideration.

Specific comments on Exposure Draft

Below are Grant Thornton's specific comments as requested in the Exposure Draft.

Grant Thornton agrees with items a. through e. as well as i., as listed in the Exposure Draft specific request for comments, and has no other comments in response to these questions.

In response to item f., we do not believe other entities, such as credit unions, should be included as PIEs. We agree with PEEC's rationale and decision to exclude credit unions from the PIE definition as discussed in the Exposure Draft, since this would allow members the ability to consider regulators' input and that the regulator overseeing credit unions allows auditors to apply AICPA independence. We do not have any further comment regarding other entities to be included in the PIE definition.

In response to item g., we believe the definition of *publicly traded entity* as proposed in the Exposure Draft is clear.

In response to item h., we are not aware of situations in which a member would treat an entity as a PIE when an engagement is subject to AICPA Statements on Auditing Standards, Statements on Standards for Accounting and Review Services, or Statements on Standards for Attestation Engagements and where the entity does not meet the PIE definition as proposed in the Exposure Draft. However, if there are other situations for members to consider, we believe PEEC should consider providing nonauthoritative guidance providing examples and explanations related to such situations in the format of a frequently asked questions (FAQs) document or practice aid. Further, we agree with PEEC's decision to not incorporate the transparency requirement, such that members would not be required to disclose that the independence requirements for PIEs have been applied to the attest engagement as this requirement would be achieved through the issuance of the auditor's opinion on the financial statements, as discussed in the Exposure Draft.

Other specific comments

Grant Thornton has no other specific comments for PEEC's consideration.

We would be pleased to discuss our comments with you. If you have any questions, please contact Anna Dourdourekas, National Partner in Charge, Ethical Standards, at Anna.Dourdourekas@us.gt.com or (630) 873-2633.

Sincerely,

/s/ Grant Thornton LLP

September 15, 2023

Ms. Toni Lee-Andrews
Director of the AICPA Professional Ethics Division
AICPA
220 Leigh Farm Road
Durham, North Carolina 27707

Re: PEEC proposed new definition of *publicly traded entity* and revised definition of *public interest entity*

Dear Ms. Lee-Andrews:

One of the objectives that the Council of the American Institute of Certified Public Accountants (AICPA) established for the PCPS Executive Committee is to speak on behalf of local and regional firms and represent those firms' interests on professional issues in keeping with the public interest, primarily through the Technical Issues Committee (TIC). This communication is in accordance with that objective.

TIC appreciates the effort of the Professional Ethics Executive Committee (PEEC) in converging the AICPA Code of Professional Conduct (AICPA code) with that of the International Ethics Standards Board for Accountants (IESBA). TIC's detailed comments in response to the questions posed in the Exposure Draft (ED) are provided as follows.

Overall, TIC believes that the types of entities discussed in the ED are strongly regulated in the U.S. and regulators are best able to set appropriate independence requirements. Additionally, TIC believes additional guidance for firms that voluntarily join the IFAC Forum of Firms is needed given these Firms have committed to comply with the Forum of Firms Constitution and, as a condition of their membership, should consider the IESBA PIE requirements applicable to financial statement audit and review engagements performed for a PIE.

Proposed new definition of *publicly traded entity* and revised definition of *public interest entity* (ET sec. 0.400).

- a. **Do you agree with the decision to defer to the relevant regulators for purposes of the specific independence requirements applicable to each PIE category? If not, please explain why.**

TIC agrees with the decision to defer to the relevant regulators for purposes of the specific independence requirements applicable to each PIE category as the three mandatory categories covered by the new IESBA definition are already heavily regulated in the United States by the SEC, PCAOB, FDIC, and the National Association of Insurance Commissioners (NAIC) whereby these regulators have established appropriate independence requirements for the entities they oversee.

- b. Do you agree with the refinement to the “publicly traded entity” category to include only those entities whose auditors are subject to Regulation S-X, SEC Rule 2-01? If not, please explain why.**

TIC agrees with the refinement to the “publicly traded entity” category in so far as the refinement extends only to those entities whose auditors are subject to the SEC *issuer* independence rules as the rules that apply to issuer audits are similar to IESBA independence requirements for PIEs. TIC’s understanding is that the refinement to the publicly traded entity category only includes “issuer” entities.

- c. Do you agree with the refinement to the “deposits from the public” category to include only those entities that have consolidated total assets of \$1 billion or more and meet the annual audit requirement imposed by Part 363 of FDIC regulations (12CFR 363 – “Annual Independent Audits and Reporting Requirements”)? If not, please explain why.**

TIC agrees with the refinement to the “deposits from the public” category to include only those entities that have consolidated total assets of \$1 billion or more and meet the annual audit requirement imposed by Part 363 of FDIC regulations given the heightened risk for financial institutions with assets of more than \$1 billion.

- d. Do you agree with the refinement to the “insurance to the public” category to include only those entities that are subject to the NAIC Model Audit Rule that meet or exceed \$500 million in annual direct written and assumed premiums? If not, please explain why.**

TIC agrees with the refinement to the “insurance to the public” category to include only those entities that are subject to the NAIC Model Audit Rule that meet or exceed \$500 million in annual direct written and assumed premiums given the heightened risk for insurers with direct and assumed premiums over \$500 million.

- e. Do you agree with the “investment company” category PEEC proposes to include in the PIE definition? If not, please explain why.**

TIC agrees with “investment company” category PEEC proposes to include in the PIE definition as these entities (i.e. those registered with the SEC pursuant to the Investment Company Act of 1940, except those that are insurance company products) have a significant public interest.

- f. **Do you believe other entities, such as credit unions, should be included as PIEs and thus subject to the more restrictive independence requirements consistent with those for IESBA PIEs?**

Because other entities, such as credit unions, are strongly regulated in the U.S. (e.g., National Credit Union Administration (NCUA)), TIC believes that regulators are best able to determine which independence standards are appropriate for auditors of their regulated entities to follow.

i. **If so, which entities and why?** N/A

ii. **If so, should the AICPA code incorporate a second set of more restrictive independence standards (that is, consistent with IESBA PIEs), applicable to these other entities? If not, please explain an alternative approach.** N/A

- g. **Is the definition of *publicly traded entity* clear? If not, please explain how it should be clarified.**

TIC believes the definition of publicly traded entity is clear.

- h. **If an entity does not otherwise meet the definition of a PIE, are you aware of situations in which a member would treat an entity as a PIE when an engagement is subject to AICPA Statements on Auditing Standards, Statements on Standards for Accounting and Review Services, or Statements on Standards for Attestation Engagements?**

i. **If so, describe such situations and which independence standards are typically applied.**

TIC believes the primary example of a situation in which a member would treat an entity as a PIE, when the entity does not otherwise meet the definition of a PIE, is when the entity is expecting to file an initial public offering. TIC does not believe that there would be any situations under the Statements on Standards for Accounting and Review Services.

ii. **Do you believe it would be helpful to have guidance related to such situations? If so, should that guidance be authoritative (that is, included in the AICPA code) or nonauthoritative (for example, a Q&A or practice aid)?**

TIC believes it would be helpful to have guidance related to such situations and believes such guidance would be sufficiently addressed in the form of a Q&A or practice aid.

iii. **Do you believe that in such situations the member should be required to disclose that the independence requirements for PIEs have been applied? If so, how do you believe such disclosure should be achieved when the regulator's transparency requirement is not applicable?**

In situations that the member is not required to treat an entity as a PIE, TIC does not believe the member should be required to disclose that the independence requirements for PIEs have been applied.

- i. Do you agree that the effective date provides adequate time to implement the proposals? If you disagree, please explain why.**

TIC believes that the effective date provides adequate time to implement the proposals.

TIC appreciates the opportunity to present these comments on behalf of PCPS Member firms. We would be pleased to discuss our comments with you at your convenience.

Sincerely,

Bryan Bodnar

Chair, On Behalf of the PCPS Technical Issues Committee



CliftonLarsonAllen LLP
220 South Sixth Street, Suite 300
Minneapolis, MN 55402-1436

phone 612-376-4500 fax 612-376-4850
CLAconnect.com

September 18, 2023

Professional Ethics Executive Committee
American Institute of Certified Public Accountants (AICPA)
220 Leigh Farm Road
Durham, NC 27707

Via email: Ethics-ExposureDraft@aicpa.org

Re: Comments on Exposure Draft, “Proposed new definition of *publicly traded entity* and revised definition of *public interest entity* (ET sec. 0.400),” AICPA Professional Ethics Division, June 15, 2023

Dear Committee Members:

CliftonLarsonAllen LLP (CLA) appreciates the opportunity to comment on the June 15, 2023 AICPA Professional Ethics Executive Committee (PEEC) Exposure Draft (ED), which proposes a new definition for “public traded entity” and a revised definition for “public interest entity” (PIE). We understand that the new and revised definitions are the result of the International Ethics Standards Board for Accountants (IESBA) revised definition for “public interest entity” and the AICPA’s convergence with that revised definition. CLA agrees that:

- any entities that meet the AICPA definition of PIE already have extant regulators in the US,
- those regulators have sufficient oversight such that the AICPA can defer to those regulators, and
- the PEEC does not need to create a section of the AICPA Code to address PIE entities.

General Comments

CLA overall supports the proposal.

Request for Specific Comments

If the PEEC proceeds with the proposed new and revised definitions, we offer the following responses to the request for specific comments requested in the ED:

Request for Comment

- a. Do you agree with the decision to defer to the relevant regulators for purposes of the specific independence requirements applicable to each PIE category? If you disagree, please explain why.

Response: CLA agrees with the decision to defer to the relevant regulators for purposes of the specific independence requirements applicable to each PIE category.

Request for Comment

- b. Do you agree with the refinement to the “publicly traded entity” category to include only those entities whose auditors are subject to Regulation S-X, SEC Rule 2-01? If you disagree, please explain why.

Response: CLA agrees with the refinement to the “publicly traded entity” category to include only those entities whose auditors are subject to Regulation S-X, SEC Rule 2-01.

Request for Comment

- c. Do you agree with the refinement to the “deposits from the public” category to include only those entities that have consolidated total assets of \$1 billion or more and meet the annual audit requirement imposed by Part 363 of FDIC regulations (12 CFR 363 – “Annual Independent Audits and Reporting Requirements”)? If not, please explain why.

Response: CLA believes that the “deposits from the public” category should include those entities that have consolidated total assets of \$500 million or more (and not \$1 billion or more), which is consistent with the FDIC regulations. The AICPA contends and CLA agrees that the FDIC already adequately regulates financial institutions’ “deposits from the public.” From an independence standpoint, CLA does not believe that there is a reason to increase the consolidated total assets from \$500 million to \$1 billion. The “IESBA code prohibits members from providing non-assurance — or nonattest — services to a PIE audit or review client if such services might create a self-review threat,” and the FDIC regulations also have the same rules regarding providing non-assurance or nonattest services to the financial institutions whether the financial institution has consolidated total assets of \$500 million or more or \$1 billion or more, so the AICPA should align with the extant FDIC threshold.

Request for Comment

- d. Do you agree with refinement to the “insurance to the public” category to include only those entities that are subject to the NAIC Model Audit Rule that meet or exceed \$500 million in annual direct written and assumed premiums? If not, please explain why.

Response: CLA agrees with the refinement to the “insurance to the public” category.

Request for Comment

- e. Do you agree with the “investment company” category PEEC proposes to include in the PIE definition? If not, please explain why.

Response: CLA agrees with the investment company category as these entities are already subject to SEC rules.

Request for Comment

f. Do you believe other entities, such as credit unions, should be included in PIEs and thus subject to the more restrictive independence requirements consistent with those for IESBA PIEs?

i. If so, which entities and why?

ii. If so, should the AICPA code incorporate a second set of more restrictive independence standards (that is, consistent with IESBA PIEs), applicable to these other entities? If not, please explain an alternative approach.

Response: CLA does not believe that credit unions should be included in the PIE definition. Credit unions already have oversight from the National Credit Union Administration (NCUA).

Request for Comment

g. Is the definition of publicly traded entity clear? If not, please explain how it should be clarified.

Response: CLA believes the definition of publicly traded entity is clear as written. This definition mirrors IESBA definition of publicly traded entity.

Request for Comment

h. If an entity does not otherwise meet the definition of a PIE, are you aware of situations in which a member would treat an entity as a PIE when an engagement is subject to AICPA Statements on Auditing Standards, or Statements on Standard for Attestation Engagements?

i. If so, describe such situation and which independence standards are typically applied.

ii. Do you believe it would be helpful to have guidance related to such situations? If so, should that guidance be authoritative? (that is, included in the AICPA code) or nonauthoritative (for example, a Q&A or practice aid)?

iii. Do you believe that in such situations the member should be required to disclose that the independence requirements for PIEs have been applied? If so, how do you believe such disclosure should be achieved when the regulator's transparency requirement is not applicable?

Response: CLA is aware of a situation where an entity would be treated as a PIE prior to one becoming a PIE.

i. An entity is planning to go public within three years, then one might treat the entity as a PIE.

Page 4

- ii. CLA believes it would be helpful for the AICPA to provide nonauthoritative guidance by providing examples.
- iii. CLA does not believe it is necessary to disclose that PIE independence rules have been applied.

Request for Comment

- i. Do you agree that the effective date provides adequate time to implement the proposals? If you disagree, please explain why.

Response: CLA agrees with the effective date provides adequate time to implement based on the proposed revisions.

* * *

CLA appreciates the opportunity to review and offer our comments on the proposed new and revised interpretations. We would be pleased to discuss any questions that you or your staff may have regarding our comments.

Respectfully submitted,



CliftonLarsonAllen LLP



Tel: 732-750-0900
Fax: 732-750-1222
www.bdo.com

90 Woodbridge Center Dr., 4th Floor
Woodbridge, NJ 07095

September 19, 2023

By email: ethics-exposedraft@aicpa.org

Professional Ethics Executive Committee
Professional Ethics Division
American Institute of Certified Public Accountants
220 Leigh Farm Road
Durham, NC 27707

Re: Proposed new definition of publicly traded entity and revised definition of public interest entity

Dear Professional Ethics Executive Committee:

BDO USA, P.C. appreciates the opportunity to respond to the Professional Ethics Executive Committee's (PEEC) proposed revisions to the Code of Professional Conduct (the "Code"), "*Proposed new definition of publicly traded entity and revised definition of public interest entity*" (proposed definitions). Our comments on the proposed definitions follow.

We support the PEEC's endeavor in setting high-quality and robust independence and ethics standards for the accounting profession in the United States.

Request for Specific Comments

- a. **Do you agree with the decision to defer to the relevant regulators for purposes of the specific independence requirements applicable to each PIE category? If not, please explain why.**

All of the entities included in the proposed PIE categories are regulated entities where the relevant regulators have established robust independence requirements. Therefore, we agree with the decision to defer to the relevant regulators for purposes of the specific independence requirements applicable to each PIE category.

- b. **Do you agree with the refinement to the "publicly traded entity" category to include only those entities whose auditors are subject to Regulation S-X, SEC Rule 2-01? If not, please explain why.**

BDO USA refers to BDO USA, P.C., a Virginia professional corporation, also doing business in certain jurisdictions with an alternative identifying abbreviation, such as Corp. or P.S.C.

BDO USA, P.C. is the U.S. member of BDO International Limited, a UK company limited by guarantee, and forms part of the international BDO network of independent member firms.

BDO is the brand name for the BDO network and for each of the BDO Member Firms.

Yes, we agree with the refinement to the “publicly traded entity” category to include only those entities whose auditors are subject to Regulation S-X, SEC Rule 2-01. We believe the additional independence requirements applicable to a PIE should only apply to those entities where the SEC has already determined that “SEC issuer” rules should apply.

- c. **Do you agree with the refinement to the “deposits from the public” category to include only those entities that have consolidated total assets of \$1 billion or more and meet the annual audit requirement imposed by Part 363 of FDIC regulations (12 CFR 363 - “Annual Independent Audits and Reporting Requirements”)? If not, please explain why.**

Yes, we agree with the refinement to the “deposits from the public” category to include only those entities that have consolidated total assets of \$1 billion or more and meet the annual audit requirement imposed by Part 363 of FDIC regulations (12 CFR 363 - “Annual Independent Audits and Reporting Requirements”). We agree with PEEC’s reasoning that this is the level at which the FDIC recognized a heightened risk and the level at which they determined additional requirements such as the establishment of an audit committee, and reporting on internal control over financial reporting would also apply.

- d. **Do you agree with the refinement to the “insurance to the public” category to include only those entities that are subject to the NAIC Model Audit Rule that meet or exceed \$500 million in annual direct written and assumed premiums? If not, please explain why.**

Yes, we agree with the refinement to the “insurance to the public” category to include only those entities that are subject to the NAIC Model Audit Rule that meet or exceed \$500 million in annual direct written and assumed premiums. We agree with PEEC’s reasoning that this is the level at which the NAIC recognized a heightened risk and the level at which they determined additional requirements such as the establishment of an audit committee, and reporting on internal control over financial reporting would also apply.

- e. **Do you agree with the “investment company” category PEEC proposes to include in the PIE definition? If not, please explain why.**

Yes, we agree with the “investment company” category PEEC proposes to include in the PIE definition. We believe these entities fall within the definition of publicly traded entity and it is in the public interest to apply more restrictive independence requirements to these entities.

- f. **Do you believe other entities, such as credit unions, should be included as PIEs and thus subject to the more restrictive independence requirements consistent with those for IESBA PIEs?**

- I. If so, which entities and why?
- II. If so, should the AICPA code incorporate a second set of more restrictive independence standards (that is, consistent with IESBA PIEs), applicable to these other entities? If not, please explain an alternative approach.

No, we do not believe other entities, such as credit unions, should be included as PIEs. Specifically, regarding credit unions, in addition to considering the characteristics of credit unions that distinguish them from banks (e.g., being member owned and controlled), we agree with PEEC's reasoning that credit unions are regulated by the National Credit Union Administration (NCUA), which has determined that the AICPA independence standards are the appropriate independence standards auditors of credit unions should follow.

- g. Is the definition of publicly traded entity clear? If not, please explain how it should be clarified.

Yes, we believe the definition of publicly traded entity is clear.

- h. If an entity does not otherwise meet the definition of a PIE, are you aware of situations in which a member would treat an entity as a PIE when an engagement is subject to AICPA Statements on Auditing Standards, Statements on Standards for Accounting and Review Services, or Statements on Standards for Attestation Engagements?
 - I. If so, describe such situations and which independence standards are typically applied.
 - II. Do you believe it would be helpful to have guidance related to such situations? If so, should that guidance be authoritative (that is, included in the AICPA code) or nonauthoritative (for example, a Q&A or practice aid)?

We are not aware of any situations in which a member would treat an entity as a PIE when an engagement is subject to AICPA Statements on Auditing Standards, Statements on Standards for Accounting and Review Services, or Statements on Standards for Attestation Engagements.

- i. Do you believe that in such situations the member should be required to disclose that the independence requirements for PIEs have been applied? If so, how do you believe such disclosure should be achieved when the regulator's transparency requirement is not applicable?

If such situations were to arise, we do not believe it would be necessary to disclose that the independence requirements for PIEs have been applied. We believe any requirements related to disclosure of the independence standards should be determined by the applicable regulator.



- j. Do you agree that the effective date provides adequate time to implement the proposals? If you disagree, please explain why.

Yes, we agree the effective date provides adequate time to implement the proposals.

We appreciate your consideration of our comments and suggestions and would be pleased to discuss them with you at your convenience. Please direct any questions to Lisa Snyder, National Managing Partner - Independence at lsnyder@bdo.com.

Very truly yours,

BDO USA, P.C.

BDO USA, P.C.

September 15, 2023

Ms. Anna Dourdourekas, Chair - Professional Ethics Executive Committee
Ms. Toni Lee-Andrews, Director - Professional Ethics Division
American Institute of Certified Public Accountants
1345 Avenue of the Americas, 27th Floor
New York, NY 10105

Mail to: Ethics-ExposureDraft@aicpa-cima.com

Re: June 15, 2023 Exposure Draft – Proposed New Definition of *Publicly Traded Entity* and Revised Definition of *Public Interest Entity* (ET sec. 0.400)

Dear Ms. Dourdourekas and Ms. Lee-Andrews:

Deloitte LLP (“Deloitte,” “our,” or “we”) is pleased to respond to the exposure draft issued by the Professional Ethics Executive Committee (“PEEC”) of the American Institute of Certified Public Accountants’ (“AICPA”) of *Proposed New Definition of Publicly Traded Entity and Revised Definition of Public Interest Entity* (the “proposal”). We appreciate the opportunity to comment on the proposal and commend the PEEC for its ongoing efforts to align with the International Ethics Standards Board for Accountants (“IESBA”). We have included comments and recommendations on specific requested matters for consideration by the PEEC. We appreciate PEEC’s consideration of our responses to the request for comments, and we have noted our suggestions below.

Responses to Specific Requests for Comments

a. Do you agree with the decision to defer to the relevant regulators for purposes of the specific independence requirements applicable to each PIE category? If not, please explain why.

We agree with the proposed approach of deferring to the independence requirements of the relevant regulators applicable to each proposed public interest entity (“PIE”) category. While we have concerns as noted in our comments below, we believe the proposed approach best protects the public interest and properly refines the IESBA baseline categories in alignment with IESBA’s expectations of local bodies and the IESBA PIE framework, while minimizing the amount of additional complexity in the AICPA Code.

b. Do you agree with the refinement to the “publicly traded entity” category to include only those entities whose auditors are subject to Regulation S-X, SEC Rule 2-01? If not, please explain why.

We agree with the refinement to the “publicly traded entity” category to include only those whose auditors are subject to SEC Rule 2-01.

c. Do you agree with the refinement to the “deposits from the public” category to include only those entities that have consolidated total assets of \$1 billion or more and meet the annual

audit requirement imposed by Part 363 of FDIC regulations (12 CFR 363 – “Annual Independent Audits and Reporting Requirements”)? If not, please explain why.

We agree with the refinement to the “deposits from the public” category to include only those entities that have consolidated total assets of \$1 billion or more and meet the annual audit requirement in Part 363 of the FDIC regulations.

d. Do you agree with the refinement to the “insurance to the public” category to include only those entities that are subject to the NAIC Model Audit Rule (“MAR”) that meet or exceed \$500 million in annual direct written and assumed premiums? If not, please explain why.

Notwithstanding our comment below, we agree with the refinement to the “insurance to the public” category to include only those entities subject to the NAIC Model Audit Rule that meet or exceed \$500 million in annual direct written and assumed premiums.

As written, the category includes any insurance company which is subject to MAR and exceeds the \$500 million threshold, with no specific exceptions for certain types of insurance entities. In contrast, paragraphs 28-29 of the exposure draft explanatory material specifically exclude other insurance entities due to the lack of uniform application of MAR. We agree with providing exceptions and recommend PEEC consider such exceptions in the definition itself rather than solely in nonauthoritative guidance or basis for conclusions documents.

e. Do you agree with the “investment company” category PEEC proposes to include in the PIE definition? If not, please explain why.

We agree with the “investment company” category proposed by PEEC and support the intended exclusions as stated in the exposure draft explanation. However, in addition to the 1940 Investment Company Act (“the 1940 Act”), PEEC should also consider citing the Securities Act of 1933 (“1933 Act”). Adding the 1933 Act would clarify that entities not registered under both acts, such as nontraded real estate investment trusts (REITs) and nontraded business development companies (BDCs), are not significant to the public interest and thus are not PIEs under the revised definition. We are not aware of any entity types that PEEC would inappropriately exclude from the definition by adding a reference to the 1933 Act. We suggest revising the category as shown below (additions are in bold italic):

<p>d. An investment company, other than an insurance company product, that is registered with the SEC pursuant to the Investment Company Act of 1940 <i>and the Securities Act of 1933.</i></p>

f. Do you believe other entities, such as credit unions, should be included as PIEs and thus subject to the more restrictive independence requirements consistent with those for IESBA PIEs?

i. If so, which entities and why?

- ii. If so, should the AICPA code incorporate a second set of more restrictive independence standards (that is, consistent with IESBA PIEs), applicable to these other entities? If not, please explain an alternative approach.**

We are not aware of other entities, such as credit unions, which PEEC should include as PIEs at this time. If IESBA revises its PIE definition in the future to mandate additional categories or consideration of other specific categories, PEEC should consider those revisions for convergence as they occur.

- g. Is the definition of publicly traded entity clear? If not, please explain how it should be clarified.**

We believe the proposed definition of publicly traded entity is clear and properly refined based on the IESBA baseline definition of the same term.

- h. If an entity does not otherwise meet the definition of a PIE, are you aware of situations in which a member would treat an entity as a PIE when an engagement is subject to AICPA Statements on Auditing Standards, Statements on Standards for Accounting and Review Services, or Statements on Standards for Attestation Engagements?**

- i. If so, describe such situations and which independence standards are typically applied.**

We agree there may be rare situations where an entity is not a PIE as defined by the AICPA Code while the entity's financial position is nevertheless significant to the public interest. We believe the baseline PIE factors presented at 400.9 supplemented by 400.19 A1 of the IESBA Code are appropriate as a base for any AICPA guidance for these scenarios.

- ii. Do you believe it would be helpful to have guidance related to such situations? If so, should that guidance be authoritative (that is, included in the AICPA code) or nonauthoritative (for example, a Q&A or practice aid)?**

We believe nonauthoritative guidance could be helpful in addressing situations where a member concludes it is appropriate to treat an entity as a PIE although the entity is not a PIE as defined by the AICPA Code. This approach would align with 400.19 A1 of the IESBA Code.

- iii. Do you believe that in such situations the member should be required to disclose that the independence requirements for PIEs have been applied? If so, how do you believe such disclosure should be achieved when the regulator's transparency requirement is not applicable?**

We understand the intent of transparency is to provide the investor community with information that could aid in decision-making and improve trust, however when members apply the PIE independence requirements voluntarily, we do not believe PEEC should require members to disclose such application for the following reasons:

- Where the entity is already subject to a regulator’s independence requirements and the regulator has taken public interest into consideration when promulgating its independence requirements, it is unlikely that a transparency requirement would offer any incremental benefit to the public interest.
- If the application of PIE independence requirements is voluntary, members should take the same approach to the related transparency requirement. PEEC could encourage firms to consider transparency but allow the client to make the ultimate decision. Just as a non-PIE client can choose to be treated as a PIE, it is reasonable to allow the same ability to use judgement when considering transparency.
- Any mandated transparency in such situations is likely to raise costs for clients and firms with limited incremental benefit, which is counter to the public interest. This might create unintended consequences, such as inadvertently discouraging clients and firms from applying the PIE requirements voluntarily.

While we do not support the inclusion of a transparency requirement in the AICPA Code for these situations, if PEEC includes a transparency requirement in the final revisions, we suggest PEEC coordinate and consult with the Audit Standards Board (ASB) regarding the most appropriate methods and mechanisms for disclosures, if any, in this context to clarify the implementation of the transparency requirements when a regulator’s transparency requirement is not applicable. These discussions should further consider the appropriateness of disclosures related to reports restricted in use or otherwise not made publicly available.

i. Do you agree that the effective date provides adequate time to implement the proposals? If you disagree, please explain why.

Notwithstanding our comments below, we agree the proposal should be effective for periods beginning on or after December 15, 2024, with early adoption allowed, as this aligns with the effective date of the IESBA revised definitions of PIE and Publicly Traded Entity. However, similar to FASB’s “two-bucket” approach that staggers the effective dates for new major accounting standards, we strongly recommend PEEC consider staggered effective dates for the revised PIE definition as follows:

- For current PIE entities, the effective date would be immediately upon publication.
- For new PIE entities, the effective date would be for periods beginning on or after December 15, 2024, with early adoption allowed.

Using a two-bucket approach will provide more consistency and continuity to better support the public interest while balancing the costs of implementation.

September 15, 2023
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We would be pleased to discuss our comments with you at your convenience. If you wish to do so, please contact Kathy Savage at ksavage@deloitte.com or +1.615.313.4371 or Brandon Mercer at bmercer@deloitte.com or +1.919.218.0610.

Sincerely,

DELOITTE + TOUCHE LLP



September 12, 2023

Professional Ethics Executive Committee
 Professional Ethics Division
 American Institute of Certified Public Accountants
 220 Leigh Farm Road
 Durham, NC 27707

Via Email: Ethics-ExposureDraft@aicpa.org

Baker Tilly US, LLP
 205 N Michigan Ave, 28th Fl
 Chicago, IL 60601-5927
 United States of America

T: +1 (312) 729 8000
 F: +1 (312) 729 8199

bakertilly.com

Re: Exposure draft: Proposed new definition of “publicly traded entity” and revised definition of “public interest entity”

Dear Committee Members:

We appreciate the opportunity to comment on the American Institute of Certified Public Accountants (AICPA) Professional Ethics Executive Committee’s (PEEC) June 2023 Exposure Draft referenced above. Our comments will be in the form of responses to specific questions included in the Exposure Draft as well as other comments.

General Comments

We support the PEEC’s ongoing efforts to converge the AICPA’s Code of Professional Conduct (the Code) with that of the International Ethics Standards Board for Accountants (IESBA). Furthermore, we support and understand the need for more robust independence requirements for certain entities to meet stakeholders’ heightened expectations regarding the independence of public interest entity (PIE) auditors because of the significance of the public interest in the financial condition of PIEs. Overall, we agree with the PEEC’s approach of deferring to relevant regulators in the United States for independence requirements for PIEs, lest newly created AICPA independence standards conflict with that of a regulator.

Please see our responses to your request for comments below.

Question 1: Do you agree with the decision to defer to the relevant regulators for purposes of the specific independence requirements applicable to each PIE category? If not, please explain why.

Yes, we agree with the decision to defer to the relevant regulators for purposes of the specific independence requirements applicable to each PIE category. We believe each relevant regulator noted in the Exposure Draft has robust independence requirements for the entities they oversee. Further, deferring to said regulators avoids adding additional independence requirements to the Code, which could create unnecessary complexity.

Question 2: Do you agree with the refinement to the “publicly traded entity” category to include only those entities whose auditors are subject to Regulation S-X, SEC Rule 2-01? If not, please explain why.

Yes, we agree with the refinement to the “publicly traded entity” category to include only those entities whose auditors are subject to Regulation S-X, SEC Rule 2-01. We believe that those publicly traded entities not subject to the SEC’s independence rules for auditors of issuers, such as governmental bonds and certain entities traded on the OTC, are appropriately excluded from the PIE definition. We believe the SEC’s independence rules appropriately address heightened expectations regarding the independence of auditors for this PIE category.

Question 3: Do you agree with the refinement to the “deposits from the public” category to include only those entities that have consolidated total assets of \$1 billion or more and meet the annual audit requirement imposed by Part 363 of FDIC regulations (12 CFR 363 – “Annual Independent Audits and Reporting Requirements”)? If not, please explain why.

Yes, we do agree with the refinement to the “deposits from the public” category to include only those entities that have consolidated total assets of \$1 billion or more and meet the annual requirements imposed by Part 363 of FDIC regulations. We believe it is appropriate to align the PIE definition with the FDIC’s “heightened risk” threshold of \$1 billion.

Question 4: Do you agree with the refinement to the “insurance to the public” category to include only those entities that are subject to the NAIC Model Audit Rule and exceed \$500 million in annual direct written and assumed premiums? If not, please explain why.

Yes, we do agree with the refinement to the “insurance to the public” category to include only those entities that are subject to the NAIC Model Audit Rule and exceed \$500 million in annual direct written and assumed premiums.

Question 5: Do you agree with the “investment company” category PEEC proposes to include in the PIE definition? If not, please explain why.

Yes, we do agree with the “investment company” category PEEC proposes to include in the PIE definition.

Question 6: Do you believe other entities, such as credit unions, should be included as PIEs and thus subject to the more restrictive independence requirements consistent with those for IESBA PIEs? If not, please explain why.

No, we do not believe other entities should be included as PIEs. We believe the proposed definition of a PIE appropriately includes those entities of significant public interest. Entities such as credit unions are already subject to regulatory oversight by the National Credit Union Administration that protects the interests of the public.

Question 7: Is the definition of *publicly traded entity* clear? If not, please explain how it should be clarified.

Yes, the definition of “publicly traded entity” is clear.

Question 8: If an entity does not otherwise meet the definition of a PIE, are you aware of situations in which a member would treat an entity as a PIE when an engagement is subject to AICPA Statements on Auditing Standards, Statements on Standards for Accounting and Review Services, or Statements on Standards for Attestation Engagements?

No, we are not aware of situations in which a member would treat an entity as a PIE when an engagement is subject to AICPA Statements on Auditing Standards, Statements on Standards for Accounting and Review Services, or Statements on Standards for Attestation Engagements other than those already included in the Exposure Draft.

Question 9: Do you agree that the effective date provides adequate time to implement the proposals? If you disagree, please explain why.

Yes, we do agree that the recommended effective date provides firms with adequate time to implement policies and procedures to adhere to the proposals in the Exposure Draft.

We appreciate the opportunity to provide the above comments and are available for further discussion with the PEEC if that would be useful to the process. Should you wish to discuss any of these comments, please contact Jason Evans, Partner, Professional Practice Group - Independence, at Jason.Evans@bakertilly.com.

Sincerely,

Baker Tilly US, LLP

BAKER TILLY US, LLP



Sept. 13, 2023

Anna Dourdourekas, Chair
 Professional Ethics Executive Committee
 AICPA Professional Ethics Division
 220 Leigh Farm Road
 Durham, North Carolina 27707-8110
ethics-exposedraft@aicpa.org

Re: AICPA Professional Ethics Executive Committee Exposure Document - Proposed new definition of publicly traded entity and revised definition of public interest entity (ET Sec. 0.400)

Dear Ms. Dourdourekas:

The Professional Ethics Committee (the committee) of the Pennsylvania Institute of Certified Public Accountants (PICPA) appreciates the opportunity to provide comments to the AICPA Professional Ethics Executive Committee (PEEC) regarding the proposed new definition of publicly traded entity and revised definition of public interest entity (ET Sec. 0.400). The PICPA is an association of more than 18,000 members working to improve the profession and better serve the public interest. Founded in 1897, the PICPA is the second-oldest CPA organization in the United States. Membership includes practitioners in public accounting, education, government, and industry. The committee is a cross-section of our membership, with practitioners from large, regional, and small public accounting firms, members serving in business and industry, and accounting educators.

The committee's specific comments are included below.

1. *Do you agree with the decision to defer to the relevant regulators for purposes of the specific independence requirements applicable to each public interest entity (PIE) category? If not, please explain why.*

The committee supports the PEEC's decision to converge with the International Ethics Standards Board for Accountants' (IESBA) guidance on PIEs by factoring in the impact of regulatory oversight for each category included in the IESBA's PIE guidance.

2. *Do you agree with the refinement to the "publicly traded entity" category to include only those entities whose auditors are subject to Regulation S-X, SEC Rule 2-01? If not, please explain why.*

The committee agrees with this approach.

3. *Do you agree with the refinement to the “deposits from the public” category to include only those entities that have consolidated total assets of \$1 billion or more and meet the annual audit requirement imposed by Part 363 of FDIC regulations (12 CFR 363 – “Annual Independent Audits and Reporting Requirements”)? If not, please explain why.*

The committee agrees with this decision.

4. *Do you agree with the refinement to the “insurance to the public” category to include only those entities that are subject to the NAIC Model Audit Rule that meet or exceed \$500 million in annual direct written and assumed premiums? If not, please explain why.*

The committee supports this decision.

5. *Do you agree with the “investment company” category PEEC proposes to include in the PIE definition? If not, please explain why.*

The committee agrees with the “investment company” category proposed to be included in the PIE definition.

6. *Do you believe other entities, such as credit unions, should be included as PIEs and thus subject to the more restrictive independence requirements consistent with those for IESBA PIEs?*

No, the committee does not believe that the entities included in the PIE definition should be expanded to credit unions or other similar entities.

7. *Is the definition of “publicly traded entity” clear? If not, please explain how it should be clarified.*

The committee believes that the definition of publicly traded entity is clear.

8. *If an entity does not otherwise meet the definition of a PIE, are you aware of situations in which a member would treat an entity as a PIE when an engagement is subject to AICPA Statements on Auditing Standards, Statements on Standards for Accounting and Review Services, or Statements on Standards for Attestation Engagements?*

- i. *If so, describe such situations and which independence standards are typically applied.*

If the practitioner is serving as a component auditor of a subsidiary subject to international standards and the parent is a PIE, then a practitioner could be subject to the international ethics standards.

- ii. *Do you believe it would be helpful to have guidance related to such situations? If so, should that guidance be authoritative (that is, included in the AICPA code) or nonauthoritative (for example, a Q&A or practice aid)?*

The committee does not believe that additional guidance is necessary.

- iii. *Do you believe that in such situations the member should be required to disclose that the independence requirements for PIEs have been applied? If so, how do you believe such disclosure should be achieved when the regulator's transparency requirement is not applicable?*

The committee does not support separate disclosures in such situations.

9. *Do you agree that the effective date provides adequate time to implement the proposals? If you disagree, please explain why.*

As the impact is expected to be minimal, the committee supports the proposed effective date.

We appreciate your consideration of our comments. We are available to discuss them with you at your convenience.

Sincerely,



Nicole Hinkle
Chair, PICPA Professional Ethics Committee

cc: Allison Henry, CPA, Vice President – Professional & Technical Standards, PICPA Staff Liaison

**NEW YORK STATE SOCIETY OF
CERTIFIED PUBLIC ACCOUNTANTS**

COMMENTS ON

**AICPA PROFESSIONAL ETHICS DIVISION EXPOSURE DRAFT:
*PROPOSED NEW DEFINITION OF PUBLICLY TRADED ENTITY AND
REVISED DEFINITION OF PUBLIC INTEREST ENTITY***

SEPTEMBER 15, 2023

Principal Drafters

**Renee Cassidy
Elliot L. Hendler
Kelly Kennedy-Ryu
Steven J. Leifer
Brian K. Pearson**

New York State Society of Certified Public Accountants

Comments On

AICPA Professional Ethics Division Exposure Draft: *Proposed New Definition of Publicly Traded Entity and Revised Definition of Public Interest Entity*

The New York State Society of Certified Public Accountants (NYSSCPA) appreciates the opportunity to provide comments on the AICPA's Professional Ethics Executive Committee (PEEC) Exposure Draft, Proposed New Definition of Publicly Traded Entity (PTE) and Revised Definition of Public Interest Entity (PIE). We offer our general comments and our responses to the specific questions of the Exposure Draft as follows:

General comments

We support the efforts of PEEC to provide needed guidance with respect to the critical issues facing accounting professionals. The PEEC's continuing effort to converge with the International Ethics Standards Board for Accountants (IESBA), however, often seems to place the goal of convergence ahead of the need for clear, meaningful and appropriate standards for professionals in the United States. A more appropriate goal would seem to be eliminating the differences between standards promulgated by the AICPA and the various regulatory bodies which may apply.

The Exposure Draft in certain instances distinguishes entities based on size, for example financial institutions that have more than \$1 billion of assets. This distinction may be important to a regulator, but not necessarily to a depositor who has been relying on the institution's financial statements. Another example is excluding insurers that do not meet or exceed \$500 million in direct and assumed premiums.

In both these situations the smaller entities may more likely need the oversight that would follow not being excluded.

Also, how not-for-profit entities will be affected is not clear, nor is it clear how much consideration has been given to such entities, which often raise money from the general public but in many cases are very small with few assets.

The explanation of the proposed new and revised definitions is in many instances difficult to understand, even after several readings. This in part may be the result of trying to arm wrestle definitions to converge with the IESBA approach. More helpful would be an approach that deals with the US multiplicity of regulatory authorities with varying rules, and the US professional's continuing effort to meet all these requirements.

Responses to requested feedback on specific aspects of the proposal

a. Do you agree with the decision to defer to the relevant regulators for purposes of the specific independence requirements applicable to each PIE category? If not, please explain why.

It is not clear what other option exists.

b. Do you agree with the refinement to the “publicly traded entity” category to include only those entities whose auditors are subject to Regulation S-X, SEC Rule 2-01? If not, please explain why.

It is not clear which entities in this category would have auditors not subject to this rule? A clarification would be helpful in understanding the excluded entities.

c. Do you agree with the refinement to the “deposits from the public” category to include only those entities that have consolidated total assets of \$1 billion or more and meet the annual audit requirement imposed by Part 363 of FDIC regulations (12 CFR 363 – “Annual Independent Audits and Reporting Requirements”)? If not, please explain why.

It is not clear why a lower threshold than \$1 billion in consolidated total assets should not apply. A consistent standard would seem appropriate.

d. Do you agree with the refinement to the “insurance to the public” category to include only those entities that are subject to the NAIC Model Audit Rule that meet or exceed \$500 million in annual direct written and assumed premiums? If not, please explain why.

Same as the answer to c above.

e. Do you agree with the “investment company” category PEEC proposes to include in the PIE definition? If not, please explain why.

We agree with the proposal, which should include a definition that investment companies comprise mutual funds, closed-end funds and unit investment trusts, and similar vehicles.

f. Do you believe other entities, such as credit unions, should be included as PIEs and thus subject to the more restrictive independence requirements consistent with those for IESBA PIEs?

i. If so, which entities and why?

No comment.

ii. If so, should the AICPA code incorporate a second set of more restrictive independence standards (that is, consistent with IESBA PIEs), applicable to these other entities? If not, please explain an alternative approach.

g. Is the definition of publicly traded entity clear? If not, please explain how it should be clarified.

The proposed new definition includes “traded through a publicly accessible market mechanism.” That phrase needs to be expanded, with illustrations provided. The proliferation of new types of entities and means of communication requires more complete and clear guidance.

h. If an entity does not otherwise meet the definition of a PIE, are you aware of situations in which a member would treat an entity as a PIE when an engagement is subject to AICPA Statements on Auditing Standards, Statements on Standards for Accounting and Review Services, or Statements on Standards for Attestation Engagements?

i. If so, describe such situations and which independence standards are typically applied.

ii. Do you believe it would be helpful to have guidance related to such situations? If so, should that guidance be authoritative (that is, included in the AICPA code) or nonauthoritative (for example, a Q&A or practice aid)?

iii. Do you believe that in such situations the member should be required to disclose that the independence requirements for PIEs have been applied? If so, how do you believe such disclosure should be achieved when the regulator's transparency requirement is not applicable?

No comment.

i. Do you agree that the effective date provides adequate time to implement the proposals? If you disagree, please explain why.

The proposed effective date appears reasonable.

IESBA Convergence: Quality management-related conforming amendments to the code

Task force members

Anna Dourdourekas (chair), Catherine Allen, Nancy Miller, Katherine Savage, Lisa Synder

Observers

Myra Boelscher, Brandon Mercer

AICPA staff

Summer Young

Task force charge

To review the International Ethics Standards Board for Accountants' (IESBA) final pronouncement on *Quality Management-related Conforming Amendments to the Code* and determine what changes, if any, are needed to the AICPA Code of Professional Conduct (code).

Reason for agenda item

To seek approval of the proposed conforming changes to the code.

Background

As a result of the finalization of the International Auditing and Assurance Standards Board's (IAASB's) suite of quality management standards, IESBA considered it necessary to make certain conforming amendments to their code.

Also due to IAASB's updates, the AICPA Auditing Standards Board issued SAS 146 *Quality Management for an Engagement Conducted in Accordance With Generally Accepted Auditing Standards* and the Accounting and Review Services Committee issued SSARS 26 *Quality Management for an Engagement Conducted in Accordance With Statements on Standards for Accounting and Review Services*.

Task force activities

PEEC's IFAC Convergence and Monitoring Task Force reviewed these new standards and identified various conforming changes to the code (agenda item 2B). The task force is recommending terminology changes only, which is consistent with IESBA's updates as well.

These are the primary terminology changes:

- Replacing "quality control" with "system of quality management"
- Replacing "responsible individual" with "individuals with operational responsibility for compliance with independence requirements"

The task force also consulted with legal counsel regarding changes to the code. Legal counsel advised that terminology changes can be approved by committee without an exposure draft.

In addition to these conforming changes, the task force notes that the “Scope and Nature of Services” principle (agenda item 2C) and appendix A (agenda item 2D) use the concept of “quality control” rather than the new concept “quality management.”

Legal counsel advised the task force that any changes to “Principles of Professional Conduct” (ET sec. 0.300) will require a member ballot and any changes to appendix A will require a Council resolution. The task force recommends a member ballot and Council resolution not be requested as the extant code section “Principles of Professional Conduct” and appendix A are substantially converged without the identified terminology updates.

Questions for the committee

1. Does the committee agree with the recommended conforming changes in agenda item 2B?
2. Does the committee agree the code is substantially converged at ET sec. 0.300.070, paragraph .04a and a member ballot is not needed?
3. Does the committee agree the code is substantially converged in sections *Public Company Accounting Oversight Board* and *Auditing Standards Board* of appendix A and a Council resolution is not needed?

Action needed

The committee is asked to adopt the conforming changes with an effective date as soon as notice appears in the *Journal of Accountancy*.

Materials presented

- Agenda item 2B: Conforming changes
- Agenda item 2C: Principles of Professional Conduct – Scope and Nature of Services (applicable extant terminology is highlighted)
- Agenda item 2D: Appendix A, Council Resolution Designating Bodies to Promulgate Technical Standards (applicable extant terminology is highlighted)

Conforming changes

Additions appear in ***boldface italic***. Deletions appear in ~~strikethrough~~.

Terms defined in the AICPA Code of Professional Conduct are italicized in this document. If you'd like to see the definitions, you can find them in "Definitions" ([ET sec. 0.400](#))

0.400 Definitions

[See [Revision History Table](#).]

.25 **Individual in a position to influence the attest engagement.** One who

- a. evaluates the performance or recommends the compensation of the *attest engagement partner*;
- b. directly supervises or manages the *attest engagement partner*, including all successively senior levels above that individual through the *firm's* chief executive;
- c. consults with the *attest engagement team* regarding technical or industry-related issues specific to the *attest engagement*; or
- d. participates in or oversees, at all successively senior levels, ***the firm's system of quality management*** ~~control activities, including internal monitoring,~~ with respect to the specific *attest engagement*.

[Prior reference: paragraph .14 of ET section 92]

.36 **Network.** For purposes of the "Network and Network Firms" interpretation [1.220.010] of the "Independence Rule" [1.200.001], a network is an association of entities that includes one or more *firms* that (a) cooperate for the purpose of enhancing the *firms'* capabilities to provide *professional services* and (b) share one or more of the following characteristics:

- a. The use of a common brand name, including common initials, as part of the *firm* name
- b. Common *control* among the *firms* through ownership, management, or other means

- c. Profits or costs, excluding costs of operating the association; costs of developing audit methodologies, manuals, and training courses; and other costs that are immaterial to the *firm*
- d. A common business strategy that involves ongoing collaboration amongst the *firms* whereby the *firms* are responsible for implementing the association's strategy and are held accountable for performance pursuant to that strategy
- e. A significant part of professional resources
- f. Common **system of quality management** control policies and procedures that *firms* are required to implement and that are monitored by the association

A network may comprise a subset of entities within an association only if that subset of entities cooperates and shares one or more of the characteristics set forth in the preceding list. [Prior reference: paragraph .23 of ET section 92]

.40 Partner equivalent. A professional employee who is not a *partner* of the *firm* but who either

- a. has the ultimate responsibility for the conduct of an *attest engagement*, including the authority to sign or affix the *firm's* name to an attest report or issue, or authorize others to issue, an attest report on behalf of the *firm* without *partner* approval; or
- b. has the authority to bind the *firm* to conduct an *attest engagement* without partner approval. For example, the professional employee has the authority to sign or affix the *firm's* name to an *attest engagement* letter or contract to conduct an *attest engagement* without *partner* approval.

Firms may use different titles to refer to professional employees with this authority, although title is not determinative of a partner equivalent. For purposes of this definition, *partner* approval does not include any partner approvals that are part of the *firm's* normal approval and **engagement** quality control review procedures applicable to a partner.

This definition is solely for the purpose of applying the "Independence Rule" [1.200.001] and its *interpretations* and should not be used or relied upon in any other context, including the determination of whether the partner equivalent is an owner of the *firm*. [Prior reference: paragraph .28 of ET section 92.]

1.000.010 Conceptual Framework for Members in Public Practice

[Paragraphs .01 through .16 remain unchanged]

Safeguards

.17 *Safeguards* may partially or completely eliminate a *threat* or diminish the potential influence of a *threat*. The nature and extent of the *safeguards* applied will depend on many factors. To be effective, *safeguards* should eliminate the *threat* or reduce it to an *acceptable level*.

[.18, .19 and .20]

.21 The following are examples of *safeguards* created by the profession, legislation, or regulation:

- a. Education and training requirements on *independence* and ethics rules
- b. Continuing education requirements on *independence* and ethics
- c. Professional standards and the threat of discipline
- d. External review of a *firm's system of quality management control system*
- e. Legislation establishing prohibitions and requirements for a *firm* or a *firm's* professional employees
- f. Competency and experience requirements for professional licensure
- g. Professional resources, such as hotlines, for consultation on ethical issues

[.22]

.23 The following are examples of *safeguards* implemented by the *firm*:

- a. *Firm* leadership that stresses the importance of complying with the rules and the expectation that engagement teams will act in the public interest.
- b. ***Design, implement and operate a system of quality management to provide reasonable assurance of compliance with applicable standards*** Policies and procedures that are designed to implement and monitor engagement quality control.

- c. Documented policies regarding the identification of *threats* to compliance with the rules, the evaluation of the significance of those *threats*, and the identification and application of *safeguards* that can eliminate identified *threats* or reduce them to an *acceptable level*.
- d. Internal policies and procedures that are designed to monitor compliance with the *firm's* policies and procedures.
- e. Policies and procedures that are designed to identify interests or relationships between the *firm* or its *partners* and professional staff and the *firm's clients*.
- f. The use of different *partners*, *partner equivalents*, and engagement teams from different offices or that report to different supervisors.
- g. Training on, and timely communication of, a *firm's* policies and procedures and any changes to them for all *partners* and professional staff.
- h. Policies and procedures that are designed to monitor the *firm's*, *partner's*, or *partner equivalent's* reliance on revenue from a single *client* and that, if necessary, trigger action to address excessive reliance.
- i. Designation of ***an appropriate member of*** ~~someone from~~ senior management as the person responsible for overseeing the adequate functioning of the *firm's system of quality management control system*.
- j. A means for informing *partners* and professional staff of *attest clients* and related entities from which they must be independent.
- k. A disciplinary mechanism that is designed to promote compliance with policies and procedures.
- l. Policies and procedures that are designed to empower staff to communicate to senior members of the *firm* any engagement issues that concern them without fear of retribution.
- m. Policies and procedures relating to *independence* and ethics communications with audit committees or others charged with *client* governance.
- n. Discussion of *independence* and ethics issues with the audit committee or others responsible for the *client's* governance.
- o. Disclosures to the audit committee or others responsible for the *client's* governance regarding the nature of the services that are or will be provided and

the extent of the fees charged or to be charged.

- p. The involvement of another professional accountant who (a) reviews the work that is done for a *client* or (b) otherwise advises the engagement team. This individual could be someone from outside the *firm* or someone from within the *firm* who is not otherwise associated with the engagement.
- q. Consultation on engagement issues with an interested third party, such as a committee of independent directors, a professional regulatory body, or another professional accountant.
- r. Rotation of senior personnel who are part of the engagement team.
- s. Policies and procedures that are designed to ensure that members of the engagement team do not make or assume responsibility for management decisions for the *client*.
- t. The involvement of another *firm* to perform part of the engagement.
- u. Having another *firm* to reperform a nonattest service to the extent necessary for it to take responsibility for that service.
- v. The removal of an individual from an *attest engagement team* when that individual's *financial interests* or relationships pose a *threat* to *independence* or objectivity.
- w. A consultation function that is staffed with experts in accounting, auditing, *independence*, ethics, and reporting matters who can help engagement teams
 - i. assess issues when guidance is unclear or when the issues are highly technical or require a great deal of judgment; and
 - ii. resist undue pressure from a *client* when the engagement team disagrees with the *client* about such issues.
- x. *Client* acceptance and continuation policies that are designed to prevent association with *clients* that pose a *threat* that is not at an *acceptable level* to the *member's* compliance with the rules.
- y. Policies that preclude audit *partners* or *partner equivalents* from being directly compensated for selling nonattest services to the *attest client*.
- z. Policies and procedures addressing ethical conduct and compliance with laws

and regulations. [No prior reference: new content]

1.220.010 Network and Network Firms

[Paragraphs .01 through .17 remain unchanged]

- .18** *Sharing a common **system of quality management control policies and procedures**.*
This characteristic exists when entities within the association are required to follow common quality control policies and procedures that the association monitors. Monitoring is the ongoing consideration and evaluation of the *firms'* systems of quality **management control**, which enables the association to obtain reasonable assurance that the *firms'* systems of quality **management control** are designed appropriately and operating effectively.

[.19]

1.220.040 Firm Mergers and Acquisitions

- .01** When (1) a *member's firm* merges with or acquires another firm or entity or all or part of the business thereof (acquired firm) or (2) a *member's firm*, or all or part of the business thereof, is merged with or acquired by another *firm* (acquiring firm), *threats* to compliance with the "[Independence Rule](#)" [1.200.001] may exist as a result of employment or association with, or the provision of nonattest services to, an *attest client* of the acquired or acquiring firm.
- .02** When determining which *firm* is the acquirer, *members* should consider the guidance contained in paragraphs 11–15 of FASB ASC 805-10-55, among other sources.

Employment or Association With an Attest Client

- .03** If a *partner* or professional employee was formerly employed by or associated with an entity as a director, officer, employee, promoter, underwriter, voting trustee, trustee of any pension or profit-sharing trust of the entity, or in any capacity equivalent to that of a member of management and that entity becomes an *attest client* through a merger or acquisition, then *threats* will be at an *acceptable level* and *independence* will not be *impaired* provided all of the following *safeguards* are met:
- a. The *partner* or professional employee terminates the relationship with the *attest client* (for example, resigns as a director) prior to the closing date of the merger or acquisition.

- b. The *partner* or professional employee does not participate on the *attest engagement team* and is not an *individual in a position to influence the attest engagement* for the *attest client* when the *attest engagement* covers any period that includes his or her former employment or association with that *attest client*.
- c. The applicable disassociation *safeguards* in [paragraph .04](#) of the “Former Employment or Association With an Attest Client” interpretation [1.277.010] are implemented prior to the closing date of the merger or acquisition.
- d. As soon as practicable under the circumstances but before issuing the attest report, ~~an responsible~~ individual(s) ***with operational responsibility for compliance with independence requirements*** within the *firm* assesses the prior relationship of the *partner* or professional employee with the *attest client*, as well as the position he or she holds at the *firm*, to determine if *threats* are created that are not at an *acceptable level*. If the ~~responsible~~ individual(s) ***with operational responsibility for compliance with independence requirements*** determines that *threats* are not at an *acceptable level*, he or she should be satisfied that *safeguards* are applied to eliminate or reduce the *threats* to an *acceptable level*. *Threats* will not be at an *acceptable level* if
 - i. the *partner* or professional employee will have interaction with members of the *attest engagement team* regarding the *attest client* or
 - ii. the *attest engagement team* is placed in a position of evaluating the *partner* or professional employee’s representations and work while he or she was employed or associated with the *attest client*.

In such situations, an individual within the *firm* with the appropriate stature, expertise, and objectivity should review the subsequent *attest engagement* prior to issuing the attest report to determine whether the *attest engagement team* maintained integrity; objectivity; and, as appropriate, professional skepticism.

- e. As soon as practicable under the circumstances but before issuing the attest report, the nature of the relationship and any *safeguards* that were applied are discussed with *those charged with governance*. Documentation of the substance of the discussion with *those charged with governance* is encouraged.

[.04 - .14]

1.224.010 Client Affiliates

[Paragraphs .01 through .06 remain unchanged]

An Existing Financial Statement Attest Client or Its Affiliate Is Involved in an Acquisition or Other Transaction and the Member or Member's Firm Expects to Continue Providing Financial Statement Attest Services to Such Client

.07 When an acquisition or other transaction creates a new *affiliate of a financial statement attest client* during the *period of the professional engagement* and the *member or member's firm* expects to continue providing *financial statement* attest services to the *financial statement attest client* after the effective date of the acquisition or other transaction, the following conditions should be met:

- a. The *member or member's firm* should identify and evaluate previous and current interests in and relationships with the new *affiliate*, including actions taken to address the *threat to independence*, that might affect *independence* and therefore the *member's or member's firm's* ability to continue the *financial statement attest engagement* after the effective date of the acquisition or other transaction.
 - b. Except as provided for in [paragraph .08](#), the *member or member's firm* should take steps to end any interests in or relationships with the new *affiliate* that would *impair independence* by the effective date of the acquisition or other transaction.
- .08** As an exception to [paragraph .07b](#), if the interest in or relationship with the new *affiliate* cannot reasonably be ended by the effective date of the acquisition or other transaction (for example, the new *affiliate* is not able to transition a nonattest service in an orderly manner to another service provider by that date), the *member or member's firm* should do the following:

- a. Evaluate the *threat to independence* that is created by the interest or relationship. Factors that are relevant in evaluating the significance of a *threat* when there are interests and relationships with a new *affiliate* that cannot reasonably be ended could include these:
 - i. The nature and significance of the interest or relationship
 - ii. The nature and significance of the *affiliate* relationship (for example, whether the *affiliate* is a subsidiary, parent, or sister entity)
 - iii. The length of time until the interest or relationship can reasonably be ended

[1.200.001] would not be at an *acceptable level* and could not be reduced to an *acceptable level* by the application of *safeguards*. Accordingly, *independence* would be *impaired*.

Candidate Running for Election of a Governmental Entity That Is an Attest Client

.03 If, during the *period of the professional engagement* or during the period covered by the *financial statements*, a *partner* or professional employee serves as a campaign treasurer for either (a) an elected official of a governmental entity that is an *attest client*, or (b) for a candidate who is running for election but is not yet an elected official of such *attest client*, then advocacy, adverse interest, and familiarity *threats* to compliance with the “[Independence Rule](#)” [1.200.001] would not be at an *acceptable level* and could not be reduced to an acceptable level by the application of *safeguards*. Accordingly, *independence* would be *impaired*.

Political Party Is Attest Client

.04 If during the *period of the professional engagement* or during the period covered by the *financial statements* a *partner* or professional employee serves as a campaign treasurer for a candidate and the political party for which the candidate is a member is an *attest client*, advocacy and familiarity *threats* may exist. Accordingly, **an responsible individual(s) with operational responsibility for compliance with independence requirements** within the *firm* should evaluate the significance of the *threats* to determine if the *threats* are at an *acceptable level*. If the responsible individual(s) **with operational responsibility for compliance with independence requirements** within the *firm* determines that *threats* are not at an *acceptable level*, he or she should apply *safeguards* to eliminate or reduce the *threats* to an *acceptable level*. However, *threats* would not be at an *acceptable level* and could not be reduced to an *acceptable level* by the application of *safeguards* and *independence* would be *impaired* if the candidate is a member of one of the political party’s governing bodies.

[.05 and .06]

1.298.010 Breach of an Independence Interpretation

Introduction

.01 AICPA bylaws require *members* to comply with the “[Independence Rule](#)” [1.200.001]. This interpretation provides guidance to assist *members* in evaluating and addressing the consequences of a breach of an *independence interpretation* and the effect on the *attest engagement team’s* integrity, objectivity, and professional skepticism so the *member* or *member’s firm* can determine if the consequences of a breach can be satisfactorily addressed. This interpretation also provides specific steps and actions the

member should take when the *member* becomes aware that a breach of an *independence interpretation* has occurred. However, a *member's* determination that the consequences of a breach of an *independence interpretation* have been satisfactorily addressed will not preclude an investigation or enforcement action. In any case, the *member* should be prepared to justify such determination.

Required Policies and Procedures Established by the Firm

- .02** In order for the consequences of an *independence* breach to be addressed by a *member* or the *member's firm* pursuant to the provisions of this interpretation, the *firm* must be compliant with **SQMS No. 1, A Firm's System of Quality Management** [QC section 10, A Firm's System of Quality Control](#) (AICPA, *Professional Standards*), which requires the *member's firm* to have established policies and procedures designed to provide it with reasonable assurance that the *firm*, its personnel, and, when applicable, others subject to *independence* requirements, maintain *independence* when required. The policies and procedures should enable the *firm* to communicate its *independence* requirements to its personnel and, when applicable, others subject to them; to identify and evaluate circumstances and relationships that create *threats to independence*; and to take appropriate action to eliminate those *threats* or reduce them to an *acceptable level* by applying *safeguards* or, if effective *safeguards* cannot be applied, withdrawing from the engagement. These policies and procedures should be designed to provide the *firm* with reasonable assurance that it is notified of breaches of *independence* requirements and to enable it to take appropriate actions to resolve such situations.

Breaches Resulting in Significant Threats

- .03** In situations in which a *partner* or professional employee of the *firm* breaches an *independence interpretation* and the *threat to independence* resulting from the breach is significant such that the *attest engagement team's* integrity, objectivity, and professional skepticism are compromised, the provisions of this interpretation could not address the consequences of the breach as no actions could be taken to satisfactorily address the consequences of the breach.
- .04** In situations in which the lead *attest engagement partner* or an *individual in a position to influence the attest engagement* either (1) committed the breach or (2) knows of a breach and fails to ensure the breach is promptly communicated to or known by an appropriate individual within the firm as described in this interpretation, there is a rebuttable presumption the provisions of this interpretation would not be able to address the breach as the *threats* to the *attest engagement team's* integrity, objectivity, and professional skepticism and the threats to the appearance of *independence* would be considered so significant that no actions could be taken to satisfactorily address the consequences of the breach.

Identifying and Communicating a Breach

- .05** When a breach is identified, the *member* should, in accordance with his or her *firm's* policies and procedures, promptly communicate the breach to an appropriate individual within the *firm*, for example, an individual or individuals with responsibility for the policies and procedures relating to *independence*, or the *attest engagement partner* (the responsible individual(s) **with operational responsibility for compliance with independence requirements**).
- .06** The responsible individual(s) **with operational responsibility for compliance with independence requirements** should report the breach to those who need to take appropriate action and, when appropriate, should report the breach to relevant *network firms*. The responsible individual(s) **with operational responsibility for compliance with independence requirements** should be satisfied that the interest or relationship that caused the breach has been terminated, suspended, or eliminated and should address the consequences of the breach. A consequence of a breach may be that termination of the *attest engagement* is necessary.

Evaluating the Significance of a Breach

- .07** The responsible individual(s) **with operational responsibility for compliance with independence requirements** should evaluate the significance of the breach and its effect on the *attest engagement team's* integrity, objectivity, and professional skepticism and the ability to issue an attest report. The significance of the breach will depend on factors such as the following:
- a. The nature and duration of the breach
 - b. The number and nature of any previous breaches with respect to the current *attest engagement*
 - c. Whether a *member* of the *attest engagement team* had knowledge of the interest or relationship that caused the breach
 - d. Whether the individual who caused the breach is a *member* of the *attest engagement team* or another individual for whom there are *independence requirements*
 - e. The role of the individual if the breach relates to a *member* of the *attest engagement team*
 - f. The effect of the service, if any, on the accounting records or the *attest client's financial statements* if the breach was caused by the provision of a *professional service*

- g. Whether a *partner* or *partner equivalent* of the *firm* had knowledge of the breach and failed to ensure that the breach was promptly communicated to an appropriate individual within the *firm*
- h. Whether the breach involved solely an *affiliate* of a *financial statement attest client* and if so, the nature of the *affiliate* relationship
- i. The extent of the self-interest, advocacy, undue influence, or other *threats* created by the breach

Addressing the Consequences of a Breach

.08 Depending upon the significance of the breach, it may be necessary to terminate the *attest engagement* or it may be possible to take action that satisfactorily addresses the consequences of the breach. Certain breaches described in this interpretation cannot be addressed by the provisions of this interpretation. For all other breaches, the ~~responsible~~ individual(s) **with operational responsibility for compliance with independence requirements** should determine whether satisfactory action can be taken and is appropriate in the circumstances. In making this determination, the ~~responsible~~ individual(s) **with operational responsibility for compliance with independence requirements** should exercise professional judgment and take into account whether a reasonable and informed third party, weighing the significance of the breach, the action to be taken, and all the specific facts and circumstances available to the *member* at that time, would likely conclude that the *attest engagement team's* integrity, objectivity, and professional skepticism would be compromised and therefore whether *independence* is *impaired*.

.09 Examples of actions that the ~~responsible~~ individual(s) **with operational responsibility for compliance with independence requirements** may consider include the following:

- a. Removing the relevant individual from the *attest engagement team*
- b. Conducting an additional review of the affected attest work or re-performing that work to the extent necessary; in either case, using different personnel
- c. Recommending that the *attest client* engage another *firm* to review or re-perform the affected attest work to the extent necessary
- d. Engaging another *firm* to evaluate the results of the nonattest service or having another firm re-perform the nonattest service to the extent necessary to enable it to take responsibility for the service if the breach relates to a nonattest service that affects the accounting records or an amount that is recorded in the *financial statements*

Communicating With Those Charged With Governance at the Attest Client

- .10 If the responsible individual(s) **with operational responsibility for compliance with independence requirements** determines that action cannot be taken to satisfactorily address the consequences of the breach, the responsible individual(s) **with operational responsibility for compliance with independence requirements** should inform *those charged with governance* as soon as practicable and take the steps necessary to terminate the *attest engagement* in compliance with any applicable legal or regulatory requirements relevant to terminating the *attest engagement*. Where termination is not permitted by law or regulation, the responsible individual(s) **with operational responsibility for compliance with independence requirements** should comply with any reporting or disclosure requirements.
- .11 If the responsible individual(s) **with operational responsibility for compliance with independence requirements** determines that action can be taken to satisfactorily address the consequences of the breach, the responsible individual(s) **with operational responsibility for compliance with independence requirements** should discuss the breach and the action taken or proposed to be taken with *those charged with governance* as soon as practicable, unless *those charged with governance* have specified an alternative timing for reporting less significant breaches. The matters to be discussed should include the following:
- a. The significance of the breach, including its nature and duration
 - b. How the breach occurred and how it was identified
 - c. The action taken or proposed to be taken and the responsible individual(s) **with operational responsibility for compliance with independence requirements'** rationale for how the action will satisfactorily address the consequences of the breach and enable the *firm* to issue the attest report
 - d. The conclusion that, in the responsible individual(s) **with operational responsibility for compliance with independence requirements'** professional judgment, the integrity, objectivity, and professional skepticism of the *attest engagement team* has not been compromised and the rationale for that conclusion
 - e. Any steps that the responsible individual(s) **with operational responsibility for compliance with independence requirements** has taken or proposes to take to reduce or avoid the risk of further breaches occurring
- .12 The responsible individual(s) **with operational responsibility for compliance with independence requirements** should communicate in writing with *those charged with*

governance all matters discussed in accordance with the paragraph above and obtain the concurrence of *those charged with governance* that action can be, or has been, taken to satisfactorily address the consequences of the breach. The communication shall include a description of the *firm's* policies and procedures relevant to the breach designed to provide it with reasonable assurance that *independence* is maintained and any steps that the *firm* has taken, or proposes to take, to reduce or avoid the risk of further breaches occurring. If *those charged with governance* do not concur that the action satisfactorily addresses the consequences of the breach, the responsible individual(s) **with operational responsibility for compliance with independence requirements** should take the steps necessary to terminate the *attest engagement*, where permitted by law or regulation, in compliance with any applicable legal or regulatory requirements relevant to terminating the *attest engagement*. Where termination is not permitted by law or regulation, the responsible individual(s) **with operational responsibility for compliance with independence requirements** should comply with any reporting or disclosure requirements.

Breaches Relating to Previously Issued Reports

- .13 If the breach occurred prior to the issuance of the previous attest report, the responsible individual(s) **with operational responsibility for compliance with independence requirements** should comply with this section in evaluating the significance of the breach and its effect on the *attest engagement team's* objectivity, integrity, and professional skepticism and its ability to issue an attest report in the current period. The responsible individual(s) **with operational responsibility for compliance with independence requirements** should also consider the effect of the breach, if any, on the *attest engagement team's* integrity, objectivity, and professional skepticism in relation to any previously issued attest reports, and the possibility of withdrawing such attest reports in accordance with professional standards, and discuss the matter with *those charged with governance*.

Documentation

- .14 The responsible individual(s) **with operational responsibility for compliance with independence requirements** should document the breach, the action taken, key decisions made and all the matters discussed with *those charged with governance* and any discussions with a professional body, relevant regulator, or oversight authority. When the *firm* continues with the *attest engagement*, the matters to be documented should also include the conclusion that, in the responsible individual(s) **with operational responsibility for compliance with independence requirements'** professional judgment, the integrity, objectivity, and professional skepticism of the *attest engagement team* have not been compromised and the rationale for why the action taken satisfactorily addressed the consequences of the breach such that the *firm* could issue an attest report. Failure to prepare the required documentation does not *impair*

independence provided the *member* can demonstrate the *member* satisfactorily addressed the consequences of the breach and discussed the breach, the action taken, and key decisions made with *those charged with governance*, and as applicable, a professional body, relevant regulator, or oversight authority. However, failure to prepare the required documentation would be considered a violation of the “[Compliance With Standards Rule](#)” [1.310.001].

- .15 Refer to the “[Unsolicited Financial Interests](#)” interpretation [1.240.020] of the “Independence Rule” [1.200.001] for guidance on unsolicited financial interests.

Effective Date

- .16 This interpretation is effective March 31, 2016. Early implementation is allowed.

1.820.040 Use of a Common Brand Name in Firm Name

- .01 *Firms* within a *network* sometimes share the use of a common brand or share common initials as part of the *firm* name. The sharing of a common brand name or common initials of a *network* as part of the *member’s firm* name would not be considered misleading, provided the *firm* is a *network firm*.
- .02 The sharing of a common brand name or common initials of a *network* as the entire name of the *member’s firm* would not be considered misleading, if the *firm* is a *network firm* and shares one or more of the following characteristics with other *firms* in the *network*:
- a. Common *control* among the firms through ownership, management, or other means
 - b. Profits or costs, excluding costs of operating the *network*; costs of developing audit methodologies, manuals, and training courses; and other costs that are immaterial to the *firm*
 - c. Common business strategy that involves ongoing collaboration amongst the *firms* whereby the *firms* are responsible for implementing the *network’s* strategy and are held accountable for performance pursuant to that strategy
 - d. Significant part of professional resources
 - e. Common **system of quality management** control policies and procedures that *firms* are required to implement and that are monitored by the *network*

- .03** Refer to the "[Network and Network Firms](#)" interpretation [1.220.010] of the "Independence Rule" [1.200.001] for additional guidance. [Prior reference: paragraph .06 of ET section 505]

0.300.070 Scope and Nature of Services

[See [Revision History Table](#).]

.01 *Scope and nature of services principle.* A *member* in public practice should observe the Principles of the Code of Professional Conduct in determining the scope and nature of services to be provided.

.02 The public interest aspect of *members'* services requires that such services be consistent with acceptable professional behavior for *members*. Integrity requires that service and the public trust not be subordinated to personal gain and advantage. Objectivity and *independence* require that *members* be free from conflicts of interest in discharging professional responsibilities. Due care requires that services be provided with competence and diligence.

.03 Each of these Principles should be considered by *members* in determining whether or not to provide specific services in individual circumstances. In some instances, they may represent an overall constraint on the nonaudit services that might be offered to a specific *client*. No hard-and-fast rules can be developed to help members reach these judgments, but they must be satisfied that they are meeting the spirit of the Principles in this regard.

.04 In order to accomplish this, *members* should

- a. Practice in *firms* that have **in place internal quality control procedures** to ensure that services are competently delivered and adequately supervised.
- b. Determine, in their individual judgments, whether the scope and nature of other services provided to an audit *client* would create a conflict of interest in the performance of the audit function for the *client*.
- c. Assess, in their individual judgments, whether an activity is consistent with their role as professionals. [Prior reference: ET section 57]

Appendix A

Council Resolution Designating Bodies to Promulgate Technical Standards

[As amended January 12, 1988; Revised April 1992, October 1999, May 2004, October 2007, May 2008, October 2012, May 2013, and May 20, 2018.]

Federal Accounting Standards Advisory Board

RESOLVED: That the Federal Accounting Standards Advisory Board, with respect to its statements of federal accounting standards and concepts adopted and issued in March of 1993 and subsequently, in accordance with its rules of procedure, the memorandum of understanding, and public notice designating FASAB's standards and concepts as having substantial authoritative support, be, and hereby is, designated by the Council of the American Institute of Certified Public Accountants as the body to establish financial accounting principles for federal governmental entities pursuant to the "Accounting Principles Rule" (AICPA, *Professional Standards*, [ET sec. 1.320.001](#) and [2.320.001](#)) of the Code.^{fn 1}

[Added by *Council* October 1999.]

Financial Accounting Standards Board

WHEREAS: In 1959 the *Council* designated the Accounting Principles Board to establish accounting principles, and

WHEREAS: The *Council* is advised that the Financial Accounting Standards Board (FASB) has become operational, it is

RESOLVED: That as of the date hereof the FASB, in respect of statements of financial accounting standards finally adopted by such board in accordance with its rules of procedure and the bylaws of the Financial Accounting Foundation, be, and hereby is, designated by this *Council* as the body to establish accounting principles pursuant to the "Accounting Principles Rule," (AICPA, *Professional Standards*, [ET sec. 1.320.001](#) and [2.320.001](#)) and standards on disclosure of financial information for such entities outside *financial statements* in published financial reports containing *financial statements* under

^{fn 1} The changes to this appendix as of December 15, 2014, are administrative changes that were made to conform to the reformatted Code of Professional Conduct.

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the “Compliance With Standards Rule” (AICPA, *Professional Standards*, [ET sec. 1.310.001](#) and [2.310.001](#)) of the Code of Professional Conduct of the American Institute of Certified Public Accountants provided, however, any accounting research bulletins, or opinions of the accounting principles board issued or approved for exposure by the accounting principles board prior to April 1, 1973, and finally adopted by such board on or before June 30, 1973, shall constitute statements of accounting principles promulgated by a body designated by *Council* as contemplated in the “Accounting Principles Rule” (AICPA, *Professional Standards*, [ET sec. 1.320.001](#) and [2.320.001](#)) of the Code unless and until such time as they are expressly superseded by action of the FASB.^{fn 1}

Governmental Accounting Standards Board

WHEREAS: The Governmental Accounting Standards Board (GASB) has been established by the board of trustees of the Financial Accounting Foundation (FAF) to issue standards of financial accounting and reporting with respect to activities and transactions of state and local governmental entities, and

WHEREAS: The American Institute of Certified Public Accountants is a signatory to the agreement creating the GASB as an arm of the FAF and has supported the GASB professionally and financially, it is

RESOLVED: That as of the date hereof, the GASB, with respect to statements of governmental accounting standards adopted and issued in July 1984 and subsequently, in accordance with its rules of procedure and the bylaws of the FAF, be, and hereby is, designated by the Council of the American Institute of Certified Public Accountants as the body to establish financial accounting principles for state and local governmental entities, pursuant to the “Accounting Principles Rule” (AICPA, *Professional Standards*, [ET sec. 1.320.001](#) and [2.320.001](#)) of the Code of Professional Conduct, and standards on disclosure of financial information for such entities outside *financial statements* in published financial reports containing *financial statements* under the “Compliance With Standards Rule” (AICPA, *Professional Standards*, [ET sec. 1.310.001](#) and [2.310.001](#)) of the Code of Professional Conduct.^{fn 1}

Public Company Accounting Oversight Board

WHEREAS: The Public Company Accounting Oversight Board (PCAOB) has been established pursuant to the Sarbanes-Oxley Act of 2002 (the Act), and

WHEREAS: The PCAOB has authority under the Act to establish or adopt, or both, by PCAOB rule, auditing and related attestation standards, **quality control**, ethics, *independence* and other standards relating to the preparation and issuance of audit reports for issuers as defined in the Act.

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RESOLVED: That the PCAOB be, and hereby is, designated by the Council of the American Institute of Certified Public Accountants as the body to establish standards relating to the preparation and issuance of audit reports for entities within its jurisdiction as defined by the Act pursuant to the “[General Standards Rule](#)” (AICPA, *Professional Standards*, ET sec. 1.300.001) and the “[Compliance With Standards Rule](#)” (AICPA, *Professional Standards*, ET sec. 1.310.001) of the Code of Professional Conduct.^{fn 1}

[Added by *Council* May 2004.]

International Accounting Standards Board

WHEREAS, At its Spring, 2008 meeting, the *Council* resolved that the International Accounting Standards Board (IASB) be designated as the body which is authorized to establish professional standards with regard to international accounting and reporting principles under the “Compliance With Standards Rule” ([ET sec. 1.310.001](#) and [2.310.001](#)) and the “Accounting Principles Rule” ([ET sec. 1.320.001](#) and [2.320.001](#)) of the AICPA Code of Professional Conduct, with the proviso that Council would, three to five years after such designation, reassess whether continued recognition of the IASB for such purposes is appropriate, and readopted that resolution in May 2013, and

[Added by Council May 19, 2013, amended May 20, 2018.]

WHEREAS, The Council supports the IASB and believes recognition of the IASB as the body authorized to establish professional standards with regard to international accounting and reporting principles under the “Compliance With Standards Rule” ([ET sec. 1.310.001](#) and [2.310.001](#)) and the “Accounting Principles Rule” ([ET sec. 1.320.001](#) and [2.320.001](#)) of the AICPA Code of Professional Conduct should continue; and

[Added by Council May 19, 2013; readopted by Council, May 20, 2018.]

WHEREAS, The Council also believes it should again reassess such recognition three to five years after the effective date of this resolution; now

[Added by Council May 19, 2013; readopted by Council, May 20, 2018.]

BE IT RESOLVED, That the Council hereby readopts the resolutions related to the IASB set out in Appendix A to the Code of Professional Conduct as set out below.

[Added by Council May 19 2013; readopted by Council, May 20, 2018.]

RESOLVED: That the International Accounting Standards Board (IASB) is hereby designated as the body to establish professional standards with respect to international financial accounting and reporting principles pursuant to the “Compliance With Standards Rule” ([ET sec. 1.310.001](#) and [2.310.001](#)) and the “Accounting Principles

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Rule” ([ET sec. 1.320.001](#) and [2.320.001](#)) of the Code of Professional Conduct; and

BE IT FURTHER RESOLVED: That the Council shall reassess, no sooner than three years but no later than five years after the effective date of this resolution, whether continued recognition of the IASB as the body designated to establish professional standards with respect to international financial accounting and reporting principles under the “Compliance With Standards Rule” ([ET sec. 1.310.001](#) and [2.310.001](#)) and the “Accounting Principles Rule” ([ET sec. 1.320.001](#) and [2.320.001](#)) of the Code of Professional Conduct is appropriate. ^{fn 1}

[Added by Council May 18, 2008; readopted by Council, May 19, 2013 and May 20, 2018.]

AICPA COMMITTEES AND BOARDS

WHEREAS: The membership of the *Institute* has adopted the “General Standards Rule” (AICPA, *Professional Standards*, [ET sec. 1.300.001](#) and [2.300.001](#)) of the Code of Professional Conduct, which authorizes the Council to designate bodies to promulgate technical standards with which members must comply, and therefore it is ^{fn 1}

Accounting and Review Services Committee

RESOLVED: That the AICPA accounting and review services committee is hereby designated to promulgate standards under the “[General Standards Rule](#)” (AICPA, *Professional Standards*, ET sec. 1.300.001) and the “[Compliance With Standards Rule](#)” (AICPA, *Professional Standards*, ET sec. 1.310.001) of the Code of Professional Conduct with respect to unaudited *financial statements* or other unaudited financial information of an entity that is not required to file *financial statements* with a regulatory agency in connection with the sale or trading of its securities in a public market. ^{fn 1}

Auditing Standards Board

RESOLVED: That, with respect to standards relating to the preparation and issuance of audit reports not included within the resolution on the Public Company Accounting Oversight Board, the AICPA auditing standards board is hereby designated as the body authorized under the “[General Standards Rule](#)” (AICPA, *Professional Standards*, ET sec. 1.300.001) and the “[Compliance With Standards Rule](#)” (AICPA, *Professional Standards*, ET sec. 1.310.001) of the Code of Professional Conduct to promulgate auditing, attestation, and **quality control standards and procedures**.

RESOLVED: That the auditing standards board shall establish under statements on auditing standards, the responsibilities of *members* with respect to standards for disclosure of financial information outside of the *financial statements* in published financial reports containing *financial statements*. ^{fn 1}

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[Revised May 2004.]

Management Consulting Services Executive Committee

RESOLVED: That the AICPA management consulting services executive committee is hereby designated to promulgate standards under the “General Standards Rule” (AICPA, *Professional Standards*, [ET sec. 1.300.001](#) and [2.300.001](#)) and the “Compliance With Standards Rule” (AICPA, *Professional Standards*, [ET sec. 1.310.001](#) and [2.310.001](#)) of the Code of Professional Conduct with respect to the offering of management consulting services, provided, however, that such standards do not deal with the broad question of what, if any, services should be proscribed.

AND FURTHER RESOLVED: That any *Institute* committee or board now or in the future authorized by the *Council* to issue enforceable standards under the “General Standards Rule” (AICPA, *Professional Standards*, [ET sec. 1.300.001](#) and [2.300.001](#)) and the “Compliance With Standards Rule” (AICPA, *Professional Standards*, [ET sec. 1.310.001](#) and [2.310.001](#)) of the Code of Professional Conduct must observe an exposure process seeking comment from other affected committees and boards, as well as the general membership.^{fn 1}

[Revised April 1992.]

Attestation Standards

RESOLVED: That the AICPA accounting and review services committee, auditing standards board, and management consulting services executive committee are hereby designated as bodies authorized under the “[General Standards Rule](#)” (AICPA, *Professional Standards*, ET sec. 1.300.001) and the “[Compliance With Standards Rule](#)” (AICPA, *Professional Standards*, ET sec. 1.310.001) of the Code of Professional Conduct to promulgate attestation standards in their respective areas of responsibility.^{fn 1}

[Added by *Council*, May 1988; revised April 1992.]

Tax Executive Committee

RESOLVED: That the Tax Executive Committee is hereby designated as the body authorized under the “General Standards Rule” (AICPA, *Professional Standards*, [ET sec. 1.300.001](#) and [2.300.001](#)) and the “Compliance With Standards Rule” (AICPA, *Professional Standards*, [ET sec. 1.310.001](#) and [2.310.001](#)) of the Code of Professional Conduct to promulgate professional practice standards with respect to tax services.^{fn 1}

[Added by *Council*, October 1999.]

Forensic and Valuation Services Executive Committee

RESOLVED: That the Forensic and Valuation Services Executive Committee is hereby

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designated as the body to promulgate professional standards with respect to forensic and valuation services under the “General Standards Rule” (AICPA, *Professional Standards*, [ET sec. 1.300.001](#) and [2.300.001](#)) and the “Compliance With Standards Rule” (AICPA, *Professional Standards*, [ET sec. 1.310.001](#) and [2.310.001](#)) of the Code of Professional Conduct. ^{fn 1}

[Added by *Council*, October 2007.]

Personal Financial Planning Executive Committee

RESOLVED: That the Personal Financial Planning Executive Committee is hereby designated as the body to promulgate professional standards with respect to personal financial planning services under the “General Standards Rule” (AICPA, *Professional Standards*, [ET sec. 1.300.001](#) and [2.310.001](#)) and the “Compliance With Standards Rule” (AICPA, *Professional Standards*, [ET sec. 1.310.001](#) and [2.310.001](#)) of the Code of Professional Conduct. ^{fn 1}

[Added by *Council*, October 2012.]

Simultaneous employment or association with an attest client

Task force members

Cathy Allen (chair), Andy Bonner, Jason Evans, Jeff Lewis, Nancy Miller, Dan Vuckovich

Observers

Jim Dalkin, Robin Donaldson, Nicole Anderson McLean, Brandon Mercer, Bella Rivshin

AICPA staff

Jennifer Kappler

Task force charge

To consider whether to add an exception to the “Simultaneous Employment or Association With an Attest Client” interpretation ([ET sec. 1.275.005](#)) for individuals employed by the armed services and whether other modifications to the subtopic “Current Employment or Association with an Attest Client” ([ET sec. 1.275](#)) are warranted.

Reason for agenda item

To seek input on the task force’s recommended revisions to the “Definitions” and “Simultaneous Employment or Association With an Attest Client” interpretations.

Background

At the August 2023 PEEC meeting, the committee approved the following framework as a foundation for potential revisions to the interpretation:

- A covered member would be prohibited from employment at an attest client
- A partner or professional employee would be prohibited from being employed in a key position at the attest client

Other than specifically identified exceptions, all other situations would require application of the “Conceptual Framework for Independence” ([ET sec. 1.2710.010](#)).

Task force activities

Agenda items 3B and 3C reflect the task force’s preliminary revisions and additions to the current interpretations.

Questions for the committee

1. Does the committee agree with the approach of separating the definition of “simultaneously employed or associated” from the “Simultaneous Employment or Association With an Attest Client” interpretation?
2. Should the task force (1) address activities that would be performed by a promoter or legal counsel (for example) in the interpretation or (2) address these and similar roles in the proposed definition of “simultaneously employed or associated”
3. The current interpretation refers to simultaneous employment or association during the period of professional engagement and the period covered by the financial statements. Does the committee agree that it is appropriate to remove “the period covered by the financial statements” from the proposed definition?
4. Who should be responsible for applying the conceptual framework when required? For example, should it be the partner or professional being offered employment, the attest engagement partner, or the appropriate individual in the firm to whom the information was given as currently proposed in the task force’s recommendation?
5. Does the committee believe that the threats and safeguards outlined in paragraphs .03–.05 are appropriate?
6. The current exception in the interpretation provides that a partner or professional serving as adjunct faculty at an attest client should not participate in the client’s employee benefit plans unless participation is required. How does the committee believe benefit plan participation should be handled in terms of other simultaneous employment situations?

Materials presented

Agenda item 3B: 0.400 Definitions

Agenda item 3C: 1.275.005 Simultaneous Employment or Association With an Attest Client

0.400 Definitions

- .48 ***Simultaneously employed or associated. When a partner or professional employee of the member's firm serves as a director, officer, employee (whether in a volunteer or paid position), promoter, underwriter, voting trustee, or trustee for any pension or profit-sharing trust of the attest client during the period of the professional engagement.***

DRAFT

1.275.005 Simultaneous Employment or Association With an Attest Client

- .01** *Except as noted in paragraph .07, threats to compliance with the “Independence Rule” [1.200.001] would not be at an acceptable level and could not be reduced to an acceptable level by the application of safeguards and independence would be impaired when:*
- a. a covered member is simultaneously employed or associated with the attest client; or*
 - b. a partner or professional employee who is not a covered member is simultaneously employed or associated in a key position with the attest client.*
- .02** *When a partner or professional employee receives an offer to become simultaneously employed or associated with an attest client in a position that would not be covered by paragraph .01 of this interpretation,*
- a. they should promptly report the offer to an appropriate person in the firm, and*
 - b. the appropriate person should apply the “Conceptual Framework for Independence” interpretation [1.210.010], to evaluate whether the familiarity, management participation, advocacy, self-interest, and self-review threats are at an acceptable level.*
- .03** *Examples of factors to consider when evaluating whether threats are at an acceptable level include the following:*
- a. The individual’s position and role in the firm.*
 - b. The individual’s position and role in the attest client.*
 - c. Whether the position is full- or part-time.*
 - d. Whether the position will be short-term (temporary or seasonal),*

longer-term, or permanent.

- e. Whether the compensation to be paid to the member, if any, is significant to the member's net worth.*
- f. Whether the position provides fringe benefits that are significant to the individual.*
- g. Whether the position would involve duties that impact the client's financial statements or internal controls over financial reporting and if so, the magnitude of such impact.*
- h. Whether the individual would perform duties that the firm would not be permitted to perform under ET sec. 1.295 (Nonattest Services).*
- i. Whether the individual would perform any management responsibilities for the attest client.*
- j. Whether the position is highly visible to the public.*
- k. Whether the position involves marketing or other promotional work.*
- l. Whether the position is with the attest client or an affiliate of the attest client.*
- m. The nature of the attest engagement.*
- n. The size and structure of the firm.*
- o. The size and structure of the attest client.*

.04 *If threats are not at an acceptable level, safeguards should be applied to eliminate the threats or reduce them to an acceptable level. Application of more than one safeguard may be necessary. If threats cannot be eliminated or reduced to an acceptable level, independence would be impaired. [Prior reference: paragraph .02C of ET section 101]*

.05 *Examples of actions that might be safeguards include the following:*

- a. An appropriate reviewer who has not provided services to the attest client reviews the attest work performed.*
- b. The firm employs policies and procedures that are designed to identify, evaluate, and monitor members' employment with attest*

clients.

- c. *The firm actively monitors compliance with the firm's independence policies and procedures related to members' employment with attest clients.*
- d. *The firm conducts periodic training and provides periodic communications on the firm's independence policies and procedures related to members' employment with attest clients.*

.06 *Communication with those charged with governance regarding evaluation of the threats to independence and the safeguards applied is not a sufficient safeguard when applied alone; however, it may be considered a safeguard when supplemented by other safeguards, such as those noted in paragraph .06.*

.07 *Threats will be at an acceptable level and independence would not be impaired when any of the following situations exist:*

- a. *A partner or professional employee of the member's firm serves as an adjunct faculty member of an educational institution that is an attest client of the firm and the partner or professional employee meets all the following safeguards:*
 - i. *Does not hold a key position at the educational institution.*
 - ii. *Does not participate on the attest engagement team.*
 - iii. *Is not an individual in a position to influence the attest engagement.*
 - iv. *Does not participate in any employee benefit plans sponsored by the educational institution unless participation is required.*
- b. *A member in a government audit organization performs an attest engagement with respect to the government entity and the head of the government audit organization meets at least one of the following:*
 - i. *Is directly elected by voters of the government entity with respect to which attest engagements are performed.*
 - ii. *Is appointed by a legislative body and is subject to removal by a*

legislative body.

iii. Is appointed by someone other than the legislative body, as long as the appointment is confirmed by the legislative body and removal is subject to oversight or approval by the legislative body.

c. A partner or professional employee of the member's firm is employed by the attest client in accordance with a relevant federal, state, local law or regulation and the partner or professional employee meets all of the following safeguards:

i. Is not in a key position with the attest client.

ii. Does not participate on the attest engagement team.

iii. Is not an individual in a position to influence the attest engagement.

.08 Upon termination of employment or association with the attest client, the partner or professional employee should comply with the requirements of the "Former Employment or Association With an Attest Client" interpretation [1.277.010] of the "Independence Rule" [1.200.001]. [Prior reference: paragraph .21 of ET section 101]

.09 Members that are simultaneously employed or associated with an attest client should consider their obligations as a member in business under part 2 of the code. [No prior reference: new content]

Reporting of an independence breach to an affiliate that is also an attest client

Task Force Members

Jennifer Kary (Chair), Andy Bonner, Rebecca McCray, Debbie Ng, Shelly VanDyne, Lori West

Other Project Members

Judith Sherinsky, Brian Wilson

Observers

Alina Kalachnyuk, Brandon Mercer, Samina Tahir

AICPA staff

Ellen Gorla, Kelly Mullins, Michael Schertzinger

Task force charge

To consider whether nonauthoritative guidance is needed for the “Breach of Independence Interpretation” (ET sec. 1.298.010) when there is an independence breach at an attest client that has affiliates that are also attest clients.

Reason for agenda item

To seek the committee’s input on the nonauthoritative questions and answers (Q&As) in agenda item 4B.

Background

Comments received on this topic from the November 2019 Strategy and Work Plan suggested that consistency in practice is needed. The committee agreed to consider guidance that would help members.

Task force activities

Nonauthoritative Q&As will provide members with needed guidance to determine when an independence breach at an attest client needs to be communicated to affiliates that are also attest clients.

Questions for the committee

1. Does the committee have any suggested revisions to the nonauthoritative Q&As?
2. Does the committee agree to adding a link to the Q&As after paragraph .12 of the “Breach of an Independence Interpretation” interpretation (ET sec. 1.298.010)?

Materials presented

Agenda item 4B: Proposed Q&A section 320, Breach of an Independence Interpretation

Proposed Q&A

Terms defined in the AICPA Code of Professional Conduct are italicized the first time they appear in this document. If you'd like to see the definitions, you can find them in "Definitions" ([ET sec. 0.400](#))

Q&A section 320, Breach of an Independence Interpretation

.01 Communication of an independence breach to affiliates of an attest client that are also attest clients

Inquiry — Is it necessary to communicate an independence breach to *affiliates* of an *attest client* that are also *attest clients* of the *member* or member's firm?

Reply — It depends. If an independence breach at an *attest client* results in a breach at an attest client affiliate, communication of the breach to *those charged with governance* at the affiliate is necessary, as explained in the "Breach of an Independence Interpretation" interpretation (ET sec. 1.298.010).

If those charged with governance are not the same across all affected entities, members should refer to Q&A .03 in this section, "Communication and confidentiality after an independence breach."

.02 Communication to affiliates that are not affected by an independence breach at an attest client

Inquiry — Is communication necessary to affiliates that are also attest clients if they are not affected by an independence breach at an attest client (that is, if the breach has not resulted in a breach at an affiliate)?

Reply — Communication to these affiliates is not necessary when the breach at an attest client does not affect the entities, even if those charged with governance are the same.

The focus is on providing information relevant to entities affected by the breach.

To avoid violating the "Confidential Client Information Rule," members may direct affiliates to seek information from the affected main entity, without revealing any confidential client information.

.03 Communication and confidentiality after an independence breach

Inquiry — Does communicating an independence breach to affiliates that are also attest clients violate the "Confidential Client Information Rule" (ET sec. 1.700.001)?

Reply — It depends on whether those charged with governance are the same for the entity and its affiliates:

- If they are the same, communicating an independence breach to affiliates that are also attest clients will not violate the "Confidential Client Information Rule."
- If they are different, a member is required to comply with the "Breach of an Independence interpretation" (ET sec. 1.298.010) and disclose the breach to those charged with governance of the affected entities. However, members should also apply the "Confidential Client Information Rule" and ensure communication does not include confidential information.

If an affiliate requests more details than the member believes is appropriate to provide, the member or member's firm could direct the affiliate to those charged with governance at the main entity where the breach occurred or to an upstream entity that controls both.

.04 Manner of communication after an independence breach

Inquiry — What type of communication should those charged with governance of affiliates that are also attest clients receive if they are affected by an independence breach?

Reply — Communication should be in writing to those charged with governance at each affected entity. "Affected" means the breach has resulted in a breach at an affiliate.

A single comprehensive letter may suffice if those charged with governance are the same across the entities. If a single letter is provided, each of the entities should be listed in the letter to ensure that those charged with governance clearly understand the consequences of the independence breach. The choice between a single comprehensive letter or separate letters to those charged with governance depends on the member's judgment and circumstances of the situation.

Private equity investment in firms

Task force members

Anna Dourdourekas (co-chair), Lisa Snyder (co-chair), Catherine Allen, Peter Bible, Andreea Danel, Bob Denham, Jennifer Elder, Kelly Hnatt, Paul Meyer, Randy Milligan, Bisi Tairu, Joe Turkewitz, Paula Young

AICPA staff

Jim Brackens, Joan Farris, Ellen Gorla, Toni Lee-Andrews

Task force charge

To determine whether the increase in private equity investments in public accounting firms creates a need to revise the code or issue nonauthoritative guidance. The task force will evaluate the current provisions in the code including the “Alternative Practice Structures” (APS) interpretations (ET sec. [1.220.020](#) and [1.810.050](#)) under the “Independence Rule” and the “Form of Organization Rule,” respectively, to determine if they are appropriate and sufficient.

Reason for agenda item

To provide the committee with an update, outline next steps, and request input.

Task force activities

Scope 1: Evaluate the current “Alternative Practice Structure” interpretation under the “Independence Rule” for applicability to private equity structures.

The task force developed key assumptions for a scenario where the private equity (PE) firm has significant influence but not a controlling investment in the nonattest firm in order to identify individuals and entities in the structure that may need to be evaluated under the “Independence Rule.” The task force then performed an exercise based on the assumptions in the same scenario to compare the results of (1) applying the current APS interpretation ([ET sec. 1.220.020](#)) with (2) applying a covered member approach followed by the application of the “Conceptual Framework for Independence” interpretation ([ET sec. 1.210.010](#)).

Noncontrolling investment scenario

Based on the results of the exercise, the task force is moving in the direction of a conceptual framework approach for individuals and entities in a noncontrolling investment scenario that are beyond the scope of covered member and who may create threats to independence.

Observations

The task force made the following observations regarding the results of the exercise performed for the noncontrolling investment scenario.

1. All individuals identified as direct superiors¹, who are required to comply with the Independence Rule, through the APS interpretation were identified as covered members. These individuals include
 - a. CEO of the attest firm and²
 - b. attest firm senior leadership, executive committee, and board.^{2 3}
2. The APS interpretation includes with direct superiors, “entities over which such individuals have significant influence.” The task force is considering whether this needs to extend to entities within the APS over which covered members can exercise significant influence since covered member criterion *f.* includes “an entity whose operating, financial, or accounting policies can be controlled by any of the individuals or entities described in items *a-e* or two or more such individuals or entities if they act together.”
3. Certain individuals identified as indirect superiors⁴ through the APS interpretation were identified as covered members. These individuals include:
 - a. Nonattest firm senior leadership/executive committee.² This is because all partners and employees of the attest firm are employees of the nonattest firm. As such, the executive committee (or similar) of the nonattest firm would be included

¹ Direct superiors include those persons so closely associated with a *partner* or *manager* who is a covered member that such persons can directly control the *partner's* or *manager's* activities. For this purpose, a person who can directly control is the immediate superior of the *partner* or *manager* who has the power to direct the activities of that person so as to be able to directly or indirectly (for example, through another entity over which the direct superior can exercise significant influence) derive a benefit from that person's activities. An example is the person who has day-to-day responsibility for the activities of the *partner* or *manager* and is in a position to recommend promotions and compensation levels. This group of persons is so closely aligned through direct reporting relationships that their interests seem to be inseparable.

² Covered member criterion b. in a position to influence the attest engagement criterion b. directly supervises or manages the attest engagement partner, including all successively senior levels above that individual through the firm's chief executive

³ Covered member criterion b. in a position to influence the attest engagement criterion a. evaluates the performance or recommends the compensation of the attest engagement partner

⁴ Indirect superiors are not connected with *partners* and *managers* who are covered members through direct reporting relationships; rather, they are one or more levels above direct superiors of covered members (that is, there always is a level in between). Generally, this starts with persons in an organization structure to whom direct superiors report and go up the line from there. Indirect superiors also include the *immediate family* of indirect superiors.

or nonattest firm.

Preliminary conclusions

The task force made the following conclusions based on discussions and the results of the exercise performed for the noncontrolling investment scenario.

1. Network firms.
 - a. The attest and nonattest firms are network firms per the “Network and Network Firms” interpretation ([ET sec. 1.220.010](#)) due to cooperating for the purpose of enhancing the firms’ capabilities to provide professional services, and meeting one of the following criteria: sharing a common brand name, sharing common control, sharing profits or costs, sharing a common business strategy, sharing significant professional resources, or sharing common quality control policies and procedures.
 - b. The PE firm and its portfolio companies would generally not be considered network firms of the attest and nonattest firms because they are not cooperating with the attest or nonattest firm to enhance their capabilities to provide professional services. The same would apply when the nonattest firm is controlled by the PE firm.
2. Covered Members. The following individuals in or associated with the nonattest firm could be considered covered members and each should be evaluated based on the covered member definition.
 - a. Nonattest firm partners
 - i. When evaluating whether a nonattest firm partner meets one of the covered member criteria, consider that the attest partners are also employees of the nonattest firm, and therefore a nonattest firm partner could be in the chain of command.
 - ii. If determined not to be covered members, nonattest firm partners would be subject to the interpretations under the Independence Rule that pertain to “partners and professional employees” of the firm, which includes a network firm.
 - b. Nonattest firm professional employees
 - i. When evaluating whether a nonattest firm professional employee meets one of the covered member criteria, consider that professional employees of the nonattest firm are leased to the attest firm; as such, a nonattest firm

professional employee could be on the attest engagement team or provide more than 10 hours of nonattest services to the attest client.

- ii. If nonattest firm professional employees do not meet any criteria of a covered member, they would be subject to the interpretations under the Independence Rule that pertain to “partners and professional employees” of the firm which includes a network firm.
 - c. Nonattest firm CEO. The CEO of the nonattest firm would be a covered member due to meeting covered member criterion b. in a position to influence the attest engagement and criterion b. directly supervises or manages the attest engagement partner, including all successively senior levels above that individual through the firm’s chief executive.
 - d. Nonattest firm senior leadership and executive committee. The nonattest firm senior leadership team (executive committee, etc.) would be covered members due to meeting covered member criterion b. in a position to influence the attest engagement and criterion b. directly supervises or manages the attest engagement partner, including all successively senior levels above that individual through the firm's chief executive.
 - e. Nonattest firm board members. Nonattest firm board members who make decisions regarding the compensation of attest partners and have ultimate authority over such compensation at an individual level, whether exercised or not, would be covered members.
3. Individuals and entities not identified as covered members within the PE structure who may create threats to independence and potential safeguards.
- a. Nonattest firm board members.

Safeguards

- 1. Nonattest board members who are not covered members should not be in a key position at an attest client of the attest firm because of the threat to the appearance of independence.
 - 2. Nonattest board members who are not covered members should not have a material financial interest in an attest client because of the threat to the appearance of independence.
- b. The general partner of the fund that holds the investment in the nonattest firm

Safeguards

1. General partner representatives who are not covered members should not have a material financial interest in an attest client because of the threat to the appearance of independence.
 2. General partner representatives who are not covered members should not be in a key position at an attest client of the attest firm because of the threat to the appearance of independence.
- c. Registered Investment Advisor (RIA), investment manager, investment management company

Safeguards

1. The RIA or investment management company for the fund that holds the investment in the nonattest firm could not be an attest client of the attest firm.
 2. The RIA or investment management company for a fund other than the fund that holds the investment in the nonattest firm could potentially be an attest client and should be evaluated through the conceptual framework.
- d. Others who perform activities at the direction of the PE firm. The task force is still discussing the threats created by these individuals including a potential threat caused by the receipt of a fee for referring an attest client to the attest firm.
- e. Portfolio companies in same fund as nonattest firm

Safeguard. The attest firm could not provide attest services to portfolio companies that are in the same fund as the nonattest firm.

Safeguard when portfolio company is providing prohibited nonattest services to attest clients of the attest firm. The nonattest firm board members could not be on the board of any portfolio company providing prohibited nonattest services.

4. Individuals and entities not identified as covered members within the PE structure who do NOT create threats to independence.
 - a. Limited Partners. Limited partners who are not associated with the nonattest firm would not be subject to independence requirements.

b. Portfolio companies not in the same fund as the nonattest firm

- i. The attest firm could potentially provide attest services to portfolio companies in a different fund than that of the nonattest firm and would need to apply the conceptual framework to evaluate.
- ii. Portfolio companies in different funds than that of the nonattest firm could provide prohibited nonattest services to attest clients of the attest firm.

Controlling investment scenario

The task force is currently reviewing the key assumptions and amending them for the scenario where the PE firm has a controlling investment in the nonattest firm. The task force will then perform the same exercise and compare the results with those obtained in the noncontrolling investment scenario.

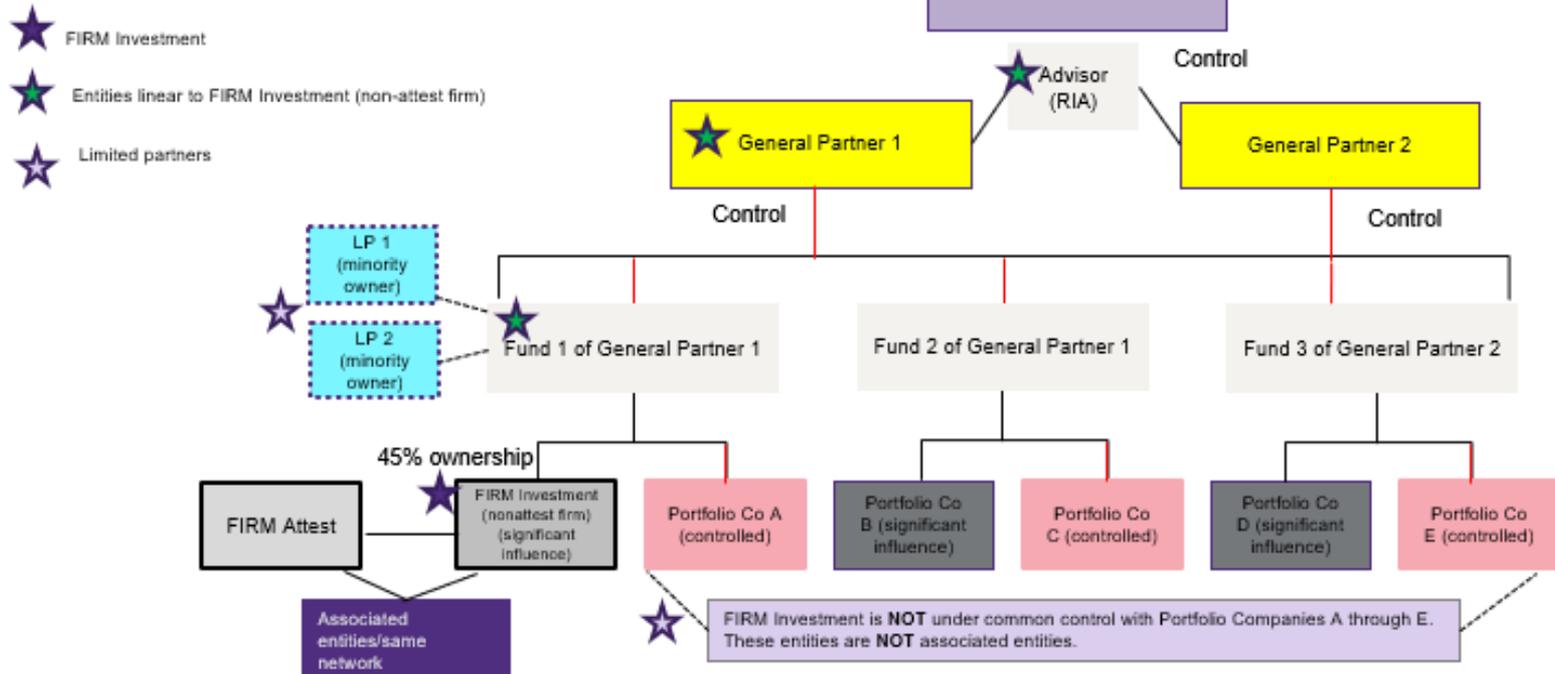
Questions for the committee

1. Does the committee agree with the direction of the task force?
2. Does the committee have any questions regarding the observations and conclusions of the task force based on the exercise performed on the noncontrolling investment scenario?

Private equity Investment in firms

November 2023 PEEC meeting

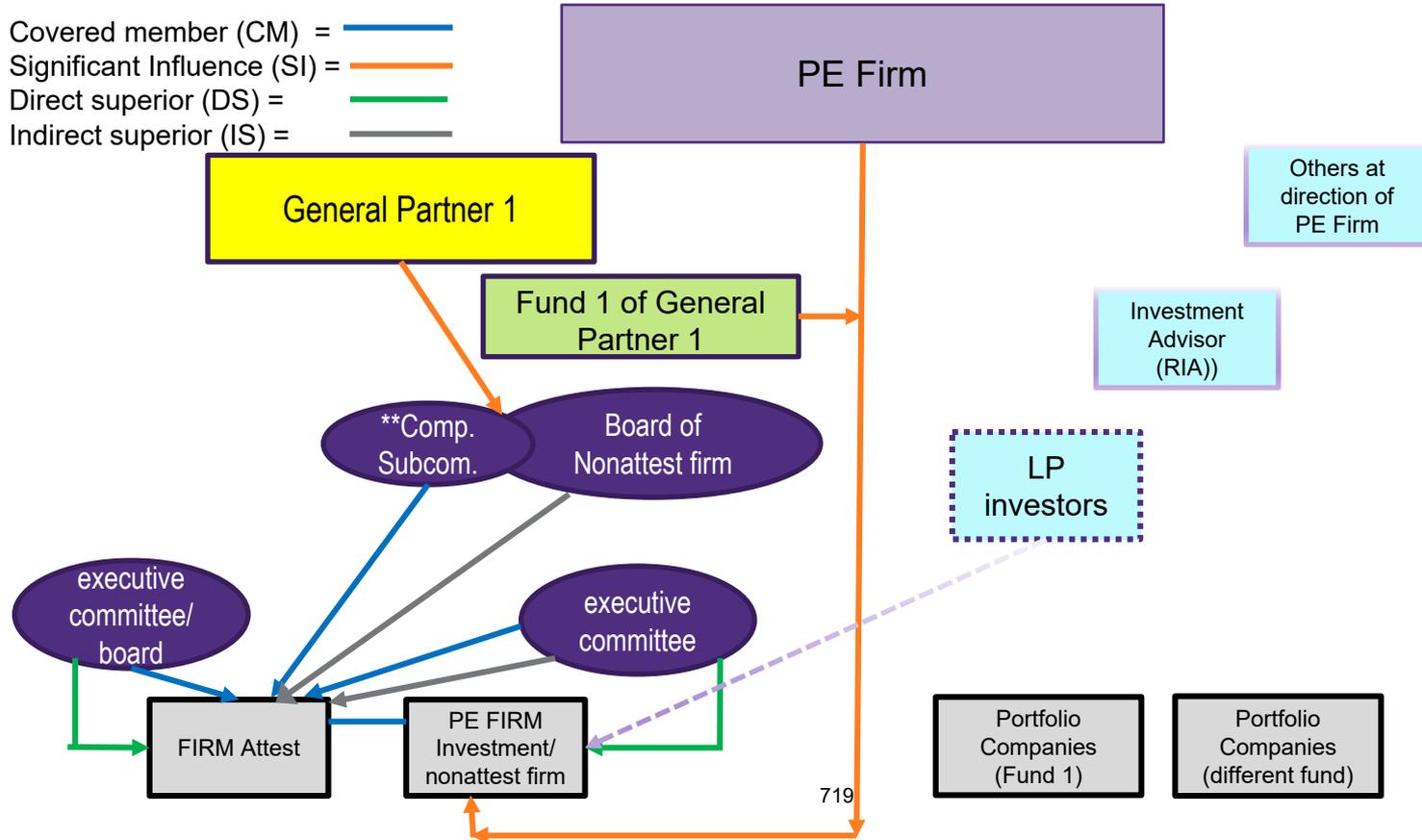
PE example model with a noncontrolling investment in the nonattest firm



Relationship structure

based on assumptions for noncontrolling investment

Covered member (CM) = —
 Significant Influence (SI) = —
 Direct superior (DS) = —
 Indirect superior (IS) = —



**Compensation Subcommittee determined to be CMs in this scenario because it has the authority to approve attest partner compensation on an individual level



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IESBA Convergence NAS – Legal services

Task force members

Dan Vuckovich (chair), Tom Campbell, Vincent DiBlanda, Karen Moncrieff

Observers

Wendy Garrett, Brandon Mercer

AICPA staff

Liese Faircloth

Task force charge

To consider the [Final Pronouncement: Revisions to the Non-Assurance Service Provisions](#) of the International Ethics Standards Board for Accountants (IESBA) code related to legal services and determine what changes, if any, are needed to the AICPA Code of Professional Conduct.

Reason for agenda item

To request approval of the task force's conclusion related to convergence.

Background

IESBA addresses legal services in subsection 608 of their code. IESBA has this subsection because unlike the United States where the practice of law must be performed by someone with the appropriate qualifications (education and admission to the bar), other countries permit accounting firms to provide legal services.

Because the United States restricts the practice of law to those with requisite qualifications and most states' bar associations have requirements prohibiting a law firm from sharing legal fees with a non-lawyer, the AICPA code does not have an interpretation in its "Nonattest Services" subtopic dedicated to legal services. Accordingly, the [Conceptual Framework for Independence](#) (ET sec. 1.210.010) helps members evaluate these types of services.

Task force activities

The task force has discussed possible approaches to convergence between the AICPA and IESBA codes regarding legal services. Discussion included the definition of legal services as well as the observation that each of the 52 U.S. jurisdictions has a definition of "legal services." These definitions are varied and some are more specific than others about what constitutes legal services. Due to the many varied definitions, the task force decided not to add a definition of legal services to the AICPA code.

The task force also discussed how legal services have historically been addressed in the AICPA code. Ethics Ruling 51, Member Providing Legal Services, was deleted in May 1999 after being

revised in 1990. Both versions of this ruling are included in agenda item 6C: Ethics Ruling 51.

The IESBA code provides examples of services that may create self-review and advocacy threats to independence. Many of these examples are also in the AICPA code, including estimating a potential loss arising from a lawsuit.

This type of estimate falls under the “[Appraisal, Valuation, and Actuarial Services](#)” interpretation (ET sec. 1.295.110). The interpretation states that “threats ... would not be at an acceptable level and could not be reduced to an acceptable level ... when the (a) services involve a significant degree of subjectivity and (b) the results of the service ... are material to the attest client’s financial statements.” Additionally, the valuation document would be considered as a source document for inclusion in the financial statements and preparing source documents is considered a management responsibility.

Negotiating on behalf of a client is another example in the IESBA code. This creates an advocacy threat, and the AICPA code allows a member to act only in an advisory role during negotiations. The member is not permitted to commit the attest client to the terms of a transaction or consummate a transaction on behalf of an attest client and doing so impairs independence as indicated in the “[Corporate Finance Consulting](#)” interpretation (ET sec. 1.295.130).

Currently, there are two prohibitions and two explicitly allowed services listed in the AICPA code related to legal services:

- Paragraph .02*h* of the “[Management Responsibilities](#)” interpretation (ET sec. 1.295.030) prohibits a member from acting as the general counsel for an attest client.
- Paragraph .07 of the “[Tax Services](#)” interpretation (ET sec 1.295.160) prohibits a member from “representing an attest client in court to resolve a tax dispute.”
- Paragraph .05 of the “Tax Services” interpretation allows a member to act “as the attest client’s authorized representative in administrative proceedings before a taxing authority.”
- Paragraph .06 allows a member to have power of attorney for an attest client as long as it is limited to tax matters and the member does not bind the attest client to any agreement with a taxing or regulatory agency.

Paragraph 608.2 A1 of the IESBA code provides a description of legal services allowing provision of those services by individuals who have the required legal training to practice law. In the United States, practicing law without having been admitted to the bar is unauthorized practice of law, which is not allowed. Additionally, even a member who is admitted to the bar and is also an employee of a CPA firm may not provide legal services directly to a client of the

CPA firm.

The AICPA code is more restrictive than the IESBA code regarding legal services and, therefore, the AICPA code meets convergence requirements.

Question for the committee

Does the committee agree that the AICPA code is substantially converged with the IESBA code with respect to legal services?

Materials presented

- Agenda item 6B: IESBA Subsection 608 – Legal Services
- Agenda item 6C: Ethics Ruling 51

IESBA Subsection 608 – Legal services

Introduction

608.1 In addition to the specific requirements and application material in this subsection, the requirements and application material in paragraphs 600.1 to 600.27 A1 are relevant to applying the conceptual framework when providing a legal service to an audit client.

Requirements and Application Material

Description of Service

608.2 A1 Legal services are defined as any services for which the individual providing the services must either:

- a. Have the required legal training to practice law; or
- b. Be admitted to practice law before the courts of the jurisdiction in which such services are to be provided.

608.2 A2 This subsection deals specifically with:

- Providing legal advice.
- Acting as general counsel.
- Acting in an advocacy role.

Potential Threats Arising from Providing Legal Services

All Audit Clients

608.3 A1 Providing legal services to an audit client might create a self-review threat when there is a risk that the results of the services will affect the accounting records or the financial statements on which the firm will express an opinion. Such services might also create an advocacy threat.

A. Providing Legal Advice

Description of Service

608.4 A1 Depending on the jurisdiction, providing legal advice might include a wide and diversified range of service areas including both corporate and commercial services to audit clients, such as:

- Contract support.

- Supporting an audit client in executing a transaction.
- Mergers and acquisitions.
- Supporting and assisting an audit client's internal legal department.
- Legal due diligence and restructuring.

Potential Threats Arising from Providing Legal Services

All Audit Clients

608.5 A1 Factors that are relevant in identifying self-review or advocacy threats created by providing legal advice to an audit client, and evaluating the level of such threats include:

- The materiality of the specific matter in relation to the client's financial statements.
- The complexity of the legal matter and the degree of judgment necessary to provide the service.

When a self-review threat for an audit client that is a public interest entity has been identified, paragraph R608.7 applies.

608.5 A2 Examples of legal advice that might create a self-review threat include:

- Estimating a potential loss arising from a lawsuit for the purpose of recording a provision in the client's financial statements.
- Interpreting provisions in contracts that might give rise to liabilities reflected in the client's financial statements.

608.5 A3 Negotiating on behalf of an audit client might create an advocacy threat or might result in the firm or network firm assuming a management responsibility.

Audit Client that are Not Public Interest Entities

608.6 A1 Examples of actions that might be safeguards to address self-review or advocacy threats created by providing legal advice to an audit client that is not a public interest entity include:

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

Audit clients that are Public Interest Entities

Self-review threat

R608.7 A firm or a network firm shall not provide legal advice to an audit client that is a public interest entity if the provision of such a service might create a self-review threat. (Ref: Para. R600.14 and R600.16).

Advocacy Threats

608.8 A1 The considerations in paragraphs 608.5 A1 and 608.5 A3 to 608.6 A1 are also relevant to evaluating and addressing advocacy threats that might be created by providing legal advice to an audit client that is a public interest entity.

B. Acting as General Counsel

All Audit Clients

R608.9 A partner or employee of the firm or the network firm shall not serve as General Counsel of an audit client.

608.9 A1 The position of General Counsel is usually a senior management position with broad responsibility for the legal affairs of a company.

C. Acting in an Advocacy Role

Potential Threats Arising from Acting in an Advisory Role Before a Tribunal or Court

Audit Clients that are Not Public Interest Entities

R608.10 A firm or a network firm shall not act in an advocacy role for an audit client that is not a public interest entity in resolving a dispute or litigation before a tribunal or court when the amounts involved are material to the financial statements on which the firm will express an opinion.

608.10 A1 Examples of actions that might be safeguards to address a self-review or advocacy threat created when acting in an advocacy role for an audit client that is not a public interest entity include:

- 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 the service performed.

Audit Clients that are Public Interest Entities

R608.11 A firm or a network firm shall not act in an advocacy role for an audit client that is a public interest entity in resolving a dispute or litigation before a tribunal or court.

Ethics Ruling 51

Original

Member Providing Legal Services

.101 Question – A member in public practice who is also an attorney has been asked to provide legal services to a client for whom he also serves as an auditor. Would independence of the member be considered to be impaired with respect to the client?

.102 Answer – Rule of Conduct 101 and related pronouncements prohibit a member from expression an opinion on the financial statements of a client the member also serves in any capacity having the appearance of being equivalent to any management function. The rule thus prohibits an auditor from serving as an officer, director or employee regardless of the actual responsibility of those positions. Independence of the member would be considered to be impaired if the legal services rendered result in undue identification with the management of the client or involvement with a client’s affairs to such a degree as to place him virtually in the position of being an employee. Further, since the designation “general Council” would appear to describe an ongoing state of such prohibited management equivalency to an objective observer, a member identified as “general council’ cannot be considered independent.

Revised

Member Providing Legal Services

.101 Question – A member who is an attorney services as general counsel or its equivalent for a client. Would the independence of the member be considered impaired with respect to the client?

.102 Answer - The member would not be considered to be independent with respect to the client because servicing as general counsel or its equivalent would be acting in a management capacity.

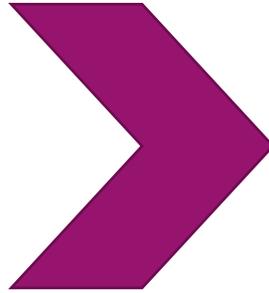
[Revised, effective June 30, 1990, by the PEEC.]

Conflicts of Interest

2023 November PEEC meeting

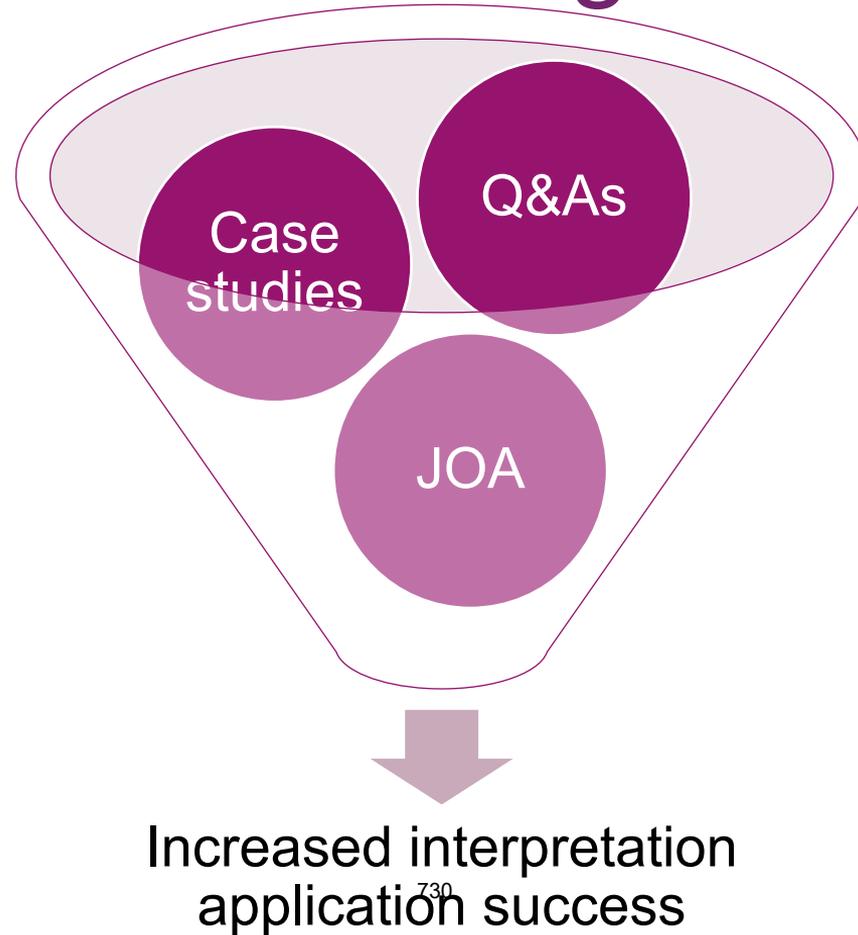
COI project

- SWP
- Ethics hotline
- Enforcement
- Discussions with firms
- Discussions with CIMA



- Interpretation is sufficient
- Members could use help applying the interpretation

Nonauthoritative guidance



Please send examples to

Joan.farris@aicpa-cima.com

Melissa.Powell@aicpa-cima.com



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IESBA Monitoring - Sustainability

Project description

IESBA's sustainability project has two goals:

- To develop ethics and independence standards for use by all sustainability assurance practitioners, which includes professional accountants and non-professional accountants (that is, assurance practitioners who are not professional accountants)
- To revise the IESBA code to address ethics issues related to sustainability reporting

Work will be performed in two workstreams, which are outlined in sub-sections under the "Project update" section of this agenda item:

- Workstream 1: Independence in sustainability assurance engagements
- Workstream 2: Ethics in sustainability reporting and assurance

IESBA coordination

In addition to coordinating its work internally with the Use of Experts Task Force, IESBA is coordinating development of these standards with the International Auditing and Assurance Standards Board (IAASB) and the International Sustainability Standards Board (ISSB). The International Organization of Securities Commissions (IOSCO) March 2023 [*Report on International Work to Develop a Global Assurance Framework for Sustainability-related Corporate Reporting*](#) acknowledges being actively engaged with IESBA and the IAASB.

At its March 2023 meeting, IESBA also supported establishing a reference group of stakeholders outside the accounting profession to be a sounding board for informing development of "profession-agnostic" ethics and independence standards for sustainability assurance engagements. The members of the workstreams will continue using this reference group as work on the proposed revisions continue.

Status

At the September 2023 meeting, IESBA members did a first read of the proposed revisions and provided their feedback. Meeting materials can be found [here](#).

IESBA confirmed that it plans to approve the exposure draft at the December meeting.

Another draft of the revisions is expected to be sent to IESBA for review ahead of the public posting of the December 2023 agenda papers.

Given the pace in which the AICPA Professional Ethics Division expects these revisions to happen, two monitoring groups will assist PEEC and AICPA staff:

- PEEC members or those designated by PEEC members
- Other stakeholders, internal and external to the Association, that have experience and/or interest in sustainability reporting and assurance

In addition to the monitoring groups, PEEC's Engagements Subject to the SSAEs Task Force (or SSAE task force) is also charged with monitoring this project.

Project update

Workstream 1: Independence in sustainability assurance engagements

IESBA's proposed standard will provide independence requirements for professional accountants and other practitioners who are not professional accountants. Workstream 1 will consider the following:

- Which independence standards are applicable based on specific scenarios such as the following:
 - Assurance is provided on sustainability information that is integrated with the financial information
 - Assurance is provided on sustainability information that is prepared in accordance with a general-purpose framework, such as International Sustainability Standards Board (ISSB) standards and
 - Assurance is provided on sustainability information that is not prepared in accordance with a general-purpose framework
- What constitutes management responsibility and whether there is a need for examples of management responsibilities for sustainability-related activities
- Whether certain activities or services should be permissible rather than prohibited in a sustainability assurance engagement
- New terminology and revisions to existing terminology to ensure sustainability engagements are addressed appropriately
- How the revised International Standard on Quality Management (ISQM) standards are dealt with in International Standard on Sustainability Assurance (ISSA) 5000 and whether there are implications for the code
- New examples of factors for evaluating the extent of public interest in the sustainability aspect of an entity

- The appropriate independence period for sustainability-related information
- How ISSA 5000 addresses group sustainability engagements

As a reminder, the IESBA code has two sets of independence provisions:

- 4A provisions apply to financial statement audits and reviews and have significantly more requirements than 4B. The provisions are more consistent with the AICPA Code of Professional Conduct for these engagements in many aspects.
- 4B provisions apply to other assurance engagements. Sustainability engagements currently fall under part 4B. The AICPA Code of Professional Conduct is currently more restrictive for these engagements.

Due to the public interest nature of sustainability reports, IESBA believes that the independence requirements in part 4A should apply to certain sustainability assurance engagements that meet certain requirements as outlined in the next paragraph. These proposed requirements are being drafted for all sustainability assurance practitioners regardless of whether the practitioner is a professional accountant and will appear in a new part 5 to the IESBA code.

The proposed independence revisions in new part 5 are set forth as being applicable to sustainability assurance engagements where the sustainability information on which the sustainability assurance practitioner expresses an opinion

- a. is reported in accordance with a general-purpose framework; and
- b. i. is required to be provided in accordance with law or regulation, or
ii. is publicly disclosed to support decision-making by investors or other stakeholders.

For any sustainability assurance engagements not meeting these criteria, part 4B will continue to apply.

The workstream members also clarified that the independence provisions for part 5 will not apply to direct engagements, engagements for which the assurance report is restricted in use and distribution, or sustainability assurance provided on sustainability information developed in accordance with a special-purpose framework or entity-developed criteria.

In drafting the independence revisions, workstream members lifted part 4A and tailored those section requirements to sustainability assurance engagements to include in the new part 5 of the code (see more on the approach to the revisions under the “Project output” section below). These proposed revisions are tailoring the same requirements and application guidance that are

applicable to audit and review engagements to sustainability assurance engagements, which includes replacing certain terminology with proposed new definitions. The following includes examples of the revisions being proposed in part 5 related to the changes in terminology:

- Replace “professional accountant” with “sustainability assurance practitioner.”
- Replace “audit or review engagement” with “sustainability assurance engagement.”
- Replace “audit or review client” with “sustainability assurance client.”
- Replace “audit team” with “sustainability assurance team.”
- Replace “engagement partner” with “engagement leader.”

IESBA provided feedback on each section of the proposed independence revisions within part 5, but more substantial discussion was related to the following topics (most of which were discussed at the June IESBA meeting as well):

- *How the revisions will apply to entities that are considered Public Interest Entities (PIEs).* If the entity meets the definition of PIE for the purposes of the financial statement audit or if the specific jurisdiction determines that the entity is a PIE in the context of the sustainability assurance engagement, the proposed requirements for PIEs in part 5, which are consistent with part 4A, will be applicable. Also refer to the [Public interest entities](#) section of this document.
- *Independence with respect to value chain entities.* A sustainability reporting framework may require that sustainability information from a value chain entity (for example a supplier or other entity outside the reporting entity’s organizational boundary) be included in the reporting entity’s sustainability information that is subject to the sustainability assurance engagement. With respect to these value chain entities, the proposal indicates that the firm and sustainability assurance team members use the “reason to believe principle” to identify threats, and then evaluate and address those threats identified using the conceptual framework. This principle is applicable to financial interests, loans and guarantees, business relationships, and non-assurance services. This guidance was introduced in the August 8th version of the proposal and first discussed at the September meeting. Also refer to the [Sustainability assurance practitioner's independence with value chain entities](#) section of this document.

- *Group assurance and another practitioner.* In performing the sustainability assurance engagement, the practitioner may be able to perform procedures similar to those applicable to group audits or may need to consider using the work of another practitioner. When the assurance practitioner plans to be sufficiently involved in the sustainability assurance engagement of a component of the sustainability assurance client and can direct, supervise, and review that assurance work, the practitioner would use the proposed revisions related to group assurance engagements. When the assurance practitioner is not able to direct, supervise and review a component's or value chain's assurance engagement, the practitioner would use the guidance for another practitioner to determine whether they can use the work of the other practitioner in their assurance engagement. The "another practitioner" guidance was introduced in the August 8th version of the proposal and first discussed at the September meeting. Also refer to the [Group assurance and another practitioner](#) section of this document.
- *Revisions related to proportion of fees evaluation.* Workstream members proposed that when a professional accountant performs the financial statement audit and the sustainability assurance engagement, and there are separate fee arrangements for each engagement, the professional accountant should consider the fees from the sustainability assurance engagement as an "other fee" to compare to the audit fee for the proportion of fee evaluation. When reporting is integrated and under one fee arrangement, the fees from both engagements are evaluated together and compared to "other fees" in accordance with the fee provisions. Also refer to the [Proportion of fees](#) section of this document.
- *Non-assurance services subsections.* All equivalent subsections in the new part 5 were revised and tailored to be applicable to a sustainability assurance engagement. The most significant proposal relates to the equivalent subsections 601 and 603. Subsection 601 changed from "Accounting and Bookkeeping Services" to "Sustainability Data and Information Services," and requirements and application guidance were tailored or expanded to be relevant to sustainability assurance engagements. Subsection 603 was expanded to also include forecasting and similar services in addition to valuation services.

The following graphic was copied from the workstream members presentation.

List of NAS in Subsections of Section 600



Workstream 2: Ethics in sustainability reporting and assurance

IESBA's proposed standard under this workstream will provide ethics requirements related to sustainability reporting and assurance. Because sustainability information tends to involve less quantitative factors (for example, human rights and other social factors), this may require different skills and mindsets from professional accountants and IESBA will consider whether the fundamental principles, the conceptual framework, and mindset requirements in the IESBA code are still appropriate for the various services that could be provided related to sustainability.

As outlined in the project proposal, this consideration will involve providing guidance to address threats that may arise when undertaking sustainability-related tasks and activities, and appropriate safeguards. Such guidance may include addressing

- the potential for misleading sustainability information (that is, greenwashing).
- risks that a professional accountant will accept information without performing appropriate procedures when the information is prepared by a sustainability expert or using sustainability-related technology.
- pressures to act unethically when faced with unrealistic goals or targets.
- identification and mitigation of conflicts of interest issues.
- guidance to assist preparers of sustainability information in exercising discretion and professional judgement, especially when a general-purpose framework is not available.

Workstream 2 will also include review of requirements in part 2 of the IESBA code that are not

in part 3, and whether they apply to sustainability reporting. This consideration will include

- whether ethics responsibilities should vary based on the role and seniority of a professional accountant in business.
- whether a new section should be added to part 3 to provide guidance for professional accountants that are engaged to assist their clients in sustainability-related tasks and activities.
- how to address situations when the preparation of sustainability information is carried out by other practitioners who are not professional accountants.

During IESBA's March 2023 meeting, workstream members recommended that the scope of its work focus on ethics requirements for sustainability assurance practitioners (professional accountants and other practitioners who are not professional accountants) in part 5, and ethics requirements for sustainability reporting for professional accountants only in parts 1, 2, and 3. Workstream members reaffirmed this recommendation during the June 2023 meeting and in September 2023, presented revisions in line with this objective for IESBA's first read.

IESBA reviewed each section of the proposed revisions from this workstream, but more substantial discussion related to the following topics:

- Noncompliance with laws and regulations (NOCLAR)
- Proposed definition of "sustainability information"
- Proposed revisions to the definition of "professional activity"

Other IESBA projects will also affect proposed revisions for sustainability. IESBA plans to adopt the revisions related to the tax planning and other services in December and similar revisions will be proposed in the new part 5. Also, IESBA's Use of Experts Task Force is drafting revisions to be included in the new part 5.

Part 5 ethics (other than independence) proposal

The proposed ethics, other than independence, revisions for new part 5 are applicable to all sustainability assurance engagements (not just those engagements meeting the proposed criteria for the independence requirements in part 5). Extant requirements in parts 1 and 3 that are for professional accountants are focused on the profession, which includes all services provided by the profession; however, the scope of the revisions in part 5 focuses on a particular service (sustainability assurance engagements) and other services performed for the sustainability assurance client.

The scope recommendation is based on the premise that unethical behavior in other

engagements for a sustainability assurance client may have a direct effect on credibility and public trust underpinning sustainability assurance. IESBA believes that revisions that would address all services performed by sustainability assurance practitioners would be too broad for those that are not professional accountants and is outside the scope of the project; however, workstream members plan to include language encouraging compliance with the ethical requirements in all services performed by sustainability assurance practitioners who are not professional accountants.

Similar to the drafting approach for the proposed revisions in workstream 1, the workstream 2 approach started with the requirements in part 1, section 270 (Breaches) of part 2, and part 3 (except section 321, *Second Opinions*) and tailored those requirements to sustainability assurance engagements and other engagements performed for the same client.

As it relates to the NOCLAR requirements within part 5, a more comprehensive summary is included in the [NOCLAR](#) section of this document.

Extant parts 1, 2, and 3 proposal

As it relates to proposed revisions for extant parts 1, 2, and 3, IESBA supported the recommendation to propose revisions to these parts for professional accountants only and will encourage compliance with the requirements by those preparers who are not professional accountants.

Minimal revisions are being proposed for extant part 1 (*Complying with the Code, Fundamental Principles and Conceptual Framework*), including revisions to add non-financial reporting to the activities performed by professional accountants and to add references to part 5.

Most of the revisions being proposed for part 2 (*Professional Accountants in Business*) include additions to the application guidance to add examples that support the requirements related to non-financial reporting and reporting sustainability information.

There is one proposed revision to a requirement in part 2, which expands the NOCLAR requirement for professional accountants in business. See the [NOCLAR](#) section of this document.

Part 3 (*Professional Accountants in Public Practice*) revisions primarily include additions to the application guidance to support the existing requirements from the perspective of a professional accountant in public practice performing sustainability reporting/preparing sustainability information. The proposal for this part does not include revisions from a sustainability assurance provider perspective because those revisions are included in the new part 5 proposal.

There is one additional requirement and related application guidance being proposed in part 3, and that is for the auditor to consider whether to communicate the known or suspected

NOCLAR to the sustainability assurance practitioner performing a sustainability assurance engagement that meets the independence criteria proposed in part 5. See the [NOCLAR](#) section of this document.

Definitions

IESBA had substantial discussion on two key definitions being proposed as part of workstream 2.

One is the new definition being proposed for “sustainability information.” IAASB is proposing definitions for “sustainability information” and “sustainability matters” and IESBA and IAASB are not aligned in these proposed definitions at this time. Workstream members explained that the proposed definition encompasses both terms being proposed by IAASB and that there is justification for the inconsistencies due to the technical application proposed in ISSA 5000. The following slide was included in the presentation to show the differences and how IESBA’s definition of “sustainability information” is similar to IAASB’s definition of “sustainability matters.”

Alignment of IESBA & IAASB Definitions	
IESBA	IAASB
<p>(a) Information about the opportunities, risks or impacts of:</p> <p>(i) Economic, environmental, social, governance or other sustainability factors on an entity’s activities, services or products; or</p> <p>(ii) An entity’s activities, services or products on the economy, the environment or the public; or</p> <p>(b) Information defined by law, regulation or the relevant reporting or assurance framework as “sustainability information” or equivalent terms or descriptions.</p> <p><i>Sustainability information includes information that may be:</i></p> <ul style="list-style-type: none"> Expressed in financial or non-financial terms. Historical or forward-looking. Prepared for internal purposes or for mandatory or voluntary disclosure. Obtained from an entity or its value chain such as customers and suppliers. Related to the quantitative or qualitative evaluation of an entity’s past or expected performance over the short, medium or long term. Described in an entity’s policies, plans, goals, commitments or representations. 	<p>(uu) Sustainability information – Information about sustainability matters. Sustainability information results from measuring or evaluating sustainability matters against the applicable criteria. For purposes of the ISSAs, sustainability information is the equivalent of “subject matter information” in other IAASB assurance standards. (Ref: Para. A32)</p> <p>(vv) Sustainability matters – Environmental, social, economic and cultural matters, including:</p> <p>(i) The impacts of an entity’s activities, products and services on the environment, society, economy or culture, or the impacts on the entity, and</p> <p>(ii) The entity’s policies, performance, plans, goals and governance relating to such matters.</p> <p>For purposes of the ISSAs, sustainability matters being measured or evaluated in accordance with the applicable criteria are the equivalent of “underlying subject matter” in other IAASB assurance standards.</p>

Workstream members are also proposing revisions to the definition of “professional activity” as demonstrated below.

An activity requiring **professional accountancy or related skills undertaken by a professional accountant or a sustainability assurance practitioner**, including accounting, auditing, **sustainability reporting, sustainability assurance, tax, management consulting, and financial management.**

Project output

At its March 2023 meeting, IESBA considered a few possible approaches to making the revisions being developed in workstreams 1 and 2. At its June 2023 meeting, IESBA agreed with the proposal to develop a new part 5 of the IESBA code. At its September 2023, IESBA modified the scope of the part 5 requirements slightly¹ and currently, the part 5 proposal includes

- ethics, other than independence, requirements for all sustainability assurance practitioners (professional accountants and those that are not professional accountants)
- independence requirements for all sustainability assurance practitioners (professional accountants and those that are not professional accountants) who perform sustainability assurance engagements that meet the criteria being proposed (see discussion of that criteria in the workstream 1 section above).

To recap the proposals for part 5, the proposed revisions will include the following:

- Equivalent requirements from parts 1 and 3 (exception section 321 (*Second Opinions*) of the extant code
- Equivalent requirements from Section 270 (*Breaches*) of part 2 of the extant code
- Equivalent requirements from part 4A of the extant code

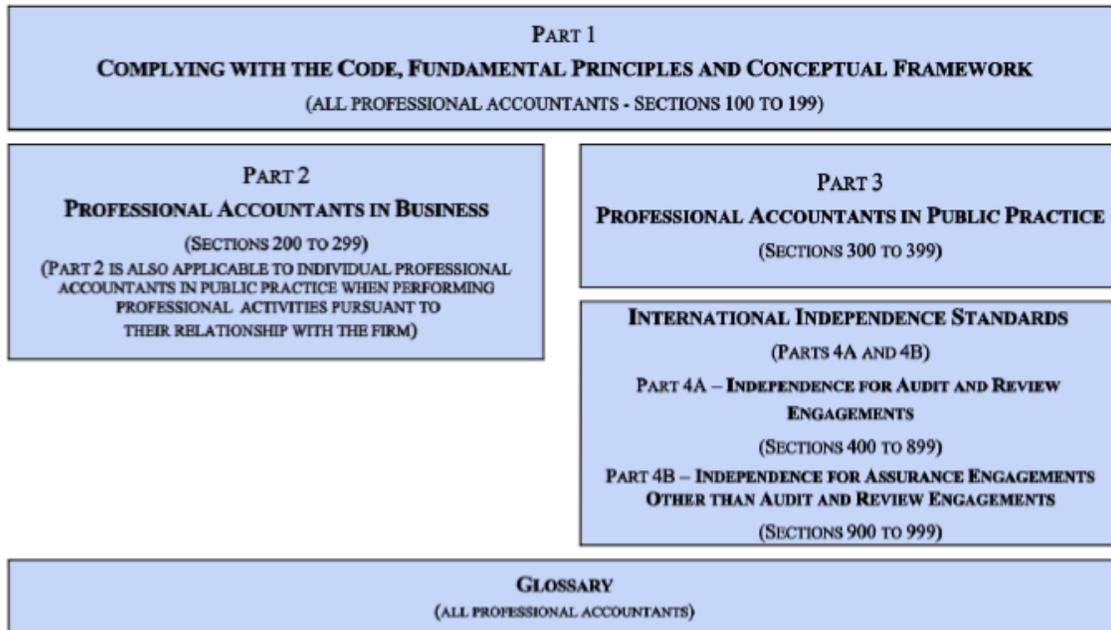
Outside of the new part 5, extant parts 1, 2, and 3 are being revised to be applicable to sustainability reporting/preparing sustainability information for professional accountants only.

Members of workstream 1 and 2 have not yet proposed an effective date to IESBA for these proposed revisions.

To aid with understanding the complex scope proposed, AICPA staff will request that the “Guide to the Code” and the following “Overview of the Code” visual aid in the “Appendix to the Guide to the Code” be updated.

¹ At its June meeting, the Part 5 ethics proposal was to apply to sustainability practitioners performing those engagements that met the criteria proposed for the independence requirements. After the June meeting, the workstream members determined that the ethics, other than independence requirements, should apply to any sustainability assurance practitioner, not only those performing sustainability assurance engagements that meet certain criteria.

OVERVIEW OF THE CODE



In addition to the revisions to the code, the following guidance is planned:

- Nonauthoritative guidance to assist practitioners who are not professional accountants implement part 5 requirements
- Nonauthoritative guidance that companies can use to adopt internal policies or codes of conduct that will apply to practitioners who are preparing sustainability information and who are not professional accountants

Timeline

The workstreams are moving at an accelerated pace so the project outputs will be available at the same time as the new sustainability-related standards the IAASB and the ISSB are developing.

The current project timeline is as follows:

December 2023	IESBA considers approval of exposure draft.
January 2024	IESBA releases exposure draft, including explanatory memorandum.

April 2024	Comment period for exposure draft ends (assuming a 90-day comment period).
June 2024	Update IESBA on comments for the project, including an overview of key comments from exposure draft respondents.
September 2024	IESBA reviews exposure draft responses and does first read of revisions.
December 2024	IESBA approves final revisions.

[Discussion of specific topics and request for committee feedback](#)

Public interest entities

In the project’s proposed revisions, when a client is a PIE for the purposes of the financial statement audit, the client must be considered a PIE in the sustainability assurance engagement, and the practitioner should apply all PIE requirements.

There are additional independence requirements for PIEs in various aspects within the proposed new part 5, which are equivalent to the PIE requirements for financial statement audits in part 4A. PEEC’s current proposal to converge with IESBA’s PIE requirements in part 4A includes defining a PIE and requiring compliance with the regulator’s independence requirements for financial statement audit and reviews.

If adopted, the committee will need to consider how to converge with the PIE-related requirements in the IESBA code with respect to these engagements.

AICPA staff previously provided the following comment to workstream members ahead of the September IESBA meeting:

Public interest in the financial condition of PIE entities is important because of the potential impact of a PIE entity’s financial well-being on stakeholders. I want work through that the sustainability information being reported on for a PIE entity in an engagement that meets the “Part 5 criteria” will always have a significant impact on that entity’s financial well-being. I am concerned that there could be circumstances where the information does not have significant impact on the entity’s financial well-being. If there are situations where that could occur, then concerned that additional independence requirements will result in unnecessary increased cost to the entity and its stakeholders.

Workstream members provided the following response to this comment:

Given the public interest in the financial condition of these entities, their sustainability information, which impacts the financial statements most of the time, is also relevant to stakeholders.

There might be other entities whose sustainability information has public interest relevance; however, as a first step, workstream1 proposes that IESBA leave it for regulators to add to the list of PIEs in the case of sustainability assurance engagements in their own jurisdictions.

Question for the committee

1. Does the committee have any feedback for staff to share with workstream members on the PIE provisions for sustainability assurance engagements?

Definitions and independence with respect to related entities

IESBA’s proposed definition of “sustainability assurance client” used in part 5 aligns with the definition of “audit client” used in part 4A as demonstrated in the following table. Part 4B is applicable to these engagements under the extant IESBA code, and this part uses “assurance client” to identify the client in which the practitioner should apply independence requirements. The following table is for comparison purposes.

Part 4B: Uses “Assurance client”	Part 4A: Uses “Audit client”	New part 5: Proposal for “Sustainability Assurance Client”
The responsible party and also, in an attestation engagement, the party taking responsibility for the subject matter information (who might be the same as the responsible party).	An entity in respect of which a firm conducts an audit engagement. When the client is a publicly traded entity, in accordance with paragraphs R400.22 and R400.23, audit client will always include its related entities. When the audit client is not a publicly traded entity, audit client includes those related entities over which the client has direct or	An entity in respect of which a firm conducts a sustainability assurance engagement. When the client is a publicly traded entity, in accordance with paragraphs [R400.22] and [R400.23], sustainability assurance client will always include its related entities. When the sustainability assurance client is not a publicly traded entity, sustainability assurance client

	<p>indirect control. (See also paragraph R400.22.)</p> <p>In Part 4A, the term "audit client" applies equally to "review client.</p> <p>In the case of a group audit, see the definition of group audit client.</p>	<p>includes those related entities over which the client has direct or indirect control. (See also paragraph [R400.22].)</p>
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The monitoring group and the SSAE task force noted and discussed the following related to how “sustainability assurance client” is defined for the new part 5:

- The engagements that meet the criteria in the new part 5 will also have to apply the independence requirements to certain “related entities” depending on whether or not the entity is a publicly traded entity under the proposed standards. For publicly traded entities, independence is required with respect to all related entities, and for entities other than publicly traded entities, independence is required with respect to those entities in which the client has direct or indirect control (entity described in item (c) of the definition of related entity provided below).
- The definition of “assurance client” for part 4B is similar to the AICPA code in that it requires independence with respect to the responsible party in an engagement subject to the SSAEs. Sustainability assurance engagements that do not meet the new part 5 independence criteria will continue to identify the responsible party when applying the independence requirements in Part 4B and are only required to apply the “reason to believe” principle² to related entities.

The IESBA code defines “related entity” and it is comparable to the definition of “affiliates” in the AICPA code. The IESBA code’s definition of “related entity” is as follows:

An entity that has any of the following relationships with the client:

- (a) An entity that has direct or indirect control over the client if the client is material to

² If the assurance team knows or has reason to believe that a relationship or circumstance involved a related entity of the assurance client is relevant to the evaluation of the firm’s independence from the client, the team is required to include that related entity when identifying, evaluating, and addressing threats to independence under the conceptual framework.

such entity;

- (b) An entity with a direct financial interest in the client if that entity has significant influence over the client and the interest in the client is material to such entity;
- (c) An entity over which the client has direct or indirect control;
- (d) An entity in which the client, or an entity related to the client under (c) above, has a direct financial interest that gives it significant influence over such entity and the interest is material to the client and its related entity in (c); and
- (e) An entity which is under common control with the client (a "sister entity") if the sister entity and the client are both material to the entity that controls both the client and sister entity

If an affiliate under the AICPA code does not include information that is part of the underlying subject matter in the SSAE engagement, it would not be identified as a responsible party and independence would not be required with respect to this entity. The affiliates requirements in the AICPA code apply only to financial statement attest clients and do not apply to responsible parties identified in the SSAE engagement.

After discussions with the monitoring group and SSAE task force, AICPA staff is providing comments to workstream members requesting that further explanation be provided for why it's necessary and what threats are being mitigated to extend independence requirements to a related entity when that entity does not include sustainability information that is subject to the sustainability assurance engagement. Workstream members have explained that from a public interest perspective, the requirements for sustainability assurance engagements should be the same as those for financial statement audits; however, conceptually it is not apparent how the requirements are appropriate in these types of assurance engagements when that entity does not include information subject to the assurance procedures.

Question for the committee

- 2. Does the committee have any additional feedback for staff to share with the workstream on the definition of "sustainability assurance client" or application of the independence requirements to a related entity?

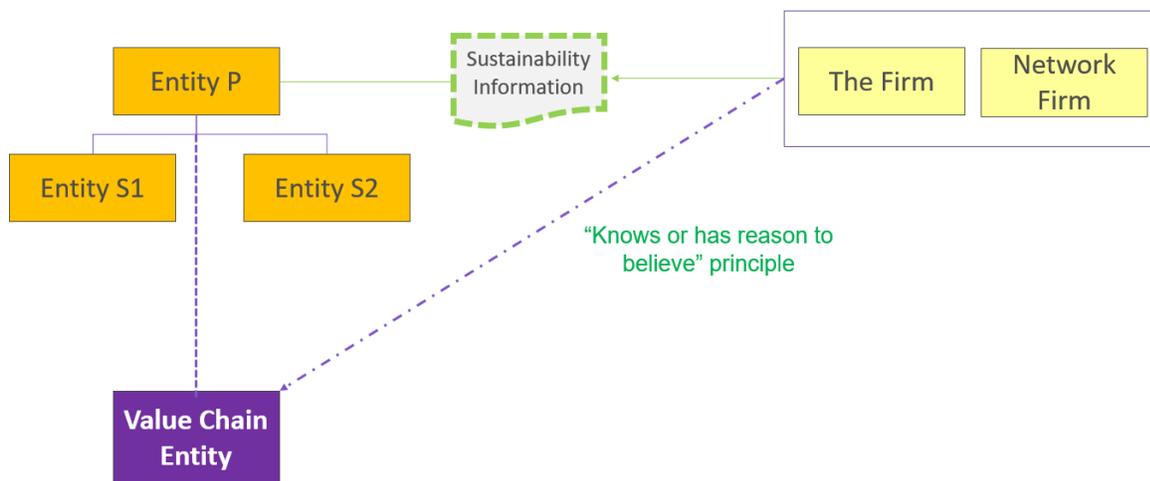
Sustainability assurance practitioner's independence with value chain entities

Since there may be sustainability information from a value chain entity (e.g., supplier) included in the information subject to the sustainability assurance engagement, the workstream is proposing that the sustainability assurance practitioner use the "knows or has reason to believe"

principle for certain relationships and interests with the value chain entity that could compromise their independence.

The following graphic included in the workstream’s presentation to IESBA demonstrates this requirement. In this graphic, Entity P is The Firm’s sustainability assurance client, and sustainability information from the Value Chain Entity is being reported by Entity P. The Firm would use the “knows or has reason to believe” principle with respect to the Value Chain Entity.

Relationship with an Entity Within the Value Chain



This principle is applicable to financial interests, loans and guarantees, business relationships, and non-assurance services.

As an example, the following is the revisions proposed in Section 510, Financial Interests, to add the “reason to believe” guidance for value chain entities:

Financial Interest in an Entity Within the Reporting Boundary

510.9a A1 A self-interest threat might be created if a firm or a sustainability assurance team member knows or has a reason to believe that the firm, a network firm or a member of the sustainability assurance team, as applicable, holds a material financial interest in an entity outside the sustainability assurance client but within the client’s reporting boundary, and the sustainability information on which the firm expresses an opinion includes sustainability information relating to that entity.

510.9a A2 Examples of actions that might eliminate such a self-interest threat include:

- Removing the sustainability assurance team member with the financial interest from the sustainability assurance team.
- Having an appropriate reviewer review the relevant assurance work.

After discussions with the monitoring group and SSAE task force, AICPA staff is requesting that the workstream specifically explain how they expect the “knows or reason to believe” principle to be applied to ensure that this concept is applied consistently. In the explanatory material, the workstream’s intention is for firms not to be required to monitor such relationships or interests, but when aware, use the conceptual framework to evaluate and address the threat. The guidance in the proposed revisions only describes what a threat may be and how to eliminate the threat, so AICPA staff is specifically asking that the workstream consider adding a description of factors that are relevant in evaluating the level of such threats and whether there are examples of actions that may address the threat (when not eliminated) in the proposed revisions.

For example, there may be numerous value chain entities reporting information within the client’s reporting boundary, and a relationship or interest with one of those value chains that includes a small proportion of information in comparison to others may not cause a significant threat to the practitioner’s independence with respect to the sustainability assurance engagement.

Also, if a member holds a material financial interest in an entity outside the client but within the client’s reporting boundary for example, staff will also ask the workstream to consider additional actions to eliminate or otherwise address the threat, such as, in this example, selling the interest or reducing the amount of the interest to an amount that is not material.

Question for the committee

3. Does the committee have any additional feedback for staff to share with the workstream on the independence guidance for sustainability assurance practitioners with respect to value chain entities?

Group assurance and another practitioner

The sustainability information that is subject to the sustainability assurance engagement may include information from entities within the client’s organizational boundary and information from entities outside the client’s organizational boundary (or value chain entities as previously described).

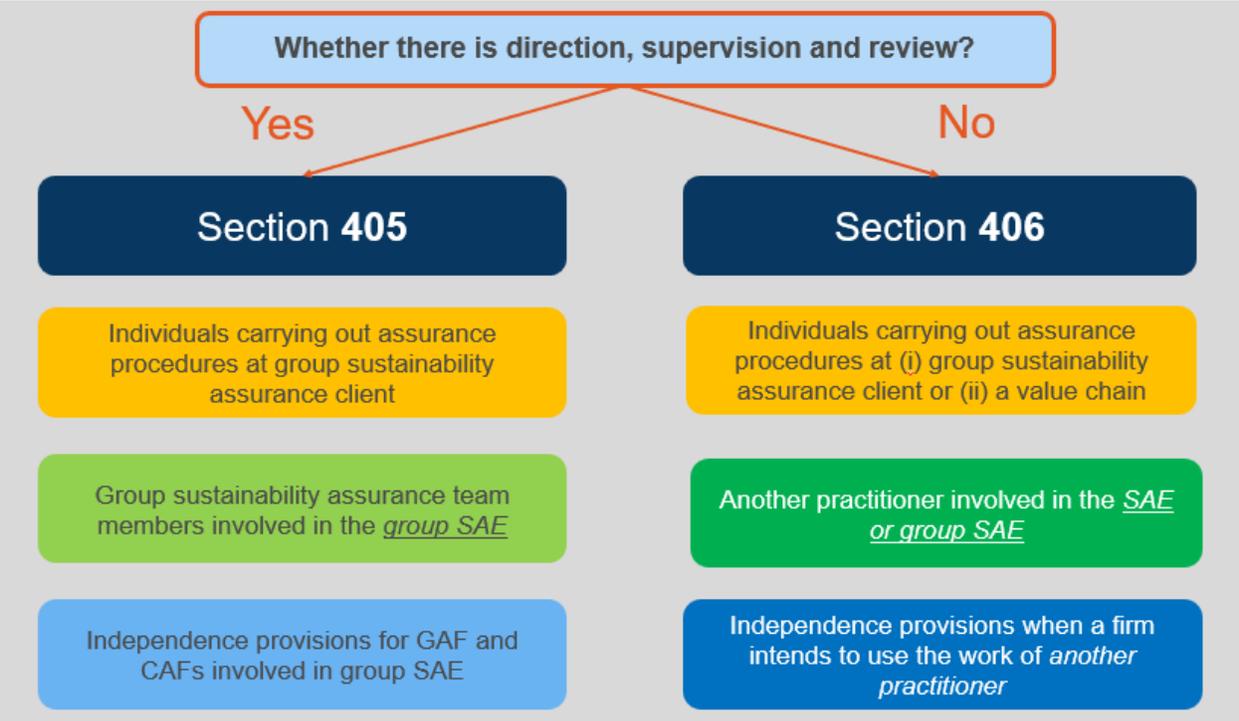
The workstream members explain in their agenda materials that ISSA 5000 indicates that a firm ordinarily plans to be sufficiently involved in the assurance work carried out for the sustainability assurance engagement when able to do so. When this occurs, the other practitioner is part of the engagement team (group engagement team) and the proposed part 5 independence requirements are applicable to that engagement team with respect to the sustainability assurance client, including related entities (depending on whether or not the client is publicly traded entity). The proposed requirements in ISSA 5000 do not currently include requirements for group assurance engagements.

When the sustainability assurance practitioner is unable to direct, supervise, and review the work of the other practitioner, the other practitioner would not be considered part of the engagement team, but the sustainability assurance practitioner may consider using the work of the other practitioner. In considering whether they can use the work of another practitioner, the sustainability assurance practitioner will be required by ISSA 5000 (as currently proposed) to evaluate whether the other practitioner is independent and has the necessary competence and capabilities for the practitioner's purposes, and inquire of the other practitioner about threats to compliance with relevant ethical requirements, including those related to independence.

The workstream provided the following examples of when the practitioner may not be able to direct, supervise and review the work of another practitioner:

- When the work relates to an entity in the supply chain, and neither the client nor the practitioner have any rights of access to that work.
- When the assurance work has already been performed for another purpose.

The following graphic, created by the workstream members, demonstrates which section of the new part 5 requirements a practitioner would look to when considering the appropriate independence requirements.



Section 405 – Group assurance

As it relates to the group assurance requirements being proposed in the new part 5, the workstream and IESBA have been cautioned on moving forward with these requirements without an assurance standard being proposed by IAASB to support the understandability of the independence requirements. AICPA staff also provided comments expressing such concern to the workstream ahead of the September meeting. However, IESBA believes that the requirements are necessary since the EU CSRD includes requirements for consolidated reporting.

Within the proposed revisions, certain group assurance requirements are being proposed by IESBA because there is no assurance standard to refer to as was the case with group audit requirements. The following is an example of a proposed requirement for the new part 5. The mark ups demonstrate how the workstream edited the part 4A requirements to apply to sustainability assurance engagement in part 5. Since there are not assurance requirements to refer to, the workstream members are proposing that the requirement exist in the IESBA code.

Communication Between a Group ~~Auditor-Sustainability Assurance~~ Firm and a Component ~~Auditor-Sustainability Assurance~~ Firm

R405.3 ~~ISA 600 (Revised) requires t~~he group engagement ~~leader partner to shall~~ take responsibility to make a component ~~auditor-sustainability assurance firm~~ aware of the relevant ~~requirements and application material in this ethical requirements Part~~ that are applicable given the nature and the circumstances of the group ~~audit-sustainability assurance~~ engagement. When making the component ~~auditor-sustainability assurance~~ firm aware of the relevant ethical requirements, the group ~~auditor-sustainability assurance~~ firm shall communicate at appropriate times the necessary information to enable the component ~~auditor-sustainability assurance~~ firm to meet its responsibilities under this section.

After discussions with the monitoring group and SSAE task force, AICPA staff will also express concerns with the workstream about IESBA setting professional standards that are typically set by IAASB and the risk associated with proposing requirements that may not be appropriate in a sustainability assurance engagement.

Another point made during the monitoring group and SSAE task force calls was that IESBA's goal in this project has been to develop requirements that could be applied when IAASB assurance standards are being used or another assurance standard (e.g., standards developed by AccountAbility); however, the group audit terminology and requirements are specific to IAASB's auditing standards. AICPA staff will provide this comment to the workstream to further support our position that creating the requirements without a full set of assurance standards could have unintended consequences and limit the understandability of the independence requirements.

The group audit requirements part 4A were approved by IESBA in February 2023. AICPA staff is currently working with the IFAC Convergence and Monitoring task force to develop recommendations on how to converge. For this reason, AICPA staff has not evaluated the group assurance requirements in part 5 for a sustainability assurance engagement.

Section 406 – Another practitioner

The independence requirements being proposed within section 406 requires the sustainability assurance practitioner to communicate with “another practitioner” and obtain confirmation on whether the other practitioner and its firm have complied with the part 5 requirements as it relates to its assurance work on the entity in which the other practitioner expressed an opinion. The sustainability assurance practitioner would also have to ask the other practitioner to use the “reason to believe” principle and notify them of any relationships with the sustainability assurance client that could create a threat to the other practitioner's independence for the purpose of the sustainability assurance engagement.

Again, the monitoring group and SSAE task force believes that certain requirements being proposed within this section should reside in the assurance standard as due diligence

procedures in considering whether to use the other practitioner's work rather than the IESBA code.

Question for the committee

4. Does the committee have any additional feedback for staff to share with workstream members as it relates to the group assurance and another practitioner guidance?

Proportion of fees

In the proposed requirements for part 5, the proportion of fees considerations from part 4A were copied over and tailored to apply to sustainability assurance engagement.

Under part 4A, in considering whether a significant self-interest threat exists, practitioners should consider the amount of fees from services other than the audit in relation to the fees from the audit. In applying the same requirement in part 5, workstream members proposed that when a professional accountant performs the financial statement audit and the sustainability assurance engagement, and there are separate fee arrangements for each engagement, the professional accountant should consider the fees from the sustainability assurance engagement as an "other than audit fee." This is inconsistent with their proposal that the fees remain combined when the reporting is integrated, and the audit and sustainability assurance engagement is under one fee arrangement.

The following graphic was presented to IESBA by workstream members to demonstrate the guidance proposed for the consideration of proportion of fees when both the financial statement audit and sustainability assurance engagement is performed for the same client.

		When a firm provides both audit and SAE to the client		When a firm only provides SAE to the client	
		Part 4A		Part 5	
		Audit Fee	Non-audit Fee	Sustainability Assurance Fee	Non-Sustainability Assurance Fee
Audit		30,000		-	-
Sustainability Assurance			20,000	20,000	
Sustainability-related NAS			2000		2000
Other NAS			4000		4000
			86 %		30 %

In case of **integrated reporting** the proportion of fees for other services is **12 %**

7

Many IESBA members shared their opinion during the September meeting that all assurance services should be compared to all nonassurance fees rather comparing audit fees to all other fees as proposed. The monitoring group and SSAE task force agree with those IESBA members, and this concept would be consistent with the revision adopted by PEEC in August where a large portion of fees generated from nonattest services of an attest client is now an example of an undue influence threat in the “Conceptual Framework for Independence” interpretation (ET sec. 1.210.010).

After discussions with the monitoring group and SSAE task force, AICPA staff will comment by explaining that given that independence requirements for sustainability assurance engagements are equivalent to those for financial statement audits as proposed, it seems that considering the audit fees together with the sustainability assurance fees (regardless of whether the reporting is integrated) in relation to all other fees in order to identify and evaluate threats would be more appropriate. In other words, when a practitioner complies with all other independence requirements with respect to each engagement, it is not clear as to what additional threats need to be addressed by comparing the engagement fees of each against each other.

Question for the committee

5. Does the committee have any additional feedback for staff to share with the workstream as it relates to the proportion of fees considerations?

NOCLAR

The NOCLAR related proposed revisions will affect extant parts 2 and 3, and the new part 5. All proposed revisions are based on elevating the requirements for those sustainability assurance engagements that meet the independence scope criteria in part 5 so that they are equivalent to those requirements for financial statement audits.

The NOCLAR requirements for professional accountants in business in part 2 were expanded so that the professional accountant not only determines whether disclosure of a known or suspected NOCLAR should be made to the external auditor, but also determines whether disclosure should be made to the sustainability assurance practitioner performing a sustainability assurance engagement that meets the independence scope criteria in part 5.

As it relates to part 3, an additional requirement is being proposed for the financial statement auditor to consider whether to communicate the known or suspected NOCLAR to the sustainability assurance practitioner performing a sustainability assurance engagement that meets the independence criteria proposed in part 5.

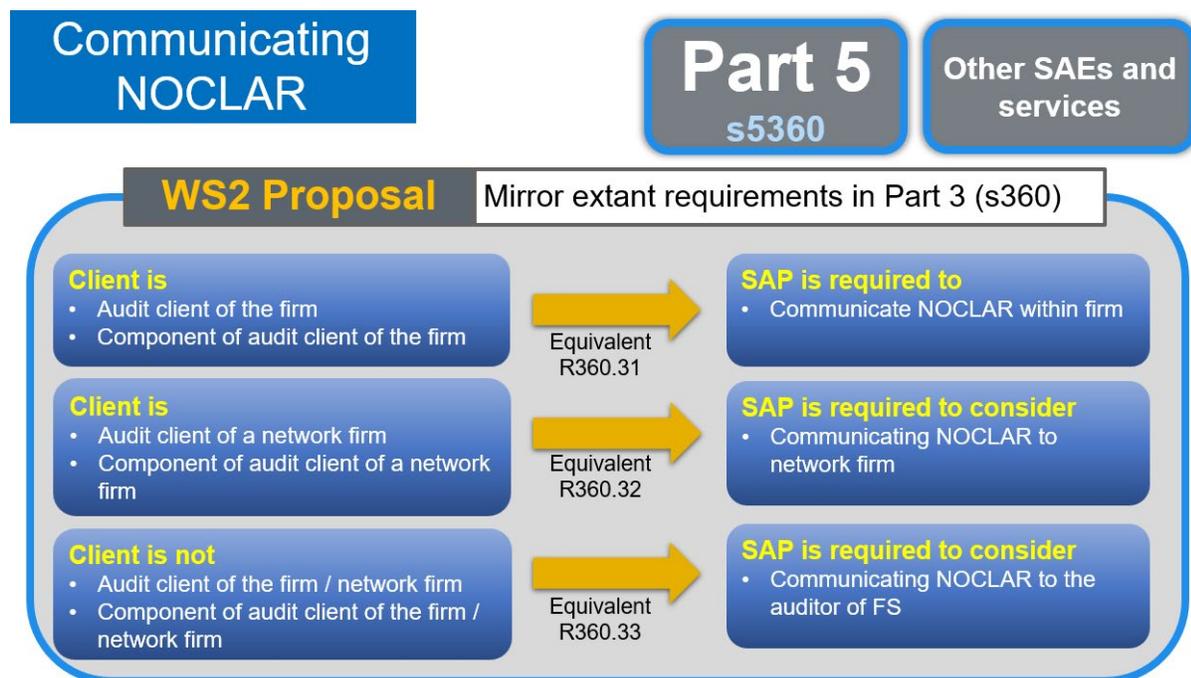
No revisions are being proposed to the extant requirements in part 3 for sustainability assurance engagement that are applicable when performing services other than the audit. These requirements describe the professional accountant's responsibility to communicate the known or suspected NOCLAR with the financial statement auditor depending on whether the client is an audit client of the firm (required to communicate), the client is an audit client or component audit client of a network firm (required to consider communicating), or the entity is not a client of the firm or network firm (required to consider communicating)³.

Within the new part 5, the same requirements in extant part 3 for financial statement audits are being proposed for those sustainability assurance engagements that meet the scope criteria for the independence requirements in part 5. In addition to those extant requirements and consistent with the additional requirement being proposed for the auditor in the part 3 revisions, workstream members are also proposing a requirement for the sustainability assurance practitioner performing a sustainability assurance engagement that meets the independence

³ As a reminder, the committee was not able to converge with IESBA's extant requirements for members to consider communicating known or suspected NOCLAR to the firm that performs the audit when the member or member's firm is not the auditor as this is not permitted under the "Confidential Client Information Rule" (ET sec. 1.700.001), except where communication is required by law or regulation.

scope criteria in part 5 to consider whether to communicate the known or suspected NOCLAR to the external auditor.

When performing a sustainability assurance engagement that does not meet the criteria for the independence requirements in part 5 or providing other services to a sustainability assurance client, requirements are being proposed in the new part 5 that are equivalent to those in extant part 3 that are applicable when performing services other than financial statement audits. These requirements are to communicate or consider communicating to the auditor and are reflected in the following graphic that the workstream provided to IESBA.



If these proposed revisions are adopted by IESBA, the committee will need to consider whether to add guidance to the AICPA code requiring the auditor to communicate or consider communicating known or suspected NOCLAR to certain sustainability assurance providers that are within the firm or network firm.

Under current AICPA guidance for those members performing services other than audits or reviews, the member that performs the sustainability assurance engagement is required to communicate known or suspected NOCLAR to the auditor when the member’s firm also performs the financial statement audit or review, and is required to consider communicating to the auditor when a network firm performs the financial statement audit or review. The committee will need to consider whether to add a requirement for the member performing these other services to also be required to communicate or consider communicating the known or suspected NOCLAR to certain sustainability assurance providers when that provider is within the firm or within a network firm.

Based on discussions with the monitoring group, there are similar concerns with the committee's ability to converge as existed when converging with IESBA's extant NOCLAR requirements since members are not allowed to share or consider sharing confidential client information with an auditor or sustainability assurance practitioner when they are not within the firm or a network firm or not required by law or regulation.

Question for the committee

6. Does the committee have any feedback for staff to share with the workstream as it relates to the NOCLAR proposal?

IESBA monitoring – Use of experts

Project description

IESBA initiated this project to develop revisions to the IESBA code that will address the ethics and independence issues that can arise when experts work alongside professional accountants in business (PAIBs) and professional accountants in public practice (PAPPs). The following ethics and independence considerations are included:

- Use of an external expert in audit and assurance engagements (ethics and independence)
- Involvement of an expert (both internal or external to the employing organization or firm) in the preparation and presentation of financial and nonfinancial information, including sustainability information, and other activities (ethics)
- Involvement of an expert in the provision of other services, such as tax planning and technology-related activities (ethics)

Project update

The task force developed a first read draft of new sections of the code (section 390 for professional accountants in public practice (PAPP), section 290 for professional accountants in business (PAIB), and part 5 for sustainability assurance practitioners (SAP) and presented them to IESBA at the September meeting. These drafts considered the stakeholder feedback received in June and July 2023 from the IESBA National Standard-Setters Liaison Group, Forum of Firms, and IAASB staff.

Proposed scope

The proposed new sections apply to all experts (other than management's experts), regardless of their fields of expertise, and whether engaged or employed by an employing organization or firm.

Proposed definitions

Expert. An individual or organization possessing expertise that is outside the professional accountant's or sustainability assurance practitioner's competence. This excludes internal auditors employed or engaged by an employing organization or client.

Expertise. Knowledge and skills in a particular field

External expert. In the context of parts 2 and 3, an expert engaged by a professional accountant's employing organization or firm.

In the context of audit engagements, an expert (who is not a partner or a member of the

professional staff, including temporary staff, of the firm or a network firm) possessing expertise in a field other than accounting, auditing, or assurance, whose work in that field is used to assist the professional accountant in obtaining sufficient appropriate evidence.

In the context of assurance engagements, including sustainability assurance engagements, an expert (who is not a partner or a member of the professional staff, including temporary staff, of the firm or a network firm) possessing expertise in a field other than assurance, whose work in that field is used to assist the sustainability assurance practitioner in obtaining sufficient appropriate evidence.

External experts are not members of the engagement team, audit team, review team, assurance team, or sustainability assurance team.

Management's expert. An individual or organization possessing expertise in a field other than accounting, auditing, or assurance whose work in that field is used by the entity to assist the entity in preparing the financial or non-financial information.

Competence, capabilities, and objectivity

The proposed new sections of the code require PAPPs, PAIBs, or other practitioners to evaluate an expert's competence, capabilities, and objectivity (CCO). For external experts used in an audit or other assurance engagement, the proposed standards require that objectivity must be evaluated for all individuals on a team that an expert uses to perform the work. The task force felt that the direct threat to the expert's objectivity generally arises from the interests and relationships with the entity at which the expert is performing work.

Experts who are on the engagement team or audit or assurance team are already subject to the code's ethics and independence provisions and would not need to be evaluated for objectivity. Experts would be on the engagement team if they perform audit or assurance procedures. They would be on the audit or assurance team if they provide consultation on technical or industry-specific issues, transactions, or events for the engagement.

Under the proposed standards, if the practitioner cannot obtain the information necessary to conclude on the expert's CCO, or the expert does not have CCO, the practitioner shall not use the expert's work.

Additional requirements for external experts in audit or assurance engagements

There was support from IESBA and other stakeholders for a principles-based approach in determining whether the external expert is objective, as the facts and circumstances will differ from one case to another. The proposed standards require the practitioner to request the external expert to disclose information about the following:

- a. Any direct financial interest or material indirect financial interest held by the external expert or their immediate family in the entity;

- b.* Any loan, or guarantee of a loan, made to the entity by the external expert or their immediate family, unless the loan or guarantee is immaterial to both the expert and the entity;
- c.* Any loan, or a guarantee of a loan, accepted by the external expert or their immediate family from the entity if it is a bank or similar institution, unless the loan or guarantee is made under normal lending procedures, terms and conditions;
- d.* Any loan, or a guarantee of a loan, accepted by the external expert or their immediate family from the entity if it is not a bank or similar institution, unless the loan or guarantee is immaterial to both the expert and the entity;
- e.* Any close business relationship between the external expert or their immediate family and the entity or its management, unless any financial interest is immaterial and the business relationship is insignificant to the expert and the entity or its management;
- f.* Any long association between the external expert and the entity;
- g.* Any previous public statements by the external expert which advocate for the entity;
- h.* Any position as a director or officer of the entity, or an employee in a position to exert significant influence over the preparation of the entity's financial or non-financial information, or the records underlying such information:
 - i.* Held by the external expert or their immediate family; or
 - ii.* Previously held by the external expert before the period covered by the audit or assurance report;
- i.* Any material fee or contingent fee or dependency on fees or other types of remuneration due to or received by the external expert from the entity;
- j.* Any conflict of interest in relation to the work the external expert is performing at the entity; and
- k.* If the external expert is an organization, the nature and extent of interests and relationships between the controlling owner of the external expert and the entity.

This approach was taken by the task force to recognize stakeholders' heightened expectations of independence in relation to external experts used in audit or other assurance engagements, given the public interest importance of the audit or assurance report as it is relied upon by stakeholders for decision-making. Additionally, the approach is aligned with the applicability of the part 4 independence provisions to all audit or assurance team members. IESBA generally supported the task force's proposal to take an objectivity approach since (i) there are no systems of quality management in place for external experts who are not under the direction, supervision and review of the firm, and (ii) it is the presumptive responsibility of the PA or practitioner to ensure that if they intend to use the work of an external expert, such external expert is objective. If the PA or practitioner concludes that an external expert is not objective based on the evaluation of such independence attributes, the PA cannot use the work of the

external expert.

Action needed

The committee's input on IESBA's approach is requested. In addition, staff would appreciate the committee's input on the following:

1. IESBA's proposed framework indicates that using the work of an expert might create threats to compliance with the fundamental principles, particularly the principles of integrity, objectivity and professional competence and due care. When a professional accountant uses an expert who is employed at their firm or at their employing organization (internal expert) are there controls in place, other than CCO evaluation, that can be relied upon to address the threats?
2. If the expert is required to be independent (such as when the services being performed by the expert are under the direct supervision and control of the engagement partner so that they are on the engagement team), should the professional accountant have to evaluate their CCO? Would your conclusion change if the expert was internal or external to the firm?
3. Does the committee believe that the framework proposed by IESBA compliments the performance standards¹ that address using the work of experts?

Timeline

IESBA is prioritizing this project and the current timeline is as follows:

December 2023	IESBA considers approval of exposure draft.
January 2024	IESBA releases exposure draft, including explanatory memorandum.
April 2024	Comment period for exposure draft ends (assuming a 90-day comment period).
June 2024	Update IESBA on comments for the project, including an overview of key comments from exposure draft respondents.
September 2024	IESBA reviews exposure draft responses and does first read of revisions.

¹ For example, the following performance standards address this topic U.S. AU-C 620, PCAOB AS 1210, Circular 230 – Section 10.22, SSTS section 2.3, paragraphs 24, 45-47 of SSPFPS No. 1, and paragraphs .20, .65, .70 and .74 of SSVS.

December 2024	IESBA approves final revisions.
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Materials presented

- Agenda item 8B: Part 3: Proposed revisions and new section 390
- Agenda item 8C: Part 2: Proposed revisions and new section 290
- Agenda item 8D: Part 5 Equivalent of part 3 for Sustainability Assurance

Part 3: Proposed Revisions and New Section 390

IESBA Meeting Materials – September

SECTION 320

PROFESSIONAL APPOINTMENTS

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Requirements and Application Material

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Using the Work of an Expert

~~**R320.10** — When a professional accountant intends to use the work of an expert in the course of undertaking a professional activity, the accountant shall determine whether the use is appropriate for the intended purpose.~~

~~320.10 A1 — Factors to consider when a professional accountant intends to use the work of an expert include:~~

- ~~• The reputation and expertise of, and the resources available to, the expert.~~
- ~~• Whether the expert is subject to applicable professional and ethics standards.~~

~~Such information might be gained from prior association with, or from consulting others about, the expert.~~

...

Other Considerations

~~320.11¹² A1~~ When a professional accountant is considering using the ~~work of experts or the~~ output of technology, a consideration is whether the accountant is in a position within the firm to obtain information in relation to the factors necessary to determine whether such use is appropriate.

~~320.11 A2~~ When a professional accountant intends to use the work of an expert, the requirements and application material set out in Section 390 apply.

...

PROPOSED NEW SECTION 390

USING THE WORK OF AN EXPERT

Introduction

- 390.1 Professional accountants are required to comply with the fundamental principles and apply the conceptual framework set out in Section 120 to identify, evaluate and address threats.
- 390.2 Using the work of an expert might create threats to compliance with the fundamental principles, particularly the principles of integrity, objectivity and professional competence and due care.
- 390.3 This section sets out requirements and application material relevant to applying the conceptual framework in relation to using the work of an expert.

Requirements and Application Material

Circumstances Where an Expert Might Be Used

- 390.4 A1 An expert might be used to undertake specific work to support a professional service provided by a professional accountant. Such work can be in a field that is well-established or that is emerging. Examples of such work include:
- The valuation of complex financial instruments, land and buildings, plant and machinery, jewelry, works of art, antiques, intangible assets, assets acquired and liabilities assumed in business combinations, and assets that may have been impaired.
 - The actuarial calculation of liabilities associated with insurance contracts or employee benefit plans.
 - The estimation of oil and gas reserves.
 - The valuation of environmental liabilities, and site clean-up costs.
 - The interpretation of contracts, laws and regulations, including tax laws and regulations, tax treaties and bilateral agreements.
 - The accounting for specific matters, including applying methods of accounting for deferred income tax or financial instruments.
 - The calculation of greenhouse gas emissions.
 - The definition and measurement of pollutants emitted to air, water and soil.
 - The valuation of products and materials designed along principles for a sustainable circular economy, including durability, reusability, repairability, disassembly, remanufacturing, and recycling.
 - Assessment and evaluation of cybersecurity systems.
- 390.4 A2 Individuals or organizations that provide datasets for general purpose are not experts. Such individuals or organizations include, for example, those that provide industry or other benchmarking data or studies, such as information about real estate prices that is suitable for use by a broad range of users, or mortality tables for general use.

R390.5 If a professional accountant determines that expertise outside the accountant's knowledge and skills is needed to assist the accountant in performing a professional service, the accountant shall identify an expert for this purpose.

390.5 A1 A self-interest threat to compliance with the principles of integrity and professional competence and due care is created if a professional accountant has insufficient expertise to perform a professional service.

Agreeing the Work to be Performed by an Expert

All Professional Services

R390.6 If the professional accountant has identified an expert to use for a professional service, the accountant shall agree the terms of engagement with the expert, including the nature and scope of the work to be performed by the expert.

390.6 A1 In agreeing the terms of engagement, matters that the professional accountant might discuss with the expert include:

- The purpose, intended use and timing of the expert's work.
- The general approach to the expert's work.
- The expected format and content of the expert's completed work, including any assumptions made and limitations to that work.
- Expectations regarding the expert's objectivity, including information needed from the expert to facilitate the accountant's evaluation of that objectivity.
- Expectations regarding confidentiality of the expert's work and its inputs.

Evaluating Whether to Use the Work of the Expert

All Professional Services

R390.7 In determining whether it is appropriate to use the work of the expert, the professional accountant shall evaluate the expert's competence, capabilities and objectivity.

390.7 A1 An expert whose work is used to assist a professional accountant in performing a professional service might be:

- (a) An external expert; or
- (b) An expert employed by the accountant's firm.

390.7 A2 If in the course of performing a professional service, the professional accountant uses the work of a management's expert, such work is deemed to be information provided by management for the purposes of this section.

- 390.7 A3 In the context of an audit or other assurance engagement, depending on their role, an expert is:
- (a) An engagement team member if the expert performs audit or other assurance procedures for the engagement;
 - (b) An audit or assurance team member if the expert provides consultation on the audit or other assurance engagement which can directly influence the outcome of the engagement;
 - (c) An external expert if the expert is engaged by the professional accountant's firm and the expert's work is used to assist the accountant in obtaining sufficient appropriate evidence; or
 - (d) A management's expert if the expert is employed or engaged by the audit or assurance client and the expert's work is used to assist the entity in preparing the financial or non-financial information.
- 390.7 A4 A self-interest or advocacy threat to compliance with the fundamental principles of integrity, objectivity and professional competence and due care might be created if a professional accountant uses an expert that does not have the competence, capabilities or objectivity to deliver the expert work needed for the particular professional service.
- 390.7 A5 Factors that are relevant in evaluating the competence of the expert include:
- Whether the expert's credentials, education, training, experience and reputation are relevant to, or consistent with, the nature of the work to be performed.
 - Whether the expert belongs to a professional body and, if so, whether the expert is in good standing.
 - Whether the expert's work is subject to professional standards issued by a recognized body, or follows generally accepted principles or practices, in the expert's field or area of expertise.
 - Whether the expert has a track record of performing similar work for the professional accountant's firm or other clients.
 - Where the expert is employed by the accountant's firm, whether their expertise has been validated by an accreditation or similar process established by the firm.
- 390.7 A6 Factors that are relevant in evaluating the capabilities of the expert include:
- The resources available to the expert.
 - Whether the expert has adequate time to perform the work.

390.7 A7 Factors that are relevant in evaluating the objectivity of the expert include:

- Whether the expert is subject to ethics standards issued by a professional body in the expert's field or area of expertise.
- Whether the expert has a conflict of interest in relation to the work the expert is performing at the entity.
- Whether there is any known potential bias that might affect the exercise of the expert's professional judgment.
- Whether the expert will evaluate or rely on any previous judgments made or activities performed by the expert in undertaking the work.
- Where the expert is employed by the professional accountant's firm, whether the expert is subject to the firm's system of quality management addressing threats to compliance with the principle of objectivity.

Paragraphs R390.10 to R390.13 set out required further actions in evaluating the objectivity of an expert in an audit or other assurance engagement.

390.7 A8 Examples of previous judgments made or activities performed by an expert that might create a threat to the expert's objectivity include:

- Advising the entity on the matter for which the expert is performing the work.
- Producing data or other information for the entity which is then used by the expert in performing the work or is the subject of that work.

390.7 A9 Information about an expert's competence, capabilities and objectivity might be obtained from various sources, including:

- Personal association or experience with previous work undertaken by the expert.
- Consulting with others within or outside the professional accountant's firm who are familiar with the expert's work.
- Discussion with the expert about their background, including their field of expertise and business activities.
- Making inquiries of the expert's professional body or industry association.
- Published papers or books written by the expert.
- External recognition or accolades.
- Published records, such as legal proceedings involving the expert.
- Inquiry with the client and, if different, the entity at which the expert is performing the work regarding any interests and relationships between the expert and the client or the entity.

Experts in Emerging Fields or Areas

390.8 A1 Expertise in emerging fields or areas might evolve depending on how laws, regulations and generally accepted practices develop. There might therefore be limited availability of experts in emerging fields or areas.

390.8 A2 Some of the factors relevant to evaluating the competence of an expert in paragraph 390.7 A5 might not be applicable if expertise in an emerging field or area is nascent. For example, there might not be public recognition of the expert, professional standards might not have been developed, or professional bodies might not have been established in the emerging field. In such circumstances, a factor that might assist the professional accountant in evaluating an expert's competence is the expert's experience in a similar field as the emerging field, or in an established field, that provides a reasonable basis for the expert's work in the emerging field.

Inherent Limitations in Evaluating an Expert's Competence, Capabilities or Objectivity

390.9 A1 Paragraph R113.3 sets out communication responsibilities for the professional accountant with respect to limitations inherent in the accountant's professional services. When using the work of an expert, such communication might be especially relevant when there is a lack of information to evaluate the expert's competence, capabilities or objectivity, and there is no available alternative to that expert.

Further Actions in Evaluating the Objectivity of an External Expert in an Audit or Other Assurance Engagement

R390.10 In evaluating the objectivity of an external expert in an audit or other assurance engagement pursuant to paragraph R390.7, the professional accountant shall request the external expert to disclose, in relation to the entity at which the expert is performing the work and with respect to the period covered by the audit or assurance report and the engagement period, information about:

- (a) Any direct financial interest or material indirect financial interest held by the external expert or their immediate family in the entity;
- (b) Any loan, or guarantee of a loan, made to the entity by the external expert or their immediate family, unless the loan or guarantee is immaterial to both the expert and the entity;
- (c) Any loan, or a guarantee of a loan, accepted by the external expert or their immediate family from the entity if it is a bank or similar institution, unless the loan or guarantee is made under normal lending procedures, terms and conditions;
- (d) Any loan, or a guarantee of a loan, accepted by the external expert or their immediate family from the entity if it is not a bank or similar institution, unless the loan or guarantee is immaterial to both the expert and the entity;
- (e) Any close business relationship between the external expert or their immediate family and the entity or its management, unless any financial interest is immaterial and the business relationship is insignificant to the expert and the entity or its management;
- (f) Any long association between the external expert and the entity;

- (g) Any previous public statements by the external expert which advocate for the entity;
 - (h) Any position as a director or officer of the entity, or an employee in a position to exert significant influence over the preparation of the entity's financial or non-financial information, or the records underlying such information:
 - (i) Held by the external expert or their immediate family; or
 - (ii) Previously held by the external expert before the period covered by the audit or assurance report;
 - (i) Any material fee or contingent fee or dependency on fees or other types of remuneration due to or received by the external expert from the entity;
 - (j) Any conflict of interest in relation to the work the external expert is performing at the entity; and
 - (k) If the external expert is an organization, the nature and extent of interests and relationships between the controlling owner of the external expert and the entity.
- 390.10 A1 Where the external expert uses a team to carry out the expert's work, paragraph R390.10 applies equally to all members of the team.
- R390.11** A professional accountant shall request the external expert to communicate any changes in facts or circumstances regarding the matters set out in paragraph R390.10 that might arise during the period covered by the audit or assurance report or the engagement period.
- R390.12** A professional accountant shall request each of the external expert and the client to notify the accountant about any other interest, relationship or circumstance of which they are aware between:
- (a) The expert and the client; and
 - (b) The expert and the entity at which the expert is performing the work, if different from the client.
- R390.13** When the professional accountant is notified of an interest, relationship or circumstance pursuant to paragraph R390.12, the accountant shall include it when identifying and evaluating threats to the external expert's objectivity.
- 390.13 A1 Examples of interests, relationships or circumstances that might be included in the evaluation of the external expert's objectivity include, in relation to the client or, if different, the entity at which the expert is performing the work:
- Any direct financial interest or material indirect financial interest in the client held by the expert or their immediate family.
 - Close family members or other close relationships of the expert who are in a position to exert significant influence over the preparation of the financial or non-financial information of the entity, or the records underlying such information.
 - Any interests or relationships with the client and those entities over which it has direct or indirect control.

Concluding on Using the Work of the Expert

All Professional Services

- R390.14** The professional accountant shall conclude, based on the evaluation of the expert's competence and capabilities, and any identified threats to the expert's objectivity, whether the expert is competent, has the capabilities, and is objective.
- R390.15** If the professional accountant concludes that the expert is not competent, capable or objective, the accountant shall not use the expert's work.
- 390.15 A1 Where an expert is employed by the professional accountant's firm, that individual is bound by the same ethical and, if applicable, independence requirements that apply to the accountant. Accordingly, compliance with those requirements will satisfy the objectivity requirement for the expert under paragraphs R390.7 and R390.14.

Potential Threats Arising from Using the Work of an Expert

All Professional Services

- R390.16** Where a professional accountant is using the work of an expert, the accountant shall identify, evaluate, and address any threats to compliance with the fundamental principles.

Identifying Threats

- 390.17 A1 Examples of facts and circumstances that might create threats for a professional accountant when using an expert's work include:
- (a) Self-interest threats
 - A professional accountant has insufficient understanding of the expert's work to explain the expert's conclusions and findings.
 - A professional accountant has undue influence from, or undue reliance on, an expert or multiple experts when performing a professional service.
 - (b) Familiarity threats
 - A professional accountant has used the work of the same expert for a long period of time or in multiple professional services.
 - (c) Intimidation threats
 - A professional accountant feels pressure to defer to the expert's opinion due to the expert's perceived authority.

Evaluating Threats

390.18 A1 Factors that are relevant in evaluating the level of such threats include:

- The scope and purpose of the work of the expert.
- The materiality of the subject matter of the expert's work to the information being reported.
- The nature of the engagement in which the expert's work is intended to be used.
- The degree of reliance by the professional accountant on the work of the expert.
- The professional accountant's oversight relating to the use of the expert and the expert's work.
- Whether there are multiple experts involved.
- The complexity and subjectivity of the expert work.
- The source and reliability of the underlying data and other inputs used by the expert.
- The expert's ability to explain the inputs, assumptions, methodologies and conclusions of the expert's work.
- The reasonableness of and transparency over the data, assumptions and other inputs and methods used by the expert and whether the expert has mitigated any bias.
- Whether the work of the expert is subject to technical performance standards or other professional or industry generally accepted practices, or law or regulation, such that the work, if performed by two or more parties, is not likely to be materially different.
- The reasonableness of the expert's findings or conclusions and the accountant's ability to understand and explain the expert's work and its appropriateness for the intended purpose.
- The consistency of the expert's work, including the expert's conclusions or findings, with other information.
- The availability of academic research or other evidence to support the expert's approach.
- Whether there is pressure being exerted by the firm to accept the expert's conclusions or findings due to the time or cost spent by the expert in performing the work.

Using the Work of Multiple Experts

R390.19 When a professional accountant uses the work of more than one expert in the performance of a professional service, the accountant shall consider whether, in addition to the threats that might be created by using each expert individually, the combined effect of using the work of the experts might create or impact the level of threats.

390.19 A1 Factors that are relevant in evaluating the level of threats created by using the work of multiple experts include:

- How the combined effect of using multiple experts impacts the complexity of exercising professional judgment.

- Whether the combined work of the experts forms a material part of the information assessed or used for purposes of the engagement.

Addressing Threats

390.20 A1 An example of an action that might eliminate such threats is identifying a different expert to use.

390.20 A2 Examples of actions that might be safeguards to address such threats include:

- Consulting with qualified personnel who have the necessary knowledge, skills and experience to evaluate the expert's work, obtain additional input, or challenge the appropriateness of the expert's work for the intended purpose.
- Obtaining a second opinion on the expert's work.

Communicating with Management and Those Charged with Governance When Using the Work of an Expert

390.21 A1 The professional accountant is encouraged to communicate with management, and where appropriate, those charged with governance:

- The purpose of using an expert and the scope of the expert's work.
- The respective roles and responsibilities of the accountant and the expert in the performance of the professional service.
- Any threats to the accountant's compliance with the fundamental principles created by using the work of the expert and how they have been addressed.

Documentation

390.22 A1 The professional accountant is encouraged to document:

- The steps taken by the accountant to evaluate the expert's competence, capabilities and objectivity, and the resulting conclusions.
- Any significant threats identified by the accountant in using the expert's work and the actions taken to address the threats.
- The results of any discussions with the expert.

Part 2: Proposed Revisions and New Section 290

IESBA Meeting Materials – September

SECTION 220

PREPARATION AND PRESENTATION OF INFORMATION

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Requirements and Application Material

General

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Using the Work of Others

R220.7 A professional accountant who intends to use the work of others, whether internal or external to the employing organization, or other organizations, shall exercise professional judgment to determine the appropriate steps to take, if any, in order to fulfill the responsibilities set out in paragraph R220.4. The work of others excludes the work of experts. When a professional accountant intends to use the work of experts, the requirements and application material set out in Section 290 apply.

220.7 A1 Factors to consider when a professional accountant intends to use the work of others include:

- The reputation and ~~expertise~~ competence of, and resources available to, the other individual or organization.
- Whether the other individual is subject to applicable professional and ethics standards.

Such information might be gained from prior association with, or from consulting others about, the other individual or organization.

...

PROPOSED NEW SECTION 290 USING THE WORK OF AN EXPERT

Introduction

- 290.1 Professional accountants are required to comply with the fundamental principles and apply the conceptual framework set out in Section 120 to identify, evaluate and address threats.
- 290.2 Using the work of an expert might create threats to compliance with the fundamental principles, particularly the principles of integrity, objectivity and professional competence and due care.
- 290.3 This section sets out requirements and application material relevant to applying the conceptual framework in relation to using the work of an expert.

Requirements and Application Material

Circumstances Where an Expert Might Be Used

- 290.4 A1 An expert might be used to undertake specific work to support a professional ~~service activity~~ provided-performed by a professional accountant. Such work can be in a field that is well-established or that is emerging. Examples of such work include:
- The valuation of complex financial instruments, land and buildings, plant and machinery, jewelry, works of art, antiques, intangible assets, assets acquired and liabilities assumed in business combinations, and assets that may have been impaired.
 - The actuarial calculation of liabilities associated with insurance contracts or employee benefit plans.
 - The estimation of oil and gas reserves.
 - The valuation of environmental liabilities, and site clean-up costs.
 - The interpretation of contracts, laws and regulations, including tax laws and regulations, tax treaties and bilateral agreements.
 - The accounting for specific matters, including applying methods of accounting for deferred income tax or financial instruments.
 - The calculation of greenhouse gas emissions.
 - The definition and measurement of pollutants emitted to air, water and soil.
 - The valuation of products and materials designed along principles for a sustainable circular economy, including durability, reusability, repairability, disassembly, remanufacturing, and recycling.
 - Assessment and evaluation of cybersecurity systems.
- 290.4 A2 Individuals or organizations that provide datasets for general purpose are not experts. Such individuals or organizations include, for example, those that provide industry or other benchmarking data or studies, such as information about real estate prices that is suitable for use by a broad range of users, or mortality tables for general use.

R290.5 If a professional accountant determines that expertise outside the accountant's knowledge and skills is needed to assist the accountant in performing a professional ~~service activity~~, the accountant shall identify an expert for this purpose.

290.5 A1 A self-interest threat to compliance with the fundamental principles of integrity and professional competence and due care is created if a professional accountant has insufficient expertise to perform a professional ~~service activity~~.

Agreeing the Work to be Performed by an Expert

All Professional Services

R290.6 If the professional accountant has identified an expert to use for a professional ~~service activity~~, the accountant shall agree the terms of engagement with the expert, including the nature and scope of the work to be performed by the expert.

290.6 A1 In agreeing the terms of engagement, matters that the professional accountant might discuss with the expert include:

- The purpose, intended use and timing of the expert's work.
- The general approach to the expert's work.
- The expected format and content of the expert's completed work, including any assumptions made and limitations to that work.
- ~~Expectations regarding the expert's objectivity, including information needed from the expert to facilitate the accountant's evaluation of that objectivity.~~
- Expectations regarding confidentiality of the expert's work and its inputs.

Evaluating Whether to Use the Work of the Expert

All Professional Services

R290.7 In determining whether it is appropriate to use the work of the expert, the professional accountant shall evaluate the expert's competence, capabilities and objectivity.

290.7 A1 An expert whose work is used to assist a professional accountant in performing a professional ~~service activity~~ might be:

- (a) An external expert; or
- (b) An expert employed by the accountant's ~~firm~~ employing organization.

~~390.7 A2—If in the course of performing a professional service, the professional accountant uses the work of a management's expert, such work is deemed to be information provided by management for the purposes of this section.~~

~~390.7 A3~~ In the context of an audit or other assurance engagement, depending on their role, an expert is:

- ~~(a) An engagement team member if the expert performs audit or other assurance procedures for the engagement;~~
- ~~(b) An audit or assurance team member if the expert provides consultation on the audit or other assurance engagement which can directly influence the outcome of the engagement;~~
- ~~(c)~~
- ~~(d) A management's expert if the expert is employed or engaged by the audit or assurance client and the expert's work is used to assist the entity in preparing the financial or non-financial information.~~

290.7 A~~2~~⁴ A self-interest or advocacy threat to compliance with the principles of integrity, objectivity and professional competence and due care might be created if a professional accountant uses an expert that does not have the competence, capabilities or objectivity to deliver the expert work needed for the particular professional ~~service~~ activity.

290.7 A~~3~~⁵ Factors that are relevant in evaluating the competence of the expert include:

- Whether the expert's credentials, education, training, experience and reputation are relevant to, or consistent with, the nature of the work to be performed.
- Whether the expert belongs to a professional body and, if so, whether the expert is in good standing.
- Whether the expert's work is subject to professional standards issued by a recognized body, or follows generally accepted principles or practices, in the expert's field or area of expertise.
- Whether the expert has a track record of performing similar work for the professional accountant's ~~firm~~ employing organization or other clients.
- Where the expert is employed by the accountant's ~~firm~~ employing organization, whether their expertise has been validated by an accreditation or similar process established by the ~~firm~~ employing organization.

290.7 A~~4~~⁶ Factors that are relevant in evaluating the capabilities of the expert include:

- The resources available to the expert.
- Whether the expert has adequate time to perform the work.

290.7 A~~57~~ Factors that are relevant in evaluating the objectivity of the expert include:

- Whether the expert is subject to ethics standards issued by a professional body in the expert's field or area of expertise.
- Whether the expert has a conflict of interest or other interests in relation to the work the expert is performing at the entity.
- Whether there is any known potential bias that might affect the exercise of the expert's professional judgment.
- Whether the expert will evaluate or rely on any previous judgments made or activities performed by the expert in undertaking the work.

~~• Where the expert is employed by the professional accountant's firm, whether the expert is subject to the firm's system of quality management addressing threats to compliance with the principle of objectivity.~~

~~Paragraphs R390.10 to R390.13 set out required further actions in evaluating the objectivity of an expert in an audit or other assurance engagement.~~

290.7 A6 Other interests that might impact the level of threat to a proposed expert's objectivity include significant financial interests such as those arising from compensation, fees or incentive arrangements linked to financial and non-financial information and decision making.

290.7 A~~78~~ Examples of previous judgments made or activities performed by an expert that might create a threat to the expert's objectivity include:

- Advising the entity on the matter for which the expert is performing the work.
- Producing data or other information for the entity which is then used by the expert in performing the work or is the subject of that work.

290.7 A~~89~~ Information about an expert's competence, capabilities and objectivity might be obtained from various sources, including:

- Personal association or experience with previous work undertaken by the expert.
- Consulting with others within or outside the professional accountant's ~~firm~~ employing organization who are familiar with the expert's work.
- Discussion with the expert about their background, including their field of expertise and business activities.
- Making inquiries of the expert's professional body or industry association.
- Published papers or books written by the expert.
- External recognition or accolades.
- Published records, such as legal proceedings involving the expert.
- Inquiry with the management of the employing organization~~client~~ and, if different, the entity at which the expert is performing the work regarding any interests and relationships between the expert and the client-employing organization or the entity.

Experts in Emerging Fields or Areas

290.8 A1 Expertise in emerging fields or areas might evolve depending on how laws, regulations and generally accepted practices develop. There might therefore be limited availability of experts in emerging fields or areas.

290.8 A2 Some of the factors relevant to evaluating the competence of an expert in paragraph 290.7 A35 might not be applicable if expertise in an emerging field or area is nascent. For example, there might not be public recognition of the expert, professional standards might not have been developed, or professional bodies might not have been established in the emerging field. In such circumstances, a factor that might assist the professional accountant in evaluating an expert's competence is the expert's experience in a similar field as the emerging field, or in an established field, that provides a reasonable basis for the expert's work in the emerging field.

Inherent Limitations in Evaluating an Expert's Competence, Capabilities or Objectivity

290.9 A1 Paragraph R113.3 sets out communication responsibilities for the professional accountant with respect to limitations inherent in the accountant's professional ~~services~~ activities. When using the work of an expert, such communication might be especially relevant when there is a lack of information to evaluate the expert's competence, capabilities or objectivity, and there is no available alternative to that expert.

~~Further Actions in Evaluating the Objectivity of an External Expert in an Audit or Other Assurance Engagement~~

~~**R390.10**—In evaluating the objectivity of an external expert in an audit or other assurance engagement pursuant to paragraph R390.7, the professional accountant shall request the external expert to disclose, in relation to the entity at which the expert is performing the work and with respect to the period covered by the audit or assurance report and the engagement period, information about:~~

- ~~(a) Any direct financial interest or material indirect financial interest held by the external expert or their immediate family in the entity;~~
- ~~(b) Any loan, or guarantee of a loan, made to the entity by the external expert or their immediate family, unless the loan or guarantee is immaterial to both the expert and the entity;~~
- ~~(c) Any loan, or a guarantee of a loan, accepted by the external expert or their immediate family from the entity if it is a bank or similar institution, unless the loan or guarantee is made under normal lending procedures, terms and conditions;~~
- ~~(d) Any loan, or a guarantee of a loan, accepted by the external expert or their immediate family from the entity if it is not a bank or similar institution, unless the loan or guarantee is immaterial to both the expert and the entity;~~
- ~~(e) Any close business relationship between the external expert or their immediate family and the entity or its management, unless any financial interest is immaterial and the business relationship is insignificant to the expert and the entity or its management;~~
- ~~(f) Any long association between the external expert and the entity;~~

- ~~(g) Any previous public statements by the external expert which advocate for the entity;~~
 - ~~(h) Any position as a director or officer of the entity, or an employee in a position to exert significant influence over the preparation of the entity's financial or non-financial information, or the records underlying such information:~~
 - ~~(i) Held by the external expert or their immediate family; or~~
 - ~~(ii) Previously held by the external expert before the period covered by the audit or assurance report;~~
 - ~~(i) Any material fee or contingent fee or dependency on fees or other types of remuneration due to or received by the external expert from the entity;~~
 - ~~(j) Any conflict of interest in relation to the work the external expert is performing at the entity; and~~
 - ~~(k) If the external expert is an organization, the nature and extent of interests and relationships between the controlling owner of the external expert and the entity.~~
- ~~390.10 A1 Where the external expert uses a team to carry out the expert's work, paragraph R390.10 applies equally to all members of the team.~~
- ~~**R390.11** A professional accountant shall request the external expert to communicate any changes in facts or circumstances regarding the matters set out in paragraph R390.10 that might arise during the period covered by the audit or assurance report or the engagement period.~~
- ~~**R390.12** A professional accountant shall request each of the external expert and the client to notify the accountant about any other interest, relationship or circumstance of which they are aware between:~~
- ~~(a) The expert and the client; and~~
 - ~~(b) The expert and the entity at which the expert is performing the work, **if different from the client.**~~
- ~~**R390.13** When the professional accountant knows or has reason to believe that an interest, relationship or circumstance identified pursuant to paragraph R390.12 is relevant to the evaluation of the objectivity of the external expert, the accountant shall include it when identifying and evaluating threats to the external expert's objectivity.~~
- ~~390.13 A1 Examples of interests, relationships or circumstances that might be included in the evaluation of the external expert's objectivity include, in relation to the client or, **if different, the entity at which the expert is performing the work:**~~
- ~~• Any direct financial interest or material indirect financial interest in the client or the entity held by any other individuals in the external expert's organization or their immediate family.~~
 - ~~• Close family members or other close relationships of the external expert who are in a position to exert significant influence over the preparation of the financial or non-financial information of the entity, or the records underlying such information.~~
 - ~~• Any interests or relationships with related entities of the client other than the entity.~~

Concluding on Using the Work of the Expert

All Professional Services

R290.104 The professional accountant shall conclude, based on the evaluation of the expert's competence and capabilities, and any identified threats to the expert's objectivity, whether the expert is competent, has the capabilities, and is objective.

R290.115 If the professional accountant concludes that the expert is not competent, capable or objective, the accountant shall not use the expert's work.

~~390.15 A1—Where an expert is employed by the professional accountant's firm, that individual is bound by the same ethical and, if applicable, independence requirements that apply to the accountant. Accordingly, compliance with those requirements will satisfy the objectivity requirement for the expert under paragraphs R390.7 and R390.14.~~

Potential Threats Arising from Using the Work of an Expert

All Professional Services

R290.126 Where a professional accountant is using the work of an expert, the accountant shall identify, evaluate, and address any threats to compliance with the fundamental principles.

Identifying Threats

290.137 A1 Examples of facts and circumstances that might create threats for a professional accountant when using an expert's work include:

- (a) Self-interest threats
 - A professional accountant has insufficient understanding of the expert's work to explain the expert's conclusions and findings.
 - A professional accountant has undue influence from, or undue reliance on, an expert or multiple experts when performing a professional service activity.
- (c) Familiarity threats
 - A professional accountant has used the work of the same expert for a long period of time or in multiple professional services activities.
- (d) Intimidation threats
 - A professional accountant feels pressure to defer to the expert's opinion due to the expert's perceived authority.

Evaluating Threats

290.148 A1 Factors that are relevant in evaluating the level of such threats include:

- The scope and purpose of the work of the expert.
- The materiality of the subject matter of the expert's work to the information being reported.
- The nature of the engagement in which the expert's work is intended to be used.
- The degree of reliance by the professional accountant on the work of the expert.
- The ~~firm~~ employing organization's oversight relating to the use of the expert and the expert's work.
- Whether there are multiple experts involved.
- The complexity and subjectivity of the expert work.
- The source and reliability of the underlying data and other inputs used by the expert.
- The expert's ability to explain the inputs, assumptions, methodologies and conclusions of the expert's work.
- The reasonableness of and transparency over the data, assumptions and other inputs and methods used by the expert and whether the expert has mitigated any bias.
- Whether the work of the expert is subject to technical performance standards or other professional or industry generally accepted practices, or law or regulation, such that the work, if performed by two or more parties, is not likely to be materially different.
- The reasonableness of the expert's findings or conclusions and the accountant's ability to understand and explain the expert's work and its appropriateness for the intended purpose.
- The consistency of the expert's work, including the expert's conclusions or findings, with other information.
- The availability of academic research or other evidence to support the expert's approach.
- Whether there is pressure being exerted by the ~~firm~~ employing organization to accept the expert's conclusions or findings due to the time or cost spent by the expert in performing the work.

Using the Work of Multiple Experts

R290.159 When a professional accountant uses the work of more than one expert in the performance of a professional service activity, the accountant shall consider whether, in addition to the threats that might be created by using each expert individually, the combined effect of using the work of the experts might create or impact the level of threats.

290.159 A1 Factors that are relevant in evaluating the level of threats created by using the work of multiple experts include:

- How the combined effect of using multiple experts impacts the complexity of exercising professional judgment.
- Whether the combined work of the experts forms a material part of the information assessed or used for purposes of the engagement.

Addressing Threats

290.~~1620~~ A1 An example of an action that might eliminate such threats is identifying a different expert to use.

290.~~1620~~ A2 Examples of actions that might be safeguards to address such threats include:

- Consulting with qualified personnel [within the employing organization](#) who have the necessary knowledge, skills and experience to evaluate the expert's work, obtain additional input, or challenge the appropriateness of the expert's work for the intended purpose.
- Obtaining a second opinion on the expert's work.

Communicating with Management and Those Charged with Governance When Using the Work of an Expert

290.~~1724~~ A1 The professional accountant is encouraged to communicate with management, and where appropriate, those charged with governance:

- The purpose of using an expert and the scope of the expert's work.
- The respective roles and responsibilities of the accountant and the expert in the performance of the professional ~~service~~ activity.
- Any threats to the accountant's compliance with the fundamental principles created by using the work of the expert and how they have been addressed.

Documentation

290.~~1822~~ A1 The professional accountant is encouraged to document:

- The steps taken by the accountant to evaluate the expert's competence, capabilities and objectivity, and the resulting conclusions.
- Any significant threats identified by the accountant in using the expert's work and the actions taken to address the threats.
- The results of any discussions with the expert.

Part 5 Equivalent of Part 3 for Sustainability Assurance

IESBA Meeting Materials – September

The paragraph and section numbering in Part 5 will be discussed at the September 2023 meeting during the Sustainability Workstream 1 and 2 sessions.

For the purposes of this document, the paragraph numbering mirrors that of the equivalent:

- Section 320 in the extant Code; and
- Proposed new Section 390 in Agenda Item 7-C.

Note to IESBA:

Mark-Up of Draft Part 5 Ethics Standards Circulated by Sustainability Workstream 2 on August 3, 2023

SECTION 320

PROFESSIONAL APPOINTMENTS

...

Requirements and Application Material

...

Using the Work of an Expert

~~R320.10~~ — When a sustainability assurance practitioner intends to use the work of an expert in the course of performing an engagement for a sustainability assurance client, the practitioner shall determine whether the use is appropriate for the intended purpose.

~~320.10 A1~~ — Factors to consider when a sustainability assurance practitioner intends to use the work of an expert include:

- ~~The reputation and expertise of, and the resources available, to the expert.~~
- ~~Whether the expert is subject to applicable professional and ethics standards.~~

~~Such information might be gained from prior association with, or from consulting others about, the expert.~~

...

Other Considerations

320.11~~2~~ A1 When a sustainability assurance practitioner is considering using ~~the work of experts or~~ the output of technology, a consideration is whether the practitioner is in a position within the firm to obtain information in relation to the factors necessary to determine whether such use is appropriate.

~~320.11 A2~~ When a sustainability assurance practitioner intends to use the work of an expert, the requirements and application material set out in Section 390 apply.

...

Note to IESBA:

Mark-Up of Proposed New Section 390 in Agenda Item 7-C

Following the IESBA's September meeting and input, the relevant sustainability examples in the draft text will be shared with the Sustainability Reference Group (SRG) for comment. As appropriate, the draft text will also be shared with the SRG to ensure it is sufficiently professional-neutral.

PROPOSED NEW SECTION 390 USING THE WORK OF AN EXPERT

Introduction

- 390.1 ~~Professional accountant~~Sustainability assurance practitioners are required to comply with the fundamental principles and apply the conceptual framework set out in Section 120 to identify, evaluate and address threats.
- 390.2 Using the work of an expert might create threats to compliance with the fundamental principles, particularly the principles of integrity, objectivity and professional competence and due care.
- 390.3 This section sets out requirements and application material relevant to applying the conceptual framework in relation to using the work of an expert.

Requirements and Application Material

Circumstances Where an Expert Might Be Used

390.4 A1 An expert might be used to undertake specific work to support an professional service engagement provided performed by a ~~professional accountant~~sustainability assurance practitioner. Such work can be in a field that is well-established or that is emerging. Examples of such work include:

- ~~• The valuation of complex financial instruments, land and buildings, plant and machinery, jewelry, works of art, antiques, intangible assets, assets acquired and liabilities assumed in business combinations, and assets that may have been impaired.~~
- ~~• The actuarial calculation of liabilities associated with insurance contracts or employee benefit plans.~~
- ~~• The estimation of oil and gas reserves.~~
- The valuation of environmental liabilities, and site clean-up costs.
- The interpretation of contracts, laws and regulations, including tax laws and regulations, tax treaties and bilateral agreements.

- ~~The accounting for specific matters, including applying methods of accounting for deferred income tax or financial instruments.~~
 - The calculation of greenhouse gas emissions.
 - The definition and measurement of pollutants emitted to air, water and soil.
 - The valuation of products and materials designed along principles for a sustainable circular economy, including durability, reusability, reparability, disassembly, remanufacturing, and recycling.
 - Assessment and evaluation of cybersecurity systems.
- 390.4 A2 Individuals or organizations that provide datasets for general purpose are not experts. Such individuals or organizations include, for example, those that provide industry or other benchmarking data or studies, such as information about employment statistics (for instance, hours worked and compensation per week by geographical area), ~~real estate prices~~ that is suitable for use by a broad range of users, or carbon emissions by vehicle type ~~mortality tables~~ for general use.
- R390.5** If a ~~professional accountant sustainability assurance practitioner~~ determines that expertise outside the ~~accountant practitioner~~'s knowledge and skills is needed to assist the ~~accountant practitioner~~ in performing an professional service engagement for a sustainability assurance client, the ~~accountant practitioner~~ shall identify an expert for this purpose.
- 390.5 A1 A self-interest threat to compliance with the fundamental principles of integrity and professional competence and due care is created if a ~~professional accountant sustainability assurance practitioner~~ has insufficient expertise to perform an professional service engagement for a sustainability assurance client.

Agreeing the Work to be Performed by an Expert

All Engagements Performed for a Sustainability Assurance Client ~~Professional Services~~

- R390.6** If the ~~professional accountant sustainability assurance practitioner~~ has identified an expert to use for an professional service engagement, the ~~accountant practitioner~~ shall agree the terms of engagement with the expert, including the nature and scope of the work to be performed by the expert.
- 390.6 A1 In agreeing the terms of engagement, matters that the ~~professional accountant sustainability assurance practitioner~~ might discuss with the expert include:
- The purpose, intended use and timing of the expert's work.
 - The general approach to the expert's work.
 - The expected format and content of the expert's completed work, including any assumptions made and limitations to that work.
 - Expectations regarding the expert's objectivity, including information needed from the expert to facilitate the ~~accountant practitioner~~'s evaluation of that objectivity.
 - Expectations regarding confidentiality of the expert's work and its inputs.

Evaluating Whether to Use the Work of the Expert

All ~~Engagements Performed for a Sustainability Assurance Client~~ ~~Professional Services~~

- R390.7** In determining whether it is appropriate to use the work of the expert, the ~~professional accountant sustainability assurance practitioner~~ shall evaluate the expert's competence, capabilities and objectivity.
- 390.7 A1 An expert whose work is used to assist a ~~professional accountant sustainability assurance practitioner~~ in performing an ~~professional service engagement~~ might be:
- (a) An external expert; or
 - (b) An expert employed by the ~~accountant practitioner's firm~~.
- 390.7 A2 If in the course of performing an ~~professional service engagement~~, the ~~professional accountant sustainability assurance practitioner~~ uses the work of a management's expert, such work is deemed to be information provided by management for the purposes of this section.
- 390.7 A3 In the context of an ~~audit or other sustainability~~ assurance engagement, depending on their role, an expert is:
- (a) An engagement team member if the expert performs ~~audit or other~~ assurance procedures for the engagement;
 - (b) A ~~sustainability n-audit or~~ assurance team member if the expert provides consultation on the ~~audit or other sustainability~~ assurance engagement which can directly influence the outcome of the engagement;
 - (c) An external expert if the expert is engaged by the ~~professional accountant sustainability assurance practitioner's firm~~ and the expert's work is used to assist the ~~accountant practitioner~~ in obtaining sufficient appropriate evidence; or
 - (d) A management's expert if the expert is employed or engaged by the ~~audit or sustainability~~ assurance client and the expert's work is used to assist the entity in preparing the financial or non-financial information.
- 390.7 A4 A self-interest or advocacy threat to compliance with the principles of integrity, objectivity and professional competence and due care might be created if a ~~professional accountant sustainability assurance practitioner~~ uses an expert that does not have the competence, capabilities or objectivity to deliver the expert work needed for the particular ~~professional service engagement~~.
- 390.7 A5 Factors that are relevant in evaluating the competence of the expert include:
- Whether the expert's credentials, education, training, experience and reputation are relevant to, or consistent with, the nature of the work to be performed.
 - Whether the expert belongs to a professional body and, if so, whether the expert is in good standing.
 - Whether the expert's work is subject to professional standards issued by a recognized body, or follows generally accepted principles or practices, in the expert's field or area of expertise.

- Whether the expert has a track record of performing similar work for the ~~professional accountant sustainability assurance practitioner's firm~~ or other clients.
- Where the expert is employed by the ~~accountant practitioner's firm~~, whether their expertise has been validated by an accreditation or similar process established by the ~~practitioner firm~~.

390.7 A6 Factors that are relevant in evaluating the capabilities of the expert include:

- The resources available to the expert.
- Whether the expert has adequate time to perform the work.

390.7 A7 Factors that are relevant in evaluating the objectivity of the expert include:

- Whether the expert is subject to ethics standards issued by a ~~recognized~~ professional body in the expert's field or area of expertise.
- Whether the expert has a conflict of interest in relation to the work the expert is performing at the entity.
- Whether there is any known potential bias that might affect the exercise of the expert's professional judgment.
- Whether the expert will evaluate or rely on any previous judgments made or activities performed by the expert in undertaking the work.
- Where the expert is employed by the ~~professional accountant sustainability assurance practitioner's firm~~, whether the expert is subject to the ~~firm's practitioner's~~ system of quality management addressing threats to compliance with the principle of objectivity.

Paragraphs R390.10 to R390.13 set out required further actions in evaluating the objectivity of an expert in an ~~audit or other~~ sustainability assurance engagement.

390.7 A8 Examples of previous judgments made or activities performed by an expert that might create a threat to the expert's objectivity include:

- Advising the entity on the matter for which the expert is performing the work.
- Producing data or other information for the entity which is then used by the expert in performing the work or is the subject of that work.

390.7 A9 Information about an expert's competence, capabilities and objectivity might be obtained from various sources, including:

- Personal association or experience with previous work undertaken by the expert.
- Consulting with others within or outside the ~~professional accountant sustainability assurance practitioner's firm~~ who are familiar with the expert's work.
- Discussion with the expert about their background, including their field of expertise and business activities.
- Making inquiries of the expert's professional body or industry association.
- Published papers or books written by the expert.

- External recognition or accolades.
- Published records, such as legal proceedings involving the expert.
- Inquiry with the sustainability assurance client and, if different, the entity at which the expert is performing the work regarding any interests and relationships between the expert and the client or the entity.

Experts in Emerging Fields or Areas

- 390.8 A1 Expertise in emerging fields or areas might evolve depending on how laws, regulations and generally accepted practices develop. There might therefore be limited availability of experts in emerging fields or areas.
- 390.8 A2 Some of the factors relevant to evaluating the competence of an expert in paragraph 390.7 A5 might not be applicable if expertise in an emerging field or area is nascent. For example, there might not be public recognition of the expert, professional standards might not have been developed, or professional bodies might not have been established in the emerging field. In such circumstances, a factor that might assist the ~~professional accountant~~ sustainability assurance practitioner in evaluating an expert's competence is the expert's experience in a similar field as the emerging field, or in an established field, that provides a reasonable basis for the expert's work in the emerging field.

Inherent Limitations in Evaluating an Expert's Competence, Capabilities or Objectivity

- 390.9 A1 Paragraph R113.3 sets out communication responsibilities for the ~~professional accountant~~ sustainability assurance practitioner with respect to limitations inherent in the ~~accountant practitioner's~~ professional service engagements. When using the work of an expert, such communication might be especially relevant when there is a lack of information to evaluate the expert's competence, capabilities or objectivity, and there is no available alternative to that expert.

Further Actions in Evaluating the Objectivity of an External Expert in a Sustainability n-Audit or Other Assurance Engagement

- R390.10** In evaluating the objectivity of an external expert in a sustainability n-audit or other assurance engagement pursuant to paragraph R390.7, the ~~professional accountant~~ sustainability assurance practitioner shall request the external expert to disclose, in relation to the entity at which the expert is performing the work and with respect to the period covered by the ~~audit or~~ assurance report and the engagement period, information about:
- (a) Any direct financial interest or material indirect financial interest held by the external expert or their immediate family in the entity;
 - (b) Any loan, or guarantee of a loan, made to the entity by the external expert or their immediate family, unless the loan or guarantee is immaterial to both the expert and the entity;
 - (c) Any loan, or a guarantee of a loan, accepted by the external expert or their immediate family from the entity if it is a bank or similar institution, unless the loan or guarantee is made under normal lending procedures, terms and conditions;

- (d) Any loan, or a guarantee of a loan, accepted by the external expert or their immediate family from the entity if it is not a bank or similar institution, unless the loan or guarantee is immaterial to both the expert and the entity;
 - (e) Any close business relationship between the external expert or their immediate family and the entity or its management, unless any financial interest is immaterial and the business relationship is insignificant to the expert and the entity or its management;
 - (f) Any long association between the external expert and the entity;
 - (g) Any previous public statements by the external expert which advocate for the entity;
 - (h) Any position as a director or officer of the entity, or an employee in a position to exert significant influence over the preparation of the entity's financial or non-financial information, or the records underlying such information:
 - (i) Held by the external expert or their immediate family; or
 - (ii) Previously held by the external expert before the period covered by the ~~audit or~~ assurance report;
 - (i) Any material fee or contingent fee or dependency on fees or other types of remuneration due to or received by the external expert from the entity;
 - (j) Any conflict of interest in relation to the work the external expert is performing at the entity; and
 - (k) If the external expert is an organization, the nature and extent of interests and relationships between the controlling owner of the external expert and the entity.
- 390.10 A1 Where the external expert uses a team to carry out the expert's work, paragraph R390.10 applies equally to all members of the team.
- R390.11** A ~~professional accountant sustainability assurance practitioner~~ shall request the external expert to communicate any changes in facts or circumstances regarding the matters set out in paragraph R390.10 that might arise during the period covered by the ~~audit or~~ assurance report or the engagement period.
- R390.12** A ~~professional accountant sustainability assurance practitioner~~ shall request each of the external expert and the sustainability assurance client to notify the ~~accountant practitioner~~ about any other interest, relationship or circumstance of which they are aware between:
- (a) The expert and the sustainability assurance client; and
 - (b) The expert and the entity at which the expert is performing the work, if different from the client.
- R390.13** When the ~~professional accountant sustainability assurance practitioner~~ is notified of an interest, relationship or circumstance pursuant to paragraph R390.12, the ~~accountant practitioner~~ shall include it when identifying and evaluating threats to the external expert's objectivity.
- 390.13 A1 Examples of interests, relationships or circumstances that might be included in the evaluation of the external expert's objectivity include, in relation to the sustainability assurance client or, if different, the entity at which the expert is performing the work:

- Any direct financial interest or material indirect financial interest in the client held by the expert or their immediate family.
- Close family members or other close relationships of the expert who are in a position to exert significant influence over the preparation of the financial or non-financial information of the entity, or the records underlying such information.
- Any interests or relationships with the client and those entities over which it has direct or indirect control.

Concluding on Using the Work of the Expert

All ~~Engagements Performed for a Sustainability Assurance Client~~ ~~Professional Services~~

R390.14 The ~~professional accountant~~ sustainability assurance practitioner shall conclude, based on the evaluation of the expert's competence and capabilities, and any identified threats to the expert's objectivity, whether the expert is competent, has the capabilities, and is objective.

R390.15 If the ~~professional accountant~~ sustainability assurance practitioner concludes that the expert is not competent, capable or objective, the ~~accountant~~ practitioner shall not use the expert's work.

390.15 A1 Where an expert is employed by the ~~professional accountant sustainability assurance practitioner's firm and~~, that individual expert is bound by the same ethical and, if applicable, independence requirements that apply to the ~~accountant individual practitioner~~. ~~Accordingly~~, compliance with those requirements will satisfy the objectivity requirement for the expert under paragraphs R390.7 and R390.14.

Potential Threats Arising from Using the Work of an Expert

All ~~Engagements Performed for a Sustainability Assurance Client~~ ~~Professional Services~~

R390.16 Where a ~~professional accountant~~ sustainability assurance practitioner is using the work of an expert, the ~~professional accountant~~ practitioner shall identify, evaluate, and address any threats to compliance with the fundamental principles.

Identifying Threats

390.17 A1 Examples of facts and circumstances that might create threats for a ~~professional accountant~~ sustainability assurance practitioner when using an expert's work include:

(a) Self-interest threats

- A ~~professional accountant~~ sustainability assurance practitioner has insufficient understanding of the expert's work to explain the expert's conclusions and findings.
- A ~~professional accountant~~ sustainability assurance practitioner has undue influence from, or undue reliance on, an expert or multiple experts when performing a ~~professional service engagement~~.

(b) Familiarity threats

- A ~~professional accountant~~ sustainability assurance practitioner has used the work of the same expert for a long period of time or in multiple ~~professional service engagements~~.

(c) Intimidation threats

- A ~~professional accountant~~ sustainability assurance practitioner feels pressure to defer to the expert's opinion due to the expert's perceived authority.

Evaluating Threats

390.18 A1 Factors that are relevant in evaluating the level of such threats include:

- The scope and purpose of the work of the expert.
- The materiality of the subject matter of the expert's work to the sustainability information being reported.
- The nature of the engagement in which the expert's work is intended to be used.
- The degree of reliance by the ~~professional accountant~~ sustainability assurance practitioner on the work of the expert.
- The sustainability assurance practitioner's firm's oversight relating to the use of the expert and the expert's work.
- Whether there are multiple experts involved.
- The complexity and subjectivity of the expert work.
- The source and reliability of the underlying data and other inputs used by the expert.
- The expert's ability to explain the inputs, assumptions, methodologies and conclusions of the expert's work.
- The reasonableness of and transparency over the data, assumptions and other inputs and methods used by the expert and whether the expert has mitigated any bias.
- Whether the work of the expert is subject to technical performance standards or other professional or industry generally accepted practices, or law or regulation, such that the work, if performed by two or more parties, is not likely to be materially different.
- The reasonableness of the expert's findings or conclusions and the ~~accountant~~ practitioner's ability to understand and explain the expert's work and its appropriateness for the intended purpose.
- The consistency of the expert's work, including the expert's conclusions or findings, with other information.
- The availability of academic research or other evidence to support the expert's approach.
- Whether there is pressure being exerted by the individual practitioner's firm to accept the expert's conclusions or findings due to the time or cost spent by the expert in performing the work.

Using the Work of Multiple Experts

R390.19 When a ~~professional accountant~~ sustainability assurance practitioner uses the work of more than one expert in the performance of an ~~professional service engagement~~, the ~~accountant~~ practitioner shall consider whether, in addition to the threats that might be created by using

each expert individually, the combined effect of using the work of the experts might create or impact the level of threats.

390.19 A1 Factors that are relevant in evaluating the level of threats created by using the work of multiple experts include:

- How the combined effect of using multiple experts impacts the complexity of exercising professional judgment.
- Whether the combined work of the experts forms a material part of the information assessed or used for purposes of the engagement.

Addressing Threats

390.20 A1 An example of an action that might eliminate such threats is identifying a different expert to use.

390.20 A2 Examples of actions that might be safeguards to address such threats include:

- Consulting with qualified personnel who have the necessary knowledge, skills and experience to evaluate the expert's work, obtain additional input, or challenge the appropriateness of the expert's work for the intended purpose.
- Obtaining a second opinion on the expert's work.

Communicating with Management and Those Charged with Governance When Using the Work of an Expert

390.21 A1 The ~~professional accountant~~ sustainability assurance practitioner is encouraged to communicate with management, and where appropriate, those charged with governance:

- The purpose of using an expert and the scope of the expert's work.
- The respective roles and responsibilities of the ~~accountant practitioner~~ and the expert in the performance of the ~~professional service engagement~~.
- Any threats to the ~~accountant practitioner~~'s compliance with the fundamental principles created by using the work of the expert and how they have been addressed.

Documentation

390.22 A1 The ~~professional accountant~~ sustainability assurance practitioner is encouraged to document:

- The steps taken by the ~~accountant practitioner~~ to evaluate the expert's competence, capabilities and objectivity, and the resulting conclusions.
- Any significant threats identified by the ~~accountant practitioner~~ in using the expert's work and the actions taken to address the threats.
- The results of any discussions with the expert.

IESBA update

Reason for agenda item

To provide project summaries for IESBA's key projects and task forces. IESBA's projects on sustainability and use of experts are in agenda items 7 and 8.

The September 2023 [meeting highlights and decisions](#) was issued by IESBA.

Division staff welcomes input on any of the projects.

Materials presented

- Agenda item 9B: IESBA strategy and work plan
- Agenda item 9C: Tax planning and related services
- Agenda item 9D: Technology

IESBA strategy and work plan

Project description

To seek stakeholder input on what key trends, developments, or issues IESBA should consider as it develops its Strategy and Work Plan 2024–2027 (SWP).

Status

In April 2023, IESBA released its [proposed IESBA Strategy and Work Plan 2024-2027](#), and the comment period closed on July 7, 2023. IESBA received a total of [44 comment letters](#) to its SWP.

Project update

During its September 2023 meeting, IESBA considered [significant comments](#) raised by respondents to the SWP and the planning committee’s responses.

Proposed update to strategic drivers

The planning committee proposed that the SWP highlight a strategic direction of revising the full code to be profession-agnostic. Some board members supported the expansion of the code beyond professional accountants, and others indicated that the focus should be on strengthening the code. IESBA also discussed how to approach this matter during the next strategy period and noted the need for further stakeholder engagement on the topic.

Ms. Dourdourekas and Ms. Lee-Andrews will represent PEEC and the AICPA at IESBA’s National Standard Setters meeting in November. Division staff sent a survey to gather the committee’s input on important topics.

Proposed update to potential projects

The planning committee proposed to add a work stream on the topic of firm culture and governance. This proposal is a result of recent high-profile ethical breaches.

The potential projects and priority are as follows:

Projects	Priority
Role of CFOs and other senior professional accountant in business	High
Business relationships	High
Audit firms – Audit client relationships	High
Definitions and descriptions of terms	High

Firm culture and governance	High
Custody of data	Low
Communication with those charged with governance	Low

Some board members expressed concerns regarding the priority and the number of potential projects, considering the ongoing and pre-committed projects as well as the potential expansion of the code.

Ongoing and pre-committed projects

IESBA focused on the proposed projects as well as the change to the scope of the code. There was no significant discussion about ongoing and pre-committed projects.

Ongoing projects:

- Sustainability
- Use of experts
- Collective investment vehicles/Pension funds/Investment company complexes
- Post-implementation reviews (PIR) – NOCLAR

Pre-committed projects:

- PIR – Long association phase 2
- PIR – Restructured code
- PIR – Nonattest services and fees
- PIR – Definitions of public interest entities

Timeline

The current timeline for this project is as follows:

IESBA approval of SWP	December 2023
Public Interest Oversight Board approval	April 2024
Release of SWP 2024-2027	April 2024

Tax planning and related services

Project description

To develop a principles-based framework, leveraging the fundamental principles and the conceptual framework, to guide professional accountants' ethical conduct when providing tax planning (TP) and related services to employing organizations and clients, thereby maintaining the IESBA code's robustness and relevance as a cornerstone of public trust in the global accountancy profession.

Status

The [Tax Planning and Related Services exposure draft](#) (ED) was issued in February 2023. PEEC and the Tax Executive Committee (TEC) sent a [joint comment letter](#) on May 22, 2023. IESBA has received [50 comment letters](#). The task force gave IESBA a high-level overview of significant comments raised in the comment letters at the board's June 2023 meeting.

Project update

The task force considered all comments from respondents during three meetings in July and August, discussed the way forward, and developed revisions to the proposals in the ED in response to the comment letters. At its September meeting, IESBA reviewed revisions to [proposed section 380](#) and [proposed section 280](#). The Summary of Significant Comments on Exposure and Task Force Proposals distributed to the board can be found [here](#).

The task force discussed the revisions to the proposed sections, many of which were included in the AICPA joint comment letter. In particular, the descriptions of tax planning services and related services were amended to clarify that financial services in which tax planning was an ancillary service would not be within the scope of the new code sections.

The task force addressed AICPA comments regarding tax planning products or arrangements developed by a third-party by clarifying that where the professional accountant only recommends or refers a client to a third-party provider of tax planning services, the provisions of the proposed code would not apply.

The task force received many comments regarding the requirement to consider the reputational, commercial, and wider economic consequences that stakeholders might view the tax planning arrangement, also referred to as the "stand-back test." Though many respondents, including the AICPA, recommended elimination of the stand-back test the task force included the requirement. The task force acknowledged the concern of respondents that the test would lead PAs to conduct extensive research to understand the full impact of the TP arrangement on the wider economy of relevant jurisdictions. The task force noted that the requirement explicitly calls for the PA to exercise professional judgment in applying the test. Thus, the more complex the TP arrangement, the greater the consideration will be. Conversely, if the TP arrangement is

relatively simple, there may be little to no consideration needed. Nevertheless, to further emphasize that the consideration of the wider economic consequences is not intended to be more than the application of a general understanding of the current economic environment, the task force proposed the revised language to the application guidance for this requirement:

An awareness of the wider economic consequences might take into account the professional accountant's **general** understanding of the **current economic environment and the** impact of the tax planning arrangement on the tax base of the jurisdiction or the relative impacts of the arrangement on the tax bases of multiple jurisdictions, where the client operates.

The AICPA also expressed concerns with the requirements in proposed paragraphs R380.13 and R280.13 to explain to management and, if appropriate, those charged with governance why a tax planning arrangement did not pass the stand-back test, as well as the requirements in proposed paragraphs R380.19 and R280.20 for the PA to disclose the basis of the PAs assessment when the PA disagrees with a client regarding whether a tax planning arrangement has credible basis. This was due to the concerns of PAs having limited protections regarding communications with taxpayers in the United States. Providing the proposed level of detail could expose the client to unintended consequences. The proposed revisions did not include any changes to the respective sections.

AICPA staff is continuing to monitor the task force’s activities and is starting to look at the proposed revised code sections in the context of convergence. An ongoing concern is IESBA’s introduction of additional performance standards, as opposed to ethical standards, in the proposed code sections whereas the United States has well-established tax performance standards in place with the AICPA Statements on Standards for Tax Services (SSTS) as well as through federal and state governmental regulatory structures.

Timeline

The current timeline for this project is as follows:

October-November 2023	Task force reviews board comments and conducts outreach activities to key stakeholders.
December 2023	IESBA reviews second draft with a goal of approving final standard.

Technology

Project description

To closely monitor the transformative effects of technology and to identify any new ethical issues that might be created.

Project update

In July 2023, the technology working group (TWG) and the technology experts group (TEG) met to discuss the TEG's progress on stress-testing the new [technology-related revisions](#) released in April 2023.

During its September 2023 meeting, the TWG presented the board with the highlights of the aforementioned meeting:

- The preliminary stress-testing results indicate that the provisions are robust and prevail to deliver an appropriate ethical conclusion, although some situations might be difficult to navigate.
- Given the inherent complexity of technology, it is unclear whether there are additional requirements, or IESBA simply highlights that situations involving technology are harder to navigate (120.5 A8).
- Regarding close business relationships, the TEG suggested that IESBA explore the development of a case study illustrating a firm's provision of technology solutions to a nonaudit client, where there may be indirect services rendered to an audit client in the background.
- The TEG also suggested that IESBA explore developing a case study highlighting what an appropriate level of knowledge is, so that a professional accountant could illustrate enough competence and due care in a technology space.
- The TWG and the TEG also discussed threats and challenges associated with artificial intelligence, blockchain, contract readers, smart contracts that use external data sources, and client and engagement acceptance dilemmas.

The TWC and the TEG plan to further discuss the aforementioned subjects and consider what, if any, non-authoritative guidance is warranted.

A TEG member provided an educational session on navigating the evolving landscape of business risks and fraud in the technological era.

IESBA Convergence: NAS – General

Task force members

Andy Bonner (chair), Anna Dourdourekas, Kenneth Omoruyi, Lisa Snyder

Observers

Vincent DiBlanda, Brandon Mercer

AICPA staff

Liese Faircloth, Ellen Gorla

Task force charge

To consider the [Final Pronouncement: Revisions to the Non-Assurance Service Provisions](#) of the International Ethics Standards Board for Accountants (IESBA) code specifically related to recruiting and corporate finance services and for evaluating the self-review threat before performing nonattest services (IESBA NAS) and determine what changes, if any, are needed to the AICPA Code of Professional Conduct.

Reason for agenda item

To update the committee on recent task force activities and seek input on the direction of the task force.

Task force activities

The task force reviewed the gap analysis prepared by staff and noted the following topics were absent from or not consistent with the AICPA code:

- Self-review threat
- Administrative services
- Corporate Finance service
- Recruiting services

The task force's analysis and recommendations for these topics follow.

Self-review threat

In paragraph R600.14, the IESBA code requires the professional accountant to evaluate the self-review threat before performing a nonattest service to determine whether there is a risk of the following:

- a. The results of the services will form part of or affect the accounting records, the internal controls over financial reporting, or the financial statements on which the firm will

express an opinion

- b. In the course of the audit of those financial statements on which the firm will express an opinion, the audit team will evaluate or rely on any judgements made or activities performed by the firm or network firm when providing the service

The "[Scope and applicability of nonattest services](#)" interpretation (ET sec. 1.295.010) of the AICPA code provides that a self-review threat may exist when nonattest services are performed. A self-review threat is described in the [Conceptual Framework for Independence](#) (ET sec. 1.210.010) as "The threat that a member will not appropriately evaluate the results of a previous judgment made, or service performed or supervised by the member or an individual in the member's firm and that the member will rely on that service in forming a judgment as part of an attest engagement."

Although the requirement to evaluate the level of the self-review threat is not included in "[Nonattest services](#)" subtopic (ET sec. 1.295), the AICPA code does identify the self-review threat as a possibility in multiple interpretations including these:

- Advisory Services
- Appraisal, Valuation, and Actuarial Services
- Bookkeeping, Payroll and Other Disbursements
- Corporate Finance Consulting
- Forensic Accounting
- Information Systems Services
- Internal Audit
- Investment Advisory or Management
- Tax Services

Thus, when the self-review threat is identified when providing nonattest services, the member would look to the applicable guidance to determine what services can and cannot be performed or put another way, whether the specific service would impair independence.

If the service is not specifically addressed, then the member would use the conceptual framework which requires the evaluation of the self-review threat.

The task force has concluded that the AICPA code is substantively converged with the IESBA

code as the self-review threat is addressed in the AICPA code by virtue of the “[Management Responsibilities](#)” interpretation (ET sec. 1.295.030) and the “[General Requirements for Performing Nonattest Services](#)” interpretation (ET sec. 1.295.040).

Question for the committee

1. Does the committee agree that the IESBA and AICPA codes are converged with respect to the self-review threat?

Administrative services

Subsection 602 of IESBA’s code addresses administrative services as being clerical in nature and requiring little or no professional judgement, such as the following:

- Word processing or document formatting
- Preparing administrative or statutory forms for client approval
- Submitting such forms as instructed by the client
- Monitoring statutory filing dates and advising an audit client of those dates

IESBA concludes that, so long as individuals within the firm do not assume a management responsibility, these services generally do not create a threat to the firm’s independence.

The AICPA code does not have a specific interpretation that addresses administrative services.

The task force noted that it was unclear whether these services would be permitted or prohibited under the AICPA code. The task force believes that although it is not a direct correlation, guidance in the “[Tax Services](#)” interpretation (ET sec. 1.295.140) would be applicable as it relates to the preparation of forms and returns for management’s approval and the submission of such forms when authorized by management.

The task force determined that nonauthoritative guidance related to routine activities would be sufficient to address these types of administrative services and to substantially converge IESBA and AICPA guidance.

Questions for the committee

2. Does the committee believe nonauthoritative guidance that addresses administrative

services would be sufficient to converge IESBA and AICPA guidance?

3. If so, would Q&As and a discussion in the *Plain English Guide to Independence* be sufficient nonauthoritative guidance?

Corporate finance services

IESBA addresses corporate finance services in subsection 610.

Paragraph R610.5 prohibits a firm or a network firm from providing corporate finance services that involve promoting, dealing in, or underwriting the shares, debt or other financial instruments issued by the audit client or providing advice on investment in such shares, debt or other financial instruments.

IESBA's Basis for Conclusion document clarified that the prohibition in paragraph R610.5 specifically applies to the providing of advice on investment in such shares, debt or other financial instruments issued by the audit client. Furthermore, due to the degree of subjectivity involved in determining the appropriate treatment for the outcome or consequence of such advice in the financial statements, the service is prohibited by the IESBA code given the self-review threat.

The "[Corporate Finance Consulting](#)" interpretation (ET sec. 1,295.130) is similar to IESBA in that it also prohibits a member from acting as a promoter, an underwriter, a broker-dealer, or a guarantor of an attest client's securities or as a distributor of private placement memoranda or offering documents.¹ The task force agreed that this AICPA prohibition could be akin to IESBA's "providing advice on investment in such shares, debt or other financial instruments" to third parties.

Although not expressly prohibited, the "[Conflicts of Interest for Members in Public Practice](#)" interpretation (ET sec. 1.110.010 par. 04) states that a conflict of interest may arise when "providing corporate finance services to a client seeking to acquire an audit client of the firm, when the firm has obtained confidential information during the course of the audit that may be relevant to the transaction." Thus, the task force agreed that providing advice to a third party seeking to invest in a member's attest client, in essence be considered as promoting that attest client.

¹ A similar situation is included as an example of when the advocacy threat exists under [item a](#) in paragraph .13 of the Conceptual Framework for Independence "A member promotes the attest client's securities as part of an initial public offering".

Although not a direct correlation, the “[Appraisal, Valuation and Actuarial Services](#)” interpretation (ET sec. 1.295.110) does prohibit a member from providing services to an attest client when

- the services involve a significant degree of subjectivity, and
- the results of the service, individually or when combined with other valuation, appraisal, or actuarial services, are material to the attest client’s financial statements.

Examples of valuations that generally involve a significant degree of subjectivity include ESOPs, business combinations, or appraisals of assets or liabilities. Accordingly, if these services produce results that are material to the attest client’s financial statements independence would be impaired.

The task force concluded that the AICPA code is converged with paragraph R610.5 as recommending an investment in an attest client would be acting in an advocacy role for an attest client and would impair the member’s integrity and objectivity, but noted that some examples added to the conceptual framework could be helpful for members.

Paragraph R610.6 prohibits a firm or network firm from providing advice in relation to corporate finance services to an audit client where

- a. the effectiveness of such advice depends on a particular accounting treatment or presentation in the financial statements on which the firm will express an opinion and
- b. the audit team has doubt as to the appropriateness of the related accounting treatment or presentation under the relevant financial reporting framework.

This situation might be encountered when a firm is engaged to provide consulting services to an attest client. There would be two separate teams providing services to the client and the results of the consulting engagement would be subject to audit by the attest engagement team and the attest team has doubt about the accounting treatment provided by the nonattest team.

Providing advice on the effectiveness where there is doubt about the appropriateness the advice has on an accounting treatment or presentation in the financial statements is not just an independence issue. Paragraphs .03 and .04 of the “[Client Advocacy](#)” interpretation (ET sec. 1.140.010) provide that “Some professional services involving client advocacy may stretch the bounds of performance standards, go beyond sound and reasonable professional practice, or compromise credibility, thereby creating threats to the member’s compliance with the rules and damaging the reputation of the member and the member’s firm. If such circumstances exist, the member and *member’s firm* should determine whether it is appropriate to perform the professional services. When performing professional services requiring independence, a member shall also comply with the “[Independence Rule.](#)”

The task force discussed this issue at length and concluded that this is more of a business risk because the two teams disagree over the advice being provided to the client. Some questions the task force explored include these:

- If the nonattest team consulted with the accounting principal's group to develop the advice, who would the attest engagement team consult with? Would they consult with the same group or a different group?
- What does the client think if six months after the nonattest services is concluded, the attest engagement team questions the conclusions of the service?
- Does the firm have quality control systems in place to ensure this situation won't occur?

The task force believes that the IESBA code is encouraging the two teams to communicate while the corporate finance services are being provided, but the communication would increase the self-review threat or the audit team wouldn't spend the time to review the results of the nonattest service.

The task force discussed adding an example to the conceptual framework explaining that providing advice on investments in clients to third parties is not permitted as the member would be acting as an advocate for the client.

The task force has not reached a conclusion on how to address this within the code.

Question for the committee

4. Does the committee have any observations for the task force's consideration?

Recruiting services

IESBA addresses recruiting services in subsection 609. Paragraph R609.6 prohibits a firm or a network firm from providing recruiting service to an audit client if the service relates to any of the following:

- a. Searching for or seeking out candidates
- b. Undertaking reference checks of prospective candidates
- c. Recommending **the person** to be appointed
- d. Advising on the terms of employment, remuneration or related benefits of a **particular candidate**, with respect to the following positions

- i. A director or officer of the entity or
- ii. A member of senior management in a position to exert significant influence over the preparation of the client's accounting records or the financial statements on which the firm will express an opinion.

IESBA's Basis for Conclusion document provides that item (d) above "focuses on the provision of advice in relation to the arrangements for the employment of a particular candidate. It does not preclude the provision of general information to assist clients to determine the arrangements to be offered."

The "[Executive or Employee Recruiting](#)" interpretation (ET. sec. 1.295.135) provides that if the "General Requirements for Performing Nonattest Services" are met a member may

- recommend a position description or candidate specifications.
- solicit and screen candidates identified by the client based on criteria approved by the attest client, such as required education, skills, or experience.
- recommend qualified candidates to the attest client for their consideration based on criteria approved by the attest client.
- participate in employee hiring or compensation discussions in an advisory capacity.

However, the member is prohibited from

- committing the attest client to employee compensation or benefit arrangements.
- hiring or terminating attest client's employees.

The task force concluded that there are differences in the IESBA and AICPA codes related to providing recruiting services for officers, directors, or senior management in "key positions."

The AICPA code could be viewed as more restrictive because the prohibited services cannot be provided to any positions at the attest client, not just positions for director, officer or an individual in a position to influence the financial statements. If the permitted services under the AICPA code are viewed as conflicting with the IESBA prohibitions, the AICPA code could be viewed as less restrictive than the IESBA code since the permitted services could be provided to an attest client for a director, officer or member of senior management in a position to influence the financial statements positions.

There was considerable discussion about the difference between "searching for or seeking out" as used in the IESBA code and "solicit" as used in the AICPA code. It was suggested that this point could be converged either by taking out "solicit" from the AICPA code or by developing a

Q&A to differentiate between the two codes.

The IESBA code also prohibits the undertaking of reference checks. While this is not specifically addressed in the AICPA code, the task force believes that this is a management responsibility and as such is prohibited by the AICPA code. A Q&A could be developed to point out the prohibition.

Questions for the committee

5. Does the committee agree that the IESBA code and AICPA code differ in the phrases “searching for or seeking out” vs “solicit[ing]” candidates?
6. If so, does the committee prefer to removing “solicit” from the AICPA code or developing a Q&A to differentiate between the two sets of terminology?
7. Does the committee agree that performing reference checks is a management responsibility and as such is prohibited under the AICPA code?
8. If so, does the committee believe that development of a Q&A to explain this would be helpful to members?

IESBA convergence: Non- assurance services - General

November 2023

Task force charge

To consider the [Final Pronouncement: Revisions to the Non-Assurance Service Provisions](#) of the IESBA code specifically related to recruiting and corporate finance services and for evaluating the self-review threat before performing nonattest services and determine what changes, if any, are needed to the AICPA Code of Professional Conduct.

Self-review threat

The IESBA code requires the professional accountant to evaluate the self-review threat before performing a nonattest service to determine whether there is a risk that:

- a. The results of the services will form part of or affect the accounting records, the internal controls over financial reporting, or the financial statements on which the firm will express an opinion; and
- b. In the course of the audit of those financial statements on which the firm will express an opinion, the audit team will evaluate or rely on any judgements made or activities performed by the firm or network firm when providing the service.

Self-review threat (continued)

Task force determined that the self-review threat is addressed by the AICPA code by virtue of the “Management Responsibilities” and “General Requirements for Performing Nonattest Services” interpretations of our code.

We concluded that we are substantially converged with IESBAs code.

Does PEEC agree?

Administrative services

The IESBA Code addresses these services as being clerical in nature and require little or no professional judgement. As long as the firm doesn't assume management responsibilities, these services do not create a threat to independence.

- Word processing
- Preparing statutory forms for client approval
- Submitting forms as instructed by the client
- Monitoring statutory filing dates and advising audit client of dates

Administrative services (continued)

Currently not addressed by the AICPA code

- “Tax Services” interpretation is not a direct correlation, but is applicable as it relates to forms/returns for management approval and submission when authorized by management including review
- “Nonattest Services” subsection and “General Requirements” interpretation are applicable

The task force determined that nonauthoritative guidance would be sufficient.

Does PEEC agree that nonauthoritative guidance would be sufficient?

Would Q&As and discussion in Plain English Guide be sufficient?

Corporate finance services

The IESBA code prohibits a firm or a network firm from providing corporate finance services that involve promoting, dealing in, or underwriting the shares, debt or other financial instruments issued by the audit client *or providing advice on investment in such shares, debt or other financial instruments.*

The [“Corporate finance consulting”](#) interpretation prohibits a member from acting as a promoter, an underwriter, a broker-dealer, or a guarantor of an attest client’s securities.

The task force determined that we are converged because recommending an investment in an attest client would be acting as a promoter for the attest client and would impair independence.

Task force is still discussing this item.

Does PEEC have input for the task force to consider?

Corporate finance services (continued)

IESBA prohibits a firm or network firm from providing advice in relation to corporate finance services to an audit client where:

- a. The effectiveness of such advice depends on a particular accounting treatment or presentation in the financial statements on which the firm will express an opinion; **and**
- b. The audit team has doubt as to the appropriateness of the related accounting treatment or presentation under the relevant financial reporting framework.

This situation might be encountered when a firm provides consulting services to an attest client:

- 2 separate teams
- Results of consultation engagement are subject to audit

The “Assisting Attest Clients With Implementing Accounting Standards” interpretation provides examples of both permissible and prohibited activities.

Recruiting Services

IESBA code prohibits a firm or a network firm from providing recruiting service to an audit client if the service relates to:

- a. Searching for or seeking out candidates;
- b. Undertaking reference checks of prospective candidates;
- c. Recommending *the* person to be appointed; or
- d. Advising on the terms of employment, remuneration or related benefits of *a particular candidate*,

as it specifically relates to officers, directors, or senior management in “key positions”.

Recruiting services (continued)

Task force believes the AICPA code could be viewed as both more and less restrictive than IESBA code.

AICPA code perceived as more restrictive

The code prohibits these services for all positions.

- Recommending the person to be appointed,
- Advising on the terms of employment, remuneration or related benefits of a particular candidate

AICPA code perceived as less restrictive

The code does not prohibit this service.

- Undertaking of references checks of prospective candidates

Recruiting services (continued)

Does PEEC agree that there is a difference between “searching for or seeking out” vs “soliciting candidates”?

Does PEEC agree that performing reference checks is a management responsibility?

If we revise the AICPA code, should the prohibitions be limited to only key positions or to all positions?

IESBA code focuses on ‘key positions’



Together as the Association of International
Certified Professional Accountants

Thank you

IESBA Monitoring - Technology Task Force

IFAC Convergence and Monitoring Task Force members

Anna Dourdourekas (chair), Cathy Allen, Nancy Miller, Katherine Savage, Lisa Snyder

Observers

Brandon Mercer

AICPA staff

Ellen Gorla, Iryna Klepcha

Task force charge

The IFAC Convergence and Monitoring Task Force is charged with identifying projects that need to be undertaken due to inconsistencies between the [AICPA](#) and [IFAC](#) codes.

Reason for agenda item

To seek approval to form separate task forces to address confidential client information and using the output of technology. The goal of the task forces is to determine convergence needs for [the technology-related revisions](#) to the IESBA code issued in April 2023.

In November 2021, PEEC approved expansion of the charge of the existing Confidential Client Information and Data Security Task Force to include monitoring IESBA's revisions to the code related to data security. The IESBA code explicitly requires members to take reasonable steps to secure confidential information in the course of the entire data governance cycle. The Confidential Client Information and Data Security Task Force is considering convergence on this matter.

Task force activities

The IFAC Convergence and Monitoring Task Force discussed the AICPA and the IESBA codes on this topic; there are enough differences to warrant, among other things, appointing two new task forces to determine the necessary convergence steps related to the technology-related revisions. The IESBA code has the following requirements or addresses services that are absent from or not consistent with the AICPA code.

Confidentiality

The IESBA code prohibits disclosing confidential information to other individuals within a member's own firm or employing organization. Further, the IESBA code prohibits disclosing information, which was confidential when acquired in the course of a professional or business relationship and that subsequently becomes publicly available, whether properly or improperly.

The IFAC Convergence and Monitoring Task Force recommends appointing a task force to

determine the necessary convergence steps related to the confidentiality of client information and consider whether the current definition of confidential client information needs revision.

Using the output of technology

Members in business

The IESBA code requires professional accountants in business who intend to use the output of technology to determine the appropriate steps to take to fulfill the requirements related to preparation and presentation of information.

The IFAC Convergence and Monitoring Task Force recommends appointing a task force to consider whether and if so, how the AICPA code should address members' in business use of the output of technology.

Members in public practice

The IESBA code requires professional accountants in public practice who intend to use the output of technology to determine whether the use is appropriate for the intended purposes. The IFAC Convergence and Monitoring Task Force recommends staff perform further research to determine if guidance for members in public practice is lacking. Research will include outreach to AICPA committees and boards (for example, attestation standards, tax executive committee, forensic and valuation services executive committee) to determine how their professional standards address this matter.

Providing, selling, reselling or licensing technology

IESBA added additional examples of a close business relationship to its code:

- Arrangements under which the firm sells, resells the client's technology or when the client sells or resells the firm's technology
- Arrangements under which the firm or a network firm develops jointly with the client, products or solutions which one or both parties sell or license to third parties

The IFAC Convergence and Monitoring Task Force recommends the Business Relationships Task Force determine the necessary convergence steps related to the arrangement that may result in close business relationship.

IESBA's provision of nonassurance services to an audit client applies when firms have developed software for nonaudit clients who use such software to provide services that constitute a nonassurance service for its end users (that is., the nonaudit client's own customers) and where such end users are also audit clients of the firm. The IFAC Convergence and Monitoring Task Force also discussed a scenario in which a firm develops or is involved in developing technology that could affect financial reporting and then sells the technology to a third party that sells technology to others, potentially including audit clients of the firm.

The IFAC Convergence and Monitoring Task Force recommends staff develop nonauthoritative material clarifying when and how members should apply the information systems services interpretation in such circumstances. Consultation with former Information Systems Services Task Force members is recommended.

Independence for assurance engagements other than audit and review engagements

The independence requirements of the IESBA code do not apply to the agreed-upon procedures (AUP) engagements. The AICPA code is more restrictive because it includes independence requirements for the AUPs engagements.

IESBA's independence guidance requires that a firm should not assume a management responsibility related to the underlying subject matter in engagements performed in accordance with Statement on Standards for Attestation Engagements (SSAEs), other than AUPs. For such engagements, the AICPA code requires compliance with the general requirements, meaning that a member cannot assume a management responsibility at all. Therefore, the AICPA code is more restrictive.

Because the AICPA code is more restrictive on this topic, the IFAC Convergence and Monitoring Task Force believes convergence requirements are met. However, the Engagements Subject to the SSAEs Task Force discussed the difference in the codes and will update PEEC.

Threats associated with the use of technology

The IESBA code provides examples of threats associated with the use of technology (self-review and self-interest threats) and factors that could affect the level of the threats. The IFAC Convergence and Monitoring Task Force recommends the Artificial Intelligence Task Force consider IESBA's guidance when it develops nonauthoritative material.

Prohibition of assuming management responsibilities

The IESBA code explicitly prohibits assuming management responsibilities even if technology is used in performing a professional activity. Nonauthoritative material might be helpful to address situations in which tools make management decisions. Therefore, the IFAC Convergence and Monitoring Task Force recommends the Artificial Intelligence Task Force consider the IESBA's guidance when it develops nonauthoritative material.

Routine activities

[Paragraph .02](#) of the "General Requirements for Performing Nonattest Services" interpretation (ET sec. 1.295.040) indicates that the safeguards in [paragraph .01](#) of that interpretation and the "[Documentation Requirements When Providing Nonattest Services](#)" interpretation (ET. sec. 1.295.050) do not apply to certain routine activities performed by the member, such as providing advice and responding to the attest client's questions as part of the attest client-member relationship. [Paragraph .01 Routine Activities](#) of Q&A section 200 provides examples of such

routine activities, including educating the attest client on matters within the technical expertise of the member and responding to an attest client’s questions on tax matters.

The word “routine” is used in [paragraph .21](#) of the “Information Systems Services” interpretation (ET. sec. 1.295.145) and paragraphs [.06](#),–[.07](#) of the “Internal Audit” interpretation (ET. sec. 1.295.150) to describe prohibited activities.

Using the word “routine” to describe both prohibited and permitted activities might create confusion. The IFAC Convergence and Monitoring Task Force recommends staff explore how the guidance could be updated to address that.

Action needed

The committee is asked to appoint two new task forces and provide input on the timing of the projects given the committee’s current project timetable:

- Confidential Client Information Task Force– Determine the necessary convergence steps related to the confidentiality of client information and consider whether the current definition of confidential client information is relevant.
- Using the Output of Technology Task Force– Consider if and how the use of the output of technology should be addressed by the AICPA code.

The committee is asked to provide feedback on other IFAC Convergence and Monitoring Task Force’s recommendations:

Topic	Task force/Staff
Using the output of technology (members in public practice)	Staff (research) Using the Output of Technology Task Force
Providing, selling, reselling or licensing technology	The Business Relationships Task Force Staff with consultation of former Information Systems Services Task Force members
Independence for assurance engagements other than audit and review engagements	The Engagements Subject to the SSAEs Task Force
Threats associated with the use of technology Prohibition of assuming management	Artificial Intelligence Task Force

responsibilities	
Routine activities	Staff

Protecting client confidentiality and data security: PEEC Update

November 2023

Task force charge

To evaluate the need for revisions in the AICPA Code of Professional Conduct due to increased risks of intentional or unintentional disclosure of confidential information and technology-related revisions to the International Ethics Standards Board for Accountants (IESBA) Code of Ethics for Professional Accountants

Data protection

IESBA R114.1 and 114.1 A1

IESBA R114.1

A professional accountant shall comply with the principle of confidentiality, which requires an accountant to respect the confidentiality of information acquired **as a result of in the course of** professional and business relationships. An accountant shall:

- a) Be alert to the possibility of inadvertent disclosure, including in a social environment, and particularly to a close business associate or an immediate or a close family member;
- b) Maintain confidentiality of information within the firm or employing organization;

c) Maintain confidentiality of information disclosed by a prospective client or employing organization; **and**

d) Take reasonable steps to ensure that personnel under the accountant's control, and individuals from whom advice and assistance are obtained, **respect comply with** the accountant's duty of confidentiality.

114.1 A1 Maintaining the confidentiality of information acquired in the course of professional and business relationships involves the professional accountant taking appropriate action to protect the confidentiality of such information in the course of its collection, use, transfer, storage or retention, dissemination and lawful destruction.

Access final pronouncement at <https://www.ethicsboard.org/publications/final-pronouncement-technology-related-revisions-code>

Preliminary draft guidance language

Part 1

A member should make reasonable efforts to protect the confidentiality of client information obtained in the course of professional relationships during the entire governance cycle, including collection, use, transfer, storage, retention, dissemination and lawful destruction.

Part 2

A member should make reasonable efforts to protect his or her employer's confidential information obtained as a result of an employment relationship during the entire governance cycle, including collection, use, transfer, storage, retention, dissemination and lawful destruction.

Task force activities

Held meetings to discuss:

- Authoritative guidance, nonauthoritative guidance or no action
- Negligence vs affirmative obligation
- Part 1 or Part 2 or both
- Applicable rules for future guidance
 - “Client Confidential Information Rule”
 - “General Standards Rule”, b. Due Professional care
 - “Acts Discreditable Rule”

Next steps

- Further consider existing guidance
 - [“Confidential client Information Rule”](#) (ET sec. 1.700.001)
 - .01 A *member* in *public practice* shall not disclose any *confidential client information* without the specific consent of the *client*.
 - [“Confidential Information Obtained From Employment or Volunteer Activities”](#) interpretation (ET sec. 1.400.070), [“Confidential Information Obtained From Employment or Volunteer Activities”](#) interpretation (ET sec.2.400.070)
 - .01 A *member* should maintain the confidentiality of his or her employer’s or *firm’s* (employer) confidential information and should not use or disclose any confidential employer information obtained as a result of an employment relationship, such as discussions with the employer’s vendors, customers, or lenders (for example, any confidential information pertaining to a current or previous employer, subsidiary, affiliate, or parent thereof, as well as any entities for which the *member* is working in a volunteer capacity).
 - .03 A *member* should be alert to the possibility of inadvertent disclosure, particularly to a close business associate or *close relative* or *immediate family* member. The *member* should also take reasonable steps to ensure that staff under his or her control or others within the *employing organization* and persons from whom advice and assistance are obtained are aware of the confidential nature of the information.
 - [Statements on Standards for Tax Services](#) No. 1
 - 1.3.4. A member should make reasonable efforts to safeguard taxpayer data, including data transmitted or stored electronically.
 - 1.3.5. A member should consider applicable privacy laws when collecting and storing taxpayer data.

Are you aware of any other standards for the task force to consider?



Together as the Association of International
Certified Professional Accountants

Thank you

IESBA convergence: NAS – Tax services

Task force members

Jimmy Williams (chair), Vince DiBlanda, John Ford, Dan Vuckovich

Observers

Lisa Darnell, Brandon Mercer, Lori West

AICPA staff

Liese Faircloth, Ellen Gorla, Henry Grzes, John Wiley

Task force charge

To consider the [Final Pronouncement Non-Assurance Services](#) provisions of the International Ethics Standards Board for Accountants (IESBA) code related to tax services and to monitor the Statements on Standards for Tax Services (SSTs) and IESBA Tax Planning and Related Services project to determine what guidance may be necessary.

Reason for agenda item

To request approval of the task force charge.

Background

IESBA's Tax Services Subsection 604 provides guidance in the following areas:

- Tax services in general
- Tax return preparation
- Tax calculations for the purpose of preparing accounting entries
- Tax advisory services and tax planning services
- Tax services involving valuations
- Assistance in the resolution of tax disputes

Task force activities

The task force has discussed possible approaches to convergence between the AICPA code and the IESBA code regarding tax services for the areas in the list above.

Tax services in general

IESBA addresses tax services in subsection 604 of the revised code. R604.4 provides a new general tax services prohibition on a firm or a network firm providing a tax service or recommending a transaction to an audit client if the service or transaction relates to marketing, planning, or opining in favor of a tax treatment that was initially recommended, directly or

indirectly, by the firm or network firm, and a significant purpose of the tax treatment or transaction is tax avoidance, unless the firm is confident that the proposed treatment has a basis in applicable tax law or regulation that is likely to prevail.

IESBA's "[Basis for Conclusions](#)" document stated that respondents generally supported the proposed revisions to the tax services section of the code. However, many respondents commented on the use of the term "likely to prevail," noting that in their view it was subjective and unclear. Those respondents suggested, among other things, replacing the term with "more likely than not" because of its use in accounting literature and in the analogous PCAOB Rule 3522. IESBA decided to retain the "likely to prevail" term, noting that the Public Interest Oversight Board (PIOB) had expressed the view that the term "more likely than not" is perceived as being too low a threshold. Therefore, the "likely the prevail" terminology is used throughout the revised tax services subsection.

IESBA's new general standard requirement for all tax services for audit clients reads as follows:

R604.4 A firm or a network firm shall not provide a tax service or recommend a transaction to an audit client if the service or transaction relates to marketing, planning, or opining in favor of a tax treatment that was initially recommended, directly or indirectly, by the firm or network firm, and a significant purpose of the tax treatment or transaction is tax avoidance, unless the firm is confident that the proposed treatment has a basis in applicable tax law or regulation that is *likely to prevail*.

604.4 A1 Unless the tax treatment has a basis in applicable tax law or regulation that the firm is confident is likely to prevail, providing the non-assurance service described in paragraph R604.4 creates self-interest, self-review and advocacy threats that cannot be eliminated and safeguards are not capable of being applied to reduce such threats to an acceptable level.

PCAOB standard

The task force noted that Rule 3522 Tax Transactions in the PCAOB standards states that a registered public accounting firm is not independent of its audit client if the firm, or any affiliate of the firm, during the audit and professional engagement period, provides any nonaudit service to the audit client related to marketing, planning, or opining in favor of the tax treatment of, a transaction –

- a. Confidential Transactions - that is a confidential transaction; or
- b. Aggressive Tax Position Transactions - that was initially recommended, directly or indirectly, by the registered public accounting firm and a significant purpose of which is tax avoidance, unless the proposed tax treatment is at least *more likely than not* to be allowable under applicable tax laws.

Task force's preliminary view

The task force plans to further study the threshold issue to determine whether additional protections provided for in the U.S. environment would allow the conclusion that there is substantial convergence with IESBA on this topic. Planned research includes reviewing accounting and auditing standards, SSTs, and IRS standards.

Questions for the committee

1. Does the committee have any other suggestions on standards or practices the task force should consider?
2. Are there protections provided for in the U.S. environment that the committee recommends the task force consider?

Tax advisory services and tax planning services

Paragraph 604.11 A1 states tax advisory services and tax planning services comprise a broad range of services, such as advising the audit client how to structure its affairs in a tax efficient manner or advising on the application of a tax law or regulation. Paragraph 604.12 A1 states providing tax advisory and tax planning services to an audit client might create a self-review threat when there is a risk that the results of the services will affect the accounting records or the financial statements on which the firm will express an opinion. Such services might also create an advocacy threat.

Paragraph 604.12 A2 states providing tax advisory and tax planning services will not create a self-review threat if such services:

- a. Are supported by a tax authority or other precedent;
- b. Are based on an established practice (being a practice that has been commonly used and has not been challenged by the relevant tax authority); or
- c. Have a basis in tax law that the firm is confident is likely to prevail.

Paragraph 604.12 A3 states in addition to paragraph 604.3 A2, factors that are relevant in identifying self-review or advocacy threats created by providing tax advisory services and tax planning services to audit clients, and evaluating the level of such threats include:

- The degree of subjectivity involved in determining the appropriate treatment for the tax advice in the financial statements

- Whether the tax treatment is supported by a ruling or has otherwise been cleared by the tax authority before the preparation of the financial statements
- The extent to which the outcome of the tax advice might have a material effect on the financial statements

Paragraph R604.13 states a firm or a network firm shall not provide tax advisory services and tax planning services to an audit client when:

- a. the effectiveness of the tax advice depends on a particular accounting treatment or presentation in the financial statements; and
- b. the audit team has doubt as to the appropriateness of the related accounting treatment or presentation under the relevant financial reporting framework.

Paragraph 604.14 A1 states examples of actions that might be safeguards to address self-review or advocacy threats created by providing tax advisory and tax planning services to an audit client that is not a public interest entity include these:

- Using professionals who are not audit team members to perform the service might address self-review or advocacy threats.
- Having an appropriate reviewer, who was not involved in providing the service, review the audit work or service performed might address a self-review threat.
- Obtaining pre-clearance from the tax authorities might address self-review or advocacy threats.

The task force notes that the current "[Tax Services](#)" interpretation (ET sec. 1.295.160) in the nonattest services subtopic does not specifically address tax advisory services and tax planning services from independence perspective. The current "[Advisory Services](#)" interpretation (ET sec 1.295.105 par. .02) in the nonattest services subtopic permits the member to

- a. provide advice, research materials, and recommendations to assist management in performing its functions and making decisions.
- b. attend board meetings as a nonvoting advisor.
- c. interpret financial statements, forecasts, or other analyses.
- d. provide management with advice regarding its potential plans, strategies, or relationships.

It could be helpful to provide additional guidance that highlights the advocacy threat. The task force will use the research related to the more likely than not and likely to prevail thresholds to

inform its recommendation on how to address this.

Questions for the committee

3. Does the committee agree with the task force's recommendation to highlight the advocacy threat?
4. Since the Tax Services interpretation doesn't specifically address the impact on independence when providing tax advisory services and tax planning services to an attest client, does the committee have any concerns with the task force exploring authoritative revisions?

Substantial convergence areas

The task force believes there is substantial convergence on the following topics and issues and does not believe additional guidance is needed.

Tax return preparation

Paragraph 604.5 A1 states that tax return preparation services include the following:

- Assisting clients with their tax reporting obligations by drafting and compiling information, including the amount of tax due (usually on standardized forms) required to be submitted to the applicable tax authorities
- Advising on the tax return treatment of past transactions
- Responding on behalf of the audit client to the tax authorities' requests for additional information and analysis (for example, providing explanations of and technical support for the approach being taken)

Paragraph 604.6 A1 states providing tax return preparation services does not usually create a threat because

- a. tax return preparation services are based on historical information and principally involve analysis and presentation of such historical information under existing tax law, including precedents and established practice and
- b. tax returns are subject to whatever review or approval process the tax authority considers appropriate.

The current "[Tax Services](#)" interpretation in the nonattest services subtopic permits the member to prepare tax returns, transmit a tax return and payment, sign and file a tax return, have power of attorney limited strictly to tax matters, and represent an attest client in administrative proceedings before a taxing authority as long as the member complies with the "[General](#)

[Requirements for Performing Nonattest Services](#)” interpretation (ET sec. 1.295.040) an has appropriate authorization from the client.

The task force believes the IESBA provisions relating to tax return preparation are already addressed in the extant code.

Questions for the committee

5. Does the committee agree with the task force’s assessment that the AICPA code is substantially converged with IESBA’s provisions for tax return preparation?
6. If the committee believes that the AICPA code is not substantially converged with IESBA’s provisions for tax return preparation, what recommendations does the committee have to achieve convergence?

Tax calculations for the purpose of preparing accounting entries

Paragraph 604.8 A1 states that preparing tax calculations of current and deferred tax liabilities (or assets) for an audit client for the purpose of preparing accounting entries that support such balances creates a self-review threat. Paragraph 604.9 A1 states in addition to the factors in paragraph 604.3 A2, a factor that is relevant in evaluating the level of self-review threat created when preparing such calculations for an audit client is whether the calculation might have a material effect on the financial statements on which the firm will express an opinion. Paragraph 604.9 A2 gives examples of actions that might be safeguards to address such a self-review threat when the audit client is not a public interest entity. These include the following:

- 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

The task force notes that the current “[Bookkeeping, Payroll, and Other Disbursements](#)” interpretation (ET sec. 1.295.120 par. .02b) in the nonattest services subtopic permits the member to propose standard, adjusting, or correcting journal entries or other changes affecting the financial statements to the attest client. Prior to the member posting these journal entries or changes, the member should be satisfied that management has reviewed the entries and understands the nature of the proposed entries and the effect the entries will have on the attest client’s financial statements. The member must ensure the “[General Requirements for Performing Nonattest Services](#)” interpretation are met.

Nonauthoritative “[Ethics Questions and Answers, section 230](#)” paragraph .05 “Proposing Adjusting Entries” specifically discusses adjusting entries to correct the client’s tax provision and

deferred tax account.

Inquiry — During the course of performing an [attest engagement](#), the [member](#) proposes adjustments to the [financial statement](#) to the client management. For example, the member might propose adjusting entries to correct the client’s tax provision, deferred tax account, or depreciation and amortization account. [Client](#) management reviews the proposed entries and related supporting documentation, understands the impact on its *financial statements*, and records the adjustments identified by the *member*. Would the proposal of such entries constitute a nonattest bookkeeping service subject to the interpretations of the "[Nonattest Services](#)" subtopic (ET sec. 1.295)?

Reply — No. According to paragraph .04 of the "[Scope and Applicability of Nonattest Services](#)" interpretation under the "Independence Rule" (ET sec. 1.295.010), proposing entries as a result of the *member’s attest engagement* is a normal part of those engagements and would not constitute performing a nonattest bookkeeping service subject to the interpretations of the "[Nonattest Services](#)" subtopic.

Nonauthoritative "[Ethics Questions and Answers, section 280](#)" paragraph .03 "Tax Services Related to FASB ASC 740-10-50, Income Taxes" specifically discusses services of identifying potential uncertain tax positions, advising the *attest client* whether those tax positions meet the more-likely-than-not (MLTN) threshold, and calculating the related unrecognized tax benefits.

Inquiry — Would providing nonattest services to an [attest client](#) in the client’s application of FASB *Accounting Standards Codification (ASC) 740-10-50, Income Taxes*, such as identifying potential uncertain tax positions, advising the *attest client* whether those tax positions meet the more-likely-than-not (MLTN) threshold, and calculating the related unrecognized tax benefits, impair independence?

Reply — The provision of such nonattest services would not *impair independence* provided the individual designated by the *attest client* can make an informed judgment on the results of the member’s services and the other requirements of the "[General Requirements for Performing Nonattest Services](#)" interpretation are met. In meeting the requirements of this interpretation, the member may assist the *attest client* in understanding why the tax positions do or do not meet the MLTN threshold and the basis for any unrecognized tax benefit so that the *attest client* can accept responsibility for the amounts reported and disclosed in the financial statements.

Tax calculations for the purpose of preparing and adjusting accounting entries are not directly addressed in the extant code but are addressed in the nonauthoritative Ethics Questions and Answers. The Q&A uses the more-likely-than-not threshold so the task force will monitor the evaluation of IESBA’s “likely to prevail” threshold.

Questions for the committee

7. Does the committee agree with the task force's assessment that the AICPA code is substantially converged with IESBA's provisions for tax calculations for the purpose of preparing accounting entries?
8. If the committee believes that the AICPA code is not substantially converged with IESBA's provisions for tax calculations for the purpose of preparing accounting entries, what recommendations does the committee have to achieve convergence?

Tax services involving valuations.

Paragraph 604.16 A1 states the provision of tax services involving valuations might arise in a range of circumstances including these:

- Merger and acquisition transactions
- Group restructurings and corporate reorganizations
- Transfer pricing studies
- Stock-based compensation arrangements

Paragraph 604.17 A1 states providing a valuation for tax purposes to an audit client might create a self-review threat when there is a risk that the results of the service will affect the accounting records or the financial statements on which the firm will express an opinion. Such a service might also create an advocacy threat.

Paragraph 604.17 A2 states when a firm or a network firm performs a valuation for tax purposes to assist an audit client with its tax reporting obligations or for tax planning purposes, the result of the valuation might

- a. have no effect on the accounting records or the financial statements other than through accounting entries related to tax. In such situations, the requirements and application material set out in this subsection apply.
- b. affect the accounting records or the financial statements in ways not limited to accounting entries related to tax, for example, if the valuation leads to a revaluation of assets. In such situations, the requirements and application material set out in subsection 603 relating to valuation services apply.

Paragraph 604.17 A3 states performing a valuation for tax purposes for an audit client will not create a self-review threat if

- a. the underlying assumptions are either established by law or regulation, or are widely accepted; or
- b. the techniques and methodologies to be used are based on generally accepted standards or prescribed by law or regulation, and the valuation is subject to external review by a tax authority or similar regulatory authority.

Paragraph 604.18 A1 states a firm or a network firm might perform a valuation for tax purposes for an audit client that is not a public interest entity where the result of the valuation only affects the accounting records or the financial statements through accounting entries related to tax. This would not usually create threats if the effect on the financial statements is immaterial or the valuation, as incorporated in a tax return or other filing, is subject to external review by a tax authority or similar regulatory authority.

Paragraph 604.18 A2 states if the valuation that is performed for tax purposes is not subject to an external review and the effect is material to the financial statements, in addition to paragraph 604.3 A2, the following factors are relevant in identifying self-review or advocacy threats created by providing those services to an audit client that is not a public interest entity, and evaluating the level of such threats:

- The extent to which the valuation methodology is supported by tax law or regulation, other precedent or established practice
- The degree of subjectivity inherent in the valuation
- The reliability and extent of the underlying data

Paragraph 604.18 A3 states examples of actions that might be safeguards to address such threats for an audit client that is not a public interest entity include these:

- Using professionals who are not audit team members to perform the service might address self-review or advocacy threats.
- Having an appropriate reviewer who was not involved in providing the service review the audit work or service performed might address a self-review threat.
- Obtaining pre-clearance from the tax authorities might address self-review or advocacy threats.

Paragraph .02 of the current "[Appraisal, Valuation, and Actuarial Services](#)" interpretation (ET sec. 1.295.110) in the nonattest services subtopic states threats to compliance with the "[Independence Rule](#)" (ET sec. 1.200.001) will not be at an acceptable level and cannot be reduced to an acceptable level by the application of safeguards if the member performs an appraisal, a valuation, or an actuarial service for an attest client when (a) the services involve a

significant degree of subjectivity and (b) the results of the service, individually or when combined with other valuation, appraisal, or actuarial services, are material to the attest client's financial statements. Accordingly, independence would be impaired under these circumstances.

Paragraph .06 of the interpretation states that threats would be at an acceptable level if a member provided appraisal, valuation, or actuarial services solely for nonfinancial statement purposes. Some examples are appraisal, valuation, and actuarial services performed for tax planning or tax compliance, estate and gift taxation, and divorce proceedings. Accordingly, independence would not be impaired.

IESBA's provisions relating to tax services involving valuations are already addressed in the extant code and the AICPA is more restrictive in this area.

Questions for the committee

9. Does the committee agree with the task force's assessment that the AICPA code is substantially converged with IESBA's provisions for tax services involving valuations?
10. If the committee believes that the AICPA code is not substantially converged with IESBA's provisions for tax services involving valuations, what recommendations does the committee have to achieve convergence?

Assistance in the resolution of tax disputes

Paragraph 604.20 A1 states a non-assurance service to provide assistance to an audit client in the resolution of tax disputes might arise from a tax authority's consideration of tax calculations and treatments. Such a service might include, for example, providing assistance when the tax authorities have notified the client that arguments on a particular issue have been rejected and either the tax authority or the client refers the matter for determination in a formal proceeding before a tribunal or court.

Paragraph 604.21 A1 states providing assistance in the resolution of a tax dispute to an audit client might create a self-review threat when there is a risk that the results of the service will affect the accounting records or the financial statements on which the firm will express an opinion. Such a service might also create an advocacy threat.

Paragraph 604.22 A1 states in addition to those identified in paragraph 604.3 A2, factors that are relevant in identifying self-review or advocacy threats created by assisting an audit client in the resolution of tax disputes, and evaluating the level of such threats include the following:

- The role management plays in the resolution of the dispute
- The extent to which the outcome of the dispute will have a material effect on the financial statements on which the firm will express an opinion
- Whether the firm or network firm provided the advice that is the subject of the tax dispute
- The extent to which the matter is supported by tax law or regulation, other precedent, or established practice
- Whether the proceedings are conducted in public

When a self-review threat for an audit client that is a public interest entity has been identified, paragraph R604.24 applies.

Paragraph 604.23 A1 states examples of actions that might be safeguards to address self-review or advocacy threats created by assisting an audit client that is not a public interest entity in the resolution of tax disputes include these:

- Using professionals who are not audit team members to perform the service might address self-review or advocacy threats.
- Having an appropriate reviewer who was not involved in providing the service review the audit work or the service performed might address a self-review threat.

Paragraph R604.25 states a firm or a network firm shall not provide tax services that involve assisting in the resolution of tax disputes to an audit client that is not a public interest entity if

- a. the services involve acting as an advocate for the audit client before a tribunal or court in the resolution of a tax matter; and
- b. the amounts involved are material to the financial statements on which the firm will express an opinion.

The current "[Tax Services](#)" interpretation in the nonattest subtopic states threats to compliance with the "[Independence Rule](#)" would not be at an acceptable level, and could not be reduced to an acceptable level through the application of safeguards, and independence would be impaired if a member represents an attest client in court to resolve a tax dispute. For purposes of this interpretation, court encompasses a tax, district, or federal court of claims and the equivalent state, local, or foreign forums.

The IESBA provisions relating to tax services involving valuations are already addressed in the extant code and the AICPA is more restrictive in this area.

Questions for the committee

11. Does the committee agree with the task force's assessment that the AICPA code is substantially converged with IESBA's provisions for assistance in the resolution of tax disputes?
12. If the committee believes that the AICPA code is not substantially converged with IESBA's provisions for assistance in the resolution of tax disputes, what recommendations does the committee have to achieve convergence?

Digital Assets

Task force members

Anna Dourdourekas (Chair), Danielle Cheek, Faith Kim, Colleen Kipfstuhl, Bella Rivshin, Jay Schulman

Other project members

Jennifer Alzona, Diana Krupica

Observers

Colin Callander, Carey Carpenter, Mary Grace Davenport, Vincent DiBlanda, Scott Graham, Erica Hanson, Ethan King, Francisco Alvarez Olmedo, Kristen Schrader, Lynn Valdes

AICPA staff

Ellen Gorla, Toni Lee-Andrews, Michael Schertzinger

Reason for agenda item

To request approval of the task force charge and to seek the committee's input on the nonauthoritative question and answer (Q&A) in agenda item 13B.

Proposed task force charge

To consider the potential impacts on a member's independence related to digital assets and whether changes to the AICPA Code of Professional Conduct, or nonauthoritative guidance, or if a combination of both is required.

Background

The task force has discussed the different areas of digital assets to address. The task force is still in the discovery phase of determining whether the topics will require changes to the AICPA Code of Professional Conduct (code), nonauthoritative guidance, or both.

The AICPA Digital Asset Working Group¹ has been exploring ways that members can access information on a blockchain to determine proper existence, rights, and obligations for an attest client. One of the ways is to operate node software on the specific blockchain. This raises the question of whether operating node software on a blockchain can impair a member's

¹ The AICPA formed the Digital Assets Working Group as a joint working group under the Financial Reporting Executive Committee (FinREC) and the Assurance Services Executive Committee (ASEC), with the objective of developing nonauthoritative guidance for financial statement preparers and auditors on how to account for and audit digital assets under U.S. generally accepted accounting principles (GAAP) for nongovernmental entities and generally accepted auditing standards (GAAS), respectively. The working group is split into two subgroups, one focusing on accounting topics and one focusing on auditing topics.

independence.

Task force activities

Since the August PEEC meeting, the task force has met to discuss this topic and the Q&A staff drafted. An overview of the discussions follow.

Different types of node software operate on different blockchains. Some node software can perform a variety of actions on the blockchain from obtaining information to acting as form of governance. For public blockchains, such as Bitcoin, the node software mainly validates the transactions (makes sure the transaction is true), broadcasts the transaction to other node software on that blockchain, and may be paid a fee for validating the transaction.

Users that operate a majority of the node software on the blockchain may have the ability to influence the validity of the transactions and how the blockchain operates. To determine whether independence will be impaired, members need to assess whether running node software on a blockchain can influence the validity of the transactions and how the blockchain operates.

A nonauthoritative Q&A will help members consider whether operating node software on a blockchain will impair their independence. The task force will continue work on this and other complex topics and will determine whether additional Q&As should be added.

Questions for the committee

1. Does the committee approve the task force charge?
2. Does the committee have any suggested revisions to the Q&A?
3. Does the committee believe that the term “inconsequential” would indicate to members that their ability to influence the blockchain is something smaller than minimal? If no, what alternative term does the committee think should be used?

Note: The term “inconsequential” is not something that is only being used in this instance. The term “inconsequential” is included in various places in the code and in Q&As in order to explain a very low threshold.

Materials presented

Agenda item 13B: Proposed Q&A section xxx, Digital Assets

Proposed Q&A

Terms defined in the AICPA Code of Professional Conduct are italicized the first time they appear in this document. If you'd like to see the definitions, you can find them in "Definitions" ([ET sec. 0.400](#))

Q&A section xxx, Digital Assets

.01 Operating node software on a blockchain

Inquiry — If you operate one node software out of thousands of node software on a public blockchain for the purpose of obtaining information for an *attest engagement*, would the *threats to independence* be at an *acceptable level*?

Reply — Yes, provided the node software has an inconsequential ability to influence the validity of transactions and how the blockchain operates.

If your facts and circumstances are different, use the "Conceptual Framework for Independence" to evaluate whether *threats* can be reduced to an *acceptable level* by applying appropriate safeguards. If *threats* cannot be eliminated or reduced to an *acceptable level*, *independence* will be impaired.

If you are unsure how to apply the "Conceptual Framework for Independence" interpretation, the AICPA Professional Ethics Division has developed a [toolkit](#) to help you.

The AICPA has developed some [resources](#) on digital assets such as a practice aid and glossary to help you.