



CHARTERED ACCOUNTANTS™
AUSTRALIA + NEW ZEALAND

10 August 2018

The Hon Nicola Roxon
Chairman
Accounting Professional & Ethical Standards Board Limited
Level 11, 99 William Street
MELBOURNE VIC 3000

Online Submission via: www.apesb.org.au

Dear Nicola

Submissions – ED 02/18 and ED 03/18 Proposed Standard: APES 110 Code of Ethics for Professional Accountants (including Independence Standards)

Thank you for providing us with the opportunity to comment on the Accounting Professional & Ethical Standards Board's (APESB) proposed changes to APES 110 Proposed Standard: APES 110 Code of Ethics for Professional Accountants (including Independence Standards) (the Code). Chartered Accountants ANZ (CA ANZ) is supportive of the proposed revised Code as a whole.

We strongly encourage the APESB to complete a review of their document entitled "Due process and working procedures for the development and review of APESB pronouncements" to firstly update it for changes in drafting conventions such as using the letter R to refer to a requirement and secondly to clearly articulate the threshold or test required to vary from the base Code of Ethics issued by the International Ethical Standards Board for Accountants. I refer the Board to the examples issued by the Australian Auditing and Assurance Standards Board, the New Zealand Auditing and Assurance Standards Board and the New Zealand External Reporting Board, links are included at Appendix A.

In the table at Appendix B we have provided our comments in relation to the proposed Code.

Information about Chartered Accountants Australia and New Zealand can be found in Appendix C to this letter. If you have any questions regarding this submission, please contact Kristen Wydell on (02) 9290 5535 or kristen.wydell@charteredaccountantsanz.com

Yours sincerely

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Advocacy & Professional Standing

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Links to other Standard Setters

[http://www.auasb.gov.au/admin/file/content102/c3/Aug14_IAASB-NZAuASB Principles of Convergence and Harmonisation.pdf](http://www.auasb.gov.au/admin/file/content102/c3/Aug14_IAASB-NZAuASB_Principles_of_Convergence_and_Harmonisation.pdf)
<https://www.xrb.govt.nz/assets/DMSTemporaryUploads/Agreed-NZAuASB-AUASB-Communication-protocols-considerations-Aug-2014-178099.1.pdf>
<https://www.xrb.govt.nz/reporting-requirements/policy-statements/>

Appendix B

Specific Comments on ED 02/18 and 03/18

Ref	Text from the ED	Comments
Glossary	<p>Assurance Engagement</p> <p><i>An engagement in which a Member 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 (that is, the outcome of the measurement or evaluation of an underlying subject matter against criteria).</i></p> <p><i>This includes an engagement in accordance with the Framework for Assurance Engagements issued by the AUASB or in accordance with specific relevant standards, such as International Standards on Auditing, for Assurance Engagements.</i></p> <p><i>(For guidance on Assurance Engagements, see the Framework for Assurance Engagements issued by the AUASB. The Framework for Assurance Engagements describes the elements and objectives of an Assurance Engagement and identifies engagements to which Australian Auditing 14 Standards (ASAs), Standards on Review Engagements (ASREs) and Standards on Assurance Engagements (ASAEs) apply.)</i></p>	<p>The definition of Assurance Engagement varies from the definition used by both the AUASB and IESBA (note text highlighted in yellow).</p> <p>IESBA definition</p> <p>An engagement in which a professional accountant in public practice expresses a conclusion designed to enhance the degree of confidence of the intended users other than the responsible party about the outcome of the evaluation or measurement of a subject matter against criteria.</p> <p>AUASB definition</p> <p>an engagement in which an assurance practitioner expresses a conclusion designed to enhance the degree of confidence of the intended users other than the responsible party about the outcome of the evaluation or measurement of a subject matter against criteria.</p> <p>For consistent application the same definition should be used.</p>

AUST 114.1 A1.1	The circumstances described in paragraph 114.1 A1 do not take into account Australian legal and regulatory requirements, such as the Privacy Act 1988 (Cth) and mandatory reporting of data breaches. A Member considering disclosing confidential information about a client or employer without their consent is strongly advised to first obtain legal advice.	This paragraph replicates para AUST 140.7.1. in the extant Code. We do not feel that the inclusion of this paragraph substantively improves the clarity for users. Further, by listing only the Privacy Act 1988 (Cth) a user may think only of that legislation. Also the inclusion of the phrase “strongly advised to first obtain” is in our opinion too strongly worded for application materials. If the Board determined there is a compelling reason to include this paragraph we would recommend the Board consider amending the wording to “may consider first obtaining”.
AUST R220.4.1	Where a Member in Business referred to in paragraph R220.4 is not satisfied that the Financial Statements of an employing organisation are presented in accordance with applicable Australian Accounting Standards, the Member shall: <ul style="list-style-type: none"> a) in all cases, notify Those Charged with Governance and document the communication; and b) qualify any declarations given by the Member in compliance with legislative and regulatory requirements or the organisation's reporting requirements. 	This para is consistent with extant para AUST 320.2.1. Paras R220.5 - 220.11.A3 provide a practitioner with steps to take in the circumstances. We note that the proposed paragraph is more specific but are not aware of a compelling need for the additional requirement in the Code.
AUST 320.2.1	The requirements of Section 320 also apply where a Member in Public Practice is replacing or being replaced by an accountant who is not a Member.	This para is consistent with extant para AUST 210.15.1. We are aware of this paragraph enhancing the application of the Code.

<p>AUST R330.4.1</p>	<p>A Member in Public Practice shall not use Contingent Fees in the specific engagement circumstances set out in:</p> <ul style="list-style-type: none"> • APES 215 Forensic Accounting Services; • APES 225 Valuation Services; • APES 330 Insolvency Services; • APES 345 Reporting on Prospective Financial Information Prepared in Connection with a Disclosure Document; and • APES 350 Participation by Members in Public Practice in Due Diligence Committees in connection with a Public Document. 	<p>As each of the standards referred to have prohibitions for contingent fees for specific engagements we believe there is a compelling reason to include this paragraph in the Code. We would however recommend the Board reconsider the drafting. An alternative drafting is provided below.</p> <p>A Member in Public Practice shall not <u>enter into a use Contingent Fees engagement of a nature that is prohibited by the following standards in the specific engagement-circumstances set out in:</u></p>
<p>AUST R330.5.1</p>	<p>A Member in Public Practice who is undertaking an engagement in Australia and receives a referral fee or commission shall inform the client in writing of:</p> <ul style="list-style-type: none"> • the existence of such arrangement; • the identity of the other party or parties; and • the method of calculation of the referral fee, commission or other benefit accruing directly or indirectly to the Member. 	<p>These paras are consistent with extant paras AUST 240.7.1, AUST 240.7.2.and AUST 240.7.2.</p> <p>We note that the Board has elevated two of these paragraphs to a requirement whilst in the extant code it was guidance.</p>
<p>AUST R330.5.2</p>	<p>A Member in Public Practice shall not receive commissions or other similar benefits in connection with an Assurance Engagement.</p>	<p>We believe that, in the current environment, if commissions form part of the engagement remuneration it should be completely transparent. Accordingly we are supportive of these AUST paragraphs.</p>
<p>AUST 330.5.2 A1</p>	<p>The receipt of commissions or other similar benefits in connection with an Assurance Engagement creates a threat to Independence that no safeguards could reduce to an Acceptable Level.</p>	

AUST R400.8.1	<p>Firms shall determine whether to treat additional entities, or certain categories of entities, as Public Interest Entities because they have a large number and wide range of stakeholders. Factors to be considered include:</p> <ul style="list-style-type: none"> • The nature of the business, such as the holding of assets in a fiduciary capacity for a large number of stakeholders. Examples might include financial institutions, such as banks and insurance companies, and pension funds. • Size. • Number of employees. 	<p>This para is consistent with extant para 290.26 and IESBA para 400.8. However the APESB has elevated this to a requirement.</p> <p>We feel that the inclusion of this paragraph and AUST 40.8.1A1 will assist in the consistent determination of PIEs in Australia. Accordingly we are supportive of this paragraph and related AUST 400.8.1A1 paragraph.</p>
AUST 400.8.1 A1	<p>The following entities in Australia will generally satisfy the conditions in paragraph AUST 400.8.1 as having a large number and wide range of stakeholders and thus are likely to be classified as Public Interest Entities. In each instance Firms shall consider the nature of the business, its size and the number of its employees:</p> <ul style="list-style-type: none"> • Authorised deposit-taking institutions (ADIs) and authorised non-operating holding companies (NOHCs) regulated by the Australian Prudential Regulatory Authority (APRA)⁹ under the Banking Act 1959; • Authorised insurers and authorised NOHCs regulated by APRA¹⁰ under Section 122 of the Insurance Act 1973; • Life insurance companies and registered NOHCs regulated by APRA¹¹ under the Life Insurance Act 1995; • Private health insurers regulated by APRA¹² under the Private Health Insurance (Prudential Supervision) Act 2015; • Disclosing entities as defined in Section 111AC of the Corporations Act 2001; • Registrable superannuation entity (RSE) licensees, and RSEs under their trusteeship that have five or more members, regulated by APRA¹³ under the Superannuation Industry (Supervision) Act 1993; and • Other issuers of debt and equity instruments to the public. 	<p>This para is consistent with extant para AUST 290.26.1.</p>

<p>AUST R400.12.1</p>	<p>Where a Member in Public Practice identified multiple threats to Independence, which individually might not be significant, the Member shall evaluate the significance of those threats in aggregate and the safeguards applied or in place to eliminate some or all of the threats or reduce them to an Acceptable Level in aggregate.</p>	<p>This para is consistent with extant para AUST 290.11.1.</p> <p>We understand in practice this is what would happen but as the IESBA has not included a similar paragraph we seek to understand from the Board why there is a specific need for the paragraph in Australia.</p> <p>Furthermore, how does the Board intend the aggregation to occur, for each engagement, for a financial year?</p>
<p>AUST R410.3.1</p>	<p>When the total fees in respect of multiple Audit Clients referred from one source represent a large proportion of the total fees of the Firm expressing the audit opinions, the Firm shall evaluate the significance of the threat and apply safeguards when necessary to eliminate the threat or reduce it to an Acceptable Level.</p>	<p>This para is consistent with extant para AUST 290.17.1 (partially). This has been elevated to a requirement from application materials in the extant Code.</p> <p>We understand this paragraph assists in the application of the Code. We would encourage the Board to clearly document the reasons why you believe it is important to include this requirement in the Code.</p>
<p>AUST 410.3.1 A1</p>	<p>Another party or Firm may refer multiple Audit Clients to a Firm. The dependence on that source and concern about losing those clients creates a self-interest or intimidation threat. Paragraph 410.3 A2 provides examples of factors that may affect the significance of the threat and paragraph 410.3 A6 lists potential safeguards that may be applied.</p>	<p>This para is consistent with extant para AUST 290.17.1 (partially).</p> <p>Refer above comments regarding AUST R410.3.1.</p>

<p>AUST R523.3.1</p>	<p>A Firm shall refuse to perform, or shall withdraw from, the Audit Engagement if a partner or employee of the Firm were to serve as an Officer (including management of an Administration) or as a Director of an Audit Client, or as an employee in a position to exert direct and significant influence over the subject matter of the Audit Engagement</p>	<p>This para is consistent with extant para AUST 290.144.1.</p> <p>Paragraph R523.3 prohibits an individual from serving as a Director or Officer of an Audit client of the Firm. This paragraph takes the same prohibition but from a firm point of view and extends the prohibition to “management of an Administration”.</p> <p>We understand, in practice the processes and policies to comply with R523.3 would achieve the same outcome as proposed AUST R523.3.1 but as the IESBA has not included a similar paragraph we are unsure why there is a specific need for the paragraph in Australia.</p> <p>The definition of a Director or Officer could be amended in the glossary to include “management of an Administration” further reducing the need for the proposed paragraph.</p>
<p>AUST R523.5</p>	<p>As the company secretary of a company incorporated in Australia is an Officer under the Corporations Act 2001, no partner or employee of a Firm shall act in the position of company secretary of an Audit Client. If an individual were to accept such a position the Firm shall comply with the requirements of AUST R523.3.1.</p>	<p>This para is consistent with extant para AUST 290.146.1.</p> <p>We are supportive of the inclusion of this paragraph as it is providing assistance to users to understand the specific Australian legislation. We do feel that it is better included as application materials rather than a requirement.</p>

<p>AUST R540.19.1</p>	<p>In Australia, where laws or regulations require a two year cooling-off period for Engagement Partners for audits of Public Interest Entities, the cooling-off period shall be three years for periods beginning prior to 31 December 2023 provided that the applicable time-on period does not exceed seven years.</p>	<p>We agree that this paragraph will assist Australian users of the Code as it is providing assistance to users to understand the specific Australian scenario. We are unsure that a requirements paragraph is necessary.</p> <p>The Corporations Act at 324DA refers to Listed Entities not Public Interest Entities. We recommend the Board consider amending this paragraph to reflect the Corporations Act.</p>
<p>AUST 900.11.1</p>	<p>The AUASB has issued Framework for Assurance Engagements which describes the nature of an Assurance Engagement. To obtain a full understanding of the objectives and elements of an Assurance Engagement it is necessary to refer to the full text of that document.</p>	<p>This para is consistent with extant para AUST 291.16.1.</p> <p>We understand that this application material may assist users applying the Code.</p>
<p>AUST R900.15.1</p>	<p>Where a Member in Public Practice identifies multiple threats to Independence, which individually might not be significant, the Member shall evaluate the significance of those threats in aggregate and the safeguards applied or in place to eliminate some or all of the threats or reduce them to an Acceptable Level in aggregate.</p>	<p>This para is consistent with extant para AUST 291.10.1.</p> <p>We refer to our comments on paragraph AUST R400.8.1.</p>

Appendix C

About us

Chartered Accountants Australia and New Zealand is a professional body comprised of over 117,000 diverse, talented and financially astute members who utilise their skills every day to make a difference for businesses the world over.

Members are known for their professional integrity, principled judgment, financial discipline and a forward-looking approach to business which contributes to the prosperity of our nations. We focus on the education and lifelong learning of our members, and engage in advocacy and thought leadership in areas of public interest that impact the economy and domestic and international markets.

We are a member of the International Federation of Accountants, and are connected globally through the 800,000-strong Global Accounting Alliance and Chartered Accountants Worldwide which brings together leading Institutes in Australia, England and Wales, Ireland, New Zealand, Scotland and South Africa to support and promote over 320,000 Chartered Accountants in more than 180 countries.

We also have a strategic alliance with the Association of Chartered Certified Accountants. The alliance represents 788,000 current and next generation accounting professionals across 181 countries and is one of the largest accounting alliances in the world providing the full range of accounting qualifications to students and business.