

1 February 2017
Exposure Draft

Response Due Date
22 March 2017

Exposure Draft

**Proposed Revisions to Clarify the
Applicability of Provisions in Part C of the
Extant Code to Professional Accountants in
Public Practice**



Hong Kong Institute of
Certified Public Accountants
香港會計師公會

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Exposure Draft

The Exposure Draft can also be found on the Institute's website at:

<http://www.hkicpa.org.hk/en/standards-and-regulations/standards/code-of-ethics/exposure-drafts/>

Exposure Draft

January 2017

Comments due: April 25, 2017

*International Ethics Standards Board
for Accountants®*

Proposed Revisions to Clarify the Applicability of Provisions in Part C of the Extant Code to Professional Accountants in Public Practice

IESBA

International
Ethics Standards
Board for Accountants®

This Exposure Draft was developed and approved by the International Ethics Standards Board for Accountants® (IESBA®).

The IESBA is a global independent standard-setting board. Its objective is to serve the public interest by setting high-quality ethics standards for professional accountants worldwide and by facilitating the convergence of international and national ethics standards, including auditor independence requirements, through the development of a robust, internationally appropriate *Code of Ethics for Professional Accountants™* (the Code).

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REQUEST FOR COMMENTS

The proposals in this Exposure Draft may be modified in light of comments received before being issued in final form. Comments are requested by **April 25, 2017**.

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 Technical Director at KenSiong@ethicsboard.org

This publication may be downloaded from the IESBA website: www.ifac.org/ethics/restructured-code. The approved text is published in the English language.

PROPOSAL TO CLARIFY THE APPLICABILITY OF EXTANT PART C TO PROFESSIONAL ACCOUNTANTS IN PUBLIC PRACTICE

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EXPLANATORY MEMORANDUM

I. Introduction

1. This memorandum provides background to, and an explanation of, the IESBA's proposal to clarify the applicability of the requirements and application material in extant Part C, *Professional Accountants in Business*, to professional accountants in public practice (PAPPs). As part of its Structure of the Code project, the IESBA has proposed restructuring changes to the material in extant Part C, including retitling it Part 2, *Professional Accountants in Business*. Proposed Part 2 is set out in Chapter 1 of the January 2017, Exposure Draft, [Improving the Structure of the Code of Ethics for Professional Accountants – Phase 2](#) (Structure ED-2). For ease of reference, throughout this document reference is made to extant Part C except for the discussion about the location of the proposals in the proposed restructured Code.
2. The IESBA approved these proposed changes for exposure at its December 2016 meeting.

II. Background

3. In 2012, the IESBA commenced work with the aim of exploring whether Part C needed to be strengthened to better promote ethical behavior by professional accountants in business (PAIBs). In March 2013, the IESBA approved a project to revise Part C in two separate phases. Phase 1 of the project was completed in December 2015 with IESBA approval of the close-off Document [Changes to Part C of the Code Addressing Preparation and Presentation of Information, and Pressure to Breach the Fundamental Principles](#) ("close-off document").¹ This close-off document was drafted using the structure and drafting conventions for the extant Code. The proposed restructured close-off document is presented in Chapter 1 of Structure ED-2. The enhanced requirements and application material for PAIBs under Phase 1 of the project will be released in the new structure format for the Code and will have the same effective date as the restructured Code.
4. Phase 2 of the project relates to a revision of extant Section 350.² The IESBA is developing an exposure draft of the proposed revisions to extant Section 350 using the new structure and drafting conventions for the restructured Code, with approval targeted for March 2017.
5. While the extant definition of a PAIB³ covers professional accountants employed in firms in roles other than providing professional services to clients (for example, in finance or IT roles), questions were raised during the IESBA's deliberations in Phase 1 of the project about the applicability of the provisions in Part C to PAPPs themselves, i.e., professional accountants in firms who provide

¹ The close-off document is available at: www.ethicsboard.org/restructured-code.

² Extant Section 350, *Inducements*

³ The extant Code defines a PAIB as "a professional accountant employed or engaged in an executive or non-executive capacity in such areas as commerce, industry, service, the public sector, education, the not for profit sector, regulatory bodies or professional bodies, or a professional accountant contracted by such entities." In finalizing enhancements to the Glossary, which is included in the [agreed-in-principle text](#) of Phase 1 of the Structure of the Code project, the IESBA has determined to more closely align the definition of a PAIB to the description of the term in paragraph 300.3 of the [Part C Phase 1 close-off document](#) (paragraph 200.3 of the restructured text). The revised description, which does not change the intended meaning of a PAIB, states that a PAIB is "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 services to clients. There was a view that the guidance in the extant Code⁴ could be interpreted to mean that the Code contains two distinct parts (i.e., extant Part B⁵ and Part C) directed at two different categories of professional accountants. In this regard, the IESBA noted that some stakeholders interpret the extant Code as having two sets of provisions aimed at addressing the ethical issues that each category of professional accountants might encounter. However, the extant Code also notes that in certain circumstances the provisions for PAIBs may be relevant to PAPPs. Specifically, paragraphs 100.3 and 100.12 of the extant Code each contain a statement that “[p]rofessional accountants in public practice *may* also find Part C relevant to their particular circumstances” (emphasis added).

6. The IESBA noted that questions can be raised about the intended meaning of this statement and how a PAPP should apply it. For example, the use of the word “may” rather than “shall” in the statement might lead a PAPP to conclude that compliance with the provisions in Part C is optional. Also, the IESBA noted that the statement is not in a prominent location in the extant Code.

III. Significant Matters

Applicability of the Provisions in Extant Part C to PAPPs

7. The IESBA believes that it is possible for PAPPs to find themselves in ethically problematic circumstances that do not involve clients and hence face the same issues and ethical dilemmas as PAIBs. Accordingly, the IESBA agreed to clarify the circumstances in which the provisions in Part C should also apply to PAPPs. During its deliberations, the IESBA noted that those provisions focus on issues relating to professional accountants who act as employees or contractors of organizations, and address both internal issues within the employing organization as well as business relationships with external parties. In contrast, the provisions in extant Part B address issues about the relationships between PAPPs and their clients. In considering the applicability of Part C to PAPPs, the IESBA focused on the following three specific areas:
 - (a) Conflicts of Interest;
 - (b) Pressure; and
 - (c) Inducements.

Conflicts of Interest

8. The extant Code includes requirements and application material addressing conflicts of interest for both PAPPs and PAIBs set out in Parts B and C, respectively. In Part B, the provisions pertain to potential conflicts a professional accountant might have with clients. In Part C, the provisions pertain to potential conflicts a professional accountant might have when performing work for an employing organization.
9. The IESBA is of the view that the provisions in Part C might be relevant to PAPPs as they are also susceptible to conflict of interest situations within their employing organizations (i.e., their firms) or

⁴ Extant paragraph 200.1 states that “This part [Part B] of the Code describes how the conceptual framework contained in Part A applies in certain situations to professional accountants in public practice”.

Extant paragraph 300.1 states that “This part [Part C] of the Code describes how the conceptual framework contained in Part A applies in certain situations to professional accountants in business.”

⁵ Extant Part B, *Professional Accountants in Public Practice*

with external parties, other than their clients. During its restructuring of extant Parts B and C, the IESBA reaffirmed this position.

Pressure

10. Threats to compliance with the fundamental principles may arise as a result of “undue pressure” from a variety of situations. Extant Section 370⁶ deals explicitly with this issue. There are no corresponding provisions on this topic for PAPPs in Part B. Accordingly, the only guidance within the Code that addresses undue pressure, the threats it poses to compliance with the fundamental principles and how such threats can be addressed, is in Part C. The Board concluded that the guidance in Part C might also be relevant to PAPPs as they might also face undue pressure from within the firm.

Inducements

11. Inducements may take various forms, including gifts, hospitality, preferential treatment, and inappropriate appeals to friendship or loyalty. The extant Code includes provisions regarding inducements for PAIBs and for PAPPs. However, the provisions for PAPPs in Part B only address inducements that a PAPP may receive from a client, while the provisions for PAIBs in Part C deal with the topic of inducements more broadly, and address:
 - The receipt of offers from external parties, and
 - Internal pressure from within the employing organization to offer inducements to external parties.
12. The IESBA is of the view that in certain situations, the provisions relating to inducements for PAIBs in Part C, in particular those that relate to how PAIBs should deal with pressure from within the employing organization to offer inducements, might also be relevant to PAPPs. As noted in the Background section above, the IESBA is currently developing enhancements to the section of Part C relating to inducements. Those enhancements may also be applicable to PAPPs.

Approach to Developing Proposals and Options Considered

13. In developing its proposals, the IESBA considered three possible options:
 - (a) Duplicate the requirements and application material for PAIBs in Part B;
 - (b) Amend or clarify the definition of a PAIB; or
 - (c) Clarify that the requirements and application material in the Code should be applied in a holistic manner.

After deliberating the pros and cons for each option, the IESBA concluded for the reasons set out below that the third option would most effectively achieve the desired objective.

14. The IESBA is of the view that PAPPs should be required to consider the context within which an ethical issue has occurred (for example, not only in relation to clients, but also within the firm or in relation to external parties other than clients), and then consult the relevant requirements and

⁶ Extant Section 370, *Pressure to Breach the Fundamental Principles* forms part of the enhancements developed in Phase 1 of the Part C project. It is drafted using the structure and drafting convention for the extant Code as set out in the close-off document. Proposals to restructure extant Section 370 are set out in Chapter 1 of Structure ED-2 (under Section 270), which is available at: www.ethicsboard.org/restructured-code.

application material in the Code, irrespective of its specific location (i.e., whether it is in Part B or Part C).

15. The IESBA proposes adopting a holistic approach because this approach:
 - (a) Is designed to ensure PAPPs' consideration of whether the provisions in Part C are applicable in the particular circumstances;
 - (b) Would not impose an undue implementation burden, as the professional accountant would be tasked with deciding which sections of the Code need to be referred to; and
 - (c) Would not create an unwieldy Code with duplicate requirements and application material relating to the same topic, thus detracting from one of the objectives of the Structure of the Code project.
16. In developing the proposals (i.e., the "applicability paragraphs"), the IESBA also considered whether to identify the types of ethical issues (as addressed in the Part C sections) in respect of which a PAPP might consider referring to guidance in Part C. The IESBA opted against doing so and concluded that highlighting specific sections in Part C would not be appropriate because:
 - Professional accountants, including PAPPs, should consider all the requirements and application material in extant Part C.
 - Including references to specific sections in Part C might result in a PAPP inadvertently overlooking provisions in other sections of Part C that might be relevant based on the facts and circumstances.
17. However, the IESBA believes that the objective of the applicability paragraphs, namely to indicate how PAPPs might discharge their ethical duties in situations where they are not providing services to clients, would be enhanced by including an example of a situation where a PAPP might face an ethical dilemma that is not client-related.

Feedback on Structure ED-1

18. In developing its proposals, the IESBA considered input from some respondents to the December 2015 Exposure Draft, [Improving the Structure of the Code of Ethics for Professional Accountants – Phase 1](#) (Structure ED-1) that were relevant to the topic.⁷ One of those respondents suggested that the IESBA consider repositioning the following sentence that was presented in the proposed Guide to the Code in Structure ED-1 to the body of the Code to ensure that it would not be overlooked:

“Professional accountants in public practice might also find [extant] Part C [i.e., restructured Part B] relevant to their particular circumstances.”
19. The IESBA is of the view that its proposal in this ED is responsive to this comment.

⁷ The IESBA did not deal with issues related to the applicability of Part C to PAPPs in its Structure ED-1. However, the proposals in Structure ED-1 are relevant to the issue in the following respects:

- The statement in extant paragraph 100.3 (“Professional accountants in public practice may also find Part C relevant to their particular circumstances”) was repositioned to paragraph 4 of the proposed Guide to the Code; and
- The order of extant Parts B and C was proposed to be reversed in the restructured Code.

Proposed Location of “Applicability Paragraphs” in Restructured Code

20. The IESBA proposes that the applicability paragraphs be prominently positioned in both restructured Part 1, *Complying with the Code, Fundamental Principles and Conceptual Framework*, and Part 3, *Professional Accountants in Public Practice* (i.e., extant Parts A⁸ and B). The IESBA considered whether to:
- Place the applicability paragraphs in Part 1 only, but noted that this approach bears a risk that it might be overlooked by some users of the Code who consult only Part 3.
 - Place the “applicability paragraphs” in Part 1 but with the inclusion of a reference in Part 3 to direct readers to the new provisions, so as to avoid duplication of the same material in two parts of the restructured Code.
21. The IESBA proposes to include the “application paragraphs” in both Parts 1 and 3 because:
- Clarity regarding the applicability of the provisions in Part 2 to PAPPs is sufficiently important to warrant highlighting them in both Parts 1 and 3; and
 - A paragraph that refers readers of Part 3 of the restructured Code to material in Part 1 would not be significantly shorter than repeating the full applicability paragraphs.
22. The IESBA also agreed to include a reference to the applicability paragraphs in the Guide to the Code. The wording for the Guide will be developed once the proposals are finalized.

Applicability Paragraphs in Part 1, Section 120

23. Within Part 1 of the restructured Code, the IESBA proposes that the applicability paragraphs be positioned after paragraph 120.3 A1.⁹ The conceptual framework set out in Section 120 has been given greater prominence in the proposed restructured Code and hence will likely be the most utilized section among professional accountants. Paragraph 120.3 A1 includes application material outlining the content of each part of the Code and notes that the conceptual framework applies to all professional accountants.

Applicability Paragraphs in Part 3, Section 300

24. The IESBA is of the view that the applicability paragraphs should be placed within Section 300¹⁰ of Part 3 of the restructured Code to emphasize upfront to PAPPs that consideration of the provisions within the Code should not be limited to the requirements and application material in Part 3 and that the provisions in Part 2 might also be relevant. The provisions in restructured Section 300 are focused on describing considerations for PAPPs relative to applying the conceptual framework. The IESBA

⁸ Part A, *Introduction to the Code and Fundamental Principles*

⁹ Paragraph 120.3 A1 of proposed Section 120 states that:

“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 Audits and Reviews*; and
 - (ii) Part 4B – *Independence for Other Assurance Engagements*.”

¹⁰ Section 300, *Application of the Conceptual Framework for Professional Accountants in Public Practice*

proposes that the applicability paragraphs be positioned after paragraph R300.4,¹¹ immediately after the requirement for PAPPs to apply the conceptual framework.

Other Matters

25. The IESBA noted that in some jurisdictions PAIBs are not members of the local IFAC member body. Accordingly, only the provisions in extant Parts A and B of the Code are adopted or considered relevant. Therefore, the proposed applicability paragraphs in the restructured Code, once adopted in those jurisdictions, would require professional accountants who are members of the local IFAC member body to consider additional provisions to which they had not previously given attention.
26. The IESBA, however, believes that the proposed applicability paragraphs enhance the robustness of the Code. The IESBA is of the view that establishing the same high quality ethics standards for all professional accountants is in the public interest.

IV. Project Timetable and Effective Date

27. The IESBA intends to complete this project at the same time as its Structure of the Code project. It also proposes to align the effective date of the applicability paragraphs with the effective date of the restructured Code (see [Structure ED-2](#)).
28. The January 2017 [IESBA Update](#) includes a further discussion of the timing of the restructuring work and proposed effective dates for the restructured Code.

V. Guide for Respondents

29. The IESBA welcomes comments on all matters addressed in this Exposure Draft, 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 Exposure Draft, it will be helpful for the IESBA to be made aware of this view.

¹¹ Paragraph R300.4 of Section 300 states that "A professional accountant shall comply with each of the fundamental principles and apply the conceptual framework set out in Section 120 to eliminate threats to compliance with those fundamental principles or to reduce them to an acceptable level."

Request for Specific Comments

1. Do respondents agree with:
 - (a) The proposed applicability paragraphs; and
 - (b) The proposed location of those paragraphs in Sections 120 and 300 of the proposed restructured Code.If not, why not?

Request for General Comments

30. In addition to the request for specific comments above, the IESBA is also seeking comments on the matters set out below:
 - *Small and Medium Practices (SMPs)* – The IESBA invites comments regarding any aspect of the proposals from 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.
 - *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.

EXPOSURE DRAFT: PROPOSED REVISIONS TO CLARIFY THE APPLICABILITY OF PROVISIONS IN PART C OF THE EXTANT CODE TO PROFESSIONAL ACCOUNTANTS IN PUBLIC PRACTICE (APPLICABILITY ED)*

Part 1 – COMPLYING WITH THE CODE, FUNDAMENTAL PRINCIPLES AND THE CONCEPTUAL FRAMEWORK

Section 120

The Conceptual Framework

...

R120.4 When facing an ethical issue, a professional accountant shall consider the context within which the issue has occurred. Where a professional accountant in public practice is performing professional activities pursuant to the accountant's employment or ownership relationship with the firm, there might be requirements and application material in Part 2 that are also applicable to those circumstances. If so, the professional accountant in public practice shall comply with the relevant provisions.

120.4 A1 For example, where a professional accountant in public practice is pressured by an engagement partner to underreport chargeable hours for a client engagement in order to artificially enhance engagement profitability which might impact the partner's remuneration, the requirements and application material set out in Section 270 would be relevant.

PART 3 – PROFESSIONAL ACCOUNTANTS IN PUBLIC PRACTICE

Section 300

Applying the Conceptual Framework – Professional Accountants in Public Practice

...

R300.5 When facing an ethical issue, a professional accountant shall consider the context within which the issue has occurred. Where a professional accountant in public practice is performing professional activities pursuant to the accountant's employment or ownership relationship with the firm, there might be requirements and application material in Part 2 that are also applicable to those circumstances. If so, the professional accountant in public practice shall comply with the relevant provisions.

300.5 A1 For example, where a professional accountant in public practice is pressured by an engagement partner to underreport chargeable hours for a client engagement in order to artificially enhance engagement profitability which might impact the partner's remuneration, the requirements and application material set out in Section 270 would be relevant.

* Chapter 1 of Exposure Draft, [Improving the Structure of the Code of Ethics for Professional Accountants—Phase 2](#), (Structure ED-2) sets out the proposed restructured text of the [close-off document for Part C Phase 1](#).

The explanatory memorandum to Structure ED-2 notes that proposed Section 250, *Inducements* is being developed as part of Phase 2 of the Part C project, and is outside the scope of Phases 1 and 2 of the Structure project. The IESBA anticipates approving its proposals for Section 250 for exposure at its March 2017 meeting.

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