



**IESBA Exposure Draft:
Proposed Revisions Pertaining to
Safeguards in the Code – Phase 1**

21 March 2016

CA House 21 Haymarket Yards Edinburgh EH12 5BH
enquiries@icas.com +44 (0)131 347 0100 icas.com

Direct: +44 (0)131 347 0234 Email: jbarbour@icas.com

INTRODUCTION

The ICAS Charter requires its Boards to act primarily in the public interest, and our responses to consultations are therefore intended to place the public interest first. Our Charter also requires us to represent our members' views and to protect their interests, but in the rare cases where these are at odds with the public interest, it is the public interest which must be paramount.

ICAS welcomes the opportunity to comment on the IESBA Exposure Draft: *'Proposed Revisions Pertaining to Safeguards in the Code – Phase 1'*. The ICAS Ethics Board has considered the Exposure Draft and I am pleased to forward their comments.

Any enquiries should be addressed to James Barbour, Director, Technical Policy.

Key Points

1. Please note that our comments on the proposals contained in this Exposure Draft should be viewed as preliminary. We do not believe that they will be subject to change, but we would highlight this caveat as we need to reserve judgement until we see the proposals contained in Phase 2 of this project as well as other related Exposure Drafts i.e. further EDs relating to the structure of the Code.
2. We are supportive of:
 - IESBA's objective to improve the clarity, appropriateness, and effectiveness of the safeguards in the Code of Ethics.
 - IESBA's aim of further promoting the appropriate use of the conceptual framework among all professional accountants to comply with the fundamental principles of the Code. We believe that the importance of highlighting the fundamental principles cannot be underestimated.
3. We agree with IESBA that there are public interest benefits to be derived from an improved correlation between threats, safeguards and the fundamental principles.
4. We are supportive of a more explicit overarching requirement for all professional accountants to comply with the conceptual framework, to eliminate threats to compliance with the fundamental principles or reduce them to an acceptable level, and are also supportive of the more extensive introduction that better explains the conceptual framework approach.
5. We are supportive of the required overall assessment approach. However, we do question the ordering of the relevant paragraphs in the proposed revised Code. We believe that the content of paragraph R120.9 *"Overall Assessment"* should be placed before the content of paragraphs of R120.8 to 120.8A2 on *"Re-evaluating Threats"*. If the 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 professional accountant would then need to re-evaluate their overall assessment. We very much see this as an ongoing approach.
6. We also support enhancing consistency in the terminology used in the Code.
7. We are supportive of the withdrawal of the terms *"safeguards created by the profession or legislation"*, *"safeguards in the work environment"* and *"safeguards implemented by the entity"* from the Code. We are also supportive of the decision to restrict the definition of *"safeguards"* to more narrowly describe actions that the professional accountant undertakes to address threats to compliance with the fundamental principles.

However, we do believe that there will be a major education exercise required to inform practitioners, particularly those in smaller firms as to the justification for the removal of such matters from the category of *"safeguards"*. This may also cause issues in relation to ensuring that this proposed change to the Code is translated appropriately.

8. We agree that it is essential that application of professional judgement continues to be a critical aspect of effectively applying safeguards.

Responses to the Specific Questions

Proposed Revisions to the Conceptual Framework

1. Do respondents support the Board's proposed revisions to the extant Code pertaining to the conceptual framework, including the proposed requirements and application material related to:

- (a) Identifying threats;**
- (b) Evaluating threats;**
- (c) Addressing threats;**
- (d) Re-evaluating threats; and**
- (e) The overall assessment.**

If not, why not?

We are supportive of the substance of these proposed revisions. However, we do question the ordering of the relevant paragraphs in the proposed revised Code. We believe that the content of paragraph R120.9 "Overall Assessment" should be placed before the content of paragraphs of R120.8 to 120.8A2 on "Re-evaluating Threats". If the 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 professional accountant would then need to re-evaluate their overall assessment. We very much see this as an ongoing approach.

We note, however, that the Introduction to Section 120 currently only mentions identifying, evaluating and addressing threats. There is no mention of re-evaluating threats and the overall assessment. We believe it would be helpful for the reader if these new requirements were also highlighted at the start of the Section.

We have concerns over the proposed wording to 120.2 – this could be misread as imposing an obligation on the professional accountant to identify threats to compliance with the fundamental principles even if there are no such threats.

Proposed Revised Descriptions of "Reasonable and Informed Third Party" and "Acceptable Level"

2. Do respondents support the proposed revisions aimed at clarifying the concepts of (a) "reasonable and informed third party;" and (b) "acceptable level" in the Code. If not, why not?

Yes, we are generally supportive of the proposed revisions to the Code aimed at clarifying the concepts of:

- (a) "reasonable and informed third party"; and
- (b) "acceptable level".

We do believe that it should be clarified that the "reasonable and informed third party" concept relates to a hypothetical actual person as opposed to also possibly including a legal persona or body.

"The concept of a reasonable and informed third party is a test which involves an evaluation by a hypothetical person. Such a person possesses skills, knowledge and experience to objectively evaluate the appropriateness of the professional accountant's judgments and conclusions. This evaluation entails weighing all the relevant facts and circumstances that the accountant knows, or could reasonably be expected to know, at the time that the evaluation is made to determine whether the accountant complies with the fundamental principles."

"An acceptable level is a level at which a reasonable and informed third party would likely conclude that the professional accountant complies with the fundamental principles".

Proposed Revised Description of Safeguards

3. Do respondents support the proposed description of “safeguards?” If not, why not?

Yes, we support the proposed description of safeguards.

“Safeguards are actions, individually or in combination, that the professional accountant takes that effectively eliminate threats to compliance with the fundamental principles or reduce them to an acceptable level.”

4. Do respondents agree with the IESBA’s conclusions that “safeguards created by the profession or legislation,” “safeguards in the work environment,” and “safeguards implemented by the entity” in the extant Code:

(a) Do not meet the proposed description of safeguards in this ED?

(b) Are better characterized as “conditions, policies and procedures that affect the professional accountant’s identification and potentially the evaluation of threats as discussed in paragraphs 26–28 of this Explanatory Memorandum?”

If not, why not?

We agree that “safeguards created by the profession or legislation”, “safeguards in the work environment”, and “safeguards implemented by the entity” in the extant Code do not meet the proposed description of safeguards in the ED.

We agree that they are better characterized as “conditions, policies and procedures” that affect the professional accountant’s identification and potentially the evaluation of threats as discussed in paragraphs 26–28 of this Explanatory Memorandum.

However, we do believe that there will be a major education exercise required to inform practitioners, particularly those in smaller firms as to the justification for the removal of such matters from the category of “safeguards”. This may also cause issues in relation to ensuring that this proposed change to the Code is translated appropriately.

Proposals for Professional Accountants in Public Practice

5. Do respondents agree with the IESBA’s approach to the revisions in proposed Section 300 for professional accountants in public practice? If not, why not and what suggestions for an alternative approach do respondents have that they believe would be more appropriate?

We find this difficult without having sight of the changes that will be proposed by Phase 2 of this project to better aid our understanding of the full impact of all of the proposed changes. However, based on the content available we agree with this proposed approach.

We also believe that it would be helpful to include a summary of requirements, or bullet points from paragraph 14 of the Explanatory Memorandum in the introduction of this section, as this helps to signpost the guidance. Also, we note that there is no mention of the third party test in this section. We believe it would be helpful to the reader for it to be repeated here as people might not refer back to Section 120.