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Mr Ken Siong,  
Senior Technical Director  
International Ethics Standards Board for Accountants (IESBA)  
529 Fifth Avenue, 6<sup>th</sup> Floor  
New York, New York 10017 USA

By Email: [kensiong@ethicsboard.org](mailto:kensiong@ethicsboard.org)

Dear Ken,

**Exposure Draft: *Proposed Revisions to the Non-Assurance Services (NAS) Provisions of the Code***

CPA Australia represents the diverse interests of more than 166,000 members working in over 100 countries and regions around the world. We make this submission on behalf of our members and in the broader public interest.

We value the opportunity to provide comment on the proposed revisions to the NAS provisions of the International Code of Ethics for Professional Accountants (the Code).

CPA Australia recognises the interest that stakeholders have regarding perceptions of the independence of auditors and the impact the provision of NAS has on these perceptions and on audit quality. This topic has been a focus of regulators and academics for over two decades; and there continues to be mixed evidence regarding the impact of the provision of NAS on independence and audit quality. Recently, there have been several further inquiries and reviews into auditor independence issues in the United Kingdom and Australia (on 1 August 2019 the Australian Senate referred an inquiry into the regulation of auditing in Australia to the Parliamentary Joint Committee on Corporations and Financial Services).

We recognise the challenges of balancing stakeholder's perceptions and concerns while maintaining the conventions on which the Code is based. CPA Australia supports the IESBA in advocating for increased accountability, transparency and independence through the application of principles, threats and safeguards. The proposed NAS provisions, however, appear to aim to prohibit services based on threats, rather than the inability to mitigate or reduce threats to an acceptable level. In parts, the structure of these provisions is inconsistent with the drafting conventions on which the Code is based.

While well-intentioned, CPA Australia questions whether some of the prohibitions proposed, being rules based, are appropriate for inclusion in the Code. Arguably, such prohibitions are a matter for regulators in their respective jurisdictions to address.

Additionally, the argued purpose for the proposed revisions, being in response to heightened stakeholder perceptions and expectations regarding auditor independence, assumes that users of audit reports understand independence requirements and their impacts on the quality and reliability of financial reports and the auditor's report. CPA Australia is not convinced that users' understanding of these matters is at such a level that warrants prohibitions on the services provided by professional accountants, rather than reliance on the exercise of professional judgment in applying a principles-based Code of Ethics.

CPA Australia observes that the proposed revisions assume that there is a clear and unambiguous appreciation of the definition of a Public Interest Entity (PIE). CPA Australia does not support this assumption. The IESBA has approved a project proposal for the review of the definition of PIEs and listed entities, highlighting the uncertainty about these concepts and how professional accountants understand and apply them. Comprehending the basis for determining a PIE is key to appropriately applying the proposed NAS provisions. Successful global adoption and implementation of any new NAS provisions would be assisted where professional accountants, users and stakeholders have a consistent understanding of the PIE definition prior to the introduction of provisions which rely on this definition.

CPA Australia's recommendations with respect to the proposed revisions to the NAS provisions of the Code are contained in Appendices 1-3 and are summarised below. We recommend that the IESBA consider/re-consider whether:

- The application material in 600.13 A2 be incorporated into R600.14 to clearly establish that any prohibition results not merely from the existence of a threat, but from the fact that the IESBA believes there are no safeguards available to reduce or eliminate the potential threat.
- The intention is clearly articulated, and potential unintended consequences recognised, of R600.14 which effectively excludes the provision of NAS services for PIE audit clients. In particular, it is not clear that there is appropriate and relevant evidence to support the significant restrictions being placed on audit firms through the application of the proposed provisions in the Code.
- The proposed 600.11 A2 (a) will effectively include most NAS, regardless of how unlikely the self-review threat is or the potential impact on the results of the audit. Also, it seems that 600.11 A2 (a) does not consider that materiality levels are applied in an audit engagement, consistent with the auditing standards, and so, realistically there could be no self-review threat as the outcomes of the NAS would not be subject to audit.
- It is appropriate to exclude as potential self-review threats, the tax planning and advisory services in 604.12 A2, and whether the exclusions listed in (a) to (c) are better described as available safeguards to reduce the self-review threat to an acceptable level.
- There is a need for greater clarity about how R604.13 and 604.12 A2 interact and would be applied. If, in R604.13, the IESBA is referring to services other than those indicated at 604.12 A2 (a) to (c), this intention should be more clearly described in R604.13. Changing the exclusions at 604.12 A2 (a) to (c) to safeguards may assist in clarifying R604.13.
- To defer proposed changes to the NAS related provisions of the Code until after the project on the definition of PIEs has been successfully completed.
- The proposed R604.13 and R610.6 have been assessed for practical application. It is not clear how to identify differences of opinions between the audit team and those providing NAS, at the time of accepting a NAS engagement.

- Proposed requirement R604.4 may be touching on legal concepts that differ widely between jurisdictions and are therefore best managed through regulation in individual jurisdictions. Legislation, including appropriate sanctions, is likely to be more successful in eliciting desired behaviours in the area of tax minimisation, planning and avoidance, than a Code of Ethics with universal applicability.
- The requirement at R400.32 should be redrafted to reflect principles, threats and safeguards rather than criteria to be complied with prior to the acceptance of an audit engagement. It is not clear that the measures noted in R400.32 (c) are able to be practically implemented.

Should you have any questions regarding this submission, please do not hesitate to contact Josephine Haste CPA, Policy Adviser – Ethics and Professional Standards on +613 9606 9693 or [josephine.haste@cpaaustralia.com.au](mailto:josephine.haste@cpaaustralia.com.au).

Yours sincerely



**Dr Gary Pflugrath**  
**Executive General Manager, Policy and Advocacy**

## APPENDIX 1 – Schedule of Responses to Specific Questions raised in the Explanatory Memorandum (EM)

### ***Prohibition on NAS that Will Create a Self-review Threat for PIEs***

1. *Do you support the proposal to establish a self-review threat prohibition in proposed paragraph R600.14?*

CPA Australia does not support the proposal to establish a self-review threat prohibition for PIEs in paragraph R600.14. The requirement is a prohibition based on a potential threat rather than being based on the fact, or assumption, that there are no available safeguards to reduce the threat to an acceptable level. CPA Australia recommends that the application material in 600.13 A2 be incorporated in to R600.14 to clearly establish that the prohibition results from the IESBA's view that there are no safeguards available to reduce or eliminate the threat.

While CPA Australia recognises the possible motivation for proposed requirement R600.14, we are concerned that the IESBA may be inadvertently aiming to assume the role of regulator, rather than a standard setter promulgating principle-based standards.

2. *Does the proposed application material in 600.11 A2 set out clearly the thought process to be undertaken when considering whether the provision of a NAS to an audit client will create a self-review threat? If not, what other factors should be considered?*

We do not support the IESBA's view that every self-review threat identified with respect to a PIE audit client is unable to be reduced to an acceptable level and that therefore, elimination of the threat is required.

CPA Australia is concerned that 600.11 A2 (a)— i.e., the results of the service will **affect** the accounting records—effectively means all NAS create a self-review threat, and the consequence of 600.11 A2 (a), coupled with R600.14, means that all NAS are effectively prohibited for a PIE audit client. The explanatory memorandum does not clearly establish that these consequences are intended by the IESBA.

Additionally, the term 'risk' in the stem of 600.11 A2 is not used throughout the Code with respect to describing a threat to the fundamental principles and appears inconsistent with drafting conventions.

### ***Providing Advice and Recommendations***

3. *Is the proposed application material relating to providing advice and recommendations in proposed paragraph 600.12 A1, including with respect to tax advisory and tax planning in proposed paragraph 604.12 A2, sufficiently clear and appropriate, or is additional application material needed?*

CPA Australia supports the content contained in 600.12 A1 except for the last sentence which refers to the application of R600.14. Should the IESBA amend R600.14 in accordance with the recommendations provided in response to Question 1, CPA Australia would support proposed paragraph 600.12 A1 notwithstanding concerns raised with respect to 600.11 A2 in response to Question 2.

CPA Australia does not support proposed paragraph 604.12 A2 as conceptually, we disagree that providing tax advisory and tax planning services will not create a self-review threat. The factors listed at 604.12 A2 (a) to (c) appear to be more like examples of safeguards that can be used to reduce or

eliminate the self-review threat created when providing tax advisory and tax planning services; and should be recognised as such.

The “exemptions” to R600.14 created by the application of 604.12 A2 (a) to (c) appear to have no equivalents for other NAS services described in subsections 601-610. CPA Australia is concerned that the application of 604.12 A2 (a) to (c) is inconsistent with the other parts of the NAS provisions and with the threats and safeguards approach used in the Code.

#### **Project on Definitions of Listed Entity and PIE**

4. *Having regard to the material in section I, D, “Project on Definitions of Listed Entity and PIE,” and the planned scope and approach set out in the approved project proposal, please share your views about what you believe the IESBA should consider in undertaking its project to review the definition of a PIE.*

CPA Australia supports the planned scope and approach set out in the approved project proposal, ‘Definitions of Listed Entities and PIEs.’ The focus of a significant proportion of the proposed changes to NAS and Fee related provisions in the Code apply to listed entities and PIEs. It is logical for there to be alignment between the three projects and consultation between the two standard setting boards, IESBA and the IAASB, regarding consistent phrasing and terminology.

CPA Australia supports consistency of phrasing and terminology across all accounting, auditing and ethics standards. CPA Australia supports the development of specific criteria and application material to support the determination of whether an entity is a PIE.

CPA Australia recommends delaying the operative date of proposed revisions to the NAS provisions of the Code to coincide with the operative date expected for changes to definitions of Listed Entities and PIEs.

#### **Materiality**

5. *Do you support the IESBA’s proposals relating to materiality, including the proposal to withdraw the materiality qualifier in relation to certain NAS prohibitions for audit clients that are PIEs (see Section III, B “Materiality”)?*

CPA Australia does not support the removal of the materiality qualifier for all audit clients where the Code does not provide safeguards for addressing self-review threats for PIE audit clients. We are concerned that the removal of the materiality qualifier effectively results in prohibiting all NAS for PIE audit clients. The explanatory memorandum does not clearly establish that this is what is intended by the IESBA.

We note that for audits of non-PIEs the level of materiality does appropriately act as a safeguard given that audits are conducted based on materiality thresholds.

6. *Do you support the proposal to prohibit the following NAS for all audit clients, irrespective of materiality:*

- *Tax planning and tax advisory services provided to an audit client when the effectiveness of the tax advice is dependent on a particular accounting treatment or presentation and the audit team has doubt about the appropriateness of that treatment or presentation (see proposed paragraph R604.13)?*

- *Corporate finance services provided to an audit client when the effectiveness of such advice depends on a particular accounting treatment or presentation and the audit team has doubt about the appropriateness of that treatment or presentation (see proposed paragraph R610.6)?*

CPA Australia does not support the proposal to prohibit NAS for tax planning and corporate finance services where the effectiveness of the advice depends on a particular accounting treatment or presentation. Whilst CPA Australia recognises the IESBA's possible objective in including this requirement, CPA Australia does not support a requirement that is contingent on whether the audit team has doubt about the appropriateness of that treatment or presentation. This is due to the likelihood that the NAS engagement has already been accepted by the firm, and the accounting treatment or presentation executed, before the auditor makes an assessment about its appropriateness. The examples provided are based on hypothetical future events that the professional accountant may not be apprised of when accepting the NAS engagement. The proposed wording suggests that potential differences of view between professional accountants providing NAS and the auditor, need to be identified and addressed prior to accepting the NAS engagement; which may not be practical or achievable.

### **Communication with TCWG**

7. *Do you support the proposals for improved firm communication with TCWG (see proposed paragraphs R600.18 to 600.19 A1), including the requirement to obtain concurrence from TCWG for the provision of a NAS to an audit client that is a PIE (see proposed paragraph R600.19)?*

CPA Australia welcomes the proposals for improved communication with TCWG about NAS. It is important that the client understands its role in regularly assessing the independence of the auditor. The requirements in R600.18 and R600.19 may be further enhanced by including examples, in application paragraphs, of documentation which may be either provided or obtained by the professional accountant to support concurrence from the client.

### **Other Proposed Revisions to General NAS provisions**

8. *Do you support the proposal to move the provisions relating to assuming management responsibility from Section 600 to Section 400, and from Section 950 to Section 900?*

CPA Australia supports the relocation from Section 600 to Section 400 of the provisions relating to the prohibition on assuming management responsibility on the assumption that discussion relating to management responsibility remains general in nature and does not refer to specific examples of management responsibilities.

CPA Australia supports relocating the provisions contained in Section 950 to Section 900 to improve the general application and prominence of the provisions.

9. *Do you support the proposal to elevate the extant application material relating to the provision of multiple NAS to the same audit client to a requirement (see proposed paragraph R600.10)? Is the related application material in paragraph 600.10 A1 helpful to implement the new requirement?*

CPA supports the proposal to elevate to a requirement the extant application material relating to the provision of multiple NAS to the same audit client.

CPA Australia believes that the professional accountant must have an appreciation of the cumulative and compounding effect of multiple NAS engagements and the impact on threats to the fundamental principles which result. Elevating the extant application material relating to the provision of multiple NAS to the same audit client establishes an expectation that the professional accountant must continually review and monitor additional NAS services throughout the engagement.

The application material included in paragraph 600.10 A1 is helpful when implementing the new requirements as it explains that the professional accountant must be cognisant of the impact not only to the threat, but also to safeguards already in place to address threats at a particular level.

10. *Do you support the proposed revisions to subsections 601 to 610, including:*

- *The concluding paragraph relating to the provision of services that are “routine or mechanical” in proposed paragraph 601.4 A1?*

CPA Australia supports the concluding paragraph of 601.4 A1 which explains that a firm may provide audit services to non-PIE audit clients provided that the firm does not assume management responsibility. CPA Australia recommends the IESBA rephrase R601.4(b) as threats that are not at an acceptable level can only be managed by eliminating the threat. Also, R601.4(b) is not clear on what it means to “address” the threat.

- *The withdrawal of the exemption in extant paragraph R601.7 that currently permits firms and network firms to provide accounting and bookkeeping services for divisions and related entities of a PIE if certain conditions are met*

CPA Australia supports the withdrawal of the exemption in extant paragraph R601.7. Prohibiting the provision of accounting and bookkeeping services for PIEs is strengthened where the same prohibition is in place for divisions and related entities of PIEs.

- *The prohibition on the provision of a tax service or recommending a tax transaction if the service or transaction relates to marketing, planning or opining in favour of a tax treatment, and a significant purpose of the tax treatment or transaction is tax avoidance (see proposed paragraph R604.4)?*

CPA Australia does not support the prohibitions relating to tax avoidance, as there is no globally agreed and unambiguous definition of the term “tax avoidance.” The term is defined and interpreted by jurisdictional regulators and tax authorities in different ways, and as such, it makes the proposed prohibition problematic. It seems to be an area that is best addressed by regulators and legislators; rather than by a standard setter in a Code of Ethics. Moreover, inclusion of this prohibition in the taxation section of the NAS provisions of the Code is incongruous and inconsistent with other parts of the Code, such as those relating to accounting services or valuation services, where no such equivalent prohibitions exist with respect to the intended purposes of the services being provided.

- *The new provisions relating to acting as a witness in subsection 607, including the new prohibition relating to acting as an expert witness in proposed paragraph R607.6?*

CPA Australia supports the new provisions relating to acting as a witness in subsection 607 and the new prohibition to acting as an expert witness in proposed paragraph R607.6.

In Australia, similar provisions to those described in R607 are contained in the standards issued by the Accounting Professional and Ethical Standards Board (APESB).

### ***Proposed Consequential Amendments***

- 11. Do you support the proposed consequential amendments to Section 950?*

CPA Australia is supportive of the proposed consequential and conforming amendments to Section 950 and other sections of the Code where CPA Australia is supportive in its responses to Questions 1-10.

- 12. Are there any other sections of the Code that warrant a conforming change as a result of the NAS project?*

CPA Australia has not identified any other areas within the Code that require conforming change as a result of the proposed revisions.

## **APPENDIX 2 – Schedule of Responses to General Questions raised in the Explanatory Memorandum**

### **1. Those Charged with Governance (TCWG), including Audit Committee Members**

CPA Australia supports the requirements and application material to strengthen firm communication with TCWG in 600.17 A1 to R600.20 A1. The proposed provisions relating to NAS-related matters including, in the case of audit clients that are PIEs, a requirement for firms to obtain concurrence from TCWG for the provision of the NAS. However, we note that transparency for the purposes of assessing independence is useful only to the extent that TCWG have an appreciation of what is required in Parts 4A and 4B of the Code. Depending on the experience, skills and expertise of TCWG, it may be incumbent on the professional accountant to fully inform TCWG about the requirements of the Code to facilitate an appropriate assessment of independence by TCWG.

### **2. Small and Medium Sized Entities (SMEs) and Small and Medium Sized Practices (SMPs)**

It is important to consider that PIE clients are not always large entities serviced by large audit firms or network firms. It is recognised that in many jurisdictions PIEs can be small entities, whose auditors are SMPs. Where revisions to the Code are proportionate and scalable, adoption and compliance are anecdotally more successful. The proposed changes to both Fees and NAS, in addition to the proposed changes to ISQM 1 and 2, are significant and will require considerable change to operational policies and procedures for all firms, including smaller firms with limited resources. CPA Australia holds concerns that the quantum of all changes will increase the administrative burden for professional accountants, which may be disproportionate to the public interest benefits derived where audits are performed on PIEs which may be SMEs often audited by SMPs.

### **3. Regulators and Audit Oversight Bodies**

CPA Australia offers no response to this question

### **4. Developing Nations**

CPA Australia offers no response to this question

### **5. Translation**

CPA Australia offers no response to this question

### APPENDIX 3 – Other comments raised in response to the Explanatory Memorandum (EM)

- 1) It is not clear whether R604.13 is referring to tax advisory and planning services other than those listed at 604.12 A2 (a) to (c).

It may be confusing for the professional accountant that certain tax advisory and planning services are permissible, due to the “exclusion” of these services from creating a self-review threat under 604.12 (a) to (c), but these same services may be prohibited under R604.13 due to potential conflicts which may not be known at the time of the engagement.

The need for clarity was noted in our response to Question 3 of the EM in Appendix 1, where we suggested that the exclusions at 604.12 A2 (a) to (c) are perhaps better presented as safeguards. CPA Australia recommends redrafting subsection 604 – Tax Services.

- 2) CPA Australia does not support proposed R400.32. Consistent with our response to Question 1 of the EM provided in Appendix 1, the requirement is a prohibition based on a potential threat rather than being based on the fact that there are no available safeguards to reduce the threat to an acceptable level. Rather than listing potential threats and available safeguards to reduce or mitigate potential threats, the requirement indicates specific criteria to address prior to accepting an appointment as an auditor. This approach is inconsistent with a principles-based Code. Furthermore, we question whether the measures at R400.32 (c) would be able to be practically implemented.