



To: Ken Siong
Technical Director, IESBA

Submitted via the IESBA website

21 April 2015

Ref: PEC/PFK/NRO/NTA

Dear Mr Siong,

Re: Proposed Changes to Part C of the Code

We are writing to you on behalf of FEE¹ with regard to the IESBA Exposure Draft *Proposed Changes to Part C of the Code Addressing Presentation of Information and Pressure to Breach the Fundamental Principles*.

FEE's responses to the specific questions set out in the Exposure Draft can be found in the appendix to this letter. Our general comments are as follows:

- The distinction between fundamental principles and overarching principles must be made clear. The Code is based on five fundamental principles. All other requirements including the 'fair and honest principle' and the principles relating to pressure (section 370) emerge from one or more fundamental principles. Therefore, the newly introduced overarching principles or requirements should not be seen as standalone and cannot be described as such. The fundamental principles included in Part A are the only overarching ones. The terminology of 'overarching principles/requirements' are not only confusing, but also conceptually questionable.
- As Part C of the Code essentially provides more detailed guidance on how the fundamental principles should be applied in practice, it is of the utmost importance that the link between the extant Parts A and C be made clear. Any amendments or additions to Part C must have some connection with the fundamental principles set out in Part A and should not include any new requirement that cannot be traced back to a requirement included in Part A.
- As emphasised several times in our responses to the questions below, the proposal contains a large number of long lists of examples. This may lead to users seeing them as exhaustive checklists. We suggest using wording such as 'examples include, but are not limited to [...]'

We are most grateful for this opportunity to provide input and hope that the IESBA will find our comments helpful.

¹ FEE is the Fédération des Experts comptables Européens (Federation of European Accountants). It represents 47 professional institutes of accountants and auditors from 36 European countries, including all 28 EU member states. In representing the European accountancy profession, FEE recognises the public interest. It has a combined membership of more than 800,000 professional accountants working in different capacities in public practice, small and large firms, government and education – all of whom contribute to a more efficient, transparent and sustainable European economy.



Should you wish to discuss any of the issues raised in this letter, please do not hesitate to contact Noémi Robert by telephone (+32 (0)2 285 40 85) or by email at noemi.robert@fee.be

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Petr Kříž'.

Petr Kříž
President

A handwritten signature in blue ink, appearing to read 'Olivier Boutellis-Taft'.

Olivier Boutellis-Taft
Chief Executive

APPENDIX

FEE's responses to the specific questions in the Exposure Draft

PROPOSED REVISED SECTION 320

QUESTION 1

Is the enhanced guidance on applying the 'fair and honest' principle in Section 320 helpful?

Generally, we support the clear expression of the 'fair and honest' principle set out in paragraph 320.2. However, care should be taken to minimise the risk of confusion between the 'fair and honest' principle and the fundamental principles. The connection between the 'fair and honest' principle and the fundamental principles should be made clearer. We refer to our general comments.

We believe that paragraph 320.2 should make clearer that – in order to act in compliance with the fundamental principles – a professional accountant responsible for recording, maintaining, preparing and presenting information shall do so in a manner that is fair and honest. In addition, the reporting aspect should be applicable irrespective of the fact that a relevant reporting framework is in place. The reference to 'a relevant reporting framework, where applicable' could therefore be misinterpreted.

Where there are lists of examples, it is often worthwhile emphasising that such lists are not exhaustive, and should not detract from the underlying fundamental principle.

QUESTION 2

In particular, do respondents support the guidance in paragraph 320.3 addressing the issue of misuse of discretion in a manner that is intended to mislead? If not, please explain why. Are there any other considerations relating to this issue that should be addressed in Section 320?

We agree with the five broad examples (and specific examples within each) set out in paragraph 320.3. These examples are helpful. However, the consistency of the material could be improved by seeking to align this with the wording from the ISAs mentioned in the commentary – ie, freedom from bias – when it comes to judgements and decisions made by management in making accounting estimates (ISA 540).

The wording at certain points needs to be stronger – ie, where there is the intention to mislead, management bias is fraudulent in nature – and that fraudulent financial reporting is often accomplished through intentional misstatement of accounting estimates (ISA 240). Use could be made of the ISA 540 example re 'using an entity's own assumptions for fair value accounting estimates when they are inconsistent with observable marketplace assumptions.'

QUESTION 3

Paragraph 320.4 provides guidance as to what PAIBs are expected to do ethically in order to prepare or present fairly and honestly information that does not have to comply with a relevant reporting framework. Is this guidance sufficient? If not, what further guidance could Section 320 usefully provide?

We are not convinced that the actual proposed paragraph 320.4 fully conveys the concerns raised in the explanatory memorandum that the PAIB needs to be aware of the purpose, context and audience of the information provided, especially in the situation where no specific reporting framework is required.

In addition, it is not clear how far a PAIB has to go to find out what the information will be used for. If, for example, the finance director asks for a quick breakdown of figures, what checks need to be performed?

As drafted, paragraphs 320.3 and 320.4 seem to include requirements, rather than guidance. Some redrafting is needed in order to avoid creating confusion and an expectation gap in this respect.

QUESTION 4

Do respondents agree that where a PAIB relies on the work of others, the PAIB should be required to take reasonable steps to be satisfied that such work enables the PAIB to comply with the overarching principle in paragraph 320.2?

We agree. If the PAIB relies upon the work of others, he or she should be comfortable that the information upon which they intend to rely enables them to comply with the fundamental principles.

We recommend that a definition of 'reasonable steps' be added to the Code in order to clarify this point. It depends on factors such as what is workable, what is effective, what would be the objective given by a reasonable third party. The IESBA may also wish to consider whether the same definition of 'reasonable steps' ought to apply for both PAIBs and professional accountants in public practice.

QUESTION 5

Do respondents agree with the guidance proposed in paragraphs 320.6 and 320.7 regarding disassociation with misleading information? Are there other actions that could be specified?

Paragraphs 320.6 and 320.7 are very detailed (while not being prescriptive). They may be combined and drafted in such a way that they are clearly seen to be guidance that is subordinate to paragraph 320.8. It should be clearer that the list included in paragraph 320.7 is not exhaustive. This list may also include other examples.

We welcome the clarity provided by paragraphs 320.8 and 320.9. We also agree with the substance of paragraph 320.9 – but question whether 'encourage' is the right word? We would prefer the use of something stronger – eg, 'advise' or 'shall'? Likewise for paragraph 370.8.

Paragraph 320.8 should be clearer about the action of 'resigning from the employing organization'. It should not be seen as the solution but rather as an action that might need to be taken in exceptional circumstances, and as an absolute last resort, after all other steps to resolve the matter have been explored (such as escalating the information).

There are two issues around dissociation with misleading information:

- The misleading information itself; and
- The will of the PAIB not to be associated with this misleading information.

Resigning will only solve the latter, but will do no good with tackling the former.

Bearing in mind these two perspectives of the issue, the IESBA might consider taking this into account to rearrange paragraphs 320.6 to 320.8. To do so, we would recommend making a clear distinction between:

- How to deal with misleading information; and
- The overruling personal problem whether one can justify continuing working for the organisation or whether it is more appropriate to resign. This issue concerns all professional accountants and not PAIBs only. However, the consequences of resigning will often have more significant effects for PAIBs than professional accountants in public practice. For PAIBs, when resigning from their employing organisation their entire life is impacted, whereas for professional accountants in public practice, the impact is limited to their client portfolio.

PROPOSED SECTION 370

QUESTION 1

Do respondents agree with the overarching requirements in paragraphs 370.1 and 370.2?

We agree with the overarching requirements. Nevertheless, the two overarching requirements could be argued to be implicit in the existing Code anyway, and the draft seems to be longer than necessary with the inclusion of too many examples. We refer to our general comments where we emphasise the need for a clear connection between overarching requirements and the fundamental principles.

Pressure to breach a fundamental principle is, in itself, a threat to that principle. The wording currently lacks clarity, as it is well established that such pressure (i.e. such threat) requires the PAIB to apply appropriate safeguards. The last sentence of paragraph 370.1 may be unachievable. It also seems inconsistent with the first sentence of paragraph 370.3.

It is unclear why the second sentence of paragraph 370.3 is included. Reporting deadlines are a common source of pressure and a very real threat to the fundamental principles.

QUESTION 2

Are the illustrative examples of types of pressure that could result in a breach of the fundamental principles in paragraph 370.4 helpful?

We believe that the illustrative examples are helpful. There might be a need to state that this list is not exhaustive.

QUESTION 3

Is it sufficiently clear that Section 370 addresses pressure that could result in a breach of fundamental principles, as opposed to the routine pressures that exist in the workplace? In particular, does paragraph 370.5 provide sufficient guidance to assist the PAIB in making that distinction? If not, what other considerations should the PAIB take into account?

Paragraph 370.5 provides some useful guidance on what the PAIB could consider when facing pressure. We don't think that this paragraph provides guidance to assist in making any distinction between pressure that could result in a breach of fundamental principles and routine pressures.

We are even not sure that any such distinction effectively exists. Pressure can also slowly build up from 'routine' to unacceptable. Instead of making this distinction, the IESBA may consider emphasising how these pressures relate to each other.

QUESTION 4

Do respondents find the guidance in paragraph 370.6 on responding to pressure that would result in a breach of the fundamental principles helpful? Are there other actions that should be considered?

We agree that this guidance is helpful.

QUESTION 5

Are the references to other sections of Part C of the Code, in paragraph 370.9, helpful?

Links are helpful. They might be better placed in the relevant paragraphs as from paragraph 370.4 rather than having a separate paragraph 370.9 at the end.

There might also be a need to add that the examples contained within those sections are not exhaustive.