



MALAYSIAN INSTITUTE
OF ACCOUNTANTS

4 June 2020

Mr Ken Siong
Senior Technical Director
International Ethics Standards Board for Accountants
International Federation of Accountants
529 Fifth Avenue, 6th Floor
New York, 10017 USA

Dear Ken Siong,

**INTERNATIONAL ETHICS STANDARDS BOARD FOR ACCOUNTANTS (“IESBA”)
EXPOSURE DRAFT, PROPOSED REVISIONS TO THE NON-ASSURANCE SERVICES
 (“NAS”) PROVISIONS OF THE CODE**

The Ethics Standards Board (“ESB”) of the Malaysian Institute of Accountants (“MIA or the Institute”) welcomes the opportunity to provide its comments on the IESBA Exposure Draft (“ED”), *Proposed Revisions to the NAS Provisions of the Code*.

We enclose in Appendix 1, our response to the questions contained in the ED.

We hope our comments would contribute to the IESBA’s deliberation in finalising the ED. If you have any queries or require clarification of this submission, please contact Simon Tay Pit Eu at +603 2722 9271 or email at simontaypiteu@mia.org.my.

Thank you.

Yours sincerely,
MALAYSIAN INSTITUTE OF ACCOUNTANTS

DR. NURMAZILAH DATO' MAHZAN
Chief Executive Officer

APPENDIX 1

Our comments on the ED are as follows:

Specific Comments

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

Q1. Do you support the proposal to establish a self-review threat prohibition in proposed paragraph R600.14?

We generally support the notion that the provision of NAS by a firm or network firm to an audit client may lead to a self-review threat.

However, we believe that the application of available relevant safeguards at the firm-level and/or engagement-level could significantly reduce or mitigate this threat to an acceptable level.

We also believe that the materiality qualifier should be maintained as part of the consideration on the prohibition of NAS for which our detailed comments are reflected in our response to Question 5 below.

Since this proposal represents a paradigm shift of immense consequences, we urge the IESBA and IAASB to expedite the project on the definition of PIE project because of the intricate linkages between the outcome of the definition of PIE and the eventual implementation of this proposal.

Q2. 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 reiterate our broad responses to Question 1 above and specific response to Question 5 below on the withdrawal of the materiality qualifier from the Code.

We also draw attention to proposed paragraph 600.11 A2(b) whereby the results of most NAS would invariably be subjected to audit procedures; e.g.:

1. Tax return preparation services would result in tax computations that would be reviewed by the financial statement auditors in the normal course of an audit of tax expense and deferred tax.
2. Valuation services would result in valuations that would be reviewed by the financial statement auditors in the normal course of an audit of the fair value measurement and related disclosures.
3. Training services would result in assessment of the quality of control environment by the financial statement auditors in the normal course of an audit.

Providing Advice and Recommendations

Q3. 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?

With regards to the context of a PIE audit client, we believe that the proposed application material in paragraphs 600.12 A1 and 600.14 should retain the principle that management's involvement in the consideration of advice and recommendations could act as a safeguard, similar to that of a non-PIE audit client.

We would like to seek application guidance on the term 'long period' in proposed paragraph 604.12 A2(b) to facilitate consistent understanding of the proposed requirements.

We would also like to seek application guidance on the phrase 'basis in tax law that is likely to prevail' in proposed paragraph 604.12 A2(c) to reduce diversity in its eventual application between the financial statement auditors and tax lawyers.

Project on Definitions of Listed Entity and PIE

Q4. 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.

We generally support the notion that a higher standard should be adopted by auditors of PIEs and therefore, a consistent definition of PIEs used by IESBA and IAASB is vital. Unfortunately, this definition varies across different jurisdictions and it is imperative that a common baseline definition of PIEs transcending jurisdictions be made available for consistent application.

In Malaysia, Part 1 of Schedule 1 of the Securities Commission Malaysia Act 1993 identifies PIEs to include those entities that are currently specified under:

- a. A public listed company or corporation listed on the stock exchange;
- b. A bank licensed under the Financial Services Act 2013;
- c. An insurer licensed under the Financial Services Act 2013;
- d. A takaful operator licensed under the Islamic Financial Services Act 2013;
- e. An Islamic bank licensed under the Islamic Financial Services Act 2013;
- f. A financial institution prescribed under section 212 of the Financial Services Act 2013 or section 223 of the Islamic Financial Services Act 2013;
- g. A development financial institution prescribed under the Development Financial Institutions Act 2002;
- h. A holder of a Capital Markets and Services Licence for the carrying on of the regulated activities of dealing in securities, dealing in derivatives or fund management;

- i. An exchange holding company approved under the securities laws;
- j. An exchange approved under the securities laws;
- k. A central depository approved under the securities laws;
- l. A clearing house approved under the securities laws;
- m. A self-regulatory organisation recognised under the securities laws;
- n. A private retirement scheme administrator approved under the securities laws;
- o. A trade repository approved under the securities laws; and
- p. The Capital Market Compensation Fund Corporation.

However, the definition of PIEs in Malaysia above does not include government-controlled entities.

We also believe that as part of the project on reviewing the definition of a PIE, the IESBA could consider the IAASB's project on the Audits of Less Complex Entities ('LCEs') for which a PIE would not be a LCE.

Materiality

Q5. 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")?

In an ideal situation, the provision of non-audit services should only be allowed where it does not give rise to any conflict of interest or independence issue affecting an audit.

However, for emerging or developing countries such as Malaysia, there is still a shortage of qualified accountants and other experts available to meet the market's need. In addition, for certain types of services, it may be more cost effective and efficient for the work to be performed by auditors. Therefore, we do not support the proposal to withdraw the materiality qualifier because materiality is an established concept that is ingrained in accounting and auditing standards. The requirements of standards (accounting, auditing and ethical), unlike laws, have been consistently applied in the context of only material facts and circumstances.

We are not aware of local instances whereby the provision of an immaterial NAS to a PIE audit client nullifies the independence of the auditors of the financial statements.

Consequently, we believe in the notion that the provision of an immaterial NAS to a PIE audit client does not, in itself, jeopardise the independence of the auditors of the financial statements.

We do not agree with the justification provided in paragraphs 27 and 35 in the Explanatory Memorandum because heightened expectations of independence does not equate to absolute independence in the context of reasonable and informed third party test. A reasonable and informed third party would have natural expectations that immaterial NAS does not, in isolation, result in the auditor losing independence.

We would instead propose that the IESBA provide detailed guidance on the application of professional judgement in determining materiality and strengthening the requirements of the reasonable and informed third party test in applying the provisions in the Code.

Q6. 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)?**

We agree with the IESBA's proposal for the prohibition of the provision of NAS for a situation when the effectiveness of the NAS is dependent on an accounting treatment or presentation and, in particular, the audit team has doubt about the appropriateness of that treatment or presentation.

Nevertheless, we believe that the IESBA recognises the differences in expectations of independence by stakeholders of PIEs and non-PIEs, and as such, under normal circumstances, a blanket prohibition of NAS is not necessary for all audit clients.

We also believe that similar to our comments in the earlier questions, the materiality concept should still be used in evaluating the self-review threat and the relevant safeguards to be applied.

Communication with TCWG

Q7. 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)?

We support the proposed requirements as it is consistent with the requirements of ISA 260 (Revised) *Communication with Those Charged with Governance*.

Other Proposed Revisions to General NAS Provisions

Q8. 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?

We support the proposed amendments.

Q9. 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?

We do not support the proposed amendments due to potential ambiguity arising from the application of proposed paragraph 600.10 A1.

We propose that the IESBA consider expanding proposed paragraph 600.10 A1 to include guidance on services provided by other firms within the same network. Depending on circumstances, if evaluations were to include the impact of fees, the provision of NAS could be restricted in an unintended manner for firms operating in countries with traditionally lower audit fees or countries with weaker currencies.

Proposed Revisions to Subsections

Q10. 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?**
- **The withdrawal of the exemption in extant paragraph R601.7 that permits firms and network firms to provide accounting and bookkeeping services for divisions and related entities of a PIE if certain conditions are met?**

We believe that the proposed amendments to 601.4 A1 and R601.7 are not required if the current approach to assess self-review threats for PIEs is maintained.

The provision of routine and mechanical accounting and bookkeeping services are generally accepted as not giving rise to significant self-review threats. Audit firms should be allowed to provide such services if the requirements in paragraphs R601.4 and 601.4 A2 are also met.

Accordingly, the proposed paragraph R601.5 that prohibits such services to PIEs would need to be reworded, and the extant R601.7 that allows limited exceptions could be retained.

- **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 favor of a tax treatment, and a significant purpose of the tax treatment or transaction is tax avoidance (see proposed paragraph R604.4)?**

We believe that the proposed prohibition on tax services may give rise to uncertainties in situations involving new tax laws that are without precedent.

The introduction of new tax laws would often be subject to different interpretations by tax authorities over time. Similarly, existing tax laws could be subject to different interpretations by tax authorities over time.

Therefore, subsequent decisions by the tax authorities should not jeopardise the independence of the firm if appropriate safeguards were implemented during the course of the audit engagement.

- **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?**

The broad requirements of the proposed provision appears restrictive. We believe that the IESBA should give prominence to proposed paragraph 607.7 A2 in the context of proposed paragraph R607.6 because an expert witness appointed by Court acts as a witness of fact.

Proposed Consequential Amendments

Q11. Do you support the proposed consequential amendments to Section 950?

We support the proposed consequential amendments.

Q12. Are there any other sections of the Code that warrant a conforming change as a result of the NAS project?

We do not have further comments to add.