



International
Ethics Standards
Board for Accountants®

529 Fifth Avenue, New York, NY 10017
T + 1 (212) 286-9344 F +1 (212) 286-9570
www.ethicsboard.org

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Parliamentary Joint Committee on Corporations and Financial Services
PO Box 6100
Parliament House
Canberra ACT 2600
Australia

Via online submission: https://www.aph.gov.au/Parliamentary_Business/Committees/OnlineSubmission

Re: Inquiry into Ethics and Professional Accountability: Structural Challenges in the Audit, Assurance and Consultancy Industry

Dear Parliamentary Joint Committee,

As the Chair of the International Ethics Standards Board for Accountants ([IESBA](http://www.ethicsboard.org)), I am pleased to submit this response on behalf of IESBA to the inquiry you are undertaking into recent allegations of and responses to misconduct in the Australian operations of the major accounting, audit, and consultancy firms (including but not exclusive to the 'Big Four') (the Inquiry). We are keenly interested in your Inquiry and the conclusions you will arrive at in due course.

Developing Robust Global Standards in the Public Interest

At IESBA, we believe that setting standards at the international level is the most effective way to respond to the reality of globalized business and to avoid the economic costs and regulatory arbitrage that come with fragmentation in standards. The IESBA's [International Code of Ethics for Professional Accountants \(including International Independence Standards\)](#) (the Code) is the global benchmark for ethical standards for the accountancy profession. The Code is developed in accordance with rigorous due process and under the oversight of the [Public Interest Oversight Board](#) (PIOB). It forms the basis of the ethical standards for professional accountants promulgated by the Accounting Professional & Ethical Standards Board (APESB)¹ in Australia. The strength and global acceptance of the Code are evidenced by its adoption or use in over 130 jurisdictions and adoption by the 34 largest international networks of accounting firms for transnational audits. Australia has long been a proponent of global standards, and we hope that continues.

Further, in May 2022, IESBA published a [report](#) summarizing the findings of a comprehensive benchmarking study it carried out that compared the International Independence Standards in the Code against the independence rules of the US Securities and Exchange Commission (SEC) and the US Public Company Accounting Oversight Board (PCAOB). The benchmarking analysis provided valuable insight

¹ IESBA works closely with APESB in the development of ethical standards for the accountancy profession. In addition to being represented on the IESBA Board, APESB is a member of the IESBA-National Standard Setters Liaison Group and collaborates with IESBA on a number of other initiatives, including the development of non-authoritative guidance material to support the effective implementation and consistent application of the Code.

into how the IESBA's independence standards compare with the independence rules of a major jurisdiction like the US. While the report highlights the similarities and key differences between the IESBA's standards and the US SEC and PCAOB rules in areas of greatest interest to stakeholders, including the permissibility of non-assurance services (NAS) to audit clients, fees, long association with an audit client, and business and financial relationships, it demonstrates that the IESBA's standards are overall as robust as those in the US. The study contributes to promoting greater public confidence in the robustness of the Code.

The Critical Importance of Ethical Behavior for All Professional Accountants

Against the backdrop of the Inquiry, IESBA is equally concerned with the recent events in Australia and a number of other major jurisdictions involving professional accountants (PAs) that have raised questions about whether the PAs' conduct was straightforward and honest, free from conflicts of interest, in accordance with confidentiality requirements, or in the public interest. A number of those cases of unethical behavior have resulted in significant adverse regulatory or other consequences for the individuals involved and their firms. Importantly, these instances of non-compliance with the high standards of ethical behavior embodied in the Code have served to undermine public trust in the accountancy profession and its longstanding good reputation and, importantly, the public interest.

IESBA recognizes that effective implementation of and compliance with its standards is a continuous endeavor and challenge requiring effort and diligence from professional accountancy organizations (PAOs), firms, individual PAs, and regulatory or oversight bodies. However, the persistence of unethical behavior, and the fact that it has not been confined to just one firm or one jurisdiction has become a matter of significant concern for IESBA. As a result, IESBA recently felt it necessary to issue a public [statement](#) emphasizing the critical importance of ethical behavior for all PAs and their obligations to comply with the fundamental ethical principles of the Code.

With respect to the issues highlighted in the Inquiry, IESBA takes the opportunity to highlight, in its responses to the various items in the Inquiry's Terms of Reference in the Appendix to this submission, that the detailed provisions in the Code can contribute significantly towards addressing the problem of poor ethical behavior and culture, as noted in some of the professional services firms. More specifically, IESBA strongly believes that the Code, if adopted and properly implemented and enforced, can reinforce ethical behavior among PAs and help strengthen an ethical culture within their firms or organizations. Additionally, based on consistent observation of events and ethical failures in businesses and organizations, IESBA is of the view that the Code could significantly improve the ethical behavior and culture in businesses and organizations more widely and should be applied to other professionals beyond PAs.

IESBA Comments on Terms of Reference for the Inquiry

In the Appendix, IESBA submits comments on items in the Inquiry's Terms of Reference from the perspective of the Code. IESBA's remit does not include monitoring compliance with and enforcement of the Code. These are responsibilities that are within the remit of the relevant PAOs and regulatory or oversight bodies at the jurisdictional level. Accordingly, nothing in this submission should be taken as suggesting a monitoring or enforcement role for IESBA.

IESBA will be closely following the process and conclusion of your Inquiry as it will provide valuable input to its continuing work to set high-quality, ethical standards in the public interest.

If you have any questions, please do not hesitate to contact Ken Siong, IESBA Program and Senior Director,

Yours truly,

Gabriela Figueiredo Dias
IESBA Chair

Appendix

Specific IESBA Comments on PJC Inquiry's Terms of Reference

Note: If an item in the Terms of Reference is not included in the table below, IESBA has no comments on it. While some of the comments below refer to the concepts of "firm" and "network" as defined in the Code, nothing in the IESBA's responses should be construed as IESBA endorsing or otherwise advocating for or supporting any particular legal structure for accountancy firms in any jurisdiction.

Terms of Reference	IESBA Response
Inquiry into recent allegations of and responses to misconduct in the Australian operations of the major accounting, audit, and consultancy firms (including but not exclusive to the 'Big Four') via a detailed investigation and analysis of regulatory, technical, and legal settings, and broader cultural factors, including:	
1. The global and national firm structures, including:	
a. The legal basis for partnership, corporate, hybrid, and other structures;	<p>The provisions in the Code apply to all firms in which PAs operate regardless of whether the firms are partnerships or corporations. The Code defines a firm very broadly as:</p> <ul style="list-style-type: none"> (a) A sole practitioner, partnership, or corporation of PAs;² (b) An entity that controls such parties, through ownership, management or other means; and (c) An entity controlled by such parties, through ownership, management or other means. <p>Therefore, from the perspective of ethical obligations under the Code, it does not matter how a firm is legally structured in the particular jurisdiction. All firms have an overarching responsibility to act in the public interest under the Code.</p> <p>Likewise, the legal form of the relationship of an individual PA with the PA's firm (e.g., whether the PA is an employee, contractor, partner, director, etc.) has no bearing on the PA's ethical responsibilities under the Code.</p>
b. issues arising from cross-border structures and operations; and	<p>The International Independence Standards contained in the Code that govern auditors' independence in the context of audits and reviews of financial statements apply to firms and their network firms.</p> <p>The Code defines a network as a larger structure:</p>

² APES 110 *Code of Ethics for Professional Accountants (including Independence Standards)* is based on the *International Code of Ethics for Professional Accountants (including International Independence Standards)* issued by the IESBA. The IESBA notes that the definition of the term "firm" in APES 110 also incorporates Trusts.

Terms of Reference	IESBA Response
	<p>(a) That is aimed at co-operation; and</p> <p>(b) That is clearly aimed at profit or cost sharing or shares common ownership, control or management, common quality management policies and procedures, common business strategy, the use of a common brand-name, or a significant part of professional resources.</p> <p>The Code defines a network firm as a firm or entity that belongs to a network.</p> <p>The 34 largest international networks of accountancy firms that are members of the Forum of Firms are required by the Forum's constitution to have policies and methodologies that conform to the Code and national codes of ethics for transnational audits.</p> <p>The Code does not contain provisions that apply to network firms when a firm provides services other than audits and reviews of financial statements to a client. However, individual network firms are subject to the Code (or national ethical requirements based on the Code) with respect to the services they provide.</p>
<p>c. the impact of such structures on confidence in the advisory and audit assurance market for regulatory supervision and accountability to public and corporate sector clients;</p>	<p>The structure of a firm and whether it belongs to an international network do not diminish or otherwise affect the firm's overarching responsibility to act in the public interest under the Code.</p> <p>The IESBA is not aware of any evidence that the structure of a firm or the cross-border structures of firms and their operations impact public confidence in audit, assurance, and advisory services firms provide, their accountability to public and corporate sector clients, or the regulatory or supervisory regime.</p> <p>Irrespective of the structure adopted, IESBA acknowledges the significant negative impacts of unethical behavior on public trust and confidence in the work of PAs. IESBA is committed to promulgating robust global ethics and independence standards to help prevent and mitigate those impacts.</p>
<p>2. The extent to which governance obligations applying to a professional services firm may vary depending on the structure adopted, such as a partnership, a company, a trust, or other structure. Consideration of any gaps and international best practices in areas such as:</p>	
<p>b. executive accountability and remuneration;</p>	<p>The Code sets clear expectations for PAs, especially those in senior roles within their firms, to encourage and promote an ethical culture within their firms. In particular, paragraph 120.13 A2 of the Code states that the promotion of an ethical culture within an organization is most effective when:</p>

Terms of Reference	IESBA Response
	<p>(a) Leaders and those in managerial roles promote the importance of, and hold themselves and others accountable for demonstrating, the ethical values of the organization;</p> <p>(b) Appropriate education and training programs, management processes, and performance evaluation and reward criteria that promote an ethical culture are in place;</p> <p>(c) Effective policies and procedures are in place to encourage and protect those who report actual or suspected illegal or unethical behavior, including whistle-blowers; and</p> <p>(d) The organization adheres to ethical values in its dealings with third parties.</p>
<p>c. fit and proper person requirements;</p>	<p>Conducting oneself ethically, including having an ethical mindset, is integral to a "fit and proper person" designation. The Code's ethical obligations play a fundamental role in ensuring that PAs are fit and proper to serve their clients. In particular, all PAs are required to comply with the five fundamental principles of the Code, namely:</p> <ul style="list-style-type: none"> (a) Integrity; (b) Objectivity; (c) Professional competence and due care; (d) Confidentiality; and (e) Professional behavior <p>In addition, PAs are required to comply with specific ethical requirements, taking into account the nature of the professional services they are providing or the professional activities they are performing.</p> <p>Paragraph 100.6 A2 of the Code makes clear that complying with the Code includes giving appropriate regard to the <i>aim</i> and <i>intent</i> of the specific requirements. As such, it is not sufficient for a PA to have regard only to the letter of the requirements.</p> <p>The IESBA also notes that guardrails around "fit and proper person" requirements ought to already exist at the level of firms and PAOs in terms of (a) firms' recruitment and quality management processes and PAOs' admission and membership policies and (b) firms' and PAOs' monitoring and disciplinary systems. It would be incumbent on firms and PAOs to review whether their policies and procedures in these areas continue to be robust and fit for purpose in light of any instances of unethical conduct by partners or employees working in the firms or members of the PAOs. Relevant regulatory bodies may also consider</p>

Terms of Reference	IESBA Response
	the need to review any "fit and proper person" requirements they might have established at the jurisdictional level.
e. prevailing cultural practices;	<p>The Code is jurisdiction-neutral. Its principles are designed to be applicable regardless of the prevailing cultural practices.</p> <p>If applied to a broader range of professionals and service providers other than PAs, the Code could serve as a strong instrument for promoting ethical behavior, culture, and best practices in organizations. IESBA is taking that direction in some areas, for example, in developing profession-agnostic ethics and independence standards for all sustainability assurance providers.</p> <p>Additionally, as part of its current Tax Planning project, IESBA is developing an ethical framework that would apply to PAs providing tax planning and related services to clients or employing organizations. Once finalized³ and if adopted by local regulators or policymakers to apply to all tax advisers and not just PAs, the proposed ethical framework has the potential to significantly raise the ethical bar in the provision of tax planning services.</p>
f. consumer and client protection;	<p>The Code is designed to protect consumers, clients, and other stakeholders through the overarching obligation it places on PAs to act in the public interest (paragraph 100.1). Paragraph 100.6 A4 of the Code further states that in acting in the public interest, a PA considers not only the preferences or requirements of an individual client or employing organization but also the interests of other stakeholders when performing professional activities.</p> <p>Key provisions in the Code that further serve to reinforce PAs' responsibility to act in the public interest include those addressing:</p> <ul style="list-style-type: none"> • The five fundamental principles noted above. <ul style="list-style-type: none"> ○ The Code contains clear and specific provisions on each fundamental principle (Subsections 111-115). In particular, it contains comprehensive provisions addressing the principle of confidentiality.⁴ • Conflicts of Interest (Sections 210 and 310) • Inducements, Including Gifts/Hospitality (Sections 250 and 340)

³ IESBA's Tax Planning project is expected to be finalized by December 2023.

⁴ IESBA recently revised and further strengthened the provisions addressing confidentiality as part of its Technology project. These revised provisions will come into effect in December 2024.

Terms of Reference	IESBA Response
	<ul style="list-style-type: none"> • Responding to Non-compliance with Laws and Regulations (NOCLAR) (Sections 260 and 360) • Pressure to Breach the Fundamental Principles (Section 270) • Comprehensive independence standards for audit engagements, addressing topics such as: <ul style="list-style-type: none"> ○ Fees (Section 410) ○ Compensation and Evaluation Policies (Section 411) ○ Gifts and Hospitality (Section 140) ○ Actual or Threatened Litigation (Section 430) ○ Financial Interests (Section 510) ○ Loans and Guarantees (Section 511) ○ Business Relationships (Section 520) ○ Family and Personal Relationships (Section 521) ○ Recent Service with an Audit Client (Section 522) ○ Serving as a Director or Officer of an Audit Client (Section 523) ○ Employment with an Audit Client (Section 524) ○ Temporary Personnel Assignments (Section 525) ○ Long Association of Personnel (Including Partner Rotation) with an Audit Client (Section 540) ○ Provision of Non-Assurance Services to an Audit Client (Section 600)
g. duties of care;	<p>The Code's fundamental principle of professional competence and due care (Subsection 113) deals with a PA's duty of care.</p> <p>The IESBA's Role and Mindset project also resulted in strengthened provisions⁵ that speak to the duty of care. Key intended outcomes from that project include:</p> <ul style="list-style-type: none"> • More clearly recognizing the central role compliance with the Code plays in helping PAs meet their responsibility to act in the public interest. • A renewed mindset that encapsulates certain expected behavioral characteristics applied to all professional activities,

⁵ The Role and Mindset provisions became effective in December 2021.

Terms of Reference	IESBA Response
	<p>including having an inquiring mind and standing one's ground or challenging others in difficult situations.</p> <ul style="list-style-type: none"> • A greater awareness by PAs of the potential adverse influence of bias in their judgments and decisions. <p>The Code also requires all PAs to apply a conceptual framework to identify, evaluate and address threats to compliance with the fundamental principles. This entails exercising appropriate professional judgment and applying a "reasonable and informed third party" test.</p>
h. management of conflicts of interest, and	The Code contains comprehensive provisions dealing with the management of conflicts of interest, both within firms and with respect to clients (Sections 210 and 310).
i. access to whistle-blower protections.	The Code's NOCLAR provisions (Sections 260 and 360) contain a response framework to guide PAs in deciding how best to act in the public interest when they become aware of NOCLAR or suspected NOCLAR when performing professional activities or providing professional services. The provisions do not establish whistle-blower protections as this is a matter for legislators in the particular jurisdiction to address. However, the provisions take into consideration access to whistle-blower protections in setting out the possible courses of action a PA might take in meeting their responsibility to act in the public interest when they come across NOCLAR or suspected NOCLAR.
3. Mechanisms available to governments, government departments, statutory authorities, professional standards bodies, regulators, and non-government clients to monitor and sanction misconduct and poor performance, including any gaps and overlaps across service and entity types for:	
d. whistle-blower policies and established pathways to report;	<p>As noted above, the NOCLAR response framework in the Code guides PAs in deciding how best to act in the public interest when they become aware of NOCLAR or suspected NOCLAR. The framework sets out various possible courses of action for a PA, including escalating the matter within the organization or firm, following internal whistle-blowing policies or protocols, or disclosing the matter to an appropriate authority.</p> <p>The Code, however, does not deal with mechanisms for government bodies, statutory authorities, regulators, or clients to monitor and sanction misconduct or poor performance.</p>
e. interaction with and self-referral to regulatory bodies;	The Code's NOCLAR provisions contain detailed considerations for PAs regarding making disclosure of NOCLAR or suspected NOCLAR to an appropriate authority. This includes consideration of factors such as the following (paragraphs 260.20 A3 and 360.25 A3):

Terms of Reference	IESBA Response
	<ul style="list-style-type: none"> • Whether there is an appropriate authority that is able to receive the information and cause the matter to be investigated and action to be taken. The appropriate authority will depend upon the nature of the matter. For example, the appropriate authority would be a securities regulator in the case of fraudulent financial reporting or an environmental protection agency in the case of a breach of environmental laws and regulations. • Whether there exists robust and credible protection from civil, criminal or professional liability or retaliation afforded by legislation or regulation, such as under whistle-blowing legislation or regulation. • Whether there are actual or potential threats to the physical safety of the PA or other individuals. <p>Paragraphs 100.8 A1, R400.80(b)(ii), and R400.81 of the Code also address the interactions between firms and regulatory bodies in relation to the potential self-reporting of breaches of the Code to a regulatory body or oversight authority in specific circumstances.</p>
g. competition in the audit market; and	<p>The Code is designed to be proportionate, recognizing the particular circumstances of small and medium practices (SMPs). It does not seek to hamper audit market competition by taking a one-size-fits-all approach to audits. In particular, IESBA has taken a thoughtful approach in the Code to differentiate independence requirements for audits of public interest entities (PIEs) vs. audits of non-PIEs.</p> <p>In its various independence projects, the IESBA has also taken care in achieving balanced positions between recognizing the importance of strong auditor independence requirements in the public interest and the need for proportionality and global operability of the provisions. This has been the case in the development of, for example, the cooling-off requirements for partner rotation to address the issue of long association with an audit client and the provisions dealing with independence in a group audit context.</p>
4. any other related matters.	<p>The IESBA will be finalizing its Strategy and Work Plan 2024-2027 in Q4 2023. One of the strategic issues it will be considering is whether to prioritize a standard-setting project on governance and culture in accountancy firms in light of the recurring cases of unethical behavior in firms around the world.</p>