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Via website: <https://xrb.govt.nz/assurance-standards/standards-in-development/open-for-comment/nzauasb-ed-20214>

Dear Robert

### Invitation to Comment: Exposure Draft NZAuASB 2021-4 Proposed Amendments to Professional and Ethical Standard 1: Non-Assurance Services

Chartered Accountants Australia and New Zealand (CA ANZ) welcomes the Invitation to Comment (“**the ITC**”) on the Exposure Draft (“**the ED**”) to revise the non-assurance services (“**NAS**”) provisions of PES 1 *Code of Ethics for Assurance Practitioners (including International Independence Standards) (New Zealand)* (“**PES 1**”).

We support the NZAuASB’s proposals to incorporate into PES 1 the revised NAS provisions in the International Ethics Standards Board for Accountants’ *International Code of Ethics for Professional Accountants (including International Independence Standards)* (“**the IESBA Code**”). The package of new measures in relation to NAS is a major step forward in strengthening auditor independence. As it relates to NAS, auditor independence is a key consideration when it comes to securing public trust and confidence in audit. In our view, the following key aspects of the package of amendments being brought into PES 1 are particularly important:

- A prohibition on the provision of a NAS that might create a self-review threat to an audit client that is a public interest entity (“**PIE**”).
- Stricter prohibitions on certain types of NAS to audit clients.
- Elimination of materiality as a factor in determining NAS permissibility to PIE audit clients.
- New provisions to enable more robust engagement between firms and those charged with governance of PIE audit clients about independence matters relating to NAS.

PES 1 already establishes comprehensive independence standards, with a PIE definition that is further reaching than the international equivalent. But there is also a need for these provisions to be revisited to make sure they are consistent with evolving expectations and that both the profession and its stakeholders, including investors, understand what they mean. The revised IESBA Code substantially raises the bar on auditor independence with a far-reaching prohibition on audit firms from providing a NAS to an audit client that is a PIE that *might* create a self-review threat (i.e., even if there is only a mere possibility of a self-review threat occurring).

We commend the NZAuASB for considering stakeholder perceptions, which will naturally come to the fore as the IESBA Code and PES 1 are strengthened over time. Robust, evidence-based standards setting and sound, compelling bases for conclusion are paramount to achieving confidence and buy-in from investors and those applying the standards, particularly when it comes to addressing perceptions and when departing from the established international standard.

A survey appears to represent the main evidence underlying the Board's views on user perceptions which have led to proposed local amendments, with extensive references throughout the ITC. However, the survey does not appear to be robust enough to represent meaningful evidence or help understand New Zealand investor perceptions. We support the NZAuASB's efforts to address perceptions and recognise that, in some instances, the New Zealand context and perceptions will demand a unique approach. However, maintaining confidence in the standards and institution of the NZAuASB demands much more robust evidence gathering and deliberation to meet the compelling reason test.

**Appendix A** provides our responses to the specific questions raised in the ITC and **Appendix B** provides more information about CA ANZ. Should you have any questions about the matters raised in this submission or wish to discuss them further, please contact Zowie Pateman, Deputy Leader – Reporting and Assurance, at [Zowie.Pateman@charteredaccountantsanz.com](mailto:Zowie.Pateman@charteredaccountantsanz.com)

Yours sincerely

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# Appendix A

## Responses to specific questions

### New Zealand specific changes to tax advisory and tax planning services

#### 1. Do you agree that the provision of tax advisory and tax planning services to an audit client that is a PIE should be prohibited? (Refer NZ R604.15 – NZ 604.15 A1)

[Deleted text struck through, new text underlined]

~~R604.15 A firm or a network firm shall not provide tax advisory and tax planning services to an audit client that is a public interest entity if the provision of such services might create a self-review threat. (Ref: Para. R600.14, R600.16, 604.12 A2).~~

NZR604.15 A firm or a network firm shall not provide tax advisory and tax planning services to an audit or review client that is a public interest entity.

NZ604.15 A1 The provision of tax advisory and tax planning services to an audit or review client that is a public interest entity creates a threat to independence that cannot be eliminated, and safeguards are not capable of being applied to reduce that threat to an acceptable level.

NZ604.5 A1 Tax return preparation services include:

- Assisting clients with their tax reporting obligations by drafting and compiling information, including the amount of tax due (usually on standardised forms) required to be submitted to the applicable tax authorities.
- ~~Advising on the tax return treatment of past transactions.~~
- Responding on behalf of the audit or review client to the tax authorities' requests for additional information and analysis (for example, providing explanations of and technical support for the approach being taken).

NZ604.12 A2 Factors that are relevant in identifying self-review or advocacy threats created by providing tax advisory and tax planning services will not create a self-review threat if such services include the extent to which the tax advisory or tax planning services:

- (a) Are supported by a tax authority or other precedent;
- (b) Are based on an established practice (being a practice that has been commonly used and has not been challenged by the relevant tax authority); or
- (c) Have a basis in tax law that the firm is confident is likely to prevail.

We support an evidence-based approach to strengthening and clarifying the audit independence standards. At this stage we do not consider that the NZAuASB has sufficiently developed a user-needs case that there is a compelling reason to modify the revised IESBA Code for application in New Zealand for the reasons that follow.

- While we welcome the survey that the XRB staff undertook in April 2021 in regard to NAS, overall, the survey does not appear to be robust enough to be considered meaningful evidence in relation to the decisions reflected in the ED including:
  - The total sample size of 115 is highly insufficient to be able to understand what, if any, population these results are representative of, let alone to draw conclusions about views of investors or the general public in New Zealand.
  - The late addition of the screening question on the role of the respondent means there is only confirmation that 16 of the respondents were investors/shareholders.

- Only 86 respondents answered question 3 (29 skipped) that asked about the effect on trust in the financial statements when the audit firm provides certain NAS. Furthermore, it was not clear whether the 16 respondents who had self-identified as investors/shareholders had completed this question.
- We would recommend a much more robust survey and broader review of research literature is required to meaningfully add to understanding of investor perceptions regarding NAS. This would include:
  - Working with academics focused on audit in New Zealand to develop an understanding of the existing literature. New Zealand has a rich community of internationally renowned audit researchers, and it was not clear there had been any engagement with this cohort in developing the proposals.
  - Ensuring surveys are based on a sample that allows for determination of the degree to which it is representative of the underlying population. For instance, at least providing a 95% confidence level and controlling uncertainty to within a 5% confidence interval.
  - Targeting participants in a way that allows some degree of verification as to whether they are investors (i.e., beyond self-identification).
  - Surveying a basic level of demographic information such as investment type (e.g., share market, managed funds, KiwiSaver etc) and quantum of investment.
- We are aware of the debate about prohibitions versus principled standards, including the views of some audit oversight bodies toward more prescriptive standards that are more conducive to efficient enforcement and differing views among other stakeholders. These matters were explored in-depth internationally by the IESBA in developing amendments to the IESBA Code which significantly strengthen the relevant requirements and application material. Neither the survey nor other evidence provided appears to indicate that either perceptions or regulatory outcomes in New Zealand are different or call for a different approach as has been proposed.
- In line with the revised IESBA Code, which was informed by extensive research and global outreach, the ED also proposes:
  - A prohibition on the provision of a NAS to an audit or review client that is a PIE where that service might create a self-review threat to the firm's independence, regardless of materiality (ED par. R600.16).
  - A prohibition on the provision of a tax service to an audit or review client (PIE or non-PIE) if the service relates to marketing, planning, or opining in favour of a tax treatment that was initially recommended, directly or indirectly, by the firm/network firm, and a significant purpose of the tax treatment or transaction is tax avoidance, unless the firm is confident that the proposed treatment has a basis in applicable tax law or regulation that is likely to prevail (ED par. R604.4). The IESBA reaffirmed and clarified its position on this in par. 114 of the Basis for Conclusions<sup>1</sup> that, while the word "advocating" is not used, this prohibits the provision of tax services or transactions that involve advocating a particular tax treatment or transaction that the firm had initially developed for which the significant purpose is tax avoidance.
  - New provisions to strengthen and improve the quality of firm communication with those charged with governance about NAS-related matters, including the firm's independence (ED par. 600.19 A1 – R600.24).
  - Strengthened provisions to assist firms in addressing threats to independence that are created by the provision of NAS to audit or review clients, including new application material in relation to situations where a safeguard is not available (ED par. 600.18 A1 – 600.18 A4).

<sup>1</sup> <https://www.ifac.org/system/files/publications/files/Basis-for-Conclusions-Non-Assurance-Services.pdf>

- In the extant PES 1 there are existing prohibitions on the:
  - Preparation of tax calculations of current and deferred tax liabilities (or assets) for an audit or review client that is a PIE (extant par. R604.6, ED par. R604.10).
  - Provision of tax advisory or tax planning services to any audit or review client (PIE or non-PIE) when the effectiveness of the tax advice depends on a particular accounting treatment or presentation in the financial statements, and the audit or review team has doubt as to the appropriateness of the related accounting treatment or presentation under the relevant financial reporting framework (extant par. 604.8, ED par. R604.13).

In our view, the IESBA Code amendments and the existing prohibitions serve to address the threats that proposed paragraph NZR604.15 is ostensibly designed for.

## 2. Do you foresee any unintended consequences of this prohibition?

We believe there could be a number of unintended consequences as follows:

- The IESBA Code has been developed holistically, with a high degree of interconnectivity including between the principles and more prescriptive aspects. Substantial work, outreach and consultation has been undertaken by the IESBA to land on the approach taken with respect to tax advisory and tax planning services. As already experienced in some of the later discussions amongst the NZAuASB when finalising the ED, it is very easy to miss unintended impacts, contradictions and required consequential amendments when seeking to make piecemeal amendments. There is a risk this could have the overall effect of weakening rather than strengthening PES 1 and confidence.
  - If New Zealand deviates from the IESBA Code, this could cause challenges in practice in relation to group audits that operate in different jurisdictions.
  - Given the small market in New Zealand, it could create unforeseen and unnecessary market impacts.
  - Not having a robust, demonstrable basis for the departure from the international independence standard impacts the confidence and buy-in of both users and those implementing the standard in their work.
3. **Do you agree that advising an audit client in their tax return preparation or any adjustments arising therefrom is a form of tax advisory services? As such, consistent with the addition of NZ R604.15 such services would be prohibited for PIEs. (Refer NZ 604.11 A1)**

[New IESBA paragraph amended by the NZAuASB, deleted text struck through, new text underlined]

NZ604.11 A1 Tax advisory and tax planning services comprise a broad range of services, such as advising the audit or review client how to structure its affairs in a tax efficient manner, or advising on the application of a tax law or regulation, or advising an audit or review client in their tax return preparation or any adjustments arising therefrom.

Clearly 'advising' is always 'advice'. So in our view this New Zealand proposed amendment is unnecessary and actually could create greater uncertainty in terms of confusion as to the distinction with tax return preparation that does not involve advice.

## 4. Are there any other tax services contemplated by proposed subsection 604 for which you consider the requirements should be further strengthened and, if so, why?

No.

## Any other non-assurance services

5. **The NZAuASB has not identified any further aspects of the IESBA's provisions that need to be strengthened in New Zealand. We are, however, keen to hear whether stakeholders consider there is a need to further strengthen any specific provisions.**

No further aspects identified.

## Audit-related services

6. **Do you agree that additional services performed by the audit firm will generally not create a self-review threat to the firm's independence when the services are related to the audit engagement?**

Yes.

7. **Do you agree that the examples listed would not generally create a self-review threat to independence? Are there other types of services, that would generally not create a self-review threat to independence, that you consider need to be included as examples? (Refer NZ 600.14 A1)**

[New NZ paragraph inserted]

NZ600.14 A1 Additional work performed by the firm will not generally create a self-review threat to independence when such work is related to the audit or review engagement. Examples of audit or review related engagements include:

- o Engagements required by law or regulation to be performed by the auditor or assurance practitioner.
- o Engagements that involve the formal expression of an assurance opinion or conclusion.
- o Engagements to perform agreed-upon procedures.

However, providing such additional services might create one or more other threats, as noted in paragraph 120.6 A4. In such circumstances, the firm is required to apply the conceptual framework to identify, evaluate and address the threats to independence.

We agree that the examples listed would not generally create a self-review threat to independence. However, we do not believe it is necessary to modify the revised IESBA Code in this regard.

8. **Do you agree that the additional application material emphasising the need to apply the conceptual framework to identify, evaluate and address threats to independence, other than the self-review threat, is helpful to ensure diligent application of the conceptual framework? (Refer NZ 600.14 A1)**

See our response to question 7 above – we do not believe it is necessary to modify the revised IESBA Code in this regard.

- 9. Do you consider additional requirements or application material is needed in relation to audit-related services, to address perceptions of auditor independence? If yes, please provide details.**

Entities that prepare financial reports under the Tier 1 Accounting Requirements must disclose fees paid to their external audit firm (including any network firm) separately for 'audit' and 'non-audit' services. This can lead to the assumption that all the 'non-audit' services are consulting, advisory or other types of services that could compromise independence. Without clarity on what those fees relate to – auditor independence could be perceived to be threatened, especially where the 'non-audit' services fees are a significant portion of the total fees charged by the audit firm.

We support greater disaggregation and clarity in the financial statement disclosure of fees paid or payable to auditors – into audit, assurance, audit related, and non-audit related services. The Code is a sensible place to define the different categories of services that may be provided by an auditor due to the interrelation with the NAS provisions in the Code.

We understand the New Zealand Accounting Standards Board (NZASB) has an ongoing project, jointly with the Australian Accounting Standards Board (AASB), to improve disclosures of fees charged by the entity's audit firm. Since financial statement disclosure requirements are more appropriately achieved through accounting standards, we encourage the NZAuASB to work closely with the NZASB in defining the different categories of services for disclosure purposes.

## Effective Date

- 10. For engagements entered into before 15 December 2022, for which work has already commenced, the transitional provision provides that the firm may continue the engagement under the extant provisions of the Professional and Ethical Standard 1 for up to 12 months. Do you agree with the transitional provision? If not, please explain why not and what alternative you propose.**

We support a 12-month time limit on the transitional provision.

## Appendix B

### About Chartered Accountants Australia and New Zealand

Chartered Accountants Australia and New Zealand (CA ANZ) represents more than 131,000 financial professionals, supporting them to build value and make a difference to the businesses, organisations and communities in which they work and live.

Around the world, Chartered Accountants are known for their integrity, financial skills, adaptability and the rigour of their professional education and training.

CA ANZ promotes the Chartered Accountant (CA) designation and high ethical standards, delivers world-class services and life-long education to members and advocates for the public good. We protect the reputation of the designation by ensuring members continue to comply with a code of ethics, backed by a robust discipline process. We also monitor Chartered Accountants who offer services directly to the public.

Our flagship CA Program, the pathway to becoming a Chartered Accountant, combines rigorous education with practical experience. Ongoing professional development helps members shape business decisions and remain relevant in a changing world.

We actively engage with governments, regulators and standard-setters on behalf of members and the profession to advocate in the public interest. Our thought leadership promotes prosperity in Australia and New Zealand.

Our support of the profession extends to affiliations with international accounting organisations. We are a member of the International Federation of Accountants and are connected globally through Chartered Accountants Worldwide and the Global Accounting Alliance. Chartered Accountants Worldwide brings together members of 13 chartered accounting institutes to create a community of more than 1.8 million Chartered Accountants and students in more than 190 countries. CA ANZ is a founding member of the Global Accounting Alliance which is made up of 10 leading accounting bodies that together promote quality services, share information and collaborate on important international issues.

We also have a strategic alliance with the Association of Chartered Certified Accountants. The alliance represents more than 870,000 current and next generation accounting professionals across 179 countries and is one of the largest accounting alliances in the world providing the full range of accounting qualifications.