



BASEL COMMITTEE ON BANKING SUPERVISION

BANK FOR INTERNATIONAL SETTLEMENTS

Chairman

**VIA ELECTRONIC MAIL:
edcomments@ifac.org**

Senior Technical Manager
International Ethics Standards Board for Accountants
International Federation of Accountants
545 Fifth Avenue, 14th Floor
New York, New York 10017
United States

30 April 2007

IESBA exposure drafts on the proposed revised section 290 of the code of ethics: independence – audit and review engagements and the proposed new section 291: Independence – other assurance engagements

Dear Sir/Madam

The Basel Committee on Banking Supervision (Committee) welcomes the opportunity to comment on your recent exposure drafts on auditor independence. The Committee has a strong interest in promoting a high quality international code of ethics for accounting firms and auditors, and believes that these exposure drafts include many useful proposals.

Please find our detailed comments in the attached appendix. These comments have been prepared by the Committee's Accounting Task Force, chaired by Ms Sylvie Mathérat, Director of Commission Bancaire in France, and approved by the Basel Committee. The Committee trusts that you will find its comments useful and constructive.

If you have any questions regarding our comments, please feel free to contact Sylvie Mathérat (+31 20 524 3360), Marc Pickeur who chairs the Audit Subgroup of the Accounting Task Force (+32 2 220 5253) or Linda Ditchkus at the Basel Committee Secretariat (+41 61 280 9278).

Yours faithfully

Nout Wellink



Appendix

Basel Committee comments on IESBA exposure drafts of section 290 of the code of ethics: independence – audit and review engagements and section 291 of the code of ethics: independence – other assurance engagements

1. Introduction

The Basel Committee on Banking Supervision¹ has a strong interest in high quality and independent audits of banks and has carefully analysed the proposals of the International Ethics Standards Board for Accountants (IESBA) pertaining to the proposed revised section 290: Independence – audit and review engagements and the proposed section 291: Independence – other assurance engagements.

While the remainder of this appendix highlights certain issues and suggestions for IESBA's consideration, the Committee wishes to express its broad support for the approach taken in these redrafted sections.

2. General comments

The IESBA should consider clarifying the text of sections 290 and 291 of the code by including more specificity regarding the obligations of the auditor to address threats to independence. For example, in numerous cases the text states that 'x (ie some circumstance or relationship) may create a threat' rather than stating that 'x creates a threat.' If the text were more direct, auditors could potentially have greater confidence in appropriately applying the code.

3. Definitions

Engagement Team

IESBA proposes amending the definition of 'engagement team' to read:

¹ The Basel Committee on Banking Supervision is a committee of banking supervisory authorities, which was established by the central bank Governors of the Group of Ten countries in 1975. It consists of senior representatives of bank supervisory authorities and central banks from Belgium, Canada, France, Germany, Italy, Japan, Luxembourg, the Netherlands, Spain, Sweden, Switzerland, the United Kingdom and the United States. It usually meets at the Bank for International Settlements in Basel, where its permanent Secretariat is located.

'All partners and staff performing the engagement and any individuals contracted by the firm who provide services on the engagement that might otherwise be provided by a partner or staff of the firm.'

The IESBA, in the Explanatory Memorandum (EM), indicates it would be inappropriate to treat all experts as members of the engagement team. For example, an expert about a particular matter, such as an external lawyer providing a legal opinion to the engagement team about a particular matter, should not be considered part of the engagement team. However, the IESBA is of the view that the definition of 'engagement team' should be broader than simply including partners of the firm and staff employed by the firm who serve on the team. The EM provides two examples of engaged experts who should be included on the engagement team: an expert in a particular field, such as a valuation specialist, and outside professionals at times of peak activity.

The Committee suggests the IESBA clarify whether an expert providing actuarial services would be considered part of the engagement team. The IAASB may want to consider linking this definition in the code of ethics to ISA 620, *Using the Work of an Expert* to explain how the auditor should deal with the independence of external consultants working for the audit team and whether these consultants should be considered part of the engagement team.

Specifically, would IESBA consider an actuary, who does not belong to the staff of the audit firm but works on an audit, to be an expert about a particular matter or is the actuary providing a service that might otherwise be provided by a partner or staff of the firm? We believe that the proposed definition could be read in such a way that actuaries would not be considered part of the engagement team. Given the importance of the services provided by actuaries and the specialised nature of their services, this would not be acceptable in situations where the actuarial services are significant. To provide additional clarity around this issue, we recommend that the IESBA amend the new definition of 'engagement team' with the foregoing in mind.

4. Section 290: independence – audit and review engagements

Those charged with governance (paragraph 290.26)

We believe that auditors should be required to inform those charged with governance regarding any relationships or other matters that might, in the audit firm's opinion, bear on independence. This would encourage a dialogue between these parties and an appreciation of the issues by those charged with governance.

Entities of significant public interest (paragraph 290.28)

We disagree with IESBA's conclusion that it is impracticable to develop a single definition of an entity of significant public interest that would have global application and be suitable in all jurisdictions. One example of an existing definition of comparable term is the recently developed definition of 'public interest entities', which will be applied in the 27 different jurisdictions of the European Union.²³

² The European Commission 's (EC) definition is as follows: "'public-interest entities' means entities governed by the law of a Member State whose transferable securities are admitted to trading on a regulated market of any Member State within the meaning of point 14 of Article 4(1) of Directive 2004/39/EC, credit institutions as defined in point 1 of Article 1 of Directive 2000/12/EC of the European Parliament and of the Council of 20 March 2000 relating to the taking up and pursuit of the

A principle difference (ie of interest to banking supervisors) between the EC's definition and the one proposed in paragraphs 290.22 and 290.23 of the exposure draft is related to a regulated bank's status as an entity of significant public interest. The EC's definition always includes regulated banks as an entity of significant public interest; however, the IESBA's draft guidance states that banks will 'normally' be considered as entities of significant public interest. The Committee believes that public interest entities should always include regulated banks even when some of these regulated banks would not have a large and a wide range of stakeholders' (see the EM). The fact that regulated banks accept money from the public and have a pivotal role in the economy (eg payments services and loans) justifies that these organisations should be considered entities of public interest. We strongly recommend that the IESBA take the same approach as the European Union.

Preparing accounting records and financial statements (paragraph 290.164)

We believe that some of the items that are suggested as 'a normal part of the audit process' may pose a strong self-review threat to the auditor's independence and are more in the nature of accounting services. For example, we disagree that drafting disclosure items for an audit client is a 'normal part of the audit process,' particularly when considering the requirements of IFRS 7, *Financial Instruments: Disclosures*. We believe this paragraph should be revisited and should only include examples of activities that would not pose a self-review threat.

Compensation and evaluation policies (paragraph 290.221)

Paragraph 290.221 states that compensating and evaluating other members of the audit team for selling non-assurance services to an audit client may create a self-interest threat. We are not convinced that such a threat could be eliminated by the safeguards mentioned in the section (having an additional professional accountant who was not a member of the audit team review the work or removing such members from the team). We believe that no distinction should be made between the key audit partner and other members of the audit team.

business of credit institutions and insurance undertakings within the meaning of Article 2(1) of Directive 91/674/EEC. Member States may also designate other entities as public interest entities, for instance entities that are of significant public relevance because of the nature of their business, their size or the number of their employees."

³ Per article 2.13 of Directive 2006/43/EC of the European Parliament and of the Council of 17 May 2006 on statutory audits of annual accounts and consolidated accounts, amending Council Directives 78/ 660/EEC and 83/349/EEC and repealing Council Directive 84/253/EEC.