

## Agenda Item 4-C

### Sustainability (WS2) – Ethics for Sustainability Assurance – Proposed Text – First Read

#### Note to IESBA

The proposed marked-up changes in **Agenda Item 4-C** are to the 2024 version of the Code (i.e., the extant Code including all revisions to the Code which become effective by the end of 2024).

Reasons for proposed revisions are set out in **Agenda Item 4-A** or in comment boxes in **Agenda Item 4-C** where relevant.

#### PART 54 –

#### ~~INTERNATIONAL ETHICS AND INDEPENDENCE STANDARDS FOR SUSTAINABILITY ASSURANCE COMPLYING WITH THE CODE, FUNDAMENTAL PRINCIPLES AND CONCEPTUAL FRAMEWORK~~

#### SECTION 100

#### COMPLYING WITH ~~PART 5~~THE CODE

#### Introduction

100.1 ~~It is of public interest that sustainability assurance practitioners act ethically in order to maintain public trust and confidence in assurance on sustainability information. High-quality ethics and independence standards alongside other reporting and assurance standards will help investors, customers, employees and other users of sustainability information to confidently rely on such information in their decision-making. A distinguishing mark of the accountancy profession is its acceptance of the responsibility to act in the public interest.~~

100.1a ~~Sustainability assurance practitioners are expected to have the relevant knowledge, skills and expertise to perform sustainability assurance engagements and to regularly undergo training to ensure their assurance skills are continually up to date with the relevant developments.~~

100.2 ~~This Part sets out ethics and independence standards for sustainability assurance practitioners and comprises Confidence in the accountancy profession is a reason why businesses, governments and other organizations involve professional accountants in a broad range of areas, including financial and corporate reporting, assurance and other professional activities. Accountants understand and acknowledge that such confidence is based on the skills and values that accountants bring to the professional activities they undertake, including:~~

- (a) ~~Sections [equivalent to 100 to 360] which set out ethics standards for sustainability assurance engagements and other professional services performed for sustainability assurance clients Adherence to ethical principles and professional standards; and~~
- (b) ~~Sections [equivalent to 400 to 600] which set out independence standards for sustainability assurance engagements that meet the scope set out in~~

Commented [LL1]: Added pursuant to the IESBA discussion in June 2023.

~~paragraph [...]. Use of business acumen; [Placeholder for the scope of the independence standards]~~

- ~~(c) Application of expertise on technical and other matters; and~~
- ~~(d) Exercise of professional judgment.~~

~~The application of these skills and values enables accountants to provide advice or other output that meets the purpose for which it was provided, and which can be relied upon by the intended users of such output.~~

Paragraph 100.2 (a) clarifies that the ethics standards in Part 5 should apply to all sustainability assurance engagements (SAEs) and other services for the sustainability assurance clients and not just those SAEs that meet the criteria set out for the purposes of the independence standards.

The WS2 notes this proposal is different from the proposal made at the June 2023 IESBA meeting, where both the ethics and independence standards under Part 5 would only be applicable to those SAEs that meet the independence criteria.

The rationale for this proposal is as follows:

- The objective of the project is to develop “ethics and independence standards for use by all assurance practitioners in sustainability assurance engagements”. Taking into account that the Code has two sets of independence standards (Parts 4A and 4B), the IESBA determined that the independence requirements for Part 5 should be equivalent to those set out in Part 4A for audit and review engagements given the public interest in sustainability assurance. However, as agreed by the IESBA in June 2023, only those SAEs that meet certain criteria (developed by WS1) should be subject to the more stringent independence requirements set out in Part 5. Therefore, the independence provisions in Part 5 are not applicable to SAEs that do not meet those criteria.
- However, the extant Code only has one set of ethics standards for Professional Accountants in Public Practice (PAPPs) irrespective of the type of professional services. Therefore, there is no need to apply the same distinction (i.e., SAEs that meet the independence criteria vs those that do not) for ethics standards.
- Determining that sustainability assurance practitioners (SAPs) should apply the ethics standards in Part 5 for SAEs that meet the independence criteria and then apply extant Parts 1 and 3 for SAEs that do not meet the independence criteria would defeat the purpose of having a separate, dedicated Part 5 for sustainability assurance. It would also require amending extant Parts 1 and 3 to reflect sustainability assurance-related considerations and examples, which would be an unnecessary and time-consuming duplication.

100.2a When a sustainability assurance practitioner performs a sustainability assurance engagement that does not meet the scope set out in paragraph [...], Part 4B of the Code sets out the applicable independence standards. [Placeholder for the scope of the independence standards, if necessary]

100.2b Sustainability assurance practitioners might undertake other activities, services or relationships that are not covered by this Part, in which case:

- (a) Parts 1 to 4B of the Code continue to apply if the practitioner is a professional accountant.
- (b) The Code can be used by practitioners who are not professional

accountants. Adopting the ethics standards set out in the Code (or other ethics standards at least as demanding as the Code) to guide the practitioner's general conduct contributes to the public trust underpinning sustainability assurance engagements. This includes circumstances such as where the practitioner might:

- (i) Prepare financial or non-financial, including sustainability, information for a client, the firm or others.
- (ii) Face conflicts of interest when providing services to clients who are not sustainability assurance clients.
- (iii) Be offered an inducement by a supplier of the firm or by clients who are not sustainability assurance clients.
- (iv) Encounter suspected fraud or non-compliance with laws and regulations by management, those charged with governance or other individuals at the firm.
- (v) Be asked by an entity that is not an existing sustainability assurance client to provide a second opinion on sustainability assurance or reporting or the application of other standards or principles to specific circumstances.

**Commented [LL2]:** This was added following advance comments from IESBA and expressly encourages non-PAs to use Part 2 when doing sustainability reporting.

**Commented [LL3]:** This example was added in connection with the proposal not to include equivalent section 321 in Part 5.

100.3 This PartThe Code sets out high quality standards of ethical behavior expected of sustainability assurance practitioners professional accountants for:

- (a) aAdoption by professional accountancy organizations which are members of the International Federation of Accountants (IFAC), or for use by such members as a basis for their codes of ethics. The Code may also be used or adopted by those responsible for setting ethics (including independence) standards for sustainability assurance practitioners professional accountants in particular sectors or jurisdictions, and
- (b) Use by firms in developing their ethics and independence policies.

100.4 This PartThe Code establishes five fundamental principles to be complied with by all sustainability assurance practitioners professional accountants. It also includes a conceptual framework that sets out the approach to be taken to identify, evaluate and address threats to compliance with those fundamental principles and, for audits and other assurance engagements, threats to independence. This PartCode also applies the fundamental principles and the conceptual framework to a range of facts and circumstances that sustainability assurance practitioners accountants might encounter, whether in business or in public practice.

## Requirements and Application Material

100.5 A1 The requirements in this Partthe Code, designated with the letter "R," impose obligations.

100.5 A2 Application material, designated with the letter "A," provides context, explanations, suggestions for actions or matters to consider, illustrations and other guidance relevant to a proper understanding of this Partthe Code. In particular, the application material is intended to help a sustainability assurance practitioner professional accountant to understand how to apply the conceptual

framework to a particular set of circumstances and to understand and comply with a specific requirement. While such application material does not of itself impose a requirement, consideration of the material is necessary to the proper application of the requirements of ~~this Part~~the Code, including application of the conceptual framework.

- R100.6** A ~~sustainability assurance practitioner professional accountant~~ shall comply with ~~this Part~~the Code.
- 100.6 A1 Upholding the fundamental principles and compliance with the specific requirements of ~~this Part~~the Code enable ~~sustainability assurance practitioners professional accountants~~ to ~~meet their responsibility to~~ act in the public interest ~~when providing sustainability assurance~~.
- 100.6 A2 Complying with ~~this Part~~the Code includes giving appropriate regard to the aim and intent of the specific requirements.
- 100.6 A3 ~~Compliance with the requirements of the Code does not mean that professional accountants will have always met their responsibility to act in the public interest. There might be unusual or exceptional circumstances in which an sustainability assurance practitioner accountant~~ believes that complying with a requirement or requirements ~~in this Part of the Code~~ might not be in the public interest ~~when providing sustainability assurance~~ or would lead to a disproportionate outcome. In those circumstances, the ~~practitioner accountant~~ is encouraged to consult with an appropriate body such as a professional or regulatory body.
- 100.6 A4 In acting in the public interest, a ~~sustainability assurance practitioner professional accountant~~ considers not only the preferences or requirements of an individual ~~sustainability assurance client or employing organization~~, but also the interests of other stakeholders when performing professional activities ~~for sustainability assurance clients~~.
- R100.7** If there are circumstances where laws or regulations preclude a ~~sustainability assurance practitioner professional accountant~~ from complying with certain ~~provisions parts in this of Part~~the Code, those laws and regulations prevail, and the ~~practitioner accountant~~ shall comply with all other ~~provisions parts in this of Part~~the Code.
- 100.7 A1 The principle of professional behavior requires a ~~sustainability assurance practitioner professional accountant~~ to comply with relevant laws and regulations. Some jurisdictions might have provisions that differ from or go beyond those set out in ~~this Part~~the Code. ~~Practitioners Accountants~~ in those jurisdictions need to be aware of those differences and comply with the more stringent provisions unless prohibited by law or regulation.

#### Breaches of ~~Part 5~~the Code

- R100.8** ~~Paragraphs R400.80 to R400.89 and R900.50 to R900.55~~ address a breach of ~~independence requirements under this Part International Independence Standards~~. A ~~sustainability assurance practitioner professional accountant~~ who identifies a breach of any other provision ~~in this Part of the Code~~ shall evaluate the significance of the breach and its impact on the ~~practitioner's accountant's~~ ability to comply with the fundamental principles. The ~~practitioner accountant~~ shall also:

- (a)** Take whatever actions might be available, as soon as possible, to address the consequences of the breach satisfactorily; and
- (b)** Determine whether to report the breach to the relevant parties.

100.8 A1 Relevant parties to whom such a breach might be reported include those who might have been affected by it, a professional or regulatory body or an oversight authority.

## SECTION 110 THE FUNDAMENTAL PRINCIPLES

### General

- 110.1 A1 There are five fundamental principles of ethics for sustainability assurance practitioners~~professional accountants~~:
- (a) Integrity – to be straightforward and honest in all professional and business relationships.
  - (b) Objectivity – to exercise professional or business judgment without being compromised by:
    - (i) Bias;
    - (ii) Conflict of interest; or
    - (iii) Undue influence of, or undue reliance on, individuals, organizations, technology or other factors.
  - (c) Professional Competence and Due Care – to:
    - (i) Attain and maintain professional knowledge and skill at the level required to ensure that a client ~~or employing organization~~ receives competent professional service, based on current technical and professional standards and relevant legislation; and
    - (ii) Act diligently and in accordance with applicable technical and professional standards.
  - (d) Confidentiality – to respect the confidentiality of information acquired as a result of professional and business relationships.
  - (e) Professional Behavior – to:
    - (i) Comply with relevant laws and regulations;
    - (ii) Behave in a manner consistent with the profession's responsibility to acting in the public interest in all professional activities and business relationships relating to sustainability assurance clients; and
    - (iii) Avoid any conduct that the sustainability assurance practitioner~~professional accountant~~ knows or should know might affect public trust in sustainability assurance~~discredit the profession~~.
- R110.2 A sustainability assurance practitioner ~~professional accountant~~ shall comply with each of the fundamental principles.
- 110.2 A1 The fundamental principles of ethics establish the standard of behavior expected of a sustainability assurance practitioner~~professional accountant~~. The conceptual framework establishes the approach which an practitioner~~accountant~~ is required to apply in complying with those fundamental principles. Subsections 111 to 115 set out requirements and application material in this Part related to each of the fundamental principles.
- 110.2 A2 A sustainability assurance practitioner ~~professional accountant~~ might face a

situation in which complying with one fundamental principle conflicts with complying with one or more other fundamental principles. In such a situation, the ~~practitioner~~ ~~accountant~~ might consider consulting, on an anonymous basis if necessary, with:

- Others within the firm ~~or employing organization~~.
- Those charged with governance.
- A professional body.
- A regulatory body.
- Legal counsel.

However, such consultation does not relieve the ~~practitioner~~ ~~accountant~~ from the responsibility to exercise professional judgment to resolve the conflict or, if necessary, and unless prohibited by law or regulation, disassociate from the matter creating the conflict.

- 110.2 A3 The ~~sustainability assurance practitioner~~ ~~professional accountant~~ is encouraged to document the substance of the issue, the details of any discussions, the decisions made and the rationale for those decisions.

## SUBSECTION 111 – INTEGRITY

- R111.1 A ~~sustainability assurance practitioner~~ ~~professional accountant~~ shall comply with the principle of integrity, which requires an ~~practitioner~~ ~~accountant~~ to be straightforward and honest in all professional and business relationships.
- 111.1 A1 Integrity involves fair dealing, truthfulness and having the strength of character to act appropriately, even when facing pressure to do otherwise or when doing so might create potential adverse personal or organizational consequences.
- 111.1 A2 Acting appropriately involves:
- (a) Standing one's ground when confronted by dilemmas and difficult situations; or
  - (b) Challenging others as and when circumstances warrant, in a manner appropriate to the circumstances.
- R111.2 A ~~sustainability assurance practitioner~~ ~~professional accountant~~ shall not knowingly be associated with reports, returns, communications or other information where the ~~practitioner~~ ~~accountant~~ believes that the information:
- (a) Contains a materially false or misleading statement;
  - (b) Contains statements or information provided recklessly; or
  - (c) Omits or obscures required information where such omission or obscurity would be misleading.
- 111.2 A1 If a ~~sustainability assurance practitioner~~ ~~professional accountant~~ provides a modified report in respect of such a report, return, communication or other information, the ~~practitioner~~ ~~accountant~~ is not in breach of paragraph R111.2.
- R111.3 When a ~~sustainability assurance practitioner~~ ~~professional accountant~~ becomes aware of having been associated with information described in paragraph

~~R111.2~~, the ~~practitioner~~~~accountant~~ shall take steps to be disassociated from that information.

## SUBSECTION 112 – OBJECTIVITY

**R112.1** A ~~sustainability assurance practitioner professional~~~~accountant~~ shall comply with the principle of objectivity, which requires an ~~practitioner~~~~accountant~~ to exercise professional or business judgment without being compromised by:

- (a) Bias;
- (b) Conflict of interest; or
- (c) Undue influence of, or undue reliance on, individuals, organizations, technology or other factors.

**R112.2** A ~~sustainability assurance practitioner professional~~~~accountant~~ shall not undertake a professional activity ~~for a sustainability assurance client~~ if a circumstance or relationship unduly influences the ~~practitioner's~~~~accountant's~~ professional judgment regarding that activity.

## SUBSECTION 113 – PROFESSIONAL COMPETENCE AND DUE CARE

**R113.1** A ~~sustainability assurance practitioner professional~~~~accountant~~ shall comply with the principle of professional competence and due care, which requires an ~~practitioner~~~~accountant~~ to:

- (a) Attain and maintain professional knowledge and skills at the level required to ensure that a ~~sustainability assurance client or employing organization~~ receives competent professional service, based on current technical and professional standards and relevant legislation; and
- (b) Act diligently and in accordance with applicable technical and professional standards.

113.1 A1 Serving clients ~~and employing organizations~~ with professional competence involves the exercise of sound judgment in applying professional knowledge and skill when undertaking professional activities.

113.1 A2 The knowledge and skills necessary for a professional activity vary depending on the nature of the activity being undertaken. For example, in addition to the application of any technical knowledge relevant to the professional activity, interpersonal, communication and organizational skills facilitate the ~~practitioner's~~~~professional accountant's~~ interaction with entities and individuals with whom the ~~practitioner~~~~accountant~~ interacts.

113.1 A3 Maintaining professional competence requires a ~~sustainability assurance practitioner professional~~~~accountant~~ to have a continuing awareness and understanding of technical, professional, business and technology-related developments relevant to the professional activities undertaken by the ~~practitioner~~~~accountant~~. Continuing professional development enables an ~~practitioner~~~~accountant~~ to develop and maintain the capabilities to perform competently within the professional environment.

113.1 A4 Diligence encompasses the responsibility to act in accordance with the requirements of an assignment, carefully, thoroughly and on a timely basis.



**R113.2** In complying with the principle of professional competence and due care, a ~~sustainability assurance practitioner professional accountant~~ shall take reasonable steps to ensure that those working in a professional capacity under the ~~practitioner's accountant's~~ authority have appropriate training and supervision.

**R113.3** Where appropriate, a ~~sustainability assurance practitioner professional accountant~~ shall make ~~sustainability assurance clients, the employing organization,~~ or other users of the ~~practitioner's accountant's~~ professional activities, aware of the limitations inherent in the activities and explain the implications of those limitations.

### SUBSECTION 114 – CONFIDENTIALITY

**R114.1** A ~~sustainability assurance practitioner professional accountant~~ shall comply with the principle of confidentiality, which requires an ~~practitioner accountant~~ to respect the confidentiality of information acquired in the course of professional and business relationships. An ~~practitioner accountant~~ shall:

- (a) Be alert to the possibility of inadvertent disclosure, including in a social environment, and particularly to a close business associate or an immediate or a close family member;
- (b) Maintain confidentiality of information within the firm ~~or employing organization~~;
- (c) Maintain confidentiality of information disclosed by a prospective client ~~or employing organization~~; and
- (d) Take reasonable steps to ensure that personnel under the ~~practitioner's accountant's~~ control, and individuals from whom advice and assistance are obtained, comply with the ~~practitioner's accountant's~~ duty of confidentiality.

114.1 A1 Maintaining the confidentiality of information acquired in the course of professional and business relationships involves the ~~sustainability assurance practitioner professional accountant~~ taking appropriate action to protect the confidentiality of such information in the course of its collection, use, transfer, storage or retention, dissemination and lawful destruction.

**R114.2** Subject to paragraph R114.3, a ~~sustainability assurance practitioner professional accountant~~ shall not:

- (a) Disclose confidential information acquired in the course of professional and business relationships;
- (b) Use confidential information acquired in the course of professional and business relationships for the advantage of the ~~accountant practitioner~~, the firm, ~~the employing organization~~ or a third party;
- (c) Use or disclose any confidential information, either acquired or received in the course of a professional or business relationship, after that relationship has ended; and
- (d) Use or disclose information in respect of which the duty of confidentiality applies notwithstanding that the information has become publicly available, whether properly or improperly.

**R114.3** As an exception to paragraph R114.2, a sustainability assurance practitioner ~~professional accountant~~ may disclose or use confidential information where:

- (a) There is a legal or professional duty or right to do so; or
- (b) This is authorized by the client or any person with the authority to permit disclosure or use of the confidential information and this is not prohibited by law or regulation.

114.3 A1 Confidentiality serves the public interest because it facilitates the free flow of information from the sustainability assurance practitioner's professional accountant's client or employing organization to the practitioner accountant in the knowledge that the information will not be disclosed to a third party. Nevertheless, the following are circumstances where sustainability assurance practitioners professional accountants might be required or have the duty or right to disclose confidential information:

- (a) Disclosure is required by law or regulation, for example:
  - (i) Production of documents or other provision of evidence in the course of legal proceedings; or
  - (ii) Disclosure to the appropriate public authorities of infringements of the law that come to light; and
- (b) There is a professional duty or right to disclose or use, when not prohibited by law or regulation:
  - (i) To comply with the quality review, practice assessment or equivalent monitoring activity of a professional body;
  - (ii) To respond to an inquiry or investigation by a professional or regulatory body;
  - (iii) To protect the professional interests of a sustainability assurance practitioner professional accountant in legal proceedings; or
  - (iv) To comply with technical and professional standards, including ethics requirements.

114.3 A2 In deciding whether to disclose or use confidential information, factors to consider, depending on the circumstances, include:

- Whether the interests of any parties, including third parties whose interests might be affected, could be harmed if the client ~~or employing organization~~ authorizes the disclosure or use of information by the sustainability assurance practitioner professional accountant.
- Whether all the relevant information is known and substantiated, to the extent practicable. Factors affecting the decision to disclose or use, the information include:
  - Unsubstantiated facts.
  - Incomplete information.
  - Unsubstantiated conclusions.

- The proposed means of communicating, the information.
- Whether the parties to whom the information is to be provided or access is to be granted are appropriate recipients.
- Any applicable law or regulation (including those governing privacy) in a jurisdiction where disclosure might take place and, if different, the jurisdiction where the confidential information originates.

114.3 A3 The circumstances in which a firm ~~or employing organization~~ seeks authorization to use or disclose confidential information, include where the information is to be used for training purposes, in the development of products or technology, in research or as source material for industry or other benchmarking data or studies. Such authorization might be general in its application (for example, in relation to use of the information for internal training purposes or quality enhancement initiatives). When obtaining the authorization of the individual or entity that provided such information for use in specific circumstances, relevant considerations to be communicated (preferably in writing) might include:

- The nature of the information to be used or disclosed.
- The purpose for which the information is to be used or disclosed (for example, technology development, research or benchmarking data or studies).
- The individual or entity who will undertake the activity for which the information is to be used or disclosed.
- Whether the identity of the individual or entity that provided such information or any individuals or entities to which such information relates will be identifiable from the output of the activity for which the information is to be used or disclosed.

R114.4 A ~~sustainability assurance practitioner~~ ~~professional accountant~~ shall continue to comply with the principle of confidentiality even after the end of the relationship between the ~~practitioner~~ ~~accountant~~ and a ~~sustainability assurance client~~ ~~or employing organization~~. When ~~changing employment~~ ~~or acquiring a new sustainability assurance client~~, the ~~practitioner~~ ~~accountant~~ is entitled to use prior experience but shall not use or disclose any confidential information acquired or received in the course of a professional or business relationship.

## SUBSECTION 115 – PROFESSIONAL BEHAVIOR

R115.1 A ~~sustainability assurance practitioner~~ ~~professional accountant~~ shall comply with the principle of professional behavior, which requires an ~~practitioner~~ ~~accountant~~ to:

- (a) Comply with relevant laws and regulations;
- (b) Behave in a manner consistent with ~~the profession's responsibility to acting~~ in the public interest in all professional activities and business relationships ~~relating to sustainability assurance clients~~; and
- (c) Avoid any conduct that the ~~practitioner~~ ~~accountant~~ knows or should know might ~~affact public trust in sustainability assurance~~ ~~discredit the profession~~.

A ~~sustainability assurance practitioner professional accountant~~ shall not knowingly engage in any business, occupation or activity that impairs or might impair ~~public trust in sustainability assurance~~ ~~the integrity, objectivity or good reputation of the profession~~, and as a result would be incompatible with the fundamental principles.

115.1 A1 Conduct that might ~~affect public trust in sustainability assurance discredit the profession~~ includes conduct that a reasonable and informed third party would be likely to conclude ~~to have such effects~~ ~~adversely affects the good reputation of the profession~~.

**R115.2** When undertaking marketing or promotional activities, a ~~sustainability assurance practitioner professional accountant~~ shall ~~not bring the profession into disrepute~~. ~~A professional accountant~~ shall be honest and truthful and shall not make:

Regarding the first sentence of equivalent paragraph R115.2:

In June 2023, IESBA participants suggested the following drafting alternatives:

- “When undertaking marketing or promotional activities, sustainability assurance practitioners **shall not bring themselves into disrepute.**”
- “When undertaking marketing or promotional activities, a sustainability assurance practitioner **shall not bring sustainability assurance or the public interest underpinning it into disrepute.**”

WS2 proposes retaining the original proposal (see draft above) which has the advantage of making clear that this requirement also applies to other services the SAP performs for the sustainability assurance client. The IESBA’s second suggestion (or making a similar change to the one made in paragraph R115.1 (c), e.g. “When undertaking marketing or promotional activities, a sustainability assurance practitioner shall not impair public trust in sustainability assurance.”) could lead to narrower interpretations (i.e., only covering sustainability assurance). Adopting the first suggestion could raise issues related to the personal, rather than professional, conduct of SAPs.

(a) Exaggerated claims for the services offered by, or the qualifications or experience of, the ~~practitioner~~ ~~accountant~~; or

In June 2023, an IESBA participant suggested including exaggerated claims also for **results anticipated or promised** to (a) above.

WS2 proposes not to because (i) it is covered by the “exaggerated claims for the services offered”, (ii) it is not something specific to sustainability assurance and (iii) such a concern is covered by the fundamental principle of integrity (see equivalent paragraph R111.1).

(b) Disparaging references or unsubstantiated comparisons to the work of others.

115.2 A1 If a ~~sustainability assurance practitioner professional accountant~~ is in doubt about whether a form of advertising or marketing is appropriate, the ~~practitioner~~ ~~accountant~~ is encouraged to consult with ~~an appropriate body~~, for ~~example~~ the relevant professional body.

**Commented [LL4]:** Added following an IESBA comment in June 2023.

## SECTION 120 THE CONCEPTUAL FRAMEWORK

### Introduction

- 120.1 The circumstances in which ~~sustainability assurance practitioners professional accountants~~ operate might create threats to compliance with the fundamental principles. Section 120 sets out requirements and application material, including a conceptual framework, to assist ~~practitioners accountants~~ in complying with the fundamental principles and ~~meeting their responsibility to acting~~ in the public interest ~~when providing sustainability assurance~~. Such requirements and application material accommodate the wide range of facts and circumstances, including the various professional activities, interests and relationships, that create threats to compliance with the fundamental principles. In addition, they deter ~~practitioners accountants~~ from concluding that a situation is permitted solely because that situation is not specifically prohibited by ~~this Part the Code~~.
- 120.2 The conceptual framework specifies an approach for a ~~sustainability assurance practitioner professional accountant~~ to:
- Identify threats to compliance with the fundamental principles;
  - Evaluate the threats identified; and
  - Address the threats by eliminating or reducing them to an acceptable level.

### Requirements and Application Material

#### General

- R120.3 The ~~sustainability assurance practitioner professional accountant~~ shall apply the conceptual framework to identify, evaluate and address threats to compliance with the fundamental principles set out in Section 110.
- 120.3 A1 ~~[intentionally left blank] Additional requirements and application material that are relevant to the application of the conceptual framework are set out in:~~
- ~~Part 2 – Professional Accountants in Business;~~
  - ~~Part 3 – Professional Accountants in Public Practice; and~~
  - ~~International Independence Standards, as follows:~~
    - ~~Part 4A – Independence for Audit and Review Engagements; and~~
    - ~~Part 4B – Independence for Assurance Engagements Other than Audit and Review Engagements.~~
- R120.4 ~~[intentionally left blank] When dealing with an ethics issue, the professional accountant shall consider the context in which the issue has arisen or might arise. Where an individual who is a professional accountant in public practice is performing professional activities pursuant to the accountant's relationship with the firm, whether as a contractor, employee or owner, the individual shall comply with the provisions in Part 2 that apply to these circumstances.~~
- R120.5 When applying the conceptual framework, the sustainability assurance

~~practitioner professional accountant~~ shall:

- (a) Have an inquiring mind;
- (b) Exercise professional judgment; and
- (c) Use the reasonable and informed third party test described in ~~paragraph 120.5 A9~~.

#### *Having an Inquiring Mind*

120.5 A1 An inquiring mind is a prerequisite to obtaining an understanding of known facts and circumstances necessary for the proper application of the conceptual framework. Having an inquiring mind involves:

- (a) Considering the source, relevance and sufficiency of information obtained, taking into account the nature, scope and outputs of the professional activity being undertaken; and
- (b) Being open and alert to a need for further investigation or other action.

120.5 A2 When considering the source, relevance and sufficiency of information obtained, the ~~sustainability assurance practitioner professional accountant~~ might consider, among other matters, whether:

- New information has emerged or there have been changes in facts and circumstances.
- The information or its source might be influenced by bias or self-interest.
- There is reason to be concerned that potentially relevant information might be missing from the facts and circumstances known to the ~~practitioner accountant~~.
- There is an inconsistency between the known facts and circumstances and the ~~practitioner's accountant's~~ expectations.
- The information provides a reasonable basis on which to reach a conclusion.
- There might be other reasonable conclusions that could be reached from the information obtained.

120.5 A3 ~~Paragraph R120.5~~ requires all ~~sustainability assurance practitioners professional accountants~~ to have an inquiring mind when identifying, evaluating and addressing threats to the fundamental principles. This prerequisite for applying the conceptual framework applies to all ~~practitioners accountants~~ regardless of the professional activity undertaken. Under ~~auditing, review and other sustainability~~ assurance standards, including those issued by the IAASB, ~~practitioners accountants~~ ~~may~~ ~~are~~ also ~~be~~ required to exercise professional skepticism, which includes a critical assessment of evidence.

#### *Exercising Professional Judgment*

120.5 A4 Professional judgment involves the application of relevant training, professional knowledge, skill and experience commensurate with the facts and circumstances, taking into account the nature and scope of the particular professional activities, and the interests and relationships involved.

- 120.5 A5 Professional judgment is required when the [sustainability assurance practitioner](#) ~~professional accountant~~ applies the conceptual framework in order to make informed decisions about the courses of actions available, and to determine whether such decisions are appropriate in the circumstances. In making this determination, the ~~practitioner~~ [practitioner](#) ~~accountant~~ might consider matters such as whether:
- The ~~practitioner's accountant's~~ expertise and experience are sufficient to reach a conclusion.
  - There is a need to consult with others with relevant expertise or experience.
  - The ~~practitioner's accountant's~~ own preconception or bias might be affecting the ~~practitioner's accountant's~~ exercise of professional judgment.
- 120.5 A6 The circumstances in which [sustainability assurance practitioners](#) ~~professional accountants~~ carry out professional activities and the factors involved vary considerably in their range and complexity. The professional judgment exercised by ~~practitioners~~ [practitioners](#) ~~accountants~~ might need to take into account the complexity arising from the compounding effect of the interaction between, and changes in, elements of the facts and circumstances that are uncertain and variables and assumptions that are interconnected or interdependent.
- 120.5 A7 Managing complexity involves:
- Making the firm ~~or employing organization~~ and, if appropriate, relevant stakeholders aware of the inherent uncertainties or difficulties arising from the facts and circumstances. (Ref: Para. [R113.3](#))
  - Being alert to any developments or changes in the facts and circumstances and assessing whether they might impact any judgments the ~~practitioner~~ [practitioner](#) ~~accountant~~ has made. (Ref: Para. [R120.5](#) to [120.5 A3](#), and [R120.9](#) to [120.9 A2](#))
- 120.5 A8 Managing complexity might also involve:
- Analyzing and investigating as relevant, any uncertain elements, the variables and assumptions and how they are connected or interdependent.
  - Using technology to analyze relevant data to inform the [sustainability assurance practitioner's professional accountant's](#) judgment.
  - Consulting with others, including experts, to ensure appropriate challenge and additional input as part of the evaluation process.

*Reasonable and Informed Third Party*

- 120.5 A9 The reasonable and informed third party test is a consideration by the [sustainability assurance practitioner](#) ~~professional accountant~~ about whether the same conclusions would likely be reached by another party. Such consideration is made from the perspective of a reasonable and informed third party, who weighs all the relevant facts and circumstances that the ~~practitioner~~ [practitioner](#) ~~accountant~~ knows, or could reasonably be expected to know, at the time the conclusions are made. The reasonable and informed third party does not need to be an [sustainability assurance practitioner](#) ~~accountant~~, but would possess the relevant knowledge and experience to understand and evaluate the appropriateness of

the ~~practitioner's~~ ~~accountant's~~ conclusions in an impartial manner.

#### Identifying Threats

- R120.6** The ~~sustainability assurance practitioner professional~~ ~~accountant~~ shall identify threats to compliance with the fundamental principles.
- 120.6 A1 An understanding of the facts and circumstances, including any professional activities, interests and relationships that might compromise compliance with the fundamental principles, is a prerequisite to the ~~sustainability assurance practitioner's professional~~ ~~accountant's~~ identification of threats to such compliance. The existence of certain conditions, policies and procedures established by the ~~practitioner's~~ profession, legislation, regulation, ~~or the firm, or the employing organization~~ that can enhance the ~~practitioner~~ ~~accountant~~ acting ethically might also help identify threats to compliance with the fundamental principles. Paragraph 120.8 A2 includes general examples of such conditions, policies and procedures which are also factors that are relevant in evaluating the level of threats.
- 120.6 A2 Threats to compliance with the fundamental principles might be created by a broad range of facts and circumstances. It is not possible to define every situation that creates threats. In addition, the nature of engagements and work assignments might differ and, consequently, different types of threats might be created.
- 120.6 A3 Threats to compliance with the fundamental principles fall into one or more of the following categories:
- (a) Self-interest threat – the threat that a financial or other interest will inappropriately influence a ~~sustainability assurance practitioner's professional~~ ~~accountant's~~ judgment or behavior;
  - (b) Self-review threat – the threat that a ~~sustainability assurance practitioner professional~~ ~~accountant~~ will not appropriately evaluate the results of a previous judgment made, or an activity performed by the ~~practitioner~~ ~~accountant~~ or by another individual within the ~~practitioner's accountant's~~ firm ~~or employing organization~~, on which the ~~practitioner~~ ~~accountant~~ will rely when forming a judgment as part of performing a current activity;
  - (c) Advocacy threat – the threat that a ~~sustainability assurance practitioner professional~~ ~~accountant~~ will promote a client's ~~or employing organization's~~ position to the point that the ~~practitioner's accountant's~~ objectivity is compromised;
  - (d) Familiarity threat – the threat that due to a long or close relationship with a client, ~~or employing organization~~, a ~~sustainability assurance practitioner professional~~ ~~accountant~~ will be too sympathetic to their interests or too accepting of their work; and
  - (e) Intimidation threat – the threat that a ~~sustainability assurance practitioner professional~~ ~~accountant~~ will be deterred from acting objectively because of actual or perceived pressures, including attempts to exercise undue influence over the ~~practitioner~~ ~~accountant~~.
- 120.6 A4 A circumstance might create more than one threat, and a threat might affect



compliance with more than one fundamental principle.

### Evaluating Threats

**R120.7** When the ~~sustainability assurance practitioner professional accountant~~ identifies a threat to compliance with the fundamental principles, the ~~practitioner accountant~~ shall evaluate whether such a threat is at an acceptable level.

#### Acceptable Level

120.7 A1 An acceptable level is a level at which a ~~sustainability assurance practitioner professional accountant~~ using the reasonable and informed third party test would likely conclude that the ~~practitioner accountant~~ complies with the fundamental principles.

#### Factors Relevant in Evaluating the Level of Threats

120.8 A1 The consideration of qualitative as well as quantitative factors is relevant in the ~~sustainability assurance practitioner's professional accountant's~~ evaluation of threats, as is the combined effect of multiple threats, if applicable.

120.8 A2 The existence of conditions, policies and procedures described in ~~paragraph 120.6 A1~~ might also be factors that are relevant in evaluating the level of threats to compliance with the fundamental principles. Examples of such conditions, policies and procedures include:

- Corporate governance requirements.
- Educational, training and experience requirements ~~for the profession.~~
- Effective complaint systems which enable the ~~sustainability assurance practitioner professional accountant~~ and the general public to draw attention to unethical behavior.
- An explicitly stated duty to report breaches of ethics requirements.
- Professional or regulatory monitoring and disciplinary procedures.

#### Consideration of New Information or Changes in Facts and Circumstances

**R120.9** If the ~~sustainability assurance practitioner professional accountant~~ becomes aware of new information or changes in facts and circumstances that might impact whether a threat has been eliminated or reduced to an acceptable level, the ~~practitioner accountant~~ shall re-evaluate and address that threat accordingly.

120.9 A1 Remaining alert throughout the professional activity assists the ~~practitioner professional accountant~~ in determining whether new information has emerged or changes in facts and circumstances have occurred that:

- (a) Impact the level of a threat; or
- (b) Affect the ~~practitioner's accountant's~~ conclusions about whether safeguards applied continue to be appropriate to address identified threats.

120.9 A2 If new information results in the identification of a new threat, the ~~sustainability assurance practitioner professional accountant~~ is required to evaluate and, as appropriate, address this threat. (Ref: Paras. ~~R120.7~~ and ~~R120.10~~).

## Addressing Threats

**R120.10** If the ~~sustainability assurance practitioner professional accountant~~ determines that the identified threats to compliance with the fundamental principles are not at an acceptable level, the ~~practitioner accountant~~ shall address the threats by eliminating them or reducing them to an acceptable level. The ~~practitioner accountant~~ shall do so by:

- (a) Eliminating the circumstances, including interests or relationships, that are creating the threats;
- (b) Applying safeguards, where available and capable of being applied, to reduce the threats to an acceptable level; or
- (c) Declining or ending the specific professional activity.

### *Actions to Eliminate Threats*

120.10 A1 Depending on the facts and circumstances, a threat might be addressed by eliminating the circumstance creating the threat. However, there are some situations in which threats can only be addressed by declining or ending the specific professional activity. This is because the circumstances that created the threats cannot be eliminated and safeguards are not capable of being applied to reduce the threat to an acceptable level.

### *Safeguards*

120.10 A2 Safeguards are actions, individually or in combination, that the ~~sustainability assurance practitioner professional accountant~~ takes that effectively reduce threats to compliance with the fundamental principles to an acceptable level.

### *Consideration of Significant Judgments Made and Overall Conclusions Reached*

**R120.11** The ~~sustainability assurance practitioner professional accountant~~ shall form an overall conclusion about whether the actions that the ~~practitioner accountant~~ takes, or intends to take, to address the threats created will eliminate those threats or reduce them to an acceptable level. In forming the overall conclusion, the ~~practitioner accountant~~ shall:

- (a) Review any significant judgments made or conclusions reached; and
- (b) Use the reasonable and informed third party test.

## Other Considerations when Applying the Conceptual Framework

### *Bias*

120.12 A1 Conscious or unconscious bias affects the exercise of professional judgment when identifying, evaluating and addressing threats to compliance with the fundamental principles.

120.12 A2 Examples of potential bias to be aware of when exercising professional judgment include:

- Anchoring bias, which is a tendency to use an initial piece of information as an anchor against which subsequent information is inadequately assessed.

- Automation bias, which is a tendency to favor output generated from automated systems, even when human reasoning or contradictory information raises questions as to whether such output is reliable or fit for purpose.
- Availability bias, which is a tendency to place more weight on events or experiences that immediately come to mind or are readily available than on those that are not.
- Confirmation bias, which is a tendency to place more weight on information that corroborates an existing belief than information that contradicts or casts doubt on that belief.
- Groupthink, which is a tendency for a group of individuals to discourage individual creativity and responsibility and as a result reach a decision without critical reasoning or consideration of alternatives.
- Overconfidence bias, which is a tendency to overestimate one's own ability to make accurate assessments of risk or other judgments or decisions.
- Representation bias, which is a tendency to base an understanding on a pattern of experiences, events or beliefs that is assumed to be representative.
- Selective perception, which is a tendency for a person's expectations to influence how the person views a particular matter or person.

120.12 A3 Actions that might mitigate the effect of bias include:

- Seeking advice from experts to obtain additional input.
- Consulting with others to ensure appropriate challenge as part of the evaluation process.
- Receiving training related to the identification of bias as part of professional development.

#### Firm Organizational Culture

120.13 A1 The effective application of the conceptual framework by a sustainability assurance practitioner professional-accountant is enhanced when the importance of ethical values that align with the fundamental principles and other provisions set out in this Part the Code is promoted through the internal culture of the firm accountant's organization.

120.13 A2 The promotion of an ethical culture within an firm organization is most effective when:

- (a) Leaders and those in managerial roles promote the importance of, and hold themselves and others accountable for demonstrating, the ethical values of the firm organization;
- (b) Appropriate education and training programs, management processes, and performance evaluation and reward criteria that promote an ethical culture are in place;

- (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
- (d) The firm organization adheres to ethical values in its dealings with third parties.

120.13 A3 Sustainability assurance practitioners ~~Professional accountants~~ are expected to:

- (a) Encourage and promote an ethics-based culture in their firm organization, taking into account their position and seniority; and
- (b) Exhibit ethical behavior in dealings with individuals with whom, and entities with which, the practitioners accountants, or the firm or the employing organization has a professional or business relationship.

#### ~~Considerations for Audits, Reviews, Other Assurance and Related Services Engagements~~

##### *Firm Culture*

120.14 A1 ISQM 1 sets out requirements and application material relating to firm culture in the context of a firm's responsibilities to design, implement and operate a system of quality management for audits or reviews of financial statements, sustainability assurance or other assurance or related services engagements.

##### *Independence*

120.15 A1 Sustainability assurance practitioners ~~Professional accountants in public practice~~ are required by sections 400 to 600 ~~International Independence Standards~~ to be independent when performing sustainability audits, reviews, or other assurance engagements that meet the scope set out in paragraph [...]. Independence is linked to the fundamental principles of objectivity and integrity. It comprises:

- (a) Independence of mind – the state of mind that permits the expression of a conclusion without being affected by influences that compromise professional judgment, thereby allowing an individual to act with integrity, and exercise objectivity and professional skepticism.
- (b) Independence in appearance – the avoidance of facts and circumstances that are so significant that a reasonable and informed third party would be likely to conclude that a firm's or an sustainability audit or assurance team member's integrity, objectivity or professional skepticism has been compromised.

120.15 A2 Sections 400 to 600 ~~International Independence Standards~~ set out requirements and application material on how to apply the conceptual framework to maintain independence when performing sustainability audits, reviews or other assurance engagements that meet the scope set out in paragraph [...]. Sustainability assurance practitioners ~~Professional accountants~~ and firms are required to comply with these requirements and application material ~~standards~~ in order to be independent when conducting such engagements. The conceptual framework to identify, evaluate and address threats to compliance with the fundamental principles applies in the same way to compliance with independence requirements. The categories of threats to compliance with the fundamental principles described in paragraph 120.6 A3 are also the categories of threats to

compliance with independence requirements.

- 120.15 A3 Conditions, policies and procedures described in paragraphs 120.6 A1 and 120.8 A2 that might assist in identifying and evaluating threats to compliance with the fundamental principles might also be factors relevant to identifying and evaluating threats to independence. In the context of ~~sustainability audits, reviews and other~~ assurance engagements, a system of quality management designed, implemented and operated by a firm in accordance with the quality management standards issued by the IAASB is an example of such conditions, policies and procedures.

*Professional Skepticism*

- 120.16 A1 Under ~~sustainability auditing, review and other~~ assurance standards, including those issued by the IAASB, ~~sustainability assurance practitioners professional accountants in public practice~~ are required to exercise professional skepticism when planning and performing ~~sustainability audits, reviews and other~~ assurance engagements. Professional skepticism and the fundamental principles that are described in Section 110 are inter-related concepts.

- 120.16 A2 In an ~~sustainability assurance engagement audit of financial statements~~, compliance with the fundamental principles, individually and collectively, supports the exercise of professional skepticism, as shown in the following examples:

- *Integrity* requires the ~~sustainability assurance practitioner professional accountant~~ to be straightforward and honest. For example, the ~~practitioner accountant~~ complies with the principle of integrity by:
  - Being straightforward and honest when raising concerns about a position taken by a ~~sustainability assurance~~ client.
  - Pursuing inquiries about inconsistent information and seeking further ~~audit~~ evidence to address concerns about statements that might be materially false or misleading in order to make informed decisions about the appropriate course of action in the circumstances.
  - Having the strength of character to act appropriately, even when facing pressure to do otherwise or when doing so might create potential adverse personal or organizational consequences. Acting appropriately involves:
    - (a) Standing one's ground when confronted by dilemmas and difficult situations; or
    - (b) Challenging others as and when circumstances warrant,

in a manner appropriate to the circumstances.  
In doing so, the ~~practitioner accountant~~ demonstrates the critical assessment of ~~audit~~ evidence that contributes to the exercise of professional skepticism.

- *Objectivity* requires the ~~sustainability assurance practitioner professional accountant~~ to exercise professional or business judgment without being compromised by:

- (a) Bias;
- (b) Conflict of interest; or
- (c) Undue influence of, or undue reliance on, individuals, organizations, technology or other factors.

For example, the practitioneraccountant complies with the principle of objectivity by:

- (a) Recognizing circumstances or relationships such as familiarity with the sustainability assurance client, that might compromise the practitioner'saccountant's professional or business judgment; and
- (b) Considering the impact of such circumstances and relationships on the practitioner'saccountant's judgment when evaluating the sufficiency and appropriateness of audit evidence related to a matter material to the client's sustainability informationfinancial statements.

In doing so, the practitioneraccountant behaves in a manner that contributes to the exercise of professional skepticism.

- *Professional competence and due care* requires the sustainability assurance practitioner professional accountant to have professional knowledge and skill at the level required to ensure the provision of competent professional service, and to act diligently in accordance with applicable standards, laws and regulations. For example, the practitioneraccountant complies with the principle of professional competence and due care by:

- (a) Applying knowledge that is relevant to a particular sustainability assurance client's industry and business activities in order to properly identify risks of material misstatement;
- (b) Designing and performing appropriate assuranceaudit procedures; and
- (c) Applying relevant knowledge when critically assessing whether audit evidence is sufficient and appropriate in the circumstances.

In doing so, the practitioneraccountant behaves in a manner that contributes to the exercise of professional skepticism.

## SECTION 230 ACTING WITH SUFFICIENT EXPERTISE

The scope of the sustainability project is to develop ethics and independence standards for SAPs that are equivalent to those applying to auditors. In terms of the ethics standards, this meant adapting extant Parts 1 and 3 which apply to PAPPs. However, in certain circumstances, PAPPs may also be required to apply the provisions in Part 2 of the Code. That is the case when PAPPs perform professional activities pursuant to their relationship with the firm (see the applicability paragraphs in R120.4, R300.5, 300.5 A1).

In June 2023, the IESBA discussed whether SAPs should also be required to comply with equivalent Part 2 and supported WS2's proposal not to, in general, since the scope of the project focuses on the provision of sustainability assurance, i.e., the **SAP's relationship with the client**, not the firm. However, given certain sections in Part 2 (notably, sections 220 and 270) can also apply to the PAPP's relationship with the client, the IESBA supported including equivalent section 270 in Part 5 (please see draft below in p. 26). The IESBA supported not including equivalent section 220 as it relates to reporting, not assurance, activities.

Regarding section 230, which in theory could also apply to a PAPP's relationship with the client, the IESBA preferred analyzing a draft equivalent for Part 5 before supporting a decision to include it or not. That draft is below.

When developing a draft for the IESBA's analysis, WS2 identified issues with both requirements in section 230 that would create inconsistencies with the rest of Part 5 or the Code (see text boxes below).

In addition, the material in section 230 is already covered by the fundamental principles of integrity and professional competence and due care.

Finally, the proposed new paragraph in the introduction of Part 5 that was added as a result of an IESBA participant's comment in June 2023 (see draft paragraph 100.1a in p. 1 above) already addresses the importance of SAPs having adequate skills, expertise and ongoing training. The examples of pressure related to acting without sufficient expertise or due care in equivalent section 270 have also been retained (although the cross-reference to section 230 has been deleted).

As a result, WS2 proposes **not** to add an equivalent section 230 into Part 5.

### Introduction

- 230.1 ~~Sustainability assurance practitioners~~~~Professional accountants~~ are required to comply with the fundamental principles and apply the conceptual framework set out in Section 120 to identify, evaluate and address threats.
- 230.2 Acting without sufficient expertise creates a self-interest threat to compliance with the principle of professional competence and due care. This section sets out specific requirements and application material relevant to applying the conceptual framework in such circumstances.

### Requirements and Application Material

#### General

- R230.3 A ~~sustainability assurance practitioner~~ ~~professional accountant~~ shall not intentionally mislead an **employing organization** as to the level of expertise or

experience possessed.

Drafting an equivalent paragraph R230.3 raises a scoping issue since the extant provision relates to misleading the employing organization. As this expression is specific to PAIBs, a different expression would have to be used if including an equivalent section 230 in Part 5.

WS2 considered the following options and concluded none of them would be ideal:

- Replacing “employing organization” with “sustainability assurance client”. This would be in line with the rest of Part 5 but would create inconsistencies with the rest of the Code since extant section 230 applies to the relationship with the employing organization. It could also raise questions in terms of the equivalence of standards between SAPs and PAs/auditors.
- Replacing “employing organization” with “firm”. This would be the equivalent replacement but would create inconsistencies with the rest of Part 5 and the rest of section 230 which focuses on the relationship with the client, not the firm. In addition, SAPs may not be part of a firm.
- Replacing “employing organization” with “others”, to cover both the firm and the sustainability assurance client. This would create inconsistencies with the rest of the Code since equivalent section 230 (in Part 5) would have a broader scope than extant section 230. This would also mean that standards for SAPs would be more stringent than those applying to PAs/auditors.

230.3 A1 The principle of professional competence and due care requires that a [sustainability assurance practitioner](#) ~~professional accountant~~ only undertake significant tasks for which the ~~practitioner~~[accountant](#) has, or can obtain, sufficient training or experience.

230.3 A2 A self-interest threat to compliance with the principle of professional competence and due care might be created if a [sustainability assurance practitioner](#) ~~professional accountant~~ has:

- Insufficient time for performing or completing the relevant [assurance procedures or other](#) duties.
- Incomplete, restricted or otherwise inadequate information for performing the duties.
- Insufficient experience, training and/or education.
- Inadequate resources for the performance of the duties.

230.3 A3 Factors that are relevant in evaluating the level of such a threat include:

- The extent to which the [sustainability assurance practitioner](#) ~~professional accountant~~ is working with others.
- The relative seniority of the [sustainability assurance practitioner within the firm](#) ~~accountant in the business~~.
- The level of supervision and review applied to the work.

230.3 A4 Examples of actions that might be safeguards to address such a self-interest threat include:



- Obtaining assistance or training from someone with the necessary expertise.
- Ensuring that there is adequate time available for performing the relevant duties.

**R230.4** If a threat to compliance with the principle of professional competence and due care cannot be addressed, a [sustainability assurance practitioner professional accountant](#) shall determine whether to decline to perform the [procedures or](#) duties in question. If the [practitioner accountant](#) determines that declining is appropriate, the [practitioner accountant](#) shall communicate the reasons.

The second requirement in section 230 also raises issues.

The extant requirement is premised on a hierarchical relationship (which is the case for an employer-employee relationship) but does not seem appropriate in the context of the relationship with a client where there is a fiduciary duty that prevents the practitioner from simply declining.

For instance, if the SAP has insufficient time for performing or completing the relevant duties (extant paragraph 230.3 A2, 1<sup>st</sup> bullet) and that threat cannot be addressed, the SAP should not be required to consider declining to perform the duties (rather, the service) in question. Presumably, the SAP would have calculated the fees in accordance with the time required for the service and if more "tasks" needed to be performed that were previously not accounted for, then the practitioner would presumably revise the agreement/fee proposal with the client.

In addition, users of Part 5 may raise doubts about the relevant regime regarding threats to compliance with the principle of professional competence and due care given the content of equivalent paragraphs 320.3 A3 to A5.

Part 5 is supposed to replicate all requirements in the Code (applicable to auditors) with no changes (because changing a requirement in Part 5 could raise issues in terms of the interpretation of the same requirement in Parts 1-4A). This limits the leeway in adapting this section since this requirement in principle cannot be changed although it does not fit right into Part 5.

#### Other Considerations

230.5 A1 The requirements and application material in [Section 270](#) apply when a [sustainability assurance practitioner professional accountant](#) is pressured to act in a manner that might lead to a breach of the principle of professional competence and due care.

## SECTION 270 PRESSURE TO BREACH THE FUNDAMENTAL PRINCIPLES

In June 2023, the IESBA discussed whether Part 2 should also be adapted into Part 5 and supported WS2's proposal that this should not be the case in general, since the scope of the project focuses on the SAP's relationship with the client, not the firm. However, given certain Sections in Part 2 (notably, Section 270) can also apply to the PAPP's relationship with the client, the IESBA supported the WS2's proposal of including an equivalent Section 270 in Part 5 (see below).

### Introduction

- 270.1 ~~Sustainability assurance practitioners~~ ~~Professional accountants~~ are required to comply with the fundamental principles and apply the conceptual framework set out in Section 120 to identify, evaluate and address threats.
- 270.2 Pressure exerted on, or by, a ~~sustainability assurance practitioner~~ ~~professional accountant~~ might create an intimidation or other threat to compliance with one or more of the fundamental principles. This section sets out specific requirements and application material relevant to applying the conceptual framework in such circumstances.

### Requirements and Application Material

#### General

- R270.3 A ~~sustainability assurance practitioner~~ ~~professional accountant~~ shall not:
- (a) Allow pressure from others to result in a breach of compliance with the fundamental principles; or
  - (b) Place pressure on others that the ~~practitioner~~ ~~accountant~~ knows, or has reason to believe, would result in the other individuals breaching the fundamental principles.
- 270.3 A1 A ~~sustainability assurance practitioner~~ ~~professional accountant~~ might face pressure that creates threats to compliance with the fundamental principles, for example an intimidation threat, when undertaking a professional activity ~~for a sustainability assurance client~~. Pressure might be explicit or implicit and might come from:
- Within the ~~firm~~ ~~employing organization~~, for example, from a colleague or superior.
  - An external individual or organization such as ~~the sustainability assurance client~~ or a vendor, customer or lender ~~of the firm~~.
  - Internal or external targets and expectations.
- 270.3 A2 Examples of pressure that might result in threats to compliance with the fundamental principles include:
- Pressure related to conflicts of interest:

- ~~Pressure from a family member bidding to act as a counterparty vendor to a transaction involving a sustainability assurance client the professional accountant's employing organization to select the family member over another counterparties prospective vendor.~~

See also **Section 2310**, *Conflicts of Interest*.

- ~~Pressure to influence preparation or presentation of information:~~

- ~~Pressure to report misleading financial results to meet investor, analyst or lender expectations.~~
- ~~Pressure from elected officials on public sector accountants to misrepresent programs or projects to voters.~~
- ~~Pressure from colleagues to misstate income, expenditure or rates of return to bias decision-making on capital projects and acquisitions.~~
- ~~Pressure from superiors to approve or process expenditures that are not legitimate business expenses.~~
- ~~Pressure to suppress internal audit reports containing adverse findings.~~

See also **Section 220**, *Preparation and Presentation of Information*.

- ~~Pressure to act without sufficient expertise or due care:~~

- ~~Pressure from superiors to inappropriately reduce the extent of work performed.~~
- ~~Pressure from superiors to perform a task without sufficient skills or training or within unrealistic deadlines.~~
- ~~Pressure from a sustainability assurance client not to inquire about strategy-related assumptions used in the forward-looking information prepared by the client and subject to assurance procedures.~~

See also **Section 230**, *Acting with Sufficient Expertise*.

- ~~Pressure related to financial interests:~~

- ~~Pressure from superiors, colleagues or others, for example, those who might benefit from participation in compensation or incentive arrangements to manipulate performance indicators.~~

See also **Section 240**, *Financial Interests, Compensation and Incentives Linked to Financial Reporting and Decision Making*.

- ~~Pressure related to inducements:~~

- ~~Pressure from others, either internal or external to the employing organization, to offer inducements to influence inappropriately the judgment or decision-making process of an individual or organization.~~

- Pressure from colleagues to accept a bribe or other inducement, for example to accept inappropriate gifts or entertainment from potential ~~or existing sustainability assurance clients~~~~vendors in a bidding process.~~

See also Section ~~253~~40, *Inducements, Including Gifts and Hospitality.*

- Pressure related to non-compliance with laws and regulations:
  - Pressure to ~~overlook potential breaches of environmental or safety regulations applicable to a sustainability assurance client~~~~structure a transaction to evade tax.~~

See also Section ~~23~~60, *Responding to Non-compliance with Laws and Regulations.*

- Pressure related to level of fees
  - Pressure exerted by a ~~superior or a colleague of a sustainability assurance practitioner~~ ~~professional accountant on another professional accountant~~ to provide professional services at a fee level that does not allow for sufficient and appropriate resources (including human, technological and intellectual resources) to perform the services in accordance with technical and professional standards.

See also Section ~~30~~30, *Fees and Other Types of Remuneration*

270.3 A3 Factors that are relevant in evaluating the level of threats created by pressure include:

- The intent of the individual who is exerting the pressure and the nature and extent of the pressure.
- The application of laws, regulations, and professional standards to the circumstances.
- The culture and leadership of the ~~employing organization~~~~firm~~ including the extent to which they reflect or emphasize the importance of ethical behavior and the expectation that ~~personnel~~~~employees~~ will act ethically. For example, a corporate culture that tolerates unethical behavior might increase the likelihood that the pressure would result in a threat to compliance with the fundamental principles.
- Policies and procedures, if any, that the ~~employing organization~~~~firm~~ has established, such as ethics or human resources policies that address pressure.

270.3 A4 Discussing the circumstances creating the pressure and consulting with others about those circumstances might assist the ~~sustainability assurance practitioner~~~~professional accountant~~ to evaluate the level of the threat. Such discussion and consultation, which requires being alert to the principle of confidentiality, might include:

- Discussing the matter with the individual who is exerting the pressure to seek to resolve it.

- Discussing the matter with the ~~practitioner~~ ~~accountant's~~ superior, if the superior is not the individual exerting the pressure.
- Escalating the matter within the ~~firm~~ ~~employing organization~~, including when appropriate, explaining any consequential risks to the ~~firm~~ ~~organization~~, for example with:
  - Higher levels of management.
  - ~~Internal or e~~ External auditors.
  - Those charged with governance.
- Disclosing the matter in line with the ~~firm~~ ~~employing organization's~~ policies, including ethics and whistleblowing policies, using any established mechanism, such as a confidential ethics hotline.
- Consulting with:
  - A colleague, superior, human resources personnel, or another ~~sustainability assurance practitioner~~ ~~professional accountant~~;
  - Relevant professional or regulatory bodies or industry associations; or
  - Legal counsel.

270.3 A5 An example of an action that might eliminate threats created by pressure is the ~~sustainability assurance practitioner~~ ~~professional accountant's~~ request for a restructure of, or segregation of, certain responsibilities and duties relating to the professional services performed for a sustainability assurance client so that the ~~practitioner~~ ~~accountant~~ is no longer involved with the individual or entity exerting the pressure.

#### Documentation

- 270.4 A1 The ~~sustainability assurance practitioner~~ ~~professional accountant~~ is encouraged to document:
- The facts.
  - The communications and parties with whom these matters were discussed.
  - The courses of action considered.
  - How the matter was addressed.

## ~~PART 3 – PROFESSIONAL ACCOUNTANTS IN PUBLIC PRACTICE~~

### SECTION 300

#### ~~APPLYING THE CONCEPTUAL FRAMEWORK — PROFESSIONAL ACCOUNTANTS IN PUBLIC PRACTICE~~

Following IESBA advance comments, WS2 considered merging equivalent Sections 120 and 300, recognizing there is some degree of overlap between the two. However, WS2 is of the view that such overlap already occurs in the extant Code and that merging sections would create issues in terms of correspondence between requirements in Parts 1 to 4A vs Part 5.

#### Introduction

- 300.1 ~~This Part of the Code Sections 300 to 360 sets out requirements and application material for sustainability assurance practitioners professional accountants in public practice when applying the conceptual framework set out in Section 120. It does not describe all of the facts and circumstances, including professional activities, interests and relationships, that could be encountered by practitioners professional accountants in public practice, which create or might create threats to compliance with the fundamental principles. Therefore, the conceptual framework requires sustainability assurance practitioners professional accountants in public practice to be alert for such facts and circumstances.~~
- 300.2 ~~[intentionally left blank]The requirements and application material that apply to professional accountants in public practice are set out in:~~
- ~~• Part 3 – Professional Accountants in Public Practice, Sections 300 to 399, which applies to all professional accountants in public practice, whether they provide assurance services or not.~~
  - ~~• International Independence Standards as follows:~~
    - ~~○ Part 4A – Independence for Audit and Review Engagements, Sections 400 to 899, which applies to professional accountants in public practice when performing audit and review engagements.~~
    - ~~○ Part 4B – Independence for Assurance Engagements Other than Audit and Review Engagements, Sections 900 to 999, which applies to professional accountants in public practice when performing assurance engagements other than audit or review engagements.~~
- 300.3 ~~[intentionally left blank]In this Part, the term “professional accountant” refers to individual professional accountants in public practice and their firms.~~

#### Requirements and Application Material

##### General

- R300.4** A ~~sustainability assurance practitioner professional accountant~~ shall comply with

the fundamental principles set out in **Section 110** and apply the conceptual framework set out in **Section 120** to identify, evaluate and address threats to compliance with the fundamental principles.

**R300.5** ~~[intentionally left blank]When dealing with an ethics issue, the professional accountant shall consider the context in which the issue has arisen or might arise. Where an individual who is a professional accountant in public practice is performing professional activities pursuant to the accountant's relationship with the firm, whether as a contractor, employee or owner, the individual shall comply with the provisions in Part 2 that apply to these circumstances.~~

**300.5 A1** ~~[intentionally left blank]Examples of situations in which the provisions in Part 2 apply to a professional accountant in public practice include:~~

- ~~• Facing a conflict of interest when being responsible for selecting a vendor for the firm when an immediate family member of the accountant might benefit financially from the contract. The requirements and application material set out in Section 210 apply in these circumstances.~~
- ~~• Preparing or presenting financial information for the accountant's client or firm. The requirements and application material set out in Section 220 apply in these circumstances.~~
- ~~• Being offered an inducement such as being regularly offered complimentary tickets to attend sporting events by a supplier of the firm. The requirements and application material set out in Section 250 apply in these circumstances.~~
- ~~• Facing pressure from an engagement partner to report chargeable hours inaccurately for a client engagement. The requirements and application material set out in Section 270 apply in these circumstances.~~

**300.5 A2** The more senior the position of a sustainability assurance practitioner~~professional accountant~~, the greater will be the ability and opportunity to access information, and to influence policies, decisions made and actions taken by others involved with the firm. To the extent that they are able to do so, taking into account their position and seniority in the firm, practitioners~~accountants~~ are expected to encourage and promote an ethics-based culture in the firm and exhibit ethical behavior in dealings with individuals with whom, and entities with which, the practitioner~~accountant~~ or the firm has a professional or business relationship in accordance with **paragraph 120.13 A3**. Examples of actions that might be taken include the introduction, implementation and oversight of:

- Ethics education and training programs.
- Firm processes and performance evaluation and reward criteria that promote an ethical culture.
- Ethics and whistle-blowing policies.
- Policies and procedures designed to prevent non-compliance with laws and regulations.

### Identifying Threats

**300.6 A1** Threats to compliance with the fundamental principles might be created by a broad range of facts and circumstances. The categories of threats are described

in paragraph 120.6 A3. The following are examples of facts and circumstances within each of those categories of threats that might create threats for a sustainability assurance practitioner professional accountant when undertaking a professional service for a sustainability assurance client:

(a) Self-interest Threats

- A sustainability assurance practitioner professional accountant having a direct financial interest in a sustainability assurance client.
- A sustainability assurance practitioner professional accountant quoting a low fee to obtain a new engagement and the fee is so low that it might be difficult to perform the professional service in accordance with applicable technical and professional standards for that price.
- A sustainability assurance practitioner professional accountant having a close business relationship with a sustainability assurance client.
- A professional accountant having access to confidential information that might be used for personal gain. A sustainability assurance practitioner having incentives linked to the outcome of a sustainability assurance engagement.
- A sustainability assurance practitioner professional accountant discovering a significant error when evaluating the results of a previous professional service performed by a member of the accountant's practitioner's firm.

**Commented [LL5]:** This example was replaced as the SRG did not find it very clear. The new example was added following a suggestion from the SRG.

(b) Self-review Threats

- A sustainability assurance practitioner professional accountant issuing an assurance report on the effectiveness of the operation of financial systems that generate sustainability information after designing or implementing the systems.

In June 2023, an IESBA participant suggested adding a self-review threat relating to governance factors, e.g.

"A sustainability assurance practitioner issuing a report on an entity's internal policies or procedures after developing them."

WS2 considers the revisions made to this first bullet were sufficient to make it broad enough to cover governance factors.

- A sustainability assurance practitioner professional accountant having prepared, assisted with or contributed to the preparation of the original data used to generate records information that is are the subject to procedures in matter of the sustainability assurance engagement.
- A sustainability assurance practitioner having provided sustainability services for an entity in a sustainability assurance client's value chain, the outcome of which is subject to procedures in the sustainability assurance engagement for the client.

**Commented [LL6]:** This example was reviewed after considering feedback from IESBA and SRG. This is one of the places where value chain-related considerations have been included.



- A sustainability assurance practitioner having provided a valuation or forecasting service directly or indirectly related to the subject matter of the sustainability assurance engagement.
- (c) Advocacy Threats
- A sustainability assurance practitioner professional accountant promoting the interests of or shares in a sustainability assurance client.
  - A sustainability assurance practitioner professional accountant acting as an advocate on behalf of a sustainability assurance client in litigation or disputes with third parties.
  - A sustainability assurance practitioner professional accountant lobbying in favor of legislation on behalf of a sustainability assurance client.
  - A sustainability assurance practitioner promoting a particular sustainability-related initiative, product or service on behalf of a sustainability assurance client.
- (d) Familiarity Threats
- A sustainability assurance practitioner professional accountant having a close or immediate family member who is a director or officer of the sustainability assurance client.
  - A director or officer of the sustainability assurance client, or an employee in a position to exert significant influence over the subject matter of the engagement, having recently served as the engagement leaderpartner.
  - A sustainability assurance audit team member having a long association with the audit-sustainability assurance client.
  - An individual who is being considered to serve as an appropriate reviewer, as a safeguard to address a threat, having a close relationship with an individual who performed the work.
- (e) Intimidation Threats
- A sustainability assurance practitioner professional accountant being threatened with dismissal from a client engagement or the firm because of a disagreement about a professional matter.
  - A sustainability assurance practitioner professional accountant feeling pressured to agree with the judgment of a sustainability assurance client because the client has more expertise on the matter in question.
  - A sustainability assurance practitioner professional accountant being informed that a planned promotion will not occur unless the practitioneraccountant agrees with an inappropriate sustainability-related analysis or conclusionaccounting treatment.
  - A sustainability assurance practitioner professional accountant having accepted a significant gift from a sustainability assurance

**Commented [LL7]:** The example added in the June 2023 draft regarding certification services was deleted after considering feedback from IESBA and SRG. This new example was added instead, following a suggestion from the SRG. The wording used (valuation or forecasting service) is aligned with WS1 (equivalent section 603).

**Commented [LL8]:** This excerpt was deleted as the SRG did not find it very clear.

client and being threatened that acceptance of this gift will be made public.

#### *Identifying Threats Associated with the Use of Technology*

300.6 A2 The following are examples of facts and circumstances relating to the use of technology that might create threats for a sustainability assurance practitioner professional accountant when undertaking a professional activity for a sustainability assurance client:

- Self-interest Threats
    - The data available might not be sufficient for the effective use of the technology.
    - The technology might not be appropriate for the purpose for which it is to be used.
    - The practitioner accountant might not have sufficient information and expertise, or access to an expert with sufficient understanding, to use and explain the technology and its appropriateness for the purpose intended.
- (Ref: Para. 230.2).
- Self-review Threats
    - The technology was designed or developed using the knowledge, expertise or judgment of the practitioner accountant or firm.

#### **Evaluating Threats**

300.7 A1 The conditions, policies and procedures described in paragraph 120.6 A1 and 120.8 A2 might impact the evaluation of whether a threat to compliance with the fundamental principles is at an acceptable level. Such conditions, policies and procedures might relate to:

- (a) The sustainability assurance client and its operating environment; and
- (b) The firm and its operating environment.

300.7 A2 The sustainability assurance practitioner's professional accountant's evaluation of the level of a threat is also impacted by the nature and scope of the professional service.

#### *The Sustainability Assurance Client and its Operating Environment*

300.7 A3 The sustainability assurance practitioner's professional accountant's evaluation of the level of a threat might be impacted by whether the sustainability assurance client is:

- (a) ~~An audit client and whether the audit client is a~~ public interest entity;
- (b) An ~~assurance client that is not an~~ audit client; or
- (c) A non-assurance client.

For example, providing a non-assurance service to an ~~audit sustainability assurance~~ client that is a public interest entity might be perceived to result in a

higher level of threat to compliance with the principle of objectivity with respect to the sustainability assurance engagement audit.

- 300.7 A4 The corporate governance structure, including the leadership of a sustainability assurance client, might promote compliance with the fundamental principles. Accordingly, a sustainability assurance practitioner's professional accountant's evaluation of the level of a threat might also be impacted by a client's operating environment. For example:
- The client requires appropriate individuals other than management to ratify or approve the appointment of a firm to perform an engagement.
  - The client has competent employees with experience and seniority to make managerial decisions.
  - The client has implemented internal procedures that facilitate objective choices in tendering non-assurance engagements.
  - The client has a corporate governance structure that provides appropriate oversight and communications regarding the firm's services.

300.7 A4a The sustainability assurance practitioner's evaluation of the level of a threat to compliance with the fundamental principles might be impacted by the quantitative and qualitative characteristics of a sustainability assurance client's value chain, such as the client's customers and suppliers. For example, a threat to compliance with the principle of professional competence and due care might be created if the sustainability information that is subject to assurance procedures comes from multiple suppliers that are geographically dispersed or is prepared in accordance with diverse reporting frameworks.

**Commented [LL9]:** This new paragraph draws attention to the fact that the complexity of the client's value chain may pose threats to compliance with the fundamental principles. The example provides additional clarification.

#### *The Firm and its Operating Environment*

- 300.7 A5 A sustainability assurance practitioner's professional accountant's evaluation of the level of a threat might be impacted by the work environment within the practitioner's accountant's firm and its operating environment. For example:
- Leadership of the firm that promotes compliance with the fundamental principles and establishes the expectation that sustainability assurance team members will act in the public interest when providing sustainability assurance.
  - Policies or procedures for establishing and monitoring compliance with the fundamental principles by all personnel.
  - Compensation, performance appraisal and disciplinary policies and procedures that promote compliance with the fundamental principles.
  - Management of the reliance on revenue received from a single client.
  - The engagement leaderpartner having authority within the firm for decisions concerning compliance with the fundamental principles, including any decisions about accepting or providing services to a client.
  - Educational, training and experience requirements.
  - Processes to facilitate and address internal and external concerns or complaints.

- 300.7 A6 The sustainability assurance practitioner's professional accountant's evaluation of the level of a threat associated with the use of technology might also be impacted by the work environment within the practitioner's accountant's firm and its operating environment. For example:
- Level of corporate oversight and internal controls over the technology.
  - Assessments of the quality and functionality of technology that are undertaken by a third-party.
  - Training that is provided regularly to all relevant employees so they obtain and maintain the professional competence to sufficiently understand, use and explain the technology and its appropriateness for the purpose intended.

*Consideration of New Information or Changes in Facts and Circumstances*

- 300.7 A7 New information or changes in facts and circumstances might:
- (a) Impact the level of a threat; or
  - (b) Affect the sustainability assurance practitioner's professional accountant's conclusions about whether safeguards applied continue to address identified threats as intended.

In these situations, actions that were already implemented as safeguards might no longer be effective in addressing threats. Accordingly, the application of the conceptual framework requires that the sustainability assurance practitioner professional accountant re-evaluate and address the threats accordingly. (Ref: Paras. R120.9 and R120.10).

- 300.7 A8 Examples of new information or changes in facts and circumstances that might impact the level of a threat include:
- When the scope of a professional service is expanded.
  - When the client becomes a publicly traded entity or acquires another business unit.
  - When the firm merges with another firm.
  - When the sustainability assurance practitioner professional accountant is jointly engaged by ~~two~~ a sustainability assurance clients and another client and a dispute emerges between the two clients.
  - When there is a change in the sustainability assurance practitioner's professional accountant's personal or immediate family relationships.

**Addressing Threats**

- 300.8 A1 Paragraphs R120.10 to 120.10 A2 set out requirements and application material for addressing threats that are not at an acceptable level.

*Examples of Safeguards*

- 300.8 A2 Safeguards vary depending on the facts and circumstances. Examples of actions that in certain circumstances might be safeguards to address threats include:

- Assigning additional time and qualified personnel to required tasks when an engagement has been accepted might address a self-interest threat.
- Having an appropriate reviewer who was not a member of the team review the work performed or advise as necessary might address a self-review threat.
- Using different ~~leaders~~~~partners~~ and teams with separate reporting lines for the provision of non-assurance services to an sustainability assurance client might address self-review, advocacy or familiarity threats.
- Involving another firm to perform or re-perform part of the engagement might address self-interest, self-review, advocacy, familiarity or intimidation threats.
- Disclosing to clients any referral fees or commission arrangements received for recommending services or products might address a self-interest threat.
- Separating teams when dealing with matters of a confidential nature might address a self-interest threat.

300.8 A3 The remaining sections of ~~this Part 3 and International Independence Standards~~ describe certain threats that might arise during the course of performing professional services for sustainability assurance clients and include examples of actions that might address threats.

#### Appropriate Reviewer

300.8 A4 An appropriate reviewer is a professional with the necessary knowledge, skills, experience and authority to review, in an objective manner, the relevant work performed or service provided to a sustainability assurance client. Such an individual might be a sustainability assurance practitioner~~professional accountant~~.

#### Communicating with Those Charged with Governance

**R300.9** When communicating with those charged with governance in accordance with ~~this Part~~~~the Code~~, a sustainability assurance practitioner~~professional accountant~~ shall determine the appropriate individual(s) within the sustainability assurance client's~~entity's~~ governance structure with whom to communicate. If the practitioner~~accountant~~ communicates with a subgroup of those charged with governance, the practitioner~~accountant~~ shall determine whether communication with all of those charged with governance is also necessary so that they are adequately informed.

300.9 A1 In determining with whom to communicate, a sustainability assurance practitioner~~professional accountant~~ might consider:

- (a) The nature and importance of the circumstances; and
- (b) The matter to be communicated.

300.9 A2 Examples of a subgroup of those charged with governance include an audit committee or another committee tasked with oversight of sustainability information, or an individual member of those charged with governance.

**R300.10** If a sustainability assurance practitioner~~professional accountant~~ communicates

with individuals who have management responsibilities as well as governance responsibilities, the ~~practitioner~~ ~~accountant~~ shall be satisfied that communication with those individuals adequately informs all of those in a governance role with whom the ~~practitioner~~ ~~accountant~~ would otherwise communicate.

- 300.10 A1 In some circumstances, all of those charged with governance are involved in managing the ~~sustainability assurance client~~ ~~entity~~, for example, a small business where a single owner manages the entity and no one else has a governance role. In these cases, if matters are communicated to individual(s) with management responsibilities, and those individual(s) also have governance responsibilities, the ~~sustainability assurance practitioner~~ ~~professional~~ ~~accountant~~ has satisfied the requirement to communicate with those charged with governance.

## SECTION 310 CONFLICTS OF INTEREST

### Introduction

- 310.1 ~~Sustainability assurance practitioners~~ Professional accountants are required to comply with the fundamental principles and apply the conceptual framework set out in Section 120 to identify, evaluate and address threats.
- 310.2 A conflict of interest creates threats to compliance with the principle of objectivity and might create threats to compliance with the other fundamental principles. Such threats might be created when:
- A ~~sustainability assurance practitioner~~ professional accountant provides a professional service related to a particular matter for ~~a two or more sustainability assurance clients and another client~~ whose interests with respect to that matter are in conflict; or
  - The interests of a ~~sustainability assurance practitioner~~ professional accountant with respect to a particular matter and the interests of the ~~sustainability assurance~~ client for whom the ~~practitioner~~ accountant provides a professional service related to that matter are in conflict.
- 310.3 This section sets out specific requirements and application material relevant to applying the conceptual framework to conflicts of interest. When a ~~sustainability assurance practitioner~~ professional accountant performs ~~provides an audit, review or other sustainability assurance engagement~~ service that meets the scope set out in paragraph 1.1.1, independence is also required in accordance with ~~this Part~~ International Independence Standards.

### Requirements and Application Material

#### General

- R310.4 A ~~sustainability assurance practitioner~~ professional accountant shall not allow a conflict of interest to compromise professional or business judgment.
- 310.4 A1 Examples of circumstances that might create a conflict of interest include:
- Providing a transaction advisory service to a client seeking to acquire an ~~audit~~ sustainability assurance client, where the firm has obtained confidential information during the course of the ~~audit~~ sustainability assurance engagement that might be relevant to the transaction.
  - Providing advice to ~~two~~ sustainability assurance clients and another client at the same time where the clients are competing to acquire the same company and the advice might be relevant to the parties' competitive positions.
  - ~~Providing services to a seller and a buyer in relation to the same transaction.~~
  - ~~Preparing valuations of assets for two parties who are in an adversarial position with respect to the assets.~~

- Representing ~~two a sustainability assurance clients and another client~~ in the same matter who are in a legal dispute with each other, ~~such as during divorce proceedings, or the dissolution of a partnership.~~
- ~~In relation to a license agreement, providing an assurance report for a licensor on the royalties due while advising the licensee on the amounts payable.~~
- Advising a sustainability assurance client to invest in a business in which, for example, the spouse of the ~~professional accountant~~practitioner has a financial interest.
- Providing strategic advice to a sustainability assurance client on its competitive position while having a joint venture or similar interest with a major competitor of the client.
- Advising a sustainability assurance client on acquiring a business which the firm is also interested in acquiring.
- Advising a sustainability assurance client on buying a product or service while having a royalty or commission agreement with a potential seller of that product or service.

## Conflict Identification

### General

**R310.5** Before accepting a new sustainability assurance client relationship, engagement, or business relationship, a sustainability assurance practitioner ~~professional accountant~~ shall take reasonable steps to identify circumstances that might create a conflict of interest, and therefore a threat to compliance with one or more of the fundamental principles. Such steps shall include identifying:

- (a) The nature of the relevant interests and relationships between the parties involved; and
- (b) The service and its implication for relevant parties.

310.5 A1 An effective conflict identification process assists a sustainability assurance practitioner ~~professional accountant~~ when taking reasonable steps to identify interests and relationships that might create an actual or potential conflict of interest, both before determining whether to accept an engagement and throughout the engagement. Such a process includes considering matters identified by external parties, for example clients or potential clients. The earlier an actual or potential conflict of interest is identified, the greater the likelihood of the ~~practitioner~~accountant being able to address threats created by the conflict of interest.

310.5 A2 An effective process to identify actual or potential conflicts of interest will take into account factors such as:

- The nature of the professional services provided.
- The size of the firm.
- The size and nature of the client base.



- The structure of the firm, for example, the number and geographic location of offices.

310.5 A3 More information on client acceptance is set out in **Section 320, Professional Appointments**.

#### *Changes in Circumstances*

**R310.6** A [sustainability assurance practitioner professional accountant](#) shall remain alert to changes over time in the nature of services, interests and relationships that might create a conflict of interest while performing an engagement.

310.6 A1 The nature of services, interests and relationships might change during the engagement. This is particularly true when a [sustainability assurance practitioner professional accountant](#) is asked to conduct an engagement in a situation that might become adversarial, even though the parties who engage the [practitioner accountant](#) initially might not be involved in a dispute.

#### *Network Firms*

**R310.7** If the firm is a member of a network, a [sustainability assurance practitioner professional accountant](#) shall consider conflicts of interest that the [practitioner accountant](#) has reason to believe might exist or arise due to interests and relationships of a network firm.

310.7 A1 Factors to consider when identifying interests and relationships involving a network firm include:

- The nature of the professional services provided.
- The clients served by the network.
- The geographic locations of all relevant parties.

#### **Threats Created by Conflicts of Interest**

310.8 A1 In general, the more direct the connection between the professional service and the matter on which the parties' interests conflict, the more likely the level of the threat is not at an acceptable level.

310.8 A2 Factors that are relevant in evaluating the level of a threat created by a conflict of interest include measures that prevent unauthorized disclosure of confidential information when performing professional services related to a particular matter for ~~two or more a sustainability assurance clients and another client~~ whose interests with respect to that matter are in conflict. These measures include:

- The existence of separate practice areas for specialty functions within the firm, which might act as a barrier to the passing of confidential client information between practice areas.
- Policies and procedures to limit access to client files.
- Confidentiality agreements signed by personnel and [leaderspartners](#) of the firm.
- Separation of confidential information physically and electronically.
- Specific and dedicated training and communication.

310.8 A3 Examples of actions that might be safeguards to address threats created by a

conflict of interest include:

- Having separate teams who are provided with clear policies and procedures on maintaining confidentiality.
- Having an appropriate reviewer, who is not involved in providing the service or otherwise affected by the conflict, review the work performed to assess whether the key judgments and conclusions are appropriate.

## Disclosure and Consent

### General

- R310.9** A ~~sustainability assurance practitioner professional accountant~~ shall exercise professional judgment to determine whether the nature and significance of a conflict of interest are such that specific disclosure and explicit consent are necessary when addressing the threat created by the conflict of interest.
- 310.9 A1 Factors to consider when determining whether specific disclosure and explicit consent are necessary include:
- The circumstances creating the conflict of interest.
  - The parties that might be affected.
  - The nature of the issues that might arise.
  - The potential for the particular matter to develop in an unexpected manner.
- 310.9 A2 Disclosure and consent might take different forms, for example:
- General disclosure to clients of circumstances where, as is common commercial practice, the ~~sustainability assurance practitioner professional accountant~~ does not provide professional services exclusively to any one client (for example, in a particular professional service and market sector). This enables the client to provide general consent accordingly. For example, an ~~practitioner accountant~~ might make general disclosure in the standard terms and conditions for the engagement.
  - Specific disclosure to affected clients of the circumstances of the particular conflict in sufficient detail to enable the client to make an informed decision about the matter and to provide explicit consent accordingly. Such disclosure might include a detailed presentation of the circumstances and a comprehensive explanation of any planned safeguards and the risks involved.
  - Consent might be implied by clients' conduct in circumstances where the ~~sustainability assurance practitioner professional accountant~~ has sufficient evidence to conclude that clients know the circumstances at the outset and have accepted the conflict of interest if they do not raise an objection to the existence of the conflict.
- 310.9 A3 It is generally necessary:
- (a) To disclose the nature of the conflict of interest and how any threats created were addressed to clients affected by a conflict of interest; and

- (b) To obtain consent of the affected clients to perform the professional services when safeguards are applied to address the threat.

310.9 A4 If such disclosure or consent is not in writing, the sustainability assurance practitioner professional accountant is encouraged to document:

- (a) The nature of the circumstances giving rise to the conflict of interest;  
(b) The safeguards applied to address the threats when applicable; and  
(c) The consent obtained.

*When Explicit Consent is Refused*

**R310.10** If a sustainability assurance practitioner professional accountant has determined that explicit consent is necessary in accordance with paragraph R310.9 and the client has refused to provide consent, the practitioner accountant shall either:

- (a) End or decline to perform professional services that would result in the conflict of interest; or  
(b) End relevant relationships or dispose of relevant interests to eliminate the threat or reduce it to an acceptable level.

**Confidentiality**

*General*

**R310.11** A sustainability assurance practitioner professional accountant shall remain alert to the principle of confidentiality, including when making disclosures or sharing information within the firm or network and seeking guidance from third parties.

310.11 A1 **Subsection 114** sets out requirements and application material relevant to situations that might create a threat to compliance with the principle of confidentiality.

*When Disclosure to Obtain Consent would Breach Confidentiality*

**R310.12** When making specific disclosure for the purpose of obtaining explicit consent would result in a breach of confidentiality, and such consent cannot therefore be obtained, the firm shall only accept or continue an engagement if:

- (a) The firm does not act in an advocacy role for ~~one a sustainability assurance client~~ in an adversarial position against another client in the same matter;  
(b) Specific measures are in place to prevent disclosure of confidential information between the teams serving the ~~two sustainability assurance client and the other~~ clients; and  
(c) The firm is satisfied that a reasonable and informed third party would be likely to conclude that it is appropriate for the firm to accept or continue the engagement because a restriction on the firm's ability to provide the professional service would produce a disproportionate adverse outcome for the clients or other relevant third parties.

310.12 A1 A breach of confidentiality might arise, for example, when seeking consent to perform:

- A transaction-related service for a sustainability assurance client in a hostile takeover of another client of the firm.

- A forensic investigation for a client regarding a suspected fraud, where the firm has confidential information from its work for a sustainability assurance ~~another~~ client who might be involved in the fraud.

#### **Documentation**

**R310.13** In the circumstances set out in ~~paragraph R310.12~~, the sustainability assurance practitioner ~~professional accountant~~ shall document:

- (a) The nature of the circumstances, including the role that the practitioner ~~accountant~~ is to undertake;
- (b) The specific measures in place to prevent disclosure of information between the teams serving the ~~two sustainability assurance client and the other~~ sustainability assurance client and the other clients; and
- (c) Why it is appropriate to accept or continue the engagement.

## SECTION 320 PROFESSIONAL APPOINTMENTS

### Introduction

- 320.1 [Sustainability assurance practitioners](#) ~~Professional accountants~~ are required to comply with the fundamental principles and apply the conceptual framework set out in [Section 120](#) to identify, evaluate and address threats.
- 320.2 Acceptance of a new [sustainability assurance](#) client relationship or changes in an existing engagement might create a threat to compliance with one or more of the fundamental principles. This section sets out specific requirements and application material relevant to applying the conceptual framework in such circumstances.

### Requirements and Application Material

#### Client and Engagement Acceptance

##### General

- 320.3 A1 Threats to compliance with the principles of integrity or professional behavior might be created, for example, from questionable issues associated with the [sustainability assurance](#) client (its owners, management or activities). Issues that, if known, might create such a threat include client involvement in illegal activities, dishonesty, questionable financial [or non-financial, including sustainability](#), reporting practices or other unethical behavior.
- 320.3 A2 Factors that are relevant in evaluating the level of such a threat include:
- Knowledge and understanding of the [sustainability assurance](#) client, its owners, management and those charged with governance and business activities.
  - The [sustainability assurance](#) client's commitment to address the questionable issues, for example, through improving corporate governance practices or internal controls.
- 320.3 A3 A self-interest threat to compliance with the principle of professional competence and due care is created if the team does not possess, or cannot acquire, the competencies to perform the professional services.
- 320.3 A4 Factors that are relevant in evaluating the level of such a threat include:
- An appropriate understanding of:
    - The nature of the [sustainability assurance](#) client's business;
    - [The complexity of its operations;](#)
    - [The quantitative and qualitative characteristics of the sustainability assurance client's value chain, such as customers and suppliers;](#)
    - The requirements of the engagement; and
    - The purpose, nature and scope of the work to be performed.
  - Knowledge of relevant industries or subject matter.

**Commented [LL10]:** This new bullet draws attention to the fact that understanding the client's value chain (which may be more or less complex) is relevant for the evaluation of self-review threats to compliance with the principle of professional competence and due care.

- Experience with relevant regulatory or reporting requirements.
- Policies and procedures that the firm has implemented, as part of a system of quality management in accordance with quality management standards such as ISQM 1, that respond to quality risks relating to the firm's ability to perform the engagement in accordance with professional standards and applicable legal and regulatory requirements.
- The level of fees and the extent to which they have regard to the resources required, taking into account the [sustainability assurance practitioner](#)~~professional accountant~~'s commercial and market priorities.

320.3 A5 Examples of actions that might be safeguards to address a self-interest threat include:

- Assigning sufficient engagement personnel with the necessary competencies.
- Agreeing on a realistic time frame for the performance of the engagement.
- Using experts where necessary.

## Changes in a Professional Appointment

### General

**R320.4** A [sustainability assurance practitioner](#)~~professional accountant~~ shall determine whether there are any reasons for not accepting an engagement when the ~~practitioner~~~~accountant~~:

- (a) Is asked by a potential [sustainability assurance](#) client to replace another ~~practitioner~~~~accountant~~;
- (b) Considers tendering for an engagement held by another ~~practitioner~~~~accountant~~ [for a sustainability assurance client](#); or
- (c) Considers undertaking work [for a sustainability assurance client](#) that is complementary or additional to that of another ~~practitioner~~~~accountant~~.

320.4 A1 There might be reasons for not accepting an engagement. One such reason might be if a threat created by the facts and circumstances cannot be addressed by applying safeguards. For example, there might be a self-interest threat to compliance with the principle of professional competence and due care if a [sustainability assurance practitioner](#)~~professional accountant~~ accepts the engagement before knowing all the relevant facts.

320.4 A2 If a [sustainability assurance practitioner](#)~~professional accountant~~ is asked [by a sustainability assurance client](#) to undertake work that is complementary or additional to the work of an ~~existing or predecessor~~ ~~practitioner~~~~accountant~~, a self-interest threat to compliance with the principle of professional competence and due care might be created, for example, as a result of incomplete information.

320.4 A3 A factor that is relevant in evaluating the level of such a threat is whether tenders state that, before accepting the engagement, contact with the existing or predecessor ~~practitioner~~~~accountant~~ will be requested. This contact gives the proposed ~~practitioner~~~~accountant~~ the opportunity to inquire whether there are any reasons why the engagement should not be accepted.

**Commented [LL11]:** See also revised glossary regarding the new draft term/definition of "Existing practitioner".

**Commented [LL12]:** See also revised glossary regarding the new draft term/definition of "Predecessor practitioner".

**Commented [LL13]:** See also revised glossary regarding the new draft term/definition of "Proposed practitioner".

- 320.4 A4 Examples of actions that might be safeguards to address such a self-interest threat include:
- Asking the existing or predecessor practitioneraccountant to provide any known information of which, in the existing or predecessor practitioneraccountant's opinion, the proposed practitioneraccountant needs to be aware before deciding whether to accept the engagement. For example, inquiry might reveal previously undisclosed pertinent facts and might indicate disagreements with the existing or predecessor practitioneraccountant that might influence the decision to accept the appointment.
  - Obtaining information from other sources such as through inquiries of third parties or background investigations regarding senior management or those charged with governance of the sustainability assurance client.

*Communicating with the Existing or Predecessor PractitionerAccountant*

- 320.5 A1 A proposed practitioneraccountant will usually need the sustainability assurance client's permission, preferably in writing, to initiate discussions with the existing or predecessor practitioneraccountant.
- R320.6** If unable to communicate with the existing or predecessor practitioneraccountant, the proposed practitioneraccountant shall take other reasonable steps to obtain information about any possible threats.

*Communicating with the Proposed PractitionerAccountant*

- R320.7** When an existing or predecessor practitioneraccountant is asked to respond to a communication from a proposed practitioneraccountant, the existing or predecessor practitioneraccountant shall:
- (a) Comply with relevant laws and regulations governing the request; and
  - (b) Provide any information honestly and unambiguously.
- 320.7 A1 An existing or predecessor practitioneraccountant is bound by confidentiality. Whether the existing or predecessor practitioneraccountant is permitted or required to discuss the affairs of a sustainability assurance client with a proposed practitioneraccountant will depend on the nature of the engagement and:
- (a) Whether the existing or predecessor practitioneraccountant has permission from the sustainability assurance client for the discussion; and
  - (b) The legal and ethics requirements relating to such communications and disclosure, which might vary by jurisdiction.

- 320.7 A2 Circumstances where a sustainability assurance practitionerprofessional accountant is or might be required to disclose confidential information, or when disclosure might be appropriate, are set out in paragraph 114.1 A1 of the Code.

*Changes in Sustainability Assurance Audit or Review Appointments*

- R320.8** In the case of an sustainability assurance engagement that meets the scope set out in paragraph [...]~~audit or review of financial statements~~, a sustainability assurance practitionerprofessional accountant shall request the existing or predecessor practitioneraccountant to provide known information regarding any facts or other information of which, in the existing or predecessor

~~practitioneraccountant~~'s opinion, the proposed ~~practitioneraccountant~~ needs to be aware before deciding whether to accept the engagement. Except for the circumstances involving non-compliance or suspected non-compliance with laws and regulations set out in paragraphs R360.21 and R360.22:

- (a) If the ~~sustainability assurance~~ client consents to the existing or predecessor ~~practitioneraccountant~~ disclosing any such facts or other information, the existing or predecessor ~~practitioneraccountant~~ shall provide the information honestly and unambiguously; and
- (b) If the ~~sustainability assurance~~ client fails or refuses to grant the existing or predecessor ~~practitioneraccountant~~ permission to discuss the client's affairs with the proposed ~~practitioneraccountant~~, the existing or predecessor ~~practitioneraccountant~~ shall disclose this fact to the proposed ~~practitioneraccountant~~, who shall carefully consider such failure or refusal when determining whether to accept the appointment.

#### Client and Engagement Continuance

**R320.9** For a recurring ~~client engagement for a sustainability assurance client~~, a ~~sustainability assurance practitionerprofessional accountant~~ shall periodically review whether to continue with the engagement.

320.9 A1 Potential threats to compliance with the fundamental principles might be created after acceptance which, had they been known earlier, would have caused the ~~sustainability assurance practitionerprofessional accountant~~ to decline the engagement. For example, a self-interest threat to compliance with the principle of integrity might be created by improper ~~sustainability reporting, such as changes in measurement methodology to create the appearance of a positive trendearnings management or balance sheet valuations.~~

Using the Work of an Expert ~~Placeholder for changes by Use of Experts TF – see Agenda Item 7~~

...

#### Using the Output of Technology

**R320.11** When a ~~sustainability assurance practitionerprofessional accountant~~ intends to use the output of technology in the course of undertaking a professional activity ~~for a sustainability assurance client~~, the ~~practitioneraccountant~~ shall determine whether the use is appropriate for the intended purpose.

320.11 A1 Factors to consider when a ~~sustainability assurance practitionerprofessional accountant~~ intends to use the output of technology include:

- The nature of the activity to be performed by the technology.
- The expected use of, or extent of reliance on, the output of the technology.
- Whether the ~~practitioneraccountant~~ has the ability, or access to an expert with the ability, to understand, use and explain the technology and its appropriateness for the purpose intended.
- Whether the technology used has been appropriately tested and evaluated for the purpose intended.



- Prior experience with the technology and whether its use for specific purposes is generally accepted.
- The firm's oversight of the design, development, implementation, operation, maintenance, monitoring, updating or upgrading of the technology.
- The controls relating to the use of the technology, including procedures for authorizing user access to the technology and overseeing such use.
- The appropriateness of the inputs to the technology, including data and any related decisions, and decisions made by individuals in the course of using the technology.

**Other Considerations** Placeholder for changes by Use of Experts TF – see Agenda Item 7

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## SECTION 321 SECOND OPINIONS

WS2 proposes **not** to include an equivalent section 321 in Part 5 because it is outside of the scope of the ethics standards for sustainability assurance.

In accordance with the proposed scope, ethics standards in Part 5 apply to sustainability assurance engagements and all other services that an SAP performs for the same clients. This assumes there is a client: the sustainability assurance client. However, extant section 321 applies when a PA provides a second opinion to an entity that is not an existing client:

321.2 *Providing a second opinion to an entity that is not an existing client might create a self-interest or other threat to compliance with one or more of the fundamental principles. This section sets out specific requirements and application material relevant to applying the conceptual framework in such circumstances.*

As such, the content of this section is outside the scope of Part 5.

If the SAP is a PA, then this section still applies, under extant Part 3.

For the situations where the SAP is not a PA, WS2 proposes to include a specific example relating to the provision of second opinions in the introductory paragraph of Part 5 that encourages non-PAs to use the Code for everything that is not covered by Part 5 – see draft paragraph 100.2b (b) (v) above.

## SECTION 325 OBJECTIVITY OF AN ENGAGEMENT QUALITY REVIEWER AND OTHER APPROPRIATE REVIEWERS

### Introduction

- 325.1 ~~Sustainability assurance practitioners~~Professional accountants are required to comply with the fundamental principles and apply the conceptual framework set out in [Section 120](#) to identify, evaluate and address threats.
- 325.2 Appointing an engagement quality reviewer who has involvement in the work being reviewed or close relationships with those responsible for performing that work might create threats to compliance with the principle of objectivity.
- 325.3 This section sets out specific application material relevant to applying the conceptual framework in relation to the objectivity of an engagement quality reviewer [for a sustainability assurance client](#).
- 325.4 An engagement quality reviewer is also an example of an appropriate reviewer as described in [paragraph 300.8 A4](#). Therefore, the application material in this section might apply in circumstances where a [sustainability assurance practitionerprofessional accountant appoints an appropriate reviewer to review work performed as a safeguard to address identified threats.](#)

### Application Material

#### General

- 325.5 A1 Quality engagements are achieved through planning and performing engagements and reporting on them in accordance with professional standards and applicable legal and regulatory requirements. ISQM 1 establishes the firm's responsibilities for its system of quality management and requires the firm to design and implement responses to address quality risks related to engagement performance. Such responses include establishing policies or procedures addressing engagement quality reviews in accordance with ISQM 2.
- 325.5 A2 An engagement quality reviewer is a partner [or leader](#), other individual in the firm, or an external individual, appointed by the firm to perform the engagement quality review.

#### Identifying Threats

- 325.6 A1 The following are examples of circumstances where threats to the objectivity of an ~~an individual~~professional accountant appointed as an engagement quality reviewer might be created:
- (a) Self-interest threat
- Two engagement ~~leaders~~partners each serving as an engagement quality reviewer for the other's engagement.
- (b) Self-review threat
- An ~~individual~~accountant serving as an engagement quality reviewer on an ~~audit~~sustainability assurance engagement after previously serving as the engagement ~~leader~~partner.

- (c) Familiarity threat
- An [individualaccountant](#) serving as an engagement quality reviewer has a close relationship with or is an immediate family member of another individual who is involved in the engagement.
- (d) Intimidation threat
- An [individualaccountant](#) serving as an engagement quality reviewer for an engagement has a direct reporting line to the [leaderpartner](#) responsible for the engagement.

#### Evaluating Threats

- 325.7 A1 Factors that are relevant in evaluating the level of threats to the objectivity of an individual appointed as an engagement quality reviewer include:
- The role and seniority of the individual.
  - The nature of the individual's relationship with others involved on the engagement.
  - The length of time the individual was previously involved with the engagement and the individual's role.
  - When the individual was last involved in the engagement prior to being appointed as engagement quality reviewer and any subsequent relevant changes to the circumstances of the engagement.
  - The nature and complexity of issues that required significant judgment from the individual in any previous involvement in the engagement.

#### Addressing Threats

- 325.8 A1 An example of an action that might eliminate an intimidation threat is reassigning reporting responsibilities within the firm.
- 325.8 A2 An example of an action that might be a safeguard to address a self-review threat is implementing a period of sufficient duration (a cooling-off period) before the individual who was on the engagement is appointed as an engagement quality reviewer.

#### Cooling-off Period

- 325.8 A3 ISQM 2 requires the firm to establish policies or procedures that specify, as a condition for eligibility, a cooling-off period of two years before the engagement [leaderpartner](#) can assume the role of engagement quality reviewer. This serves to enable compliance with the principle of objectivity and the consistent performance of quality engagements.
- 325.8 A4 The cooling-off period required by ISQM 2 is distinct from, and does not modify, the [leader partner](#) rotation requirements in [Section 540](#), which are designed to address threats to independence created by long association with an [sustainability assurance audit](#) client.

## SECTION 330 FEES AND OTHER TYPES OF REMUNERATION

### Introduction

- 330.1 ~~Sustainability assurance practitioners~~Professional accountants are required to comply with the fundamental principles and apply the conceptual framework set out in [Section 120](#) to identify, evaluate and address threats.
- 330.2 The level and nature of fee and other remuneration arrangements might create a self-interest threat to compliance with one or more of the fundamental principles. This section sets out specific application material relevant to applying the conceptual framework in such circumstances.

### Application Material

#### Level of Fees

- 330.3 A1 The level of fees might impact a ~~sustainability assurance practitioner~~professional accountant's ability to perform professional services ~~for sustainability assurance clients~~ in accordance with technical and professional standards.
- 330.3 A2 A ~~sustainability assurance practitioner~~professional accountant might quote whatever fee is considered appropriate. Quoting a fee lower than another ~~practitioner~~accountant is not in itself unethical. However, the level of fees quoted creates a self-interest threat to compliance with the principle of professional competence and due care if the fee quoted is so low that it might be difficult to perform the engagement in accordance with applicable technical and professional standards.
- 330.3 A3 Factors that are relevant in evaluating the level of such a threat include:
- Whether the ~~sustainability assurance~~ client is aware of the terms of the engagement and, in particular, the basis on which fees are determined and which professional services are covered.
  - Whether the level of the fee is set by an independent third party such as a regulatory body.
- 330.3 A4 Examples of actions that might be safeguards to address such a self-interest threat include:
- Adjusting the level of fees or the scope of the engagement.
  - Having an appropriate reviewer review the work performed.

#### Contingent Fees

- 330.4 A1 Contingent fees are used for certain types of ~~non-assurance professional~~ services. ~~Contingent fees cannot be directly or indirectly charged for a sustainability assurance engagement. For other professional services~~However, contingent fees might create threats to compliance with the fundamental principles, particularly a self-interest threat to compliance with the principle of objectivity, in certain circumstances.
- 330.4 A2 Factors that are relevant in evaluating the level of such threats include:

- The nature of the engagement.
- The range of possible fee amounts.
- The basis or metrics for determining the fee.
- Disclosure to intended users of the work performed by the sustainability assurance practitioner~~professional accountant~~ and the basis of remuneration.
- Quality management policies and procedures.
- Whether an independent third party is to review the outcome or result of the work~~transaction~~.
- Whether the level of the fee is set by an independent third party such as a regulatory body.

330.4 A3 Examples of actions that might be safeguards to address such a self-interest threat include:

- Having an appropriate reviewer who was not involved in performing the ~~non-assurance~~ service review the work performed by the sustainability assurance practitioner~~professional accountant~~.
- Obtaining an advance written agreement with the sustainability assurance client on the basis of remuneration.

330.4 A4 Additional R requirements and application material related to contingent fees for services provided to sustainability assurance audit or review clients and other assurance clients are set out in Section [410]~~International Independence Standards~~.

#### Referral Fees or Commissions

330.5 A1 A self-interest threat to compliance with the principles of objectivity and professional competence and due care is created if a sustainability assurance practitioner~~professional accountant~~ pays or receives a referral fee or receives a commission relating to a sustainability assurance client. Such referral fees or commissions include, for example:

- A fee paid to a third party in exchange for that party referring a sustainability assurance client to the practitioner~~another professional accountant for the purposes of obtaining new client work when the client continues as a client of the existing accountant but requires specialist services not offered by that accountant~~.
- A fee received from a third party in exchange for the practitioner referring a sustainability assurance client to that party~~for referring a continuing client to another professional accountant or other expert where the existing accountant does not provide the specific professional service required by the client~~.
- A commission received from a third party (for example, a software vendor) in connection with the sale of goods or services to a sustainability assurance client.

330.5 A2 Examples of actions that might be safeguards to address such a self-interest

**Commented [LL14]:** Proposal to use different wording in the first two examples, as SRG feedback shows they are not entirely clear, especially for non-PAs. The meaning remains essentially the same, although the scope is slightly broadened by the use of "third party".

threat include:

- Obtaining an advance agreement from the [sustainability assurance](#) client for commission arrangements in connection with the sale by another party of goods or services to the client might address a self-interest threat.
- Disclosing to [sustainability assurance](#) clients any referral fees or commission arrangements paid to, or received from, another [sustainability assurance practitioner](#)~~professional accountant~~ or third party for recommending services or products might address a self-interest threat.

#### **Purchase or Sale of a Firm**

- 330.6 A1 A [sustainability assurance practitioner](#)~~professional accountant~~ may purchase all or part of another firm on the basis that payments will be made to individuals formerly owning the firm or to their heirs or estates. Such payments are not referral fees or commissions for the purposes of this section.

## SECTION 340 INDUCEMENTS, INCLUDING GIFTS AND HOSPITALITY

### Introduction

- 340.1 ~~Sustainability assurance practitioners~~ ~~Professional accountants~~ are required to comply with the fundamental principles and apply the conceptual framework set out in [Section 120](#) to identify, evaluate and address threats.
- 340.2 Offering or accepting inducements might create a self-interest, familiarity or intimidation threat to compliance with the fundamental principles, particularly the principles of integrity, objectivity and professional behavior.
- 340.3 This section sets out requirements and application material relevant to applying the conceptual framework in relation to the offering and accepting of inducements when performing professional services [for sustainability assurance clients](#) that does not constitute non-compliance with laws and regulations. This section also requires a ~~sustainability assurance practitioner~~ ~~professional accountant~~ to comply with relevant laws and regulations when offering or accepting inducements.

### Requirements and Application Material

#### General

- 340.4 A1 An inducement is an object, situation, or action that is used as a means to influence another individual's behavior, but not necessarily with the intent to improperly influence that individual's behavior. Inducements can range from minor acts of hospitality between [sustainability assurance practitioners](#) ~~professional accountants~~ and existing or prospective [sustainability assurance clients](#) to acts that result in non-compliance with laws and regulations. An inducement can take many different forms, for example:

- Gifts.
- Hospitality.
- Entertainment.
- Political or charitable donations.
- Appeals to friendship and loyalty.
- Employment or other commercial opportunities.
- Preferential treatment, rights or privileges.

#### Inducements Prohibited by Laws and Regulations

- R340.5** In many jurisdictions, there are laws and regulations, such as those related to bribery and corruption, that prohibit the offering or accepting of inducements in certain circumstances. The [sustainability assurance practitioner](#) ~~professional accountant~~ shall obtain an understanding of relevant laws and regulations and comply with them when the ~~practitioner~~~~accountant~~ encounters such circumstances.



### Inducements Not Prohibited by Laws and Regulations

340.6 A1 The offering or accepting of inducements that is not prohibited by laws and regulations might still create threats to compliance with the fundamental principles.

#### *Inducements with Intent to Improperly Influence Behavior*

**R340.7** A ~~sustainability assurance practitioner professional accountant~~ shall not offer, or encourage others to offer, any inducement that is made, or which the ~~practitioneraccountant~~ concludes is made, or considers a reasonable and informed third party would be likely to conclude is made, with the intent to improperly influence the behavior of the recipient or of another individual.

**R340.8** A ~~sustainability assurance practitioner professional accountant~~ shall not accept, or encourage others to accept, any inducement that the ~~practitioneraccountant~~ concludes is made, or considers a reasonable and informed third party would be likely to conclude is made, with the intent to improperly influence the behavior of the recipient or of another individual.

340.9 A1 An inducement is considered as improperly influencing an individual's behavior if it causes the individual to act in an unethical manner. Such improper influence can be directed either towards the recipient or towards another individual who has some relationship with the recipient. The fundamental principles are an appropriate frame of reference for a ~~sustainability assurance practitioner professional accountant~~ in considering what constitutes unethical behavior on the part of the ~~practitioneraccountant~~ and, if necessary by analogy, other individuals.

340.9 A2 A breach of the fundamental principle of integrity arises when a ~~sustainability assurance practitioner professional accountant~~ offers or accepts, or encourages others to offer or accept, an inducement where the intent is to improperly influence the behavior of the recipient or of another individual.

340.9 A3 The determination of whether there is actual or perceived intent to improperly influence behavior requires the exercise of professional judgment. Relevant factors to consider might include:

- The nature, frequency, value and cumulative effect of the inducement.
- Timing of when the inducement is offered relative to any action or decision that it might influence.
- Whether the inducement is a customary or cultural practice in the circumstances, for example, offering a gift on the occasion of a religious holiday or wedding.
- Whether the inducement is an ancillary part of a professional service, for example, offering or accepting lunch in connection with a business meeting.
- Whether the offer of the inducement is limited to an individual recipient or available to a broader group. The broader group might be internal or external to the firm, such as other suppliers to the client.
- The roles and positions of the individuals at the firm or the client offering or being offered the inducement.

- Whether the ~~sustainability assurance practitioner professional accountant~~ knows, or has reason to believe, that accepting the inducement would breach the policies and procedures of the ~~sustainability assurance~~ client.
- The degree of transparency with which the inducement is offered.
- Whether the inducement was required or requested by the recipient.
- The known previous behavior or reputation of the offeror.

#### Consideration of Further Actions

- 340.10 A1 If the ~~sustainability assurance practitioner professional accountant~~ becomes aware of an inducement offered with actual or perceived intent to improperly influence behavior, threats to compliance with the fundamental principles might still be created even if the requirements in paragraphs R340.7 and R340.8 are met.
- 340.10 A2 Examples of actions that might be safeguards to address such threats include:
- Informing senior management of the firm or those charged with governance of the ~~sustainability assurance~~ client regarding the offer.
  - Amending or terminating the business relationship with the ~~sustainability assurance~~ client.

#### Inducements with No Intent to Improperly Influence Behavior

- 340.11 A1 The requirements and application material set out in the conceptual framework apply when a ~~sustainability assurance practitioner professional accountant~~ has concluded there is no actual or perceived intent to improperly influence the behavior of the recipient or of another individual.
- 340.11 A2 If such an inducement is trivial and inconsequential, any threats created will be at an acceptable level.
- 340.11 A3 Examples of circumstances where offering or accepting such an inducement might create threats even if the ~~sustainability assurance practitioner professional accountant~~ has concluded there is no actual or perceived intent to improperly influence behavior include:
- Self-interest threats
    - A ~~sustainability assurance practitioner professional accountant~~ is offered hospitality from the prospective acquirer of a ~~sustainability assurance~~ client while providing ~~advisor~~ corporate finance services ~~as part of the due diligence process in a potential acquisition of~~ to the client.
  - Familiarity threats
    - A ~~sustainability assurance practitioner professional accountant~~ regularly takes an existing or prospective ~~sustainability assurance~~ client to sporting events.
  - Intimidation threats
    - A ~~sustainability assurance practitioner professional accountant~~ accepts hospitality from a ~~sustainability assurance~~ client, the nature

Commented [LL15]: This example was amended following IESBA advance comments.

of which could be perceived to be inappropriate were it to be publicly disclosed.

- 340.11 A4 Relevant factors in evaluating the level of such threats created by offering or accepting such an inducement include the same factors set out in [paragraph 340.9 A3](#) for determining intent.
- 340.11 A5 Examples of actions that might eliminate threats created by offering or accepting such an inducement include:
- Declining or not offering the inducement.
  - Transferring responsibility for the provision of any professional services to the [sustainability assurance](#) client to another individual who the [sustainability assurance practitioner professional accountant](#) has no reason to believe would be, or would be perceived to be, improperly influenced when providing the services.
- 340.11 A6 Examples of actions that might be safeguards to address such threats created by offering or accepting such an inducement include:
- Being transparent with senior management of the firm or of the [sustainability assurance](#) client about offering or accepting an inducement.
  - Registering the inducement in a log monitored by senior management of the firm or another individual responsible for the firm's ethics compliance or maintained by the [sustainability assurance](#) client.
  - Having an appropriate reviewer, who is not otherwise involved in providing the professional service [to the sustainability assurance client](#), review any work performed or decisions made by the [sustainability assurance practitioner professional accountant](#) with respect to the client from which the [practitioner accountant](#) accepted the inducement.
  - Donating the inducement to charity after receipt and appropriately disclosing the donation, for example, to a member of senior management of the firm or the individual who offered the inducement.
  - Reimbursing the cost of the inducement, such as hospitality, received.
  - As soon as possible, returning the inducement, such as a gift, after it was initially accepted.

#### Immediate or Close Family Members

- R340.12** A [sustainability assurance practitioner professional accountant](#) shall remain alert to potential threats to the [practitioner's accountant's](#) compliance with the fundamental principles created by the offering of an inducement:
- (a) By an immediate or close family member of the [practitioner accountant](#) to an existing or prospective [sustainability assurance client of the accountant](#).
  - (b) To an immediate or close family member of the [practitioner accountant](#) by an existing or prospective [sustainability assurance client of the accountant](#).
- R340.13** Where the [sustainability assurance practitioner professional accountant](#) becomes aware of an inducement being offered to or made by an immediate or close family member and concludes there is intent to improperly influence the

behavior of the ~~practitioner~~ ~~accountant~~ or of an existing or prospective ~~sustainability assurance~~ ~~client of the accountant~~, or considers a reasonable and informed third party would be likely to conclude such intent exists, the ~~practitioner~~ ~~accountant~~ shall advise the immediate or close family member not to offer or accept the inducement.

340.13 A1 The factors set out in ~~paragraph 340.9 A3~~ are relevant in determining whether there is actual or perceived intent to improperly influence the behavior of the ~~sustainability assurance practitioner professional~~ ~~accountant~~ or of the existing or prospective ~~sustainability assurance~~ ~~client~~. Another factor that is relevant is the nature or closeness of the relationship, between:

- (a) The ~~practitioner~~ ~~accountant~~ and the immediate or close family member;
- (b) The immediate or close family member and the existing or prospective client; and
- (c) The ~~practitioner~~ ~~accountant~~ and the existing or prospective client.

For example, the offer of employment, outside of the normal recruitment process, to the spouse of the ~~practitioner~~ ~~accountant~~ by a client for whom the ~~practitioner~~ ~~accountant~~ is ~~performing a sustainability assurance engagement~~ ~~providing a business valuation for a prospective sale~~ might indicate such intent.

340.13 A2 The application material in ~~paragraph 340.10 A2~~ is also relevant in addressing threats that might be created when there is actual or perceived intent to improperly influence the behavior of the ~~sustainability assurance practitioner professional~~ ~~accountant~~, or of the existing or prospective ~~sustainability assurance~~ ~~client~~ even if the immediate or close family member has followed the advice given pursuant to ~~paragraph R340.13~~.

#### *Application of the Conceptual Framework*

340.14 A1 Where the ~~sustainability assurance practitioner professional~~ ~~accountant~~ becomes aware of an inducement offered in the circumstances addressed in ~~paragraph R340.12~~, threats to compliance with the fundamental principles might be created where:

- (a) The immediate or close family member offers or accepts the inducement contrary to the advice of the ~~practitioner~~ ~~accountant~~ pursuant to ~~paragraph R340.13~~; or
- (b) The ~~practitioner~~ ~~accountant~~ does not have reason to believe an actual or perceived intent to improperly influence the behavior of the ~~practitioner~~ ~~accountant~~ or of the existing or prospective ~~sustainability assurance~~ ~~client~~ exists.

340.14 A2 The application material in paragraphs 340.11 A1 to 340.11 A6 is relevant for the purposes of identifying, evaluating and addressing such threats. Factors that are relevant in evaluating the level of threats in these circumstances also include the nature or closeness of the relationships set out in ~~paragraph 340.13 A1~~.

#### **Other Considerations**

340.15 A1 If a ~~sustainability assurance practitioner professional~~ ~~accountant~~ encounters or is

made aware of inducements that might result in non-compliance or suspected non-compliance with laws and regulations by a [sustainability assurance](#) client or individuals working for or under the direction of the [sustainability assurance](#) client, the requirements and application material in [Section 360](#) apply.

- 340.15 A2 If a firm, network firm or an [audit-sustainability assurance](#) team member is being offered gifts or hospitality from an [audit-sustainability assurance](#) client, the requirement and application material set out in [Section 420](#) apply.
- 340.15 A3 ~~[intentionally left blank](#)~~~~If a firm or an assurance team member is being offered gifts or hospitality from an assurance client, the requirement and application material set out in [Section 906](#) apply.~~

## SECTION 350 CUSTODY OF CLIENT ASSETS

WS2 proposes **not** to include an equivalent section 350 in Part 5 because custody of client assets is not allowed when providing sustainability assurance.

In case of an audit engagement, the WS2 is of the view that this would be considered a management responsibility, thus prohibited – see extant Code (numbering from 2022 Handbook):

**R400.13** *A firm or a network firm shall not assume a management responsibility for an audit client.*

**400.13 A1** *Management responsibilities involve controlling, leading and directing an entity, including making decisions regarding the acquisition, deployment and control of human, financial, technological, physical and intangible resources.*

Since the independence standards in Part 5 will be equivalent to those applying to audits of financial statements, this prohibition also applies to SAEs that meet the independence criteria.

For the remaining SAEs (that do not meet the independence criteria), the independence standards in Part 4B apply. Part 4B includes an equivalent prohibition – see extant Code:

**R900.13** *A firm shall not assume a management responsibility related to the underlying subject matter and, in an attestation engagement, the subject matter information of an assurance engagement provided by the firm. If the firm assumes a management responsibility as part of any other service provided to the assurance client, the firm shall ensure that the responsibility is not related to the underlying subject matter and, in an attestation engagement, the subject matter information of the assurance engagement provided by the firm.*

**900.13 A1** *Management responsibilities involve controlling, leading and directing an entity, including making decisions regarding the acquisition, deployment and control of human, financial, technological, physical and intangible resources.*

Since SAPs cannot hold custody of client assets (neither when providing sustainability assurance that meets the independence criteria nor when performing other services for the same client – because they are also the SAP), then it is not necessary to include provisions in Part 5 for that situation.

For services provided to other clients, if the SAP:

- Is a PA: Section 350 will apply, under extant Part 3.
- Is not a PA: the SAP is encouraged to use the Code under draft paragraph 100.2b above.

## SECTION 360 RESPONDING TO NON-COMPLIANCE WITH LAWS AND REGULATIONS

### Introduction

- 360.1 ~~Sustainability assurance practitioners~~ Professional accountants are required to comply with the fundamental principles and apply the conceptual framework set out in Section 120 to identify, evaluate and address threats.
- 360.2 A self-interest or intimidation threat to compliance with the principles of integrity and professional behavior is created when a sustainability assurance practitioner ~~professional accountant~~ becomes aware of non-compliance or suspected non-compliance with laws and regulations.
- 360.3 A sustainability assurance practitioner ~~professional accountant~~ might encounter or be made aware of non-compliance or suspected non-compliance in the course of providing a professional service to a sustainability assurance client. This section guides the ~~practitioner~~ professional accountant in assessing the implications of the matter and the possible courses of action when responding to non-compliance or suspected non-compliance with:
- (a) Laws and regulations generally recognized to have a direct effect on the determination of material amounts, impacts and disclosures in the client's financial statements or sustainability information; and
  - (b) Other laws and regulations that do not have a direct effect on the determination of the amounts, impacts and disclosures in the client's financial statements or sustainability information, but compliance with which might be fundamental to the operating aspects of the client's business, to its ability to continue its business, or to avoid material penalties.

**Commented [LL16]:** The scope of NOCLAR was reviewed to retain the reference to the financial statements. "Impacts" was added to refer to sustainability information. Same changes in (b) below. For the purposes of sustainability assurance, the effect of NOCLAR is relevant to both the financial statements and the sustainability information (i) because the outside-in materiality of sustainability factors may also affect the financial statements; (ii) in those cases where the practitioner is providing assurance on integrated reporting.

### Objectives of the Sustainability Assurance Practitioner ~~Professional Accountant~~ in Relation to Non-compliance with Laws and Regulations

- 360.4 ~~A distinguishing mark of the accountancy profession is its acceptance of the responsibility to act in the public interest. It is of public interest that sustainability assurance practitioners act ethically in order to maintain public trust and confidence in assurance on sustainability information.~~ When responding to non-compliance or suspected non-compliance, the objectives of the practitioner ~~professional accountant~~ are:
- (a) To comply with the principles of integrity and professional behavior;
  - (b) By alerting management or, where appropriate, those charged with governance of the sustainability assurance client, to seek to:
    - (i) Enable them to rectify, remediate or mitigate the consequences of the identified or suspected non-compliance; or
    - (ii) Deter the commission of the non-compliance where it has not yet occurred; and
  - (c) To take such further action as appropriate in the public interest.

**Commented [LL17]:** This first sentence (which replicates extant paragraph 100.1) was replaced with the first sentence of draft equivalent paragraph 100.1.

## Requirements and Application Material

### General

360.5 A1 Non-compliance with laws and regulations (“non-compliance”) comprises acts of omission or commission, intentional or unintentional, which are contrary to the prevailing laws or regulations committed by the following parties:

- (a) A [sustainability assurance](#) client;
- (b) Those charged with governance of a [sustainability assurance](#) client;
- (c) Management of a [sustainability assurance](#) client; or
- (d) Other individuals working for or under the direction of a [sustainability assurance](#) client.

360.5 A2 Examples of laws and regulations which this section addresses include those that deal with:

- ~~Environmental protection.~~
- ~~Public health and safety.~~
- ~~Protection of human rights.~~
- ~~Labor conditions and rights of employees.~~
- ~~Consumer rights.~~
- ~~Data protection.~~
- Fraud, corruption and bribery.
- Money laundering, terrorist financing and proceeds of crime.
- Securities markets and trading.
- Banking and other financial products and services.
- ~~Data protection.~~
- Tax and pension liabilities and payments.
- ~~Environmental protection.~~
- ~~Public health and safety.~~

360.5 A3 Non-compliance might result in fines, litigation or other consequences for the [sustainability assurance](#) client, potentially materially affecting its financial statements or [sustainability information](#). Importantly, such non-compliance might have wider public interest implications in terms of potentially substantial harm to investors, creditors, employees or the general public. For the purposes of this section, an act that causes substantial harm is one that results in serious adverse consequences to any of these parties in financial or non-financial terms. Examples include the perpetration of a fraud resulting in significant financial losses to investors, and breaches of environmental laws and regulations endangering the health or safety of employees or the public.

R360.6 In some jurisdictions, ~~there are~~ legal or regulatory provisions governing how [sustainability assurance practitioners](#) ~~professional accountants~~ should address

**Commented [LL18]:** Proposal to retain the reference to the financial statements for the reasons mentioned above (regarding the scope of NOCLAR) and to add a reference to sustainability information.

**Commented [LL19]:** “There are” was retained instead of “There may be” because of the draft French legislation expected to be approved which addresses this specific issue.



non-compliance or suspected non-compliance. These legal or regulatory provisions might differ from or go beyond the provisions in this section. When encountering such non-compliance or suspected non-compliance, the ~~practitioner~~accountant shall obtain an understanding of those legal or regulatory provisions and comply with them, including:

- (a) Any requirement to report the matter to an appropriate authority; and
- (b) Any prohibition on alerting the sustainability assurance client.

360.6 A1 A prohibition on alerting the client might arise, for example, pursuant to anti-money laundering legislation.

360.7 A1 This section applies regardless of the nature of the sustainability assurance client, including whether or not it is a public interest entity.

360.7 A2 A sustainability assurance practitioner ~~professional accountant~~ who encounters or is made aware of matters that are clearly inconsequential is not required to comply with this section. Whether a matter is clearly inconsequential is to be judged with respect to its nature and its impact, financial or otherwise, on the sustainability assurance client, its stakeholders and the general public.

360.7 A3 This section does not address:

- (a) Personal misconduct unrelated to the business activities of the sustainability assurance client; and
- (b) Non-compliance by parties other than those specified in paragraph 360.5 A1. This includes, for example, ~~when the identified or suspected non-compliance has been committed by an entity in the sustainability assurance client's value chain~~ circumstances where a professional accountant has been engaged by a client to perform a due diligence assignment on a third party entity and the identified or suspected non-compliance has been committed by that third party.

The ~~sustainability assurance practitioner~~accountant might nevertheless find the guidance in this section helpful in considering how to respond in these situations.

Proposal to replace the extant example in (b) above with an example relating to the value chain was made on the basis that there is a parallel between the two (i.e., both examples relate to NOCLAR committed by a third party).

The relevant parties for the purposes of applying NOCLAR provisions are those set out in equivalent paragraph 360.5 A1. Entities in the value chain are not included there and thus the example in (b) above clarifies that NOCLAR committed by such entities is not subject to this section. Nevertheless, the SAP might find the guidance in this section helpful in considering how to respond in a situation of NOCLAR in the value chain.

WS2 recognizes that NOCLAR in the value chain might have particular relevance for the sustainability assurance client and its disclosures. WS2 therefore proposes that this matter is addressed in the NOCLAR PIR in a holistic way and with dedicated time.

In June 2023, a few IESBA participants suggested having provisions addressing non-compliance with voluntary commitments, which is scoped out of extant Section 360. Most IESBA participants did not agree and preferred Part 5 to include NOCLAR only.

WS2 proposes to explain in the EM and eventually the BfC that:

- This section does not address situations where the SAP might encounter or be made aware of non-compliance or suspected non-compliance with sustainability-related voluntary commitments (including internal policies, public statements or contractual representations) undertaken by the sustainability assurance client. The practitioner might nevertheless find the guidance in this section helpful in considering how to respond in these situations.
- Those situations are not scoped in this section because non-compliance with laws and regulations and non-compliance with voluntary commitments such as public statements are very different and there may be legitimate reasons for the latter.

### Responsibilities of Management and Those Charged with Governance

360.8 A1 Management, with the oversight of those charged with governance, is responsible for ensuring that the [sustainability assurance client's](#) business activities are conducted in accordance with laws and regulations. Management and those charged with governance are also responsible for identifying and addressing any non-compliance by:

- (a) The [sustainability assurance client](#);
- (b) An individual charged with governance of the [sustainability assurance client entity](#);
- (c) A member of management [of the sustainability assurance client](#); or
- (d) Other individuals working for or under the direction of the [sustainability assurance client](#).

### Responsibilities of [Sustainability Assurance Practitioners All Professional Accountants](#)

R360.9 Where a [sustainability assurance practitioner professional accountant](#) becomes aware of a matter to which this section applies, the steps that the [practitioner accountant](#) takes to comply with this section shall be taken on a timely basis. In taking timely steps, the [practitioner accountant](#) shall have regard to the nature of the matter and the potential harm to the interests of the [sustainability assurance client entity](#), investors, creditors, employees or the general public.

### [Sustainability Assurance Engagements that Meet the Scope Set Out in Paragraph \[...\] Audits of Financial Statements](#)

#### Obtaining an Understanding of the Matter

R360.10 If a [sustainability assurance practitioner professional accountant](#) engaged to perform a [sustainability assurance engagement that meets the scope set out in paragraph \[...\] an audit of financial statements](#) becomes aware of information concerning non-compliance or suspected non-compliance, the [practitioner accountant](#) shall obtain an understanding of the matter. This understanding shall include the nature of the non-compliance or suspected non-compliance and the circumstances in which it has occurred or might occur.

**Commented [LL20]:** Following the IESBA's discussion in June 2023, this section has been adapted to apply to SAEs that meet the independence criteria since the objective is for Part 5 standards to be equivalent to those applying to audits of the financial statements.

However, this does not mean that the other section ("Professional Services Other than Audits of Financial Statements") is not necessary. Given WS2's proposal that the scope of the ethics standards in Part 5 covers all SAEs (i.e., that meet and that do not meet the independence criteria) as well as other professional services performed for the same clients, then that section should be retained and adapted to apply to SAEs that do not meet the independence criteria and other services. (See below p. 76)

- 360.10 A1 The sustainability assurance practitioner professional accountant might become aware of the non-compliance or suspected non-compliance in the course of performing the sustainability assurance engagement or through information provided by other parties.
- 360.10 A2 The sustainability assurance practitioner professional accountant is expected to apply knowledge and expertise, and exercise professional judgment. However, the practitioner accountant is not expected to have a level of knowledge of laws and regulations greater than that which is required to undertake the sustainability assurance engagement. Whether an act constitutes non-compliance is ultimately a matter to be determined by a court or other appropriate adjudicative body.
- 360.10 A3 Depending on the nature and significance of the matter, the sustainability assurance practitioner professional accountant might consult on a confidential basis with others within the firm, a network firm or a professional body, or with legal counsel.
- R360.11** If the sustainability assurance practitioner professional accountant identifies or suspects that non-compliance has occurred or might occur, the practitioner accountant shall discuss the matter with the appropriate level of management and, where appropriate, those charged with governance.
- 360.11 A1 The purpose of the discussion is to clarify the sustainability assurance practitioner's professional accountant's understanding of the facts and circumstances relevant to the matter and its potential consequences. The discussion also might prompt management or those charged with governance to investigate the matter.
- 360.11 A2 The appropriate level of management with whom to discuss the matter is a question of professional judgment. Relevant factors to consider include:
- The nature and circumstances of the matter.
  - The individuals actually or potentially involved.
  - The likelihood of collusion.
  - The potential consequences of the matter.
  - Whether that level of management is able to investigate the matter and take appropriate action.
- 360.11 A3 The appropriate level of management is usually at least one level above the individual or individuals involved or potentially involved in the matter. In the context of a group, the appropriate level might be management at an entity that controls the sustainability assurance client.
- 360.11 A4 The sustainability assurance practitioner professional accountant might also consider discussing the matter with internal auditors, where applicable.
- R360.12** If the sustainability assurance practitioner professional accountant believes that management is involved in the non-compliance or suspected non-compliance, the practitioner accountant shall discuss the matter with those charged with governance.

*Addressing the Matter*

- R360.13** In discussing the non-compliance or suspected non-compliance with

management and, where appropriate, those charged with governance, the ~~sustainability assurance practitioner professional accountant~~ shall advise them to take appropriate and timely actions, if they have not already done so, to:

- (a) Rectify, remediate or mitigate the consequences of the non-compliance;
- (b) Deter the commission of the non-compliance where it has not yet occurred; or
- (c) Disclose the matter to an appropriate authority where required by law or regulation or where considered necessary in the public interest.

**R360.14** The ~~sustainability assurance practitioner professional accountant~~ shall consider whether management and those charged with governance understand their legal or regulatory responsibilities with respect to the non-compliance or suspected non-compliance.

360.14 A1 If management and those charged with governance do not understand their legal or regulatory responsibilities with respect to the matter, the ~~sustainability assurance practitioner professional accountant~~ might suggest appropriate sources of information or recommend that they obtain legal advice.

**R360.15** The ~~sustainability assurance practitioner professional accountant~~ shall comply with applicable:

- (a) Laws and regulations, including legal or regulatory provisions governing the reporting of non-compliance or suspected non-compliance to an appropriate authority; and
- (b) Requirements under ~~sustainability assurance auditing~~ standards, including those relating to:
  - Identifying and responding to non-compliance, including fraud.
  - Communicating with those charged with governance.
  - Considering the implications of the non-compliance or suspected non-compliance for the ~~sustainability assurance auditor's~~ report.

360.15 A1 Some laws and regulations might stipulate a period within which reports of non-compliance or suspected non-compliance are to be made to an appropriate authority.

#### Communication with Respect to Groups

**R360.16** Where ~~the sustainability assurance practitioner professional accountant~~ becomes aware of non-compliance or suspected non-compliance in either of the following two situations in the context of a group, the ~~practitioner accountant~~ shall communicate the matter to the group engagement ~~leader partner~~ unless prohibited from doing so by law or regulation:

- (a) The ~~practitioner accountant~~ performs ~~audit sustainability assurance work~~ related to a component for purposes of the group's ~~sustainability assurance engagement audit~~; or
- (b) The ~~practitioner accountant~~ is engaged to perform an ~~sustainability assurance engagement audit of for~~ the ~~sustainability information financial statements~~ of a legal entity or business unit that is part of a group for

purposes other than the group's sustainability assurance engagement~~audit, for example, a statutory audit.~~

The communication to the group engagement leaderpartner shall be in addition to responding to the matter in accordance with the provisions of this section.

360.16 A1 The purpose of the communication is to enable the group engagement leaderpartner to be informed about the matter and to determine, in the context of the group's sustainability assurance engagement~~audit~~, whether and, if so, how to address it in accordance with the provisions in this section. The communication requirement in paragraph R360.16 applies regardless of whether the group engagement leaderpartner's firm or network is the same as or different from the sustainability assurance practitioner's professional accountant's firm or network.

**R360.17** Where the group engagement leaderpartner becomes aware of non-compliance or suspected non-compliance in the course of a group's sustainability assurance engagement~~audit~~, the group engagement leaderpartner shall consider whether the matter might be relevant to:

- (a) One or more components subject to audit sustainability assurance work for purposes of the group's sustainability assurance engagement~~audit~~; or
- (b) One or more legal entities or business units that are part of the group and whose sustainability information/financial statements ~~is~~are subject to assurance~~audit~~ for purposes other than the group's sustainability assurance engagement~~audit, for example, a statutory audit.~~

This consideration shall be in addition to responding to the matter in the context of the group's sustainability assurance engagement~~audit~~ in accordance with the provisions of this section.

**R360.18** If the non-compliance or suspected non-compliance might be relevant to one or more of the components specified in paragraph R360.17(a) and legal entities or business units specified in paragraph R360.17(b), the group engagement leaderpartner shall take steps to have the matter communicated to those performing audit sustainability assurance work at the components, legal entities or business units, unless prohibited from doing so by law or regulation. If necessary, the group engagement leaderpartner shall arrange for appropriate inquiries to be made (either of management or from publicly available information) as to whether the relevant legal entities or business units specified in paragraph R360.17(b) are subject to sustainability assurance~~audit~~ and, if so, to ascertain to the extent practicable the identity of the practitioners~~auditors~~.

360.18 A1 The purpose of the communication is to enable those responsible for audit sustainability assurance work at the components, legal entities or business units to be informed about the matter and to determine whether and, if so, how to address it in accordance with the provisions in this section. The communication requirement applies regardless of whether the group engagement leaderpartner's firm or network is the same as or different from the firms or networks of those performing sustainability assurance~~audit~~ work at the components, legal entities or business units.

Communicating the Matter to the Sustainability Assurance Client's External Auditor

WS2's proposal to include these provisions for the SAP to consider communicating NOCLAR or suspected NOCLAR **to the client's auditor** was discussed with the IESBA in June 2023 and received the IESBA's general support.

The inclusion of this section is based on extant paragraphs R360.33 to 360.35 A1 and corresponds to a situation under equivalent paragraph 114.1 A1 (c) (iv) where the practitioner might be required to disclose confidential information or when such disclosure might be appropriate.

WS2 also proposes to include mirroring provisions in extant Part 3 for the communication between the auditor and the SAP – see Agenda Item 4-B.

In sustainability assurance, there may be situations where one SAP provides assurance on one aspect of the sustainability information disclosed (e.g., GHG emissions) and other SAP(s) provide assurance on other aspects (e.g., water pollution; compliance with human rights). In such situations – and assuming that the SAEs performed meet the independence criteria –, if one SAP becomes aware of NOCLAR or suspected NOCLAR, there is a question of whether the SAP should communicate it not only to the auditor but **also to the other SAP(s)**. This question arises because conceptually both the auditor and the other SAP(s) are providing services underpinned by the same public interest.

In considering this question, the WS2 has taken into account the following:

- Despite recognizing that the same public interest underpins audits of financial statements and SAEs that meet the independence criteria, the WS2 considers that given the financial materiality aspect of sustainability reporting, the identification of NOCLAR or suspected NOCLAR in sustainability assurance will most likely have an impact on the audit of the financial statements, and therefore communication with the auditor is particularly relevant and important.
- WS2 considers that requiring communication with other SAPs could raise practical issues, such as knowing if the client engaged other SAPs and whether those other SAPs are performing SAEs that meet the independence criteria.
- Based on SRG feedback, at least in the UK, large companies doing voluntary assurance (technically speaking, i.e., under the IAASB standards; not verification/certification services under for instance the ISO standards) usually just engage one provider (not several). As such, a situation where one SAP would have to consider communicating with other SAP(s) may be uncommon.
- WS2 is of the view that expanding the existing communication requirements (especially in the section below – see text box in p. 78) also to other SAPs would add a layer of complexity in the already complicated provisions (particularly equivalent paragraphs R360.31 to R360.33 in the section below), potentially impairing the understandability and ultimately the adoption and implementation of the IESBA standards, which would not be aligned with the PIF characteristics.

In light of the above, WS2 proposes that:

- If a client engages two or more SAPs to perform SAEs that meet the independence criteria and NOCLAR or suspected NOCLAR is identified, then the SAP in question shall address it with management and TCWG in accordance with the general NOCLAR provisions (i.e., the SAP is not required to consider communicating directly with the other SAP/SAPs).

This approach focuses on first ensuring SAPs (both PA and non-PA) understand how the NOCLAR provisions work under Part 5, before the IESBA considers elaborating on

these provisions. This approach is also in line with the following PIF characteristics: clarity and conciseness of the standards as well as their scalability (over time), implementability, and enforceability.

In conclusion, WS2 proposes **not extending** the communication of NOCLAR or suspected NOCLAR to other SAPs. As a consequence, communications regarding NOCLAR or suspected NOCLAR under Part 5 would be made as follows:

- If the SAP is performing an SAE that meets the independence criteria, the SAP shall be required to consider communicating with the auditor **only**. (See equivalent paragraph R360.18a)
- If the SAP is performing an SAE that does not meet the independence criteria or another service for the sustainability assurance client, the SAP shall be required to communicate under equivalent paragraphs R360.31 to R360.33 (i.e., for audit purposes only). (See equivalent paragraphs R360.31 – R360.33)

Communication between the SAP and the auditor is only addressed in the context of NOCLAR. WS2 believes that the terms for the communication in a broader sense between the SAP and other parties such as the auditor (or other SAPs) should be determined by the technical/assurance (not ethics) standards. In this respect, we note that **ISSA 5000** mostly focuses on communication with management and TCWG (see paragraphs 62 and A137-A140).

**R360.18a** The sustainability assurance practitioner shall consider whether to communicate the non-compliance or suspected non-compliance to the sustainability assurance client's external auditor, if any.

Relevant Factors to Consider

360.18a A1 Factors relevant to considering the communication in accordance with paragraph R360.18a include:

- Whether doing so would be contrary to law or regulation.
- Whether there are restrictions about disclosure imposed by a regulatory agency or prosecutor in an ongoing investigation into the non-compliance or suspected non-compliance.
- Whether the purpose of the engagement is to investigate potential non-compliance within the sustainability assurance client to enable it to take appropriate action.
- Whether management or those charged with governance have already informed the sustainability assurance client's external auditor about the matter.
- Whether and, if so, how the firm's or network firm's protocols or procedures address communication of non-compliance or suspected non-compliance within the firm or network firm.
- The likely materiality of the matter to the audit of the client's financial statements or, where the matter relates to a component of a group, its likely materiality to the audit of the group financial statements.

**Commented [LL21]:** Additional factor regarding communication within the firm/network firm.

In June 2023, some IESBA participants considered it important to retain the last bullet in equivalent paragraph R360.18a A1 (see above) and, if necessary, change its wording to make it clearer for non-PAs.

In considering this point, the WS2 makes the following observations:

- Even if the wording is changed, it might still not be reasonable to expect a non-PA SAP to recognize the materiality of a NOCLAR situation to the audit of the client's or the group's financial statements, especially if that SAP is not familiar with integrated reporting.
- On the other hand, ISSB and EFRAG reporting standards recognize the financial materiality of the sustainability information. In a certain way, this suggests that non-PAs need to understand some concept of materiality in a financial sense although they might not necessarily know what materiality is for an audit.
- SRG feedback supported not having SAPs who are not PAs make judgments on financial materiality or form opinions about financial statements.

In light of the above, WS2 retains its proposal not to include this bullet in Part 5 and proposes explaining in the guidance for non-PAs that if they have this expertise/sensibility, then they should consider this factor as well.

Although this factor seems to set out some sort of threshold for communication, not having it does not automatically mean that SAPs need to communicate all NOCLAR or suspected NOCLAR to the auditor. This paragraph exemplifies some factors to consider but the practitioner should use professional judgment to ultimately decide whether to communicate a certain NOCLAR or suspected NOCLAR situation.

#### Purpose of Communication

360.18a A2 In the circumstances addressed in paragraph R360.18a, the purpose of the communication is to enable the audit engagement partner to be informed about the non-compliance or suspected non-compliance and to determine whether and, if so, how to address it in accordance with the provisions of the Code.

#### *Determining Whether Further Action Is Needed*

**R360.19** The sustainability assurance practitioner professional accountant shall assess the appropriateness of the response of management and, where applicable, those charged with governance.

360.19 A1 Relevant factors to consider in assessing the appropriateness of the response of management and, where applicable, those charged with governance include whether:

- The response is timely.
- The non-compliance or suspected non-compliance has been adequately investigated.
- Action has been, or is being, taken to rectify, remediate or mitigate the consequences of any non-compliance.
- Action has been, or is being, taken to deter the commission of any non-compliance where it has not yet occurred.
- Appropriate steps have been, or are being, taken to reduce the risk of re-occurrence, for example, additional controls or training.



- The non-compliance or suspected non-compliance has been disclosed to an appropriate authority where appropriate and, if so, whether the disclosure appears adequate.

**R360.20** In light of the response of management and, where applicable, those charged with governance, the sustainability assurance practitioner professional accountant shall determine if further action is needed in the public interest.

360.20 A1 The determination of whether further action is needed, and the nature and extent of it, will depend on various factors, including:

- The legal and regulatory framework.
- The urgency of the situation.
- The pervasiveness of the matter throughout the sustainability assurance client.
- Whether the sustainability assurance practitioner professional accountant continues to have confidence in the integrity of management and, where applicable, those charged with governance.
- Whether the non-compliance or suspected non-compliance is likely to recur.
- Whether there is credible evidence of actual or potential substantial harm to the interests of the sustainability assurance client, investors, creditors, employees or the general public.

360.20 A2 Examples of circumstances that might cause the sustainability assurance practitioner professional accountant no longer to have confidence in the integrity of management and, where applicable, those charged with governance include situations where:

- The practitioner accountant suspects or has evidence of their involvement or intended involvement in any non-compliance.
- The practitioner accountant is aware that they have knowledge of such non-compliance and, contrary to legal or regulatory requirements, have not reported, or authorized the reporting of, the matter to an appropriate authority within a reasonable period.

**R360.21** The sustainability assurance practitioner professional accountant shall exercise professional judgment in determining the need for, and nature and extent of, further action. In making this determination, the practitioner accountant shall take into account whether a reasonable and informed third party would be likely to conclude that the practitioner accountant has acted appropriately in the public interest.

360.21 A1 Further action that the sustainability assurance practitioner professional accountant might take includes:

- Disclosing the matter to an appropriate authority even when there is no legal or regulatory requirement to do so.
- Withdrawing from the engagement and the professional relationship where permitted by law or regulation.

- 360.21 A2 Withdrawing from the engagement and the professional relationship is not a substitute for taking other actions that might be needed to achieve the ~~sustainability assurance practitioner's professional accountant's~~ objectives under this section. In some jurisdictions, however, there might be limitations as to the further actions available to the ~~practitioner accountant~~. In such circumstances, withdrawal might be the only available course of action.
- R360.22** Where the ~~sustainability assurance practitioner professional accountant~~ has withdrawn from the professional relationship pursuant to paragraphs R360.20 and 360.21 A1, the ~~practitioner accountant~~ shall, on request by the proposed ~~practitioner accountant~~ pursuant to paragraph R320.8, provide all relevant facts and other information concerning the identified or suspected non-compliance to the proposed ~~practitioner accountant~~. The predecessor ~~practitioner accountant~~ shall do so, even in the circumstances addressed in paragraph R320.8(b) where the client fails or refuses to grant the predecessor ~~practitioner accountant~~ permission to discuss the client's affairs with the proposed ~~practitioner accountant~~, unless prohibited by law or regulation.
- 360.22 A1 The facts and other information to be provided are those that, in the predecessor ~~practitioner's accountant's~~ opinion, the proposed ~~practitioner accountant~~ needs to be aware of before deciding whether to accept the ~~audit~~ appointment. Section 320 addresses communications from proposed ~~practitioners accountants~~.
- R360.23** If the proposed ~~practitioner accountant~~ is unable to communicate with the predecessor ~~practitioner accountant~~, the proposed ~~practitioner accountant~~ shall take reasonable steps to obtain information about the circumstances of the change of appointment by other means.
- 360.23 A1 Other means to obtain information about the circumstances of the change of appointment include inquiries of third parties or background investigations of management or those charged with governance.
- 360.24 A1 As assessment of the matter might involve complex analysis and judgments, the ~~practitioner professional accountant~~ might consider:
- Consulting internally.
  - Obtaining legal advice to understand the ~~practitioner's accountant's~~ options and the professional or legal implications of taking any particular course of action.
  - Consulting on a confidential basis with a regulatory or professional body.

#### Determining Whether to Disclose the Matter to an Appropriate Authority

- 360.25 A1 Disclosure of the matter to an appropriate authority would be precluded if doing so would be contrary to law or regulation. Otherwise, the purpose of making disclosure is to enable an appropriate authority to cause the matter to be investigated and action to be taken in the public interest.
- 360.25 A2 The determination of whether to make such a disclosure depends in particular on the nature and extent of the actual or potential harm that is or might be caused by the matter to investors, creditors, employees or the general public. For example, the ~~sustainability assurance practitioner professional accountant~~ might determine that disclosure of the matter to an appropriate authority is an appropriate course of action if:

- The sustainability assurance client entity is engaged in bribery (for example, of local or foreign government officials for purposes of securing large contracts).
- The sustainability assurance client entity is regulated and the matter is of such significance as to threaten its license to operate.
- The sustainability assurance client entity is listed on a securities exchange and the matter might result in adverse consequences to the fair and orderly market in the client's entity's securities or pose a systemic risk to the financial markets.
- It is likely that the sustainability assurance client entity would sell products that are harmful to public health or safety.
- The sustainability assurance client entity is promoting a scheme to its clients to assist them in evading taxes.

360.25 A3 The determination of whether to make such a disclosure will also depend on external factors such as:

- 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 on 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 sustainability assurance practitioner professional accountant or other individuals.

**R360.26** If the sustainability assurance practitioner professional accountant determines that disclosure of the non-compliance or suspected non-compliance to an appropriate authority is an appropriate course of action in the circumstances, that disclosure is permitted pursuant to paragraph R114.3 of the Code. When making such disclosure, the practitioner accountant shall act in good faith and exercise caution when making statements and assertions. The practitioner accountant shall also consider whether it is appropriate to inform the client of the practitioner's accountant's intentions before disclosing the matter.

#### *Imminent Breach*

**R360.27** In exceptional circumstances, the sustainability assurance practitioner professional accountant might become aware of actual or intended conduct that the practitioner accountant has reason to believe would constitute an imminent breach of a law or regulation that would cause substantial harm to investors, creditors, employees or the general public. Having first considered whether it would be appropriate to discuss the matter with management or those charged with governance of the sustainability assurance client entity, the practitioner accountant shall exercise professional judgment and determine whether to disclose the matter immediately to an appropriate authority in order to

prevent or mitigate the consequences of such imminent breach. If disclosure is made, that disclosure is permitted pursuant to [paragraph R114.3 of the Code](#).

#### Documentation

- R360.28** In relation to non-compliance or suspected non-compliance that falls within the scope of this section, the [sustainability assurance practitioner professional accountant](#) shall document:
- How management and, where applicable, those charged with governance have responded to the matter.
  - The courses of action the [practitioner accountant](#) considered, the judgments made and the decisions that were taken, having regard to the reasonable and informed third party test.
  - How the [practitioner accountant](#) is satisfied that the [practitioner accountant](#) has fulfilled the responsibility set out in [paragraph R360.20](#).

- 360.28 A1 This documentation is in addition to complying with the documentation requirements in [relation to non-compliance or suspected non-compliance under applicable sustainability assurance auditing standards](#). ISAs, for example, require a professional accountant performing an audit of financial statements to:
- Prepare documentation sufficient to enable an understanding of significant matters arising during the audit, the conclusions reached, and significant professional judgments made in reaching those conclusions;
  - Document discussions of significant matters with management, those charged with governance, and others, including the nature of the significant matters discussed and when and with whom the discussions took place; and
  - Document identified or suspected non-compliance, and the results of discussion with management and, where applicable, those charged with governance and other parties outside the entity.

#### [Sustainability Assurance Engagements that do Not Meet the Scope Set Out in Paragraph \[...\] and Other Professional Services Other than Audits of Financial Statements](#)

##### *Obtaining an Understanding of the Matter and Addressing It with Management and Those Charged with Governance*

- R360.29** If a [sustainability assurance practitioner professional accountant](#) engaged to [provide perform a sustainability assurance engagement that does not meet the scope set out in paragraph \[...\] or another professional service for the same client other than an audit of financial statements](#) becomes aware of information concerning non-compliance or suspected non-compliance, the [practitioner accountant](#) shall seek to obtain an understanding of the matter. This understanding shall include the nature of the non-compliance or suspected non-compliance and the circumstances in which it has occurred or might be about to occur.

- 360.29 A1 The [sustainability assurance practitioner professional accountant](#) is expected to apply knowledge and expertise, and exercise professional judgment. However, the [practitioner accountant](#) is not expected to have a level of understanding of

**Commented [LL22]:** As mentioned above, this section was retained and adapted to apply to SAEs that do not meet the independence criteria and other professional services performed for the same clients. WS2 proposes to apply this section instead of the previous one since the level of public interest of SAEs that do not meet the independence criteria and other services is not as high. This approach is coherent with the extant Code.

laws and regulations beyond that which is required for the professional service for which the ~~practitioner~~ ~~accountant~~ was engaged. Whether an act constitutes actual non-compliance is ultimately a matter to be determined by a court or other appropriate adjudicative body.

360.29 A2 Depending on the nature and significance of the matter, the ~~sustainability assurance practitioner~~ ~~professional accountant~~ might consult on a confidential basis with others within the firm, a network firm or a professional body, or with legal counsel.

**R360.30** If the ~~sustainability assurance practitioner~~ ~~professional accountant~~ identifies or suspects that non-compliance has occurred or might occur, the ~~practitioner~~ ~~accountant~~ shall discuss the matter with the appropriate level of management. If the ~~practitioner~~ ~~accountant~~ has access to those charged with governance, the ~~practitioner~~ ~~accountant~~ shall also discuss the matter with them where appropriate.

360.30 A1 The purpose of the discussion is to clarify the ~~sustainability assurance practitioner's~~ ~~professional accountant's~~ understanding of the facts and circumstances relevant to the matter and its potential consequences. The discussion also might prompt management or those charged with governance to investigate the matter.

360.30 A2 The appropriate level of management with whom to discuss the matter is a question of professional judgment. Relevant factors to consider include:

- The nature and circumstances of the matter.
- The individuals actually or potentially involved.
- The likelihood of collusion.
- The potential consequences of the matter.
- Whether that level of management is able to investigate the matter and take appropriate action.

As mentioned on the text box in p. 70, the provisions below (equivalent paragraphs R360.31-R360.33) set out communication requirements for audit purposes only.

WS2 recognizes that the public interest underpinning an audit of the financial statements is at the same level as the public interest underpinning an SAE that meets the independence criteria and therefore communicating NOCLAR or suspected NOCLAR:

- Within the firm and the network firm, when the client is an audit client/component of an audit client of the firm/network firm or a sustainability assurance client/component of a sustainability assurance client for whom the firm/network firm is performing an SAE that meets the independence criteria,
- To the auditor and to an SAP performing an SAE that meets the independence criteria, would be equally important.

However, WS2 considers that given the financial materiality aspect of sustainability reporting, the identification of NOCLAR or suspected NOCLAR in sustainability assurance will most likely have an impact on the audit of the financial statements, and therefore communication with the auditor is particularly relevant and important.

In addition, if the SAP communicates with the auditor, then that communication will, in turn, trigger the auditor to consider communicating with the SAP that is performing an SAE that meets the independence criteria (new requirement that WS2 proposes to add in Part 3 – see Agenda Item 4-B). This means the SAP performing an SAE that meets the independence criteria can still become aware of NOCLAR, through the communication from the auditor. Therefore, WS2 considers that communication for audit purposes is sufficient.

Furthermore, communicating NOCLAR or suspected NOCLAR to management/TCWG is the priority. This is the regime set out by the general NOCLAR provisions and is also evidenced in extant paragraph 360.34 A1 (see below for the equivalent provision in Part 5) which sets out a factor when considering communicating NOCLAR to the auditor related to whether management or TCWG have already informed the auditor about the matter.

Finally, amending the provisions below to cover communication with other SAPs (performing SAEs that meet the independence criteria) as well as situations where the client is also a sustainability assurance client/component of a sustainability assurance client of the firm/network firm for whom the firm/network firm is performing an SAE that meets the independence criteria – would result in extremely complex provisions that could hinder their understandability (by PAs and non-PAs) and ultimately the standards' adoption and implementation, which would not be aligned with the PIF characteristics.

Therefore, WS2 proposes that in the event that a SAP (who is performing an SAE that does not meet the independence criteria or another service to the sustainability assurance client) identifies NOCLAR or suspected NOCLAR, the SAP applies the same provisions that are currently set out in the extant Code regarding communication for audit purposes (see equivalent paragraphs R360.31 to R360.33). If dealing with a situation not foreseen in those provisions, then the SAP shall address NOCLAR or suspected NOCLAR with management and TCWG in accordance with the general NOCLAR provisions.

This approach focuses on first ensuring that SAPs (both PA and non-PA) understand how the NOCLAR provisions work under Part 5, before the IESBA considers elaborating on these provisions. This approach is also in line with the following PIF characteristics: clarity and conciseness of the standards as well as their scalability (over time), implementability, and enforceability.

Communicating the Matter to the Sustainability Assurance Client's Entity's External Auditor

**R360.31** If the sustainability assurance practitioner professional accountant is performing a sustainability assurance engagement that does not meet the scope set out in paragraph [...] or another professional non-audit service for a sustainability assurance client that is:

- (a) An audit client of the firm; or
- (b) A component of an audit client of the firm,

the practitioner accountant shall communicate the non-compliance or suspected non-compliance within the firm, unless prohibited from doing so by law or regulation. The communication shall be made in accordance with the firm's protocols or procedures. In the absence of such protocols and procedures, it shall be made directly to the audit engagement partner.

**R360.32** If the sustainability assurance practitioner professional accountant is performing a sustainability assurance engagement that does not meet the scope set out in paragraph [...] or another professional non-audit service for a sustainability assurance client that is:

- (a) An audit client of a network firm; or
- (b) A component of an audit client of a network firm,

the practitioner accountant shall consider whether to communicate the non-compliance or suspected non-compliance to the network firm. Where the communication is made, it shall be made in accordance with the network's protocols or procedures. In the absence of such protocols and procedures, it shall be made directly to the audit engagement partner.

**R360.33** If the sustainability assurance practitioner professional accountant is performing a sustainability assurance engagement that does not meet the scope set out in paragraph [...] or another professional non-audit service for a sustainability assurance client that is not:

- (a) An audit client of the firm or a network firm; or
- (b) A component of an audit client of the firm or a network firm,

the practitioner accountant shall consider whether to communicate the non-compliance or suspected non-compliance to the firm that is the sustainability assurance client's external auditor, if any.

Relevant Factors to Consider

360.34 A1 Factors relevant to considering the communication in accordance with paragraphs R360.31 to R360.33 include:

- Whether doing so would be contrary to law or regulation.
- Whether there are restrictions about disclosure imposed by a regulatory agency or prosecutor in an ongoing investigation into the non-compliance or suspected non-compliance.

- Whether the purpose of the engagement is to investigate potential non-compliance within the sustainability assurance client entity to enable it to take appropriate action.
- Whether management or those charged with governance have already informed the entity's external auditor about the matter.
- ~~The likely materiality of the matter to the audit of the client's financial statements or, where the matter relates to a component of a group, its likely materiality to the audit of the group financial statements.~~

**Commented [LL23]:** Proposal not to include this factor in line with the rationale explained in the section above.

#### Purpose of Communication

360.35 A1 In the circumstances addressed in paragraphs R360.31 to R360.33, the purpose of the communication is to enable the audit engagement partner to be informed about the non-compliance or suspected non-compliance and to determine whether and, if so, how to address it in accordance with the provisions of this Code section.

#### Considering Whether Further Action Is Needed

**R360.36** The sustainability assurance practitioner professional accountant shall also consider whether further action is needed in the public interest.

360.36 A1 Whether further action is needed, and the nature and extent of it, will depend on factors such as:

- The legal and regulatory framework.
- The appropriateness and timeliness of the response of management and, where applicable, those charged with governance.
- The urgency of the situation.
- The involvement of management or those charged with governance in the matter.
- The likelihood of substantial harm to the interests of the client, investors, creditors, employees or the general public.

360.36 A2 Further action by the sustainability assurance practitioner professional accountant might include:

- Disclosing the matter to an appropriate authority even when there is no legal or regulatory requirement to do so.
- Withdrawing from the engagement and the professional relationship where permitted by law or regulation.

360.36 A3 In considering whether to disclose to an appropriate authority, relevant factors to take into account include:

- Whether doing so would be contrary to law or regulation.
- Whether there are restrictions about disclosure imposed by a regulatory agency or prosecutor in an ongoing investigation into the non-compliance or suspected non-compliance.



- Whether the purpose of the engagement is to investigate potential non-compliance within the [sustainability assurance client entity](#) to enable it to take appropriate action.

**R360.37** If the [sustainability assurance practitioner professional accountant](#) determines that disclosure of the non-compliance or suspected non-compliance to an appropriate authority is an appropriate course of action in the circumstances, that disclosure is permitted pursuant to [paragraph R114.3 of the Code](#). When making such disclosure, the [practitioner accountant](#) shall act in good faith and exercise caution when making statements and assertions. The [practitioner accountant](#) shall also consider whether it is appropriate to inform the [sustainability assurance client](#) of the [practitioner's accountant's](#) intentions before disclosing the matter.

#### *Imminent Breach*

**R360.38** In exceptional circumstances, the [sustainability assurance practitioner professional accountant](#) might become aware of actual or intended conduct that the [practitioner accountant](#) has reason to believe would constitute an imminent breach of a law or regulation that would cause substantial harm to investors, creditors, employees or the general public. Having first considered whether it would be appropriate to discuss the matter with management or those charged with governance of the [sustainability assurance client entity](#), the [practitioner accountant](#) shall exercise professional judgment and determine whether to disclose the matter immediately to an appropriate authority in order to prevent or mitigate the consequences of such imminent breach of law or regulation. If disclosure is made, that disclosure is permitted pursuant to [paragraph R114.3 of the Code](#).

#### *Seeking Advice*

360.39 A1 The [sustainability assurance practitioner professional accountant](#) might consider:

- Consulting internally.
- Obtaining legal advice to understand the professional or legal implications of taking any particular course of action.
- Consulting on a confidential basis with a regulatory or professional body.

#### *Documentation*

360.40 A1 In relation to non-compliance or suspected non-compliance that falls within the scope of this section, the [sustainability assurance practitioner professional accountant](#) is encouraged to document:

- The matter.
- The results of discussion with management and, where applicable, those charged with governance and other parties.
- How management and, where applicable, those charged with governance have responded to the matter.
- The courses of action the [practitioner accountant](#) considered, the judgments made and the decisions that were taken.
- How the [practitioner accountant](#) is satisfied that the [practitioner accountant](#) has fulfilled the responsibility set out in [paragraph R360.36](#).