

**Compilation of Significant ED Comments**

**Note:** This Agenda Item has been prepared for information only. A comprehensive summary of the significant comments received on the Exposure Draft (ED) of [Proposed Revisions to The Code Addressing Tax Planning And Related Services](#), and the Task Force’s related analysis of significant issues and proposals are presented in **Agenda Item 9-A**.

*Consideration of the Overall Tax Planning Recommendation or Advice*

6. Do you agree with the proposals regarding the stand-back test, as described in Section VII.F above?

No	Respondent	Respondent Comments
1	<a href="#">Accountancy Europe</a>	<p>Accountancy Europe broadly supports the inclusion of a stand-back test, as proposed in R380.12. Professional accountants giving tax advice should consider the potential economic and reputational impact on the client, the accountant and the profession, should the tax planning arrangement be made public.</p> <p>However, we have some concerns about the inclusion of ‘wider economic consequences’ as a factor in R380.12. It is mentioned in paragraph 65 of the Explanatory Memorandum (but not in the proposed provisions) that the PA is not expected to conduct additional research as part of the stand-back test but gauging the ‘wider economic consequences’ could be very difficult without considerable additional research – especially in respect of arrangements with a cross-border element.</p> <p>We do not consider that it will be possible to concretely determine “wider economic consequences.” Even reputational risk (and the potential financial risks that could arise therefrom) is an abstract concept and is highly judgemental. The risk would need to be significant to provide a persuasive argument to the PA and to their client that a tax planning arrangement should not be implemented. We suggest that IESBA considers the practicalities of including this factor and whether further guidance is required in general – perhaps by including Paragraph 65 of the Explanatory Memorandum in the application material.</p> <p>As an additional point, we also consider that the title of this section - Consideration of the Overall Tax Planning Recommendation or Advice – is somewhat misleading as what is actually under consideration is the potential impact of the tax planning or advice.</p>

Tax Planning and Related Services  
 Compilation of Significant ED Comments – Question 6  
 IESBA Meeting (September 2023)

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2	<a href="#">Accounting Professional &amp; Ethical Standards Board Limited</a>	<p>APESB is supportive of the overall concept of a stand-back test within the tax planning services provisions. However, we have some concerns about the proposals as they are currently drafted and recommend the development of guidance to clarify IESBA's intent, as we believe that such guidance material will facilitate implementation.</p> <p>Paragraph 65 of the Explanatory Memorandum of the Exposure Draft states "...that the stand-back test is not about tax morality, tax justice or tax fairness." However, proposed paragraph R380.12 effectively requires the professional accountant to consider these factors to understand how a stakeholder might perceive the arrangement and the reputational consequences.</p> <p>The other concern with this test is that it covers the potential consequences for the client and the professional accountant. However, APESB believes the provisions would be more effective if the test focused solely on the professional accountant.</p> <p>The provisions relating to circumstances involving uncertainty include a requirement to discuss uncertainty with the client (proposed paragraph R380.16). The guidance material in proposed paragraph 380.16 A1 states that this discussion could provide the opportunity to discuss reputational, commercial or wider economic consequences with the client.</p> <p>If, as suggested by APESB's response to question 4 above, the provisions dealing with uncertainty are relocated before establishing a credible basis, then the assessment from a client perspective should have been covered by the discussion with the client. The stand-back test could then focus solely on the professional accountant and the potential consequences they may face for being connected to the relevant tax planning service.</p> <p>At the APESB Roundtable, stakeholders had mixed views concerning the stand-back test. Some supported the test, while others were concerned it would be challenging to implement in practice. In addition, concerns were raised about the obligations this places on the professional accountant to undertake an assessment which ultimately should be the responsibility of the client or the employer (as the taxpayer) and the difficulties in assessing the wider economic consequences and impact on tax base(s), especially when it is across multiple jurisdictions.</p> <p>A stakeholder also stated that it is not a tax practitioner's responsibility to impose the tax practitioner's views through an assessment of non-technical issues and that this test could lead to unintended consequences. The stakeholder was of the opinion that it is the role of management of the taxpayer who would be in the best position to assess these factors and determine the implications of proceeding with the transaction than the professional accountant.</p>

Tax Planning and Related Services  
 Compilation of Significant ED Comments – Question 6  
 IESBA Meeting (September 2023)

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		<p>The stakeholder also questioned whether the obligation to carry out this assessment places the professional accountant in public practice in a quasi-management role after determining a credible basis for the transaction. The stakeholder argued that a more appropriate approach would be to require the professional accountant to draw to their client’s attention any obvious commercial and economic consequences for the client to consider as, ultimately, it is the client’s decision whether or not to proceed with a transaction.</p> <p>APESB acknowledges the challenges associated with the development of the stand-back test and recommends that IESBA develop additional guidance on (a) clearly delineating the responsibilities of the taxpayer and the professional accountant and (b) potential actions a professional accountant can take to meet the requirements of the stand-back test.</p>
3	<a href="#">American Institute of Certified Public Accountants</a>	<p>We recommend the stand-back test in paragraphs R380.12–R380.13 and R280.12–R280.13 be eliminated for several reasons, the first of which is described under Taxpayer Protections.</p> <p>We think the stand-back test in paragraphs R380.12–R380.13 and R280.12–R280.13 should be eliminated as an ethical requirement as it falls squarely into tax morality, tax fairness, and tax justice, which IESBA has specifically stated was outside the scope of this project. This is because the stand- back test requires the PA to consider the reputational, commercial, and broader economic consequences that could arise from the way stakeholders might view the arrangement. It also puts the PA in a position of policing the intent and impact of the taxing authority, as well as evaluating the legislative intent of the government on the overall tax base of the jurisdiction that the client resides in or the employing organization operates in, it is even more unworkable if the client or employing organization is in more than one jurisdiction at the time a particular tax planning proposal is being evaluated. These requirements are clearly something far afield from a reasonable assessment for a PA and the client or employing organization.</p> <p>The stand-back test should be eliminated because the cost to implement outweighs the benefit achieved. This is because we think PAs will need additional support for their analysis of the reputational, commercial, and wider economic consequences. We note that in paragraph 65 of the explanatory memorandum, IESBA emphasizes that it does not intend for the PA to conduct research on the economic consequences, other than giving the matter due consideration based on the PA’s general awareness and understanding of the current economic environment in the context of tax planning. However, this language does not appear in the proposed application paragraphs for the stand-back test requirement, and therefore, this intention does not carry the weight of authoritative guidance.</p>

Tax Planning and Related Services  
 Compilation of Significant ED Comments – Question 6  
 IESBA Meeting (September 2023)

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		<p>The stand-back test creates redundancy and confusion. PAs are already required to comply with the fundamental principles of Integrity, Objectivity, and Professional Competence and Due Care and the reasonable, informed third-party test when applying the conceptual framework for all professional services they provide, not just tax planning and related services. The stand-back test also creates confusion since it introduces a new test, instead of relying on the well-established reasonable and informed third party test used when applying the conceptual framework.</p> <p>The stand-back test should be eliminated because it creates unintended consequences for financial planning. We think PAs who provide financial planning services will be subject to the stand-back test, as tax planning is one of many aspects considered in performing financial planning services. Additional requirements on a PA who provides ide financial planning could drive some financial planning services to other providers who are not subject to the same requirements.</p> <p>The requirement in paragraphs R380.13 and R280.13 should be eliminated for the reasons noted under Taxpayer Protections.</p>
4	<a href="#">Association of Chartered Certified Accountants</a>	<p>Overall, we agree. The proposed stand-back test set out in the proposed paragraphs R380.12 and R280.12 is consistent with our <a href="#">Global policy on taxation of companies: principles and practices</a> which highlights that accountants have a clear duty to advise on the risks and the ethical dimension, including technical and reputational issues, associated with all available options. Not to do so could lead to the possibility of committing professional misconduct.</p>
5	<a href="#">BDO International</a>	<p>Paragraphs R380.12 &amp; 380.12 A2 &amp; R380.13</p> <p>BDO agrees with the intention behind the proposals regarding the stand-back test, although it seems primarily meaningful only in the context of 'tax planning', i.e.; before the event has occurred (see earlier comments on backwards looking services). We also recommend that a clear distinction is made between the exercise of professional judgement when determining whether a credible basis exists and the consideration of the reputational, commercial and wider economic consequences. The consideration of consequences (i.e.; the stand-back test) should not interfere with the PA's conclusion as to whether there is a credible basis. Furthermore, the expectation of the PA in the words "to consider" in paragraph R380.12 is not clear, including any actions that are expected of the PA after such consideration. Similarly, the meaning of "consequences" to be considered in paragraph R380.12 is also not clear. Potential consequences can be very broad and the PA must be able to circumscribe the consequences in the advice.</p>

Tax Planning and Related Services  
 Compilation of Significant ED Comments – Question 6  
 IESBA Meeting (September 2023)

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		<p>For example, the application material contained in proposed paragraph 380.12 A2 for the PA to consider the wider economic impact of the proposed TP arrangement across the applicable tax bases seems unduly onerous and impractical. This requirement is likely to be beyond the capabilities of many PAs. Obtaining any kind of macroeconomic analysis of the national or multinational effects is also unlikely to be a proportionate or meaningful response to any but the largest clients and/or the most far-reaching TP arrangements. The Explanatory Memorandum paragraph 65 states that no specific research is required, but this is not made clear in the relevant paragraph within section 380. Any TP advice that results in a lower tax charge than would otherwise have been the case, will inevitably lower the tax base. The material therefore implies the consideration of “tax fairness” or “tax morality” (and creates a conflict of interest for the PA), even though the preamble to the ED says that this is not intended to be addressed by the ED. BDO recommends that the IESBA reviews this in finalising the ED.</p> <p>The proposed paragraphs also raise the question of whether PAs have fulfilled their responsibility if they have established a credible basis and considered the possible consequences of the arrangement, or whether there are further expectations. We believe that it remains the client’s responsibility to decide whether to pursue a TP arrangement or not. We also believe that a PA should not be held responsible for any adverse consequences, should a client decide to pursue a certain TP arrangement after being informed of the possible adverse consequences.</p> <p>The requirement contained in proposed paragraph R380.13 is consistent with existing best practice in many jurisdictions, which likely also involves the PA presenting alternative TP arrangements to the client, in relation to which the reputational, commercial, and wider economic consequences are, in contrast, considered to be acceptable.</p>
6	<a href="#">Chartered Accountants and CA Australia and NZ</a>	<p>While we support the <i>intent</i> of the proposals regarding the stand-back test, as described in Section VII.F of the EM, we have significant concerns about paragraphs R380.12 and R280.12 as drafted. In our view the paragraphs are too subjective and will impose additional and, in some cases, unnecessary costs on PAs, in circumstances in which jurisdiction specific anti-avoidance legislation does not require similar considerations. In particular, they do not:</p> <ul style="list-style-type: none"> <li>• acknowledge that the stand-back test will be unnecessary in situations where there is no or very little uncertainty about the appropriateness of the tax treatment recommended – in these situations, PAs will incur additional and unnecessary compliance costs to consider and document how they are complying with the stand-back test.</li> </ul>

Tax Planning and Related Services  
 Compilation of Significant ED Comments – Question 6  
 IESBA Meeting (September 2023)

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		<ul style="list-style-type: none"> <li>• specify when the consideration of reputational, commercial and wider economic consequences should occur (although this might be implied by surrounding paragraphs).</li> <li>• provide the PA with a reference point for their considerations - this might be achieved by adding reference to the reasonable and informed third party test.</li> </ul> <p>Accordingly, we recommend that the IESBA consider clarifying these requirements. For example, by amending paragraphs R380.12 and R280.12 to read.</p> <p><i>Where the uncertainty regarding the credible basis on which tax planning arrangement is predicated is more than inconsequential, the professional accountant shall exercise professional judgement and consider the reputational commercial and wider consequences that could arise from the way stakeholders might view the arrangement before recommending or otherwise advising on the tax planning arrangement in order to determine, using the reasonable and third-party test, whether any of these possible consequences might adversely impact the PAs decision to recommend or otherwise advise on the tax planning arrangement.</i></p> <p>Further, paragraph 65 of the EM states that the stand back test is not about tax morality, tax justice or tax fairness. It also states that the PA is not expected to carry out research on the economic consequences, other than giving the matter due consideration based on the PA's general awareness and understanding of the current economic environment in the context of TP. However, these comments that provide parameters to the nature and extent of the considerations expected of PAs are not included in the application material in paragraphs 380.12 A1 and 380.12 A2. We recommend that the IESBA includes these comments in the application material to clearly define expectations in perpetuity.</p>
7	<a href="#">Chartered Accountants Ireland</a>	<p><u>'Stand-back' test as part of the Conceptual Framework:</u></p> <p>The 'stand-back' test (consideration of the overall tax planning advice) is a practical consideration, and we agree that it serves the public interest to consider the broader impact of a decision or arrangement. However, this is relevant to all decision-making and notwithstanding the IESBA's current ongoing work to develop proposals in respect of sustainability requirements and considerations for the Code of Ethics, we propose this test be applied</p>

Tax Planning and Related Services  
 Compilation of Significant ED Comments – Question 6  
 IESBA Meeting (September 2023)

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		<p>generally as part of the Conceptual Framework in section 120 of the Code. This recommendation would be consistent with the IESBA’s own acknowledgment “<i>that this consideration will assist the professional accountant in complying with the fundamental principles of professional behaviour</i>” and is also consistent with the ‘Role and Mindset provisions’ and the application guidance for considering “<i>the interests of other stakeholders when performing professional activities</i>” described in 100.6 of the Code.</p> <p><u>Limitations of the ‘stand-back’ test:</u></p> <p>We also agree with the practical limitations of this test highlighted by the IESBA and that it is not intended for a “<i>professional accountant to carry out research on the economic consequences other than giving the matter due consideration based on the Professional accountant’s general awareness and understanding of the current economic environment in the context of tax planning</i>”. The stand-back test proposes considerations of matters that can be subjective and different conclusions can be arrived at depending on an individual’s morals or belief system. However, we note the IESBA preference to not merge “<i>the boundaries of ethical behaviour and moral judgement</i>” and that the Code should not deal with tax morality.</p> <p>The application guidance in 380.12 A1 and 280.12 A1 is useful, however it is one-sided in considering the potential downside to tax authorities. There is an upside for the public interest that should also be considered, for example, to consider the benefit for the economy and society as intended by the legislature when creating the tax incentive or provision.</p> <p><u>Informing the client or employing organisation:</u></p> <p>The requirement 380.13 and 280.13 appears to be duplicate of requirements 380.19 and 280.19. Please see our comments in relation to this at <b>question 9</b>. Furthermore, if the professional accountant in public practice decides not to “<i>advise on a tax planning arrangement</i>”, this decision may be taken as part of professional appointment requirements and considerations set out in section 320 of the Code.</p>
8	<a href="#">Chartered Professional Accountants Canada Public Trust Committee</a>	<p>Overall, the PTC is of the view that the proposed wording in paragraphs R280.12 and R380.12 is too broad and might be interpreted to mean that PAs are required to consider all reputational, commercial, and wider economic consequences that stakeholders might consider. The PTC is concerned that these proposals may be perceived as overextending the PAs’ role and more importantly their expertise and would not be enforceable without clarification, especially due to the broad range of potential stakeholders.</p>

Tax Planning and Related Services  
 Compilation of Significant ED Comments – Question 6  
 IESBA Meeting (September 2023)

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		<p>The PTC also notes that if the IESBA's proposals to determine whether there is a credible basis for a TP arrangement are properly applied, then the paragraphs R280.12 and R380.12 should clearly identify what additional considerations the PA should consider in addition to the credible basis assessment.</p> <p>Further, some stakeholders felt the scope of paragraphs R280.12 and R380.12 can be narrowed, such as by removing "wider economic consequences". In addition, the PTC thinks that parts of paragraph 65 in the Explanatory Memorandum could be incorporated as guidance to help clarify IESBA's expectations of the stand-back test, such as "...IESBA does not intend for the PA to carry out research on the economic consequences other than giving the matter due consideration based on the PA's general awareness and understanding of the economic environment in the context of TP".</p> <p>Therefore, the PTC recommends IESBA clarify the scope of the considerations around reputational, commercial, and economic consequences, and as an alternative, consider converting the requirement into guidance.</p>
9	<a href="#">CPA Australia</a>	<p>CPA Australia does not support the stand-back test as described in Section VII F of the ED.</p> <p>CPA Australia considers the responsibility of a PA providing tax planning services does not, and should not, extend to considering reputational, commercial and wider economic consequences that could arise from the way stakeholders might view the arrangement. Advice provided should be within the terms of engagement and be based on the competent and reasonable interpretation and application of tax laws. We are not aware of any terms of engagement that countenance the inclusion of a requirement to consider non-tax impacts, and consider such a requirement going far beyond the professional capability and authority of a PA.</p> <p>CPA Australia considers this responsibility is onerous and potentially contrary to the fundamental principles, in particular professional competence and due diligence. CPA Australia considers that such responsibilities sit more appropriately with those charged with governance and should be managed by alternative functions such as corporate governance and public and investor relations.</p> <p>While para. 65 of the EM states that the stand-back test is not about tax morality, tax justice or tax fairness, CPA Australia argues that reputational and commercial consequences are frequently connected to tax morality, tax justice and tax fairness as demonstrated by the public response to accusations of tax avoidance by large multi-nationals. We note that in the cases identified in the EM, there was no finding of wrongdoing by the taxpayer or their advisors, nor were civil or criminal penalties sought by the tax authority. The additional payments to government were not</p>



Tax Planning and Related Services  
 Compilation of Significant ED Comments – Question 6  
 IESBA Meeting (September 2023)

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		<p>associated with an audit adjustment or court judgement. This indicates that the payment was not for additional tax liabilities arising from an adjustment under tax laws, but rather a non-tax payment to government resulting from pressures external to the tax authority and the law. In taking this approach to such circumstances, the proposed stand-back test can only be taken to link to tax morality, tax justice and tax fairness issues, as it is not connected to the credibility of the taxpayer's position which should remain the focal point of these revisions.</p> <p>We therefore do not support the inclusion of proposed paragraph R380.13 that requires an accountant to explain to their client in the circumstance that they advise against a tax planning arrangement on the basis of anticipated adverse reputational and commercial consequences arising from such an arrangement. The stand-back test should be removed.</p>
10	<a href="#">Deloitte Touche Tohmatsu Limited</a>	<p>While Deloitte Global considers that it is appropriate to exercise professional judgement and consider the reputational, commercial and wider economic consequences that could arise from tax planning, we do have a concern that attempts to codify such an exercise of professional judgement could result in uncertainty and confusion, as well as second-guessing of the professional accountant's professional judgement.</p>
11	<a href="#">Ernst and Young Global Limited</a>	<p>No, we do not agree with the proposals regarding the stand-back test. We believe the test described in proposed paragraphs R380.12 through R380.13 goes beyond the responsibility to consider the public interest, does not align with proposed paragraphs 380.4 A1 and 380.4 A2, is too ambiguous to be applied in practice, and is unnecessary in light of the extant requirement to apply the reasonable and informed third party test.</p> <p>The Code explains in paragraph 100.6 A4 that in acting in the public interest, a PA considers the interests of other stakeholders. However, in paragraphs 63 and 64 of the EM, the Board expresses a view that the ethical framework needs to consider how the overall tax planning recommendation or advice might be perceived by stakeholders, and proposes in paragraph R380.12 to require the PA to consider how stakeholders might view (i.e., perceive) the reputational, commercial and wider economic consequences of the tax planning arrangement. In this case, considering the views and perceptions of other stakeholders would seem to be extending the PA's responsibility beyond what paragraph 100.6 A4 requires of a PA in acting in the public interest. Clearly, within what is considered to be the public interest, there will be multiple stakeholders with differing and competing views and perceptions. For example, those who might support the expansion of commercial activities for job growth in a jurisdiction might view tax incentives for businesses to relocate to the jurisdiction as being in the public interest; whereas, those who oppose further expansion of commercial activity because of environmental impact concerns would not view the granting of</p>

Tax Planning and Related Services  
 Compilation of Significant ED Comments – Question 6  
 IESBA Meeting (September 2023)

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		<p>the tax incentives to be in the public interest. If the public or sanctioned authority decides to enact tax laws granting the tax incentives, it is assumed it has done so with the greater public interest in mind despite the fact that some of the stakeholders within that jurisdiction will not perceive the tax incentive to be in the public interest. The proposed stand-back tests would require the PA to consider the views and perceptions of the multiple stakeholders rather than the greater public interest, and therefore would extend the PA's responsibility beyond considering the public interest.</p> <p>As noted in our response to question three above, the proposed application material in paragraphs 380.4 A1 and 380.4 A2 are helpful in specifically focusing on the PA's role in meeting the public interest with regard to TP&amp;R Services – that is, to contribute their knowledge, skills and experience to assist clients in meeting their tax planning goals while complying with tax laws and regulations. The stand-back test, which is focused on how stakeholders might perceive the tax arrangement, is not aligned with the proposed application material in paragraphs 380.4 A1 and 380.4 A2, which is focused on assisting clients in meeting their tax planning goals while complying with tax laws and regulations.</p> <p>The stand-back test is also quite ambiguous and would be difficult to apply in practice. The focus on stakeholders' views and perceptions within the public interest will create significant ambiguity as to which stakeholders' views should be considered, and which one should be determinative in the PA's consideration of the various consequences that could arise. Additionally, perceptions and views are often shaped and formed by incomplete or biased information. In this context, predicting, understanding and mitigating the negative impact of news reporting, activist groups and other public commentators is an area of expertise and specialization for subject matter experts such as corporate relations, public relations and/or investor relations and not the PA. Further, there could potentially be a significantly large number factors that would impact the reputational, commercial and wider economic consequences that would need to be considered as to render the entire exercise of the stand-back test as futile and ineffective. Some of these factors could even be unrelated to the tax issue or matter and could skew stakeholders' views of the tax planning arrangement.</p> <p>Finally, the Code already includes the reasonable and informed third party test, which sufficiently addresses the considerations contemplated by the Board in its proposed stand-back test. Paragraph 115.1 A1 of the Code states that “[c]onduct that might discredit the profession includes conduct that a reasonable and informed third party would be likely to conclude adversely affects the good reputation of the profession.” Providing or recommending tax planning arrangements that would have adverse reputational, commercial or wider economic consequences for the client, the tax base of the jurisdiction or the profession would ultimately affect the good reputation of the profession.</p>

Tax Planning and Related Services  
 Compilation of Significant ED Comments – Question 6  
 IESBA Meeting (September 2023)

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		<p>Therefore, complying with the fundamental principle of professional behavior by considering impacts on the reputation of the profession would include consideration of the consequences of TP&amp;R Services provided to clients, as contemplated by the proposed stand-back test. The Board acknowledges this in paragraph 66 of the EM. And in applying the reasonable and informed third party test when complying with the fundamental principle of professional behavior, the PA takes into consideration the views of a third party that are shaped by the knowledge of all the relevant facts and circumstances, which is much more persuasive than the potential uninformed or biased views or perceptions of stakeholders that would need to be taken into consideration in the proposed stand-back test.</p>
12	<a href="#">European Federation of Accountants and Auditors for SMEs</a>	<p>We do not agree with some of the proposals.</p> <p>We are concerned that performing this test will be time-consuming – a particular problem for SMPs that lack the resources of larger practices - and yet add little if any value to straightforward and routine arrangements or activities. Making a consideration from the point of view of stakeholders is especially problematic: who are they and what might be their position? SMPs will also struggle to consider the “wider economic consequences” resulting from arrangements: this seems to be more relevant for PIEs or large listed than SMEs.</p> <p>In conclusion we suggest that if the test be retained then it be limited to PIEs and that straightforward and routine arrangements or activities be exempted.</p>
13	<a href="#">European Tax Adviser Federation</a>	<p>ETAF supports in principle the proposed stand-back test, which would require the professional accountant to also assess the reputational, commercial and wider economic consequences that could arise from the way stakeholders might view the tax planning arrangement.</p> <p>However, we fear that determining the wider economic consequences could prove to be very difficult in some cases and consequently highly burdensome for professional accountants</p>
14	<a href="#">Grant Thornton International Limited</a>	<p>GTIL does not agree with the proposed stand-back test requirements. We believe this new test will impose requirements that professional accountants (in many cases) are not capable of evaluating and are inconsistent with existing standards in certain jurisdictions.</p>

Tax Planning and Related Services  
 Compilation of Significant ED Comments – Question 6  
 IESBA Meeting (September 2023)

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		<p>The proposed stand-back test requires professional accountants to possess expertise in areas outside of tax, and inappropriately forces professional accountants to assess economic, social, and political considerations that should be assessed by the client.</p> <p>Accordingly, GTIL is requesting the Board consider elimination of the stand-back test.</p>
15	<a href="#">Hong Kong Institute of CPA</a>	<p>We have concerns about the proposed “stand-back test” in paragraphs R280.12 and R380.12. It appears to require a PA to “second guess” what views stakeholders might have. However, it is unclear as to who are the stakeholders – RAs, civil society, the media or the PA’s peer groups. Potentially, there is a wide range of stakeholders involved in a TP arrangement and they will not all have the same views and perceptions. It is nearly impossible for a PA to determine those views and how much weight should be given to each.</p> <p>Accordingly, we would suggest this provision to simply point out that there could be reputational, commercial and wider economic implications associated with a particular TP arrangement, which a PA should be aware of and should consider, as appropriate.</p> <p>Similarly, in the second/ third bullet of paragraphs 280.14 A2 and 380.14 A2, the question arises of which different stakeholder perceptions should be considered and how much weight should be given to each.</p> <p>From reading paragraphs 280.12 A1 and 380.12 A1, “The reputational and commercial consequences might relate to... the profession of a prolonged dispute with the relevant tax or other authorities” might imply that a PA should think carefully about the implications for the client/ employing organization and the profession before entering a potentially prolonged dispute with the RA. While these are definitely issues to be considered, it is impossible to determine the certain outcome of tax disputes upfront and they can take a long time to resolve, especially where the court is involved, even though the taxpayer’s position may be upheld in the end. The ING Baring case in Hong Kong, for example, took more than 10 years to be resolved, ultimately by the Court of Final Appeal, and in favour of the taxpayer. Hence, we feel uncertain as to the message the guidance is seeking to convey. While a PA should advise the client on the possible implications of challenging a particular tax treatment, the PA should also pursue a fair tax treatment for the client, even though the circumstance might attach a negative connotation and perhaps also an important point of law is at stake. As shown in the ING Baring case, it may be in the public interest to obtain a definitive interpretation of unclear or ambiguous provisions of tax law through the court despite the client’s prolonged dispute with the RA.</p>

Tax Planning and Related Services  
 Compilation of Significant ED Comments – Question 6  
 IESBA Meeting (September 2023)

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16	<a href="#">IFAC Small and Medium Practices Advisory Group (SMPAG)</a>	<p>The SMPAG disagrees with the proposal to require all PAs to conduct a stand-back test in every case when there is a credible basis and raises several concerns. It is not clear that performing this test, which could be time-consuming, would add any value in relation to simple and routine arrangements or activities that are clearly not in a so-called gray zone. Further, the test requires PAs to make a consideration from the point of view of stakeholders (R380.12). This would create multiple practical difficulties, first in identifying relevant stakeholders and then in judging what their respective potential positions could be, and – to the extent that they could be opposing – decide which are more compelling. It is also especially difficult for PAs working on SME clients to consider “wider economic consequences” (R380.12) resulting from arrangements. Factors such as whether an arrangement is clearly not in a so-called gray zone, as well as the relative severity and materiality to the client (and in total where applicable) should influence where this consideration is relevant and should be required.</p> <p>The test may also give rise to some political challenges. A PA could perceive a particular interpretation of a tax law to be detrimental to the wider economic consequences, which then creates a challenge in applying the test. Additionally, the legislative intent of tax laws is not always matched by the final enactment, and it is not clear how the PA should navigate such situations with regards to the test. Ultimately, the test appears idealistic and would be dependent upon the lens and background of the PA making the determination and perceptions as to the views of a range of potentially divergent stakeholders. The test could penalize certain political stances or economic evaluations of benefits. When a treatment is legal and has a credible basis, in some cultures it would be difficult to avoid recommending this, and avoidance may amount to challenges for practitioners aiming at “doing the right thing” in uncertain environments. There is a resulting argument that it may be appropriate to incorporate consideration of what is in the client’s best interest into this test, but we acknowledge this would be the prerogative of the client and may add even greater complexity and subjectivity into this test.</p>
17	<a href="#">Independent Regulatory Board for Auditors</a>	<p>In principle, we agree with the stand-back test (except for the wider economic consequences as noted in comment 6.4 below).</p> <p>We suggest that further clarity be provided for the following:</p> <ul style="list-style-type: none"> <li>• What is expected of the PA when saying “to consider”?</li> <li>• What exactly is meant by “consequences”?</li> </ul>

Tax Planning and Related Services  
 Compilation of Significant ED Comments – Question 6  
 IESBA Meeting (September 2023)

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		<ul style="list-style-type: none"> <li>If a client has been informed of the possible consequences of the arrangement, are there any further expectations from the PA?</li> </ul> <p>From reading R380.12, it appears that a conflict of interest may arise, as there would be wider economic consequences when structuring a transaction in a tax-efficient manner. As such, we suggest that paragraph R380.12 be reworded as follows: “In addition to determining that there is a credible basis for the tax planning arrangement, the professional accountant shall exercise professional judgement and consider the reputational, commercial and wider economic consequences that could arise. <del>from the way stakeholders might view the arrangement”.</del></p> <p>Further, we consider that it is too far-reaching for the PA to consider the wider economic impact. The proposal that the PA should have “an awareness of the wider economic consequences of the tax planning arrangement on the tax base in that country or the relevant impacts of the arrangement on the tax bases of multiple jurisdictions, where the client operates” implies that the PA is required to have a working knowledge of multiple tax jurisdictions. In practice, the tax expertise of most PAs is limited to specific tax areas (for example, there are corporate tax specialists, value-added tax specialists, payroll tax specialists, etc.). This is mainly due to the complexities of tax law within each specific jurisdiction. Therefore, it is highly unlikely that a PA advising on a specific tax planning arrangement that may involve other tax jurisdictions would be aware of the “relative impact of the arrangement” in the other jurisdictions in which the client operates. To obtain such awareness, the PA would likely be required to engage the services of other PAs in those specific jurisdictions. That, though, could result in additional costs that may not be recoverable from the client, as such an engagement would not be within the scope of the services requested from the PA. This could have a huge commercial and operational impact on small and medium-sized practices, and other practices.</p> <p>We suggest that this reference to a “relative impact of the arrangement..” be deleted and that paragraph 380.12.A2 be reworded as follows:</p> <p>“An awareness of the wider economic consequences might take into account the professional accountant’s understanding of the impact of the tax planning arrangement on the tax base of the jurisdiction., <del>or the relative impacts of the arrangement on the tax bases of multiple jurisdictions, where the client operates”.</del></p>
18	<a href="#">Institut der Wirtschaftsprüfer in Deutschland e.V.</a>	<p>We agree with the proposals regarding the stand-back test. The IDW Code of Conduct also provides for informing the client about reputational and other financial risks that may result from tax advice. However, it should be clarified</p>

Tax Planning and Related Services  
 Compilation of Significant ED Comments – Question 6  
 IESBA Meeting (September 2023)

No	Respondent	Respondent Comments
		<p>here that the stand-back test can only refer to the abstract determination of the risks. A precise determination of the impact of reputational risks or wider economic consequences is not possible in our view.</p> <p>In addition, R380.13 should require that the PA consider (rather than auto-matically being required to) withdrawing from the engagement in serious cases of disagreements with the client regarding the interpretation of the stand-back test. We agree that a stand-back test should only be performed if the PA is of the opinion that a credible basis exists (but there is a grey zone). If the PA then decides based on the stand-back test (e.g., due to reputational risks from the PA's point of view) not to recommend the tax planning ar-angement, a situation may arise that the client decides differently. Perhaps the client estimates the reputational risks as lower and decides to implement the tax planning arrangement. Such a tax planning arrangement still has a credible basis. The disagreement between the PA and the client is therefore not based on a "legal" assessment; it is "only" a different assessment of other factors (e.g., reputational risks) - thus the sections R380.19-R380.21 should not be applicable in most cases.</p> <p>Under certain circumstances, however, a situation may arise in which the PA is sufficiently concerned about reputational risks not only for the client, but also personally and/or for the entire profession. In this case, the Code should support the PA in determining whether to take further consequences under R380.19-21 (i.e., a requirement to consider whether the significance of the disagreement justifies such measures. If serious reputational risks were to be expected, the PA could be required to consider whether to apply the Code's requirements pertaining to disagreements where there is no credible basis and thus better justify the step of withdrawal from the engagement and the professional relationship vis-à-vis the client).</p>
19	<a href="#">Institute of Certified Public Accountants of Uganda</a>	<p>ICPAU agrees with the proposals regarding the stand-back test as described in the Exposure Draft. We strongly believe that this requirement will serve the intended purpose of emphasizing to PAs the need to exercise professional judgment in establishing a credible basis for the tax planning arrangement in circumstances of uncertainty.</p> <p>However, we are worried about the requirement where it is intended to be applied for all tax services that PAs will seek to provide and apply in addition to the credible basis assessment. We believe there might be some direct and/or routine services to which the stand-back assessment would be more onerous and costly than value-adding. If this requirement is to be sustained, we propose that it is restricted to a certain group of entities say those with public interest.</p>

Tax Planning and Related Services  
 Compilation of Significant ED Comments – Question 6  
 IESBA Meeting (September 2023)

No	Respondent	Respondent Comments
20	<a href="#">Institute of Chartered Accountants in England and Wales</a>	<p>In principle we support the inclusion of a ‘stand-back test’ in R380.12. Such a test is implicit within the PCRT and we would expect members of a PCRT member body to consider the potential economic and reputational impact on the client, the member and the reputation of the profession.</p> <p>However, we have some concerns about the inclusion of ‘wider economic consequences’ as a factor in 380.12 A2. We note that it is mentioned in paragraph 65 of the Explanatory Memorandum (but not in the main text) that a member is not expected to conduct additional research as part of the stand-back test but nevertheless this could be an extremely onerous and costly exercise. It is important (as noted in the general comments above) that any burdens are proportionate to the risk. We suggest that IESBA considers the practicalities of including this factor.</p>
21	<a href="#">Institute of Chartered Accountants of India</a>	<p>We do not agree with the proposals regarding the stand-back test.</p> <p>We believe the test described in proposed paragraphs R380.12 through R380.13 goes beyond the responsibility to consider the public interest, does not align with proposed paragraphs 380.4 A1 and 380.4 A2, is too ambiguous to be applied in practice, and is unnecessary in light of the extant requirement to apply the reasonable and informed third party test.</p>
22	<a href="#">Institute of Chartered Accountants of Nigeria</a>	<p>We appreciate the fact that the board has taken the matter into consideration. However, we believe that this would be too much of a burden and responsibility for professional accountants to bear and evaluate. Rather, it should be provided as part of the recommended best practices to be considered by professional accountants and thus, should not be made mandatory</p>
23	<a href="#">Institute of Chartered Accountants of Scotland</a>	<p>A ‘stand-back test’ in proposed new paragraph R380.12 makes sense, and such a test is included in PCRT, which states that it is expected that tax planning should include a consideration of the potential economic and reputational impact on the client, the member and the reputation of the profession.</p> <p>As noted above, however, the test needs to be such that it can be applied, and enforced if necessary, and therefore it should not be drafted too widely or with subjective parameters – we consider that the factor of ‘wider economic consequences’ should be reconsidered.</p>



Tax Planning and Related Services  
 Compilation of Significant ED Comments – Question 6  
 IESBA Meeting (September 2023)

No	Respondent	Respondent Comments
24	<a href="#">Institute of Financial Accountants</a>	We agree that it is often important to perform a ‘stand-back test’ when considering the nature of advice that is about to be provided to a client or employer. However, there is no definition of ‘stakeholder’ in this context, and it would seem that such a definition would be as problematic as the definition of ‘public interest’.
25	<a href="#">Instituto dos Auditores Independentes do Brasil</a>	We agree with the IESBA’s proposals in Section VII.F of the Exposure Draft (Consideration of the Overall Tax Planning Recommendation or Advice). The stand-back test could be correlated to the “third party test”, which is already included in the Code.
26	<a href="#">International Bar Association Tax Committee</a>	<p>While we welcome the ‘stand-back’ test (to consider the overall stakeholder impact of the tax planning advice), this may be subjective and guided by the tax culture and public perceptions operating within a jurisdiction around tax planning strategies. We agree with the practical limitations of this test highlighted by the IESBA and that it is not intended for a “professional accountant to carry out research on the economic consequences other than giving the matter due consideration based on the Professional accountant’s general awareness and understanding of the current economic environment in the context of tax planning”. At the same time, the line of stand-back test may be blurred with tax morality (although we note that the intent is to steer clear of any moral judgment. Therefore, in our view, (i) flexibility should be given to PA to apply the stand back test in line with the prevalent tax culture and public perceptions operating within a jurisdiction; and (ii) the stand back test may be considered as more of a soft standard to guide the PA’s professional conduct.</p> <p>Additionally, the stand back test may also look at the positive or intended economic ramifications of tax planning advice. For instance, in India, a capital gains tax exemption under the relevant tax treaties used to apply to investments that were routed through Mauritius and Singapore. This was encouraged by the Government to promote foreign direct investment in India and was defended in the Indian Supreme Court in the case of Azadi Bachao Andolan. In this context, a tax planning strategy may also subserve the broader economic purpose of a tax rule or incentive.</p>
27	<a href="#">Japanese Institute of Certified Public Accountants</a>	We agree with the proposals regarding the stand-back test. However, we suggest that the IESBA should make it supplemented by specific guidance, etc., on methods for professional accountants to consider and utilize the factors listed in paragraphs R380.12 and R280.12.

Tax Planning and Related Services  
 Compilation of Significant ED Comments – Question 6  
 IESBA Meeting (September 2023)

No	Respondent	Respondent Comments
28	<a href="#">Korean Insitute of Certified Public Accountants</a>	<p>The proposed revisions do not contain any application material or guidance to define the “stand-back” test results that will require the PA to decide not to provide recommendation or advice on the TP arrangement that the client would like to pursue (paragraph R380.13). Therefore, we suggest that examples or application materials should be added to address it.</p>
29	<a href="#">KPMG International</a>	<p>Paragraph R380.12 states that the PA should consider the possible “wider economic consequences that could arise from the way stakeholders might view the arrangement.” We do not believe the PA’s consideration of wider economic consequences should be linked to stakeholders’ views of the tax planning arrangement. This linkage is unclear and does not seem to be aligned with paragraphs 380.12 A1 and 380.12 A2. In addition, it raises the broader issue of how stakeholders in this context would be defined or identified, and how their interests would be prioritized. Therefore, we suggest rewording paragraphs R380.12 and 380.12 A1 as follows:</p> <p>R380.12 In addition to determining that there is a credible basis for the tax planning arrangement, the professional accountant shall exercise professional judgment and consider the reputational, and commercial <del>and wider economic</del> consequences <u>to the client and the profession, as well as the wider economic consequences in the relevant jurisdictions, that could arise from the way stakeholders might view the arrangement.</u></p> <p>380.12 A1 The reputational and commercial consequences might relate to personal or business implications to the client <u>from the way stakeholders might view the arrangement</u>, or implications to the reputation of the client and the profession <u>effrom</u> a prolonged dispute with the relevant tax or other authorities. The implications to the client might involve adverse publicity, costs, fines or penalties, loss of management time over a significant period, and potential adverse consequences for the client’s business.</p> <p>We also note the Board’s position in paragraph 65 of the Explanatory Memorandum that the requirement of paragraph R380.12 “is not about tax morality, tax justice or tax fairness. Equally, the IESBA does not intend for the PA to carry out research on the economic consequences other than giving the matter due consideration based on the PA’s general awareness and understanding of the current economic environment in the context of TP.” We recommend the IESBA reflect this position more clearly in the application paragraphs following paragraph R380.12 to prevent misinterpretation of the expectation.</p>

Tax Planning and Related Services  
 Compilation of Significant ED Comments – Question 6  
 IESBA Meeting (September 2023)

No	Respondent	Respondent Comments
		<p>Finally, we also believe that materiality should be a factor to consider when executing the stand-back test. The addition of application material that addresses materiality of the tax planning arrangement as a factor to consider would be appropriate since the possible consequences are relative to the significance of the arrangement.</p> <p>The above would similarly apply to Section 280.</p>
30	<a href="#">Malaysian Institute of Accountants</a>	<p>Overall, we agree with the intention of the proposals regarding the stand back test but we note that the expectation of the PA in the phrase “to consider” and “consequences” are unclear. For example, if the PA has established a credible basis and informed the client of the possible consequences of the arrangement, would the PA still be considered responsible for any consequences should the client choose to pursue the TP arrangement despite being informed of the possible consequences? We certainly do not think so.</p> <p>Hence, we would urge the IESBA to consider further clarifying the expectations of the PA in navigating such circumstances.</p>
31	<a href="#">Malaysian Institute of Certified Public Accountants</a>	<p>Yes, this should help businesses align with ESG initiatives.</p>
32	<a href="#">Malta Institute of Accountants</a>	<p>In principle we agree that in exercising professional judgement as to the credible basis for tax planning arrangements, professional accountants need to have a general awareness of the wider economic consequences thereof on both the domestic and foreign tax base of the jurisdictions in which their client may operate.</p> <p>However, in our view, the proposed stand-back test should only be introduced within the parameters of creating awareness for professional accountants in that any tax planning arrangements may result in tax consequences not only domestically but also in multiple foreign jurisdictions. Accordingly, it is recommended as general practice in exercising such professional judgement to suggest that clients must obtain tax advice in relation to all taxes i.e. foreign and domestic.</p> <p>The introduction of the stand-back test should not result in an expectation on the professional accountant to understand all such tax consequences (both domestic and foreign). Rather it should serve to trigger awareness of</p>

Tax Planning and Related Services  
 Compilation of Significant ED Comments – Question 6  
 IESBA Meeting (September 2023)

No	Respondent	Respondent Comments
		the need to advise clients to obtain tax advice as necessary in order to properly evaluate such wider tax consequences (i.e. both domestic and foreign).
33	<a href="#">Mo Chartered Accountants (Zimbabwe)</a>	<p>Yes, we agree with the stand- back provisions and these again require documentation to ensure that reputational, commercial and wider-economic consequences have been considered.</p> <p>The gray-zone provisions are clear and the requirement to apply the conceptual framework to such situations is part of the solution to overcome areas and matters of uncertainty.</p>
34	<a href="#">National Association of State Boards of Accountancy</a>	NASBA believes that consideration should be given to the reputational, commercial and wider economic implications to the client; however, the decision-making burden should be placed on the client, not the TP.
35	<a href="#">Pennsylvania Institute Of Certified Public Accountants</a>	<p>The committees do not support a requirement to assess the public sentiment surrounding a particular tax-planning arrangement before recommending it to a client. The explanatory memo notes concern over the wider circumstances and cites an example of the impact on the Starbucks brand due to accusations of tax avoidance and the negative sentiment expressed on social media.</p> <p>Specifically, the footnote argues that Starbucks suffered because “...key brand metrics plummeted and negative sentiment on social media spiked.” The embedded article from The Guardian was about 14 months old. Per Google Finance, the one-year chart for Starbucks shows the stock increasing by a staggering 48.50%, or 34.85 points.</p> <p>We do not agree that being reactionary based on trends in social media is in the public interest. Instead, professional accountants should remain objectively focused on providing tax planning advice that is in accordance with enacted legislation. The appropriateness or inappropriateness of the laws are the responsibility of the legislature, not the professional accountant.</p> <p>The committees, therefore, do not believe that any requirement to consider the public interest based on their general awareness and understanding of the current economic environment in the context of tax planning is operational. Furthermore, it is not clear that a professional accountant should keep in mind the preferences or requirements of</p>

Tax Planning and Related Services  
 Compilation of Significant ED Comments – Question 6  
 IESBA Meeting (September 2023)

No	Respondent	Respondent Comments
		<p>other stakeholders when providing tax planning services as this could expose the professional accountant to litigation.</p> <p>Further, the Code already includes the reasonable and informed third-party test, which sufficiently addresses the necessary considerations contemplated by IESBA in its proposal for the stand-back test. Paragraph 115.1 A1 of the Code states that “[c]onduct that might discredit the profession includes conduct that a reasonable and informed third party would be likely to conclude adversely affects the good reputation of the profession.” This test takes into consideration the views of a third party that are shaped by the knowledge of all the relevant facts and circumstances, which is much more persuasive than the potentially uninformed views or perceptions of stakeholders that would need to be taken into consideration in the proposed stand-back test.</p>
36	<a href="#">PKF (Durban)</a>	<p>The additional requirement of applying a "stand-back test" is incredibly onerous and borders on corporate governance issues which is properly regulated by the King IV Code. I am of the view that to impose this level of duty on a PA in render TP services is unjustified. The role of a PA in rendering tax services, albeit tax advice/planning is simply to assist a client to undertake a commercial transaction in the most tax efficient manner.</p> <p>Consideration of public interest and applying a stand-back test is in my view not practical or cost efficient in public practice.</p> <p>Clients seeking tax advice prior to undertaking a transaction are generally wanting to ensure tax compliance and have the comfort of knowing that they (corporate or individuals) are being tax efficient without any the risk of unlawfulness due to the complexities of tax law which contain various anti-avoidance provisions etc., and are already paying tax professional's considerable fees for such services. In order to apply the additional "credible basis" principle, "public interest" requirement and the "stand-back test" the costs of PAs in ending such service will no doubt escalate. However, it is highly unlikely that such costs would be recoverable from client's nor would it add value to them except in the instance where a corporate does not have a proper corporate governance committee due to not being mandatory and hence not cost efficient for such client to incur the additional costs.</p> <p>Should IESBA maintain the view that the stand-back test is necessary, it is recommended that R380.12 be amended to delete the last part of the sentence so that it ends at "wider economic consequences" to make this less onerous. In terms of paragraph 380.12 A2 it is noted that that the proposal that the PA have an awareness of the wider economic consequences of the tax planning arrangement on the tax base in that country or the relevant impacts of</p>

Tax Planning and Related Services  
 Compilation of Significant ED Comments – Question 6  
 IESBA Meeting (September 2023)

No	Respondent	Respondent Comments
		<p>the arrangement on the tax bases of multiple jurisdictions, where the client operates" implies that the PA is required to have a working knowledge of multiple tax jurisdictions.</p> <p>In practice most PAs tax expertise is limited to specific tax areas (for example, corporate tax specialists, VAT specialists, PAYE specialists etc.). This is mainly due to the complexities of tax law in that one specific jurisdiction hence it is highly unlikely that a PA advising on a specific tax planning arrangement that may involve another tax jurisdiction would beware of the "relative impact of the arrangement" in the other or multiple jurisdictions that the client operates. In order to obtain such awareness, that PA would likely be required to engage the services of a PA in the other or multiple jurisdictions which would result in additional costs which may not be recoverable from the client as it was not within the scope of services requested from the PA in SA for example.</p>
37	<a href="#">Price Bailey</a>	<p>We agree that including a stand-back test is useful. In this exposure draft it requires a professional accountant to “consider the reputational, commercial and wider economic consequences that could arise from the way stakeholders might view the arrangement” yet IESBA is also of the view “that this is not about tax morality, tax justice or tax fairness”. It is difficult to see how one can consider reputational or in some cases wider commercial consequences without in some way considering tax morality, tax justice or tax fairness. The explanatory memorandum cites the Starbucks case, what is that case about if not tax fairness? One could see a potential for perceived conflicts of interest once framed alongside one of the primary ‘public interest’ considerations in the document being that of providing high quality advice.</p> <p>See our comments above regarding the UK GAAR.</p> <p>Additionally IESBA have said that there is no expectation of hindsight in assessing the professional accountants behaviour under the new proposals, however if a professional accountant is found at a later date to have breached tax legislation then they will by default have breached the fundamental principle of professional behaviour.</p>
38	<a href="#">PricewaterhouseCoopers International Limited</a>	<p>While we agree with the overall approach of the stand-back test, we would suggest a modification of its text.</p> <p>R380.13 states: “If, having considered the matters set out in paragraph R380.12, the professional accountant decides not to recommend or otherwise advise on a tax planning arrangement that the client would like to pursue, the accountant shall inform the client of this and explain the basis for the accountant’s conclusion.”</p>

Tax Planning and Related Services  
 Compilation of Significant ED Comments – Question 6  
 IESBA Meeting (September 2023)

No	Respondent	Respondent Comments
		<p>While we believe it is important for an advisor to apply the stand-back test in addition to determining credible basis for the advice, it should be left to the client to decide, based on all available information, whether to proceed with the transaction in question. Doing otherwise would increase the risk of the advisor being engaged in management decisions. We would therefore suggest modifying R.380.13 to say that the professional accountant should communicate its observations on the application of the stand-back test to the client to allow the client to make an informed decision as to whether or not to pursue a tax planning arrangement.</p>
39	<a href="#">Public Accountants and Auditors Board Zimbabwe</a>	<p>The PAAB agrees with the proposed stand-back test in determining the credible basis for the TP arrangement because it protects the interests of the stakeholders as the PA will consider a holistic view in which both the clients and stakeholders' consequences are all considered in a TP exercise. This will mean that a PA has a better chance of offering better tax related services without jeopardising the usefulness of that information to various stakeholders.</p>
40	<a href="#">RSM International</a>	<p>Yes. Professional Accountants have the ethical responsibility to serve the public interest and uphold the public trust in the profession. That responsibility is not only to clients, but also to client's investors, creditors and any stakeholders. The proposed stand-back test will facilitate responsible behaviour required of us in our profession – to serve our clients and the public interest with integrity, objectivity, and due care.</p> <p>However, there are important clarifications outlined in paragraph 65 of the Exposure Draft that we recommend be included in the application guidance in section 280.12/ 380.12. In particular we recommend that the guidance includes clarification that:</p> <ul style="list-style-type: none"> <li>• the stand-back test is not about tax morality, tax justice or tax fairness; and</li> <li>• the PA is not expected to carry out research on the economic consequences other than giving the matter due consideration based on the Professional Accountant's general awareness and understanding of the current economic environment in the context of the tax planning.</li> </ul> <p>We further recommend that the application material refer the PA to use the "Reasonable and Informed Third Party Test" outlined in paragraph 120.5 A6 of the IESBA Code in consideration of the overall tax planning recommendation or advice.</p>
41	<a href="#">Saudi Organization for Chartered and</a>	<p>We agree with the IESBA's aim to emphasize on protecting the profession's role and reputation. However, we could not agree that employing the "stand back test" would serve this purpose. Although the IESBA's proposals indicated</p>

Tax Planning and Related Services  
 Compilation of Significant ED Comments – Question 6  
 IESBA Meeting (September 2023)

No	Respondent	Respondent Comments
	<a href="#">Professional Accountants</a>	<p>that such test does not mean PAs should carry out broad research on the reputational, commercial and economic consequences of such TP arrangement, the identification of the test focused on "understanding" the wider consequences of the TP arrangement. From our point of view, although the use of such test looks as a forward move to serve the global initiative and the new investors' expectations, requiring such practice may raise expectations for PAs' role and responsibilities which may end up hurting the profession's role and reputation. In addition, employing the new subjective concept "stand back test" might also add more complexity to the Code's ethical guidance. We think that providing more emphasis on the concept of "due diligence" to serve and protect the "public interest" may meet the same goal of securing the profession's role and reputation while limiting the risk of unintended expectations and complexities resulting from the use of new concepts provoking more subjective practices.</p>
42	<a href="#">South African Institute of Chartered Accountants</a>	<p>SAICA disagrees with the proposals as a result of the below:</p> <ul style="list-style-type: none"> <li>a) There is insufficient guidance to support the PA in determining how far he or she should go in terms of the stand back test. This is left to the professional judgement of the PA which will result in inconsistent application of the proposed amendment. Furthermore, the proposed revisions are subjective and may not be practical for the PA.</li> <li>b) PAOs will not be able to monitor the implementation of the proposed amendments as there will be difficulties in determining if the PA performed sufficient procedures in terms of the stand back test.</li> <li>c) The stand back test also places additional burden on PAs in terms of time and cost. In most instances the PA will not be able to recover the cost for additional time spent in implementing additional processes to comply with the proposed revisions as clients may not see the value and may not be willing to pay. This will also have a huge impact on small and medium practices.</li> </ul> <p>Furthermore, members have raised concerns that the additional requirement of applying a “stand-back test” may be incredibly onerous and borders on corporate governance issues which are more appropriately regulated by the King IV Code. Members are of the view that to impose this level of duty on a PA in rendering TP services may be unjustified. The role of a PA in rendering tax services, albeit tax advice/planning is simply to assist a client to undertake a commercial transaction in the most tax efficient manner. Consideration of public interest and applying a stand-back test is in our members view not practical or cost efficient in public practice.</p> <p>Clients seeking tax advice prior to undertaking a transaction generally want to ensure tax compliance and have the comfort of knowing that they (corporate or individuals) are being tax efficient without any the risk of unlawfulness</p>



Tax Planning and Related Services  
 Compilation of Significant ED Comments – Question 6  
 IESBA Meeting (September 2023)

No	Respondent	Respondent Comments
		<p>due to the complexities of tax law which contain various anti-avoidance provisions etc. and are already paying tax professional's considerable fees for such services. In order to apply the additional "credible basis" principle, "public interest" requirement and the "stand-back test", the costs of PAs in rendering such service will no doubt escalate. However, it is highly unlikely that such costs would be recoverable from clients, nor would it add value to them except in the unlikely instance where a corporate does not have a proper corporate governance committee due to it not being mandatory and hence not cost efficient for such client to incur the additional costs.</p> <p>Should the IESBA maintain the view that the stand-back test is necessary, it is recommended that R380.12 be amended to delete the last part of the sentence so that it ends at "wider economic consequences" to make this less onerous. In terms of paragraph 380.12 A2, it is noted that that the proposal that the PA must have an awareness of the wider economic consequences of the tax planning arrangement on the tax base in that country or the relevant impacts of the arrangement on the tax bases of multiple jurisdictions, where the client operates" implies that the PA is required to have a working knowledge of multiple tax jurisdictions.</p> <p>In practice most PAs' tax expertise is limited to specific tax areas (for example, corporate tax specialists, VAT specialists, PAYE specialists etc.). This is mainly due to the complexities of tax law that may be jurisdiction specific hence it is highly unlikely that a PA advising on a specific tax planning arrangement that may involve another or multiple tax jurisdictions would be aware of the "relative impact of the arrangement" in the other or multiple jurisdictions that the client operates. In order to obtain such awareness, that PA would likely be required to engage the services of a PA in the other or multiple jurisdictions which would result in additional costs which may not be recoverable from the client as it was not within the scope of services requested from the PA in SA for example.</p>
43	<a href="#">Subcommittee for the Ethics Code Setting, Federation of Accounting Professions</a>	<p>Agreed. Because, in Thailand, there are study cases of related companies that planned to pay taxes in a small proportion or no tax to be paid. It affects reputation and social acceptance and causes damage widely to those who are related. Thus, the use of a stand-back test is beneficial in providing Professional Accountants (PAs) with comprehensive analytical thought in considering a client's tax planning.</p>
44	<a href="#">WirtschaftsprüferKammer</a>	<p>We support the inclusion of a stand-back test, as proposed in R380.12. However, we have some concerns about the inclusion of 'wider economic consequences' as a factor in 380.12 A2. Identifying these consequences requires extensive research that cannot be part of a simple stand-back test.</p>

Tax Planning and Related Services  
Compilation of Significant ED Comments – Question 6  
*IESBA Meeting (September 2023)*