

## Ethics Committee Project Proposal

### 1. Subject

Ethical guidance for Professional Accountants when encountering fraud or illegal acts

### 2. Reasons the Subject Should Be Studied Now

The revised Code of Ethics (the Code) establishes confidentiality as a fundamental principle that requires professional accountant to respect the confidentiality of information acquired as a result of professional and business relationships and not to disclose such information to third parties without proper and specific authority unless there is a legal or professional right or duty to disclose.

A professional accountant who encounters fraud or illegal acts is bound by the principle of confidentiality when determining the appropriate action to take.

Some jurisdictions have requirements or protection for individuals who “whistleblow”. Some member bodies have responded to this legislation by providing additional guidance for their members when faced with such situations.

Regulators have expressed concern that the interaction of the ISAs and Code is somewhat circular. The Code states that a professional accountant would be required to disclose confidential information when there is a professional duty or right to disclose, when not prohibited by law, to comply with technical standards and ethical requirements.

ISA 240 *Auditors Responsibility to Consider Fraud in an Audit of Financial Statements* and ISA 250 *Consideration of Laws and Regulations in an Audit of Financial Statements* both refer to the auditor’s duty of confidentiality. Both standards state that this duty may be overridden by statute or regulation.

### 3. Scope of Project

(a) LIST THE MAJOR ISSUES THAT SHOULD BE ADDRESSED

#### ***Situations where disclosure is or may be required***

The Code contains general guidance for all professional accountants regarding disclosure of confidential information. The Code provides for three circumstances where professional accountants are required, or may be required, to disclose confidential information:

- Disclosure is permitted by law and is authorized by the client or employer;
- Disclosure is required by law;
- There is a professional duty or right to disclose when not prohibited by law.

The project should consider whether these three circumstances are all inclusive.

***Guidance for Professional Accountants in Public Practice***

The Code does not contain specific ethical guidance for professional accountants in public practice who encounter fraud or illegal acts. Consideration should be given to providing ethical guidance for circumstances when a professional accountant in public practice encounters suspected fraudulent or illegal acts.

***Guidance for Professional Accountants in Business***

The Code does not contain specific ethical guidance for professional accountants in business who encounter fraud or illegal acts. Consideration should be given to providing ethical guidance for the following situations:

- The professional accountant discovers a fraudulent or illegal acts;
- The professional accountant has reported a fraudulent or illegal act but no action has been taken, or the action is inadequate;
- Some one else within the organization informs the professional accountant about the existence of a fraudulent or illegal act.

***(b) DESCRIBE IMPLICATIONS FOR ANY SPECIFIC PERSONS OR GROUPS***

- IOSCO – concern raised in response letter to ED on Revisions to Code of Ethics
- IAASB – The IAASB will be interested in any ethical guidance that addresses auditors responsibilities with respect to communicating fraudulent or illegal acts discovered during the audit.

***(c) CONSIDER WHETHER IT REQUIRES PARTICULAR CONSIDERATION***

There are no specific IT considerations.

**4. Indicate the Type of Material to Be Published and Timeline**

Revision to Code of Ethics

Proposed timeline:

- Project proposal approval – September 30, 2004
- Discussion of issues – June 2005
- First read – October 2005
- Approve exposure draft – February 2006
- Consider responses – October 2006
- Approve final – February 2007

**5. Resources Required**

- An Ethics Committee task force with a member from the IAASB and INTOSAI

- One staff support.

**6. List Important Sources of Information That Address the Matter Being Proposed**

- United Nations material on whistle blowing
- EU Publications on whistle blowing.

**7. Factors That May Add To Complexity or Length of Project**

- None noted.

Prepared by Jan Munro Date July 28, 2004

**Comments by Technical Managers/Committee Secretaries**

The comments and sign-off of *each* Technical Manager are required before the Ethics Committee considers this Project Proposal.

**IAASB**

CLASSIFICATION *Class:* SUGGESTED PRIORITY

COMMENTS

Signed Date

**Professional Accountants in Business**

CLASSIFICATION *Class:* SUGGESTED PRIORITY

COMMENTS

Signed Date

**Education Committee**

CLASSIFICATION *Class:* SUGGESTED PRIORITY

COMMENTS

Signed Date

**Compliance Committee**

CLASSIFICATION *Class:* SUGGESTED PRIORITY

COMMENTS

Signed Date

**Trans-National Auditors' Committee**

CLASSIFICATION *Class:* SUGGESTED PRIORITY

COMMENTS

Signed Date

**SMP Committee**

CLASSIFICATION *Class:* SUGGESTED PRIORITY

COMMENTS

Signed Date

**Public Sector Committee**

CLASSIFICATION *Class:* SUGGESTED PRIORITY

COMMENTS

Signed Date

**Developing Nations Task Force**

CLASSIFICATION *Class:* SUGGESTED PRIORITY

COMMENTS

Signed Date

## **Project Classifications**

All activities of IFAC have the same overall objectives. When a project involving more than one committee is approved, there must be close co-ordination to minimize schedule disruptions and to avoid inconsistent conclusions. The following procedures are designed to try to ensure the smooth co-ordination of joint projects.

### **Standards and Guidelines**

A project is put forward for approval only when a Project Proposal has been completed; each Project Proposal includes space for the recommendation of each committee secretary on the proposed nature of a project under one of the following classifications:

*Class A Project:* entirely the responsibility of only one committee.

*Class B Project:* mainly the responsibility of one committee but with important implications to at least one other committee.

*Class C Project:* a joint project—the priority, work and conclusions are of importance to two or more committees.

Approval of the classification of a project lies with the responsible committee(s).

#### **1. CLASS A PROJECTS**

Full details of a Class A project will be sent only to the committee responsible for its development and approval but the committee secretaries of the other committees will be kept informed by the responsible committee secretary, at all significant points, of the project's progress by distribution of committee agenda papers.

#### **2. CLASS B PROJECTS**

Since the degree of “jointness” can vary substantially in a Class B project (from being almost a Class A to almost a Class C project), the Project Proposal form should indicate which of the two following routes is proposed for handling the project:

B1: The work will be handled entirely by a subcommittee of the “primary” committee but at significant points in the development of the project (statement of principles, exposure draft, final recommendations) the “primary” committee will ascertain from the other committee(s) whether the proposals would create significant difficulties for the other committee(s) before the “primary” committee approves the material.

B2: The subcommittee of the “primary” committee responsible for the project will have added to it one or two representatives of the other committee(s).

Whichever route is approved, comments by the other committee(s) will be considered by the “primary” subcommittee and the “primary” committee.

3. CLASS C PROJECTS

[Process under discussion]

4. SIGNIFICANT DIFFICULTY

To avoid the possibility of inconsistencies in Recommendations between standard-setting committees, on any project on which one of the standard-setting committees has indicated to another that the project would create a significant difficulty,\* the difficulty must be resolved to the satisfaction of both committees before the project proceeds.

If an irreconcilable difference occurs between committees, the matter can be referred, by either or both of the committees concerned, to the Board for an opinion but in no case will amendments or additions be made to the IFAC Handbook or to other official pronouncements as long as there remains a significant difficulty between committees.

**Discussion Papers and Other Information Documents**

The same procedures as for Standards and Guidelines (including the classification of a project) will be followed in the preparation and approval of these publications.

\* A significant difficulty is considered to have been created when a proposed Recommendation from one committee will, in the opinion of the other committee, undermine or contradict a Recommendation of another committee.