

Framework for Authoritative Responses to Emerging and Urgent Issues

Preliminary Draft Discussion Paper

This draft Paper has been prepared by IFAC Staff for discussion purposes only.

I. Objective

1. The objective of this Paper is to explore a framework that enables IFAC's standards-setting Public Interest Activity Committees (PIACs) to issue rapid authoritative responses to emerging or urgent issues in the public interest in a consistent manner across the PIACs.

II. Need for a Framework

2. By design, the PIACs' current due process for new or revised Standards, Practices Statements, Interpretations and other authoritative pronouncements ensures broad consultation, responsiveness to input received and public interest oversight. Full application of this due process is seen to be in the public interest but has the consequence of a relatively long development cycle for authoritative pronouncements – often measured in years.
3. It is also in public interest, arguably, that the PIACs should be able to clarify or supplement their pronouncements in advance or in lieu of a full revision thereof to appropriately direct the profession in response to emerging or urgent issues. The ability to do so would provide an essential mechanism to assist in the consistent application of the PIACs' pronouncements by professional accountants; ultimately, the wider use of the PIACs pronouncements globally will drive demand for additional guidance and greater responsiveness by the PIACs. Notwithstanding this, there is at present no established mechanism by which the PIACs can revise or amend their authoritative pronouncements to respond to an emerging or urgent issue in a timely manner.
4. Central to addressing emerging issues is the ability to issue an authoritative response in a manner more expeditious than the current operating practices of the PIACs permit. The main issue to be resolved is the trade-off between the timeliness with which a response can be issued and the authority and due process that should attach to it. This issue is made more difficult by the fact that different views exist as to the sources from which a document may derive its authority – the authority of the body issuing the document or the process followed in development – , and the consequences thereof. If the view that authority and due process attach is accepted, the question is whether any form of abbreviated due process is acceptable while maintaining the authority of a document; this has raised different reactions from different stakeholders.

5. Recent events with the International Accounting Standards Board provide one example where a framework in place may have been of benefit, as does the interpretation issues discussed at the December IAASB meeting regarding certain of its clarified ISAs. On the other hand, it is reasonable to presume that the need for a rapid authoritative response should be relatively rare, and there is the view that any steps taken outside the well established and supported standard setting structure to amend standards would further undermine already scarce public confidence in the markets. Accordingly, if a framework is put in place to address urgent circumstances if and when they arise, it should be sufficiently stringent in the public interest.
6. The resolution of the way forward, in whatever form, ultimately depends on the specifics of how a mechanism for rapid authoritative responses might work and whether it is acceptable and appropriate in the public interest. The following framework is intended to assist in this regard.

III. Framework Components

7. The following identifies five general components of a framework for responding to emerging or urgent issues:
 - i. Early Issue Evaluation and Consideration of Need for an Authoritative-Type Response
 - ii. Justification for a Rapid Response Requiring Departure from Full Due Process
 - iii. A Modified Due Process that Accelerates Decisions while Maximizing Input
 - iv. Flexibility in Form of Output
 - v. Public Interest Oversight

Each of these components, and their implications, are further discussed below.

(I) EARLY ISSUE EVALUATION AND CONSIDERATION OF NEED FOR AN AUTHORITATIVE-TYPE RESPONSE

8. Whether an issue qualifies as one requiring an urgent response is often subjective: in some cases, the determination is relatively straight forward; in others, the issue is less clear; while in others, the issue relates to the application of standards to, and may be circumscribed by, national circumstances where the national standard setting body or firms, rather than the PIACs, are best positioned to address the matter. It is therefore a matter of consideration whether an issue warrants an authoritative response, let alone a *rapid* response, or instead further monitoring of developments.
9. Nevertheless, emerging or urgent issues, by nature, arise quickly and often require a rapid response if it is to have effect. Early consideration is therefore essential to allow maximum period for determination of whether a response needs to be considered, the appropriate form of response – whether authoritative, non-authoritative, or not at all – and its development, as necessary.

Implications:

- **The PIACs should establish an early evaluation mechanism.** While it would be possible to leverage the PIACs' existing Planning or Steering Committee structure for this purpose, the most effective approach may be for each PIAC to establish a standing "[PIAC] Emerging Issues Task Force." A small team of PIAC members, appointed by the PIAC Chair, could be charged with evaluating urgent issues and developing (or overseeing the development of) recommendations for consideration by the PIAC. Its role could include appropriate liaison with relevant IFAC committees such as the Small and Medium Practices Committee and Transnational Auditors Committee, though the onus should be on such groups to bring issues forward as necessary. Similar to the provisions of the PIACs' Steering Committees, the Emerging Issues Task Force would report to the PIAC on its activities. Standard terms of reference would be developed for consistency in approach across the PIACs.

(II) JUSTIFICATION FOR A RAPID RESPONSE REQUIRING DEPARTURE FROM FULL DUE PROCESS

10. The most critical decision to be made is whether a rapid response is in fact required and in the public interest. The general presumption should be that full due process is appropriate unless the PIAC can demonstrate justification for departure. Further, there should be a clear expectation that departures from full due process are generally to be an exception rather than the norm, with steps taken to avoid creating an expectation in the user community that emerging issues will be addressed more frequently and more comprehensively by a PIAC (or designated sub-group) than perhaps intended or possible. Some form of criteria or guidelines, and general agreement that such criteria have been met, are therefore essential.

Implications:

- **Criteria should be established against which a decision on the need for a rapid response is to be made and evaluated.** Such criteria could take the following form, for example:

"Situations in which a rapid response by the PIAC may be appropriate include a new circumstance that is not address by current pronouncements, or where the current pronouncements address the circumstance in principle but a requirement or guidance material requires amendment for further clarification, elaboration or explanation, or similar such circumstance, and all of the following are met:

 - The issue to be addressed is clearly defined and specific to a new and unique circumstance not previously deliberated by the PIAC, and has broad public interest relevance (as evidenced, for example, by confirmation of such by two or more regulatory or public oversight bodies);
 - A new pronouncement, or the revision or amendment of an existing one, is necessary to the effectiveness and proper and consistent application of the pronouncements of the PIAC;
 - The issue is one that requires change to the PIAC's pronouncement within a period shorter than that that which can be accommodated by following full due process, including taking advantage of the provision for a shorter than normal exposure period, in order for the change to have the intended effect; and

- The anticipated response is limited to the identified issue and there is no indication that the response will have potential unintended consequence.”
- **The PIAC should obtain the PIOB’s approval, expedited as appropriate, that such criteria have been met in principle in advance of any standards-setting activity.¹**

(III) A MODIFIED DUE PROCESS THAT ACCELERATES DECISIONS WHILE MAXIMIZING INPUT

11. Notwithstanding a desire for speed in response to an issue, PIAC deliberations need to be informed, the quality of its output maintained, and its activities subject to appropriate oversight. The main contributor to the length of the current pronouncement-development cycle, however, is the process of exposure and consideration of response. Only by forgoing this process can there be any significant acceleration in the decision-making. However, an authoritative response needs to be seen and accepted as authoritative by regulators, oversight bodies, firms and others, even though it may have been developed following a different form of due process.
12. Whatever the process followed, the responsibilities of the PIAC in undertaking a rapid response should be absolutely clear. The establishment of a modified form of due process, design to enhance the timeliness of a response while maximizing input and due care in decision making, is therefore essential.

Implications:

- **The current Due Process and Working Procedures of the PIACs should be amended to allow for a modified due process when the criteria for a rapid response has been met. The aim of the modified process should be to facilitate (in a best case scenario) the development and issue of a response in the time between one meeting of the PIAC and the next.**
- **The modified due process should require at least the following:**
 - Notification at least 30 days in advance on the PIAC website, and directly to members of the PIAC Consultative Advisory Group and the PIOB, of the intent of the PIAC to discuss a proposal in response to an emerging or urgent issue, together with an invitation for comment in advance of the PIAC meeting.
 - Circulation of comments received directly to PIAC members, with members familiarizing themselves with the issues raised.
 - PIAC deliberation in a physical meeting open to the public.
 - Unanimous approval by the PIAC that the criteria for rapid response have been met.

¹ Arrangements acceptable to the PIOB for an expedited process outside its normal meeting schedule would need to be agreed.

- Approval, in accordance with the PIAC's terms of reference, of the content (or revised content) of the proposed response.
- After approval of the revised content of the response, voting by the PIAC on whether there have been any significant concerns raised such that exposure is necessary. An affirmative vote in accordance with the PIAC's terms of reference that exposure would be necessary to issue an exposure draft.
- The communication of the basis of the PIACs decisions together with the approved change to a pronouncement, if any.

(IV) FLEXIBILITY IN FORM OF OUTPUT

13. PIACs issue different pronouncements within their terms of reference. An authoritative response to an emerging issue would therefore be in the context of such pronouncements, with the same authority attaching.
14. However, in terms of the precise form of output in response to an emerging or urgent issue, it would appear appropriate for the PIACs to retain as much flexibility as possible until they gain further experience in dealing with such matters and has had an opportunity to determine through practice what is most effective in different circumstances. For example, one of the following methods may be most suitable, depending on the circumstances, with an immediate or relatively short effective date:
 - Amendment of, or inclusion of a footnote in, a pronouncement (accompanied by a press release);
 - An addendum to a pronouncement, labelled as an "Interpretation" (following the practice of the IESBA); or
 - The issue of a separate pronouncement.

(V) PUBLIC INTEREST OVERSIGHT

15. Confirmation by the PIOB that modified due process has been met would be required. Arrangements acceptable to the PIOB for an expedited process outside its normal meeting schedule would need to be agreed.

Matters for Discussion:

- 1. Recognizing that the need to respond to an emerging or urgent issue through an authoritative pronouncement is likely to be rare (though possible), do you believe it appropriate and prudent to provide for such circumstances? What risks arise and how might they be mitigated?**
- 2. The criteria and modified due process outline above is intended to establish fairly stringent parameters around when and how a rapid response may occur. In your view, are they appropriate, too restrictive, or should greater flexibility be allowed?**

- 3. How might perceptions of the quality of the standards be affected by implementation of a modified due process for purposes of responding authoritatively to an urgent or emerging issue?**
- 4. Is the proposed framework practicable? Even if so, is it likely to be seen to be appropriate in the public interest?**