

The Application of Part C to All Professional Accountants

Background

1. The Review of the Part C project proposal indicated that the project would address pressure as its first priority. The Task Force determined that it is necessary to reach agreement on the scope of Part C before it can propose revisions to the text. In particular, it is necessary to know whether revisions to Part C would apply to all professional accountants or only to professional accountants in business (PAIBs).
2. The project proposal notes that paragraphs 100.3 and 100.12 state that professional accountants in public practice (PAPPs) may also find Part C relevant to their particular circumstances. Therefore, they may be bound by the requirements of Part C as well as Parts A and B. However, the Code provides no guidance on, or explanation of, the applicability of Part C to professional accountants in a firm that provides professional services, whether as employees or in another capacity.
3. One example of this is that PAPPs may be inappropriately pressured by superiors to compromise audit quality by working within unrealistic time budgets or to act inappropriately in other ways. These situations are not addressed in Part B, but may fall under the category of undue pressure by superiors, which would be addressed by a review of Section 340.¹ Another example might be where one division of a firm is pressured by another division of the firm to retain an untrustworthy client, solely to protect the larger fee income of the latter division. A third example is that a firm's internal accounting staff might be pressured to massage the firm's results so that profit shares for partners are distorted towards one individual or group of partners. Essentially all of the problems that traditional PAIBs face can also arise inside accounting firms, with the same ethical dilemmas for those employees and partners.
4. Professional accounting firms are commercial businesses and therefore professional accountants working in them as partners or staff could be interpreted as falling within the Code's definition of a PAIB:

A professional accountant employed or engaged in an executive or non-executive capacity in such areas as commerce, industry, service, the public sector, education, the not for profit sector, regulatory bodies or professional bodies, or professional accountant contracted by such entities.

Part C may therefore be applicable to all professional accountants, and this would include partners and other executives of firms.
5. At its March 2013 meeting, the IESBA did not support merging Sections A and C because Part A concerns fundamental principles, and Parts B and C include requirements and guidance that the Board generally believes should be kept separate from Part A. Secondly, the Code is more likely to be seen as relevant to PAIBs if there is a separate section within the Code that addresses PAIBs. Consideration could be given to identifying those paragraphs in Part C which are relevant to PAPPs and including them in Part B.
6. The definition of PAIB includes categories which encompass over half of the profession. Although the definition of PAIB may encompass all professional accountants, there is a general perception

¹ Section 340, *Financial Interests*

that Part C applies to professional accountants performing accounting functions within business. The IESBA suggested it may be helpful to address this misunderstanding and reconsider the definition of PAIB and the title of Part C.

7. The IESBA CAG representatives considered these matters at the April 2013 CAG meeting. A few CAG representatives agreed with the IESBA's view that Parts A and C should not be merged. Another CAG representative suggested that if there are paragraphs in Part C which apply to all professional accountants, these should be included in Part A. A CAG representative recommended that the Task Force check that the overarching concepts in Part A are reflected in Part C.

Options

8. The Task Force considered four options to address this matter, having excluded the option of merging Parts A and C:
 - 1) Change the scope of Part C from PAIBs to all professional accountants and include appropriate examples in Part C.
 - 2) Identify those paragraphs in Part C which are relevant to PAPPs, but which are omitted from parts A and B, and include them as additional sections of Parts A or B.
 - 3) Defer a decision until after the Structure of the Code Working Group has completed its final report to the Board.
 - 4) Provide additional paragraphs at the beginning of Part B reminding PAPPs that they are subject to the requirements of Part C and how it relates to their conduct as employees and partners of the firm.
9. The majority of the Task Force prefers Option One, with two dissenters. Those who dissented did so because although the proposal is conceptually logical, it is impractical as it would lead to a major revision to the Code and have significant resource implications for IFAC member bodies. In addition, at least one dissenter believes that due to the fact that PAIBs represent such a large constituency, a separate section of the Code should be dedicated to them to address their own issues. Options 2, 3 and 4 were considered by the Task Force but have not been preferred for the reasons set out below.

OPTION 2: IDENTIFY THOSE PARAGRAPHS IN PART C WHICH ARE RELEVANT TO PAPPs, BUT WHICH ARE OMITTED FROM PARTS A AND B, AND INCLUDE THEM AS ADDITIONS TO PART A OR B.

10. The matters in Part C that may be relevant to PAPPs, which are addressed in Part C but not included in Part B include:
 - Section 340: There are 13 references to "pressure" in the Code. The four references in Parts A and B do not refer to inappropriate pressure within the employing organization.
 - Section 320² requires that financial information be prepared, amongst other matters, fairly and honestly. Many PAPPs are involved in the preparation and reporting of information for clients. Examples include maintaining accounting records, preparing financial statements and preparing tax returns. There is no obvious parallel to the requirement to prepare and report information fairly and honestly in Part B when undertaking such activities for clients.

² Section 320, *Preparation and Reporting of Financial Information*

- Personal Gain: There are two references to personal gain in Part C, but none in Parts A and B. For example, paragraph 340.3, which states “A professional accountant in business shall neither manipulate information nor use confidential information for personal gain,” has no obvious parallel in Part B.
 - Inducements: Although Section 350³ has a parallel Section 260⁴ in Part B, Section 260 is silent on the making of offers by PAPPs to influence the judgment or decision making process of an organization.
11. Although these matters would be covered by the fundamental principles in Part A, it is the view of the Task Force that if they merit specific mention in Part C, they would merit equal mention in Part B.
12. The Task Force considered the following matters if Option 2 were to be recommended:
- Option 2 would result in significant revisions to Part B and therefore IFAC member bodies would have to make significant revisions to their own Codes.
 - The mandate of this project may not include making recommendations to change Part B.
 - Part B only refers to client-related matters and incorporating non-client-related issues in Part B would be a major departure from the current structure of the Code.

OPTION 3: DEFER A DECISION UNTIL AFTER THE STRUCTURE OF THE CODE WORKING GROUP HAS COMPLETED ITS FINAL REPORT TO THE BOARD

13. The Dutch IFAC member body (NBA) is currently consulting on a revised Dutch Code which has eliminated the distinction between PAIBs and PAPPs. If the IESBA Working Group reviewing the structure of the Code were to recommend eliminating the distinction between PAIBs and professional accountants in public practice, this would call into question the purpose of Part C. The Task Force considered the tentative timelines for the Structure project could mean a delay before explicitly addressing this issue.
14. The current sentiment of the Board and the explicit structure of the Code is that Part A focuses on fundamental principles and Parts B and C provide guidance about how to act in accordance with the fundamental principles. The Task Force recognizes that it has a mandate to propose changes to Part C and that deferring a decision would be inconsistent with the importance of strengthening Part C and with the project proposal timeline.

OPTION 4: PROVIDE ADDITIONAL PARAGRAPHS AT THE BEGINNING OF PART B

15. Providing additional paragraphs at the beginning of Part B would remind PAPPs that they are subject to the requirements of Part C as it relates to their conduct as employees and partners of the firm. The Task Force was of the view that although this option would provide more detailed guidance than that currently provided by paragraphs 100.3 and 100.12, (which do not indicate when or why Part C may be relevant to PAPPs), it would provide less guidance than Option 1 (see below).

³ Section 350, *Inducements*

⁴ Section 260, *Gifts and Hospitality*

16. For the reasons noted above, the majority of the Task Force prefers Option 1, but at least one of those who were ambivalent about Option 1, would prefer Option 4.

Option 1: Change the Scope of Part C from “PAIB” to “All Professional Accountants” and Include Appropriate Examples in Part C

17. Paragraphs 100.3 and 100.12 state: “Professional accountants in public practice may also find Part C relevant to their particular circumstances”. The Code does not elaborate on these circumstances.
18. Paragraph 100.3 of the Code states that Part B applies to PAPPs and Part C applies to PAIBs. This assumes that PAPPs and PAIBs can be differentiated. The Task Force is of the view that the difference is unclear. The definition of a PAIB in the code is:

“A professional accountant employed or engaged in an executive or non-executive capacity in such areas as commerce, industry, service, the public sector, education, the not for profit sector, regulatory bodies or professional bodies, or a professional accountant contracted by such entities.”
19. Firms that provide professional services on a commercial basis and partners and employees of those firms are therefore included within the Code’s definition of a PAIB. Therefore, in some situations, PAPPs act as PAIBs. Therefore, Part C applies to all professional accountants.
20. The traditional distinction between PAPPs and PAIBs is also less clear than perhaps it once was. PAIBs may have a number of “employers” and may be considered to be “in practice” by their professional body. PAPPs may provide professional services equivalent to the activities of PAIBs, such as preparing and reporting management information, internal audit, tax computations, and consulting services. PAPPs may perform management activities for a client.
21. The Task Force tentatively concluded that because the definition of a PAIB includes PAPPs and that there is an overlap in activities between PAPPs and PAIBs, Part C applies to all professional accountants. Secondly, if the definition of a PAIB includes all professional accountants, it is therefore synonymous with “professional accountant” and therefore “Professional Accountant in Business” would be deleted from the Code.
22. In addition, the Task Force recognizes that the definition of a PAIB is extensive and in some cases “business” is an inaccurate adjective. It appears to be a “catch-all” to include all professional accountants who fall outside the Code’s definition of “firm”. It includes sectors which may or may not consider themselves to be “in business”, e.g., the public sector, education, the not-for-profit sector, and regulatory bodies. It does not appear to be an accurate name for the group it intends to capture and the name is not thought to be in common usage beyond IFAC. The Task Force would wish to consult those able to represent the views of PAIBs if the reference to PAIB in the Code were to be deleted.
23. The Task Force tentatively concluded the following:
 - That the term “Professional Accountant in Business” be deleted from the Code because it serves no useful purpose as it has the same meaning as Professional Accountant, and in addition it is in some cases a misnomer.
 - As Parts A and C apply to all professional accountants and Part B only relates to client relationships, the Parts of the Code should be renamed as follows to more accurately describe their content:

- PART A -- FUNDAMENTAL ETHICAL PRINCIPLES AND CONCEPTUAL FRAMEWORK
 - PART B – ADDITIONAL GUIDANCE RELATING TO CLIENT RELATIONSHIPS
 - PART C – ADDITIONAL GUIDANCE FOR ALL PROFESSIONAL ACCOUNTANTS
24. As a renamed Part C would apply more generally than Part B, it should precede the “additional guidance relating to client relationships.” However, the Task Force is generally of the view that this would be confusing for users in the absence of any wider restructure of the Code and therefore does not propose it.
 25. Although the definition of a PAIB would be deleted, the activities that a professional accountant undertakes to which Part C relates would be added in the introductory paragraphs of Section 300.
 26. All references to “professional accountant in business” in the Code would be replaced with “professional accountant”. The Task Force will make this change in draft form, to review whether the change would be appropriate in each circumstance.
 27. The Task Force recognizes the need to consult parties affected by this proposed change. These include the PAIB Committee and possibly some member bodies with significant PAIB constituencies, to understand if the elimination of PAIB from the IESBA Code would be perceived as reducing the relevance of the Code to PAIBs. The IAASB asked to be kept apprised of proposed changes to the Code that may impact auditors. However, the Task Force believes that these changes would not have an impact on audit and assurance standards. Due to their response to the Conflicts of Interest Exposure Draft (“We are not in a position to comment on the provisions in the proposed section 310 of the Code as these relate to accountants in business”), the Task Force does not believe that regulators such as IOSCO would be concerned by these changes.
 28. The Task Force proposes to add examples in Part C which reflect the professional activities of all professional accountants.
 29. The project proposal did not anticipate making changes to the revised Section 310 (Conflicts of Interest) which was approved by the Board in December. However, a consequence of Part C being applicable to all professional accountants is that the Task Force will re-consider paragraphs within Part C that may not be relevant to all professional accountants. If necessary, changes may be proposed, although the Task Force recognizes that revising approved changes to the Code before they are effective may be undesirable from a user perspective.

Matters for Consideration

1. Does the IESBA agree with the Task Force’s tentative conclusions that:
 - The definition of a PAIB includes PAPPs;
 - Part C applies to all professional accountants;
 - Option 1 be the preferred option; and
 - That Parts A, B and C be renamed accordingly?
2. Does the IESBA have any other views on the Task Force’s comments on the Scope of Part C?

Application of the Code to PAIBs Not Involved in the Accountancy Profession

30. The Task Force believes it would be in the public interest for the IESBA to clarify the application of the Code to professional accountants not involved in the accountancy profession. It should be noted that “accountancy profession” is not a defined term in the Code but is often used inaccurately to include only PAPPs.
31. Many professional accountants move out of accounting, and act, for example, as CEOs, Chairmen, or “line” managers of various organizational functions such as HR, marketing or production. The Task Force considered the following:
 - To what extent does Part A, including the fundamental principles, apply to professional accountants when undertaking non-accounting roles?
 - To what extent does Part C apply to such individuals when undertaking non-accounting roles?
32. The Task Force noted that this issue is similar to the problem in the project on reporting suspected illegal acts, the issue being (a) what kinds of acts professional accountants may have a right or duty to report, or (b) what kinds of expertise are relevant as a criterion for what kinds of acts are reportable.
33. The Task Force reviewed Part A and is of the view that the fundamental principles and the conceptual framework approach are intended to apply to all professional accountants, as defined in the Code, i.e. while they remain members of IFAC member bodies, regardless of the activities they undertake, whether in a professional capacity or not.
34. The Task Force tentatively considered that Part C would only apply to professional accountants when their professional activities involved the matters covered in Part C. However, the Task Force plans to continue its consideration of whether this narrows the expectations of a PAIB working outside the accountancy profession.

Matter for Consideration

3. Does the IESBA agree that Part A applies to all professional accountants even when working outside the accountancy profession but Part C only applies when working within the accountancy profession on specific matters included within Part C?

Applicability of the Code to Accountants in Business Who Are Not Subject to the Code

35. At the December 2012 IESBA meeting, it was noted that the financial reporting supply chain starts with PAIBs, that many chief financial officers are not professional accountants and that regulators tend to focus more on auditors. It was suggested that consideration should be given to reaching out to the Monitoring Group and regulators to discuss how this imbalance might be addressed.
36. The Task Force recognizes that many professional accountants who work in business are not professional accountants as defined by the Code (members of IFAC member bodies). For example, some IFAC member bodies such as those in Germany, Sweden, Switzerland and Japan (until recently) do not include accountants who work in business. Many CFOs in developed economies are former investment bankers, MBAs etc. The Code does not apply to such individuals. Regulations in some jurisdictions had been extended to cover accountants in business, whether

professional or not. For example, Section 302 of the Sarbanes Oxley Act requires that the company's "principal officers" (typically including the Chief Financial Officer) make certain certifications relating to the integrity of their company financial reports.

37. As noted above, the Task Force considered the IOSCO response to the Conflicts of Interest Exposure Draft, which stated: "We are not in a position to comment on the provisions in the proposed section 310 of the Code as these relate to accountants in business." The Task Force was of the view that working with the Monitoring Group and Regulators to discuss how the Code could apply to those to whom it does not apply is beyond the scope and resources of this Task Force and should the Board wish to tackle the matter it should be a separate project. It noted that discussions could be held at a senior level with regulators such as IOSCO to better understand why they are not in a position to comment on provisions in Part C, before IESBA considers commencing working with regulators on how the Code could apply to those to whom it does not apply.

Matter for Consideration

4. Does the IESBA agree that the project should not be extended to address how the Code could apply to those to whom it does not apply?