

Using the Work of an External Expert

Section 5390: Proposed Revisions (Mark Up from Exposure Draft)

PROPOSED SECTION 5390

USING THE WORK OF AN EXTERNAL EXPERT

Introduction

- 5390.1 Sustainability assurance practitioners are required to comply with the fundamental principles and apply the conceptual framework set out in Section 5120 to identify, evaluate and address threats.
- 5390.2 A sustainability assurance practitioner might use the work of an external expert in the performance of a professional service. Using the work of such an external expert might create threats to compliance with the fundamental principles, particularly the principles of integrity, objectivity and professional competence and due care.
- 5390.3 This section sets out requirements and application material relevant to applying the conceptual framework in relation to using the work of an external expert.

Requirements and Application Material

General

- 5390.4 A1 A self-interest threat to compliance with the principles of integrity and professional competence and due care is created if a sustainability assurance practitioner performs a professional service for which the practitioner has insufficient expertise.
- 5390.4 A2 An action that might be a safeguard to address such a threat is to use the work of an external expert for the professional service who has the competence, capabilities and objectivity to deliver the work needed for such service.
- 5390.4 A3 An external expert might be used to undertake specific work to support a professional service provided by a sustainability assurance practitioner. Such work can be in a field that is well-established or emerging. Examples of such work include:
- The valuation of assets such as complex financial instruments, land and buildings, plant and machinery, jewelry, works of art, antiques, intangible assets, assets acquired in business combinations, and assets that may have been impaired.
 - The valuation of liabilities such as those assumed in business combinations, those from actual or threatened litigation, environmental liabilities, site clean-up liabilities, and those associated with insurance contracts or employee benefit plans.
 - The calculation of greenhouse gas emissions.
 - The measurement of pollutants emitted to air, water and soil

- The assessment of forward-looking information about the decarbonization plans of an entity.
- The assessment of the application of offsetting mechanisms for an entity, such as for carbon or biodiversity.
- The valuation of products and materials designed along principles for a sustainable economy.
- The estimation of oil and gas reserves.
- The interpretation of contracts, laws and regulations, including tax and labor laws and regulations, ~~tax treaties and bilateral agreements.~~
- The Assessment and evaluation of IT systems, including those related to cybersecurity.
- The accounting for specific matters such as financial instruments or carbon credits.
- [Consideration of the range of accounting tools used in ecolabels covering supply chains.]
- [Assessment or measurement of impacts of activities, products or services on the environment, economy and social or cultural conditions.]

5390.4 A4 This section does not apply to:

- (a) The use of the work of an expert employed or engaged by the sustainability assurance client to assist the client in preparing the financial or non-financial information. Such work is deemed to be information provided by management; ~~and~~
- (b) The use of information provided by individuals or organizations that are external information sources for general use. They include, for example, those that provide industry or other benchmarking data or studies, such as information about employment statistics including hours worked and compensation per week by geographical area, real estate prices, carbon emissions by vehicle type, mortality tables, or other datasets for general use.; and
- ~~(c) The use of the work of individuals or organizations that are engaged by the sustainability assurance practitioner and are under the practitioner's direction, supervision and review, for example, subcontractors.~~

Agreeing the Terms of Engagement with an External Expert

All Professional Services

R5390.5 If the sustainability assurance practitioner has identified an external expert to use for a professional service, the practitioner shall, to the extent not otherwise addressed by law, regulation or other professional standards, agree the terms of engagement with the external expert, including:

- (a) The nature, scope and objectives of the work to be performed by the external expert; and
- (b) In the context of sustainability or other assurance engagements; ~~;~~

(i) The provision of information needed from the external expert for purposes of assisting the practitioner's evaluation of the external expert's competence, capabilities and objectivity; and

(ii) A commitment from the external expert to communicate any changes to the information provided during the period covered by the assurance report and the engagement period.

5390.5 A1 In agreeing the terms of engagement, matters that the sustainability assurance practitioner might discuss with the external expert include:

- The intended use and timing of the external expert's work.
- The external expert's general approach to the work.
- Expectations regarding confidentiality of the external expert's work and the inputs to that work.
- The expected content and format of the external expert's completed work, including any assumptions made and limitations to that work.
- The expected fees for the external expert's work.
- Expectations regarding the external expert's communication of any non-compliance or suspected non-compliance with laws and regulations committed by the sustainability assurance client, or those working for or under the direction of the client, of which the external expert becomes aware when performing the work.

Evaluating the External Expert's Competence, Capabilities, and Objectivity

All Professional Services

R5390.6 The sustainability assurance practitioner shall, to the extent not otherwise addressed by other professional standards, evaluate whether the external expert has the necessary competence, capabilities and objectivity for the practitioner's purpose.

5390.6 A1 Competence relates to the nature and level of expertise of the external expert. Capabilities relates to the ability of the external expert to exercise that competence in the circumstances of the professional service. Objectivity relates to the possible effects that bias, conflict of interest, or the undue influence of, or undue reliance on, others might have on the professional or business judgment of the external expert.

5390.6 A2 A self-interest, ~~self-review~~ or advocacy threat to compliance with the principles of integrity, objectivity and professional competence and due care might be created if a sustainability assurance practitioner uses an external expert who does not have the necessary competence, capabilities or objectivity to deliver the work needed for the particular professional service.

5390.6 A3 Evaluating whether an external expert has the necessary competence, capabilities and objectivity for the sustainability assurance practitioner's purpose involves exercising professional judgment and using the reasonable and informed third party test.

5390.6 A42 Factors that are relevant in evaluating whether the ~~competence of the~~ external expert has the necessary competence include:

- Whether the external expert's credentials, education, training, experience and reputation are relevant to, or consistent with, the nature of the work to be performed.
- Whether the external expert belongs to a relevant professional body or is subject to oversight by a regulatory body or other authority, and, if so, whether the external expert is in good standing.
- Whether any disciplinary actions have been published by a regulatory body or other authority relating to the external expert's competence.
- Whether the external expert's work is subject to professional standards issued by a recognized body, or follows generally accepted principles or practices, or adheres to legal and regulatory requirements in the external expert's field or area of expertise.
- Whether the external expert can explain their work, including the inputs, assumptions and methodologies used.
- Whether the external expert has a history of performing similar work ~~for the sustainability assurance practitioner's firm or other clients.~~

5390.6 A~~53~~ Factors that are relevant in evaluating whether the ~~capabilities of the~~ external expert has the necessary capabilities include:

- The resources available to the external expert.
- Whether the external expert has sufficient time to perform the work.

5390.6 A~~64~~ Factors that are relevant in ~~evaluating identifying self-interest or familiarity threats to~~ the objectivity of the external expert for the period during which the external expert is performing the work include:

- ~~Whether the external expert is subject to ethics standards issued by a body responsible for issuing such standards in the external expert's field of expertise.~~
- Whether the external expert or their employing organization has an actual or potential conflict of interest in relation to the work the external expert is performing at the entity.
- Whether the sustainability assurance practitioner ~~knows or~~ is aware of any potential bias that might affect the external expert's work.
- ~~Whether the external expert is charging a contingent fee, and if so, the basis for such fee.~~
- ~~Whether the external expert will evaluate or rely on any previous judgments made or activities performed by the external expert or their employing organization in undertaking the work.~~

5390.6 A7 The external expert's employing organization is the entity that directly employs the expert, regardless of the legal form of the employment, and does not extend to other entities that might control, or are otherwise related to, the employing organization.

5390.6 A8 Factors that are relevant in evaluating the level of such threats to the external expert's objectivity include:

- The existence of conditions, policies and procedures established by the external expert's

profession, legislation, regulation, or the external expert's organization, including whether the external expert is subject to ethics standards issued by a body responsible for issuing such standards in the external expert's field of expertise.

- The nature and scope of the external expert's work.
- The existence and adequacy of any quality management system employed by the external expert.

5390.6 A9 Examples of actions that might be safeguards to address threats to an external expert's objectivity include:

- Consulting with qualified personnel who have the necessary expertise to evaluate the external expert's work for the intended purpose.
- Requesting the external expert to take steps to address a conflict of interest, for example, implementing measures such as ethical walls to segregate the work from such conflict of interest.

~~5390.6 A5 Examples of previous judgments made or activities performed by an external expert or their employing organization that might create a self-review threat to the external expert's objectivity include:~~

- ~~• Having advised the entity on the matter for which the external expert is performing the work.~~
- ~~• Having produced data or other information for the entity which is then used by the external expert in performing the work or is the subject of that work.~~

5390.6 A¹⁰⁶ Information about the external expert's competence, capabilities and objectivity might be obtained from various sources, including:

- Personal association or experience with previous work undertaken by the external expert.
- Inquiry of others within or outside the sustainability assurance practitioner's firm who are familiar with the external expert's work.
- Discussion with the external expert about their background, including their field of expertise and business activities.
- Inquiry of the external expert's professional body or industry association.
- Articles, papers or books written by the external expert and published by a recognized publisher or in a recognized journal or other medium.
- Published records, such as legal proceedings involving the external expert.
- Inquiry of the sustainability assurance client and, if different, the entity at which the external expert is performing the work regarding any interests and relationships between the external expert and the client or the entity.
- The system of quality management of the sustainability assurance practitioner's firm.

Sustainability or Other Assurance Engagements

5390.7 A1 Stakeholders have heightened expectations regarding the objectivity of an external expert whose work is used in a sustainability or other assurance engagement. Therefore, paragraphs R5390.8 to R5390.11 set out further actions in evaluating the objectivity of an external expert in a sustainability or other assurance engagement pursuant to paragraph R5390.6.

R5390.8 The sustainability assurance practitioner shall request the external expert to provide, to the best of their knowledge, in relation to the entity at which the external expert is performing the work ~~and with respect to the period covered by the assurance report and the engagement period~~, information about:

~~(a)(f)~~ Any previous or current engagements between the external expert or their employing organization and the entity;

~~(b)(g)~~ How long ~~The length of the relationship of~~ the external expert and their employing organization ~~have been associated~~ with the entity;

~~(c)(j)~~ Any fee or contingent fee or dependency on fees or other types of remuneration due to or recently received by the external expert or their employing organization from the entity;

~~(d)(k)~~ Any gifts or other benefits received by the external expert, their immediate family or the external expert's employing organization from the entity other than those that are trivial and inconsequential;

~~(e)~~ Any actual or potential litigation between the external expert or their employing organization and the entity;

~~(f)~~ Any position currently or recently held by the external expert as a director, officer or employee in the entity;

~~(g)(h)~~ Any position currently held by the external expert's immediate family or by management of the external expert's employing organization as a director or officer of the entity, or an employee in a position to exert significant influence over the preparation of the entity's financial or non-financial information on which the sustainability assurance practitioner will express an opinion or conclusion, or the records underlying such information.;

~~(i)~~ Held by the external expert or their immediate family;

~~(ii)~~ Held or previously held by the external expert; or

~~(iii)~~ Held or previously held by management of the external expert's employing organization;

~~(h)(i)~~ Any previous public statements by the external expert or their employing organization which advocated for the entity;

~~(i)(m)~~ The nature and extent of any interests and relationships between the controlling owners, if any, of the external expert's employing organization and the entity; and

~~(j)(t)~~ Any actual or potential conflict of interest the external expert or their employing organization might have in relation to the work the external expert is performing at the entity; and

with respect to the period covered by the assurance report and the engagement period;

- (k)(a)** Any direct financial interest or material indirect financial interest held by the external expert, their immediate family, or the external expert's employing organization in the entity;
- (l)(b)** Any loan, or guarantee of a loan, made to the entity by the external expert, their immediate family, or the external expert's employing organization, other than where the loan or guarantee is immaterial to the external expert, their immediate family or the external expert's employing organization, as applicable, and the entity;
- (m)** ~~(c)~~ Any loan, or a guarantee of a loan, accepted by the external expert, their immediate family, or the external expert's employing organization from the entity if it is a bank or similar institution, other than where the loan or guarantee is made under normal lending procedures, terms and conditions;
- (n)** ~~(d)~~ Any loan, or a guarantee of a loan, accepted by the external expert, their immediate family, or the external expert's employing organization from the entity if it is not a bank or similar institution, other than where the loan or guarantee is immaterial to the external expert, their immediate family or the external expert's employing organization, as applicable, and the entity; and
- (o)(e)** Any close business relationship between the external expert, their immediate family, or the external expert's employing organization and the entity or its management, other than where the financial interest, if any, is immaterial and the business relationship is insignificant to the external expert, their immediate family or the external expert's employing organization, as applicable, and the entity or its management.;

R5390.9 Where the external expert uses a team to carry out the work, the sustainability assurance practitioner shall request the external expert to have all members of the external expert's team provide the information set out in paragraph R5390.8, in relation to the entity at which the external expert is performing the work ~~and with respect to the period covered by the assurance report and the engagement period.~~

R5390.10 The sustainability assurance practitioner shall ~~request the external expert to communicate~~ evaluate any changes in facts or circumstances communicated by the external expert regarding the matters set out in paragraph R5390.8 that might arise during the period covered by the assurance report and the engagement period.

R5390.11 Where the sustainability assurance client is not the entity at which the external expert is performing the work, the sustainability assurance practitioner shall also request the external expert to disclose, in relation to the period covered by the assurance report and the engagement period, information about interests, relationships or circumstances of which they are aware between the external expert, their immediate family or the external expert's employing organization and the client.

5390.11 A1 Examples of interests, relationships or circumstances between the external expert and the sustainability assurance client that might be included in the evaluation of the external expert's objectivity include:

- Any direct financial interest or material indirect financial interest in the sustainability assurance client held by the external expert, their immediate family, or the external expert's employing organization.

- Any interests or relationships of the external expert, their immediate family or the external expert's employing organization with the sustainability assurance client and those entities over which it has direct or indirect control.
- Any conflicts of interest the external expert, their immediate family or the external expert's employing organization might have with the sustainability assurance client.

5390.11 A2 Information about interests, relationships or circumstances between ~~an~~the external expert or their employing organization and the sustainability assurance client might be obtained from inquiry of the client, if the circumstances of the engagement permit disclosure of the use of the external expert to the client.

5390.12 A1 Self-interest, familiarity or intimidation threats to the external expert's objectivity might be created by the interests, relationships or circumstances disclosed pursuant to paragraphs R5390.8 to R5390.11 as applicable.

5390.12 A2 Factors that are relevant in evaluating the level of such threats to the external expert's objectivity include, in addition to those set out in paragraph 5390.6 A8:

- The role of the individual within the external expert's team.
- The length of time since the external expert left the entity as a director, officer or employee of the entity.
- The significance of any fees due to or received by the external expert or their employing organization from the entity.
- The nature and value of the gifts or other benefits to the external expert, their immediate family or the external expert's employing organization.
- The materiality or significance of the litigation and whether the litigation relates to prior work performed by the external expert at the entity.
- The position in the entity held by the external expert's immediate family or the management of the external expert's employing organization.
- The nature of any advocacy for the entity if the external expert or their employing organization made any previous public statement advocating for the entity.
- Whether the financial interest is direct or indirect, and the materiality of such financial interest to the external expert, their immediate family, or the external expert's employing organization, as applicable.
- Whether the financial interest allows the external expert, their immediate family, or the external expert's employing organization, as applicable, to control or significantly influence the entity at which the external expert is performing the work.
- The materiality or significance of the close business relationship to the external expert, their immediate family or the external expert's employing organization, as applicable, and the entity or its management.

5390.12 A3 Examples of actions that might eliminate the threats to the external expert's objectivity include requesting the external expert to:

- End the close business relationship.

- Remove the individual concerned from the external expert's team.
- Decline the gifts or other benefits received from the entity.

5390.12 A4 Examples of actions that might be safeguards to address the threats to the external expert's objectivity include, in addition those set out in paragraph 5390.6 A8, requesting the external expert to:

- Dispose of enough of the financial interest so that the remaining interest is no longer material.
- Reduce the significance of the close business relationship.
- Structure the responsibilities of the individual concerned so that they do not deal with matters that are within the responsibility of the immediate family member who is serving as a director or officer of the entity, or an employee in a position to exert significant influence over the preparation of the entity's financial or non-financial information on which the sustainability assurance practitioner will express an opinion or conclusion, or the records underlying such information.
- Returning the gifts or other benefits to the entity as soon as possible after they were accepted.

Concluding on the External Expert's Competence, Capabilities and Objectivity

All Professional Services

R5390.132 If the sustainability assurance practitioner shall not use the work of the external expert if:

- (a) The practitioner is unable to determine whether the external expert obtain the information needed for the practitioner's evaluation of the external expert's has the necessary competence or, capabilities, and or is objective; or
- (b) The practitioner determines that the external expert is does not have the necessary competence or, capabilities for the practitioner's purpose; or objective.
- (c) Determines that there are threats to the external expert's objectivity that cannot be eliminated or reduced to an acceptable level.

the practitioner shall not conclude that the external expert is competent, capable or objective. In such circumstances, the practitioner shall not use the work of the external expert.

5390.13 A1 If the sustainability assurance practitioner uses the work of such external expert, this creates threats to the practitioner's compliance with the principles of integrity, objectivity and professional competence and due care that cannot be eliminated or reduced to an acceptable level by the application of safeguards.

5390.13 A2 Applicable professional standards might address:

- (a) That the competence, capabilities and objectivity of an external expert are factors that significantly affect whether the work of the external expert will be adequate for the sustainability assurance practitioner's purposes; and
- (b) The implications for the engagement if the practitioner determines that such work is not adequate.

R5390.14 The sustainability assurance practitioner shall re-evaluate whether the external expert has the necessary competence, capabilities and objectivity for the practitioner's purpose when new information or changes in facts and circumstances arise.

Potential Threats Arising from Using the Work of an External Expert

All Professional Services

5390.1513 A1 Threats to compliance with the fundamental principles might still be created from using the work of an external expert even if a sustainability assurance practitioner has satisfactorily concluded that the external expert has the necessary competence, capabilities and objectivity for the practitioner's purpose.

Identifying Threats

5390.1614 A1 Examples of facts and circumstances that might create threats to a sustainability assurance practitioner's compliance with the fundamental principles when using an external expert's work include:

(a) Self-interest threats

- A sustainability assurance practitioner has insufficient expertise to understand and explain the external expert's conclusions and findings.
- A sustainability assurance practitioner has undue influence from, or undue reliance on, the external expert or multiple external experts when performing a professional service.
- A sustainability assurance practitioner has insufficient time or resources to evaluate the external expert's work.

(b) Self-review threats

- A sustainability assurance practitioner uses the work of an external expert who relies on previous judgments made by the practitioner and provided to the external expert for the purposes of their work.

(cb) Advocacy threats

- A sustainability assurance practitioner promotes the use of an external expert who has known bias towards conclusions potentially advantaging or disadvantaging the sustainability assurance client.

(de) Familiarity threats

- A sustainability assurance practitioner has a close personal relationship with the external expert.

(ed) Intimidation threats

- A sustainability assurance practitioner feels pressure to defer to the external expert's opinion due to the external expert's perceived authority.

Evaluating Threats

5390.1715 A1 Factors that are relevant in evaluating the level of such threats include:

- The scope and purpose of the external expert's work.
- The impact of the external expert's work on the sustainability assurance practitioner's engagement.
- The nature of the professional service for which the external expert's work is intended to be used.
- The sustainability assurance practitioner's oversight relating to the use of the external expert and the external expert's work.
- The appropriateness of, and transparency over, the data, assumptions and other inputs and methods used by the external expert.
- The sustainability assurance practitioner's ability to understand and explain the external expert's work and its appropriateness for the intended purpose.
- Whether the external expert's work is subject to technical performance standards or other professional or industry generally accepted practices, or law or regulation.
- Whether the external expert's work, if it were to be performed by two or more parties, is not likely to be materially different.
- The consistency of the external expert's work, including the external expert's conclusions or findings, with other information.
- The availability of other evidence, including peer-reviewed academic research, to support the external expert's approach.
- Whether there is pressure being exerted by the sustainability assurance practitioner's firm to accept the external expert's conclusions or findings due to the time or cost spent by the external expert in performing the work.

Addressing Threats

5390.1816 A1 An example of an action that might eliminate a familiarity threat is identifying a different external expert to use.

5390.1816 A2 Examples of actions that might be safeguards to address threats include:

- Consulting with qualified personnel who have the necessary expertise and experience to evaluate the external expert's work, obtaining additional input, or challenging the appropriateness of the external expert's work for the intended purpose.
- Using another external expert to reperform the external expert's work.
- Agreeing with the sustainability assurance client additional time or resources to complete the engagement.

Other Matters

External Experts in Emerging Fields or Areas

5390.1917 A1 Expertise in emerging fields or areas might evolve depending on how laws, regulations and generally accepted practices develop. Emerging fields might also involve multiple areas of expertise. There might therefore be limited availability of external experts in emerging fields or areas.

5390.1917 A2 Information relating to some of the factors relevant to evaluating the competence of an external expert in paragraph 5390.6 A2 might not be available in an emerging field or area. For example, there might not be public recognition of the external expert, professional standards might not have been developed, or professional bodies might not have been established in the emerging field. In such circumstances, a factor that might assist the sustainability assurance practitioner in evaluating an external expert's competence is the external expert's experience in a similar field to the emerging field, or in an established field, that provides a reasonable basis for the external expert's work in the emerging field.

Using the Work of Multiple External Experts

R5390.2018 When a sustainability assurance practitioner uses the work of more than one external expert in the performance of a professional service, the practitioner shall consider whether, ~~in addition to the threats that might be created by using each external expert individually~~, the combined effect of using the work of the multiple external experts might create additional threats or impact the level of threats.

5390.20 A1 For example, while a sustainability assurance practitioner might have determined that there is a need to use more than one external expert for a professional service, using multiple external experts might create an additional self-interest to the practitioner's compliance with the principles of integrity, objectivity and professional competence and due care when the work performed by such external experts as a whole becomes an unduly large or dominant proportion of the professional service.

Inherent Limitations in Evaluating an External Expert's Competence, Capabilities or Objectivity

5390.2119 A1 Paragraph R5113.3 sets out communication responsibilities for the sustainability assurance practitioner with respect to limitations inherent in the practitioner's professional services. When using the work of an external expert, such communication might be especially relevant when there is a lack of information to evaluate the external expert's competence, capabilities or objectivity, and there is no available alternative to that external expert.

Communicating with Management and Those Charged with Governance When Using the Work of an External Expert

5390.220 A1 The sustainability assurance practitioner is encouraged to communicate with management, and where appropriate, those charged with governance:

- The purpose of using an external expert and the scope of the external expert's work.
- The respective roles and responsibilities of the ~~sustainability assurance~~ practitioner and the external expert in the performance of the professional service.

- Any threats to the practitioner's compliance with the fundamental principles created by using the external expert's work and how they have been addressed.

Documentation

5390.2324 A1 The sustainability assurance practitioner is encouraged to document:

- The results of any significant discussions with the external expert.
- The steps taken by the practitioner to evaluate the external expert's competence, capabilities and objectivity, and the resulting conclusions.
- Any significant threats identified by the practitioner in using the external expert's work and the actions taken to address the threats.