

AGENDA PAPER

Item Number: 9
Date of Meeting: 10 March 2022
Subject: Project update on Non-Assurance Services

Action required For discussion For noting For information

Purpose

To provide an update to the Board on Technical Staff's work in relation to the Non-Assurance Services (NAS) provisions in the Code.

Background

On 28 April 2021, the International Ethics Standards Board for Accountants (the IESBA) issued a final pronouncement: [Revisions to the Non-Assurance Services Provisions of the Code](#) (the IESBA NAS revisions) with changes to the *International Code of Ethics for Professional Accountants (including International Independence Standards)* (the IESBA Code) effective from 15 December 2022.

At the [March 2021 Board meeting](#), the Board considered a preliminary draft exposure draft to amend APES 110 *Code of Ethics for Professional Accountants (including Independence Standards)* (APES 110) to incorporate the IESBA NAS revisions. The [Board requested](#) Technical Staff to undertake stakeholder engagement to understand the concerns and implications of the proposals, including consideration of the recommendations of the Parliamentary Joint Committee on Corporations and Financial Services Inquiry into the Regulation of Auditing in Australia (PJC Inquiry).

At the June 2021 Board Meeting, Mr Robert Buchanan, the New Zealand Auditing and Assurance Standards Board (NZAuASB) Chair, and Ms Misha Pieters, the XRB Interim Director for Auditing and Assurance Standards, provided an update on NZ's project on NAS. The update included the NZAuASB's intention to adopt the IESBA NAS revisions but to seek to strengthen it by prohibiting tax advisory and tax planning services and additional guidance about independence and what is considered audit-related services.

At June 2021 Board Meeting, the Board also considered APESB's [proposed exposure draft](#) on revisions to APES 110's NAS provisions to incorporate the IESBA NAS revisions and other amendments to address recommendations from the PJC Inquiry and matters raised by Australian regulators. Key proposals included prohibiting tax advisory and tax planning services if it creates an advocacy threat and changing references from 'likely to prevail' to

'highly likely to prevail'. The [Board requested](#) Technical Staff to undertake further consideration of the proposed NAS provisions.

Technical Staff provided an update at the September 2021 Board meeting ([Agenda Item 10](#)), including a high-level benchmarking analysis of NAS provisions in New Zealand, the UK and the USA and a proposed stakeholder survey on auditor independence and NAS provided to Public Interest Entities (PIEs). The Board supported Technical Staff conducting a survey and presenting the results at a future Board meeting.

Matters for Consideration

APESB Technical Staff have continued to gather information and evidence concerning NAS and the focus areas since the September 2021 Board Meeting are outlined below.

1. Non-Assurance Services Survey

In late October 2021, APESB released a survey to obtain feedback on whether the provision of NAS impacts the perception of an auditor's independence. The survey questions were provided to the Board at the November 2021 Board meeting ([Agenda Item 4\(b\)](#)). The survey was open until 17 December 2021.

Agenda Item 9(a) summarises the responses to the APESB NAS survey and Agenda Item 9(c) includes all responses to Question 3 in the APESB NAS Survey. APESB received forty-eight responses to the survey from stakeholders in various roles/occupations, as noted in response to Question 1.

Questions 4 and 5 of the survey asked respondents to rate the effect of NAS on the trust in the financial statements and on advocacy threats, respectively. The following tables include extracts of responses to Questions 4 and 5 specific to tax advisory and tax planning services for all responses, auditors from the Big Six, and SMP and mid-tier auditors.

Responses to Q4 indicating that tax advisory and tax planning services have a low, moderate or high negative effect on trust in financial statements					
Respondents	Number	High	Moderate	Low	Total
All responses	48	31.25%	18.75%	10.42%	60.42%
Auditors Big Six	11	0.00%	18.18%	9.09%	27.27%
Auditors (SMP and mid-tier)	9	55.56%	33.33%	11.11%	100.00%

Responses Q5 indicating that tax advisory and tax planning services have a low, moderate or high negative effect on advocacy threats					
Respondents	Number	High	Moderate	Low	Total
All responses	48	27.08%	22.92%	12.50%	62.50%
Auditors Big Six	11	0.00%	9.09%	27.27%	36.36%
Auditors (SMP and mid-tier)	9	55.56%	33.33%	11.11%	100.00%

To generate additional responses, Technical Staff also conducted a separate sponsored survey, using the same survey questions, but was subject to specific parameters that respondents be from Australia and be in general management or above, including CEOs, COOs, CFOs or those charged with governance.

Agenda Item 9(c) summarises the responses to the sponsored NAS survey. APESB received 254 responses to the sponsored survey from people from a range of roles/occupations, as noted in response to Question 1. The following tables include extracts of responses to Questions 4 and 5 of the sponsored survey specific to tax advisory and tax planning services for all responses compared to investors/shareholders.

Q4 responses indicating that tax advisory and tax planning services have a low, moderate or high negative effect on trust in financial statements					
Respondents	Number	High	Moderate	Low	Total
All responses	254	4.33%	12.20%	13.39%	29.92%
Investors / Shareholders	13	7.69%	23.08%	23.08%	53.85%

Q5 responses indicating that tax advisory and tax planning services have a low, moderate or high negative effect on advocacy threats					
Respondents	Number	High	Moderate	Low	Total
All responses	254	5.91%	9.45%	16.14%	31.50%
Investors / Shareholders	13	0.00%	7.69%	30.77%	38.46%

The surveys provide some valuable insights on the perception of stakeholders on the impact of the auditor providing NAS. However, the survey results on their own are not conclusive.

2. Regulators Update

The Australian Taxation Office (ATO) presented at the private session of the November 2021 Board meeting, highlighting their observations and concerns relating to providing tax services to large audit clients. In addition, the ATO recently made a confidential written submission to the APESB articulating the ATO's observations and concerns concerning the new tax provisions in Subsection 604 of the IESBA Code.

Technical Staff have continued to engage with the Australian Securities and Investments Commission (ASIC) in relation to NAS provisions since the September 2021 Board meeting. As a result, ASIC will provide an update in the private session of the March 2022 Board meeting.

3. New Zealand update and collaboration with NZAuASB Technical Staff

In July 2021, the NZAuASB issued [ED 2021/4 Proposed Amendments to Professional and Ethical Standard 1: Non-Assurance Services](#) and sought comments by 31 October 2021. The exposure draft includes the IESBA NAS provisions but with additional proposed amendments, including prohibiting tax planning and tax advisory services to PIE audit clients.

At the December 2021 NZAuASB meeting, the Board held initial discussions on the submissions received on ED 2021/4, which highlighted strongly opposing views. The NZ Auditor-General would like to see the standards go further and the Financial Markets Authority New Zealand supported the proposals. However, CA ANZ and the majority of the firms' submissions opposed moving as far as a prohibition on tax advisory and tax planning services.

NZAuASB are considering these issues carefully to identify a way forward, and options will be discussed at the NZAuASB meeting in April 2022.

APESB Technical Staff have been collaborating with NZAuASB Technical Staff in 2022 to adopt the revised NAS provisions in our respective jurisdictions, particularly relating to the new tax provisions in Subsection 604 of the IESBA Code.

APESB and NZAuASB Technical Staff have requested a meeting with IESBA Technical Staff in March 2022 to understand better the operation of Subsection 604 of the IESBA Code.

Technical Staff will update the Board at the June 2022 meeting about IESBA Technical Staff's response and ongoing collaboration with NZAuASB Technical Staff.

4. PJC Inquiry into the Regulation of Auditing in Australia

The final report from the PJC Inquiry was issued in November 2020. Recommendations relevant to NAS provisions were discussed at the March and June 2021 Board meetings. PJC recommendation three addresses developing a list of prohibited services for auditors in Australia. Technical Staff will continue to liaise with the FRC and ASIC, who have ultimately been tasked with overseeing the recommendation on prohibited services. The Federal Government is yet to respond to the PJC Inquiry's final report recommendations.

5. Impact on Small to Medium Practices (SMPs)

At this stage, there are no changes proposed to the NAS provisions in APES 110 and, therefore, no impact on SMPs. Further, any proposed changes to APES 110 are likely to relate to PIE audit clients who are more likely to clients of larger firms. However, Technical Staff will continue to monitor proposed changes and consider their impact in future deliberations related to the NAS provisions in APES 110.

Recommendations

The Board note the update on the progress of APESB's NAS project.

Materials presented

Agenda Item 9(a)	Summary Analysis of APESB's NAS Survey
Agenda Item 9(b)	All responses to Question 3 of NAS Survey
Agenda Item 9(c)	Summary Analysis of APESB's Sponsored NAS Survey

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Date	2 March 2022
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