May 20, 2020

Mr. Ken Siong
Senior Technical Director
International Ethics Standards Board for Accountants
529 Fifth Avenue
New York, NY 10017

Submitted via: Submit a Comment link at ethicsboard.org

Re: IESBA Exposure Draft – *Proposed Revisions to the Non-Assurance Services Provisions of the Code*

Dear Mr. Siong:

The New York State Society of Certified Public Accountants (NYSSCPA), representing more than 23,000 CPAs in public practice, industry, government and education, welcomes the opportunity to comment on the above-captioned exposure.

The NYSSCPA's Professional Ethics Committee deliberated the exposure draft and prepared the attached comments. If you would like additional discussion with us, please contact Jo Ann Golden, Chair of the Professional Ethics Committee, at (212) 719-8300, or Ernest J. Markezin, NYSSCPA staff, at (212) 719-8303.

Sincerely,

Ita M. Rahilly
President

Attachment

NEW YORK STATE SOCIETY OF

CERTIFIED PUBLIC ACCOUNTANTS

COMMENTS ON

IESBA EXPOSURE DRAFT – *PROPOSED REVISIONS TO THE NON-ASSURANCE SERVICES PROVISIONS OF THE CODE*

May 20, 2020

<u>Principal Drafters</u>

Steven J. Leifer
Victoria L. Pitkin

NYSSCPA 2019–2020 Professional Ethics Committee

Jo Ann Golden, *Chair*
Victoria L. Pitkin, *Vice Chair*
Eric H. Altstadter
Susan M. Barossi
Nicole A. Booth
Gary E. Carpenter
David C. Daly
Peter J. DelVecchia
Kelly Kennedy-Ryu
Steven J. Leifer
Elliot A. Lesser
Andrew M. Mintzer
Brian K. Pearson
Paul M. Ribaudo
Michael Rudegeair
Robert E. Sohr

NYSSCPA Staff

Ernest J. Markezin

New York State Society of Certified Public Accountants

Comments on

IESBA Exposure Draft – ***Proposed Revisions to the Non-Assurance Services Provisions of the Code***

The New York State Society of Certified Public Accountants (NYSSCPA) appreciates the opportunity to provide comments on the *Proposed Revisions to the Non-Assurance Services Provisions of the Code* of the International Ethics Standards Board for Accountants (IESBA). We generally support IESBA's proposed revisions which seek to modify and tighten the requirements for independence when non-assurance services (NAS) are provided to an audit client.

We noticed the repeated reliance on the use of persons other than the audit team as a safeguard to reduce the independence threat created by the performance of NAS to an acceptable level. The ability of a firm to enact effective separation in this way will be highly dependent on the size of the firm. For example, a multi-office firm is more likely to be able to adequately separate the performance of NAS from assurance services by utilizing staff from other offices. However, in a single-office firm, where there are not clear distinctions between those who perform assurance services and those who perform NAS, we believe effectively implementing this safeguard will be more difficult.

With respect to the performance of tax advisory services, the proposal provides that a self-review threat is not created when the tax advice is (a) supported by a tax authority or precedent; (b) based on established practice; or (c) based in law that is likely to prevail. We believe tax advisory services are often more ambiguous than the proposal would suggest. The phrase "based in law that is likely to prevail" suggests a greater than 50% likelihood of success would be sufficient to negate a self-review threat to independence. We do not believe that this is a convincing threshold for a determination that the threat to independence is at an acceptable level and ask IESBA to provide more specific guidance with respect to this point.

R604.13 states "A firm ... shall not provide tax advisory services and tax planning services to an audit client when (a) the effectiveness of the tax advice depends on a particular accounting treatment or presentation in the financial statements; and (b) the audit team has doubt as to the appropriateness of the related accounting treatment under the relevant financial reporting framework." We strongly support the elimination of a materiality threshold on this requirement. Auditors should not support positions where the accounting treatment likely does not comply with the applicable financial reporting framework.

Finally, we strongly support the proposal to improve communication of NAS to those charged with governance. We believe, however, that when independence is involved, there should be little or no difference between the requirements related to such communication for public interest entity (PIE) and non-PIE clients. If the provision of an NAS is likely to present threats to independence that require the application of safeguards to reduce that threat to an acceptable level, we believe that threat should be communicated to those charged with governance of non-PIE clients in the same manner as is proposed to be required for PIE clients. This will help prevent a firm's tax department from unintentionally providing services to a client (PIE or non-PIE) that could impair the firm's independence with respect to the audit.