



Revamped Revised & Restructured IESBA Code

Annual Practical Ethics Forum

Nairobi October, 2019

Outline

- About the New IESBA Code
- Key Enhancements in New Code
 - Part 1: The Conceptual Framework
 - Part 2: PAIBs
 - Part 3: PAPPs
 - Parts 4A & 4B: International Independence Standards

About the new IESBA Code

- New design easier to navigate, use and enforce
 - i. Completely rewritten
 - ii. Requirements clearly distinguished from application material
 - iii. New user guide
 - iv. **Effective June 15, 2019**
- Renamed ***International Code of Ethics for Professional Accountants (including International Independence Standards)***

Implication –
EASE OF USE

Includes

- Packages all substantive advances in ethics and independence over last four years:
 - Significant enhancements to conceptual framework
 - Enhanced safeguards provisions better aligned to threats
 - NOCLAR
 - Strengthened Long Association provisions
 - Strengthened provisions regarding inducements
 - Strengthened provisions on preparing or presenting information
 - Applicability of relevant PAIB provisions to PAPPs clarified
 - New guidance professional judgment and professional skepticism

Overview of the Code

PART 1

Complying with the Code, Fundamental Principles
and Conceptual Framework

(Sections 100 to 199)

(All Professional Accountants)

PART 2

Professional Accountants
in Business (PAIBs)

(Sections 200 to 299)

*(Part 2 is also applicable to
individuals PAPPs when
performing professional
activities pursuant to their
relationship with the firm)*

PART 3

Professional Accountants
in Public Practice (PAPPs)

(Sections 300 to 399)

PARTS 4A & 4B

International Independence
Standards

(Sections
400 to 899)

Part 4A—Independence for Audits & Reviews

Part 4B—Independence for Assurance Engagements
Other than Audit & Review Engagements

(Sections
900 to 999)

GLOSSARY

(All Professional Accountants)

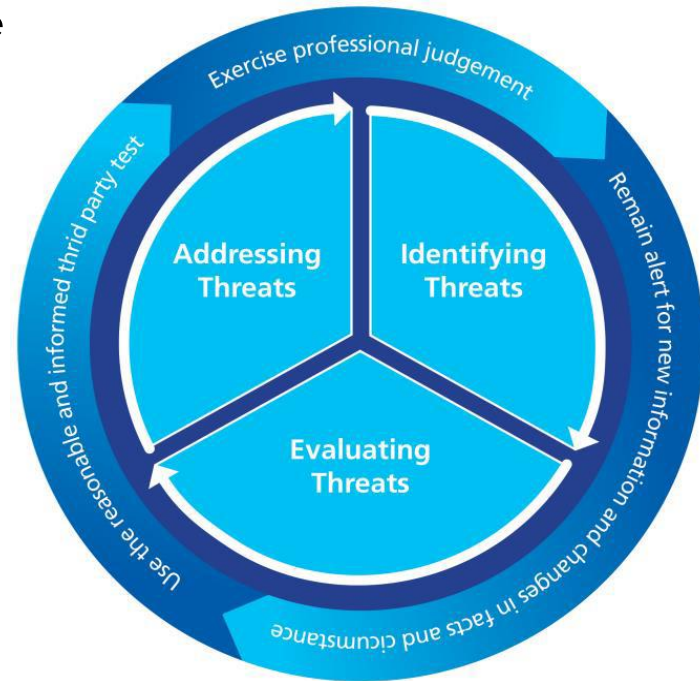
Fundamental Principles



- ***They remain five...***
 1. Which one is the most difficult to uphold in Kenya today?
 2. What should ICPAK do to help professional accountants live to the five principles?

Key enhancements to the conceptual framework

- Identified threats that are not at an acceptable level must be addressed in one of three ways:
 - Eliminate circumstances creating the threats;
 - Apply safeguards; or
 - Decline or end the specific professional activity/service
- Safeguards and other key concepts clarified
 - Safeguards now more aligned to identified threats
- Emphasis that if threats cannot be addressed, must decline or end specific professional activity
- New requirement to “step back” in forming overall conclusion



Part 2 – Professional Accountants in Business (PAIB)

- Section 200 Applying the Conceptual Framework - PAIB
 - Section 210 Conflicts of Interest
 - Section 220 Preparation and Presentation of Information [Revised]
 - Section 230 Acting with Sufficient Expertise
 - Section 240 Financial Interests, Compensation and Incentives Linked to Financial Reporting and Decision Making
 - Section 250 Inducements, Including Gifts and Hospitality [Revised]
 - Section 260 Responding to Non-compliance with Laws and Regulations (NOCLAR) [Emphasis]
 - Section 270 Pressure to Breach the Fundamental Principles [New]

Part 2 – Professional Accountants in Business (PAIB)

- *Revised Section 220 - Preparation and Presentation of Information*
- More comprehensive provisions addressing PAIBs' responsibilities in preparing or presenting information
- Prohibition on exercising discretion when preparing or presenting information with intent to mislead or inappropriately influence contractual or regulatory outcomes, e.g.:
 - Judgements and estimates (e.g. valuation impacting P/L)
 - Selecting accounting policies (e.g. benefiting bonus)
 - Structuring (e.g. revenue timing, off balance sheet)

Part 2 – Professional Accountants in Business (PAIB)

- Section 270 - *Pressure to Breach Fundamental Principles*
 - Prohibition on allowing pressure from others to result in a breach of fundamental principles
 - Prohibition on placing pressure on others that would lead them to breach fundamental principles
 - Guidance to assist in navigating situations involving pressure, including practical examples

Part 3 – Professional Accountants in Public Practice

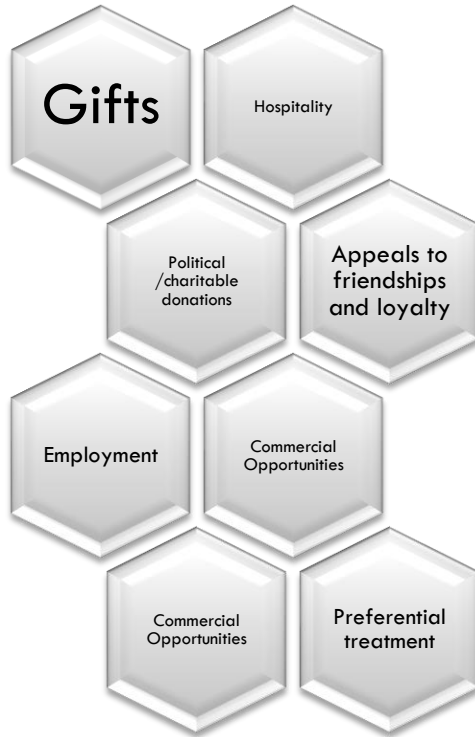
- Section 300 Applying the Conceptual Framework - PAPP
 - Section 310 Conflicts of Interest
 - Section 320 Professional Appointments
 - Section 321 Second Opinions
 - Section 330 Fees and Other Types of Remuneration
 - Section 340 Inducements, Including Gifts and Hospitality [Revised]
 - Section 350 Custody of Client Assets
 - Section 360 Responding to Non-compliance with Laws and Regulations [Emphasis]

Part 3 – Professional Accountants in Public Practice

Applicability of PAIB Provisions to PAPPs

- New requirement and clearer guidance for individual PAPPs that relevant PAIB provisions in Part 2 are applicable to them when they perform professional activities pursuant to their relationship with the firm as:
 - Contractors;
 - Employees; or
 - Owners of the firm

Section 250/340 - Inducements, Including Gifts and Hospitality



- Clarifies appropriate boundaries for **offering and accepting** of inducements
- Inducement can be illegal (e.g. bribery/corruption)
- Even if not illegal, prohibition on offering or accepting inducements with **intent to improperly influence behaviour** (even if trivial & inconsequential)
- If no improper intent, apply conceptual framework

Section 250/340 - Inducements, Including Gifts and Hospitality

■ How do we assess intent??

- i. Nature, frequency, value, cumulative effect? (e.g. frequent expensive meals, lavish birthday gifts)
- ii. Timing? (e.g. contract soon to be awarded)
- iii. Made for right reason? (e.g. wedding)
- iv. Ancillary to main business? (e.g. accepting lunch)
- v. No preferential treatment?
- vi. Roles and positions of offeror/offeree?
- vii. Made openly?
- viii. Given freely?

■ Does your organization have a clear gift policy? How does it work?

What is NOCLAR?

- NOCLAR is a response framework contained in the IESBA Code that:
 - Sets out a professional accountant's (PAs) responsibilities when encountering non-compliance/suspected non-compliance with laws and regulations
 - Guides (PAs) in deciding how best to act in the public interest
- PAs must understand how local laws/regulations differ from NOCLAR
- Proportionately applicable to all PAs
 - Auditors, Non-Auditors in Public Practice
 - Senior Professional Accountants In Business (PAIBs), Other PAIBs
- Over 6 years in development and became effective July 15, 2017

Why was NOCLAR developed?

- Created to address situations where a PA comes across known or suspected NOCLAR that has been (or is about to be) committed by client/employer
- PAs have an ethical responsibility not to turn a blind eye but are also bound by a duty of confidentiality under the CPA Code of Professional Conduct
- Duty of confidentiality has created a barrier for PAs promptly disclosing NOCLAR to regulators/enforcement authorities in the public interest
- NOCLAR sets aside the duty of confidentiality and provides a framework to PAs on how best to act in the public interest

What does NOCLAR cover?

- Laws and regulations that directly affect client's/employer's financial statements or affect its business in a material and fundamental way including:
 - Fraud, corruption and bribery
 - Money laundering, terrorist financing and proceeds of crime
 - Securities markets and trading
 - Banking and other financial products and services
 - Data protection
 - Tax and pension liabilities and payments
 - Environmental protection
 - Public health and safety

Section 260/360 - Responding to NOCLAR

- Major focus on **public interest** action by PAPPs or PAIBs.
- Do not turn blind eye.
- Scope of laws and regulations covered
- L&R with direct effect on material amounts/disclosures in the financial statements
- Other L&R that may be fundamental to entity's business E.g. L&R dealing with:
 - Fraud, Bribery and Corruption | Money Laundering | Terrorist Financing | Financial Products and Services | Taxation | Data Protection | Environmental Protection | Public Health and Safety

Section 260/360 - Responding to NOCLAR

Auditors Taking Action Using Professional Judgment

- Establish legal or regulatory obligations in your jurisdiction and comply with them
- Raise the matter with management/TCWG and assess appropriateness of response
- Determine whether to take further action
 - E.g. disclose to appropriate authority | withdrawal
- Framework guidance for exercising right to disclose
 - Depends on nature & extent of actual/potential harm to stakeholders; existence of appropriate authority; availability of legal protection; threats to physical safety of PA or others. Use professional judgment.

What are the objectives of the PA under NOCLAR?

- To comply with the fundamental principles of integrity and professional behaviour
- By alerting management or those charged with governance it enables them to:
 - Rectify, remediate or mitigate consequences of the non-compliance
 - Deter the commission of the non-compliance if not yet occurred
- Take such further action as appropriate in the public interest, including:
 - Disclosing the matter to an appropriate authority even if not required by law
 - Resigning from the employment relationship/engagement

Considerations for NOCLAR Implementation?

- Whistleblower protections under various provincial/federal legislation
- Impacts of NOCLAR on relationships between PAs and clients/employers/boards re: sharing of information, conflicts, training
- Legal liability/insurance exposure resulting from NOCLAR disclosures
- Increase in public expectations of PAs who are auditors
- Professional services moving to non-PAs to avoid NOCLAR disclosures
- Enforcement actions related to non-compliance with NOCLAR
- Unintended consequences – Senior PAIBs issues
- Calls to other professions, governments, academic institutions....

Part 4A IISs for Audit and Review Engagements

- 400 Applying the Conceptual Framework to Independence for Audit and Review Engagements
- 410 Fees
- 411 Compensation and Evaluation Policies
- 420 Gifts and Hospitality
- 430 Actual or Threatened Litigation
- 510 Financial Interests
- 511 Loans and Guarantees
- 520 Business Relationships
- 521 Family and Personal Relationships
- 522 Recent Service with an Audit Client
- 523 Serving as a Director or Officer of an Audit Client
- 524 Employment With an Audit Client
- 525 Temporary Personnel Assignments
- 540 Long Association of Personnel (Including Partner Rotation) with an Audit Client
- 600 Provision of Non-Assurance Services to an Audit Client
- 601 – Accounting and Bookkeeping Services
- 602 – Administrative Services
- 603 – Valuation Services
- 604 – Tax Services
- 605 – Internal Audit Services
- 606 – Information Technology Systems Services
- 607 – Litigation Support Services
- 608 – Legal Services
- 609 – Recruiting Services
- 610 – Corporate Finance Services
- 800 Reports on Special Purpose Financial Statements that Include a Restriction on Use and Distribution (Audit and Review Engagements)

Part 4b – IIs for assurance engagements other than audit and review engagements

- 900 Applying the Conceptual Framework to Independence for Assurance Engagements Other than Audit and Review Engagements
- 905 Fees
- 906 Gifts and Hospitality
- 907 Actual or Threatened Litigation
- 910 Financial Interests
- 911 Loans and Guarantees
- 920 Business Relationships
- 921 Family and Personal Relationships
- 922 Recent Service with an Assurance Client
- 923 Serving as a Director or Officer of an Assurance Client
- 924 Employment with an Assurance Client
- 940 Long Association of Personnel with an Assurance Client
- 950 Provision of Non-assurance Services to Assurance Clients Other than Audit and Review Engagement Clients
- 990 Reports that Include a Restriction on Use and Distribution (Assurance Engagements Other than Audit and Review Engagements)

Long Association Strengthened Requirements

1. 5 year cooling off for engagement partner;
2. Prohibition on acting as client relationship partner during cooling off;
3. 3 year cooling off for EQC reviewer;
4. Additional restrictions on permissible activities during cooling off;
5. Technical consultations during cooling off prohibited; and
6. Strengthened general provisions.

Long Association Other Matters

- “Jurisdictional provision” for engagement partner cooling off
 - Shorter cooling off period specified in local jurisdiction may be applied
 - Subject to floor of 3 years
 - Jurisdictional provision available for max of 5 years from effective date
- Effective from calendar 2019 audits
- IESBA Staff Q&As available
- Commitment to review provisions early 2021

Interactive Session



Key Takeaways...

1. Fundamental principles
2. Key changes – gift policy for each organization
3. Cascading role of professional accountants in supporting DCI (NOCLAR)
4. Resources available on IESBA's website (www.ethicsboard.org):

Thank you
for
listening!



*merci
beaucoup*



Presenter's Contacts:
CPA Cyprian Oluoch
Cyprian.o@bukas.co.ke
+254724665391