

21 October 2023

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Accounting Professional & Ethical Standards Board Limited  
Level 11, 99 William Street  
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Submitted online: <https://apesb.org.au/artificial-intelligence-and-digital-technology/>

Dear Channa,

***Re: Exposure Draft 05/23 Proposed Technology-related revisions to APES 110 Code of Ethics for Professional Accountants (including Independence Standards)***

Thank you for the opportunity to comment on Exposure Draft 05/23. Subject to the below comments, IPA generally supports the range of new rules relating to technology-related amendments to APES 110 to incorporate changes made by IESBA to the International Code of Ethics for Professional Accountants (including International Independence Standards). IPA also supports the proposed operative date of 1 January 2025 with early adoption permitted.

### **Frequency and scope of changes to the Code | Redesign the Code**

As previously raised with the APESB, IPA is concerned with the ongoing frequent and perpetual changes made to APES 110 (the Code). With each change, further rules-based requirements are added to the Code, which adds unnecessary complexity and dilutes its original principles-based design. The Code presently stands at 253 pages in volume (Compiled as at December 2022).

IPA encourages the APESB to work with IESBA with the view to redesigning the Code to restore it to a short principles-based document that is updated no more than once a year, and preferably less frequently than that. To assist in applying the Code's principles, the rules-based requirements reflecting modern accepted standards of practice should be relocated to separate standards to address themes or relevant areas of practice for accountants. Given the increased focus on the application of ethical standards by accountants globally, this is an opportune time for the APESB and IESBA to sharpen its focus and assist accounting bodies and the accounting profession to improve the clarity of the fundamental principles of the Code.

### **Covert changes to the fundamental principles of the Code**

IPA notes that a number of amendments proposed in ED05/23 are not technology-related revisions to the Code – instead, the amendments represent further covert changes to the fundamental principles. In recent times, the constant changes to the fundamental principles of the Code may have the unintended perception that the foundation of the Code of Ethics is deficient and not fit-for-purpose. This contrasts with other accounting frameworks that see much less frequent changes and are written based on considered and sound principles that are more enduring. The current IESBA-APESB approach of frequently changing

the Code is costly for all stakeholders to allocate resources to monitor developments, adjust systems for changes in requirements with different application dates and simply to understand the myriad of complex requirements. This is particularly problematic for SME practitioners, who often do not have the technical or financial resources to keep up with the changes. In recent times, IPA has had an increased focus on increasing awareness of the Code. Feedback from our Members indicates that they continue to be surprised with the perpetual changes made to the Code each year.

#### **Subsection 114 – Confidentiality: subparagraph R114.2(d)**

Subparagraph R114.2(d) proposes that “a Member shall not use or disclose information in respect of which the duty of confidentiality applies notwithstanding that that information has become publicly available, whether properly or improperly”. Although it is difficult to see how this relates to technology-related amendments to APES 110, IPA supports this amendment in the context of information that has become publicly available via improper disclosure. We are unclear as to why an improper disclosure of “information” would not be regarded as a breach of “confidential information”. We find it difficult to understand the logic of the distinction being made regarding “information” and “confidential information”.

In the context of information that has been properly disclosed to the public, common law may view that information as public information from the time of its disclosure. It is therefore difficult to understand how an accountant continues to have an ethical obligation to not disclose that information given it is in the public domain.

The proposed requirement seems at odds with the obligations relating to “confidential information”. ED05/23 introduces a new definition for “confidential information” being “any information, data or other material in whatever form or medium (including written, electronic, visual or oral) that is not publicly available”. It is unclear why obligations relating to “information” can relate to such information where it is properly disclosed in the public domain, whereas obligations relating to “confidential information” only relate to information not in the public domain.

IESBA’s Basic of Conclusions document (paragraphs 37 and 38) adds further confusion. Firstly, there is little distinction between “information” and “confidential information” once it has been publicly disclosed. Secondly, as written, paragraph R114.3 only applies to “confidential information” and not the “information” requirements in subparagraph R114.2(d) which seems at odds with the difference unexplained. We recommend that APESB carefully works through these provisions to assess if their application is fit for purpose and consistent with Australian law. The proposed amendments in subparagraph R114.2(d) appear rushed and not sufficiently considered.

If you have any queries with respect to our comments or require further information, please do not hesitate to contact Erik Hopp at [erik.hopp@publicaccountants.org.au](mailto:erik.hopp@publicaccountants.org.au) or on 03 8665 3144.

Yours sincerely

Vicki Stylianou  
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#### **About the IPA**

The IPA is one of the three professional accounting bodies in Australia with over 50,000 members and students in Australia and in over 100 countries. Approximately three-quarters of our members either work in or are advisers to the small business and SME sectors. In 2023, the IPA celebrates its centenary year and looks forward to contributing to the future prosperity of our members and the profession.