

## **Amendment to the Definition of Public Interest Entity in APES 110 Code of Ethics for Professional Accountants (issued December 2010)**

**December 2011**

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## **Section 2 Definitions**

***Public Interest Entity*** means:

- (a) A Listed Entity; or
- (b) An entity (a) defined by regulation or legislation as a public interest entity or (b) for which the audit is required by regulation or legislation to be conducted in compliance with the same Independence requirements that apply to the audit of Listed Entities. Such regulation may be promulgated by any relevant regulator, including an audit regulator.

## **Section 290 Independence – Audit and Review Engagements**

***[Paragraphs 290.1 – 290.24 of extant Section 290 remain unchanged.]***

### **Public Interest Entities**

290.25 Section 290 contains additional provisions that reflect the extent of public interest in certain entities. For the purpose of this section, a Public Interest Entity is:

- (a) A Listed Entity\*; or
- (b) An entity (a) defined by regulation or legislation as a public interest entity; or (b) for which the audit is required by regulation or legislation to be conducted in compliance with the same Independence requirements that apply to the audit of Listed Entities. Such regulation may be promulgated by any relevant regulator, including an audit regulator.

290.26 Firms shall determine whether to treat additional entities, or certain categories of entities, as Public Interest Entities because they have a large number and wide range of stakeholders. Factors to be considered include:

- The nature of the business, such as the holding of assets in a fiduciary capacity for a large number of stakeholders. Examples may include financial institutions, such as banks and insurance companies and pension funds;
- Size; and
- Number of employees.

*\* Includes a listed entity as defined in Section 9 of the Corporations Act 2001.*

AUST 290.26.1 The following entities in Australia will generally satisfy the conditions in paragraph 290.26 as having a large number and wide range of stakeholders and thus are likely to be classified as Public Interest Entities. In each instance Firms shall consider the nature of the business, its size and the number of its employees:

- Authorised deposit-taking institutions (ADIs) and authorised non-operating holding companies (NOHCs) regulated by the Australian Prudential Regulatory Authority (APRA) under the *Banking Act 1959*;
- Authorised insurers and authorised NOHCs regulated by APRA under Section 122 of the *Insurance Act 1973*;
- Life insurance companies and registered NOHCs regulated by APRA under the *Life Insurance Act 1995*;
- Disclosing entities as defined in Section 111AC of the *Corporations Act 2001*;
- Registrable superannuation entity (RSE) licensees, and RSEs under their trusteeship that have five or more members, regulated by APRA under the *Superannuation Industry (Supervision) Act 1993*; and
- Other issuers of debt and equity instruments to the public.

*[Paragraph 290.27 – 290.514 remain unchanged.]*

**Effective Date:**

The revisions are effective from 1 January 2013 with early adoption permitted.

## **TRANSITIONAL PROVISIONS**

The Code is subject to the following transitional provisions:

### *Public Interest Entities*

1. Section 290 of the Code contains additional Independence provisions when the Audit or Review Client is a Public Interest Entity. The additional provisions that are applicable because of the new definition of a Public Interest Entity and the requirements in paragraph 290.26 are effective on January 1, 2013. For partner rotation requirements, the transitional provisions contained in paragraphs 2 and 3 below apply.

### *Partner Rotation*

2. For a partner who is subject to the rotation provisions in paragraph 290.151 because the partner meets the definition of the new term “Key Audit Partner,” and the partner is neither the Engagement Partner nor the individual responsible for the Engagement Quality Control Review, the rotation provisions are effective for the Audits or Reviews of Financial Statements for years beginning on or after January 1, 2013. For example, in the case of an Audit Client with a calendar year-end, a Key Audit Partner, who is neither the Engagement Partner nor the individual responsible for the Engagement Quality Control Review, who had served as a Key Audit Partner for seven or more years (i.e., the audits of 2005 – 2011), would be required to rotate after serving for one more year as a Key Audit Partner (i.e., after completing the 2012 audit).
3. For an Engagement Partner or an individual responsible for the Engagement Quality Control Review who immediately prior to assuming either of these roles served in another Key Audit Partner role for the client, and who, at the beginning of the first fiscal year beginning on or after January 01, 2012, had served as the Engagement Partner or individual responsible for the Engagement Quality Control Review for six or fewer years, the rotation provisions are effective for the audits or reviews of Financial Statements for years beginning on or after January 01, 2013. For example, in the case of an Audit Client with a calendar year-end, a partner who had served the client in another Key Audit Partner role for four years (i.e., the audits of 2003-2006) and subsequently as the Engagement Partner for five years (i.e., the audits of 2007-2011) would be required to rotate after serving for one more year as the Engagement Partner (i.e., after completing the 2012 audit).

### *Non-assurance services*

4. Paragraphs 290.156-290.219 address the provision of non-assurance services to an Audit or Review Client. If, at the effective date of the Code, services are being provided to an Audit or Review Client and the services were permissible under the June 2006 Code (revised February 2008) but are either prohibited or subject to restrictions under the revised Code, the Firm may continue providing such services only if they were contracted for and commenced prior to July 1, 2012, and are completed before January 1, 2013.

### *Fees – Relative Size*

5. Paragraph 290.222 provides that, in respect of an Audit or Review Client that is a Public Interest Entity, when the total fees from that client and its related entities (subject to the considerations in paragraph 290.27) for two consecutive years represent more than 15% of the total fees of the Firm expressing the opinion on the Financial Statements, a pre- or post-issuance review (as described in paragraph 290.222) of the second year's audit shall be performed. This requirement is effective for Audits or Reviews of Financial Statements covering years that begin on or after January 01, 2012. For example, in the case of an Audit Client with a calendar year end, if the total fees from the client exceeded the 15% threshold for 2012 and 2013, the pre- or post-issuance review would be applied with respect to the audit of the 2013 Financial Statements.

### *Compensation and Evaluation Policies*

6. Paragraph 290.229 provides that a Key Audit Partner shall not be evaluated or compensated based on that partner's success in selling non-assurance services to the partner's Audit Client. This requirement is effective on January 1, 2013. A Key Audit Partner may, however, receive compensation after January 1, 2013 based on an evaluation made prior to January 1, 2013 of that partner's success in selling non-assurance services to the Audit Client.

## CONFORMITY WITH INTERNATIONAL PRONOUNCEMENTS

### *APES 110 and the IESBA Code*

APES 110 incorporates the *Code of Ethics for Professional Accountants* (IESBA Code) issued by the International Ethics Standards Board for Accountants (IESBA) in July 2009.

### *Compliance with the IESBA Code*

The principles and requirements of APES 110 and the IESBA Code are consistent except for the following:

- The addition of a Scope and Application section in APES 110;
- The addition of paragraphs and definitions prefixed as AUST in APES 110. The additional definitions are of AASB, Administration, AuASB, AUASB, Auditing and Assurance Standards, Australian Accounting Standards and Member;
- APES 110 generally refers to Members whereas the IESBA Code refers to professional accountants;
- Defined terms are in title case in APES 110;
- APES 110 tailors the following IESBA defined terms to the Australian environment: Audit Engagement, Engagement Team, Financial Statements, Firm, Member in Public Practice, and Review Engagement;
- Paragraph 290.25 of APES 110 expresses Public Interest Entity in the singular form consistent with its definition in section 2;
- Paragraph 290.26 in APES 110 mandates Firms to determine whether additional entities are Public Interest Entities and the reference to Member Bodies has been removed; and
- Unless strict requirements are met, APES 110 prohibits Members in Public Practice from providing accounting and bookkeeping services and preparing tax calculations for Audit Clients which are Public Interest Entities, even in emergency situations (refer paragraphs 290.172 – 290.173 and 290.185).