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Senior Technical Manager
International Ethics Standards Board for Accountants
International Federation of Accountants
545 Fifth Avenue
New York, NY 10017

By mail and e-mail to Edcomments@ifac.org

RE: Exposure Draft Section 290 of the Code of Ethics Independence-Audit and Review Engagements

To the Board Members:

We appreciate the opportunity to offer comments to the International Ethics Standards Board for Accountants ("IESBA") on the "Exposure Draft Section 290 of the Code of Ethics Independence-Audit and Review Engagements ("Exposure Draft"). The National Association of State Boards of Accountancy's ("NASBA") mission is to enhance the effectiveness of state boards of accountancy. In furtherance of that mission, NASBA's Regulatory Response Committee offers the following comments on the Exposure Draft.

All U.S. Certified Public Accountants ("CPAs") are licensed and regulated by State Boards of Public Accountancy (State Boards) for all services they provide to publicly listed companies, non-public entities or individuals. CPAs are subject to practice and ethics requirements of State Boards in addition to the jurisdiction of other State[1] or Federal[2] governmental authorities. The State Boards are collectively represented by NASBA. (For further information see Appendix.)

Our comments on the Exposure Draft focus on two key points:

- A member body needs to consult with its regulators prior to issuing any changes to independence standards for its professionals.

- Absence of adoption of a standard does not imply the specific independence requirements, in this case those included in the IESBA's independence standards for significant public interest entities, were not considered for adoption by the regulators.

To provide an appropriate context for our comments on the Exposure Draft, we note the recent history of regulation in the U.S., specifically governmental consideration of extending proposals similar to those in the Exposure Draft on Significant Public Interest Entities ("SPIE").

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[1] State regulators of significant public interest entities include commissions and boards with responsibilities over securities, banking, insurance, utilities, schools and charities.
[2] Federal regulators of significant public interest entities include the Government Accountability Office, Department of Labor, Comptroller of the Currency and the Federal Deposit Insurance Corporation.

As is well recognized, publicly listed companies fall under the jurisdiction of the U.S. Securities and Exchange Commission ("SEC") and the Public Company Accounting Oversight Board ("PCAOB"), which was created by Congress after the enactment of the Sarbanes-Oxley Act of 2002 ("SARBOX"). Also, many non-public entities that might be considered SPIE under the Exposure Draft, based on their size, nature of activities or sources of revenue, are already under the jurisdiction of a variety of Federal and State regulators.

The introduction to the Explanatory Memorandum of the IESBA's Exposure Draft acknowledges that many jurisdictions have taken measures to address corporate failures including actions to strengthen auditor independence.

In the U.S., financial reporting failures by public companies resulted in the creation of the PCAOB. The PCAOB initially adopted the independence standards contained in the Code of Professional Conduct of the American Institute of Certified Public Accountants ("AICPA"). The PCAOB then adopted additional independence standards (some required by SARBOX) and revised certain others to make them more restrictive.

The independence standards proposed by IESBA in the Exposure Draft are similar to those adopted by the PCAOB after the passage of SARBOX. Federal and State regulators (including State Boards and many State Legislatures) studied SARBOX to determine its relevancy to their jurisdictions. NASBA studied the relevancy of SARBOX to State Boards. SARBOX led to some rethinking of the necessary safeguards for other than listed companies. After giving consideration to SARBOX, there has been very limited and selective adoption of the new independence standards by State and Federal regulators or State legislatures. Part of the rationale was that listed companies have substantially different risks than private markets

It is important to note that the independence standards contained in SARBOX were intentionally not extended to non-public entities or to those publicly-held entities that have been exempted by the SEC. Accordingly, the absence of independence standards proposed by the IESBA, which are similar to those of SARBOX, does not mean that regulators have not considered imposing such standards on other entities. If a U.S. member body of IESBA were to adopt the independence standards proposed in the Exposure Draft, it is likely that the appropriate governmental regulators (including State Boards) would take action to nullify the "standard."

The Explanatory Memorandum states, *"Member bodies may find it useful to consult with those who regulate entities that might be considered to be entities of significant public interest to determine which particular entities should be categorized as such for independence purposes."* We suggest that the language be changed from "may find it useful to consult with those who regulate" to "should consult with those who regulate" in order to avoid potential regulatory nullification.

The Explanatory Memorandum also states, *"The IESBA view is that because of the significant public interest associated with listed entities, such entities should always be considered to be entities of significant public interest. Therefore, audits of such entities should always be subject to the enhanced safeguards contained in Section 290."* However, the standards proposed in the Exposure Draft have already been considered by regulators. We repeat our suggestion that the IESBA consider a requirement that the member body consult with the regulator prior to adoption of an independence standard in order to avoid potential regulatory nullification.

We appreciate this opportunity to respond to the IESBA's request for comments on its Exposure Draft Section 290 of the Code of Ethics Independence-Audit and Review Engagements. Certainly we will continue to consider future IESBA draft positions. We would be pleased to be a resource in the development of future ethics proposals.

Sincerely,

Wesley P. Johnson, CPA
NASBA Chair

David A. Costello, CPA
NASBA President & CEO

APPENDIX
Overview of State Regulation of Public Accountancy in the U.S.

Role of the National Association of State Boards of Accountancy

I. OVERVIEW OF STATE REGULATION OF PUBLIC ACCOUNTANCY

- In accord with Amendment X of the United States Constitution, professional licensing is reserved to the states. State boards of accountancy have the sole authority to establish licensing requirements for becoming a certified public accountant in each of the 50 states and 5 territories of the United States as well as the authority to suspend or revoke such a license.

- State boards set accounting, auditing, ethical and continuing practice standards for their licensees and their firms. The boards have the option of adopting the standards of other organizations, as they historically have done with the Financial Accounting Standards Board and the Auditing Standards Board. They have also instituted some specific requirements to meet their publics' needs through modification of or addition to the standards.

- Under the authority of state laws, state boards of accountancy are involved in the regulation of all CPAs serving issuers and non-issuers, including privately held companies, not-for-profit organizations, government entities, and others. NASBA and state boards work with other regulatory boards and agencies, at the national and state levels, to complement and enhance the regulation of accountancy.

- State boards have the authority to discipline CPAs and their firms for violations of the SEC, PCAOB, GAO, DOL and other federal and state agencies' standards as well as their own separate and distinct standards. Their disciplinary actions range from reprimands, sanctions, mandated continuing education, monetary fines, pre and post issuance report monitoring and practice restrictions all the way to license suspension or revocation and suspension of the firm's practice privileges.

- State boards set the requirements for moral character, higher education, experience and examination for licensure as a CPA. They also set standards for license renewal for individuals and firms, including mandatory continuing professional education and quality reviews (or "peer reviews") for firms.

- The membership of state boards is drawn from a broad and diverse spectrum of CPAs and public members coming from all levels and types of CPA practice, industry, government, not-for-profits and academia. Most are appointed by the state governor and receive legal support from the staff of the state attorneys general.

II. NATIONAL ASSOCIATION OF STATE BOARDS OF ACCOUNTANCY

- All 55 state boards are members of the National Association of State Boards of Accountancy (NASBA).

- NASBA's primary role is to serve as a coordinator and a forum for the boards, allowing for their exchange of views and providing research and overall regulatory guidance for the boards. As the United States has evolved from a local economic focus, to a national and, now, an international focus, the need for regulatory consistency among the states has heightened. Federal and international regulators and other organizations concerned with public accountancy are looking more to NASBA to bring together the state boards' views. The establishment of the PCAOB and its subsequent activities has placed a special emphasis on NASBA's role in representing state boards.

- NASBA was founded in 1908 to aid states in developing uniformity of procedures by the licensing boards. Since that time NASBA has evolved into a broad-based organization that deals with all aspects of state regulation of CPAs and serves as the voice of state boards in relationships with national and state regulators, international regulators, federal agencies, U.S. Congress, professional organizations and the news media.

- A full-time President/CEO, supported by 170 professional and administrative staff and a volunteer Chair, elected by the member boards, lead the organization. The board of directors is composed of 20 state board representatives.

- NASBA has organized its member boards into eight geographical regions. The regional directors of the eight regions work closely with the states in each region ensuring that the needs, views and concerns of all the boards are appropriately considered and the information from NASBA is adequately communicated to all 55 state boards.

- NASBA has more than 25 committees that address specific regulatory issues and concerns of state boards. The membership on these committees is drawn from the State Board membership with relevant expertise and is supported by the association's staff and outside consultants as necessary.

- With the passage of the Sarbanes-Oxley Act and the formation of the PCAOB, the activities of NASBA with the PCAOB/SEC and the U.S. Congress on behalf of the 55 state boards have increased significantly. Many of NASBA's activities are directed toward cooperative coordination of federal and state regulatory systems, professional practice standards, practice monitoring and discipline.