INTERNATIONAL VALUATION STANDARDS COUNCIL

Second Exposure Draft

Proposed Code of Ethical Principles for Professional Valuers

Comments to be received by 31 August 2011

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Note for Respondents

In June 2010 the IVSC Professional Board published an Exposure Draft of a proposed Code of Ethics to replace the Code currently published in IVS 2007. Comments were invited on the proposals. A report on the comments received was presented to the Professional Board at its meeting on 1 March 2011. The Board confirmed that:

1. While the purpose of IVSC publishing a Code of Ethics was to promote principles of ethical conduct by professional valuers, the IVSC has no remit to compel member organisations or others to adopt or follow any such code. The intention was to produce principles that it believed should be reflected in any professional code of conduct produced by bodies with regulatory powers or responsibilities for individual valuers or valuation firms, and encourage the convergence of individual codes to these principles.

2. After consideration of comments made by respondents the following amendments should be made to the proposals:

    - That as well as the five Fundamental Ethical Principles that were included in the Introduction to the first Exposure Draft, further regard should be had to the way in which the International Ethics Standards Board for Accountants had dealt with the application of these principles in the Code of Ethics for Professional Accountants (from which these principles had been reproduced).
    - That much of the material in Section 3 "Rules of Conduct" in the first Exposure Draft was too narrowly drawn and influenced by particular types of valuation service. This should be replaced with material focussing on the application of the Fundamental Principles in a broad context, and detailed rules requiring or forbidding specific actions should generally be avoided.
    - That the first Exposure Draft included some rules that dealt with the execution of a valuation assignment rather than ethical issues. The International Valuation Standards contain the principles and rules for the procedure to be followed and therefore any such material should be removed.

These points are all reflected in the draft that follows.

Comments on this second Exposure Draft are invited before 31 August 2011. All replies may be put on public record unless confidentiality is requested by the respondent. Comments may be sent as email attachments to **CommentLetters@ivsc.org** or by post to the International Valuation Professional Board, 41 Moorgate, LONDON EC2R 6PP, United Kingdom.

International Valuation Standards Council

Code of Ethical Principles

The International Valuation Standards Council (IVSC) is an independent, not-for-profit, private sector organisation that has a remit to serve the public interest. The IVSC's objective is to build confidence and public trust in the valuation process by creating a framework for the delivery of credible valuation opinions by suitably trained valuation professionals acting in an ethical manner.

The IVSC achieves this objective by:

(a) creating and maintaining the International Valuation Standards (IVS);

(b) issuing technical guidance for professional valuers; and

(c) promoting the development of the valuation profession and ethical practices globally.

This Code of Ethical Principles has been prepared by the IVSC Professional Board in order to promote ethical practice and conduct in valuation. Professional Valuation Organisations[1] in membership of the IVSC are required to have rules requiring ethical conduct by their members. This Code of Ethical Principles sets out principles of ethical behaviour that member bodies are expected or encouraged to reflect in their own ethical and conduct regulations. In this Code of Ethical Principles references to a professional valuer are to members of a Professional Valuation Organisation in membership of the IVSC. Depending on context, this may be an individual person, a firm or other corporate body that is subject to licencing or regulation in respect of valuation services.

Structure of this Code

The Fundamental Principles set out five principles of conduct that a professional valuer is expected to adhere to when providing a valuation service. These principles should be reflected in any code of ethics maintained by a Professional Valuation Organisation.

The Conceptual Framework sets out matters that should be considered or actions that should be taken in order to eliminate or mitigate threats to a professional valuer's independence.

The Appendix contains discussion on threats to a professional valuer's compliance with the Fundamental Principles, safeguards that may be adopted and a more detailed examination of the Fundamental Principles and steps that a professional valuer should typically take to comply with them.

[1] A Valuation Professional Organisation of the IVSC is established as a not for profit organisation that sets minimum education and ethical standards for individual valuers and that upholds the public interest over those of individual members

Fundamental Principles

1. It is fundamental that those who rely on valuations have confidence that the valuation has been provided by a valuer who has not only the appropriate experience and skills but also who has exercised the professional judgements necessary in the valuation process free from any undue influence or bias. Accordingly a Professional Valuer shall comply with following ethical principles:

   a) **Integrity:** to be straightforward and honest in professional and business relationships.

   b) **Objectivity:** not to allow conflict of interest, or undue influence or bias to override professional or business judgment.

   c) **Professional Competence and Due Care:** to maintain the professional knowledge and skill required to ensure that a client or employer receives competent services based on current developments in practice, legislation, and techniques; to act diligently and in accordance with applicable technical and professional standards.

   d) **Confidentiality:** to respect the confidentiality of information acquired as a result of professional and business relationships and not to disclose such information to third parties without proper and specific authority (unless there is a legal or professional right or duty to disclose), nor to use information for the personal advantage of the professional valuer or third parties.

   e) **Professional Behaviour:** to comply with relevant laws and regulations and to avoid any action that discredits the profession.

2. Section A2 in the Appendix to this Code contains discussion and illustrative examples of threats to each of these principles.

Conceptual Framework

3. This Code of Ethical Principles establishes a conceptual framework that places an obligation on a professional valuer to identify, evaluate, and address threats to compliance with the Fundamental Principles. The conceptual framework approach assists professional valuers in complying with the ethical requirements of this Code and meeting their responsibility to act in the public interest and can deter a professional valuer from concluding that a situation is permitted if it is not specifically prohibited.

4. The circumstances in which professional valuers operate may create specific threats to compliance with these Fundamental Principles. Some common types of threat are identified in A1 of the Appendix to this Code. It is impossible to define every situation that creates threats to compliance with the Fundamental Principles and to specify the appropriate action. In addition, the nature of valuation assignments may differ and, consequently, different threats may be created, requiring the application of different safeguards.

5. When a professional valuer identifies a potential threat to their ability to comply with the Fundamental Principles they shall evaluate the significance of that threat. Some threats may be eliminated or reduced to an acceptable level by taking appropriate safeguards. Examples of such safeguards are discussed in Section A1 of the Appendix. In deciding whether it is appropriate to accept a valuation assignment subject to putting such safeguards in place, the professional valuer shall take into account whether a reasonable and informed third party, weighing all the specific facts and circumstances available at the time, would be likely to conclude that the threat or threats would be eliminated or reduced to an acceptable level by the application of the safeguards and that compliance with the Fundamental Principles is not compromised.

6. When applying the conceptual framework, if the threat or threats to the professional valuer's ability to comply with the Fundamental Principles cannot be eliminated or reduced to an acceptable level, either because the threat is too significant or because appropriate safeguards are not available or cannot be applied, the valuation assignment shall be declined or discontinued.

7. A professional valuer may inadvertently violate a provision of this Code. Depending on the nature and significance of the matter, such an inadvertent violation may be deemed not to compromise compliance with the Fundamental Principles provided, once the violation is discovered, if the violation is corrected promptly and any necessary safeguards are applied.

8. If a professional valuer encounters unusual circumstances in which the application of a specific requirement of the Code would result in a disproportionate outcome or an outcome that may not be in the public interest, it is recommended that the professional valuer consult with the member body to which they belong or, if appropriate, the relevant regulator.

9. If a significant conflict cannot be resolved, a professional valuer may consider obtaining professional advice from the relevant professional body or from legal advisors. This can generally be done without breaching the fundamental principle of confidentiality if the matter is discussed

with the relevant professional body on an anonymous basis or with a legal advisor under the protection of legal privilege.

10. Instances in which the professional valuer may consider obtaining legal advice vary. For example the valuer may encounter a fraud, the reporting of which could breach their responsibility to respect confidentiality. The professional valuer may consider obtaining legal advice in that instance to determine whether there is a requirement to report.

11. If, after exhausting all relevant possibilities, the ethical conflict remains unresolved, a professional valuer shall, where possible, refuse to remain associated with the matter creating the conflict. The professional valuer shall determine whether, in the circumstances, it is appropriate to withdraw from the engagement team or specific assignment, or to resign altogether from the engagement, the firm or the employing organization.

Appendix

This Appendix includes:

A1: A discussion of common threats to a professional valuer's ability to comply with the Fundamental Principles and safeguards that may eliminate or mitigate those threats.

A2: A discussion of the Fundamental Principles giving specific illustrations of actions that a professional valuer should take or avoid in order to comply with those principles.

This Appendix does not have mandatory status, unless adopted or specifically referred to by a Professional Valuation Organisation or other body having regulatory powers over valuation activities. Each Professional Valuation Organisation may have rules that impose different detailed requirements on their members in order to apply the Fundamental Principles to the area of valuation practice with which they are involved.

A1. Threats and Safeguards

A1.1. Threats to a professional valuer's ability to comply with the Fundamental Principles may be created by a broad range of relationships and circumstances. A circumstance or relationship may create more than one threat, and a threat may affect compliance with more than one fundamental principle. Threats fall into one or more of the following categories:

(a) **Self-interest threat** – the threat that a financial or other interest will inappropriately influence the professional valuer's judgment or behaviour;

(b) **Self-review threat** – the threat that a professional valuer will not appropriately evaluate the results of a previous judgment made or service performed, or by another individual within the same firm or employing organization, on which the valuer may rely when forming a judgment as part of providing a current service;

(c) **Client conflict threat** – the threat that two or more clients may have opposing or conflicting interests in the outcome of a valuation;

(d) **Advocacy threat** – the threat that a professional valuer will promote a client's or employer's position to the point that their objectivity is compromised;

(e) **Familiarity threat** – the threat that due to a long or close relationship with a client or employer, a professional valuer may be too sympathetic to their interests or too accepting of their work; and

(f) **Intimidation threat** – the threat that a professional valuer will be deterred from acting objectively because of actual or perceived pressures, including attempts to exercise undue influence over the valuation opinion.

A1.2. Safeguards are actions or other measures that may eliminate threats or reduce them to an acceptable level. They fall into two broad categories:

(a) Safeguards created by the profession, legislation or regulation; and

(b) Safeguards in the work environment.

A1.3. Examples of safeguards created by the profession, legislation or regulation include:

- Regulations on the corporate structure and governance of firms providing valuation services.
- Regulations on the educational, training and experience requirements for individuals providing valuation services.
- Requirements to comply with professional standards.
- Professional or regulatory monitoring and disciplinary procedures.
- Regulations on the basis of remuneration for valuation assignments.
- External review by a legally empowered third party of valuations, reports or other information produced by a professional valuer.

A1.4. Examples of safeguards in the work environment include:

- Structuring a firm so that the professional valuer or valuation team dealing with a valuation assignment is operationally separate from parts of the firm providing any potentially conflicting service. Separation of managerial control, access to data and support services should all be considered as appropriate to the circumstances and level of threat.
- Requirements for maintaining a register of the material personal interests of professional valuers and other staff engaged in valuation assignments.
- Requirements for internal peer review of valuations.
- Periodically changing the professional valuer responsible for a recurring valuation assignment.
- Controls on the acceptance of gifts or hospitality from those commissioning valuations.

A1.5. Certain safeguards may increase the likelihood of identifying or deterring unethical behaviour. Such safeguards include:

- Effective, well-publicized complaint systems operated by the employing organization, the profession or a regulator, which enable colleagues, employers and members of the public to draw attention to unprofessional or unethical behaviour.
- An explicitly stated duty to report breaches of ethical requirements.

A2. Discussion of Fundamental Principles

Integrity

A2.2. The principle of integrity imposes an obligation on all professional valuers to be straightforward and honest in all professional and business relationships. Integrity also implies fair dealing and truthfulness.

A2.3. A professional valuer shall not knowingly be associated with a valuation, a report containing a valuation, a reference to a valuation or any other communication about a valuation if they believes that it either:

(a) contains statements or information that are materially false or misleading or that are made recklessly; or

(b) omits or obscures information required to be included where such omission or obscurity would be misleading.

A2.4. If a professional valuer becomes aware that they have been associated with such information, they shall take immediate steps to be disassociated from that information, for example by issuing a modified valuation or report.

Objectivity

A2.5. The principle of objectivity imposes an obligation on the professional valuer not to compromise their professional or business judgment because of bias, conflict of interest or the undue influence of others.

A2.6. A professional valuer may be exposed to situations that may impair objectivity. It is impracticable to define and prescribe all situations to which a professional valuer may be exposed that would create a threat to objectivity. Some threats to objectivity are incapable of avoidance or mitigation and where this is the case the professional valuer should decline the assignment. However, many potential threats to objectivity may be either eliminated or effectively mitigated by safeguards. These safeguards can include appropriate disclosure of the threat to the relevant parties and obtaining their consent to proceed with the valuation assignment. Other safeguards are discussed in paragraphs A1.2 – A1.5.

A2.7. Examples of situations that could potentially impose a threat and which should prompt a professional valuer to consider adopting safeguards to eliminate or avoid any threat or perception of bias include:

- Requests to produce valuations for the buyer and the seller of an asset in a transaction.
- Requests to produce valuations for two or more parties competing for an opportunity.
- Requests to value for a lender where advice is also being provided to the borrower.

- Undertaking a valuation for third-party consumption where the valuer’s firm has other substantial fee-earning relationships with the commissioning client.
- Providing recurring valuations of the same asset unless controls are in place to minimise the risk of self-review.

A2.8. The extent to which any of the preceding examples will compromise the professional valuer’s objectivity will depend upon the circumstances of each case – for example, the purpose of the valuation, the client’s objectives and the practicality of eliminating or reducing the threat to an acceptable level by putting in place appropriate procedural safeguards. In many cases previous involvement with an asset presents no threat to objectivity and the knowledge it provides may actually enhance the ability of the professional valuer to provide an objective opinion.

A2.9. In considering whether a situation creates a threat to their objectivity, a professional valuer should recognise that it is the perception of possible bias by others that creates the threat to the credibility of the valuation. There will be situations where some past or current involvement with either the asset to be valued or a party interested in that asset creates no material threat to objectivity but which could give rise to a perception of bias if subsequently discovered by a party who has relied on the valuation. Disclosure of any such involvement in the Scope of Work and Report can be an effective means of avoiding any perception of bias.

A2.10. If a professional valuer considers that a threat to objectivity can be eliminated or effectively mitigated by disclosure of the cause of the threat, care shall be taken not to breach the Fundamental Principle of Confidentiality. If past involvement with an asset or a party interested in the asset cannot be disclosed without breaching the continuing duty of confidentiality to another client the assignment should be declined.

A2.11. If a professional valuer considers that a threat to objectivity can be eliminated or effectively managed by reaching agreement that they may proceed with two or more parties with potentially conflicting interests in either the outcome of the valuation or the subject asset, care shall be taken to ensure the parties are properly informed and aware of the potential consequences for their interest in consenting to the professional valuer being appointed. Obtaining agreement from two or more interested parties that a valuation assignment can be accepted does not absolve the professional valuer from the duty to comply with the Fundamental Principles.

A2.12. Examples of other safeguards to prevent or minimise bias or the perception of bias can include:

- Ensuring that the professional valuer and all those assisting with the valuation are operationally separate from departments providing potentially conflicting services within the same firm.
- Providing for periodic reviews of regular valuations by a third party professional valuer.

- Periodically changing the professional valuer responsible for a recurring valuation.

A2.13. If no satisfactory safeguards to eliminate or minimise the threat to objectivity can be identified the professional valuer shall decline the assignment.

Professional Competence and Due Care

A2.14. The principle of professional competence and due care imposes the following obligations on all professional valuers:

(a) to maintain professional knowledge and skill at the level required to ensure that clients or employers receive competent professional service; and

(b) to act diligently in accordance with applicable technical and professional standards when providing professional services.

A2.15. Competent professional service requires the exercise of sound judgment in applying professional knowledge and skill in the performance of such service. Professional competence may be divided into two separate phases:

(a) attainment of professional competence; and

(b) maintenance of professional competence.

A2.16. The maintenance of professional competence requires a continuing awareness and an understanding of relevant technical, professional and business developments. Continuing professional development enables a professional valuer to develop and maintain the capabilities to perform competently within the professional environment.

A2.17. Diligence encompasses the responsibility to act in accordance with the requirements of an assignment, carefully, thoroughly and on a timely basis.

A2.18. A professional valuer shall take reasonable steps to ensure that those working under the professional valuer's authority in a professional capacity have appropriate training and supervision.

A2.19. A professional valuer shall apply the International Valuation Standards to the extent that they are applicable to the valuation assignment, subject to any statutory or regulatory requirements relevant to the assignment that may require modification of or departure from those standards.

Confidentiality

A2.20. The principle of confidentiality imposes an obligation on all professional valuers to refrain from:

(a) disclosing outside the firm or employing organization confidential information acquired as a result of professional and business relationships without proper and specific authority or unless there is a legal or professional right or duty to disclose; and

(b) using confidential information acquired as a result of professional and business relationships to their personal advantage or the advantage of third parties.

A2.21. A professional valuer shall maintain confidentiality, including in a social environment, being alert to the possibility of inadvertent disclosure, particularly to a close business associate or a close or immediate family member.

A2.22. A professional valuer shall maintain confidentiality of information disclosed by a prospective client or employer.

A2.23. A professional valuer shall maintain confidentiality of information within the firm or employing organization.

A2.24. A professional valuer shall take reasonable steps to ensure that staff under the professional valuer's control and persons from whom advice and assistance is obtained respect the professional valuer's duty of confidentiality.

A2.25. The need to comply with the principle of confidentiality continues even after the end of a relationship between a professional valuer and a client or employer. When a professional valuer changes employment or acquires a new client, the professional valuer is entitled to use prior experience. The professional valuer shall not, however, use or disclose any confidential information either acquired or received as a result of a professional or business relationship.

A2.26. The following are examples of circumstances where professional valuers are or may be required to disclose confidential information or when such disclosure may be appropriate:

- Disclosure is permitted by law and is authorized by the client or the employer.
- Disclosure is required by law, for example:
  (i) the production of documents or other provision of evidence in the course of legal proceedings; or
  (ii) disclosure to the appropriate public authorities of infringements of the law that come to light.
- There is a professional duty or right to disclose, when not prohibited by law:
  (i) to comply with the quality review of a Valuation Professional Organisation or other professional body;
  (ii) to respond to an inquiry or investigation by a Valuation Professional Organisation or regulatory body;
  (iii) to protect the professional interests of a professional valuer in legal proceedings; or
  (iv) to comply with technical standards and ethics requirements.

A2.27. In deciding whether to disclose confidential information, relevant factors to consider include:

- Whether the interests of all parties, including third parties whose interests may be affected, could be harmed if the client or employer consents to the disclosure of information by the professional valuer.
- Whether all the relevant information is known and substantiated, to the extent it is practicable; when the situation involves unsubstantiated facts, incomplete information or unsubstantiated conclusions, professional judgment shall be used in determining the type of disclosure to be made, if any.
- The type of communication that is expected and to whom it is addressed.
- Whether the parties to whom the communication is addressed are appropriate recipients.

Professional Behaviour

A2.28. The principle of professional behaviour imposes an obligation on all professional valuers to comply with relevant laws and regulations and avoid any action that the professional valuer knows or should know may discredit the profession. This includes actions that a reasonable and informed third party, weighing all the specific facts and circumstances available to the professional valuer at that time, would be likely to conclude adversely affects the good reputation of the profession.

A2.29. In marketing and promoting themselves and their work, professional valuers shall not bring the profession into disrepute. Professional valuers shall be honest and truthful and not:

(a) Make exaggerated claims for the services they are able to offer, the qualifications they possess, or experience they have gained; or

(b) Make disparaging references or unsubstantiated comparisons to the work of others.