Reporting Turnover and Tax by Location

Richard Murphy

A Proposed International Accounting Standard

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on behalf of the Association for Accountancy and Business Affairs

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Summary

The proposed International Accounting Standard that follows on Reporting Turnover and Tax by Location suggests that transnational corporations (TNCs) should disclose information about:

- which entities make up the TNC
- where those entities are located
- what those entities do
- what value of sales they make in each state in which a member entity of the TNC is located split between:
    - sales to independent third parties
    - sales to other entities within the TNC
- what value of purchases from other entities within the TNC are made by each member of the TNC
- how much added value each member of the TNC generates
- how much profit each member of the TNC makes in the locations in which it operates
- what tax each member of the TNC pays in the states in which it is located

The purpose of the proposed standard is to provide information that will assist those seeking to appraise the organisation with regard to:

- its corporate social responsibility
- investment risk
- tax risk
- its contribution by way of value added to the societies in which it operates
- its contribution to national well-being by way of tax payment within those locations

It is important to note that the proposed standard utilises data already substantially available to all reporting entities to which it would apply and can therefore be implemented at very low cost. As the proposed standard will be

applied internationally there will be no loss of competitive advantage for any TNC as a result of its adoption.

The proposed standard will not apply to reporting entities whose activities are located solely in one state.

The proposed standard breaks new ground in that the information that it proposes should be disclosed may be published exclusively on the internet.

Objectives

The objective of this proposed International Accounting Standard (IAS) is to ensure that financial statements (accounts) of a reporting entity that is itself a transnational corporation (TNC), or which is a TNC due to being the parent, subsidiary or related party of a reporting entity located in another sovereign state, contain sufficient disclosure to ensure that the user can identify the following:

1 the name, type of entity, place of incorporation and principal activity of the reporting entity and its related parties, making due allowance for the different disclosure required if the reporting entity is an ultimate parent company, an intermediate parent company or a subsidiary undertaking

2 the states of the world in which the reporting entity and its related parties operates

3 the value of sales made by the reporting entity and its related parties in each state in which they are located split between:

3.1 sales to independent third parties

3.2 sales to other entities within the TNC

4 the value of purchases made by the reporting entity and its related parties from other entities within the TNC

5 the value of local resources, be they labour or natural, utilised by the reporting entity and its related parties in each state in which they operate

6 the corporate profits generated in each location in which the reporting entity and its related parties operate

7 the taxes on corporate profit paid by the reporting entity and its related parties in each state in which they operate

Definitions

The following definitions apply in this proposed International Accounting Standard

1 *Financial statements* are balance sheets, profit and loss accounts, cash flow statements, notes and other statements, including those disclosures required to be made by law or convention, whether local or international, and by reason of International Accounting Standards or their local equivalents which collectively are intended to give a true and fair view of the financial position and profit or loss of a reporting entity.

2 *Reporting entity* means any enterprise within the scope of International Accounting Standards. For sake of example only, such entities are likely to include:

2.1 companies, whether publicly or privately owned and whether quoted or not
2.2 partnerships, whether with limited liability or not
2.3 banks
2.4 trusts and similar such entities
2.5 special purpose entities whether created primarily for the undertaking of financial services or not

3 *Transnational corporations* are reporting entities that either themselves operate in more than one location or state or do so through their related parties

4 *Ultimate parent companies* are reporting entities which are not controlled by any other entity which might itself be a reporting entity

5 *Intermediate parent companies* are reporting entities which are controlled by another entity which is itself a reporting entity and which does in turn control subsidiary undertakings

6 *Subsidiary undertakings* are entities controlled by another reporting entity and which do not control other reporting entities

7 *Control* means the ability to command the management of a reporting entity either by reason of votes, or by the exercise of influence, or by the right to acquire the majority of its assets in the event of winding up or other distribution

8 *The user* means any person or legal entity that might have an interest in the financial statements of the reporting entity for any reason whatsoever including, without suggestion as to limit:

8.1 owners of the reporting entity

8.2 employees of it
8.3 suppliers to it
8.4 customers of it
8.5 third parties affected by its trading, investment, social or other activities
8.6 authorities regulating it, whether state sponsored or not
8.7 taxation authorities whether within the state of incorporation or not
8.8 organisations representing any of the above

9 *State* means a territorial national authority recognised as either having sovereign status or effective unfettered right to create legislation, whether with regard to taxation or otherwise, in respect of reporting entities and their taxation or an equivalent authority holding similar powers whether by reason of the combination of states or otherwise, but with the limitation that in a federal state the State for these purposes shall be the federal organisation and the constituent members of the European Union shall be considered States in their own right

10 *Location.* A corporate entity is located in the state under whose jurisdiction it is empowered to transact, whether by incorporation, agreement, declaration of trust or otherwise. In the case of a reporting entity making declaration in respect of a related party the location to be disclosed in respect of that reporting entity shall be the state in which the related party is located

11 *Operate* A reporting entity or its related parties operate in a state if:

11.1 they are located there

11.2 they have a permanent place of business there although located within another state

If an entity has a permanent place of business in a state other than that in which it is located that permanent place of business shall for the purposes of this proposed standard be considered a separate entity located in the territory in which that permanent place of business is established and it shall be reported as such and the disclosures required by this proposed standard shall be separately made in respect of that permanent place of business although it does not have a separate legal identity

12 *Related party*

12.1 Two or more parties are related parties when at any time during a financial period:

12.1.1 one party has direct or indirect control of the other party; or

12.1.2 the parties are subject to common control from the same source; or
12.1.3 one party has influence over the financial and operating policies of the other party to an extent that that other party might be inhibited from pursuing at all times its own separate interests; or
12.1.4 the parties, in entering a transaction, are subject to influence from the same source to such an extent that one of the parties to the transaction has subordinated its own separate interests.

12.2 For the avoidance of doubt the following are related parties of the reporting entity:

12.2.1 its ultimate and intermediate parent undertakings, subsidiary undertaking and fellow subsidiary undertakings
12.2.2 its associates and joint ventures
12.2.3 the investor or venturer in respect of which the reporting entity is an associate or joint venture
12.2.4 directors (or such other person in accordance with whose instructions or directions the reporting entity is accustomed to act) of the reporting entity and the directors of all ultimate and intermediate parent undertakings, subsidiary undertaking, fellow subsidiary undertakings and other related parties
12.2.5 pension funds for the benefit of employees of the reporting entity or of any entity that is a related party of the reporting entity
12.2.6 trusts or other special purpose, corporate or non corporate vehicles which might act for the benefit of any related party to the reporting entity or the employees, directors or persons in accordance with whose instructions or directions the reporting entity or its related parties are accustomed to act or the close family of any such person (such term to include those family and household members of the individual who is a related party who may be expected to influence, or be influenced by, that person's dealings with the reporting entity)

12.3 The following are assumed to be related parties of the reporting entity unless it can be demonstrated that neither party has influenced the financial and operating policies of the other in such way as to inhibit the pursuit of separate interests:

12.3.1 the key management (including trustees and nominees) of the reporting entity and the key management of all ultimate and intermediate parent undertakings, subsidiary undertaking, fellow subsidiary undertakings and other related parties
12.3.2 a person owning or able to exercise control over 20 per

cent or more of the voting or other ownership rights of the reporting entity whether directly of through nominees

12.3.3 each person acting on concert in such a way as to be able to exercise control or influence over the reporting entity and

12.3.4 an entity managing or managed by the reporting entity under a management contract

12.4 Additionally, because if the relationships with certain parties that are, or are presumed to be, related parties of the reporting entity, the following are also presumed to be related parties of the reporting entity:

12.4.1 members of the close family of any individual defined as a related party elsewhere in this Standard

12.4.2 partnerships, trusts, companies or other entities in which any individual or member of the close family of a person themselves defined as a related party has a controlling interest

12.5 Other parties are related when it is clear that for the purposes of proper disclosure it is necessary that they be so considered whether or not they fall into any of the foregoing categories.

12.6 If there is doubt as to whether a party is related to another or not then such doubt shall always be resolved in favour of disclosure taking place

12.7 The non-availability of any information required to be disclosed with regard to a related party is not a reason not to disclose the relationship with that related party and that information which is available

13 *A third party* is any party who is not a related party

14 *Labour* is a payment made to a person who resides in the state in which the reporting entity is located whether calculated as a wage, salary, piece rate or by some other means in exchange for the periodic supply of their endeavours under a contract for service and shall include payment made in cash or in kind

15 *Natural resources* are those resources either occurring naturally in nature within the territorial limit of the state in which the reporting entity is located and which are extracted, collected or otherwise procured from their natural location by the reporting entity for onward supply or which are grown, harvested or otherwise collected for sale by the reporting entity within the state in which the reporting entity is located

16 *Turnover* means the cash or equivalent value when expressed in monetary terms charged for the provision of goods and services after

the deduction of trade discounts and net of taxes based on amounts so derived by a reporting entity or its related parties, including for this purpose only when such term is applied to the provision of goods and services to related parties the supply of financial and property services and income of types generally derived from them such as, but without being exhaustive or suggesting limit, interest, dividends, royalties, licence fees, rents, premiums and exploitation rights.

17 *Purchases from related parties* shall mean any cost charged to a reporting entity (whether expensed in the profit and loss account or otherwise) that is included in the turnover, as defined herein, of the related party which supplied such services to the reporting entity

18 *Profit* shall mean such sums required to be reported as such in the financial statements of reporting entities who must, or voluntarily do, comply with International Accounting Standards

19 *Corporate Taxes* are the amount of tax estimated to be payable to or recoverable from the state in which the reporting entity and its related parties are located in respect of the reported profit or loss for a period

Proposed International Accounting Standard

1 This proposed International Accounting Standard shall apply to all reporting entities irrespective of whether they might be a company, partnership, bank, trust or other special purpose vehicle:

1.1 to which International Accounting Standards apply

1.2 that are transnational corporations

1.3 that have consolidated turnover with third parties exceeding US$15 million for the period to which the financial statements relate or per annum, whichever is the greater time period.

2 If the reporting entity is an ultimate parent company it shall disclose in its financial statements:

2.1 the name of the state in which it is located

2.2 the names of the states in which each of its related parties is located

in respect of each related party it shall disclose:

2.3 its name
2.4 its principal trading activity
2.5 the means by which it is related, and the proportion of the entity controlled

and additionally it shall in respect of itself and each related party disclose:

2.6 its turnover as reported in its own financial statements
2.7 its turnover with third parties
2.8 its turnover with related parties
2.9 its purchases from related parties
2.10 its labour costs
2.11 the value of natural resources included in turnover at sale price
2.12 its profit before tax
2.13 its corporate taxes due for the period

A reconciliation of the following shall be included in the financial statements if reported information is not consistent:

2.14 total third party turnover as reported for the purposes of this proposed standard and consolidated turnover as reported in the profit and loss account or any alternative trading statement
2.15 total turnover with related parties and total purchases from related parties
2.16 total corporate taxes due as reported for the purposes of this proposed standard and those reported as payable by the consolidated reporting entity as a whole in respect of the period

3 If the reporting entity is an intermediate holding company it shall it shall disclose in its financial statements:

3.1 the name of the state in which it is located

3.2 the names of the states in which each of its related parties is located and for the purposes of this disclosure related parties only include:

3.2.1 its ultimate parent company
3.2.2 any intermediate parent companies between its ultimate parent company and itself
3.2.3 its subsidiaries, whether held directly or through further intermediate parent companies
3.2.4 its own immediately related parties, and those immediately related to its subsidiaries
3.2.5 any party related to any of the above with which it has traded in the period

and shall therefore exclude:

3.2.6 those related parties of the ultimate parent company with which the reporting entity is not directly related or with which it has not traded

3.3 In respect of each related party the intermediate parent shall disclose:

3.3.1 its name
3.3.2 its principal trading activity
3.3.3 the means by which it is related, and either:
3.3.3.1 the proportion of the entity controlled or
3.3.3.2 the proportion of the reporting entity controlled by the related party

3.4 Additionally it shall in respect of itself and each related party disclose:

3.4.1 its turnover as reported in the profit and loss account or any alternative trading statement
3.4.2 its turnover with third parties as defined for the purposes of this proposed standard
3.4.3 its turnover with related parties as defined for the purposes of the intermediate parent company
3.4.4 its purchases from related parties as defined for the purposes of the intermediate parent company
3.4.5 its labour costs
3.4.6 the value of natural resources included in turnover at sale price
3.4.7 its profit before tax
3.4.8 its corporate taxes due for the period

4 If the reporting entity is an intermediate holding company it shall disclose in its financial statements those matters required to be disclosed by an intermediate parent company except that no disclosure with regard to subsidiaries shall be required

5 The activities of related parties may not be aggregated but each must be reported individually and without consideration of materiality

6 The information required to be disclosed by this proposed standard shall either be included in the published financial statements of the reporting entity or shall be published on a web site managed and controlled by the reporting entity. Whichever option is adopted the information disclosed shall be considered part of the financial statements. If the information is disclosed on a web site the address of that web site shall be included in the printed financial statements of the reporting entity.

Explanatory notes

The benefits arising from this proposed standard are:

1 Substantially improved statements of corporate social responsibility. For an entity to properly report fulfilment of its obligations with regard to corporate social responsibility the user of its financial statements has to know:

1.1 who it is
1.2 where it is
1.3 what it does
1.4 where it trades with others
1.5 where it trades internally
1.6 where it employs people
1.7 where it uses natural resources
1.8 where it makes money
1.9 where it pays tax
1.10 the necessary quantification of this data

The corollary is that it is also important on occasion to know where these actions do not take place.

By adopting this standard transnational corporations can make clear:

1.11 what the limits of the TNC are
1.12 in which societies they operate
1.13 how they transact with those societies, and
1.14 what they pay to support those societies in which they operate.

By adopting this proposed standard much corporate social reporting will be integrated into financial reporting and the resulting financial statements should meet the needs of a wide range of stakeholders who might wish to appraise the reporting entity from this perspective.

2 Adoption of this proposed standard would enable the investment community to appraise a wider range of risks to which they expose both their own organisations and the clients they represent when they make investment decisions. In particular they will be able to assess the following risks in ways that would not be possible without adoption of this proposed standard:

2.1 geo-political risk; by reason of reporting in detail where and to what extent the corporation trades. This is increasingly important in a volatile international environment

2.2 where value is added, and is not, within a reporting entity; so assisting assessment of vulnerability within the internal supply chain in vertically integrated organisations

2.3 taxation risk; by reason of being able to determine the degree of inherent risk within the reported liability to taxation. This is important, as share valuation is critically dependent upon price/earnings ratios, on which the amount of tax payable has a material impact. If the tax payable is materially affected by tax planning e.g. by the use of tax havens, then risk within the reported liability for tax payable will be higher than for a company trading only in substantial economies. Shareholders need to be aware of this risk in appraising the worth of the entities in which they might invest

2.4 ethical investors wish to know in which economies a transnational corporation trades when making their investment decisions; the proposed standard will enhance their ability to appropriately assess the risk they wish to assume with regard to these matters

3 Governments will be able to assess the contribution transnational corporations are making to their state and appraise whether trading and taxation justice is being done on behalf of the citizens to whom they are responsible

4 Companies themselves will be able to demonstrate the ethical stance they are taking on trading and taxation matters

Consideration of likely objections to the proposed International Accounting Standard

1 **Cost** All the data required to be disclosed by this International Accounting Standard except that for natural resources used has already to be prepared by a transnational corporation seeking to comply with the requirements of International Accounting Standards in the usual course of preparing its consolidated accounts. The number of entities that will have to report on natural resource usage are limited and where this is necessary the preparation of such data will usually be straightforward. As such the additional costs that this standard would impose upon a reporting entity are marginal and would relate to:

1.1 preparing the information in tabular format for disclosure

1.2 the marginal additional cost of having the specific disclosure audited

It is considered that these are small costs to bear for the value of the disclosure made to stakeholder, investment and state communities for whom it is of concern.

2 **Competitive disadvantage** The usual defence to the disclosure of information that this proposed standard requires to be reported has been that unilateral adoption of such standards would impose a significant competitive disadvantage on the reporting entities located in a state that imposed such a requirement. By suggesting that the standard be implemented on an international basis such argument is invalid and can therefore be discounted.

3 **Taxation disadvantage** It may be argued that to disclose the information required by this proposed standard will put TNCs at a taxation disadvantage with regard to the agreement of their taxation liabilities with the taxation authorities of the different states in which they operate. This argument is accepted. That is an explicit purpose of this standard. In saying so it is however argued that:

3.1 at present TNCs have too great an advantage in this respect and that in particular it is very difficult for any taxation authority to identify:

3.1.1 the nature and extent of the corporation with which they are dealing
3.1.2 the nature and extent of its inter group transactions
3.1.3 the locations in which it declares both profits and losses and the degree to which they are correlated to value added at the same locations

3.1.4 the related parties with whom the TNC might transact to influence its reported performance or tax liabilities.

In requiring disclosure the proposed standard:

- redresses the balance between the parties, and will save substantial cost for taxation authorities in achieving acceptable taxation agreements with the TNCs located within their state boundaries
- provides transparency of data to all authorities, which is not currently the case due to the increasing prevalence of disclosure by way of unilateral rather than bilateral agreement
- will save substantial efforts otherwise required to procure similar disclosure between nation states

3.2 the proposed standard creates a level playing field between TNCs and those reporting entities that are only nationally based. The latter form the vast majority by number of all reporting entities worldwide and are largely small and medium sized entities (SMEs). This is because whilst many nation states have required disclosure of related party transactions in financial statements for some time (e.g. under UK Financial Reporting Standard 8) such standards specifically exclude the requirement to report most group relationships. This has provided the TNC with an opportunity to undertake transactions to its taxation and commercial advantage that have been denied to SMEs through reason of their obligation to report all transactions of such sort. This unfair competitive advantage needs to be eliminated.

3.3 related party reporting at a national level as referred to in the preceding paragraph was primarily implemented at the behest of taxation authorities and there is no reason why the same logic for disclosure should not be applied to TNCs

Technical notes

This proposed standard breaks new ground in financial reporting in a number of areas:

1 **Turnover** The definition of turnover used for related party reporting purposes in this standard is new and inconsistent with the definition used both in this standard for third party reporting purposes and in general because:

1.1 many transactions between related parties are with regard to financial services, rents, royalties, licence fees and similar such matters which can be disclosed by a reporting entity as being interest paid, other income, investment income or the like and therefore be excluded from turnover. For this reason a conglomeration of income of all sorts into one declared figure for turnover is required

1.2 such simplification makes local variations through translation less likely

1.3 such simplification makes the definition of purchases from related parties much easier to define, and means that for an ultimate parent company the two should always be in balance (as is required in any event by consolidation process used to produce TNC financial statements)

2 **Related Parties** The definition of related parties used in this proposed standard might appear long and cumbersome. This is, however, appropriate given the complexity of the structure of many TNCs. The definition is in fact largely familiar to many accountant in the UK at least, being based upon that for a related party contained in UK Financial Reporting Standard 8 with specific alteration being made to include group companies, special purpose vehicles and other corporate and non corporate entities to allow for the diversity of structures available and their continuing development, particularly in tax havens.

3 **Inter group transactions** The development of consolidated financial statements was a necessary step to ensure that a true and fair view could be provided of the activities of a group of related reporting entities. Nothing in this proposed standard undermines the principal of consolidation, which is vital, must be continued, and must be appropriately extended to all related parties.

This proposed standard does however recognise that despite the undoubted advantages of consolidated accounts, their development has enabled TNCs to suppress the reporting of the true nature and extent of their entities and the nature of the transactions between the related members of the TNC. At the time that the publication of consolidated financial statements became normal practice the speed of development of the TNC was not envisaged, nor was the associated development of globalisation. It is now, therefore, necessary to ensure that the TNC provides information as to its internal transactions as well as those with third parties as for many stakeholders those internal transactions are of at least as much importance as those which eventually transpire with third parties. As such the disclosure of the volume of transactions between each and every related party that comprises the TNC is now considered a necessity if a true and fair view of its transactions is to be provided by its financial statements.

4 **Added value** Added value reporting has not been a part of disclosure in financial statements to date. It is however of great significance to the risk appraisal that this proposed standard seeks to encourage, and in particular with regard to:

4.1 the correlation between value added and reported profit

4.2 the correlation between value added and tax paid

It is accepted that the proposed measure of value added is relatively crude, but it has the advantage of being:

4.3 easily calculated

4.4 reasonably objective

5 **Internet reporting** It is only a matter of time before the bulk of financial information is made available almost exclusively on the Internet. That this standard proposes that much of the information to be disclosed need only be supplied in this form is therefore recognition of an inevitable trend in reporting. The proposal also overcomes the objection that the cost of printing the data required to be disclosed would in the case of some large and complex groups be excessive or an unnecessarily complex exercise.

6 **Location and State** The definitions of location and state used in this proposed standard are necessary developments to ensure that disclosure of activities within a territory is not disguised behind a legal shield of incorporation in another territory.

Support notes for those concerned with Corporate Social Responsibility

Whilst this proposed standard is likely to have considerable appeal to those in the investor community there can be no doubt that its strongest support will probably come from those organisations proposing enhanced corporate social responsibility (CSR) reporting.

This proposed standard:

1 takes CSR into the mainstream of financial reporting

2 makes clear that there is substantial overlap between the concerns of the CSR community and the investor community

3 provides vital data to assist those seeking to determine the nature and extent of TNCs

4 makes transparent to what degree those corporations undertake transactions for their own benefit and for the benefit of others.

This last point requires elaboration and explanation. The proposed standard will enable those who wish to appraise the actions of a TNC to categorise the internal transactions of a TNC as follows:

5 those primarily undertaken for financial purposes. These will be ones in which:

5.1 the ratio of related party turnover to total turnover will be high
5.2 the ratio of value added to both related party purchases and related party turnover will be low
5.3 the ratio of profit to value added will probably be high

These transactions are typically ones where:

5.4 the trade is in financial services, which are capable of artificial construction and require low labour input in relation to their value
5.5 the trade is one where goods are purchased into a territory and are resold from it in largely unaltered state for the reason of either obscuring the original source of supply or to obtain taxation advantage on the mark up within the location in which the transaction takes place

In these cases there is likely to be doubt as to the necessity for the transactions to be undertaken in the chosen form and those with a concern with regard to:

- the sourcing of products
- taxation avoidance
- the fair allocation of reward to labour
- the financial stability of tax haven states

will all wish to use the data derived from this type of analysis.

6 those primarily undertaken for taxation advantage. These will be ones in which:

6.1 the ratio of tax to profit will be low, or non existent, and
6.2 there will be evidence that the transaction was primarily undertaken for financial purposes.

The second point must be stressed. There are occasions when a low tax charge might be properly due in relation to profit earned but real economic activity has occurred. Reporting entities would be encouraged to explain when such circumstances had occurred.

7 those where "value shifting" through "transfer pricing" is likely to be taking place to the detriment of the location in which value is really being added. "Value shifting" through "transfer pricing" is a process whereby a TNC chooses to charge a low price on sale of goods from a territory which has high taxation rates (usually with regard to profit) and then resells the goods made in that territory through one or more further locations during which process the price is increased on each occasion and profit is recorded, usually in locations where tax rates are low in relation to profit. This practice frequently undermines the taxation yield of states that have large populations or the responsibility for maintaining the environment under the pressure for natural resources located within their territorial limits. The practice is therefore of great interest to those with a concern for CSR. It will be revealed by there being:

7.1 low profits in proportion to value added probably in association with high taxes in proportion to profits in some territories,

whilst in others there will be

7.2 high profits in proportion to value added in association with low taxes in proportion to profit

In addition to these transaction based issues those with an interest in CSR will also have an interest in knowing:

8 where the TNC is located

9 who its related parties are

10 what the TNC does in each location

11 the relative rewards it makes to its labour between the states in which it is located

12 the natural resources it uses, and from where they are sourced.

About the author

Richard Murphy is a chartered accountant and an economics and accountancy graduate. Aged 45, he was senior partner of a firm of chartered accountants for fifteen years until 2000. He has also, in parallel, been chairman, chief executive or finance director of nine small and medium sized companies. He writes for the Observer and a range of professional magazines and web sites. His current professional work is largely with regard to business recovery.

About the Association for Accountancy and Business Affairs

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(i) to advance the public interest by facilitating critical scrutiny of commercial and non-commercial organisations including companies, partnerships, sole traders, public bodies, local authorities, charities, non-profit making organisations and any other form of commercial or non-commercial organisation;

(ii) to facilitate critical scrutiny of professional bodies, regulatory bodies, employer organisations, employee organisations, government departments and business organisations with a primary concern with regard to those related to the accountancy profession

(iii) to campaign for such reforms as will help to secure greater openness and democracy, protect and further the rights of stakeholders and to make disclosures where necessary;

(iv) to engage education and research to further public awareness of the workings, the social, political and the economic role of accountancy and business organisations.

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