

**DRAFT Minutes of the Meeting of the  
INTERNATIONAL ETHICS STANDARDS BOARD FOR ACCOUNTANTS**

**Held on January 12-14, 2015 in London, UK**

**Voting Members**

Present: Stavros Thomadakis (Chairman)  
Wui San Kwok (Deputy Chair)  
Helene Agélli  
Brian Caswell  
Richard Fleck (Day 1 and PM of Day 2)  
James Gaa  
Caroline Gardner (Days 1 and 2)  
Gary Hannaford  
Peter Hughes  
Claire Ighodaro  
Chishala Kateka  
Atsushi Kato  
Stefano Marchese  
Reyaz Mihular  
Marisa Orbea  
Sylvie Soulier  
Don Thomson  
Wen Zhang

**Technical Advisors**

Tony Bromell (Ms. Gardner)  
Helouise Burger (Ms. Soulier)  
Elbano De Nuccio (Mr. Marchese)  
Colleen Dunning (Mr. Hughes)  
Kim Gibson (Mr. Thomson)  
Liesbet Haustermans (Ms. Orbea)  
Alden Leung (Ms. Zhang)  
Tone Maren Sakshaug (Ms. Agélli)  
Andrew Pinkney (Mr. Kwok)  
Jens Poll (Mr. Hannaford)  
Lisa Snyder (Mr. Caswell)  
Toshihiro Yasada (Mr. Kato)

**Non-Voting Observers**

Present: Kristian Koktvedgaard (IESBA Consultative Advisory Group (CAG) Chair) and Yosuke Enomoto (Japanese FSA)

Apologies: Juan Maria Arteagoitia

**Public Interest Oversight Board (PIOB) Observer**

Present: Eddy Wymeersch

**IESBA Technical Staff**

Present: James Gunn (Managing Director), Ken Siong (Technical Director), Kaushal Gandhi, Elizabeth Higgs and Louisa Stevens

## 1. Opening Remarks

### WELCOME AND INTRODUCTIONS

Dr. Thomadakis welcomed all participants and public observers to the meeting. He welcomed, in particular, Mr. Wymeersch, observing on behalf of the PIOB; Mr. Koktvedgaard, Chair of the IESBA CAG; and Mr. Enomoto, the new observer from the Japanese Financial Services Agency, replacing Mr. Tamiya; Ms. Anne Loveridge, observing on behalf of the IFAC Nominating Committee; and Ms. Gillian Waldbauer, observing on behalf of the IFAC SMP Committee. He also welcomed Mr. Poll as Mr. Hannaford's new Technical Advisor, and Ms. Stevens, who had recently joined the IESBA staff.

Apologies were received from Mr. Arteagoitia and Ms. Gardner (for Day three).

Dr. Thomadakis thanked the Institute of Chartered Accountants in England and Wales (ICAEW) on behalf of the Board for hosting the meeting at its offices in London.

### OPENING STATEMENT FROM DR. THOMADAKIS

Dr. Thomadakis opened the meeting with the following statement:

Ethics has become a central issue in the post-crisis world. The crisis has been complicated by various ethical matters. The expectations of ethical behavior are therefore heightened and as a result expectations of the Board are also heightened. That is why the regulatory community, and I think a segment of public opinion, are following closely our work. We should be in open communication with them and our attention must be directed both to expectations and the risk that a prominent ethical failure, in the world of auditing and accounting, may in fact end up affecting adversely our own reputation.

My primary goal as Chair of the Board is simple and practical. It is to lead IESBA to continually raise the quality of the Code and to enhance its reputation as an independent international standard setter. Implementation of the Code by many jurisdictions and the ability of the Code to inspire accountants, auditors, regulators and policy makers around the world in the direction they take in their work and in their policies will be sure signs of our leadership in ethical thinking and in ethical practice. My predecessor, Jörgen Holmquist, whom I honor very much, had a very keen sense of this and it informed his pursuit of an active outreach and communication policy. I plan to continue with these steps and to consolidate our standing among important stakeholders.

Our strong public interest commitment must remain constantly visible and constantly relevant. Among the various standard setting activities that surround the accounting profession, ethics is the one mostly focused on mindsets, culture and behavior. As we seek to influence and re-shape the mindsets of others by offering high quality standards and an overall ethical framework, we must also constantly improve and raise our own mindset. No matter if we are practitioners or non-practitioners, if we are professionals or academics, our mindset on this Board must remain one of consensus that is fully compatible with our public interest mission. We walk in here members of the Board, Technical Advisors, everybody involved our work; we wear our public interest hat, not only on our head but in our minds and in our hearts as well.

If the standards that we propose inconvenience or upset existing practices in certain parts or certain activities of the profession this is no reason for stepping back. It is reason for ensuring that the standards are parsimonious, functional and effective in achieving the ethical outcome.

There are notable areas, auditor independence being the foremost example, where Regulations in important jurisdictions have forged ahead of the Ethics Code and specified explicit rules that are more stringent than our standards. This is not a failure of the Code, as some tend to say, since specific needs will always arise in one or the other jurisdiction and will necessitate specific requirements or prohibitions. There is no doubt that the Code must maintain its global perspective and its worldwide applicability. This can only be done by remaining principle-based. We must also however follow the directional signs implied by the examples in more advanced jurisdictions, which have after all experienced the crisis more deeply, among other things. We must seek therefore adjustments that will bring the Code in compatible mode with these jurisdictions. Needless to say there are cases, and I have seen some of those examples, of major jurisdictions which follow dissimilar or even opposing solutions to ethical *desiderata*. In those cases the Code must seek adjustments that will embody principled synthesis. In such areas especially, the principles and guidance of our oversight body, the PIOB, will be sought and valued.

More generally, our relation with our oversight body must develop in the spirit of open communication, mutual understanding and synthesis. This will simultaneously strengthen our independence, our effectiveness and our reputation,

On several occasions, I have heard something that many of you have heard. Is IESBA's vision a code which presents the lowest common denominator? The answer is, and should be, a resounding "no". This is not what we are here for nor is it what we are seeking in implementing our strategic plan. Given our global aspiration, we must obviously produce a code that has Global applicability. The question is not whether we seek convenient ways of compromising a variety of these rules and perspectives. The real question is whether we can disturb the *status quo* in areas where ethical practice needs to be elevated, needs to become responsive to new challenges. In a dynamic and changing world, we must also be dynamic and forward looking. Every project that we undertake, every standard that we produce and every pronouncement that we make must be put to this test: do we respond effectively to new ethical challenges or do we ask for a compromise?

My perception is that relations with other stakeholders are on a good track and we must continue with strong outreach. I will depend a lot on the good advice of all of you and of staff for better targeting and effective use of our resources in this area. In the present, I also want to especially stress our relationship to the CAG which is a primary channel to important stakeholders and, secondly, of course, the relationship to other standard setters, especially to the IAASB and the National Standard Setters. These are a critical starting point for outreach activities and for weighing the cost and effectiveness of our outreach activities.

I have had an opportunity by now to familiarize myself with ongoing projects. I have done a lot of reading, I assure you, and I have had long or reasonable conversations with all task force chairs. I am thankful to them for their assistance. I am satisfied that progress is on the way in several areas. We'll discuss specifics during the meeting. The one thing that I feel I have to point out now is that I have been impressed by the importance and seriousness of the Structure of the Code project which seems to me a fundamental improvement in our output, the creation of a whole new infrastructure for all our initiatives and an opportunity to discover what adjustment may be needed for Code in the future.

Another basic point I want to stress is my belief that our standard setting must be, as much as possible, taking account of empirical evidence and empirical reality. We seek through our standards to influence current practices. One source of information about current practice is often the discovery of malpractice, that is failures or scandals, regulatory reporting on audit practice, lobbying on the part of the various constituencies. Yet the bulk of empirical reality may not always be what appears through the lens of malpractice. Successful standard setting is not only what averts extreme failures. It is what also manages to move practice in general to higher levels of quality. It is not only what seeks to constrain or sanction mal-practitioners, it is also what seeks to improve the behavior of the population of well-intentioned practitioners. Ethics is hardly a matter only about the mindset of criminals and deviants. It is by and large about the mindsets and values of responsible actors. So, I think that empirical evidence and empirical reality must figure more prominently in our deliberations.

Let me lastly come, in closing to the issue of structure and organization of IESBA. Our strategic plan is very challenging and we are facing very demanding schedules. I will need to assess our working ways and practices before concluding about any organizational or administrative changes. It is not the time to do it now. Keeping to our plans, observing due process in all our deliberations, communicating with our oversight body, engaging in consultation with stakeholders are fundamental duties. I must tell you that one major challenge for this Board, which is very much on my mind, is that one third of the Board's members will be replaced by the end of this year. This has a number of practical implications for the work we do now. First and foremost the need for as rapid and as comprehensive a completion of the stages in which various projects are at now. Secondly, a smooth transition that will avoid the disruption to progress as we move to the next period. Some of the departing members who are now carrying important duties will probably have to work harder to complete projects. The remaining members will have to undertake additional roles as they are the natural successors of departing members so will have to devote time and energy also for the selection, orientation and preparation of new members.

I want to offer each one of you best wishes for the New Year, best wishes for IESBA and excellent cooperation between all of us.

#### CONDOLENCES

Dr. Thomadakis conveyed the sad news about the recent passing of Ms. Kateka's son. He conveyed the Board's condolences to Ms. Kateka. He thanked her for making the time to participate in the Board meeting despite the difficult circumstances and praised her for her strength and courage at this time.

#### BOARD COMPOSITION

Dr. Thomadakis welcomed Mr. Fleck as a new public member. Mr. Fleck briefly introduced himself.

#### TASK FORCE COMPOSITIONS

Dr. Thomadakis reported that he had invited Ms. Agélie to join the Part C Task Force and Mr. Fleck to join the Responding to Non-Compliance with Laws and Regulations (NOCLAR) Task Force, and they had accepted.

Dr. Thomadakis reported that Ms. Sapet would continue on the NOCLAR Task Force until the approval of the re-exposure draft (re-ED).

Dr. Thomadakis reported that the working group charged with developing the Safeguards project proposal had been the Non-Assurance Services (NAS) Task Force. Dr. Thomadakis noted that, subject to approval of the project proposal by the Board at this meeting, a formal Safeguards Task Force would need to be established. He invited expressions of interest from IESBA members and Technical Advisors to join the Task Force.

#### PLANNING COMMITTEE UPDATE

Dr. Thomadakis reported that the Planning Committee had met twice in December 2014 to consider, inter alia:

- The timing of the 2015 Board meetings in light of the potential impact of the retirement of six IESBA members in 2015 on the progress of certain key projects.
- Possible changes to task force and working group compositions.

#### SEPTEMBER 2014 PIOB PUBLIC INTEREST WORKSHOP

Dr. Thomadakis reported that the PIOB had recently published its conclusions from the public interest workshop it held in September 2014. This important report was included in the agenda materials for the meeting. The workshop was attended by PIOB members and staff, and representatives from the Monitoring Group, IESBA and IAASB and their CAGs, and IFAC. Dr. Thomadakis complimented the PIOB for this initiative.

Mr. Wymeersch reported that it was a longstanding project of PIOB to have a dialogue with the two CAGs regarding what constitutes the public interest in the context of the work of the standard-setting boards (SSBs) supported by IFAC. The workshop had received a very positive response from the participants and PIOB planned to have a similar exercise in late 2015. The subject of the workshop was “What is the public interest?” What are the drivers for standard setting in the public interest in the different constituencies? He outlined the general themes from the workshop, which he noted reflect the views expressed by the participants and not PIOB’s:

- The public interest must be served for the continuity of the auditing profession.
- The profession must be aware that the world has changed. This observation was then linked to the work of the SSBs in that they should strive for a standard of excellence.
- Professional skepticism is important but it is unclear what it means and how to introduce it into the work of the profession.
- There are continuing concerns over audit quality, as highlighted through the inspections work of members of the International Forum of Independent Audit Regulators (IFIAR). Standard setters should consider such work in determining areas that may need enhancement.
- What should be the role of education and how would it best support the quality of audit work?
- It is important to remember that auditors are working for the shareholders and not management.
- It is in the profession’s interest to have standards that are widely accepted. This would support the mobility of auditors.

- The role of the audit committee is important.
- An appreciation of the public interest should be included in auditors' education so that they understand what they commit themselves to when they join the audit profession.

Mr. Koktvedgaard thanked PIOB for organizing the event. He agreed that the discussion regarding what is in the public interest was constructive, particularly how CAG can support the Board's work and the broader public interest. He highlighted the CAG and IESBA have a common interest in raising awareness of their work.

#### RECENT EXTERNAL DEVELOPMENTS CONCERNING THE CODE

Dr. Thomadakis noted that the Singapore Accounting and Corporate Regulatory Authority (ACRA) would be issuing a strengthened Code of Professional Conduct and Ethics for accountants and accounting entities in February 2015. The proposed changes to the Singaporean Code would take into account revisions made to the IESBA Code up to September 2013.

Mr. Kwok noted that ACRA had publicly acknowledged that the IESBA Code is the way forward and that the Singaporean Code would be 99% consistent with the IESBA Code. He indicated that ACRA had created a committee to approve future changes based on the IESBA Code. He also noted that as Singapore is a major financial center, this was a positive development regarding adoption of the Code. He encouraged IESBA members and Technical Advisors to do what they can to promote adoption of the IESBA Code.

Dr. Thomadakis reported that the new Italian Budget Law, published at the end of December 2014, explicitly referred to the independence requirements of the IESBA Code. He indicated that this implied that the Italian Parliament recognized the IESBA Code as an authority at the international level in the field of professional ethics. Mr. Marchese remarked that this was an important step by the Italian parliament and that the IESBA Code is now a key reference point in Italian law.

#### NOVEMBER 2014 CAG TELECONFERENCE

Dr. Thomadakis briefly reported that the CAG had met in November 2014 via teleconference to consider significant comments received on the NAS ED. He noted that Messrs. Hannaford and Koktvedgaard would report back on the discussion during the NAS session later in the week.

#### RECENT OUTREACH ACTIVITIES

Dr. Thomadakis highlighted the recent and upcoming outreach and related activities as noted in the agenda material. He thanked all IESBA members and other representatives who had participated or agreed to participate in the Board's recent and upcoming outreach and related activities.

Dr. Thomadakis encouraged IESBA members to perform outreach in their own circles of influence not only to raise the reputation of IESBA and to share what the IESBA does but also to explore what stakeholders can do for IESBA.

#### MINUTES OF THE PREVIOUS MEETING

Subject to an editorial comment, the minutes of the October 13-15, 2014 Board meeting were approved as presented.

## 2. Non-Assurance Services

Mr. Hannaford introduced the topic, recapping the outcome of the October 2014 Board discussion. He highlighted, in particular, Board agreement on the final changes to the relevant provisions addressed in this project concerning NAS in Sections 290 and 291, subject to consultation with the CAG and finalization of the provisions pertaining to administrative services. He then briefed the Board on the November 18, 2014 teleconference with the CAG to obtain feedback regarding the Board's responses to the significant comments arising on the ED, and whether the performance of administrative services for an audit client should be subject to the prerequisite of paragraph 290.165 regarding management responsibilities. He noted that overall, the CAG was supportive of the proposed changes to the Code.

Mr. Hannaford then led the Board through the two further changes to the text the Task Force was proposing.

### MANAGEMENT RESPONSIBILITY FOR MONITORING INTERNAL CONTROLS

Mr. Hannaford noted that at its October 2014 meeting, the Board had agreed with the content of paragraph 290.163, which includes examples of activities that would be considered a management responsibility. He reported that six CAG Representatives had expressed support for including the term "monitoring" in the last bullet of paragraph 290.163, which stated: *Taking responsibility for designing, implementing or maintaining internal controls.*

Mr. Hannaford explained that the Task Force had previously considered the term "monitoring" and taken the view that the concept of monitoring controls was already addressed in the Code. However, the Task Force also agreed that the overall responsibility for monitoring internal controls was a management responsibility. Given that the bullet point began by stating "Taking responsibility for...", the Task Force agreed that it would be appropriate to accept the advice from the CAG Representatives to include the concept of monitoring in the example, as follows:

Taking responsibility for designing, implementing, monitoring or maintaining internal controls.

The Task Force also proposed a conforming change to paragraph 291.144.

A few IESBA members wondered whether the Task Force had considered the implications of this proposed change for other areas of the Code. In particular, it was questioned whether this provision would be consistent with other provisions of the Code, such as paragraph 290.194(f) addressing internal audit services. Mr. Hannaford noted that the Task Force had carefully considered the matter and concluded that the addition of the term "monitoring" in paragraph 290.163 would be appropriate given that the example is worded in terms of management *taking responsibility* for the activity. A few other IESBA members noted that this proposed change would not be inconsistent with paragraph 290.201 of the Code, which states that "the self-review threat is too significant to permit such services [involving the design or implementation of IT systems] unless appropriate safeguards are put in place ensuring that the client acknowledges its responsibility for establishing and monitoring a system of internal controls; ...". It was pointed out that *performing* the activities in the last bullet point of paragraph 290.163 would be a typical part of internal audit work; however, *taking responsibility* for these activities would belong to management. It was also noted that there was a view at the CAG that this proposed change would be consistent with the COSO framework, which includes monitoring as a component of internal control.

Highlighting the strong views on this matter at the CAG, Mr. Koltvedgaard noted that this proposed change would strengthen the Code and emphasize further the importance of the auditor being independent.

After further deliberation, the IESBA agreed with the Task Force's proposal.

A few IESBA members wondered why the phrase "...is further reduced when the firm gives the client the opportunity to make judgments and decisions based on an objective and transparent analysis and presentation of the issues" from the extant paragraph 290.163 had not been carried forward. Mr. Hannaford explained that the required steps in the new prerequisite were more robust and comprehensive than the guidance in the extant paragraph. He indicated that this would be appropriately explained in the Basis for Conclusions document.

#### MANAGEMENT RESPONSIBILITY – BOOKKEEPING

Mr. Koktvedgaard noted that some CAG Representatives had suggested that the list of examples of management responsibilities in paragraph 290.163 should include reference to maintaining books and records. Mr. Hannaford responded that the Task Force had reflected on this matter at length and concluded that this would not be necessary on the following grounds:

- Paragraph 290.167 already made it clear that management is responsible for the preparation and fair presentation of the financial statements; and
- Paragraph 290.168 already stated that providing an audit client with accounting and bookkeeping services creates a self-review threat when the firm subsequently audits the financial statements.

The Board concurred with the Task Force.

#### PREPARATION OF ACCOUNTING RECORDS AND FINANCIAL STATEMENTS

Paragraph 290.171 stated that an example of a service that is routine or mechanical in nature is the preparation of financial statements based on information in the client-approved trial balance and the preparation of the related notes based on client-approved records. An IESBA member expressed the view that the preparation of notes to financial statements can involve significant judgment. Accordingly, it was suggested that the example be limited to preparation that would involve little to no judgment. Mr. Enomoto shared a similar view and suggested clarification of the phrase "preparing financial statements."

Mr. Hannaford noted that the principle of management responsibility is that management *accepts responsibility* for the notes to the financial statements. He highlighted that the example was not about taking such responsibility but rather preparing the notes based on information provided by management. Accordingly, the Task Force did not believe it necessary to elaborate further on this example. Another IESBA member noted that the point raised was very relevant to SMPs. However, the principle was clear that management must take responsibility for the financial statements and the notes therein.

The Board overall supported the Task Force.

#### PREREQUISITE FOR ADMINISTRATIVE AND BOOKKEEPING SERVICES

Mr. Hannaford recapped that at the October 2014 meeting, some IESBA members had expressed a view that administrative services, as addressed in paragraph 290.166, should not be subject to the prerequisite of paragraph 290.165. Rather, they believed that the final sentence of paragraph 290.166 should be deleted. This sentence stated:

In addition, the firm shall be satisfied that the services would not result in assuming a management responsibility for the client and the requirement set forth in paragraph 290.165 is met.

Mr. Hannaford reported that ten CAG Representatives had expressed support for the notion that administrative services are a separate NAS and should be subject to the prerequisite of paragraph 290.165.



As such, the Task Force continued to hold the view that administrative services are NAS subject to paragraph 290.163 of the extant Code and should be subject to proposed paragraph 290.165. The Task Force supported its view based on:

- The fact that any service performed outside of the assurance function would by definition be an NAS, thus requiring client management to accept responsibility;
- The supportive feedback of many on the CAG; and
- The support noted in the comment letters to the ED which stated that “[t]he IESBA believes that the Code would be clearer if the guidance addressing administrative services, which are an example of non-assurance services, were located in a separate subsection as opposed to being included in the guidance addressing management responsibilities.”

Mr. Hannaford noted that the Task Force had nevertheless reconsidered the last sentence of paragraph 290.166, which was proposed post-exposure in order to clarify that administrative services were NAS subject to the prerequisite in paragraph 290.165. He added that the Task Force had concluded that although administrative services are subject to the prerequisite, the treatment would be inconsistent with the other provisions of the Code concerning NAS which do not include this cross reference. The Task Force therefore proposed deleting the last sentence of paragraph of 290.166 and the second sentence in paragraph 290.171, which contains a similar cross reference concerning routine or mechanical services in the preparation of accounting records and financial statements.

The Board supported the Task Force’s proposal.

#### PIOB OBSERVER’S REMARKS

Mr. Wymeersch noted that he was impressed by the very detailed deliberations of the Board in finalizing the revised provisions concerning NAS in this project. He expressed appreciation for the care the Board had afforded to due process, particularly the Board’s consideration of the input from the CAG.

He remarked, however, that the Board was not dealing with the real concerns about NAS. As an example, he noted that there is now an explicit list of prohibited NAS in the new EU audit legislation. In addition, the legislation places limitations on NAS fees. He noted that audit fees are now coming under significant pressure as a result of increased market competition. Accordingly, many firms were moving aggressively towards providing NAS. He felt that this was more of an overarching problem. He invited the Board to reflect on the broader issues with respect to the implications of such developments for auditor independence and the continuation of healthy audit firms. He acknowledged that this matter was outside the scope of the current project. However, in light of the importance of a strong and healthy auditing profession, he encouraged the Board to consider taking it up in due course in its work program.

An IESBA member noted that the Board’s Strategy and Work Plan 2014-2018 already includes a commitment for the Board to study the topic of fees. It was also noted that under its Emerging Issues initiative, the Board had already started considering at a more granular level what the key differences are between the Code and ethical requirements in the G-20 countries and major financial centers, including with respect to NAS.

Another IESBA member noted that the enhanced guidance and clarifications to the topic of management responsibility in this project will assist professional accountants (PAs) in the EU in implementing the new audit legislation, which does not describe the meaning of “management function.” The Code would help in this regard by being the main point of reference for interpretive guidance.

Dr. Thomadakis thanked Mr. Wymeersch for his remarks.

#### CONSIDERATION OF THE NEED FOR FURTHER CONSULTATION

The Board considered and concluded that, other than the benchmarking survey of G-20 countries and certain other jurisdictions that was conducted for purposes of this project, there was no need to further consult on the proposed pronouncement through, for example, the issuance of a consultation paper, the holding of a public forum or roundtable, or the conduct of a field test of the proposed revised provisions. The Board noted that the changes to the Code were limited in scope and concerned the withdrawal of the emergency exception provisions related to bookkeeping and certain taxation services for audits of public interest entities (PIEs), and the enhancements and clarifications to the guidance related to management responsibility and routine or mechanical bookkeeping services.

#### CONSIDERATION OF FURTHER ISSUES

The Board considered and concluded that there were no further issues raised by respondents, in addition to those summarized by the Task Force, which should have been discussed by the Board. Mr. Hannaford confirmed that all significant matters identified by the Task Force as a result of its deliberations since the beginning of this project, and the Task Force's considerations thereon, had been brought to the Board's attention.

#### DUE PROCESS

Mr. Siong advised the Board that up to and including this meeting, the Board had adhered to its stated due process in finalizing the pronouncement.

#### APPROVAL

The Board approved the proposed changes to the Code as a final pronouncement with the affirmative votes of 18 out of the 18 IESBA members present.

The Board assessed whether there was a need to re-expose the pronouncement. The Board agreed that the changes made to the ED were in response to the comments received from respondents and did not fundamentally change the principles in the ED or represent other changes of substance. The Board therefore determined that re-exposure was not necessary.

#### EFFECTIVE DATE

Mr. Hannaford outlined the Task Force's rationale for the effective date of the final pronouncement, taking into account respondents' comments. He noted the Task Force view that December 2017 would be too late for the pronouncement to become effective. A few IESBA members highlighted the need for a coordinated approach to the effective dates of upcoming changes to the Code from other projects.

The Board considered a number of options for effective dates such as choosing a fixed time of the year or going with a fiscal year approach. After due deliberation, the Board agreed that the final changes should become effective from 12 months after issuance, on the following grounds:

- It would be important to have guidance available to support effective implementation of the EU audit legislation, and the revised NAS provisions would help in that regard.

- The revised provisions contain two important clarifications concerning the concepts of management responsibility and “routine or mechanical” bookkeeping services. It would not be in the public interest to delay when they would become effective.

Early adoption would be permitted.

The Board asked the Planning Committee to reflect further on how best to coordinate the effective dates of upcoming changes to the Code from the other projects currently in progress.

Dr. Thomadakis thanked the Task Force and staff on behalf of the Board for their efforts in bringing this project to a successful conclusion.

### **3. Structure of the Code**

Mr. Thomson introduced the topic, recapping its objectives and timeline and outlining the activities of the Task Force since the October 2014 Board meeting. He then introduced the matters for consideration.

#### **REBRANDING**

Mr. Thomson explained that the Task Force was currently addressing the issue of whether the restructured Code should be in the form of code or standards, or a combination of code and standards. He noted that although it was called a code, in its introductory pages the Code refers to IESBA as setting standards. Mr. Thomson noted that support for presenting the Code as standards has come in particular from regulators as they regard this approach as being more enforceable; other stakeholders did not support the standards approach, as they regarded it as prescriptive and not giving enough emphasis to the principles-based approach of the Code.

With regard to a name, Mr. Thomson noted that some stakeholders had suggested that the restructured Code should have both “code” and “standards” in its title. He explained that the Task Force was considering presenting the independence sections so that they would be much more integrated within the Code, and more closely connected with the principles-based conceptual framework. Regarding a new name, Mr. Thomson noted that the Task Force favored having “international” in the title. Mr. Thomson asked for feedback from IESBA members.

IESBA members who were in support of the independence sections of the Code being rebranded as standards made the following comments:

- The independence sections of the Code lend themselves to being named as standards because they contain detailed and specific requirements. This is in contrast to the remainder of the Code which presents itself as principles of behavior.
- The Board is an international ethics standards setting body and so it is appropriate for its product to be called standards. Standards have gone beyond something nice to do and have to be complied with if they are to be credible.
- Using the word “code” causes confusion, as if it can imply statements of principle rather than standards.

IESBA members who did not favor the independence sections of the Code being rebranded as “standards” expressed the following views:

- Calling the independence sections of the restructured material standards might give more significance to them than the remainder of the Code. A few IESBA members commented that as a

standard setting board, the Board needed to be consistent in how it viewed all sections of the Code. These IESBA members expressed the view that nothing should be done to make the independence provisions look as if they are separate from the rest of the Code. This would be to ensure that they did not gain more attention than the provisions of the Code that address general ethical behavior. Ethical behavior must not be viewed as secondary to applying standards.

- The Board must not dilute the sense of the conceptual framework and the threats and safeguards approach, as they are regarded as the principal way to deal with the values and behaviors that underpin ethical decision making. The Code should not be separated into a code and standards.
- The Code is effectively a collection of standards and so it is already appropriately named.

Board members made the following comments and suggestions regarding the name of the restructured material:

- That the words “international,” “standards” and “ethics” should be included in its title.
- That the Board should retain its Code title to refer to the restructured material.
- The title should not only refer to accountants but also include reference to “international standards of independence for auditors”
- IESBA members might need to see the end product before they would be in a position to decide on a name for the restructured material.

Mr. Koktvedgaard advised the Board to keep the name short and to be careful of the acronym that any name might establish.

Dr. Thomadakis expressed the view that the word “code” conveys respectability, and also cohesiveness to things that are not necessarily homogenous. He commented that he did not think that the notion of a Code undermined standards. He indicated that the Board had to have a good reason for rebranding that could be easily justified to its stakeholders.

#### DEFINITIONS

Mr. Thomson commented that the Task Force had reviewed certain definitions in the Code and was recommending aligning some of the definitions with the definitions contained in the ISAs in the manner outlined in the issues paper. The Task Force regarded it as important for the definitions to be closely aligned if possible, as it was not helpful to the stakeholders of the two Boards for there to be differences in definitions between the two boards.

An IESBA member noted that whilst it would be good to achieve consistency of definitions, before aligning any definitions the Board should understand the rationale for the differences in meaning.

Mr. Thomson commented that the Task Force would consider the rationale for the differences in the various definitions in conjunction with IAASB if necessary.

#### OTHER MATTERS

##### *Renumbering and Reordering*

Mr. Thomson indicated that the Task Force had listened to the comments from IESBA members concerning the numbering in the Illustrative Examples and the repetition of text. The Task Force had worked on a simpler numbering system and reduced the amount of repetition. The Task Force would present a first draft

of restructured sections of the Code to the Board at its April 2015 meeting. The draft restructured text would also reflect the comments from respondents to the consultation paper.

#### *Drafting Conventions*

Mr. Thomson commented that the Drafting Conventions, now retitled Drafting Guidelines, had been further developed since they were first presented to the Board at its April 2014 meeting. As requested by the Board, the Drafting Guidelines had been shared with the other Task Forces. The guidelines would be updated if necessary, and changes in them would be reported to the Board.

#### *Plain English Editor*

Mr. Thomson noted that the Task Force had recommended an accomplished editor and that the appointment process was close to finalization.

Mr. Gunn noted that the contribution of an editor was helpful in that it might bring a different perspective to the redrafting. He commented that there might also be some challenges when an individual who had not been involved in the Board's prior discussions worked on simplifying the language in the Code. He cautioned the Task Force to ensure that the control around the changes rested with the Task Force.

Dr. Thomadakis commented that the use of an editor required a lot of care to avoid inadvertent changes in meaning. He asked whether the drafting guidelines were likely to be subject to further change. Mr. Thomson commented that the drafting guidelines were substantially complete. Regarding the use of the editor, Mr. Thomson noted that the editor would essentially be managed like an IESBA staff member. He expected the editor to bring her professional abilities to bear on the simplification of language. Mr. Thomson indicated that the Task Force would have the final say in the material taken forward to the Board for consideration at any point in the process.

#### *Electronic Code*

Mr. Thomson noted that a first version of the Electronic Code was published on the IESBA website in December 2014. He commented that it had new electronic features including HTML text and hyperlinks between defined terms and their definitions. He explained that during the course of the restructuring, the Task Force would be keeping in mind the further enhancement of the electronic features, including an enhanced search capacity so that users might undertake queries on particular topics.

Some IESBA members commented that to access the Electronic Code, users were required to register on the IESBA website before they might gain access to the Code. An IESBA member commented that the process was potentially putting up barriers to users wishing to access the Code, when the Board's objective was to encourage stakeholders to use the Code. IESBA members asked that a second look be taken at the issue.

Mr. Siong commented that the IFAC permissions department introduced the electronic registration screen for general tracking purposes within IFAC. The process was designed to inform IFAC and the Board about usage of the Electronic Code, including how often it is being accessed and from which international locations. Mr. Siong noted that such information might be used to inform the work of the Board. Mr. Gunn commented that the introduction of the registration process was also to protect the intellectual property of the material that the Board produces. He suggested that the Board invite the IFAC Director, Intellectual Capital, to address the Board on the aims behind the process at a future Board meeting.

Dr. Thomadakis expressed the view that there is an important trade-off between protecting the Board's intellectual property and having as wide a dissemination of the Code as possible, which is of course desirable. He commented that the suggested discussion would be of assistance to the Board.

#### *Timing*

An IESBA member commented on the challenging timeline of the project if an exposure draft were to be ready for approval in October 2015, bearing in mind the sensitivity of the work and the use of an editor. The IESBA member cautioned that the project's timeline might not afford the Board sufficient time to consider the wealth of material generated by the project. In view of the significance of the project, it was therefore suggested that the Board needed spend the appropriate time and effort in its review process.

Mr. Thomson acknowledged the significant pace of the project and commented that the Task Force was committed to proper due process. He explained that there was no intention to shortcut this. He noted that the working group undertook extensive research and sought stakeholder input which had informed the work on the project. He commented that the Task Force was utilizing a side by side mapping table to compare the extant Code with the draft restructured Code to assist the Board in its review process. In addition Mr. Thomson noted that the Task Force had been continuing its work on the restructuring of the Code and so was on track with its timeline. Nevertheless, he did not rule out that the responses to the consultation could impact the timeline of the project.

#### WAY FORWARD

The Board asked the Task Force to present a summary of the consultation paper responses at the April 2015 IESBA meeting together with the first draft restructured sections of the Code.

#### **4. EIOC Presentations**

Dr. Thomadakis introduced and thanked Mss. Snyder, Dunning and Haustermans for agreeing to give presentations to the Board on the AICPA's approach to convergence with the Code, the Canadian rules of professional conduct and Canadian approach to convergence with the Code, and the EU audit reform developments, respectively.

#### AICPA APPROACH TO CONVERGENCE

Ms. Snyder provided an overview of the different standard setters and regulators involved in ethics standard setting in the U.S. She provided background to the AICPA, including its Professional Ethics Executive Committee (PEEC), and the PEEC's role in establishing independence and ethics standards for the U.S. profession. She then outlined the AICPA's convergence efforts, the convergence challenges in the U.S., and the key differences between the revised AICPA Code arising from the AICPA's Codification project and the IESBA Code, among other matters.

In response to questions from the Board, Ms. Snyder provided the following additional information:

- AICPA rules have been changed to state that an AICPA member would not be considered to be in breach of its independence rules if the member had to comply with the rules of another code outside the U.S. In this regard, the more restrictive standard(s) must be followed.
- A firm or person can use the CPA designation without being registered with the AICPA provided that it is registered with the relevant state board of accountancy. Many state boards refer to the AICPA Code for independence purposes; hence, a CPA registered with a state board but not with the AICPA

would likely still need to comply with the AICPA Code. In addition, the AICPA Code is incorporated within US GAAP; hence, a US GAAP audit would, by definition, require compliance with the AICPA Code.

- When the AICPA addresses convergence of its Code, IESBA standards are considered along with those of other bodies, notably the Government Accountability Office (GAO).
- The AICPA Code has three conceptual frameworks, one for professional accountants in business (PAIBs), one for professional accountants in public practice and one for independents, as the threats to each are considered to be different. AICPA members who work in academia are considered to be PAIBs, as are members in government, unless they work for a government auditing entity when they are considered independents.
- If another US regulatory body is taking disciplinary action against an AICPA member, the AICPA can take its own disciplinary action against that member.
- All listed companies are considered PIEs in the U.S. The Securities and Exchange Commission is able to grant an exception from audit partner rotation requirements for small firms that audit PIEs.

#### CANADIAN CONVERGENCE

Ms. Dunning provided an overview of the background and approach to standard setting in Canada, including the roles of the 10 provinces and 2 territories in establishing, monitoring and enforcing the Rules of Professional Conduct (RPC) within their jurisdiction. Among other matters, she highlighted the key differences between the RPC and the IESBA Code, Canadian market considerations with respect to reporting issuers, and current convergence activities.

Mr. Hannaford added the following points of clarification:

- An ED that details proposed revised guidance on *Breaches* and *Contingent Fees for NAS* (in the Canadian rules) has been approved and was released in Q1 2015.
- As part of the merger of the three Canadian accounting bodies, the RPCs of each body are being merged using an approach similar to the process used by the Board for restructuring the Code. The individual overseeing the merger of the Canadian rules is also assisting with the restructuring of the IESBA Code. The ultimate intention would be to converge the Canadian rules with the IESBA Code.
- In 2003, Canada began to move from a rules-based approach to independence towards a principles-based approach with the ultimate aim of converging with the Code.
- In Canada, only listed companies are considered PIEs, despite an independent government agency strongly recommending that financial institutions be also classified as PIEs. Each accountancy body has the discretion to deem certain types of organization to be PIEs.
- When auditing a Canadian-based branch of an entity listed outside of Canada, the more restrictive rules are applicable.

#### EU AUDIT REFORM

Ms. Haustermans provided an overview of the new EU audit legislation. Among other matters, she highlighted key areas within the legislation, including the definition of a PIE, mandatory audit firm rotation, the scope, timing and restrictions with respect to NAS, and member state options.

The following matters were noted or raised, among others:

- Member states, and regulators within different member states, are being encouraged to cooperate in the implementation of the new legislation through the use of implementation workshops, sharing of best practices and informal networks. At present, it is difficult to judge how implementation is progressing, as member states are at different stages.
- Given the complexity of the predominantly rules-based legislation, there is scope for the IESBA Code to assist in providing clarity around the new legislation. In this regard, the Board could assist member states in areas of the new legislation where a degree of autonomy on implementation exists. The Board should also endeavor to ensure that the Code does not become applicable only to audits of non-PIEs in the EU, with audits of PIEs exclusively following the new legislation.
- The majority of member states appear to be utilizing the options on implementation of the new legislation as fully as possible.
- Some stakeholders with audit committee roles have requested guidance on the differences between the Code and the new legislation. Accordingly, there may be scope for engaging with this constituency on this topic.
- Auditors operating across borders of member states would be expected to follow the regulations of the member state in which they are doing business.

Mr. Kottvedgaard agreed that there may be an opportunity to use the IESBA Code to assist with the implementation of the new legislation. He noted that the national codes of ethics of many member states are based on the IESBA Code. Accordingly, a member state could use the IESBA Code as a starting point for its own code and amend it to account for the new regulations. The same principle could be applied outside of the EU, and the IESBA Code could perhaps even remove the need for local regulations.

#### PIOB OBSERVER'S REMARKS

Mr. Wymeersch noted that PIOB was planning to meet with institutional investors across the world to discuss the new legislation and that it could consider joint meetings with the Board. He added that during the EU deliberations over the new legislation, he was not aware of the Code being referred to, possibly because the EU did not wish the Code to compete with the new legislation. In this regard, an IESBA member noted that the EU has a policy of not referring to other parties when producing legislation.

Mr. Wymeersch advised the Board to carefully consider its actions and not be seen to be opposing the new legislation. Dr. Thomadakis indicated that this would not be the Board's intent. However, he acknowledged that the Board's actions could be interpreted this way within the EU.

#### WAY FORWARD

Mr. Kwok thanked the presenters for the detailed presentations. He noted that for the Code to be adopted by a jurisdiction it would need to be relevant. It was thus imperative for the Board to keep abreast of the main differences between the Code and national ethical requirements in at least the major jurisdictions. He added that the Board cannot set standards in isolation.

Dr. Thomadakis thanked Mss. Snyder, Dunning and Haustermans, noting that this was a good example of how the knowledge and expertise of technical advisors could be leveraged for the Board's benefit.



## 5. Responding to Non-Compliance or Suspected Non-Compliance with Laws and Regulations

Ms. Gardner introduced the topic, reminding the Board of the project's key objective and the main outcomes of the discussion at the October 2014 IESBA meeting. Mr. Kwok briefly reported on the October 2014 discussion of the project with the Standards Coordination Working Group of the International Forum of Independent Audit Regulators (IFIAR). Among other matters, he noted that the IFIAR representatives had recognized the revised approach to responding to NOCLAR or suspected NOCLAR, and the broad objectives of the proposed response framework.

Ms. Gardner then outlined the matters for Board consideration and the main changes to the text of the draft re-ED.

### GENERAL COMMENTS

IESBA members expressed broad support for the direction of the Task Force's revised proposals. Among other matters, it was noted that the proposals were generally well balanced and gave due regard to the public interest. It was also noted that the revised draft of the re-ED was an improvement on the previous version.

### PROPOSED SECTION 225<sup>1</sup>

In addition to editorial matters, IESBA members asked the Task Force to:

- Consider whether the structure and flow of the introductory section could be improved through better signposting.
- In relation to the objectives in paragraph 225.2, consider stating what the range of further action might be to help enhance the presentation of these objectives.
- Consider addressing a perceived inconsistency between the first paragraph of the Section (which refers to substantial harm in non-financial terms) and the second category of laws and regulations within the scope of the Section (which have an indirect effect on the financial statements). In this regard, it was felt that the former appeared to have expanded the scope of ISA 250<sup>2</sup> as it would be difficult to envisage a NOCLAR that would not have an indirect effect on the financial statements. It was also questioned whether the Section would capture a NOCLAR for which the public interest impact would be high but in respect of which the legal penalties would be immaterial.
- Reconsider the examples of laws and regulations that do not have a direct effect on financial statements so that they are more closely linked to the entity's license or right to operate. In addition, it was felt that readers may infer from these examples that the proposed Section addresses only serious matters.
- In relation to the paragraph describing the responsibilities of PAs in public practice, reconsider how the requirement to obtain an understanding of laws and regulations is articulated as it seemed to be a standalone requirement unrelated to NOCLAR.
- Reconsider the need to define the concept of credible evidence as it is a legal standard in some jurisdictions.

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<sup>1</sup> Proposed Section 225, *Responding to Non-Compliance or Suspected Non-Compliance with Laws and Regulations*

<sup>2</sup> ISA 250, *Consideration of Laws and Regulations in an Audit of Financial Statements*

- In relation to the examples of circumstances that may cause the PA no longer to have confidence in the integrity of those charged with governance, reconsider the appropriateness of the second example as it seemed to suggest that the PA should judge whether management should act in the public interest, i.e., a similar obligation as the PA. It was felt that this would be going too far.
- Consider relinking the threshold of substantial harm to the consideration of the nature and extent of further action. In addition, the current placement of that threshold seemed to suggest that the response framework would apply only to matters of substantial harm.
- Delete the statement that the concept of the public interest is not capable of general definition as such a statement would be inappropriate in a code of ethics. Instead, it would be more appropriate to state that what is in the public interest will depend on the circumstances.
- Consider whether there was an implicit presumption of disclosure to an appropriate authority in paragraph 225.27, as the way it was drafted seemed to suggest that disclosure would be the expected outcome in the normal course of events unless the factors listed (e.g., threats to physical safety, etc.) were met.
- Reconsider the articulation of the third party test, as the focus appears to be more on the third party (whose view can change) than on the public interest.
- In relation to paragraph 225.42 concerning the factors to consider in determining whether PAs other than auditors can disclose information outside the entity, consider the need to refer to the substantial harm threshold. As currently drafted, the provision seemed to suggest that such action would be entirely discretionary.
- Whether the guidance in paragraph 225.27 regarding the factors affecting the determination of whether to disclose the matter to an appropriate authority should also be provided for PAs other than auditors.

Mr. Koltvedgaard suggested reconsidering the appropriateness of including in paragraph 225.27 the factor addressing whether there is a general culture within the client of disregarding laws and regulations. He felt that if indeed there was a general culture of disregarding laws and regulations within the client, the PA should not continue the client relationship.

#### OTHER MATTERS

Mr. Enomoto suggested consideration of making the documentation requirement more specific. In particular, he noted that communication of suspected NOCLAR to the parent entity in a group audit situation is not a requirement in ISA 250. Accordingly, he felt that the documentation of further action taken would be important.

#### PROPOSED SECTION 360<sup>3</sup>

IESBA members asked the Task Force to:

- Consider making the definition of a senior PA in business (PAIB) consistent with the description of management responsibility in the final changes to the Code arising from the NAS project.

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<sup>3</sup> Proposed Section 360, *Responding to Non-Compliance or Suspected Non-Compliance with Laws and Regulations*

- Consider addressing the situation where the immediate superior is suspected of being involved in the NOCLAR and the entity has no internal ethics policy that would provide an alternative channel for raising the matter.
- Clarify that for PAIBs other than senior PAIBs, they would be permitted to go further than their immediate superior in raising the matter.

#### DRAFT RATIONALE FOR PROPOSED RESPONSE FRAMEWORK

Ms. Gardner outlined the strengths of the proposed framework and the rationale for not mandating disclosure of NOCLAR or suspected NOCLAR to an appropriate authority in the Code. She noted the Task Force's intention that these explanations be incorporated in the explanatory memorandum (EM) to the re-ED.

IESBA members expressed support for the proposed explanations, finding them helpful. With respect to the rationale for not mandating disclosure in the Code, an IESBA member noted that while the explanations were cogent, there was a question as to whether the message being conveyed was that the PA needs to do nothing. Mr. Siong responded that these explanations would be placed in proper context in the EM in that they would explain why the Board moved away from the main proposals in the original ED.

Another IESBA member wondered whether the rationale for not mandating disclosure in the Code would indirectly represent a criticism of the approach taken in jurisdictions that do require such disclosure. Ms. Gardner noted the rationale relates to a requirement for disclosure *in the Code* and not in law or regulation.

#### *Worked Example*

Ms. Gardner introduced the worked example accompanying the draft rationale for the proposed framework, noting that it was intended to demonstrate that there is a pathway to disclosure of NOCLAR or suspected NOCLAR to an appropriate authority under the framework. She cautioned that while the flow chart accompanying the worked example helped to visually illustrate the decision-making process, it may represent an over-simplification of what may in reality be a complex situation.

IESBA members commented as follows, among others matters:

- The flow chart is relatively easy to follow. However, there would be benefit in providing one or two additional examples.
- Consideration should be given to rewording the title of the illustrative example to "pathway to addressing NOCLAR or suspected NOCLAR" to link more closely with the objectives.
- It would be helpful to provide examples showing other possible actions that do not lead to disclosure of the matter to an appropriate authority.
- Consideration should be given to the status of the illustrative example and how users would be expected to use the rationale for the proposed framework.
- Examples are very useful and persuasive tools, but they are guidance.
- The flow chart appears overly linear and some steps (such as consideration of a legal or regulatory requirement to report) do not depend on prior steps.
- The flow chart may make the proposals more accessible and understandable to stakeholders, notwithstanding the concerns about over-simplification and linearity. It may also help with outreach.

- The flow chart is fairly generic and consideration should be given to whether the narratives in the illustrative example are necessary.

After further deliberation, the Board broadly supported including the worked example in the EM but with appropriate caveats and subject to the above comments.

#### PIOB OBSERVER'S REMARKS

Mr. Wymeersch commented that he had listened to the many debates in this project, including during the development of the original ED. He was of the view that the proposals that the Board had now considered had been significantly improved and represented considerable progress in many ways. He felt that the decision-making in the process of responding to NOCLAR or suspected NOCLAR was now clearer.

In relation to the examples of the second category of laws and regulations within the scope of the proposals, he suggested that it would be important to pay attention to the banking sector and that there should be consideration of violation of banking laws as an example of NOCLAR in that regard.

With respect to the factors affecting the determination of whether to disclose the NOCLAR or suspected NOCLAR to an appropriate authority in paragraph 225.27, he felt that all the four factors listed seemed to point to non-disclosure. He suggested counter-balancing these with factors such as whether the public interest would be gravely affected, the potential impact on investors and the financial market, and whether the matter could pose a systemic risk to the market or its stability.

Finally, emphasizing the importance of documentation, he suggested reconsideration of the guidance in paragraph 225.46 as it currently seemed to convey the impression that the PA should manipulate the documentation to avoid legal discovery.

Dr. Thomadakis thanked Mr. Wymeersch for his constructive comments and suggestions, noting that they would assist in producing a more balanced set of proposals.

#### WAY FORWARD

The Board asked the Task Force to present a revised draft of the text for consideration with a view to approval for re-exposure at the April 2015 IESBA meeting.

### **6. Review of Part C of the Code – Phase II**

#### TRANSPARENCY INTERNATIONAL (TI) PRESENTATION

Mr. Gaa introduced the topic of Phase II of the Part C project dealing with inducements, highlighting why the topic is so important. He then introduced Messrs. Peter van Veen and Jeff Kaye, representatives of TI, who had accepted an invitation to come and address the Board.

Messrs. van Veen and Kaye outlined their backgrounds. They then provided a presentation on the history of TI and its work on bribery and corruption, the nature and consequences of bribery and corruption, the role of accountants relating to corruption and the associated challenges, and what accountants can do when facing bribery and corruption.

In response to questions from IESBA members, they provided the following clarifications, among other matters:

- The work of TI does not directly address money laundering, which is subject to a variety of laws, although Anti-Money Laundering (AML) legislation covering terrorist activities and bribery would

overlap with the work of TI. Similarly, lobbying is not specifically covered by the work of TI, unless the nature of the lobbying specifically meets the criteria of a bribe of a public official.

- Laws against bribery and corruption can be extra-territorial, notably in the USA and UK, where organizations based outside these jurisdictions, but wishing to carry out business in them, must abide by the jurisdictions' anti-bribery laws.
- Cultural views of accepting and paying bribes are constantly changing within jurisdictions and also within organizations that originate from or operate within those jurisdictions. A culture where ethics is not given high importance in a jurisdiction or organization has been associated with the paying of bribes.
- A payment to stop a function or action can be a bribe just as well as a payment to encourage or facilitate it.

Mr. Gaa and Dr. Thomadakis thanked Messrs. Van Veen and Kaye for their informative and insightful presentation.

#### PART C PHASE 2

Mr. Gaa introduced Phase 2 of the Part C project, summarizing the preliminary issues identified by the Task Force.

The following matters were raised:

#### SCOPE AND APPROACH

- Given the plethora and complexity of rules and regulations relating to bribery and corruption, it would not be advisable to seek to develop guidance on how to follow them or how to address each one of them individually. Instead, the Code should emphasize the need to understand and abide by applicable laws and regulations, and guide the PAIB in how best to act ethically in the circumstances. Mr. Gaa noted that the Task Force's intention was not to address specific laws and regulations, but to develop guidance on inducements that, while not illegal, may challenge compliance with the fundamental principles.
- The Code should address inducements that may not be considered ethical, with a focus on how the fundamental principles may be breached as a result. Mr. Gaa noted that the Task Force had researched how other organizations had addressed the issue of inducements. The Task Force considered that it would be beneficial to add guidance on how to deal with different types of inducement and on safeguards to avoid breaching the fundamental principles.
- Consideration should be given to a conceptual approach to the matter, which should be addressed from a purely ethical point of view.
- The scope of Phase 2 needs to be more clearly defined. In this regard, consideration should be given to a GAP analysis to identify areas in Section 350<sup>4</sup> where improvements could be made.
- Consideration should be given to explaining why there is a public interest need to address inducements, the costs associated with inducements, dealing with inducements while pursuing the

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<sup>4</sup> Section 350, *Inducements*

organization's legitimate aims, and how inducements affects an organization and the relationship between a PAIB and the employing organization.

- It is possible to pursue the legitimate aims of an organization by using illegitimate means, such as giving or receiving inappropriate inducements. The subject of inducements is complex with no universally acceptable norm and constantly changing practices.

#### DEFINITIONS

- Definitions on some ambiguous terms could be useful and would assist when translating the Code into different languages.
- Since the TI definition of bribery uses the term "advantage," it could be assumed that an advantage always has a negative connotation. However, there may be circumstances where advantages are positive in that they advance legitimate business goals. Careful consideration should therefore be given to the use of certain terms and the implication of these terms. Mr. Gaa noted that the Task Force intended the term "advantage" to be neutral. He acknowledged that not all advantages necessarily create a threat to the fundamental principles. In this regard, it was noted that guidance may be needed to distinguish when such a term is used in the positive and when in the negative.

#### OTHER MATTERS

An IESBA member wondered how accountants working for government organizations would be covered. It was noted that government accountants could be more exposed to pressure related to inducements than other accountants, and less likely to be aware of the existence of the Code. Mr. Gaa indicated that the Task Force had considered in Phase 1 how to address government accountants and concluded that they were PAIBs. He acknowledged that greater consideration could be given to this constituency, given the extent to which government officials tend to be exposed to bribery and corruption.

An IESBA member expressed the view that it may not be immediately clear when an inducement may lead a PAIB to breach the fundamental principles, for example, where an offer of employment is made to a family member of the PAIB. It may not become apparent that this was an unacceptable inducement until after a request to reciprocate the favor had been made. This may not occur until a significant period had elapsed. Accordingly, it was suggested that guidance should be kept at a high level as the subject of inducements is not conducive to detailed guidance.

Mr. Siong suggested that the Task Force consider appropriately linking inducements and pressure as an inducement could be made under pressure to achieve a certain outcome.

#### WAY FORWARD

The Board asked the Task Force to present an update on Phase II of the project at the April 2015 IESBA meeting.

### **7. Safeguards**

Mr. Hannaford introduced the topic, outlining the background to, and timeline of, the initiative. He then presented the project proposal.

## PROJECT PROPOSAL

Mr. Hannaford noted that the objective of the project would be to evaluate and make recommendations regarding the clarity, appropriateness and effectiveness of:

- The safeguards described in Sections 100<sup>5</sup> and 200<sup>6</sup> of the Code; and
- Safeguards that pertain to NAS in Section 290.<sup>7</sup>

He explained that the project would be expected to serve the public interest by providing greater clarity on the guidance pertaining to safeguards and improving the robustness of the safeguards in the Code. Doing so would enhance compliance with the fundamental principles and thus be supportive of audit quality.

The following matters were raised:

- In addressing the meaning of the term “acceptable level,” a review of the meaning of “reasonable and informed third party” would be welcomed, if this were within the project scope. Mr. Hannaford noted that this matter was expected to be considered. However, the Working Group (WG) did not consider it necessary to make explicit reference to this matter within the project proposal.
- Documentation with respect to safeguards could be included within the project scope. Mr. Hannaford noted the Task Force would consider this.

An IESBA member requested clarification on the concept of “responses to threats other than safeguards” included in the project proposal. Mr. Hannaford explained that users of the Code often consider that if an action eliminates or reduces a threat to an acceptable level then it must be a safeguard. He explained that the WG was of the view that there may be other processes which take place that are not within description of safeguards but which could still reduce a threat to an acceptable level.

An IESBA member asked why the project scope does not include a review of safeguards in Part C.<sup>8</sup> Mr. Hannaford explained that at the present time the focus was on the applicability of safeguards as they pertain to NAS. He noted this cannot be done without considering the more general description of safeguards in Sections 100 and 200. He added that any proposed recommendations would need to be tested against other areas of the Code. He noted that the intention was not to perform a review of the applicability of safeguards throughout the entire Code at this time, although this might be a next step in the process.

The Board unanimously approved the project proposal.

## COORDINATION WITH THE STRUCTURE OF THE CODE PROJECT

Mr. Hannaford explained that the timeline set out in the project proposal was consistent with the Strategy and Work Plan, 2014-2018 (SWP). He noted the importance of coordination with the Structure of the Code project.

A few IESBA members expressed concern over the proposed timeline, in particular:

- The aggressive timeline for completion of the project and the complexity involved in coordinating with the Structure of the Code project in a short time frame.

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<sup>5</sup> Section 100, *Introduction and Fundamental Principles*

<sup>6</sup> Section 200, *Introduction*

<sup>7</sup> Section 290, *Independence – Audit and Review Engagements*

<sup>8</sup> Part C, *Professional Accountants in Business*

- The potential for confusion through exposing proposed revisions to the Structure of the Code and Safeguards within close proximity of each other.
- Stakeholder concerns regarding different effective dates of changes to the Code.

Mr. Hannaford commented that there was some uncertainty within the WG as to whether the project could be aligned with the planned October 2015 exposure of proposed revisions from the Structure of the Code project, although January 2016 could be achievable. He emphasized that the WG appreciated the importance of coordinating the Safeguards project with the Structure of the Code project and would endeavor to maintain the link between the two projects.

Mr. Thomson noted that the Structure Task Force had heard from stakeholders that the Structure of the Code project should move forward on a timely basis. Stakeholders had also commented that since safeguards are pervasive throughout the code, for the purposes of clarity and adoption, the Safeguards project should be coordinated with the Structure of the Code project. He noted that despite their timelines, both projects would follow due process.

Dr. Thomadakis noted that the timing of Board outputs would require a holistic view and that the Planning Committee would reflect on the matter further.

#### TASK FORCE COMPOSITION

Dr. Thomadakis noted that the WG was comprised of the NAS Task Force. He invited expressions of interest from IESBA members and Technical Advisors to join the Safeguards Task Force. He noted that he would confirm the composition of the Task Force at the end of the meeting.

#### WAY FORWARD

The Board asked the Task Force to present preliminary issues for consideration at the April 2015 IESBA meeting. Messrs. Hannaford and Thomson agreed to give early consideration to the issue of coordination between the Structure of the Code and Safeguards projects and to report back on this matter at the April 2015 meeting.

### **8. Long Association**

Ms. Orbea introduced the topic, giving a general overview of the responses to the ED and leading the discussion of the matters for consideration.

#### GENERAL THEMES AND OBSERVATIONS FROM RESPONDENTS

Ms. Orbea explained that the following common themes arose out of the responses to the ED: the disadvantage to SMPs in applying the provisions; getting the balance right in the interests of audit quality; the lack of evidence for change; the interaction with local requirements and whether the Code can recognize other jurisdictional requirements; whether the Board is moving away from a principles-based approach; and the complexity of the requirements.

Among other matters, IESBA members made the following comments and suggestions for the Task Force's further consideration:



*The Impact on SMPs*

- Whilst recognizing the issues raised by SMPs, the arguments were not compelling because key audit partner (KAP) rotation already exists and the proposal is just extending the cooling-off period for the engagement partner (EP).
- The current two-year cooling-off period might convey the perception of an individual being brought in only to keep the seat “warm.”
- The Board should consider the public interest from the perspective of the entity being audited, rather than from the firm undertaking the audit. Although some respondents had suggested that the Board could consider special exemptions for SMPs, all professional accountants should be subject to the same provisions with respect to the audit of PIEs.
- Special consideration might be afforded to SMPs with regard to the effective date, to enable a longer time to implement the proposals.
- There is an existing provision in the Code allowing a KAP to serve longer than seven years in certain circumstances.<sup>9</sup> If the proposed provisions were too strict, there might be an increased use of the existing exemption, resulting in a two-tier system.
- There is an argument that if a two-year cooling-off period is insufficient, then the cooling-off period could be increased to three years instead of five, which would ensure at least two complete financial years away from the audit engagement.

*The Lack of Empirical Evidence for Change*

- Although there may be no empirical evidence of the need for change, the rationale for the proposals is to reduce the perception of a lack of independence arising from an auditor being able to serve on the audit of a PIE for 14 out of 16 years. However independent an auditor might be, if the audit market has a perception of a lack of independence it is not good for the auditing profession.

*The Interaction with Local Requirements*

- There are many jurisdictions with different KAP rotation requirements, and some have implemented firm rotation as well. In a jurisdiction where there is a five-year time-on period, or where there is mandatory firm rotation in conjunction with KAP rotation, imposing a five-year cooling-off provision might make the provisions in such a jurisdiction stricter than what is intended in the Code.
- The Board should give recognition to the provisions in different jurisdictions which may have an equivalent package of measures to those included in the current proposal.
- The proposals should somehow take into account if a jurisdiction has adopted mandatory firm rotation.

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<sup>9</sup> Paragraph 290.153.

## ROTATION OF KAPS ON THE AUDIT OF PIEs

### *Length of Time-On All KAPs*

Ms. Orbea explained that the ED proposed no change to the existing seven-year time-on period for all KAPs, and commented that most respondents agreed with that approach. She noted, however, that some respondents had suggested that the time-on period might be reduced to five years.

IESBA members supported the time-on period remaining at seven years.

### *Length of Cooling-Off for the EP*

Ms. Orbea outlined that the ED proposed an increase in the mandatory cooling-off period for the EP from two years to five years. She explained that many respondents to the ED commented that a cooling-off period of two years was too short. However, respondents did not agree on what the appropriate cooling-off period should be, with suggestions ranging from three to five years.

An IESBA member expressed a preference for a three-year cooling-off period and commented as follows:

- Outreach undertaken indicated that the proposals were too complicated to apply in many jurisdictions. It might be simpler to have an absolute prohibition on activities during the cooling-off period coupled with a three-year cooling off period for all KAPs, including the EP and the EQCR. A three-year cooling-off period specified on that basis might provide the desired “fresh look.”

Taking into account respondents comments, some IESBA members expressed the following views:

- An approach which was more principles-based might be appropriate and respond to concerns. The Board might consider providing for a minimum of three years for the cooling-off period for the EP, with a maximum period of five years in appropriate circumstances; with no change in the cooling-off period for other KAPs and the EQCR.
- A period of at least three years for cooling off, with some other range of measures, might be more appropriate.
- Bearing in mind the respondents' comments about the complexity of implementing and monitoring the proposed provisions, it might be better to have an absolute prohibition on activities during the cooling-off period, and a minimum cooling-off period of three years for all KAPs, including the EP and the EQCR. Such a provision might include the flexibility to set a longer cooling-off period, depending on the individual situation to be addressed. The simpler the provisions are, the easier they might be to adopt and enforce.
- A three year cooling-off period provides the right balance and addresses the concerns raised by respondents from jurisdictions such as the EU. The Board's proposals are complex and a cooling-off period of five years may not be proportionate, and might lead to unintended consequences. A simpler approach of a three-year cooling-off period, with no contact with the audit client or the engagement team, might be easier to implement and enforce.
- If the Board continued to support a five-year cooling-off period for the EP, the Board might consider somehow recognizing rotation requirements in other jurisdictions, where there may be equivalent provisions to those proposed by the Board.

IESBA members continuing to support the five-year cooling-off period for the EP as proposed in the ED expressed the following views:

- A five-year cooling-off period for the EP is appropriate, and having issued an ED with a seven-year time-on period and a five-year-cooling-off period, the Board would need compelling reasons not to follow that approach. The Board may need to consider recognizing jurisdictions where there are other safeguards in place to maintain independence, albeit they are not the same as those in the Code. Although many respondents favored a three-year cooling-off period, regulatory respondents favored five years. The Board should reach its conclusion based on what is in the public interest.
- The rationale for the proposal was to address the perception of a lack of independence arising from an individual potentially serving 14 out of 16 years on the audit of a PIE. Allowing an individual to come back to an audit engagement after a two- or three-year period did not go far enough in ensuring independence in appearance.
- Addressing the perception of a lack of independence required more than incremental changes to the long association provisions. It was only a change of the EP's cooling-off period from three to five years that would make a sufficient difference, and enable there to be a real "fresh look" by the incoming individual. The proposed five-year period gave the right signal to the market.
- The EP definition should be more clearly expressed, making reference to a "lead audit engagement partner," to reflect that there is only one EP designated with responsibility for the audit that would be subject to five-year cooling-off.
- The Board should support the cooling-off period of five-years as exposed in the ED because the ED responses had not raised any new issues that had not already been considered by the Board.

Dr. Thomadakis expressed the view that it was in the public interest for the Board to take the clearest path to actual and perceived independence. He commented that he had not heard anything that might make him believe that the Board should cease to support the ED. In addition, he had not heard IESBA members who were fundamentally opposed to the ED proposals. There were IESBA members who supported a minimum period of three years for the cooling-off period for the EP, but the way in which those members expressed their opinions did not rule out support for a five-year period. Some IESBA members had commented that a five-year cooling-off period for the EP was acceptable, but had acknowledged that the proposals might need to recognize provisions in other jurisdictions. He suggested that the Task Force further explore whether the Code could allow for, or recognize, different regulatory solutions and safeguards to address the long association threat.

*Length of Cooling-Off period for All Other KAPs, Including the EQCR*

Ms. Orbea explained that the ED proposed that the cooling-off period for other KAPs, including the EQCR, remain at two years, and that most respondents supported this proposal. A few regulatory stakeholders had expressed the view that the cooling-off period for the EQCR should be the same as that of the EP as they perceived such an approach to be in the public interest.

IESBA members generally supported the proposals in the ED and those who expressed a view commented as follows:

- If the Board maintained its support for a five-year cooling-off period for the EP, then the cooling-off period for other KAPS, including the EQCR, should remain at two years. However, if the cooling-off

period for the EP were three years, then the EQCR and other KAPs should also cool off for three years.

- The EQCR role is quite distinct from the role of the EP. The EQCR is not a member of the engagement team and typically does not meet the client. In very large firms, the EP and the EQCR might not even be in the same office. There was nothing in the responses to the ED that was sufficiently persuasive to make the Board change its view.

Expressing a contrary opinion, an IESBA member supported the cooling-off period for the EQCR being the same five-year cooling-off period as the EP, commenting that it also simplified the proposal. The EQCR bears important responsibilities, and although the EQCR might not have direct contact with the client, he or she should be subject to the same requirements as the EP. A two-year cooling-off period for the EQCR was too short.

*Applicability of Longer Cooling-Off Period to Audits of Listed Companies or All PIEs*

Ms. Orbea explained that the ED proposed that the five-year cooling-off period for the EP should apply to the audits of all PIEs. She noted that three quarters of the respondents supported the proposal. She indicated that respondents who were not in favor of the proposal applying to PIEs expressed various views: in some jurisdictions PIEs might only be small entities and the proposals might have a negative impact on such PIEs; certain more restrictive provisions generally applied to listed companies only; and, a principles-based approach might be better.

IESBA members generally maintained their support for the proposal and made the following comments:

- The Code's definition of a PIE includes entities defined by regulation or legislation as a PIE or 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. Once a PIE has been designated as such in a given jurisdiction, then the requirements in the Code should apply consistently to all PIEs, not just listed PIEs.
- Applying different requirements to the audits of listed and unlisted PIEs would be inconsistent with the approach taken in the rest of the Code where there is no such distinction.
- The definition of a PIE should be clarified so that there is a consistent application of the provisions across jurisdictions.

Mr. Koktvedgaard believed that all PIEs with cross-border operations should be treated the same. He commented that there should be a common definition of a PIE, based not on whether they are listed, but on whether they are PIEs in a broader context.

*EP for Only Part of the Seven-Year Time-On Period*

Ms. Orbea explained that respondents expressed general disagreement regarding the proposal that the EP cool-off for five years if he or she had served any time as the EP during the seven-year period as a KAP. The proposal was generally regarded as being inappropriate and too restrictive, especially considering the restrictions it imposed on individuals acting as EP in order to cover maternity leave or other temporary absences. Alternative suggestions included: allowing a discretionary decision; or, a trigger point after three or four years for a longer cooling-off period.

IESBA members made the following comments and suggestions for the Task Force to consider:

- A more practical solution regarding temporary absences such as maternity leave is required, perhaps taking into account not only the length of time served but also the role.
- If an individual serves only one year as EP to cover a temporary absence, that year should be recorded, and if they returned to the engagement the original year served should be added to any later period of service.
- Apply a principles-based approach that recognizes that to qualify for the longer cooling-off provision an individual has to serve a sufficient period as EP to justify that period. In addition, consideration should be given to whether the period of service is at the beginning or the end of the seven-year period. It might be of more consequence if the period of service as EP were at the beginning of the period rather than at the end, for example, if an individual were an EP for more than two years in the last five years. The Task Force might also consider the EP and KAP roles in combination.

*Other Comments on the Rotation Requirements for KAPs on the Audits of PIEs*

Ms. Orbea explained that a few other matters arose from respondents' comments to the ED. She then led the discussion on those issues.

A respondent had commented with concern that the Code permitted an individual to move directly from the EP role to another KAP role, and vice versa, without a cooling-off period, as long as the move occurred within a seven-year time-on period. Ms. Orbea explained that in certain jurisdictions, there is a provision in an auditing standard that prevents an EP from becoming an EQCR without having first completed a time-out period and that the Code is silent in this area.

IESBA members commented as follows:

- That the effectiveness of the EQCR is significantly diminished if the individual is able to move from an operational role to the role of an EQCR within the seven-year time-on period, without a cooling-off period. It was noted that if the EP moved to the EQCR role, then the EQCR would be reviewing work in which he or she had had prior involvement, and so the individual might face a self-interest or self-review threat. The movement of an EQCR into an operational role was a distinctly different issue.
- The ISAs govern the EQCR's role and the Board might liaise with the IAASB on this matter.

Ms. Orbea explained that a few respondents had raised comments about partners in subsidiaries not being covered by the long association provisions. Ms. Orbea confirmed that the Code defines a KAP as including other audit partners, if any, on the engagement team who make key decisions or judgments on significant matters with respect to the audit of the financial statements on which the firm will express an opinion. Therefore, depending upon the circumstances and the role of the individual on the audit, "other audit partners" may include, for example, audit partners responsible for significant subsidiaries or divisions.

Ms. Orbea outlined that a regulatory stakeholder had previously commented, and in its comment letter had indicated, that the familiarity threat should not be narrowly focused on partners and that the provisions should address the familiarity threat of non-partner engagement team members who "grew up" on the audit. Ms. Orbea explained that this issue had been discussed by the Board and it considered that this issue was dealt with appropriately by applying the principles set out in the general provisions. The Board had also discussed that the rotation provisions would not be extended to non-KAPs. Ms. Orbea indicated that as the matter had been discussed and agreed previously by the Board, the Task Force was not recommending that it be reconsidered.

## WAY FORWARD

The Board asked the Task Force to: consider whether the existence of different regulatory safeguards, or a package of safeguards, set at jurisdictional level might provide an alternative to the PIE rotation requirements in the Code, and whether the Code could allow for such different solutions to address the long association threat; to consider a revised proposal for when the cooling-off period applies to the EP if they have not served as EP for the full 7 year time-on period as a KAP; and, to present a summary of the significant comments on other aspects of the ED together with a revised draft of the proposals for consideration to its April 2015 meeting.

### 9. **PIOB Observer's Remarks**

Mr. Wymeersch complimented the Board on its good work and a convincing meeting which he also felt had been well managed. He indicated that he was pleased that the Board had reached agreement on the NAS document as well as on the proposed NOCLAR framework. He acknowledged the challenges posed by the rotation of six IESBA members at the end of 2015, noting that this would need to be managed well.

With respect to the Long Association project, Mr. Wymeersch noted that he had found it surprising that the Board's debate had centered on partner rotation with no consideration given to firm rotation. He expressed the view that it would not be credible if the final standard were published with no reference to firm rotation. He added that the Board had not undertaken an analysis of the pros and cons between mandatory firm rotation and partner rotation, and that the message seemed to be that partner rotation is the only possible answer to address the matter of long association. He indicated that while he was not suggesting that the Board should address mandatory firm rotation, the Board should at least leave this option open. Finally, he encouraged the Board to aim for simplicity from the perspective of application of the proposals.

Dr. Thomadakis thanked Mr. Wymeersch for his comments, noting his commitment to maintain open communication channels with PIOB.

### 10. **Next Meeting**

The next meeting of the IESBA is scheduled for April 13-15, 2015 in New York, USA.

### 11. **Closing Remarks**

Dr. Thomadakis informed the Board that he had appointed members of the NAS Task Force, i.e., Ms. Soulier and Messrs. Hannaford, Kwok and Thompson, to the Safeguards Task Force. In addition, Mr. Poll had been invited, and had accepted, to join the Task Force. He thanked the individuals for their willingness to serve on the new Task Force, which would be chaired by Mr. Hannaford.

Dr. Thomadakis conveyed the Board's deep appreciation to Mr. Kwok for his efforts in leading the Board as Interim Chair from April – December 2014, noting that Mr. Kwok had served in that role with distinction. He highlighted that under Mr. Kwok's leadership, the Board had achieved, among other matters, approval of the Strategy and Work Plan 2014-2018, three exposure drafts and a consultation paper. The Board had also maintained momentum on its outreach activities. Dr. Thomadakis added that he had inherited a Board that was operating very well and that he was pleased that Mr. Kwok had agreed to serve as Deputy Chair for 2015.

Mr. Kwok thanked Dr. Thomadakis, noting that credit went to the whole Board as well as staff, without whom none of these outcomes could have been achieved and all of whom had been helpful to him during his time as Interim Chair. He highlighted that there had been a number of challenging discussions on how to move

forward on the various projects to achieve the results at the end of the year. He concluded that the Board was now in good and capable hands.

Dr. Thomadakis also thanked Mr. Evans on behalf of the Board for his contributions as staff support on the NAS project. Mr. Gunn joined Dr. Thomadakis in thanking Mr. Evans. Mr. Gunn also extended his appreciation to Mr. Evans' employing organization, the American Institute of Certified Public Accountants (AICPA), and to Ms. Susan Coffey, Senior Vice President, Public Practice & Global Affairs, at the AICPA for arranging for Mr. Evans' secondment on the NAS project.

Dr. Thomadakis finally thanked the ICAEW for hosting the meeting and for the administrative support provided to the Board. He then closed the meeting.