

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

Held on October 13-15, 2014 in New York, USA

(CLEAN)

Voting Members

Present: Wui San Kwok (Interim Chair)
Helene Agélie
Brian Caswell
James Gaa
Caroline Gardner
Gary Hannaford
Peter Hughes
Claire Ighodaro
Chishala Kateka
Atsushi Kato
Stefano Marchese
Reyaz Mihular
Marisa Orbea
Sylvie Soulier
Kate Spargo
Don Thomson
Wen Zhang

Technical Advisors

Tony Bromell (Ms. Gardner)
Helouise Burger (Ms. Soulier)
Elbano de Nuccio (Mr. Marchese)
Colleen Dunning (Mr. Hughes) (Days 2 & 3)
Kim Gibson (Mr. Thomson) (Days 2 & 3)
Liesbet Haustermans (Ms. Orbea)
Alden Leung (Ms. Zhang) (Days 1 & 2)
Tone Maren Sakshaug (Ms. Agélie)
Andrew Pinkney (Mr. Kwok)
Lisa Snyder (Mr. Caswell)
Toshihiro Yasada (Mr. Kato)

Non-Voting Observers

Present: Kristian Koktvedgaard (IESBA Consultative Advisory Group (CAG) Chair), Dr. Stavros Thomadakis (Incoming Chairman), and Yoshihiko Tamiya
Apologies: Juan Maria Arteagoitia

Public Interest Oversight Board (PIOB) Observer

Present: Chandu Bhave

IESBA Technical Staff

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

1. Opening Remarks

WELCOME AND INTRODUCTIONS

Mr. Kwok welcomed all participants and public observers to the meeting. He welcomed and congratulated Dr. Stavros Thomadakis on his appointment as the new independent IESBA Chairman from January 1, 2015. Dr. Thomadakis briefly introduced himself. He added that he had been impressed with the work of the Board and that he was looking forward to joining it.

Mr. Kwok also welcomed Mr. Bhavé, observing on behalf of the PIOB; Mr. Kottvedgaard, Chair of the IESBA CAG; and Mr. Yoshihiko Tamiya, the new observer from the Japanese Financial Services Agency, replacing Mr. Hiroyuki Dairaku. Mr. Tamiya briefly introduced himself.

Apologies were received from Mr. Arteagoitia, Mr. Leung (for Day three), Ms. Dunning (for Day one), and Ms. Gibson (for Days two and three).

BOARD COMPOSITION

Mr. Kwok reported that the PIOB had approved the appointment of Mr. Richard Fleck as a public member for a three-year term from January 1, 2015, replacing Ms. Spargo who would be retiring from the Board on December 31, 2014. Mr. Fleck had been the immediate past IESBA CAG Chair.

Mr. Kwok congratulated the seven Board members on their re-appointment to the Board from January 2015: Messrs. Caswell and Mihular, and Ms. Ighodaro for two-year terms (to address an imbalance in rotations); and Messrs. Hannaford and Marchese, and Mss. Agélli and Kateka for three-year terms. Mr. Kwok also noted his re-appointment as Deputy Chair for 2015.

Mr. Kwok indicated that new member nomination papers for 2016 would be issued in November 2014 and that the nomination period would close in February 2015.

TASK FORCE COMPOSITIONS

Mr. Kwok reported that Mr. Caswell had accepted his invitation to replace Mr. Thomson as the Board liaison representative with the IFAC SMP Committee and the SMP/SME community from January 2015. Mr. Kwok thanked Mr. Thomson for his contributions in this role and for chairing the IESBA SME/SMP Working Group. He also thanked Mr. Caswell for accepting the position.

Mr. Kwok reported that Mss. McCleary and Sapet would be completing their service on the Part C and Responding to Suspected Non-Compliance with Laws and Regulations (NOCLAR) Task Forces, respectively, in 2014. He invited expressions of interest from Board members to join these two Task Forces. Changes to Task Force compositions would be announced at the January 2015 Board meeting, after consultation with the Task Force Chairs, the Planning Committee, and the incoming Chairman Dr. Thomadakis.

Regarding Planning Committee composition for 2015, Mr. Kwok advised that he had briefed Dr. Thomadakis that the Planning Committee is appointed by the IESBA Chairman to advise the Chairman in his role in leading the Board. Dr. Thomadakis would select Board members whom he would like to join the Planning Committee as and when he is ready and determines appropriate.

OUTREACH ACTIVITIES

Mr. Kwok 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.

IESBA CAG

Mr. Kwok reported that the Islamic Financial Services Board and the Associação Brasileira de Instituições Financeiras de Desenvolvimento (the Brazilian Development Bank, or ABDE) had both been approved by the PIOB as new IESBA CAG member organizations.

Mr. Kwok noted that the IESBA CAG had welcomed at its September 2014 meeting the participation of Mr. Steve Harris, a member of the U.S. Public Company Accounting Oversight Board (PCAOB) and Chair of the Investor and Other Stakeholders Working Group of the International Forum of Independent Audit Regulators (IFIAR). Mr. Kwok highlighted that Mr. Harris had extended an open invitation to IESBA to visit IFIAR and PCAOB to discuss matters of mutual interest.

Mr. Koktvedgaard welcomed Dr. Thomadakis to the Board. He indicated that the appointment of the two new CAG members was part of the CAG's strategy to achieve broader geographical representation among its membership.

Finally, Mr. Kwok highlighted the recent practice of Task Force chairs having pre-CAG meeting preparatory calls with Mr. Koktvedgaard. Mr. Koktvedgaard endorsed the two-way dialogue, noting the importance of the Board reflecting on the issues or matters on which it would like CAG input.

SEPTEMBER 2014 PIOB MEETING

Mr. Kwok reported that Messrs. Gunn and Siong and he had attended the September PIOB meeting to present an update on the Board's activities. Mr. Kwok reported that at its September 2014 meeting the PIOB had confirmed due process for the IESBA Strategy and Work Plan, 2014-2018 (SWP), which had subsequently been issued.

In connection with the SWP, he reported that the Planning Committee had discussed and agreed with the Emerging Issues and Outreach Committee (EIOC) to trial out a fixed agenda for EIOC going forward, starting with this meeting. This agenda would cover, among other matters, an update on the status of global adoption of the Code (with a focus on the G20 and major financial centers), significant developments in major jurisdictions, and identified emerging issues.

RELATIONSHIP WITH THE INTERNATIONAL ORGANIZATION OF SUPREME AUDIT INSTITUTIONS (INTOSAI)

Mr. Kwok noted that IFAC and the leadership of the standard-setting boards it supports had been working on a Memorandum of Understanding (MOU) with INTOSAI to put the working relationships with INTOSAI on a more formal footing. He anticipated that the MOU would be completed by the end of 2014.

2013 ANNUAL REPORT

Mr. Kwok noted that a draft of the 2013 IESBA Annual Report would be circulated to the Board shortly for comment. The Chair's report would be attributed to Mr. Holmquist who, before his passing, had left IESBA staff with some key messages that he had wished to be included in the Annual Report.

STAFF NEWS

Mr. Kwok noted that Mr. Jackson would be retiring at the end of October 2014. He also reported that a new Senior Technical Manager, Ms. Louisa Stevens, would be joining the staff team in early December 2014. Finally, he noted that given the increased workload, another individual would be recruited in 2015 to join the technical staff.

MINUTES OF THE PREVIOUS MEETING

The minutes of the July 7-9, 2014 Board meeting were approved as presented.

2. Auditor Reporting – Statement of Compliance with Independence and Ethical Requirements

Mr. Hannaford briefed the Board on the final outcome of the deliberations of the International Auditing and Assurance Standards Board (IAASB) regarding the proposed inclusion of the statement of compliance with independence and other ethical requirements in the auditor's report. He had acted as a correspondent member to the IAASB's DT-700 drafting team in that regard. Among other matters, he recapped the background to this part of the IAASB's Auditor Reporting project. He also reported that IAASB had approved the final proposal at its September 2014 meeting as outlined in the agenda material, taking into account the input provided by IESBA at the April and July 2014 IESBA meetings.

IESBA members noted this as another example of successful cooperation between the two Boards. It was also noted that the outcome was a positive step forward for the Code in terms of the option of having the Code prominently referenced in the auditor's report.

Mr. Koktvedgaard congratulated both IESBA and IAASB and for their successful cooperation on the proposal. He added that the IESBA CAG viewed referring to the IESBA Code in the auditor's report as important because it would be in the public interest for users to know the ethical requirements with which the auditor has complied.

Mr. Kwok thanked Mr. Hannaford for the report-back and conveyed IESBA's appreciation to IAASB.

3. Structure of the Code

Mr. Thomson introduced the topic, outlining the recent activities of the Task Force and the main feedback received from discussion of the project at the September 2014 CAG meeting and October 2014 Forum of Firms meeting. He then introduced the matters for consideration and highlighted the main changes made to the proposed Consultation Paper (CP) since the July 2014 Board meeting.

GENERAL COMMENTS

IESBA members broadly supported the direction of the CP. Among other matters, they commented as follows:

- The CP should make clear that the illustrative examples were being provided to illustrate the application of the proposals and that the Board was not seeking input on the examples themselves.
- The CP implied that requirements were being added to or removed from the Code when this was not the intention of the project. The CP should be adjusted accordingly.
- Whether all the illustrative examples were necessary as the consultation was aimed at ascertaining views on structure rather than content.
- It would be helpful to enhance the discussion of enforceability in the CP given that this is a recurring topic from discussions with the regulatory community.

Mr. Koktvedgaard noted that the CAG had discussed the scope of the restructuring project and there was a general view that at some point the Board would need to make decisions on changes to the Code where the meaning might not be clear. He suggested that the Task Force maintain a running list of identified issues for later discussion.

Mr. Thomson noted that the Task Force's intention was for the CP to be a consultation with illustrations and that it would review the wording of the CP and include an appropriate caveat. It would also consider removing examples where these might distract respondents from considering the general approach to restructuring and clarification of the Code. Regarding adding or removing requirements, he noted that there was no Task Force intention to do so but that where requirements were not clear they would need to be clarified. Regarding the topic of enforceability, he noted that the first priority should be to have the Code be as clear as possible, which would then facilitate compliance.

RESTRUCTURING

Mr. Thomson noted that some IESBA members had suggested that prohibitions within the Code be separately identified from other requirements. He explained that the Task Force had considered those suggestions but had concluded that prohibitions and requirements should be combined. He added that the requirements should capture the requirement to apply the conceptual framework approach which may of itself result in a prohibition. He noted that the issue had been discussed by the CAG, which supported this approach.

Mr. Thomson also noted that some IESBA members had commented on the degree of repetition in the illustrative examples regarding references to the conceptual framework. However, many other comments in the initial research had suggested that the Code did not remind users sufficiently of the key considerations in the conceptual framework. Accordingly, the links had not been removed.

Among other matters, IESBA members commented as follows:

- The discussion in the CP seemed to imply that requirements equated to prohibitions. However, not all requirements are prohibitions.
- The words "section" and "part" were not always used consistently in the CP. Accordingly, they should be reconsidered.

Mr. Koltvedgaard commented that the CP might not be consistent with the Strategy and Work Plan in its use of the terms adoption and convergence. Mr. Thomson noted that following discussion at the CAG, the Task Force had removed references to convergence because the aim is to have the Code adopted.

The Board asked the Task Force to review the CP in light of the above comments.

CLARITY OF LANGUAGE AND TERMS

Mr. Thomson indicated that the Task Force had made progress in relation to the clarity of the terms used in the illustrative examples. Previously, there were a number of references which were wordy or cumbersome. The Task Force had now presented defined or described terms in color and had underlined them. This approach had been explained in the foreword in the illustrative examples.

Mr. Koltvedgaard wondered about consideration of the translatability of the Code, a matter raised at the CAG. Mr. Thomson noted that the Task Force would cover translation issues specifically as the restructuring work moves to the exposure draft (ED) stage and that an editor would be used to review, among other things, the use of language for ease of translation. He added that many Board members are multilingual and when comments on translation are raised the Task Force considers them.

REORGANIZATION

Mr. Thomson explained that the numbering and structure of the sections of the illustrative examples had been designed so that future changes to the Code could easily be accommodated. He noted that the independence sections¹ remained separate and that Part C had been moved ahead of Part B in accordance with the July 2014 Board discussion. He added that this reordering was more logical as all the sections that referred to professional accountants in public practice (PAPPs) would be together.

IESBA members were generally supportive of the proposed reorganization. An IESBA member, however, noted that the CP gave no clear explanation as to why the illustrative examples indicated a re-ordering of Part C before Part B. It was felt that PAPPs are traditionally addressed before professional accountants in business (PAIBs). Another IESBA member commented that there was good reason for the reordering of the two parts because the provisions for PAIBs apply to PAPPs in their day to day role.

An IESBA member suggested aligning the numbering of the parts and sections of the illustrative examples so that Part I would include sections numbered 100 and Part II would include sections numbered 200, and so on, which would give a more logical flow to the numbering.

Mr. Thomson commented that to address the concern expressed about the order of Parts B and C, a question would be included in the CP so that a wider consensus of opinion might be sought. Also, the numbering of the sections would be aligned as suggested.

STANDARDS

Mr. Thomson provided background to the topic of branding the Code as a set of standards, noting that the Task Force's emphasis had been to retain a focus on principles and therefore to retain the reference to the conceptual framework. He noted that there had been views from some Board members and stakeholders that as an international standard-setting board, IESBA should produce "standards" rather than a "code," and that branding can increase recognition. In this regard, some had drawn the analogy to the International Financial Reporting Standards (IFRSs) and International Standards on Auditing (ISAs). He noted, however, that the Task Force was not entirely convinced on the merits of doing so for the whole Code given the principles vs. rules debate, but that it had recognized the desire at the CAG for the Board to obtain stakeholder input on the matter. He highlighted that the way in which the illustrative examples had been structured meant that they were more self-contained but that the Task Force had not gone so far as to label them as standards.

Among other matters, IESBA members commented as follows:

- There should be more context to the question on standards.
- The issue of standards should be kept simple at this stage as it was important to gauge the level of support from respondents for standards before undertaking further redrafting.
- It would be clearer if the Code was relabeled as "International Ethics Standards."

Mr. Koktvedgaard suggested that it might be helpful to have an illustrative example structured in the form of a separate standard.

¹ Section 290, *Independence – Audit and Review Engagements*; and Section 291, *Independence – Other Assurance Engagements*

Mr. Thomson indicated that the Task Force would endeavor to enhance the discussion of standards in the CP. He did not believe that an illustrative example of a standard was necessary at this stage as it would be more appropriate for the Board to be informed by stakeholder views on this issue through including a question on the topic.

RESPONSIBILITY

Mr. Thomson recapped the approach of the illustration in the CP that amended the responsibility paragraph in the independence section² of the Code. He noted that this approach required firms to establish policies and procedures to allocate responsibility, although the Code would not itself determine such responsibility. He explained that this was the Task Force's proposal to respond to the concern expressed by some stakeholders that breaches should be reported to someone outside the engagement team. He indicated that the Task Force had not suggested to whom a report should be made as the Breaches Task Force had not adopted this approach when considering the matter in detail.

The Board was generally supportive of the Task Force's proposals on responsibility. Among other matters, IESBA members commented as follows:

- The question of responsibility was important and should be included in the CP.
- The existing Code does not require compliance by all individuals in the firm in the reporting of possible breaches of the Code, as suggested in the illustrative examples, which implied that a new provision on responsibility had been approved by the Board. Accordingly, the paragraph on responsibility in the illustrative examples should be removed.

Mr. Thomson indicated that the Task Force would reconsider the illustrative example on responsibility and that a question on the matter would remain in the CP to obtain stakeholder feedback.

TIMING

Mr. Thomson noted that timing of the project had been raised at the CAG and that the Task Force had added a new paragraph in the CP to clarify that the Board would be mindful of the impact of this project on other current projects. He added that the Task Force would seek to coordinate the project with the review of the safeguards in the Code. He also noted that the CP does not commit to a specific timeline for other projects.

An IESBA member suggested a structured approach to communication with stakeholders to avoid confusion and ED fatigue. Mr. Gunn advised that it would be important to explain in the CP the anticipated future timing of this project and that it would be managed in a coordinated way with other projects.

Mr. Thomson noted that the Task Force would review the wording of the CP in this regard.

ELECTRONIC CODE

Mr. Thomson noted that the CP had been updated to reflect the Task Force's views on the electronic code and that a question had been included in the CP about it.

² Paragraph 290.12 of the Code

ILLUSTRATIVE EXAMPLES

Mr. Thomson highlighted that the foreword had been expanded in terms of how to use the Code and the use of terms. Mr. Thomson noted that the intention was to enhance the Code, giving careful consideration to guidance and requirements. The examples were illustrative only, the purpose of the CP being to focus on the approach.

Mr. Bhavé wondered about the extent to which the public interest had been considered and whether there should be an additional fundamental principle. Mr. Thomson responded that the CP explained why the project served the public interest. However, whether or not the public interest should be a fundamental principle was outside the scope of the project. Another IESBA member noted that the concept of the public interest is embedded in the Code's fundamental principles in that if PAs comply with those principles, the public interest would be served.

APPROVAL

After agreeing all necessary changes to the CP, the Board unanimously approved issuance of the CP, with a 90-day comment period from the date of issuance. Mr. Kwok thanked the Task Force and staff for their efforts.

4. Review of Part C of the Code

Mr. Gaa introduced the topic, outlining the key matters and Task Force proposals for the Board's consideration. He then led the Board through the changes to all Sections of Part C, excluding Section 350.³

PROPOSED REVISED SECTION 320⁴

IESBA members broadly supported the proposed revised Section 320.

Misuse of Discretion in Preparing or Presenting Financial Information to Mislead (Paragraph 320.3)

The Task Force had proposed, as an example of a circumstance in which discretion could be misused to mislead, guidance indicating that misleading information could be provided by omitting or obscuring information so that core operating items and unusual items are not distinguished. An IESBA member noted that there is no requirement under International Financial Reporting Standards (IFRSs) to distinguish between operating and unusual items. It was also noted that the term "operating income" is not used within IFRSs as it could not be clearly defined, and that use of the terms "unusual" and "exceptional" had been discontinued to address abuse. Mr. Gaa noted that the Task Force had steered away from IFRSs when considering the proposed revised wording. He added that IFRSs permit the possibility of distinguishing between day-to-day operational items and unusual items material enough to be disclosed separately. After clarification of International Accounting Standard (IAS) 1 (which forbids reporting of extraordinary items, but requires the separate disclosure of items when such presentation is relevant to an understanding of the entity's financial performance or financial position) and further deliberation, the Board agreed to amend the guidance to simply state "omitting or obscuring information so that materially different items are not distinguished in order to mislead."

³ Section 350, *Inducements*

⁴ Proposed revised Section 320, *Presentation of Information*

In relation to the part of the guidance in paragraph 320.3 regarding selecting a particular accounting method among two or more alternatives permitted under the applicable financial reporting framework, an IESBA member noted that IFRSs do provide some accounting options, such as with respect to the consolidation of financial statements. The IESBA member expressed a concern that this guidance could suggest that a PAIB could be faulted for not having chosen the right option because the financial information turned out to be misleading in hindsight, even though at the time there was no intention to mislead. Another IESBA member acknowledged the Task Force's aim to provide helpful guidance through the examples of circumstances in which discretion could be misused in a manner intended to mislead. However, the Task Force member wondered whether this particular part of the guidance could be construed as a guidebook on how to manipulate information. The IESBA member cautioned that the guidance could lead PAIBs to feel compelled to document their choices to mitigate the risk of second guessing, thus creating a burden for them.

Mr. Gaa recognized that there would always be a risk of hindsight review. He explained that the guidance was seeking to address intentions and that financial reporting standards are developed on the basis that accountants will act in good faith. He added that the Task Force was not intending to establish a bright line as to which accounting option would be acceptable. The Board supported the Task Force's proposal.

In addition to editorial suggestions, the Board asked the Task Force to consider aligning the guidance in Section 320 with that in Section 360, which addresses responding to suspected NOCLAR. In particular, it was suggested that the consideration of resignation if all possible options for corrective action have been exhausted and the information is still misleading be made a requirement to consider such action.

EXAMPLES OF PRESSURE IN PROPOSED SECTION 370⁵

An IESBA member expressed the view that the examples of pressure appeared repetitive and circular relative to the other sections in Part C. The IESBA member suggested that consideration could be given to streamlining the examples at some stage. Another IESBA member agreed and wondered the examples should come before all other sections.

Mr. Kwok noted that the matter had been considered by the CAG, and there was a preference for the current format. He added that while the location of the examples could be a matter for further debate, a decision had been made at the previous Board meeting that the current format was the preferred option.

Mr. Koltvedgaard confirmed that the issue had been discussed by the CAG, with the investor Representative in particular expressing a view that the examples set the right tone. He added that other Representatives had felt that the examples were too focused on the financial statements. Overall, however, the CAG Representatives were satisfied with the length of and topics covered by the examples. He cautioned against removing any examples, noting that the separation of requirements from application material when restructuring the Code may assist readability. Finally, he wondered whether this matter relates only to Part C as the issue of pressure would also be applicable to Part B of the Code. Accordingly, he noted a broader question as to where the examples should eventually best be located.

Mr. Gaa noted that the applicability of the examples to PAPPs would be addressed as part of Phase 2 of the Part C project.

⁵ Proposed Section 370, *Pressure to Breach the Fundamental Principles*

After further deliberation, the Board agreed to retain the examples in Section 370 for purposes of the ED. Apart from editorial matters, the Board also agreed with the other changes proposed to Section 370.

THREATS TO COMPLIANCE WITH THE FUNDAMENTAL PRINCIPLES ARISING FROM COLLEAGUES' FINANCIAL INTERESTS

The Task Force proposed to include in paragraph 340.1⁶ colleagues as an example of a class of individuals knowledge of whose financial interests may create threats to the PAIB's compliance with the fundamental principles. The Task Force proposed this change as a result of the Conflict of Interest project during which a concern had been raised that an accountant's relationship with a colleague could be as powerful as with family members. A Task Force member noted that stakeholders had indicated the need for recognition of other parties in this situation. The Task Force member added that if the Board were to raise the benchmark of the Code, there would be a need to encompass a greater range of individuals who could influence a PAIB.

A number of IESBA members expressed concern over this proposal. In particular, it was noted that:

- The proposal appeared to be a substantive change as opposed to a mere conforming change.
- The proposal would create an inconsistency with other parts of the Code where self-interest threats have generally been considered only in relation to a professional accountant and his or her immediate or close family members.
- The influence a colleague can have on a PAIB may be more in the sense of subliminal pressure. Hence, this may be better addressed under Section 370 regarding pressure.
- The proposal would expand the scope of the section. In addition, it was unclear how colleagues would be defined.
- More generic terms could be more suitable, such as "close personal relationships."
- By recognizing colleagues in Section 340, consideration would need to be given to whether this should also be done in other parts of the Code. In this regard, Mr. Gaa noted that the term "colleagues" did appear in other parts of the Code.
- In some jurisdictions, the Code is the regulation. There would be a risk of second-guessing by regulators, regardless of the proximity of colleagues to the PAIB.
- From a practical standpoint, the PAIB will often not know about colleagues' financial interests.

Some IESBA members expressed support for the proposal. Among other matters, it was noted that:

- It would be important to focus on others as some individuals may be focused on the financial gain of others, whether or not there is subliminal pressure. While there may be no direct self-interest threat in this case, the issue would remain.
- The LIBOR fixing case illustrates why this is a real issue.
- The paragraph is intended to assist a PAIB in dealing with influence and the proposal would assist in this regard.

⁶ Section 340, *Financial Interests, Compensation and Incentives Linked to Financial Reporting and Decision Making*

- Not all the terms in the Code have a definition.
- The proposal was only to recognize colleagues as an example of another class of individuals in the context of the paragraph and it was more specific than simply stating “others.” In addition, colleagues may not have close personal relationships with the PAIB.

Mr. Bhavé noted that paragraph 340.2 contained the prohibition. Accordingly, he questioned the need to refer to colleagues and whether due process had been followed in making the amendment.

Way Forward

Given that the proposal raised a substantive issue on Section 340 which was not part of the project proposal, the Board determined not to address the proposal as part of the ED but to consider doing so as part of the second phase of the project. Accordingly, the Board asked the Task Force to revert the proposed wording back to the extant wording.

Title of Section 340

An IESBA member noted that “financial interest” is a defined term in the Code that does not include compensation and other incentives. It was noted that this would need to be considered should the title of Section 340 be amended as the Task Force proposed. The Board agreed and asked the Task Force to revert the title of the section to the extant title.

EXPLANATORY MEMORANDUM

IESBA members considered an initial draft of the Explanatory Memorandum (EM) and suggested the following for the Task Force’s consideration, among other matters:

- There should be more background and explanations as to why the Board decided to undertake the project, including why the project would serve the public interest and why the changes to Part C were being made.
- The discussion in relation to threats and safeguards appeared dismissive of the Code and would not add substantively to explaining the ED. Accordingly, this should not be included in the EM.
- The proposed questions appeared to be too broad and should be more focused and specific.
- The reference to further changes to Section 300 may raise concerns among stakeholders regarding unnecessary tinkering with the Code. Accordingly, this should be reconsidered.
- The relationship between the different sections should be explained.

The Board asked the Task Force to revise the EM and circulate an updated draft for fatal flaw review in due course.

APPROVAL AND WAY FORWARD

Mr. Gaa noted the Task Force’s view that issuance of a consultation paper prior to the ED was not necessary given that the Board had undertaken a survey to determine the priority matters specific to PAIBs that stakeholders believed the Board should address.

After agreeing all the necessary changes to the document, the Board approved the exposure draft with the affirmative votes of 17 members out of the 17 members present. The comment period would be determined in due course by staff in coordination with Board and Task Force leadership, having regard to

the issuance of the Structure CP in close proximity. Mr. Kwok thanked the Task Force and staff for their efforts.

5. Due Process and Terms of Reference

ACCELERATED STANDARD-SETTING PROCESS

Mr. Siong introduced the topic, noting the objective of exploring how the current due process could be amended to address circumstances requiring an accelerated standard-setting response from IESBA. He outlined the context and background to the topic, noting that IAASB had recently considered the matter as part of its initiative to explore how to further improve the efficiency and effectiveness of its activities. He explained that as the current due process is common to the three standard-setting boards (SSBs) supported by IFAC and overseen by PIOB, the views and input of the other two SSBs⁷ would be necessary before any proposed changes to the due process can be presented for discussion with PIOB.

Mr. Kwok reported on the Planning Committee's consideration of the matter, noting its key concerns about a shortened exposure period and bypassing the CAG.

Among other matters, the following comments were made:

- Teleconferencing could be considered as a means to obtain Board feedback on a particular matter without having to wait for the scheduled physical meetings.

Mr. Koltvedgaard agreed. However, he noted that the more complex the issue, the more time would be needed for deliberation. Conversely, the less complex the issue, the easier it would be to deal with via teleconference. Mr. Tamiya commented that based on feedback at the CAG, teleconferences are not ideal.

Mr. Kwok expressed the view that if a matter is of such importance to the public interest, participants should make the time for it. Mr. Koltvedgaard suggested that the issue of low participation on teleconferences could be addressed by providing longer notice.

- It would need to be a rare circumstance for an accelerated process to be required as the current process existed in its present form for good reason.
- While issues could arise calling for an accelerated response, it would be undesirable for steps in the due process to be bypassed.
- Often, the issue is not about deficiencies in the Code but about the proper application of the Code. It would be important for the evidence of the issue to be established to justify an accelerated response as the standards have been developed through proper due process. In addition, an issue may sometimes be jurisdiction-specific.
- Due process lends credibility to the standards. In order to justify why an accelerated process would be in the public interest, a transparent decision-making process would be needed.
- It would be difficult to imagine an issue that would be of such urgency that it would require special treatment. Even if that were the case, an extraordinary Board meeting could be called for.

⁷ IESBA and the International Accounting Education Standards Board (IAESB)

- For simple matters, a simpler process could be used or greater reliance placed on the work of staff. In this regard, it was noted that issues that the Board could consider trivial could be considered important by the CAG. Accordingly, there existed the possibility that bypassing a stage could lead to critical matters being missed.
- Due process is what leads to the standards, so taking short cuts would not be appropriate. Where there could be improvement, however, would be in the area of coordination among the SSB, CAG and PIOB to agree whether a matter deemed urgent should be added to the work program. The matter should then be addressed as part of the standard due process. Also, while an interpretations committee may not necessarily be the right response, it could be considered when reflecting on the tools that could be used.

Mr. Koktvedgaard commented that the Board should be able to decide whether to address an issue on an accelerated basis, whether or not the CAG were to be bypassed.

- A missing piece appears to be education. In this regard, consideration should be given to ways to better support implementation at the jurisdictional level.
- It would be in the public interest to follow due process, especially for very important matters, since knee jerk reactions can create rather than solve problems. Alternative methods of dealing with an issue could be considered, such as the development of non-authoritative guidance. In the past, however, there had been concern at the Board about this type of document conveying a perception of Board endorsement given that it would not have gone through full due process.

Mr. Gunn summarized the discussion, noting that the matter of an accelerated process is an operational issue and not a structural issue. He thanked the Board, noting that he would consider the comments together with the input from IAASB and IAESB in determining the way forward on the topic.

IESBA TERMS OF REFERENCE (ToR)

Mr. Siong introduced the topic, outlining proposed changes to the IESBA ToR to align with recent amendments to IFAC's Constitution and Bylaws. Among other matters, these changes were intended to clarify and reinforce the independence of the SSBs from IFAC.

In addition to editorial suggestions, IESBA members commented as follows:

- Section 3, *Membership*:
 - There did not appear to be a rationale for the provision for up to three official observers at IESBA meetings. In addition, there was no reference to public observers.
 - The reference to members and technical advisors not submitting to undue influence should be reworded to indicate that they "should be free from any influence."
- Section 6, *Terms of Office*: the aggregate term of up to 12 years for the IESBA Chairman appeared very long and was not consistent with good corporate governance principles.
- Section 8, *Due Process*: there was no reference to task forces. As task forces are an important mechanism through which the Board undertakes its work, consideration should be given to making a link to the Due Process and Working Procedures document, which refers to task forces.
- Section 10, *Other*: in relation to the reference to the ToR being reviewed at least every 5 years, it should be made clear as to who would undertake this review.

Mr. Siong thanked the Board, noting that the feedback will be collated and considered in conjunction with feedback from the other SSBs on their corresponding ToRs. Final changes to the ToR would be presented to the IFAC Board in due course for endorsement prior to submission to PIOB for approval.

6. Responding to Suspected Non-Compliance with Laws and Regulations

Ms. Gardner introduced the topic, recapping the background to the project and its key objective, and the tentative direction forward the Board had agreed in December 2013. She then briefed the Board on the main feedback received from the three global roundtables held in Hong Kong, Brussels and Washington DC in May, June and July 2014, respectively. She also outlined the Task Force's revised proposals in the light of the roundtable feedback. In addition, she briefed the Board on the main outcomes of the discussions with the CAG and the Forum of Firms in September and October 2014, respectively.

Mr. Koktvedgaard reported that CAG Representatives had complimented the Board on the organization of the roundtables. In relation to the case studies discussed at the roundtables, he wondered whether specific stakeholders could be identified who were in favor of reporting suspected NOCLAR to an appropriate authority, and whether it would be possible to see how those views changed during the course of the discussions. Ms. Gardner noted that an undue focus on participants' initial reactions to the case studies might not be particularly helpful or appropriate as the case studies were only aimed at setting the context for the ensuing discussions of the key issues in the second breakout session. She added that the key outcome from the case studies was that there was an overwhelming consensus that doing nothing is not an option.

GENERAL COMMENTS

IESBA members complimented the Task Force on its substantial efforts in achieving the progress to date on the project and broadly supported the direction of the revised proposals. Among other matters, IESBA members commented as follows:

- Time had been well spent developing the thinking on the complex issues in this project, both on the Board and with stakeholders. This had helped move the debate forward. The roundtable discussions in particular had been very useful in raising stakeholders' awareness of the issues and in communicating key messages. The question, however, was how to make the best use of the roundtable feedback.
- To address concerns about a level playing field, consideration should be given to sharing stakeholder feedback on the project with other professions that may also have responsibilities in addressing suspected NOCLAR. Mr. Koktvedgaard was of the view that it can actually be an advantage for PAs to highlight that they are bound by the Code.
- The fact that there was recognition at the roundtables that the profession should not tackle the issue of NOCLAR alone is welcome. The Task Force's proposals reflect a more balanced approach, not only allowing for the possibility of reporting suspected NOCLAR to an appropriate authority but also stimulating greater cooperation with management and those charged with governance (TCWG).
- The Code is only addressing one side of the equation because it only deals with PAs. This creates an expectations gap as other players such as regulators and TCWG hold different expectations. This expectations gap should be highlighted in the explanatory memorandum (EM) to the new exposure draft.

- In the context of the suggestion at the September 2014 CAG meeting that the Board should aim for aspirational standards and not the lowest common denominator standards, the EM should also acknowledge that PAs are only one among several other players who have a role to play in addressing suspected NOCLAR. Other players (e.g., lawmakers and regulators, TCWG, and international organizations such as the Organization for Economic Cooperation and Development (OECD)) should be encouraged to do their part and contribute to raising the bar. The profession will never be able to resolve the issue alone.
- Non-US regulators who attended the roundtables did not indicate that they would be prepared to prescribe in their laws or regulations something similar to Regulation 10A under US securities regulation. In this regard, it would be important to acknowledge that where a reporting requirement works in practice, this is because it is designed to operate within the context of the local ecosystem.
- There is a great opportunity to share more widely the roundtable feedback with TCWG and other stakeholders. Raising greater awareness of the issue will help stimulate greater cooperation among stakeholders. In this regard, Mr. Siong briefly highlighted some of the specific comments that representatives of TCWG had made at the roundtables, including strong views that not involving TCWG in addressing suspected NOCLAR would seriously call into question their role, and that TCWG will in practice fully investigate any suspected NOCLAR that could have significant consequences.
- TCWG do take suspected NOCLAR very seriously and often they work within the context of a strong regulatory framework. However, the Board currently does not have a forum through which to share information with such stakeholders.

In response to a question as to whether there had been any further discussions with IAASB on the topic, Ms. Gardner noted that there will be continued liaison with IAASB going forward on the revised proposals.

Noting that he was not as informed as the Board on the topic, Mr. Thomadakis indicated that he was aware of the expectations gap and the fact that resolution of an issue of suspected NOCLAR would depend on the quality of TCWG and governance systems. He acknowledged the great deal of effort within the Board to seek to achieve a balanced outcome. He wondered whether the Board had considered distinguishing between criminal and non-criminal acts, which he felt could be an important distinction from the perspective of investors and the wider public, and whether there were any empirical data as to how much reporting of suspected NOCLAR takes place in different jurisdictions.

Ms. Gardner noted that the Task Force had carefully considered narrowing the scope of the proposals to criminal acts and that this was one of the suggestions from the roundtables. While such a distinction might seem appealing in terms of facilitating easier determination of reportable NOCLAR, the Task Force had concluded that this would not be workable. This is because of the wide range of acts that could be criminal, from those that could have a direct impact on the financial statements to those that do not fall within the professional accountant's (PA's) expertise. With respect to empirical data, she noted that the Task Force had over the life of the project considered such data. She noted that there have been cases where the number of reports filed was overwhelming and unmanageable for the regulator, especially with many PAs simply reporting their suspicions to be on the "safe" side. She also noted that even where there is a legal requirement in some jurisdictions, anecdotal evidence suggests that PAs and others are not necessarily reporting suspected NOCLAR they may have identified. Accordingly, the data do not really provide the answers.

Mr. Siong briefly highlighted the variation in the number of reports filed by PAs in some EU member states under the EU's Third Money Laundering Directive during 2009, notwithstanding that member states have some leeway in how they implement the Directive at the national level. The information was compiled by the independent law firm which the Task Force had consulted in January 2014 regarding the responses to the original ED. The Board asked that the report from the law firm be distributed to IESBA members.

Mr. Kwok cautioned against drawing conclusions based on actual reporting data, noting that the reporting issue is complex and depends on the legal framework. For example, reporting in some jurisdictions is under an all-crimes regime whereas in others it is under a predicate offences regime. Also, in some jurisdictions, foreign tax evasion and bribery are reportable but not in others. Accordingly, what is in the public interest will vary from jurisdiction to jurisdiction.

Mr. Gunn wondered whether there is a situation where the Board would find it unacceptable that a PA did not report a suspected NOCLAR regardless of the jurisdiction. He suggested that if such a situation could be identified, the Board could explore placing appropriate parameters around a reporting requirement. Ms. Gardner noted that the Task Force had explored a variety of cases ranging from acts resulting in severe environmental damage to acts threatening public health and safety, and that there was no one case where it would be operable for the Code to require reporting in all circumstances. Rather, the Task Force believed that the Code should help guide the PA to make the appropriate determination as to whether or not to report in the particular circumstances. Mr. Kwok noted that in his outreach, he had been encouraging both the profession and the regulatory community to collaborate in focusing on the desired outcomes, and that it would be more important that these outcomes be achieved than how they are achieved.

Mr. Tamiya expressed a concern that the proposals did not include a duty for PAs to report suspected NOCLAR to an appropriate authority. He felt that in view of the role PAs are expected to play in society and their expertise regarding financial statements, it would be in the public interest in the case of NOCLAR that has a direct effect on financial statements that there should be such a duty to report.

PROPOSED OBJECTIVES FOR PAS

IESBA members broadly supported the proposed objectives for all categories of PAs. It was noted in particular that setting out the objectives upfront makes a difference as this helps PAs see what is expected of them.

An IESBA member suggested reconsidering the wording of the second part of the objectives (particularly the use of the passive voice) as, with respect to auditors, this could be perceived as leading them to assume management responsibility.

SCOPE OF REVISED PROPOSALS

IESBA members broadly supported the Task Force's proposal to align the scope of the revised proposals with that of ISA 250.⁸ It was noted in particular that the scope of ISA 250 would provide appropriate ring-fencing for the types of NOCLAR to which PAs should respond.

⁸ ISA 250, *Consideration of Laws and Regulations in an Audit of Financial Statements*

Mr. Koktvedgaard noted the comment at the CAG as to whether the proposed scope would be sufficiently broad to capture NOCLARs that do not directly impact the financial statements, particularly in the case of PAs in public practice other than auditors and PAs in business (PAIBs). Ms. Gardner explained the Task Force's rationale, noting that ISA 250 covers laws and regulations that do not have a direct effect on the entity's financial statements but that may be fundamental to its business and operations. She added that some issues may not be captured by ISA 250, hence the importance of focusing on the tone at the top and prevention within the entity.

Mr. Tamiya highlighted the discretion implicit in the second part of the scope of ISA 250 (i.e., laws and regulations that may be fundamental to the entity's business and operations) as such laws and regulations could be beyond the PA's expertise. Accordingly, he was concerned that there could be inconsistent application in practice.

DIFFERENTIATING RESPONSIBILITIES AMONG DIFFERENT CATEGORIES OF PAs

IESBA members broadly supported the Task Force's proposal to distinguish responsibilities regarding responding to suspected NOCLAR among four different categories of PAs, namely auditors, senior PAIBs, PAPPs other than auditors, and other PAIBs. IESBA members also broadly supported the proposed approaches to responding to suspected NOCLAR for the different categories of PAs.

Among other matters, IESBA members commented as follows:

- With respect to PAIBs, consideration should be given to whether it would be important to recognize the degree of seniority within the organization, i.e., the more senior PAIBs are, the higher their responsibilities.
- While the proposed description of a senior PAIB may be well understood in an audit context, it is unclear whether it would be fully understood in a business context.
- Consideration should be given to referring to proximity to the matter and ability to act in the description of a senior PAIB. Also, there may be a need to refer to "senior" employees as opposed to merely employees in the description. In addition, in the Part C project, the focus has been changed from preparation of financial information to presentation of such information.
- It would not be appropriate to characterize the distinction among the different categories of PAs on the basis of different ethical principles applicable to them. Instead, the distinction should be more grounded in terms of what they are able to do in their different capacities.

With respect to consideration of the level of seniority of the PA, Mr. Koktvedgaard wondered whether there should be a distinction between a junior auditor and an audit engagement partner.

"CLEARLY INCONSEQUENTIAL" THRESHOLD

The Task Force proposed to retain the threshold of "clearly inconsequential" in the December 2013 proposals with respect to the initial requirement for the PA to seek to obtain an understanding of the matter. A few IESBA members questioned how that threshold would articulate with the scope of ISA 250 as the threshold implicit within the latter (i.e., "material amounts and disclosures" and "fundamental to the operating aspects of the business") is already significantly higher than clearly inconsequential. In addition, it was felt that as this threshold was tied to the very first requirement in the process, it could prompt the PA to seek legal advice in almost every case. Another IESBA member was of the view that the threshold of "clearly inconsequential" was too low.

After further deliberation, the Board asked the Task Force to reconsider the threshold.

“SUBSTANTIAL HARM” THRESHOLD

IESBA members broadly supported the threshold of “substantial harm” with respect to the requirement for the PA to seek to prompt management to take appropriate actions, and considering whether disclosing the matter to an appropriate authority would be an appropriate course of action. In this regard, it was noted that a high threshold was needed to overcome the bar of confidentiality.

THIRD PARTY TEST

Ms. Gardner explained the Task Force’s rationale for the proposed third party test regarding the determination of further action required by auditors and senior PAIBs to achieve the objectives of the standard and to serve the public interest. An IESBA member wondered whether it was appropriate to position the test at the end of the process, believing that it would be better placed much earlier in the process. The IESBA member felt that the test should be intended to assist the PA’s exercise of professional judgment and that if introduced late in the process, it could be used by regulators in some jurisdictions to enforce against it. It was suggested that the test would be more appropriate if it were pitched at the overarching level, i.e., with respect to the consideration of the scope and threshold. Another IESBA member disagreed, noting that it would be difficult for a third party to make an informed assessment on scope, which would already be subject to professional judgment. The IESBA member was of the view that the test should be at the end of the process when it would matter.

An IESBA member wondered whether the combination of the “substantial harm” threshold and the third party test could nevertheless create a regulatory expectation that the PA should report the suspected NOCLAR to an appropriate authority. Ms. Gardner explained that the test is not just about reporting but also about the need for and extent of any further action. She did not share the concerns regarding second guessing, noting that the proper application of the test requires consideration of the facts and circumstances at the time, and not in hindsight. She noted the Task Force’s view that the test helped to increase the rigor of the proposals over the December 2013 proposals.

Other IESBA members generally supported the Task Force’s proposal.

OTHER MATTERS

IESBA members also suggested the following for the Task Force’s further consideration:

- Whether it would be acceptable for the PA not to report suspected NOCLAR if there was a risk of harm as opposed to substantial harm to the public.
- With regard to the reference to the independence of TCWG from management in the list of factors to consider in determining the nature and extent of further action, whether a term other than “independent” could be used to avoid confusion with auditor independence.
- With respect to the suggestion in Section 360 that in some circumstances the PA may deem it more appropriate to communicate the matter in accordance with the employing organization’s ethics policy, whether there should be recognition that not all organizations may have an ethics policy.
- Whether it is sufficiently clear that PAIBs other than senior PAIBs are free to report suspected NOCLAR to an appropriate authority without breaching the Code.

- The need to acknowledge that certain roles for PAs may involve higher confidentiality expectations (e.g., client privilege roles such as forensics and litigation support) and that difficult dilemmas could arise for the PA if the client has not appropriately responded to suspected NOCLAR.
- How the PA should deal with a suspected NOCLAR identified in a due diligence engagement if the transaction falls through, and also if the transaction is successful.

Mr. Tamiya questioned the effectiveness of informing the parent entity of suspected NOCLAR in the case of a component within a group, noting that the proposal did not articulate what the parent entity should do with the report. He also doubted that the parent entity could address the matter if it occurred in a component in a foreign jurisdiction. In addition, even if the matter was material for the component, it might not be so for the parent entity; accordingly, reporting the matter to the parent entity in such circumstances may not be an appropriate action.

WAY FORWARD

The Board asked the Task Force to present a first-read of the re-exposure draft and an outline of the draft EM for consideration at the January 2015 meeting. Mr. Koktvedgaard emphasized the importance of a clear rationale in the EM for the Board's revised proposals, taking into account the input received from the roundtables and the CAG. Mr. Kwok thanked the Task Force and staff for their efforts.

7. **Non-Assurance Services (NAS)**

Mr. Hannaford introduced the topic, outlining the background to the project and the main issues addressed in the May 2014 ED. He then briefed the Board on the main feedback received on the ED, including late responses from some regulatory stakeholders.

GENERAL COMMENTS

Mr. Koktvedgaard noted the general lack of responses from stakeholders outside the profession, particularly investors and users, although he acknowledged that some CAG organizations had not responded to the ED. He wondered whether this might be due to ED overload, although he felt this issue was not limited to IESBA. An IESBA member noted that investors are a group of stakeholders that is difficult to reach, particularly given that many decisions concerning the provision of NAS tend to be made by TCWG. Another IESBA member noted the need to clarify how respondents are categorized, as one regulator may represent more than one regulatory organization. Mr. Koktvedgaard suggested the preparation of an extended matrix of respondents in the future, such as in terms of regional, global and jurisdictional representation.

EMERGENCY EXCEPTION PROVISIONS

Mr. Hannaford outlined the main ED feedback regarding the proposed withdrawal of the emergency exception provisions as they pertain to bookkeeping and taxation services provided to audit clients that are PIEs in Section 290 of the Code. In particular, he noted that 42 respondents had supported the withdrawal of the provisions, with or without comments. He outlined the main reasoning provided by these respondents for their support.

He also noted that 13 respondents had expressed opposition to, or did not express support for, the withdrawal of the provisions. He outlined the main reasons provided by these respondents. In particular,

he noted that some of them had provided examples that they felt were emergency situations warranting the retention of the provisions:

- Confidentiality may need to be safeguarded. Accordingly, the audit firm should be able to provide services that are normally prohibited by the Code.
- To assist a client in meeting a tight deadline, which can be especially challenging for SMEs and small PIEs, or when special knowledge of the client's industry is not well known.
- When the client cannot find an alternative service provider due to the remote location of an affiliate.
- For short-term emergency support and for practical purposes, such as a lack of resources in a smaller PIE or in the event of a death or illness within the staff of the client.

Mr. Hannaford indicated that the Task Force was of the view that these examples demonstrated that the current emergency provisions may have been interpreted or implemented out of a matter of convenience. He reaffirmed the Task Force's view that regardless of the size of the firm or the client, a situation where an emergency provision would be permissible should be so rare that it should not be addressed by the Code. The Task Force also was of the view that no further guidance concerning the emergency exception provisions should be necessary in the Code.

Given that the majority of the respondents had agreed with the proposal and that there were no convincing arguments against it, Mr. Hannaford noted the Task Force's view that there should be no change to the proposal. He added that the withdrawal would clarify that departing from the Code as a matter of convenience would not be appropriate. This would also emphasize that smaller PIEs are not addressed differently in the Code.

The Board supported the Task Force's proposal to retain the withdrawal of the emergency exception provisions.

MANAGEMENT RESPONSIBILITIES

Deletion of the Term "Significant" from Paragraph 290.162⁹

Mr. Hannaford noted that the ED had proposed the deletion of the term "significant" in paragraph 290.162 as follows: *Management responsibilities involve controlling leading and directing an entity, including making ~~significant~~ decisions regarding the acquisition, deployment and control of human, financial, technological, physical, and intangible resources.*

He noted that 37 respondents had expressed support for this proposal, with or without comments. He outlined the main reasoning provided by the respondents for their support.

He also outlined the concerns of some respondents against the proposal, in particular:

- The belief that not all the decisions regarding the acquisition, deployment and control of human, financial, technological and intangible resources are a management responsibility – subjectivity is removed; and
- A view that the removal of "significant" may have an unintended consequence of prohibiting the auditor from using professional judgment and making decisions related to the task of the auditor.

⁹ Paragraph numbers refer to those in the ED (i.e., from the 2013 IESBA Handbook), unless otherwise stated.

Mr. Hannaford explained that the Task Force continued to support the deletion of the term “significant” from paragraph 290.162 as all final decisions made on behalf of the client are management responsibilities, regardless of the significance. He noted, however, that the Task Force was proposing some changes to paragraph 290.164 to avoid an unintended broader prohibition as follows:

A firm shall not assume a management responsibility for an audit client. The threats created would be so significant that no safeguards could reduce the threats to an acceptable level. For example, deciding which recommendations of the firm to implement will create self-review and self-interest threats. Further, assuming a management responsibility creates a familiarity threat because the firm becomes too closely aligned with the views and interests of management. However the professional accountant may make decisions and judgments with respect to the provision of non-assurance services. In addition sSubject to compliance with paragraph 290.165, the following activities are not assuming a management responsibility:

- Providing advice and recommendations to assist management in discharging its responsibilities; and
is not assuming a management responsibility
- Executing permitted routine or mechanical tasks and activities as instructed by the client.

Several IESBA members expressed concern about, and did not support, the changes proposed to paragraph 290.164 on the grounds that they were confusing and sent mixed messages. In particular:

- There were concerns that the changes were too broad and that they could be interpreted to mean that a PA could take management responsibility in providing NAS.
- It was felt that the second bullet could introduce confusion as to what is routine or mechanical. In this regard, it was suggested that this would be better addressed under administrative services.

An IESBA member drew attention to the comment letter from the UK Financial Reporting Council highlighting the part of the new EU regulation prohibiting auditors of PIEs from providing “services that involve playing any part in the management or decision-making of the audited entity.” The IESBA member noted that the guidance in paragraph 290.164 would need careful drafting in this regard as EU Member States may consider it in implementing the new regulation.

Another IESBA member commented that in concluding on the proposed deletion of “significant” from paragraph 290.162, the Task Force did not appear to have responded to the concerns of respondents who disagreed with the proposal. The IESBA member noted the need for a clear rationale in this regard.

A Task Force member explained that the changes to paragraph 290.164 were intended to respond to concerns from respondents that the PA could not make any decision in providing NAS. Accordingly, the changes were intended to recognize the use of professional judgment by the PA in the performance of NAS. Mr. Kottvedgaard noted the need to strike the right balance between allowing NAS in the public interest and allowing the auditor to perform any services and simply obtaining the client’s approval.

After further deliberation, the Board agreed with the deletion of the term “significant” from paragraph 290.162 and to revert paragraph 290.164 to the ED wording.

Deletion of the Phrase “Objective and Transparent Analysis and Presentation of the Issues” from Extant Paragraph 290.163

An IESBA member highlighted some comments from respondents as to why the last sentence of extant paragraph 290.163 had been deleted as this made a useful reference to “an objective and transparent analysis and presentation of the issues.” The IESBA member felt that the PA must present the advice in

an objective and transparent way. Accordingly, the IESBA member suggested that the deleted phrase be reinstated to respond to the respondents' concerns. A Task Force member explained that the intent was for paragraph 290.165 to pick up that concept and introduce a requirement for informed individuals at the client to make the final decision. In addition, the Task Force had felt that the phrase "the risk is further reduced" in the deleted sentence was too weak. Therefore, the Task Force's intent was to clarify the provision and make it more rigorous.

Another IESBA member noted that while it is necessary for management to make the decision, it would be important for the PA to present the advice in an objective and transparent way so that management is able to see all the options and the underlying analysis. It was noted that management should not simply be "rubber stamping" the advice. It was also noted that the concept of "objective and transparent analysis" would be an important element for proposed paragraph 290.165.

After further deliberation, the Board asked the Task Force to reflect further on the matter and, at a minimum, to explain the rationale for the final position in the Basis for Conclusions document.

Examples of Management Responsibilities

Mr. Hannaford noted that the ED had proposed the removal of the first sentence of paragraph 290.163 addressing examples of activities that would be considered a management responsibility. Other proposals within the paragraph included the removal of the word "generally" in the lead-in sentence and certain editorial refinements to the examples to make them more specific. He indicated that 40 respondents had expressed support for the proposed changes, with or without comment. Concerns expressed by respondents concerning the proposed changes included:

- The removal of the element of professional judgment due to the:
 - Deletion of the term "generally" in the lead-in sentence; and
 - Perception that an exhaustive list had been created; and
- Confusion over the term "supervising" within the examples.

After consideration of the ED responses, the Task Force had concluded that the term "generally" should not be reinstated. This was discussed when the Board approved the ED, in particular when all of the examples were carefully examined to determine that in no situation would these activities not be a management responsibility. Mr. Hannaford noted that the Task Force did agree that the determination of whether an activity is a management responsibility is one of professional judgment. Accordingly, the Task Force was proposing that the first sentence of the paragraph be reinstated. Finally, the Task Force concluded that the term "supervising" can be interpreted in starkly different ways. Therefore, it was proposing that this term be deleted from the third bullet and fifth bullets.

An IESBA member noted that the examples were more focused. However, the IESBA member expressed some concern that the custody of assets was not addressed as this was raised in the comment letters. Staff noted that this matter was discussed at length during the December 2013 Board meeting and that the Task Force had agreed with the conclusion at that time.

Another IESBA member expressed concern over the deletion of the fifth bullet which included the word "supervising," as this example was a management responsibility. A Task Force member responded that the examples had to be clear given that the term "generally" had been deleted.

After further deliberation, the Board agreed with the deletion of the term “generally,” the reinstatement of the first sentence and the examples as presented.

Prerequisite in Paragraph 290.165

Mr. Hannaford noted that the ED had proposed a prerequisite in ensuring that the client’s management makes all judgments and decisions that are the proper responsibility of management. He indicated that 37 respondents had expressed support for this proposal, with or without comments. He outlined the main reasons provided by these respondents for their support.

Mr. Hannaford noted that comments that opposed the proposal and other general comments concerning the paragraph varied in reasoning. In addition, certain implementation concerns were expressed, including the following:

- Concerns with the requirement to find an individual within the client with suitable skill, knowledge and experience to provide oversight of the services.
- Concerns that the PA must ensure the client fulfills the obligations of the prerequisite.
- Potential challenges for SMPs and SME clients.
- Clients may find a service provider not bound by the Code.

Mr. Hannaford noted the Task Force’s continuing support for the inclusion of the prerequisite in paragraph 290.165, noting that the majority of the respondents had supported the proposal and that similar prerequisites had been implemented elsewhere without difficulties. Further, he noted that the extant Code requires that management accepts responsibility for NAS performed by the firm. Accordingly, there is a presumption that the prerequisites outlined in paragraph 290.165 would need to be met in order for management to accept such responsibility.

An IESBA member wondered who could make judgments about the prerequisite and whether the requirement should be limited to PAs. Mr. Hannaford noted that this would not be necessary as some CFOs are not PAs.

The Board broadly supported the Task Force’s proposal.

Late Comment Letters from Some Regulators

Mr. Hannaford noted that comment letters had been received from three regulatory respondents that were too late to be addressed within the agenda material. The regulatory respondents generally supported the removal of the emergency exception provisions. In relation to management responsibilities, he highlighted concerns from them with respect to:

- Client management rubber stamping responsibility of NAS;
- The statement “providing advice and recommendations to assist management in discharging its responsibilities is not assuming a management responsibility,” and
- The phrase “ongoing monitoring” which was not used in the description of a management responsibility.

In response, the Task Force noted the following:

- The Code cannot prevent rubber stamping; however, the newly proposed guidance would assist the PA in mitigating such risk.

- When providing advice to client management, or in the performance of any NAS, the auditor must use professional judgment so that the auditor does not assume a management responsibility.
- On the broad scope, the term monitoring may include a plethora of activities that may exceed the scope of what may be included as a management responsibility. Monitoring of internal controls and other internal control-related matters are addressed specifically as a service under the guidance pertaining to internal audit within the Code.

Mr. Hannaford highlighted that the other main comments received had noted that there should be clear lines concerning prohibited NAS which should align with the EU audit reform. The comments had also requested alignment with the new EU audit regulation provisions. In response, the Task Force noted the following:

- The threats and safeguards approach in the Code is robust.
- The Code covers a wide scope of PAs and jurisdictions.
- The Code works in conjunction with the EU audit regulation in that application of a similar threats and safeguards approach is required by the latter when performing services outside of the EU.
- Where differences occur, PAs must follow the more restrictive provisions.

ROUTINE OR MECHANICAL

Mr. Hannaford noted that the ED had proposed clarifications to the phrase “routine or mechanical” as used in the subsection “Preparing Accounting Records and Financial Statements.” He noted that 45 respondents had indicated their agreement that the proposal clarified the term. He also noted that almost all of the comments provided pertained to the examples of services that are “routine or mechanical.” He then highlighted the various wording refinements to the examples in response to the ED comments.

An IESBA member wondered if there would be confusion using the terms “routine or mechanical” in both paragraphs 290.164 (administrative services) and 290.171 (bookkeeping services). Mr. Hannaford noted that “routine or mechanical” is not a type of service, but rather a description of a service that requires little to no professional judgment. A Task Force member noted that using the same description in two different places creates consistency.

In relation to paragraph 290.166, a few IESBA members expressed concern that administrative services must be approved by senior management of the client and questioned the necessity of making a reference to paragraph 290.165. It was noted that in practice, these are straightforward activities that would not require senior management clearance. Accordingly, it was felt that this reference could create an excessive burden. A Task Force member expressed the view that ultimately this would require senior management but that it would be up to such management to delegate the responsibility. It was also pointed out that the Explanatory Memorandum to the ED had indicated that “Administrative Services” were considered to be another type of non-assurance service that could be provided by a PA. As such, these services would be subject to meeting the prerequisite requirements included in paragraph 290.165 just the same as any other NAS. The Board asked the Task Force to reflect on this matter further.

An IESBA member noted that the examples in paragraph 290.171 were very precise, specifically the second and third bullets. Mr. Hannaford noted that bullet two represents a routine service and bullet three represents a mechanical service.

An IESBA member inquired as to the aggregate of the threats that may be created by performing multiple NAS. A Task Force member noted this issue is addressed in extant paragraph 290.156 of the Code.

Mr. Koltvedgaard highlighted the concerns of some regulatory respondents, specifically the fine line that defines a routine or mechanical service and the fact that sending notices on behalf of client may create cause for concern. He suggested that the Task Force further reflect on this. A Task Force member noted that routine or mechanical services mainly address non-PIEs, adding that care should be taken in not creating provisions that are stricter than the new EU regulation. The Task Force member also noted that the guidance was generally consistent with this new regulation.

Mr. Hannaford noted that sending notices on behalf of clients was not in the extant Code. As this project was intended to clarify the guidance in the Code, the Board asked the Task Force to delete the example from the guidance addressing administrative services.

SECTION 291

Mr. Hannaford noted that the ED had proposed changes to Section 291 that were generally conforming in nature. He indicated that most of the ED comments were along the lines of the corresponding comments on Section 290. The Task Force, however, was proposing two further changes to the text in the ED:

- The term “significant” had not been deleted from paragraph 291.143. It was the Task Force’s intention that the description of a management responsibility remain the same as in Section 290. Thus, the Task Force was recommending the term be deleted.
- The Task Force was also recommending the deletion of the guidance concerning administrative services, as Section 291 does not address specific services as is the case of Section 290. Thus, this deletion was being proposed for consistency purposes.

An IESBA member expressed concern over the deletion of paragraph 291.150 as this paragraph was a clarification of the concept of management responsibility, which corresponded with paragraph 290.166 within the management responsibility discussion in Section 290. A Task Force member noted that the provision deals with separate services and Section 291 does not address separate specific services. The Board had no further comments on the section.

EFFECTIVE DATE

Mr. Hannaford noted that the ED had proposed an effective date of not less than 12 months after issuance of the final changes and that earlier application would be permitted. He indicated that 22 of the respondents supported the proposed effective date, with or without comments. Most of the comments that opposed the proposal were on the grounds that the implementation of the proposed changes should be done in conjunction with the implementation of the restructured Code.

Mr. Hannaford explained the Task Force’s continued support for the effective date proposal in the ED. The Board noted the matter for further consideration prior to approval of the final changes.

WAY FORWARD

Mr. Hannaford noted that the Task Force would present the significant comments received on the ED and the tentative outcome of the Board’s deliberations at a CAG teleconference scheduled for November 18, 2014. The Board asked the Task Force to report back on the CAG discussion and present the final

changes for consideration with a view to approval at the January 2015 Board meeting. Mr. Kwok thanked the Task Force and staff for their efforts.

8. Safeguards

Mr. Hannaford introduced the topic, noting that the Board had received feedback from some regulators with regard to the need to review the appropriateness and effectiveness of safeguards within the Code. Accordingly, the Strategy and Work Plan, 2014-2018 (SWP) includes a work stream on safeguards. He added that the scope of the NAS project had included the development of a position paper to explain the Code's approach in addressing the provision of NAS by PAPPs to audit clients. At the July 2014 meeting, however, the Board had agreed to defer development of the position paper until completion of its examination of the safeguards within the Code. Mr. Hannaford then outlined the nature of the issues to be addressed in a project on safeguards, and invited Board input to assist the Working Group (WG) in developing the project proposal.

The following matters were raised, among others:

- There is a need to first address the basic definitional issue, i.e., what makes the various examples of safeguards in the Code actual safeguards. There was the earlier debate during the Part C board deliberations when this was unclear. This issue of clarity exists in other parts of the Code and not just in relation to independence. Mr. Hannaford concurred, noting that this was the WG's proposal.
- It was unclear how the approach to the review could be a partial one, leaving out the rest of the Code. Mr. Hannaford explained that the WG's thinking was to develop a framework that would be applied first to NAS. The rest of the Code could then be addressed separately.
- It would be important to obtain a feel of what would be practicable for the Board to tackle.
- The project proposal should set out the objectives and rationale of the project clearly, especially given some stakeholders' concerns about excessive tinkering with the Code.
- There is merit in focusing on NAS as this is the area where safeguards need to be most effective.
- There is a link to the timing of the new EU regulation, which refers to the threats and safeguards approach. Accordingly, to align with the EU regulatory developments, it would be important to start this project at the earliest opportunity.
- If the review were to extend to the rest of the Code, it would be important to understand the implications for other projects.
- The timeline would be aggressive if it were to be aligned with the October 2015 target for the Structure ED.

After further deliberation, the Board supported the direction of the WG's proposals but asked the WG to consider the comments in developing the project proposal.

WAY FORWARD

The Board asked the WG to present the project proposal for consideration with a view to approval at the January 2015 Board meeting.

9. Emerging Issues and Outreach

STATUS OF GLOBAL ADOPTION OF THE CODE

Mr. Mihular introduced the topic, presenting an update on the status of global adoption of the Code. Mr. Siong outlined the approach to documenting the status of adoption, noting the importance of understanding how adoption has been defined. He highlighted the following in particular:

- While the Statements of Membership Obligations (SMOs) developed by the IFAC Compliance Advisory Panel (CAP) specify requirements for IFAC member bodies with respect to the IESBA Code, IFAC member bodies in different jurisdictions may have different degrees of responsibility for meeting those requirements depending on their level of direct responsibility for establishing ethical requirements in their jurisdictions. The CAP itself does not have authority to mandate that IFAC member bodies adopt the Code.
- The adoption statistics have been compiled based on information self-reported by the IFAC member bodies to the CAP.
- Some jurisdictions may have more than one IFAC member body, and some member bodies may comprise only auditors.
- Some member bodies have adopted the Code with additional restrictions.

Mr. Kwok explained the link between monitoring the global adoption of the Code and the four strategic themes in the SWP. He acknowledged the need for more granularity in the data, highlighting the importance of focusing initially on the G20 and the major financial centers. This would then enable the Board to better understand the nature and extent of differences between the Code and the national ethical requirements in these jurisdictions. He noted that this would be part of the EIOC's fixed agenda going forward. He emphasized that the existence of differences between the Code and national ethical requirements did not imply that the Code is a lowest common denominator as these could be due to circumstances specific to a particular jurisdiction. He provided a few illustrations in this regard. On the other hand, differences could point to areas where the Code may need to be appropriately enhanced.

The following matters were raised, among others:

- There may be benefit to having a category for partial adoption of the Code, since not all IFAC member bodies have sole authority for establishing ethical requirements.
- The statistics presented an overly positive view of adoption of the Code and more granularity in the data would be needed. Mr. Mihular acknowledged this, noting that there was scope to enhance the data to improve understanding of the extent of adoption globally.
- There is a risk of the details becoming overwhelming. Accordingly, there would be benefit in focusing on the qualitative aspects relative to the major jurisdictions, instead of focusing only on the statistical aspects.
- Consideration should be given to exploring links between monitoring the status of global adoption of the Code and country outreach.
- More categories of adoption may be needed as jurisdictions may be at different stages of adoption. For example, a "partially adopted" category may need a number of subcategories.
- Rather than focusing on fact finding, the focus should be on promoting adoption, especially within the G20 and major financial centers. Consideration should be given to whether IFAC could assist in this regard.

Mr. Kwok thanked the Board for the input, noting room for further refinement of the adoption data and Board support to focus on the G20 and major financial centers for purposes of initial benchmarking. He also noted the need for closer interaction with IFAC in relation to promotion of adoption of the Code globally.

IFAC COMPLIANCE ADVISORY PANEL UPDATE

Mr. Russell Guthrie, IFAC Executive Director of Professional Relations and Chief Financial Officer, gave a presentation on the history and evolution of the IFAC Member Body Compliance Program and the current activities of the CAP. Among other matters, he highlighted the following:

- The Compliance Program had now been operation for over 10 years, having gone through a number of phases. In particular, the membership rules (the SMOs) had been redeveloped, and the CAP had moved to “dashboard reporting” to provide more accessible data for IFAC member bodies.
- The SMOs are now a recognized benchmark for professional accountancy organizations (PAOs) and are used by the World Bank for its Reports on Observance of Standards and Codes (ROSC) program.
- Many PAOs need to be legislatively mandated to promulgate or adopt ethical standards.
- The CAP’s approach to monitoring the global adoption of the Code.

He also shared a number of observations regarding the Code, including the fact that:

- The assessment of global adoption of the Code is more complex than for other sets of international standards, such as IFRSs and ISAs, which tend to be adopted en bloc.
- The Code is adopted not only at the national level but also among the larger networks of firms via the Forum of Firms.
- The assessment of the quality of implementation of the Code involves another order of complexity at the global level.

Finally, he outlined the anticipated activities of the CAP for 2015 and beyond.

IESBA members raised the following matters:

- What actions IFAC had taken against member bodies that had not implemented the Code.

Mr. Guthrie noted that the primary emphasis was on encouragement, not enforcement. However, IFAC had taken 30+ enforcement actions, including some suspensions. He noted that IFAC would be consulting on the extent of enforcement action as part of its strategy going forward. He added that the evaluation methodology is reflected in the use of “traffic light” symbols in the dashboard reports.

- How the CAP was tracking adoption of changes to the 2009 Code.

Mr. Guthrie noted that when a new version of the Code becomes effective, the CAP would begin assessing the adoption status with respect to that version.

- What the challenges are to measuring adoption of the Code, and the extent to which impediments to adoption arise from the structure of the Code and the nature of ethics standards.

Mr. Guthrie noted that full adoption in some jurisdictions was not possible. For instance, in Russia the audit profession is separate from the rest of the profession, so the former is only focused on Part B of the Code and not Part C. He expressed his support for the project to restructure the Code. He added that IFAC needed to review the criteria relating to adoption to better understand the problems being encountered regarding adoption.

- The extent to which the CAP tracked adoption of the fundamental principles or other individual parts of the Code at the member body level.

Mr. Guthrie acknowledged that this was an area where the Compliance Program had struggled. To assess the differences in adoption, consideration must be given to the extent to which each member body is able to adopt and implement the Code, the degree to which it has achieved these and the reasons for not fully adopting.

- Whether IFAC had plans to validate member bodies' self-reports.

Mr. Guthrie noted that once information relating to adoption is received from a member body, a traffic light assessment system is applied to indicate the level of adoption. The member body has the opportunity to react to this and make any corrections. In addition, some CAP staff members undertake PAO visits and are able to assess the situation on the ground to a certain level of granularity. Further, some member bodies are able to visit the CAP and there is ongoing CAP engagement with the PAOs, including through informal channels. Also, the Forum of Firms had been able to assist informally in some respects.

Mr. Kwok thanked Mr. Guthrie for the informative presentation, noting that the Board would welcome further updates from the CAP in future.

OTHER MATTERS

Mr. Mihular briefed the Board on the summary inspection reports issued recently by some international and major national audit oversight bodies. The Board noted no comments.

WAY FORWARD

The next EIOC session has been scheduled for the April 2015 IESBA meeting.

10. **PIOB Observer's Remarks**

Mr. Bhavé commented that there had been a recent shift in policy at PIOB whereby PIOB observers at SSB meetings would now be speaking up more often during SSB deliberations rather than simply listening to the discussions. This explained the increased level of his interventions during this meeting.

He also commented on what he perceived to be a tone in the Board meeting that regulators were pushing too much and pressuring the Board to issue regulation for them. He reminded the Board of the context for the current standard-setting structure, with the establishment of the Monitoring Group and PIOB. Accordingly, he noted the importance of having regulatory buy-in for the Board's standards.

He noted that while regulators intend for the SSBs to develop international standards acceptable across jurisdictions, the SSBs may be perceived not to have achieved their purpose should jurisdictions fail to accept their standards. He felt this was a fine balance and that while the regulators appreciate that the SSBs are independent, they are an important voice that should be given appropriate consideration.

He added that to achieve global acceptance of the standards, there is a need for the Board to be attuned to stakeholder concerns and be sensitive to external developments, and to act before individual jurisdictions take their own actions. He suggested that the Board explore whether there is a way to catch up to legislation that is being created in some jurisdictions to address threats to auditor independence in relation to the provision of NAS to audit clients. He also highlighted concerns expressed by some EU audit regulators a while back about audit partners being compensated in a manner that may threaten their independence. He encouraged the Board to consider such concerns and to explore practicable and acceptable solutions.

Mr. Bhavé concluded by congratulating the Board on successfully finalizing the Structure of the Code CP and Part C ED. He also conveyed his best wishes to Ms. Spargo for the future.

Mr. Kwok thanked Mr. Bhavé for his remarks.

11. Next Meeting

The next IESBA meeting is scheduled for January 12-14, 2015 in London, UK.

12. Closing Remarks

Mr. Kwok noted that this would be Ms. Spargo's final meeting as a Board member as she would be stepping down at the end of the year due to her other professional commitments. He noted that she had served the Board with distinction, especially during the Breaches project. She had also chaired the NAS project and been a member of the NOCLAR Task Force and the Planning Committee. He added that as a non-accountant, she had been able to bring practical insights and perspectives into the Board deliberations.

Ms. Spargo reflected on her experience on the Board, noting among other matters that:

- The work had been challenging, both intellectually and travel-wise, but well worth it.
- As a consumer of PAs' services, the quality of the PA and trust are paramount, regardless of what the standards are.
- TCWG are a valuable resource, and the Board should endeavor to engage with them.
- It would be important to balance due process vs. speed to market.
- The Board is well constituted, with characteristics of passion, respect, diligence and patience.
- Every board member had contributed color around the table.

Mr. Kwok also noted that this would be Mr. Jackson's last meeting as a staff member. He thanked Mr. Jackson for his contributions to the Board's work and conveyed the Board's best wishes for his retirement.

Finally, Mr. Kwok thanked the Board and staff for their hard work and contributions to the meeting, noting that this would be the last Board meeting he would be chairing before Dr. Thomadakis joins the Board next January. He highlighted the key achievements of the Board in 2014, noting that much had been accomplished over just three board meetings. He then closed the meeting.