

### Inducements—Issues and Task Force Proposals

#### How the Project Serves the Public Interest

A professional accountant in business (PAIB) might be offered an inducement with the intention of influencing the behavior of the PAIB or obtaining an advantage from the PAIB that would not have been attained without the inducement. Accepting such an inducement could violate the legitimate objectives of the PAIB's employing organization and could result in the PAIB failing to comply with the fundamental principles of the Code. Likewise, a PAIB might offer an inducement to a counterparty with the intention of influencing the counterparty's behavior or obtaining an advantage from the counterparty that would not have been attained without the inducement. It is not in the public interest for a PAIB to offer, solicit or accept inducements that could result in the PAIB breaching the fundamental principles of the Code.

#### Background

1. During its March 2017 meeting, the Board considered a ["second read"](#) and agreed to substantive and editorial revisions to proposed Section 250<sup>1</sup> and related conforming amendments, including the section of the Code applicable to professional accountants in public practice<sup>2</sup> and the relevant Independence standards.<sup>3</sup> Among other matters, topics discussed during the meeting included the:
  - Use of "inducements" as a neutral term;
  - "Intent test" and its positioning within the proposals;
  - Interaction of the intent test with the conceptual framework; and
  - Nature and extent of guidance regarding inducements offered to or received by a PAIB's immediate or close family members.
2. The Board also raised a few additional matters for the Task Force's further consideration. These are set out below together with the Task Force's responses.

#### Significant Matters

##### *Format and Structure*

3. The Board asked the Task Force to further refine its proposals so that they are more closely aligned to the new format and drafting conventions for the proposed restructured Code, as reflected in the [agreed-in-principle text](#) for Phase 1 of the Structure of the Code project. For example, the Board asked that the Task Force reposition the requirements in its proposals so that they appear before the application material. Specific to proposed Section 250, an IESBA participant also asked the Task Force to revisit the position of the requirements and application material relating to:

<sup>1</sup> Proposed Restructured Code, Part 2 – Professional Accountants in Business Section 250, *Gifts, Hospitality and Other Inducements* (Extant Part C – Professional Accountants in Business, Section 350, *Inducements*)

<sup>2</sup> Proposed Restructured Code, Part 3 – Professional Accountants in Public Practice Section 340, *Gifts, Hospitality and Other Inducements* (Extant Part B – Professional Accountants in Public Practice, Section 260, *Gifts and Hospitality*)

<sup>3</sup> Proposed Restructured Code, Part 4 – Professional Accountants in Public Practice Sections 420 and 906, *Gifts and Hospitality* (Extant Part B – Professional Accountants in Public Practice, paragraphs 290.225 and 291.155, *Gifts and Hospitality*)

- (a) Understanding and complying with the relevant laws and regulations; and
- (b) The professional accountant's (PA's) determination of intent.

#### Task Force Response

- 4. In light of the Board discussion, **Agenda Item 1-B** sets out the Task Force's proposed structure and format for Section 250.
- 5. The Task Force agreed to have the description of inducement be the first provision under the section heading titled "Requirements and Application Material" in order to provide relevant context to users of the Code about what constitutes an inducement before delving into more specific requirements. With the use of new or revised section headings and subheadings, the Task Force's revised proposals:
  - Clarify that a PA is required to understand and comply with the relevant laws and regulations when offering or being offered an inducement that may relate to bribery and corruption.
  - Clarify that when an inducement is not prohibited by laws or regulations, the PA should:
    - First, determine whether there is actual or perceived intent to improperly influence the PA's or another individual's behavior. If there is such actual or perceived intent, offering or accepting the inducement is prohibited.
    - If the PA determines there is no actual or perceived intent to improperly influence behavior, the revised proposals require that the PA apply the requirements and application material in the conceptual framework set out in Section 120 to identify, evaluate and address any threats that might be created by offering or accepting the inducement.

#### *Alignment to Drafting Conventions*

- 6. A few IESBA members questioned the positioning of requirements and application material dealing with intent under the section heading titled "Application of the Conceptual Framework to Inducements" in the proposals presented at the March 2017 Board meeting.

#### Task Force Response

- 7. As noted above, the Task Force has revised its proposals to better align with the new format and drafting conventions for the restructured Code. The revisions:
  - Take into account the approach used in proposed Section 600,<sup>4</sup> in relation to determining the placement of the overarching prohibition relating to intent. The placement of this provision is aligned to the placement of the requirement and application material relating to avoiding management responsibilities in Section 600.
  - Clarify the lead-in to the list of factors that the PA uses to determine intent in paragraph 250.9 A1. Paragraph 250.9 A1 is also revised to state in a clearer manner that the factors used to evaluate intent may also be relevant in evaluating the level of a threat created by offering or accepting an inducement.

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<sup>4</sup> Proposed Section 600, *Provision of Non-assurance Services to an Audit Client*

- Take into account the approach used in proposed Section 210<sup>5</sup> in relation to determining how to refer to requirements and application material in Section 120. For example:
  - The sub-headings “Identifying Threats,” “Evaluating Threats” and “Addressing Threats” have been deleted.
  - The application material which sets out a list of examples of facts and circumstances that might create threats, by the specific category of threats (i.e., self-interest, familiarity and intimidation threats) is revised to align to the drafting convention used in paragraph 120.6 A3 of the agreed-in-principle text. Also, consistent with the approach taken in Section 200<sup>6</sup> where a similar list is included, the text of the application material is revised to include only examples.

**Matters for IESBA Consideration**

1. Do IESBA members agree to the revised format and structure of proposed Section 250, including the position of the requirements and application material relating to the PA's determination of intent?
2. IESBA members are asked for views about any other matters relating to the revisions in proposed Section 250.

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<sup>5</sup> Proposed Section 210, *Conflicts of Interest*

<sup>6</sup> Proposed Section 200, *Applying the Conceptual Framework – Professional Accountants in Business*