

**Meeting:** IESBA CAG

**Meeting Location:** Virtual

**Meeting Date:** September 20, 2021

## Agenda Item

# F

### Benchmarking Independence Standards for Audits of Public Interest Entities

#### *Phase 1 – Comparison of IESBA and US SEC/PCAOB Frameworks*

#### Objectives

1. To:
  - (a) Report back on the March 2021 CAG discussion.
  - (b) Receive an update on the Working Group's (WG) recent activities.\*

\***Agenda Item F-1** is a preliminary draft of the Phase 1 report. The WG does not propose that the draft interpretations and the wording of the conclusions be subject to the CAG discussion during the September 2021 meeting. However, the Working Group welcomes Representatives' queries and comments via email. Please email [szilviasramko@ethicsboard.org](mailto:szilviasramko@ethicsboard.org).

#### Working Group

2. The Benchmarking Working Group comprise:
  - Laura Friedrich, Working Group Chair and IESBA Technical Advisor
  - Richard Fleck, NAS Task Force Chair
  - Richard Huesken, IESBA Member
  - Peter Oastler, Independence Expert
  - Kristen Wydell, IESBA Technical Advisor

#### Initiative Status and Timeline

##### *Objective of Benchmarking Initiative*

3. The WG was established in [July 2020 meeting](#). The objective of the Benchmarking Initiative is to compare the provisions in the International independence Standards that are applicable to public interest entities (PIEs) to the relevant independence requirements that apply in major jurisdictions, starting first with the requirements of the US Securities Exchange Commission (SEC) and the Public Company Accounting Oversight Board (PCAOB). The initiative will result in an assessment of the extent to which the IIS and independence requirements in major jurisdictions are aligned and will help identify any substantive differences.
4. The IESBA envisages that the outcome of this initiative will promote awareness and adoption of the IIS and the Code more broadly. In addition, it will also help inform the IESBA as to whether there are

specific areas that it should evaluate and, if appropriate, address as part of its future strategy and work plan.

*Activities Since March 2021 CAG*

5. At its [March 2021 meeting](#), the IESBA and the CAG received an update from the WG and considered, among other matters, the proposed timeline for Phase 1 of the initiative and preliminary views about the potential deliverables.
6. IESBA representatives briefed the Forum of Firm and the International Forum of Independent Audit Regulators' (IFIAR) Standards Coordination Working Group on the initiative in the latter part of March 2021. Both groups expressed strong support for the initiative and agreed that the outcome of the comparison would help promote a deeper understanding of the IIS and the Code more broadly and how they compare with the relevant provisions of the SEC and PCAOB.
7. At the [June 2021](#) meeting, the IESBA considered and provided input regarding the focus areas for the final report.
8. In September 2021, the IESBA and the CAG will receive a preliminary draft report of Phase 1. The WG Chair will present key observations based on the WG's work to-date, and IESBA members and CAG representatives will have an opportunity to react and ask questions, including about the format and level of granularity of the draft report. The WG Chair will update Representatives about the outcome of the September 15, 2021 IESBA meeting.

**Report Back on March 2021 CAG Discussion**

9. Below are extracts from the draft minutes of the March 2021 CAG meeting and an indication of how the WG or IESBA has responded to the CAG's comments.

Matters Raised	WG/ IESBA Response
OBJECTIVE AND METHODOLOGY	
<p>Mr. Hansen asked if the objective of the comparison was to make a judgment on which framework is more stringent.</p> <p>Mr. Kashiwagi wondered about the point of the exercise if the report arising from the initiative does not indicate once and for all which is more stringent – US SEC/PCAOB provisions or IESBA Code.</p>	<p>Points accepted.</p> <p>Ms. Friedrich explained that the WG does not intend to provide an overall conclusion regarding which framework is more stringent. However, the comparison will identify the similarities and key differences with respect to the specific topics.</p> <p>At its <a href="#">June 2021 meeting</a>, the IESBA agreed to refinements to the objective of the Benchmarking initiative. This revised objective is included in paragraphs 3-4 of this paper.</p>
<p>Ms. Landell-Mills questioned the level of objectivity of the exercise and asked whether the initiative had a pre-determined objective to demonstrate that the principles-based approach</p>	<p>Point accepted.</p> <p>During the CAG meeting, Ms. Friedrich clarified that the IESBA had no such pre-determined objective. Instead, the WG's intent is to demonstrate how the</p>

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<b>Matters Raised</b>	<b>WG/ IESBA Response</b>
<p>is as effective as a rules-based approach. She pointed out that the benchmarking should highlight the strengths and advantages of the principles-based approach as well as of the rules-based approach.</p>	<p>principles-based approach works and what its strengths are. She reiterated that the WG would keep an objective and open mind while progressing the benchmarking exercise.</p> <p>Dr. Thomadakis reiterated that the benchmarking exercise did not intend to promote the approach of any independence framework or to make easy judgments over provisions that are difficult to compare. As an important point to the context, Dr. Thomadakis highlighted that the principles-based Code is a globally used framework that has to fit different legal backgrounds worldwide. He emphasized that it is not the IESBA's intent to make an overall judgment as to which framework is better.</p> <p>The updated objective for the initiative is set out in paragraphs 3-4 of this paper.</p>
<p>Ms. Manabat wondered about the value of the benchmarking and whether the intent was to validate a particular hypothesis. She asked what objective the IESBA intended to achieve with this initiative.</p> <p>Ms. Blomme also wondered about the objective of the initiative.</p>	<p>Points accepted.</p> <p>During the CAG meeting, Mr. Fleck clarified that the Working Group aimed to provide an objective comparison of the two regimes as well as identify considerations for possible amendment or supplementation in the Code. The overall aim of the initiative is to provide objective, reliable and informative comparisons for the IESBA and its stakeholders. He acknowledged that there are some challenges in undertaking the comparison given some conceptual differences between the US SEC/PCAOB provisions and the Code. Nevertheless, the objective was very much intended to be a targeted examination of the Code against the corresponding US SEC/PCAOB provisions.</p> <p>The updated objective for the initiative is set out in paragraphs 3-4 of this paper.</p>
<p>Ms. Landell-Mills asked for further clarification regarding the methodology used for the comparison.</p>	<p>Point accepted.</p> <p>Ms. Friedrich responded that the Working Group aimed to capture areas that are of particular interest to stakeholders and that it would seek the appropriate level of granularity in which to present the results in the final report.</p>

Matters Raised	WG/ IESBA Response
Ms. Blomme questioned whether the IESBA planned this initiative to be a multi-phase exercise with other national independence frameworks to be considered in the future.	Point accepted.  During the meeting, Dr. Thomadakis clarified that IESBA's intent was indeed to consider future comparisons in other jurisdictions over time.  This revised objective at paragraphs 3-4 clarifies that the initiative is multi-phased.
OTHER	
Mr. Dalkin noted that one of the challenges for the US Government Accountability Office (GAO) in developing ethics standards is that application of the principles often relies on professional judgment, and professional accountants can have significantly different views in applying those principles. He shared that the GAO had therefore found a hybrid approach helpful, i.e., establishing some "floors and ceilings" to help with that judgment.	Point noted.  The revised approach will emphasize the areas of focus and topics that are of most interest to stakeholders, as described in paragraph 10.
Mr. Sarmiento-Pavas observed that the Code is developed by an international community and it is intended for global application. By contrast, the US SEC/PCAOB provisions are developed by a specific jurisdiction.	Point accepted.  The draft report for Phase 1 acknowledges that the difference in the remit of the IESBA and the US SEC/ PCAOB (see paragraph 23 in Agenda Item F.1.).

**Matters for CAG Consideration**

*Areas of Focus and Topics for Phase I*

10. The WG originally planned to develop mapping tables with comprehensive paragraph-by-paragraph comparison of the IIS and the SEC/PCAOB Rules. Responsive to input from the IESBA (at its March 2021 and June 2021 meetings) the WG has updated its approach. The benchmarking will **(i) focus on areas and topics that are of greatest interest to stakeholders, and (ii) highlight the key similarities and differences in the two sets of standards.**
11. To date, the WG has identified the following focus areas and topics to be covered in Phase 1:
  - Overarching Principles and Approach (including non-compliance with laws and regulations)
  - Key Definitions
  - Fee-related Provisions
  - Permissibility of NAS to Audit Clients, Including Prohibited Services

- Auditors' Communication with Those Charged with Governance (TCWG) about Independence Matters (Including Pre-approval of Non-assurance Services and Disclosures about Fees)
  - Financial Relationships
  - Business Relationships
  - Gifts and Hospitality
12. The topics listed are those that the WG believes are of primary interest to stakeholders. In developing this list, the WG reflected on the suggestions and comments made by IESBA members and the CAG. In addition, consideration was given to stakeholders' most frequently asked questions about international and jurisdictional level independence standards, especially in the context of how the Code compares to the US SEC/PCAOB independence provisions.

#### *Structure and Granularity of the Report*

13. Reflecting on the input from IESBA members, the Working Group agreed that it would be important to have a report that is easy to navigate and digest. **Agenda Item F.1.** includes a preliminary version of the proposed draft report. It includes a discussion of the focus areas and topics that the WG has considered to date, namely:
- Introduction,
  - Overarching principles,
  - Key definitions, and
  - Permissibility of NAS to audit clients, including prohibited services.
14. The WG believes that the report provides the appropriate level of detail regarding the comparison of certain provisions in the Code and the relevant SEC/PCAOB rules. The report also includes commentary to assist users make informed judgments about the similarities and the differences.
15. In addition, the final report will include a summary of the conclusions reached, e.g., as an executive summary; or as a separate document that is published at the same time as the final report.
16. The report does not provide interpretations of the Code or the SEC/PCAOB Rules. The WG believes that this approach addresses the concerns expressed that the report might be viewed as interpretative in nature or "rule-making" outside of the Code.

#### **Next Steps**

17. At its December 2021 meeting, the IESBA will receive an update on the final report and the WG's conclusions as stated therein. In addition to the input from the CAG, it is anticipated that this final report will incorporate input from:
- The IESBA's National Standard Setters Liaison Group (NSS) during its October 2021 meeting.
  - Targeted stakeholder outreach, including a focused subset of regulators, audit oversight authorities, firms, and professional accountancy organizations, especially those in G-20 jurisdictions. Discussions with such stakeholders are intended to help the WG's understanding of the focus areas and topics that are of greatest interest to stakeholders.

**Actions Requested**

18. Representatives are asked to:

- (a) Note and react to the report back on March 2021 discussions at paragraph 9.
- (b) Consider the preliminary draft report on phase 1 and provide input on:
  - The focus areas and topics for Phase 1 of the initiative and whether there are any other areas they believe are also of interest to stakeholders.
  - The proposed structure for the report, including the granularity of information presented.

**Material Presented**

Agenda Item F.1      Benchmarking – Working Draft of Phase I Report as of September 3, 2021