Minutes of the Meeting of the International Ethics Standards Board for Accountants April 15-16, 2008 New York, USA

	Members	Technical Advisors
Present:	Richard George (Chair)	Heather Briers
	Frank Attwood	Neil Lerner
	Margaret Butler	Bill Cordes
	Ken Dakdduk	Lisa Snyder
	David Devlin	Andrew Pinkney
	Robert Franchini	Sylvie Soulier
	Kariem Hoosain	
	Alice McCleary	Tiina-Liisa Sexton
	Barbara Majoor	Bert Oosterloo
	Michael Niehues	Petra Gunia
	Carmen Rodriguez	
	Jean Rothbarth	
	Volker Röhricht	Tim Volkmann
	Robert Rutherford	David Hastings
	Isabelle Sapet	Jean-Luc Doyle
	Aiko Sekine	Roman Adler
	David Winetroub	Peter Hughes
	Lady Barbara Judge	
Regrets:		Rethabile Kikine

	Non-Voting Observers	
Present:	Juan Maria Arteagoitia	
	Richard Fleck (Day 2 only)	
	Toshitake Kurosawa (Day 2 only)	Tomokazu Sekiguchi (Day 2 only)
	Bella Rivshin	

PIOB

Present Aulana Peters

IFAC Technical Staff

Present: Jan Munro
Jim Sylph
Jessie Wong

1. Introduction and Administrative Matters

Mr. George opened the meeting and welcomed all those attending. Mr. George welcomed Aulana Peters from the PIOB. He also welcomed new technical manager, Jessie Wong. Mr. George noted that apologies had been received from Mr. Sekiguchi, Mr. Fleck and Mr. Kurosawa for Day 1 of the meeting.

Minutes of the Previous Meeting

Mr. George indicated that the minutes of the January 2008 meeting were presented for approval. Ms. Sekine stated that, at the January meeting, in relation to the discussion on "Fees – Relative Size" of Independence II, it was her recollection that the IESBA discussed several options with respect to the requirement for post-issuance engagement quality control review in subsequent years, when, for more than two consecutive years, the total fees from a public interest audit client represent more than 15% of the total fees received by the firm. The IESBA agreed that this issue will be further considered in the present meeting.

The minutes were approved as presented.

Chair's Report

Planning Committee

Mr. George reported that, at the Planning Committee meeting, members (Richard George, Frank Attwood, David Devlin, Richard Fleck, Kariem Hoosain, Michael Niehues, Volker Röhricht and Jean Rothbarth) discussed the Strategic and Operational Plan, terms of reference of the IESBA, and convergence. The principal discussion was on future IESBA projects and convergence. Mr. George added that a paper on convergence was considered at length. The paper proposed short-term and longer term actions to be undertaken to gain greater recognition of the Code. The paper also considered communications with standard setters and regulators and with IFAC member bodies. The Planning Committee will consider a second draft of the paper at its next meeting, after which it will be discussed with the board. In addition, the Planning Committee discussed the future project relating to frauds and illegal acts. Mr. George noted that the Planning Committee discussed the

level of complexity of this project and considered the potential need for the issuance of a consultation paper.

IESBA Consultative Advisory Group (CAG) Meeting

Mr. George reported that the IESBA CAG had met in March 2008 and that minutes of the meeting were included as Agenda Paper 1-B of the papers for the IESBA's April meeting. Mr. George noted that CAG members discussed current IESBA projects and provided valuable input, especially in relation to the drafting conventions project. He noted that the drafting conventions Task Force met after the CAG meeting to address the comments received. Mr. George noted that he was pleased that two IESBA members had attended the CAG meeting and he encouraged members to observe future CAG meetings when the meetings are held at convenient locations.

Public Interest Oversight Board (PIOB) Meeting

Mr. George noted that a PIOB meeting was held on March 31-April 1, 2008 at which the PIOB considered the due process followed in the development of the IESBA Strategic and Operational Plan and Independence I. He further noted that, subsequent to the meeting, he had been informed that the PIOB had confirmed that due process had been followed for both of these documents. He noted that the Strategic Plan would be issued during the week.

Other

Mr. George reminded IESBA members of the comment made by the PIOB at a previous IESBA meeting relating to participation at IESBA meetings. The PIOB had noted that if there was too much input from technical advisors this would have the effect of distorting the Board’s deliberation. He also noted that it would be useful if, after the Task Force Chair’s presentation, the Task Force allowed other Board members to debate the matter before, for example, expressing a dissenting opinion.

2. Independence II

Mr. Winetroub, Independence II Task Force Chair, reminded board members that at the January meeting, the board discussed the comments received on exposure, reviewed a first draft of the revisions and provided direction to the Task Force. Mr. Winetroub reported that the Task Force met in February, 2008 and, after consideration of the board’s comments, amended the proposals. These amended proposals were considered at the CAG meeting on March 5, 2008. The Task Force has considered the input from the CAG members and the proposals presented in the agenda papers incorporated these changes.

Internal Audit Services

Mr. Winetroub reported that at the January meeting, the IESBA considered the exposure draft comments and, in light of the respondents who were concerned with the approach, and the probable effect that the proposal would have on convergence, concluded that it was appropriate to adopt a more restrictive approach regarding the provision of internal

audit services to public interest entity audit clients. The IESBA, therefore, directed the Task Force to develop an appropriate prohibition for such internal audit services.

Mr. Winetroub reported that the Task Force had considered the board's comments and proposes that if the firm provides internal audit services, and results of the services will be used in the external audit, a self-review threat is created because of the possibility the results of the internal audit services will be used by the audit team without appropriately evaluating the work or exercising the same level of professional skepticism as when the internal audit work is performed by individuals who are not members of the firm. The significance of the threat will depend on the materiality of related financial statement amounts, the risk of material misstatement of the assertions related to those financial statement amounts, and the degree of reliance that will be placed on the internal audit service.

Mr. Winetroub reported that the Task Force proposes that for public interest entity audit clients, a firm should not provide internal audit services that relate to internal accounting controls, financial systems, or financial statements. However, the firm will not be precluded from providing a non-recurring internal audit service to evaluate a particular matter (e.g., assisting in a fraud investigation), provided the conditions in paragraph 290.189 are met and the services otherwise permitted under section 290. Mr. Winetroub noted that these proposals are aligned with the SEC's requirements.

Mr. Winetroub reported that CAG members were supportive of the more stringent approach proposed for public interest entity audit clients. He added that a CAG member emphasized the importance of management being responsible for the activities of the entity at all time. Mr. Winetroub further reported that a CAG member also noted that a threat would be created if the firm uses internal audit work as opposed to "intends to use" internal audit work. Mr. Winetroub indicated that the Task Force had changed the document to address these two issues.

The IESBA discussed these proposals and the following points were noted:

- Whether it was appropriate to permit a non-recurring internal audit service for a public interest entity audit client if the service related to the financial statements. It was noted that those charged with governance might request the external auditor to investigate a particular matter. It was also noted that such services are not restricted by, for example, the SEC. The board considered whether there should be a requirement for such services to be approved by those charged with governance. Such a requirement was not adopted. It was noted that not all jurisdictions require those charged with governance to be independent members. In addition, such an approach would not be consistent with other provisions in the Code. The IESBA decided not to prohibit a non-recurring internal audit service for a public interest entity audit client that relates to the financial statements.
- The example relating to non-recurring internal audit services was a fraud investigation, which relates to forensic accounting. The Task Force had earlier concluded that forensic accounting is considered to be out of the scope of the

Independence II project. The IESBA considered whether to delete or replace it with another example. The IESBA concluded that the proposed example should be deleted;

- A question was raised as to whether the proposal to prohibit all financial statement-related internal auditing services for public interest entity audit clients was consistent with the position taken for other non-assurance services, which in certain cases permits such services based on materiality. For example, section 290 permits a firm to provide accounting and bookkeeping services of a routine or mechanical nature to divisions or related entities of a public interest entity audit client provided the divisions or related entities are collectively immaterial or the services relate to matters that are collectively immaterial. The IESBA discussed this question and it was noted that the accounting and bookkeeping provisions are limited to services that are of a routine or mechanical nature which differs the nature of internal audit services.

Fees – Relative Size

Mr. Winetroub reported that at the January meeting, the IESBA considered comments on fees that represent a large proportion of the revenue from an individual partner's clients and situations in which the revenue from one client represents a large proportion of the revenue of an individual office. The IESBA was of the view that additional guidance in these areas is required. The IESBA directed the Task Force to develop additional guidance.

Mr. Winetroub reported that the Task Force has made amendments and proposes the following:

- Additional guidance relating to the threat created when fees from an audit client represent a large proportion of the revenue of a partner or an office;
- The significance of the threats depends on the qualitative and/or quantitative significance of the client to the partner or office, and the extent to which remuneration of the partner(s) in the office is dependent on the fees from that client; and
- The safeguards include reducing the dependency on the client, having another accountant review the work performed or provide advice and regular independent internal or external quality reviews of engagements.

The IESBA discussed the proposals and the following points were noted:

- The safeguard relating to the firm taking steps to reduce its dependency on the audit client may encounter difficulty in implementation. This would be the case when the firm is unable to obtain more clients in order to reduce its dependency on that specific client.
- Whether the safeguard of merely "taking steps" to reduce the dependency was sufficient or whether the safeguard was reducing the dependency.
- The quantification at the office level is inconsistent with the remainder of the Code, as the quantification in the remainder of this section of the Code is in relation to the firm. It was further noted that firms may be organized in many different ways. Mr. Winetroub responded that, at the January meeting, the IESBA asked the Task Force to address the office level and that this was in direct response to comment received on exposure.

After discussion the IESBA agreed that the safeguard should be changed to reducing the dependency on the audit client.

It was noted that comments received on the exposure draft (applicable in the case of public interest entities) were mixed in terms of support for the bright-line 15% test. In addition, there had been a change to the frequency of the required engagement quality control review to be performed by a professional accountant from outside the firm. The exposure draft stated that at a minimum, the review should be performed not less than once every three years. At the January meeting, after considering the comments on exposure, the IESBA concluded that the review should be required annually. The IESBA discussed the matter and the following points were noted:

- It would be useful to have statistical evidence to support the 15% threshold;
- If after two consecutive years, the total fees from a public interest entity audit client continue to exceed 15% of the total fees of a firm, requiring a post-issuance review only once every three years is not a strong enough safeguard to reduce the threat to an acceptable level;
- Requiring an annual engagement quality control review to be performed by an accountant who is not a member of the firm may be problematic for small firms that are not members of networks. As a consequence, in some jurisdictions, such a requirement may have an adverse effect on audit firm concentration and audit choice.

After discussion, the IESBA reconfirmed the position taken at the January meeting that the engagement quality control review should be performed annually when the fees continue to exceed 15% for two consecutive years.

Contingent Fees

Mr. Winetroub reported that, at the January meeting, the IESBA asked the Task Force to consider contingent fees charged by a network firm. The Task Force considered the matter and proposes that if a network firm that participates in a significant part of the audit charges a contingent fee that is material to the network firm, the threat created would be too significant.

Mr. Winetroub reported that the Task Force proposes that the definition of contingent fee be changed back to the definition contained in the existing Code. This will involve elimination of the words “required to be approved by.” He added that the Task Force has also, as directed by the IESBA in January 2008, enhanced references to contingent fees by inclusion of the words “directly or indirectly.”

Mr. Winetroub reported that the Task Force, as requested by the IESBA, had considered the clarity of the requirement contained in 290.219(c) of the exposure draft that a contingent fee should not be charged if the amount of the fee is dependent upon the outcome of a future or contemporary judgment related to the audit of a material amount in the financial statements. The Task Force concluded that this could be clarified by stating that a contingent fee should not be charged for a non-assurance service if the

service has a material effect on the financial statements and that effect will be the subject of significant future or contemporary audit judgment.

Mr. Winetroub reported that contingent fees had been discussed at the March CAG meeting, and CAG members recognized that requirements pertaining to contingent fees differ from jurisdiction to jurisdiction.

The IESBA discussed the proposals and the following points were noted:

- It would be useful to include as an example of an indirect contingent fee, a contingent fee charged through an intermediary;
- The section addresses contingent fees and the proposed revision to 290.219(c) does not maintain the link between the determination of the contingent fee and the audit judgment.

After discussion, the IESBA agreed that the example of an indirect fee charged through an intermediary should be added and that the linkage between the contingent fee and the audit judgment be re-established by restricting contingent fees for a non-assurance service in situations where the outcome of the non-assurance service, and therefore the amount of the fee, is dependent on a future or contemporary judgment related to the audit of a material amount in the financial statements.

Ms Munro confirmed that due process had been followed in the development of the proposed changes to section 290 and section 291 of the Code. Subject to the amendments discussed, reviewed and agreed to at the meeting, 17 members voted to approve the document with 1 member abstaining (Ms. Sekine).

Mr. Winetroub noted that the Task Force was of the view that there had been substantial change to the document with respect to the position taken on internal audit services. He noted that the exposure draft made no distinction between the provision of internal audit services to audit clients that were public interest entities and all other audit clients. The approved document would prohibit firms from providing to a public interest entity audit client internal audit services related to the internal accounting controls, financial systems, or financial statements. He noted that the Task Force was, therefore, of the view that the internal audit provisions should be re-exposed for comment.

The IESBA discussed the Task Force recommendation and the following points were noted:

- The exposure draft did not propose prohibiting a firm from providing internal audit services to a public interest entity audit client and it was important to provide respondents an opportunity to comment on that proposal;
- The changes to the frequency of the required engagement quality control review when fees continue to exceed 15% after two consecutive years (from no less than once every three years to every year) could be seen as a substantial change – especially in jurisdictions in which compliance with this requirement would be problematic;

- While the IESBA was of the view that the more frequent application of the safeguard was in the public interest, some were of the view that there might be unintended consequences.

After discussion, the IESBA agreed that there had been substantial change to the Internal Audit provisions in section 290 of the Code to warrant re-exposure in accordance with the IESBA Terms of Reference. The IESBA unanimously approved re-exposing the internal audit proposals for comment.

After discussion, the IESBA agreed that there had been substantial change to the Fees - Relative Size provisions because of the change to the frequency of the required engagement quality control review when fees from a public interest entity audit client continue to exceed 15% of the total fees of the firm. The IESBA agreed that this change warranted re-exposure in accordance with the IESBA Terms of Reference. 17 IESBA members voted for re-exposure of this matter with 1 member voting against (Mr. Winetroub).

The IESBA agreed that the explanatory memorandum should solicit comment as to whether there should be a materiality exemption (such as for bookkeeping services and valuations) for providing internal audit services to public interest entity audit clients.

Mr. George thanked the Task Force, and in particular the Chair Mr. Winetroub, for their work in developing the document.

3. Drafting Conventions

Mr. Dakdduk, Drafting Conventions Task Force Chair, reported on the activities of the Task Force since the January meeting. The Task Force held two face-to-face meeting on March 3, 2008 and March 31, 2008 respectively. The amended proposals were also considered at the CAG meeting on March 4, 2008. Mr. Dakdduk reported that the Task Force has amended the proposals to address issues raised by the CAG. He noted that the timing of the CAG meeting and the subsequent Task Force meeting resulted in the document being posted later than would have been ideal. As such, IESBA members may feel they have not had sufficient time to reflect on the proposals and therefore may not feel prepared to vote on the document at this meeting. He indicated that if this was the case after discussion, the document would be brought to the June meeting for approval. The IESBA discussed the matter and the following points were noted:

- It was important that Board members have sufficient time to read and reflect on the proposed changes;
- Some noted that it is often useful to consult with others on the proposed changes and the timing of the release of the papers was such that there had been little time to do this; and
- It was important that any change to the timetable did not unduly delay issuing the Code.

Documentation

Mr. Dakdduk reported that at the October meeting, the IESBA agreed to eliminate the use of the term "clearly insignificant," to add a definition of "acceptable level" and to clarify the documentation requirement. At the October meeting, the IESBA agreed with the following documentation requirement:

> "Documentation is not, in itself, a determinant of whether a firm is independent. International auditing standards require documentation of (i) conclusions regarding compliance with independence requirements and (ii) any relevant discussions that support those conclusions. When threats to independence are identified that require the application of safeguards, the documentation shall also describe the nature of those threats and the safeguards applied to eliminate the threats or reduce them to an acceptable level."

Mr. Dakdduk reported a CAG member noted that the Code currently requires documentation when the threats are above the level of "clearly insignificant" and that the proposed revision would only require documentation when the threats were above an "acceptable level." The CAG member expressed the view that the proposed change would, therefore, reduce documentation for situations that were "at the margin" – that is above clearly insignificant but at an acceptable level. Mr. Dakdduk reported that the Task Force considered this matter, and is of the view that if a matter is "at the margin" there would be discussions that would support the conclusion that the threat was at an acceptable level and, would therefore, be documented under the ISA requirement.

Mr. Dakdduk also reported that a CAG member noted that the proposed drafting would only require documentation of the conclusion and relevant discussions if the professional accountant was conducting an ISA audit. The member noted that an auditor who was subject to the Code but performed the audit under standards other than the ISAs would not be required to document the independence conclusion and any relevant discussions under the ISAs. Mr. Dakdduk noted that the Task Force considered this matter and is of the view that the IESBA did not intend the wording of the proposed documentation requirement to convey that documentation should occur only if the audit were being conducted in accordance with the ISAs, but that the matters documented under the ISA are the types of matters that the Board considers appropriate to be documented under the Code. The Task Force, therefore, proposes the following documentation requirement:

> "Even though documentation is not, in itself, a determinant of whether a firm is independent, conclusions regarding compliance with independence requirements, and any relevant discussions that support those conclusions, shall be documented, in the same way as a professional accountant documents such matters under international standards on auditing. Documentation of independence conclusions and related discussions prepared to meet the requirements of international standards on auditing will also meet this requirement. When threats to independence are identified that require the application of safeguards, the documentation shall also describe the nature of those threats and the safeguards applied to eliminate them or reduce them to an acceptable level."

The IESBA discussed the proposals and the following points were noted:

- ISA 220 requires, inter alia, the engagement partner to form a conclusion on compliance with independence requirements that apply to the audit engagement and to document conclusions on independence and any relevant discussions with the firm that support these conclusions;
- The ISA does not refer to the need to document the nature of threats and safeguards applied in cases when threats are identified that require the application of safeguards;
- Professional judgment is used in determining what "relevant discussions" would be documented. and
- Section 290 applies to audit and review engagements and Section 291 applies to other assurance engagements whereas ISA 220 applies only to audit engagements.

After discussion, the IESBA agreed with the revised documentation requirement as recommended by the Task Force.

Description of conceptual framework

Mr. Dakdduk reported that the Task Force considered how the Code describes the conceptual framework and its application and recommends some modifications to clarify the description. The modifications proposed would indicate that:

- The Code contains specific restrictions and prohibitions that promote compliance with the fundamental principles;
- It is impossible for a Code to define every situation that creates a threat and, therefore, the conceptual framework provides greater protection of the public interest in those situations.
- If the threats are not at an acceptable level, a determination shall be made as to whether safeguards can be applied. This requires the application of professional judgment and takes into account the views of a reasonable and informed third party. In some situations the threats may be so significant, no safeguards could be effective.

The IESBA considered the proposals and the proposed text in paragraphs 100.5 to 100.7 and the following points were noted:

- The ordering of matters presented in certain of the paragraphs could be improved. The conceptual framework underpins the Code and, as such, should be discussed before the reference to specific restrictions and prohibitions;
- While it was important to explain the benefits of a conceptual framework approach, the statement that it "provides greater protection of the public interest than a Code that contains only detailed rules" seemed overly critical of rules-based standards; and
- While the Code calls for a principles-based framework approach to achieving compliance with the fundamental principles, it does contain specific requirements or "rules."

Definition of a threat and the five categories of threats

Mr. Dakdduk stated that at the October, 2007 meeting, the IESBA noted that the Code is not clear as clear as it could be in how it describes threats. In some cases, it states that a particular relationship *may* create a threat and then states that the significance of *the* threat should be evaluated. It was noted that if a matter *may* create a threat, it would be more logical to then determine whether a threat is created and, if so, require the significance of *the* threat to be evaluated. In addition, in some instances, the Code states that a particular matter may create a threat, but the particular matter does create a threat and, therefore, stating that a threat may be created in those situations is not correct and potentially weakens the Code. In addition, while the Code describes the different categories of threats (e.g., self-review, self-interest, etc.) it does not describe what is meant by a "threat" or how a threat is created.

Mr. Dakdduk reported that the Task Force has developed the following description of a threat:

> "Threats may be created by a broad range of relationships or other facts and circumstances that could compromise a professional accountant's compliance with the fundamental principles of this Code."

If a threat is described in this manner (i.e., may be created by relationships or other circumstances that *could* compromise a professional accountant's compliance with the fundamental principles), while not all relationships and circumstances create threats, many of the relationships and circumstances described in the Code would create a threat, the significance of which would need to be evaluated. Accordingly, with this description the examples of circumstances in 200.4-8 are examples that do create a threat and the Task Force, therefore, proposes deleting the word "may" in these paragraphs.

Mr. Dakdduk further reported that when the proposals were discussed at the March CAG meeting, CAG members asked whether the description of a threat should specifically address the issue of appearance of compliance with the fundamental principles. Mr. Dakdduk stated that the Task Force has considered this matter and is of the view that because the definition of an acceptable level is based on what a reasonable and informed third party would be likely to conclude, it is unnecessary to include a reference to appearance in the description of a threat. He indicated that CAG members supported the proposal aimed at clarifying when a threat is "created" and "may be created."

A question was raised as to whether the description of "threats" should explicitly address firms. After consideration of the above, the IESBA agreed that Part A of the Code applies to all professional accountants and is written at a high level and, therefore, Part A should not refer to the firm.

Categories of threats

Mr. Dakdduk reported that the Task Force, as agreed by the IESBA at its October meeting, considered the descriptions of the five categories of threats and proposes some changes to clarify the meaning.

Self-interest threat

The Task Force proposes that a self-interest threat be described as:

> "The threat that a professional accountant's financial or other interests will inappropriately influence the professional accountant's professional judgment or behavior."

The IESBA considered the description of the threat and the examples of circumstances that create self-interest threats for professional accountants in practice and the following points were noted:

- Whether the self-interest threat should specifically refer to the interests of family members and firms. It was noted that Part A applies to all professional accountants and, therefore, the description should not be narrowed to cover only the financial or other interests of certain individuals or the firm;
- The examples of circumstances that create a threat were written in an inconsistent style with some forming complete sentences and others being quite terse;
- It would be useful to review the examples to see if some apply more broadly to all assurance engagements as opposed to only audit engagements.

Self-review threat

The Task Force proposes that a self-review threat be described as:

> "The threat that a professional accountant will not appropriately re-evaluate a previous judgment or service that requires re-evaluation because the professional accountant, or another individual within the professional accountant's firm or employing organization, was responsible for the previous judgment or service."

Mr. Dakdduk reported that the CAG members discussed the applicability of a self-review threat to professional accountants in business. He added that the Task Force is of the view that the definition is applicable as it refers to a re-evaluation of matters that require re-evaluation.

The IESBA considered the description of the threat and the examples of circumstances that create self-review threats for professional accountants in practice and the following points were noted:

- The term "re-evaluate" could be seen as implying that the professional accountant had already evaluated the matter; and
- It would be clearer if the example of preparing the original data used to generate records that were the subject matter of the engagement referred to the assurance engagement.

Advocacy threat

The Task Force proposes that an advocacy threat be described as:

- "The threat that a professional accountant who promotes a client's or employer's position will do so to the point that the professional accountant's objectivity is compromised."

The IESBA considered the description of the threat and the examples of circumstances that create advocacy threats for professional accountants in practice and the following points were noted:

- It would be clearer if it read " the threat that a professional accountant will promote…to the point that …"; and
- In discussing whether the issue of appearance was adequately addressed, it was noted that the professional accountant is required to be objective and the independence requirements are a proxy for objectivity. It was also noted that the concept of appearance is included in the definition of acceptable level.

Familiarity threat

The Task Force proposes that a familiarity threat be described as:

> "The threat that, due to a long or close relationship with a client or employer, a professional accountant is too sympathetic to the interests of the client or employer or too accepting of the work of the client or employer."

Mr. Dakdduk reported that CAG members questioned whether the proposed description was equally applicable to professional accountants in business. It was noted that a professional accountant is supposed to be loyal to the employing organization but not to the extent that one compromises compliance with the fundamental principles and that the key phrase was "too accepting."

The IESBA considered the description of the threat and the examples of circumstances that create familiarity threats for professional accountants in practice and the following points were noted:

- As currently drafted, it seems that no safeguards could reduce the threat because it states that the accountant is too sympathetic or too accepting; and
- It might be better if the description referred to the threat that the professional accountant will be too sympathetic or accepting, which would also bring the description in line with the description of a self-interest threat.

In addition, the IESBA concluded that the description of a familiarity threat was appropriate for professional accountants in business.

Intimidation threat

The Task Force proposes that an intimidation threat be described as:

> "The threat that a professional accountant may be deterred from acting objectively by pressures, actual or perceived, because of the reputation of a client, employer, or others, or their attempts to exercise undue influence over the professional accountant."

Mr. Dakdduk reported that CAG members indicated that it would be useful to include two additional examples of circumstances that create an intimidation threat: (a) the threat of withholding a promotion; and (b) the threat of not awarding a planned non-assurance service to the firm.

The IESBA considered the description of the threat and the examples of circumstances that create an intimidation threat for professional accountants in public practice and the following point was noted:

- It was not clear how the reputation of a client, employer or others would create a threat. It would be clearer if the matter were addressed in a specific example.

Identification of requirements by the word "Shall"

Mr. Dakdduk reminded the IESBA that, as discussed at the January 2008 IESBA meeting, the Code has been reviewed to identify provisions that are intended to convey requirements and those requirements, which are often conveyed by use of the word "should" in the existing Code, have been re-written using the word "shall." He indicated that, as agreed by the IESBA, the intention is to clarify the original intent and not to create any new requirements. Mr. Dakdduk noted that this matter had been discussed with the CAG and a CAG member questioned whether the use of "shall" was the same as under the ISAs and also whether, consistent with the approach taken in the ISAs, the Code should contain explain what is meant by the word "shall."

Mr. Dakdduk indicated that the Task Force considered this matter. It noted that the IAASB use of the term "shall" denotes a specific meaning and considered whether this meaning was the same as in the Code. The meaning is explained in the amended preface to the ISAs, paragraphs 16 and 17,which states:

> "The requirements of each ISA … are expressed using the word "shall." The auditor applies the requirements in the context of the other material included in the ISA. The auditor complies with the requirements of an ISA in all cases where they are relevant in the circumstances of the audit. In exceptional circumstances, however, the auditor may judge it necessary to depart from a relevant requirement by performing alternative audit procedures to achieve the aim of that requirement. The need for an auditor to depart from a relevant requirement is expected to arise only where the requirement is for a specific procedure to be performed and, in the specific circumstances of the audit, that procedures would be ineffective."

Mr. Dakdduk stated that the Task Force considered this matter and is of the view that, in the Code, the use of "shall" denotes a mandatory requirement. The Task Force, therefore, proposes that the first time "shall" is used in the Code it will be footnoted as follows:

> "Shall" as used in this Code denotes a requirement. A professional accountant or firm is not permitted to depart from a requirement under any circumstances.

He further noted that, in hindsight, the language "under any circumstances" was not consistent with the approach take in the preface, which states that "a member body . . . or firm shall not apply less stringent standards than those stated in this Code [unless] . . . a member body or firm is prohibited from complying . . . by law or regulation." It might, therefore, be better if the description of the word "shall" was revised to be more consistent with the preface.

The IESBA considered the proposals and the following points were noted:

- The clarity of the Code would be improved by including a description of the intention of the word “shall”; and
- It might be useful to include a definition of "shall."

After discussion the IESBA agreed that the articulation of the meaning of “shall” should be more consistent with the language in the preface.

“Generally”

Mr. Dakdduk reported that the Code currently uses a mix of the terms “generally” and “ordinarily.” He provided the following examples:

> “A professional accountant in public practice will ordinarily need to obtain the client's permission …to initiate discussion with an existing accountant” ¶210.16
>
> “Examples of activities that would generally be considered to be a management responsibility include…” ¶290.163

He indicated that for the purpose of achieving clarity, the Task Force proposes replacing “ordinarily” with “generally” and then reviewing each instance of “generally” to ensure its use continues to be appropriate.

The IESBA agreed with the Task Force’s proposals.

“He or She”

Mr. Dakdduk reported that, to maintain gender neutrality, the existing Code sometimes uses the terms “they” or “their” to denote the accountant. The amended Sections 290 and 291 recognized that a plural noun was inappropriate when denoting the singular accountant and accordingly, in some instances, used the terms “he or she” and “his or her.” He noted that the conventional IFAC drafting style maintains gender neutrality by referring to the “professional accountant” and “auditor.” Accordingly, the Task Force proposes to amend the Code to conform to this drafting style. Mr. Dakdduk also drew board members’ attention to the issue that as a result of the proposed changes, some paragraphs might be a little cumbersome, for example ¶290.104:

> “If a member of the audit team, an immediate family member of a member of the audit team…”

The IESBA considered the proposal and concluded that gender neutrality should be achieved through usage of the “professional accountant,” “member of the audit team,” etc. However, in circumstances where such a construction becomes too unwieldy, “he or she” could be used to improve readability.

Other Comments

Mr. Dakdduk led the IESBA through a paragraph by paragraph review of the document and the following matters were discussed:

- Changes have been made to the usage of the words “consider,” “evaluate,” and “determine” with the following meanings to be ascribed to each:

  - "Consider" to be used when the accountant is required to think about several matters;
  - "Evaluate" to be used when the accountant has to assess and weigh matters; and
  - "Determine" to be used when the accountant has to conclude and make a decision.
- The IESBA considered whether the above three terms should be defined in the Code. It was noted that the explanatory memorandum accompanying the exposure draft will provide a rationale for the changes. Some expressed the view that each word should be defined. Others expressed the view that the meaning was sufficiently clear and what was most important was that the usage was appropriate;
- The IESBA discussed the preface and whether it should refer to the IFAC Statement of Membership Obligations or, for example, provide an encouragement for member bodies to adopt the Code and in no event apply less stringent standard. Some noted that such a change might be outside the scope of the drafting conventions project. After discussion, the IESBA concluded that such change should not be made.
- ¶100.2 seemed overly wordy with the repetition of the definition of acceptable level within the paragraph;
- ¶100.5(a) seemed to have a disconnect between the first and second sentences;
- ¶100.20 seems to imply that in all circumstances obtaining professional advice from a professional body will not breach confidentiality;
- ¶100.20 - it was clear why the word "ascertain" had been used instead of "consider";
- ¶140.4 - changing "shall consider the need to maintain confidentiality of information within the firm or employing organization" to "determine the need to" changed the meaning of the sentence. The original wording serves as a warning to the accountant to be aware of the need to maintain confidentiality of the information;
- ¶200.3 states that "compliance with the fundamental principles may be potentially threatened by a broad range of circumstances. Many threats fall into the following categories." This implies that there could be other categories of threats. After discussion, the IESBA agreed that there might be other categories of threats. The IESBA also agreed that it would be useful to indicate the types of circumstances that could influence the nature and significance of the threats;
- ¶200.9 might be overstated in requiring the professional accountant to always be alert for specific circumstances that create unique threats;
- ¶220.3 the addition of "the significance of any remaining threat shall be evaluated and safeguards applied when necessary…" seemed to have changed the meaning;
- ¶260.1 has been changed from "such an offer ordinarily gives rise to threats to compliance with the fundamental principles" to "such an offer may create threats to…" The IESBA discussed whether this changed the meaning. After discussion, the Board concluded that, when read with ¶260.2, which states that the

significance of any threat is judged in terms of what a third party would consider to be trivial and inconsequential, there was no change in meaning;

- ¶290.21 has been changed from "a firm shall be careful in describing any such memberships [an association of firms] in order to avoid the perception that it belongs to a network" to "a firm shall be careful in describing any such memberships…" This seems to change a useful warning and good guidance into a requirement;
- ¶290.27 has been changed from "shall consider that related entity when evaluating threats . . ." to "shall include that related entity when identifying and evaluating threats." The inclusion of "identifying" seems to change the meaning because the test is when the team has reason to believe;
- ¶290.111 states that "Despite paragraphs 290.108…the holding of a financial interest in an audit client by an immediate family member…generally does not compromise independence if…" This paragraph is, however, an exception to ¶290.108 and therefore it would be clearer to say that "independence is not deemed to…"
- ¶290.124 - it did not seem appropriate to say that a close business relationship "involves" a commercial relationship;
- ¶290.141 states that "independence generally is not compromised" and perhaps it would be better to say "independence is not deemed to be compromised";
- ¶290.146 - it is not clear that the restriction on being a director or officer of the audit client applies only when continuing to serve as a partner or employee of the firm."
- ¶290.164 would be clearer if it stated that these activities are "not deemed to be" a management responsibility;
- ¶290.203 would be clearer if it stated that the IT systems services are "not deemed" to create a threat;
- ¶290.229 - it is not clear that the threat is created when members of the audit team are evaluated or compensated for selling non-assurance services to their audit clients;
- ¶290.507 and 509 should state that threats "are created" as opposed to "may be created";
- ¶300.1 should be consistent with ¶200.1; and
- ¶300.4 the reference to "absolute duty to comply with the fundamental principles" seems to be inconsistent with the construction elsewhere in the Code.

After completing the discussion, the IESBA agreed that the Task Force should considered the points raised and present a revised document for approval at the June 2008 meting. It was also agreed that the Board meeting would end after two days with the Task Force using the third day for a meeting.

Mr. George thanked the Task Force, and in particular the Chair Mr. Dakdduk, for their work on what has to date been a very difficult task.

4. Comments from the PIOB

Ms. Peters, representing the PIOB, addressed the IESBA. She indicated she was pleased with the nature and level of debate which took place during the meeting. She added that the Code is one of the most important IFAC standards. Once completed, the Code will have significant impact on raising the integrity of the accountancy profession internationally. Ms. Peters added she was pleased to have observed that the Board was prepared to spend a significant amount of time debating an issue to get to ensure that all aspects are considered in getting to the appropriate outcome. She noted the significant debate that had taken place on the matter of which aspects of the Independence II project should be re-exposed. She indicated that the level of debate gave her added comfort in the decision-making when the IESBA concludes that re-exposure is not warranted. She thanked the IESBA for having her at the meeting.

Mr. George acknowledged and thanked Ms. Peters for her comments.

5. Closing

Mr. George thanked the Task Forces all board members and technical advisers for their participation.

6. Future Meeting Dates

June 24-25, 2008 (Brussels, Belgium)
December 10-12, 2008 (London, United Kingdom)