

**Draft Minutes of the Meeting of the
IESBA Consultative Advisory Group (CAG)
Held on March 11, 2015 in New York, USA
(MARK-UP)**

Present: Representatives of Member Organizations

Kristian Koktvedgaard (Chair)	Business Europe
Dr. Juan Maria Arteagoitia	European Commission (EC)
Sherif Ayoub ¹	Islamic Financial Services Board
Vânia Borgerth	Associacao Brasileira de Instituicoes Financeiras de Desenvolvimento (ABDE)
James Dalkin	International Organisation of Supreme Audit Institutions (INTOSAI)
Linda de Beer	World Federation of Exchanges and IAASB CAG
Lucy Elliott	Organization for Economic Cooperation and Development (OECD)
Seiya Fukushima	International Organization of Security Commissions (IOSCO)
Harrison Greene	Basel Committee on Banking Supervision (BCBS)
Gaylen Hansen	National Association of State Boards of Accountancy (NASBA)
Nigel James	IOSCO
Marie Lang	European Federation of Accountants and Auditors for SMEs
Irina Lopez	World Bank
Jean-Luc Michel	European Federation of Financial Executives' Institutes (EFFEI)
Patricia Miller	Institute of Internal Auditors (IIA)
Noémi Robert	Fédération des Experts Comptables Européens (FEE)
Mohini Singh	CFA Institute
Myles Thompson	Fédération des Experts Comptables Européens (FEE)
Matthew Waldron	CFA Institute

Observers

Jules Muis	Public Interest Oversight Board (PIOB)
Martin Baumann	U.S. Public Company Auditing Oversight Board (PCAOB)
Simon Bradbury	International Monetary Fund

¹ Attending as an alternate to Jaseem Ahmed

Dawn McGeachy IFAC SMP Committee

IESBA

Dr. Stavros Thomadakis IESBA Chairman

Wui San Kwok IESBA Deputy Chair

Gary Hannaford IESBA Member and Safeguards Task Force Chair

Caroline Gardner IESBA Member and NOCLAR Task Force Chair

Don Thomson IESBA Member and Structure Task Force Chair

Sylvie Soulier IESBA Member

IESBA Staff

Ken Siong Technical Director

Louisa Stevens Senior Technical Manager

Kaushal Gandhi Technical Manager

Elizabeth Higgs Technical Manager

Regrets: Jaseem Ahmed Islamic Financial Services Board
Obaid Saif Hamad Al Zaabi Gulf States Regulatory Authorities
Conchita Manabat Asian Financial Executives Institutes
Anne Molyneux International Corporate Governance Network (ICGN)
Gamini Wijesinghe Sri Lanka Accounting and Auditing Standards Monitoring Board

A. Opening Remarks

Mr. Koktvedgaard welcomed all participants to the meeting. He welcomed in particular Mr. Muis as the PIOB Observer; the new IESBA Chairman, Dr. Stavros Thomadakis; the new CAG Representatives, Mss. Borgerth, Miller, Robert and Singh, and Mr. Michel; the new official observers, Ms. McGeachy and Mr. Bradbury; and alternates Mr. Greene for the BCBS and Mr Ayoub for the IFSB.

Mr. Muis and Dr. Thomadakis briefly introduced themselves. Dr. Thomadakis highlighted the IESBA's commitment to developing a strong working relationship with the CAG, especially in this critical year in light of the Board's work program. He added that he brought a strong public interest element to his role as IESBA Chairman given his past regulatory background.

Subject to a minor editorial change, the minutes of the November 2014 CAG teleconference were approved as presented.

B. Responding to Non-Compliance with Laws and Regulations (NOCLAR)

Ms. Gardner introduced the topic, outlining the most recent CAG and Board discussions on the project. Among other matters, she highlighted the strengths of the proposed framework for professional accountants (PAs) to respond to NOCLAR or suspected NOCLAR. She also noted that the proposed standard was intended to build on and complement ISA 250.² In the context of the IESBA's liaison with the International Auditing and Assurance Standards Board (IAASB) in this regard, she would be attending the IAASB meeting the following week to present an update on the project. She then led the CAG through the issues presented.

The following matters were raised.

GENERAL COMMENTS AND OBSERVATIONS

- Ms. Elliott acknowledged the significant amount of effort that has gone into the project. She highlighted that the Organization for Economic Cooperation and Development (OECD) frequently encourages the signatory countries to its Anti-Bribery Convention to adopt its 2009 *Recommendation for Further Combating Bribery of Foreign Public Officials in International Business*, which strengthens its framework for fighting foreign bribery. She emphasized the importance of auditors responding appropriately to NOCLAR or suspected NOCLAR, and not turning a blind eye to it. In this regard, she highlighted a recent case in the Netherlands where a large firm was fined €7 million for effectively turning a blind eye to evidence of foreign bribery by one of its clients. Ms. Gardner noted that the Board's aim is to have the Code drive PAs to do the right thing in the public interest. However, the Board was not discounting individual jurisdictions setting their own laws and regulations to address such issues.
- Mr. Hansen noted that the draft rationale for the proposed framework was well thought out. He wondered whether there was a way to make it publicly available once the standard is finalized. Mr. Siong noted that this suggestion would be considered by the Board in due course.
- Ms. Lang suggested that the wording used in Ms. Gardner's presentation to describe the overall purpose of the framework (i.e. to guide PAs in deciding how best to serve public interest when

² ISA 250, *Consideration of Laws and Regulations in an Audit of Financial Statements*

they come across NOCLAR or suspected NOCLAR) would be useful in the introduction to the proposed standard.

- Mr. Muis wondered whether there was an underlying value system in the proposals that could be promoted globally. He felt that it would be very important for PAs to face the public interest directly and respond appropriately, and not aid and abet non-compliance in jurisdictions where laws and regulations are grossly violated. In this regard, he noted that while some legislators are good at addressing NOCLAR, others are less so. Ms. Gardner responded that the public interest is at the heart of this project and that the proposed standard provides a pathway to disclosure to an appropriate authority, and therefore for an override of the duty of confidentiality, in the appropriate circumstances. However, the Board also recognized the need for the Code to operate in the context of local laws and regulations. She added that there is a need for the whole system to operate cohesively with all stakeholders playing their parts. In that context, she believed that the proposed standard was heading in the right direction.
- Dr. Thomadakis highlighted the distinct benefit to the bottom-up approach in the proposed standard, noting that this approach would work well in both jurisdictions that already have a legal or regulatory requirement for reporting of NOCLAR and those that do not. He added that the standard should not hinder reporting where required by law or regulation. At the same time, it should also not create a disincentive to reporting where this is appropriate but not mandated under law or regulation.
- Mr. Muis suggested that the explanatory memorandum to the re-exposure draft (re-ED) explain the dilemmas and the limits of what is possible under the proposed standard.
- Mr. Michel expressed support for the direction of the proposed standard, noting that it was comprehensive.
- Ms. Borgerth expressed support for the direction of the proposed standard. She noted that under Brazilian regulation, auditors are required to inform those charged with governance (TCWG) of instances of NOCLAR or suspected NOCLAR, and that TCWG in turn have legal responsibilities to address the matter.

SCOPE

- Mr. Hansen wondered why there should be a distinction between audits and reviews with respect to PAs in public practice, given that both types of services come under the umbrella of attest services and that PAs would also have access to TCWG when performing review engagements. Accordingly, he wondered whether the right split should not be between attest and non-attest services as opposed to audits and other services.
- Mr. Fukushima noted improvement in the description of the scope of the proposed standard. However, he wondered whether an instance of NOCLAR that could undermine the reputation of the entity but which might not necessarily result in substantial harm to the public would be in scope. He suggested, as an example, insider trading which could have a significant impact from a public interest perspective. Mr. James commented that insider trading may have no direct or indirect effect on the financial statements. Ms. Gardner noted that the Task Force intended such a type of NOCLAR to be covered through the reference to securities laws and regulations in the list of examples of laws and examples which the proposed standard would address.

Nevertheless, she noted that the Task Force would further review the description of the scope for clarity.

- Ms. Miller noted that she had an opposite concern in that the scope appeared very broad, particularly given the reference in the draft text to “laws and regulations compliance with which may be fundamental to the operating aspects of the client’s business.” She highlighted the risk of reporting a matter that would turn out not to be actual non-compliance. Ms. Gardner noted that the challenge for the Board had been to find the right balance. The Task Force had endeavored to make clear that the auditor is not being asked to search for NOCLAR but rather to respond *upon becoming aware* of information suggesting an instance of NOCLAR or suspected NOCLAR. In addition, she noted that the proposed standard explains that while the auditor is expected to apply knowledge, judgment and expertise to the matter, the auditor is not expected to have detailed knowledge of laws and regulations beyond that which is required for the audit.
- Mr. James noted that narrowing the scope to address Ms. Miller’s concern would create a bigger issue given that the scope is the same as that of ISA 250. Mr. Thompson agreed.
- Ms. de Beer noted that she found the list of examples of laws and regulations the proposed standard addresses helpful. She suggested that it be made clear that this list is not intended to be exhaustive.
- Mr. Arteagoitia noted that the EC was supportive of the project. He commented that the proposed standard seemed to be addressing only matters affecting the entity but not consequences beyond the entity such as a given stock exchange or even a country.

DETERMINING WHETHER TO DISCLOSE THE MATTER TO AN APPROPRIATE AUTHORITY

- Ms. de Beer was of the view that it would not be sufficient to simply acknowledge that in some jurisdictions there is legal or regulatory requirement to report NOCLAR or suspected NOCLAR to an appropriate authority. She was of the view that where there is such a duty to report, the PA must comply with it. Mr. Hansen agreed and suggested that this be included in the list of factors in paragraph 225.28 even if doing so would be repetitive. Mss. Robert and Singh agreed with Ms. de Beer and Mr. Hansen.
- Mr. Hansen also suggested that the reference to the client’s “license” to operate in the first sub-bullet should be amended to the client’s “ability” to operate.
- Mr. Bradbury wondered whether the reference to the client’s license to operate could act as a disincentive for the auditor to report. He suggested that the Task Force consider strengthening the wording. Ms. Gardner agreed that it should be the matter that should create a threat to the client’s ability to operate and not the disclosure itself. She noted that the Task Force would consider the wording further.
- Ms. Lopez suggested adding “whether the public interest would be better served by disclosing the matter to an appropriate authority” to the list of factors affecting the PA’s decision as to whether to make such a disclosure.
- Mr. Greene wondered what would happen if the PA decided not to disclose. Ms. Gardner noted that the requirement was for the PA to determine the nature and extent of further action needed. In addition, the PA would be required to document the PA’s thinking process, including the application of the third party test.

- Ms. Lang expressed support for the list of factors in paragraph 225.28. However, she suggested consideration of better sign-posting given that at the point of considering whether or not to disclose the matter to an appropriate authority, the PA would have gone through many steps in the process.
- Ms. McGeachy noted that the proposed standard had come a long way. She suggested that there be a link back in paragraph 225.28 to credible evidence of substantial harm to stakeholders.
- Mr. Fukushima noted that at the September 2014 CAG meeting, he had expressed a concern about using the public interest as the threshold for disclosure to an appropriate authority, given the difficulty in ensuring consistent evaluation of that threshold. He expressed support for the revised approach to the threshold.

OTHER COMMENTS ON PROPOSED SECTION 225

The following other matters were raised:

- In the context of an audit engagement, Mr. Hansen wondered whether every member of the engagement team was intended to have the same responsibility to deal with NOCLAR or suspected NOCLAR. In particular, he felt that it would be challenging for an intern or a junior member of the engagement team to raise the matter directly with management.
- With respect to raising the matter with the appropriate level of management, Mr. Hansen noted that there had been a discussion on this process aspect in the IAASB CAG earlier in the week in the context of the IAASB's work stream on ISA 600.³ Accordingly, he suggested that there would be an opportunity for the IESBA to liaise with the IAASB in this regard.
- In relation to PAs in public practice other than auditors, Mr. Hansen noted that it should not be assumed that they may not come across instances of fraud in carrying out their work. He highlighted for example that PAs providing tax services may become aware of tax fraud committed or being committed by their clients.
- Mr. Ayoub commented that the wording of the last sentence of paragraph 225.14 gave the impression that the PA would decide whether or not to seek legal advice. He felt that if the matter is a NOCLAR or suspected NOCLAR, the PA should consult legal counsel when appropriate and not make legal judgments which the PA may not be qualified to do. Ms. Gardner noted that different stakeholders have different perspectives on the level of prescription needed. She noted that often the issue can be resolved through discussion with management.
- Mr. Ayoub also noted that if a NOCLAR or suspected NOCLAR were to be identified, this may lead to going concern issues for the entity. Accordingly, he suggested the addition of a reference to professional obligations as the PA may find it helpful to bear these in mind in such circumstances.
- With respect to communication of the matter across a network for PAs in public practice other than auditors, Ms. de Beer felt that the wording of the proposed provision would leave too much to judgment. Mr. James agreed, noting that there should be the same requirement to communicate across the network as within the firm. Ms. Gardner noted that the Task Force had

³ ISA 600, *Special Considerations—Audits of Group Financial Statements (Including the Work of Component Auditors)*

discussed this issue at length and that there are a number of complexities that the PA would need to take into account in determining whether to make the communication. Nevertheless, she noted that the Task Force would consider the matter further.

- Mr. Baumann noted that the draft standard had come a long way and that it was going in the right direction. He commented that the approach to escalation of the matter in a group audit context seemed weak. He was of the view that there should be a stronger emphasis that in any circumstances in which a component auditor identifies a NOCLAR or suspected NOCLAR that is deemed important, the matter should be elevated to the group engagement team. He noted that while a matter may be inconsequential at the component level, it may not be so at the group level. Ms. Gardner noted that the proposed standard already would require the auditor to comply with professional standards, including communication with the group engagement team in the case of a group audit. Nevertheless, she added that the Task Force would further reflect on the matter.
- Mr. Dalkin noted that there had been significant improvement in the proposed standard and that it had matured. With respect to communication with TCWG, he noted that this is not commonplace in the public sector. Accordingly, he suggested that there be special considerations for public sector auditors in this regard.
- In relation to the documentation requirement, Mr. Fukushima noted that ISAs are focused on obtaining sufficient appropriate audit evidence. He was of the view that certain significant judgments that auditors may make under the proposed NOCLAR standard may be outside the scope of the documentation requirement as specified under the ISAs, and therefore not documented. He suggested that the Task Force reflect on this matter.

PROPOSED SECTION 360

- Mr. Michel commented that the proposed standard would be a good step forward for PAs in business (PAIBs) as there has been little communication regarding the importance of ethics to that constituency. He suggested that the Board obtain PAIBs' feedback on the proposals. Ms. Gardner agreed, noting that the Board had received input from PAIBs at the three global NOCLAR roundtables in 2014. In addition, the Task Force would be consulting with the IFAC PAIB Committee at its upcoming meeting later in March.
- Ms. de Beer expressed support for the proposed Section 360. She noted that the challenge with respect to PAIBs is implementation and enforcement. She suggested that this may be a matter for the IFAC Compliance Advisory Panel to consider, perhaps through incorporating such considerations in the IFAC Statements of Membership Obligations.
- Mr. James noted that PAIBs may have legal or regulatory responsibilities to report instances of NOCLAR or suspected NOCLAR that are not significant. He wondered whether there was a way to ensure that they are not discouraged from reporting what they are required by law or regulation to report. He also wondered whether under the proposed standard, a PAIB who is a supervisor would be prompted to take appropriate action if the PAIB were to be informed of the matter indirectly as opposed to the PAIB himself or herself coming across it.
- Ms. Miller noted that many PAIBs are internal auditors and they may often come across NOCLAR or suspected NOCLAR at suppliers. She wondered whether the scope is really limited to matters

identified at the PAIBs' employing organizations or whether this would be left to the PAIBs' judgment.

- Mr. Dalkin commented that the framework schematic was helpful. However, he suggested clarifying it to avoid implying that PAIBs would be required to raise a NOCLAR or suspected NOCLAR to their superior and TCWG at the same time. With respect to ethics hotlines within government agencies, he noted that allegations that are without merit are a common occurrence. He suggested that there be appropriate considerations in that regard.
- Mr. Muis noted that legal immunity in a governmental context now often extends to individuals who are not political appointees, for example, treasurers. He wondered how this broadening of legal immunity could be justified.
- Ms. Robert suggested clarification of the subheadings to make clear which provisions apply to senior PAIBs. She noted, for example, that paragraphs 360.12-13 refer to senior PAIBs but not paragraph 360.14.

RE-EXPOSURE

Mr. Koktvedgaard inquired as to whether Representatives would support the Board issuing the proposed standard for re-exposure, subject to consideration of the CAG's comments. Messrs. Ayoub, Baumann, Bradbury, Dalkin, Hansen, and Michel, and Mss. Borgerth, de Beer, Elliott, Lopez, McGeachy, Miller, Robert and Singh indicated their support.

Mr. Muis noted that the IESBA is a global body and that it is facing many legislators that are unethical. He was of the view that it is challenging to set ethical standards without considering the ethical fabric of laws and regulations. Accordingly, he felt that the rationale for the proposed framework would be important and that the IESBA should maintain pressure on addressing NOCLAR issues at a global level. Ms. Gardner noted that the Board was indeed doing so through the proposed standard and, in particular, through providing a pathway to disclosure where not already required by law or regulation.

Ms. de Beer suggested that the wording of the draft rationale for the framework be reconsidered to avoid it sounding overly defensive in terms of protection of the profession from liability as opposed to the need to acknowledge the realities of the legal and regulatory framework and context.

WAY FORWARD

Ms. Gardner thanked Representatives for their constructive input, noting that their comments would be duly considered by the Task Force and the Board. As the project was not expected to be on the September 2015 CAG agenda given the timing of the re-ED, Mr. Waldron noted that it would be helpful for a progress report to be provided to the CAG in due course.

C. Structure of the Code

Mr. Thomson introduced the topic, recapping the background to, and process of, developing the November 2014 Consultation Paper [Improving the Structure of the Code of Ethics for Professional Accountants](#) (the CP). He reported that the Task Force had recently met to consider the responses to the CP and that it would be submitting its recommendations to the Board at the April 2015 IESBA meeting. He then set out to outline the significant comments received on the CP, noting in particular the broad support from a wide range of respondents for the direction of the project.

RESPONSIBILITY FOR COMPLIANCE WITH INDEPENDENCE AND OTHER ETHICAL REQUIREMENTS

Mr. Siong reported that the leaderships of the IESBA and the International Auditing and Assurance Standards Board (IAASB) had met the previous day to discuss a number of crossover matters, including the matter of responsibility within a firm for compliance with independence and other ethical requirements. He noted that IAASB leadership had agreed that the matter be referred to the IAASB's International Standard on Quality Control 1 (ISQC 1) Working Group for further consideration. The leaderships had agreed that it would be appropriate to do so as ISQC 1 deals not only with the internal organization of firms but also, importantly, with the matter of responsibility within a firm for quality control matters, including independence. Dr. Thomadakis indicated that the IESBA would liaise further with the IAASB on this matter.

Mr. Koktvedgaard wondered whether the Code might still need to address the matter even if it were already addressed elsewhere in a narrower context.

PIOB OBSERVER'S REMARKS

Mr. Muis noted that the project represents a significant endeavor. He acknowledged the significant amount of work that has already been undertaken, noting that the outcome will be very useful.

REBRANDING THE CODE AS STANDARDS

Mr. Thomson reported that there were mixed views from respondents on rebranding the Code. While respondents generally highlighted the importance of reinforcing an integrated, principles-based approach, some respondents were supportive of rebranding the independence sections as standards. He then outlined the initial proposals from the Task Force. The following matters were raised:

- Mr. Thompson wondered whether presenting the independence sections as standards was the proposed way forward. Mr. Thomson noted that many respondents saw the independence material as being more suited to standards. At the same time, there was also concern about separating out one part of the Code. He indicated that the Task Force was not proposing to separate out the independence sections as standards but rather developing an approach that would be even more integrated than is the case currently. He added that the proposed name for the Code would suggest both "standards" and "code."
- Mr. Hansen supported the idea of integration. He noted that while independence could be included in a separate section, it is still part of the Code. He felt that standards in the context of the Code is different from standards in the context of auditing or financial reporting. He noted as an example that auditing or financial reporting standards tend to prescribe a minimum set of procedures or disclosures. He did not believe that the Code should prescribe a "cookbook approach" with respect to ethics, especially when the focus is on ethical behavior.
- Ms. de Beer noted that the current structure of the Code is not conducive to usability. She acknowledged Mr. Hansen's caution about avoiding the Code becoming a "cookbook." She suggested that looking at corporate governance codes might be useful since the subject matter is more similar to ethics codes. She noted that the South African corporate governance code lays down principles, with practical guidance included in the details. She was of the view that ISAs are not a good example to follow in this regard. She was optimistic that if the Board can achieve an improved structure, the Code would be more user friendly.

- Mr. Dalkin noted that INTOSAI is in the process of revising its code. He commented that the effort has proven harder than expected given that ethics requirements are more open to judgment than auditing standards. Accordingly, when contemplating the approach proposed by the Task Force, INTOSAI had realized that taking a similar approach would not be so straightforward.
- Mr. James commented that his interpretation of the “code vs. standards” matter was the opposite of Mr. Hansen’s. He was of the view that “standards” are more the principles that one must adhere to, whereas “code” is more aspirational in nature. On that basis, he felt that it would be more appropriate to refer to “standards.” Mr. Thomson noted that while the “standards vs. code” matter will be a topic for continuing debate, all stakeholders recognize the importance of complying with the fundamental principles and applying the conceptual framework, with requirements on specific topics. He added that stakeholders generally agreed that specific requirements cannot be considered in isolation without considering the conceptual framework.
- Ms. Robert highlighted the “one-page” Code suggested by a respondent. She noted that an executive summary may assist users in understanding the key features of the Code. Mr. Thomson responded that the Task Force is not aiming to develop a one-page Code but does expect to include a “How to Use the Code” section to aid usability.

FUNDAMENTAL PRINCIPLES

Mr. Thomson reported that respondents had expressed widespread support for the linkage to the fundamental principles and conceptual framework included in the “purpose” component suggested in the CP. Some respondents, however, favored an approach directed towards objectives. Some respondents also raised concerns regarding the undue repetition of the purpose component. Mr. Thomson outlined the initial proposals from the Task Force.

Mr. Fukushima noted IOSCO’s suggestion to replace the “purpose” component with an “objective” component. He was of the view that the overall objective should be to comply with the fundamental principles. He felt that the concept of “objectives” as opposed to “purpose” would better capture this notion. Mr. Thomson noted the Task Force would be mindful of Mr. Fukushima’s comments. He indicated that the Task Force is considering introducing a “core requirement” in each section, although the terminology may be refined, to emphasize the requirement to apply the conceptual framework and comply with the fundamental principles.

DISTINGUISHING REQUIREMENTS FROM GUIDANCE

Mr. Thomson reported that respondents broadly supported distinguishing requirements and guidance in the Code. He noted that some respondents had suggested improvements to the approach taken in the CP. Mr. Thomson then outlined the initial proposals from the Task Force. The following matters were raised:

- Ms. Elliott suggested that the approach taken in the IIA’s standards may provide good inspiration with respect to readability and format of presentation.
- Mr. Baumann cautioned against splitting the Code into requirements and guidance, noting the risk of losing requirements in the process. He acknowledged the challenge in determining whether material is requirements or guidance. In response, Mr. Thomson noted that one of the fundamental considerations of the Task Force is to ensure that there is no reduction in requirements in the restructured Code. He added that the proposed separation is intended to

facilitate working with the Code and not to allow users to only consider the requirements and ignore the guidance.

- Dr. Arteagoitia commented that the project is more important than it might appear. He felt that the 2009 Code failed to achieve its full potential mainly because of its structure. He noted that some stakeholders felt that the Board should have clarified the Code then. He highlighted the need for the Board to promote the product not only to auditors but also to regulators. He suggested that the Code should be clear, simple and to the point. He urged the Board not to rush the project, which he felt was the main reason the 2009 Code failed to gain full recognition among stakeholders.

CLARIFYING RESPONSIBILITY

Mr. Thomson noted that respondents were generally supportive of the changes suggested in the CP, including a link to ISQC 1. He added that respondents were of the view that the Code should continue to maintain the importance of individual responsibility. He reiterated that the Board intends to work closely with IAASB on this matter. The following matters were raised:

- Mr. James noted that the focus of the Board seemed to be on breaches of independence requirements. He indicated that IOSCO viewed this as only an example. He also indicated that IOSCO was of the view that it should not be the engagement team who should deal with a breach of an independence requirement. He commented that there may be other areas of the Code that may need similar attention.
- Ms. Robert was of the view that addressing the matter of responsibility in the Code should be a standalone project and not part of the Structure project.

Mr. Koktvedgaard acknowledged that a separate project might be required to consider this matter. However, he expressed a concern that treating this matter as a separate project might hamper clarification of the Code. Mr. Thomson responded that the Board had already discussed the matter at length and decided that substantive issues would be outside the scope of this project. However, there is Board agreement that the Code should be aligned with ISQC 1.

UNINTENDED CHANGES

Mr. Thomson noted that some respondents had expressed concerns about the risk of inadvertent changes in meaning and unintended consequences as a result of the restructuring work. He outlined the initial proposals from the Task Force. The following matters were raised:

- Mr. Greene noted his support for the project. He commented that he had recently participated in AICPA's pilot testing. He suggested that the Board consider a similar exercise as it would prove valuable. Mr. Thomson noted that the Task Force is supportive of this idea and planned to explore it further with the Board, recognizing the need for the exercise to be done right.
- Mr. Hansen noted that if the Board does decide to perform pilot testing, it would be helpful to spend some time considering who would perform the testing. He noted that when the AICPA ran its pilot test, it included not only firms of different sizes but also state regulators. He added that the exercise could assist in achieving regulatory buy-in. He also commented that the side-by-side mapping would be a critical part of the restructure process, and suggested that the Board archive the mapping document. More broadly, he highlighted the importance of archiving the different

versions of the Code in order to be able to refer to the standards in effect at a specific point in time.

WAY FORWARD

Mr. Thomson outlined the next steps, noting in particular the Task Force's suggestion that the CAG create a working group (WG) to track this project more closely. He indicated that a WG would provide an opportunity for Representatives to consider the material at a greater level of granularity. Mr. Koltvedgaard encouraged representatives to consider joining the CAG WG, adding that staff would circulate a request for expressions of interest shortly after the meeting.

Dr. Thomadakis thanked Representatives for their valuable input, noting two important "take-aways," i.e., that the Board should be careful not to put speed first at the expense of quality; and that the focus should remain on clarification and not substantive changes to the Code. He noted, however, that the Board would maintain an inventory of substantive issues that may be identified in the project for future consideration.

D. Non-Assurance Services (NAS) and Safeguards

NAS PROJECT

Mr. Hannaford reported that at its January 2015 meeting, the Board had unanimously approved the proposed changes to certain provisions in the Code addressing NAS for audit and assurance clients. He summarized the main changes. He then reported on the following two specific matters Representatives had raised at the November 2014 CAG teleconference:

- With respect to the suggestion to include "monitoring of internal controls" as an example of a management responsibility, Mr. Hannaford confirmed that the Board had accepted to include this example in the final pronouncement.
- With respect to the suggestion to include "maintaining books and records" as an example of a management responsibility, Mr. Hannaford indicated that the Board had not included this in the final pronouncement. He explained that the Board intended the examples listed to always be considered management responsibilities. He noted that in some limited circumstances the Code permits firms to provide accounting and bookkeeping services to audit clients. The Board believed that adding such an example in the list of examples of management responsibility could cause confusion among stakeholders. Mr. Hannaford added that the Code already contains specific guidance that deals with the preparation of accounting records and financial statements.

Mr. Koltvedgaard assured Representatives that the Board had thoroughly considered their comments. He indicated that the final pronouncement had been presented to the PIOB for approval along with his due process report confirming that due process with respect to the CAG had been followed. Mr. Muis noted that the PIOB was interested in how the comments from the regulatory community had been addressed. He added that the PIOB was taking a sober approach to this topic.

Representatives had no further comments on the project.

SAFEGUARDS

Mr. Hannaford introduced the topic, noting that the Safeguards project is separate from but linked to the recently completed NAS project. He highlighted the objectives of the project, noting in particular that a

number of regulators have raised questions regarding the clarity, appropriateness and effectiveness of the safeguards in the Code.

Project Proposal

Mr. Hannaford outlined the project proposal that the Board had approved in January 2015.

Mr. Koktvedgaard noted it would be important to consider what CAG Representatives would view as the success outcomes of the project.

The following matters were raised:

- Mr. Fukushima noted that IOSCO is very interested in this project as it could help, together with the restructuring of the Code, to enhance the enforceability of the Code. He indicated that he was at first surprised that the scope of the safeguards project seemed to be limited to NAS but reassured to hear that this would only be a first phase. He suggested clarifying the scope in the project proposal. He also indicated that IOSCO was interested in fee-dependency issues. Mr. Hannaford responded that the Board understood that the project in the longer term would need to extend beyond safeguards pertaining to NAS. However, he noted that the need to align the project with the Structure project means that not everything is possible. He explained that initially the Task Force intends to review the conceptual framework and the most pervasive area, i.e. NAS. Other areas where improvements might be needed could form a phase II later. He confirmed that a separate project addressing fee-related issues is included within the Board's Strategy and Work Plan, 2014-2018.
- Mr. Fukushima noted that IOSCO had suggested that the Board consider clarifying the notion that not every threat can be addressed by safeguards. He noted as an example the holding of financial interests in an audit client by engagement team members. He felt that the project proposal was unclear in this respect and suggested that the Board address the matter. Mr. Hannaford confirmed that the Task Force understands and accepts that there may be circumstances where no safeguards can eliminate or reduce a threat to an acceptable level.

Preliminary Issues for Consideration

Mr. Hannaford led Representatives through the preliminary issues the Task Force had identified. The following matters were raised:

- Mr. Dalkin noted that INTOSAI considers the threats and safeguards approach as principles-based and subject to professional judgment. In some jurisdictions, however, such an approach could represent quite a significant change as they tend to be rules-based. One of the matters INTOSAI considered was the possibility of two firms reaching different conclusions when facing the same situation. He gave the example that in some jurisdictions, bookkeeping is by definition a NAS and a firm would therefore need to apply the conceptual framework. In practice, a firm may conclude that safeguards can be applied in this situation whereas another firm may conclude that such a service cannot be safeguarded. He noted that the natural reaction is therefore to move to a rules-based approach, adding that it would be important for Board to consider this matter. Mr. Hannaford noted that respondents to the Structure CP had emphasized the importance of the principles-based approach.

- Mr. Dalkin noted that the other challenge is in the area of materiality. He highlighted the risk of moving from a prohibited NAS to a permissible one if not material. He therefore cautioned against unintended consequences. Mr. Hannaford responded that the Task Force is aware of the sensitivities in this area but that it is also aiming to enhance a principled-based Code.
- Mr. Fukushima acknowledged the Board's intention to review the concept of "reducing a threat to an acceptable level" but felt that this would be very challenging. He noted that materiality relates not only to quantitative measures but also to perception.
- Ms. Miller noted that in the US, the audit committee appoints the independent auditor and must report on the auditor's independence to all of those charged with governance (TCWG). She therefore believes that the role of the audit committee is an important safeguard with respect to auditor independence. She commented that the Code currently mentions reporting to TCWG but does not particularly emphasize this matter. She suggested it would be better if the Code could establish obligations with respect to audit committees in that regard. Mr. Koktvedgaard noted that under the new EU audit legislation, the audit committee will have its own responsibility to assess the independence of the auditor and will not be able to rely solely on the auditor's report on its independence. Accordingly, he suggested considering how safeguards could flow in that context. Mr. Hannaford indicated that while the Task Force understands the important role of audit committees, it is not within the Board's remit to set standards for TCWG. However, the Task Force could consider their roles and responsibilities with respect to auditor independence.
- Ms. de Beer agreed that it is not within the Board's remit to place requirements on TCWG. However, she was of the view that auditors should be given greater responsibility to communicate to TCWG, similar to the approach taken with respect to communication of key audit matters to TCWG under the revised auditor reporting ISAs. Doing so would then prompt TCWG to address the issue. Mr. Koktvedgaard noted that public expectations have changed since the introduction of the threats and safeguards approach in the Code. Accordingly, the Board should consider how to improve communication with TCWG.
- Mr. Hannaford noted that the leaderships of the IAASB and IESBA had met the previous day to consider a number of crossover issues and they had agreed to monitor potential crossover issues as the safeguards project develops.
- Mr. Koktvedgaard highlighted the need to pay attention to smaller entity considerations.

Representatives were asked to provide input on any additional matters the Task Force should consider. Representatives commented as follows:

- Mr. Dalkin suggested that it would be important to consider the definition of a NAS. He gave a number of examples of services that may be considered NAS. He noted some basic questions which arise in applying the conceptual framework such as: whether preparing financial statements is a part of the audit or a NAS; and whether providing technical advice with respect to preparation of notes to the financial statements when management does not have the technical expertise would constitute a NAS.
- Mr. Greene suggested considering addressing the impact of the cumulative effect of NAS provided to an audit client on independence. Ms. Soulier noted that this matter is already addressed under the Code.

Exposure of Proposed Revisions

Representatives raised the following matters:

- Mr. Bradbury believed the two obvious options were outlined in the issues paper. He wondered whether both could be presented.
- Ms. Lang felt that she could only comment on the approach if she were able to see the nature of the issues addressed and the proposed changes being contemplated. She noted a risk that in exposing two documents at the same time, respondents may choose to respond to only one. She wondered how the Board was expecting respondents to comment on the two exposure drafts. Mr. Hannaford explained that one of the reasons to coordinate the two projects is to enable stakeholders to see how the revised provisions on safeguards would fit in the restructured Code. He commented that in an ideal world, the Board would issue the safeguards exposure draft first but this may not be physically possible.

Mr. Hannaford thanked Representatives for their feedback.

E. Long Association

Ms. Orbea introduced the topic, providing background information regarding the responses received on the August 2012 exposure draft (ED), *Proposed Changes to Certain Provisions of the Code Addressing the Long Association of Personnel with an Audit or Assurance Client*. She briefed the CAG on the general themes from the responses and the Board's consideration of, and tentative views on, the significant comments on the main issues at its January 2015 meeting. She then led Representatives through the Task Force's analysis and proposals on the main issues.

LENGTH OF TIME-ON PERIOD FOR ALL KEY AUDIT PARTNERS (KAPs)

Ms. Orbea reported that most respondents were supportive of the time-on period remaining at seven years for all KAPs for audits of public interest entities (PIEs). The Board therefore proposed that the time-on period remain at seven years.

CAG Representatives made no comments on this proposal.

LENGTH OF COOLING-OFF FOR ENGAGEMENT PARTNER (EP)

Ms. Orbea reported that the majority of respondents did not support extending the cooling-off period for the EP to five years. She noted the lengthy Board discussion on respondents' comments, noting that the majority of the Board believed that the five-year cooling-off proposal for the EP remained appropriate. She explained that the Board had requested that the Task Force consider whether the existence of different regulatory safeguards, or a package of safeguards, set at a jurisdictional level might provide an alternative to the partner rotation requirements for PIE audits in the Code.

The following matters were raised:

- Mr. Hansen supported the proposed five-year cooling-off period for the EP.
- Ms. McGeachy expressed concern about the direction of the proposal given that the majority of respondents did not support a five-year cooling-off period. She believed that whilst the profession might be accused of self-interest, when such a large proportion of respondents have the same view, that view should not be discounted. She commented that the provisions had only recently

been introduced and that she was not aware of any research indicating that the two-year cooling-off period was inadequate. She was of the view that mandatory firm rotation should be factored into the Board's assessment of the long association provisions. She added that global convergence is in the public interest and that the closer the world can reach the same provisions, the better it would be for the market.

- Ms. de Beer noted that given that mandatory firm rotation was already in place in a number of jurisdictions around the world, this was a signal for the Board to strengthen the Code's provisions.
- Ms. Robert supported Ms. McGeachy's comments on global convergence, noting that the Board should not undermine provisions that are already in place at the jurisdictional level to address long association. She highlighted, for example, the debate over many years in the EU that led to the recent mandatory firm rotation legislation. Given this context, she expressed a concern that in Europe the proposals in the ED would be very complex to implement and monitor. Accordingly, she was of the view that convergence would not be achievable with the current proposals.

LENGTH OF COOLING-OFF FOR OTHER KAPS, INCLUDING THE ENGAGEMENT QUALITY CONTROL REVIEW PARTNER (EQCR)

Ms. Orbea explained that most respondents to the ED supported the cooling-off period for other KAPs, including the EQCR, remaining at two years. She noted, however, that a few respondents had commented that the EQCR should cool off for a longer period because the role had more significance and therefore justified a longer cooling-off period. She added that the Board did not consider that there was a need to change the ED proposal based on the rationale that had been set out in the explanatory memorandum.

The following matters were raised:

- Mr. Hansen indicated that he did not support the view that the EQCR should cool off for only two years because he regarded the EQCR as being involved in key decisions on an audit. He disagreed with the comments in the report-back, in particular that the EQCR is usually not known to, and has no contact with, the client, and that it would not be necessary to have another control on top of the EQCR's control role. He noted that in his experience the EQCR is usually known to the client and is involved in major decisions. He added that whilst the EQCR might not be the decision maker, the EQCR's involvement comes right at the end of an audit and he or she plays a key role at that time.
- Ms. Orbea indicated that the views of CAG Representatives on the June 2014 conference call had been quite evenly split on the cooling-off period for the EQCR. She explained that the same theme had come through from the comment letters. She emphasized that the Board was not viewing the roles of the EQCR and other KAPs as unimportant, because the Board acknowledged that these are roles that make significant judgments. She explained, however, that the Board was targeting the individual who was at the greatest risk of familiarity, i.e., the EP.
- Mr. Waldron agreed with Mr. Hansen. He indicated that the CFA Institute regarded the EP and EQCR as so close and integral to the audit process that they should be treated the same. He noted that inspection reports from the PCAOB had flagged issues on audits that should have been identified by the EQCR, thus highlighting the importance of the EQCR role. He noted that IOSCO had expressed support for the EQCR being treated the same as the EP with respect to

cooling off. He urged the Board to carefully consider the advice from the CAG and to have regard to the public who relies on audited financial statements.

- Ms. de Beer agreed with Messrs. Hansen and Waldron, noting the need for care in considering who was raising comments on the ED. With respect to the ED proposal allowing for the rotated EP to undertake a limited consulting role with the engagement team or client after two of the five years in the cooling-off period have elapsed, she was of the view that this would dilute the provision. She felt that a better approach would be to impose a strict cooling-off with no involvement with the engagement team or client. Mr. Greene agreed with Mr. Hansen and Ms. de Beer on the EQCR issue.
- Mr. Thompson agreed that the EQCR plays a very important role in the audit process. He noted that he had himself served in that role on a number of listed audits and that the clients never knew him. He considered that in Europe the client usually neither knows the identity of nor meets the EQCR. He noted that practices may differ in other jurisdictions. He was of the view that only the EP should be the key contact with the client. He suggested the need to distinguish among the roles of the various KAPs on an audit engagement and to address those roles separately, i.e., the EP who plays the most important role, the EQCR who provides a second set of eyes, other KAPs, and other partners.
- Mr. Hansen commented that he knew of situations where clients had expressly requested that certain individuals not be appointed EQCR for their audits. He suggested that the Board might perhaps consider the merit of prohibiting contact between the EQCR and the audit client.
- Ms. Orbea noted that the Board is very much aware of the source of comments on the ED. She explained that the Board had listened to concerns expressed by stakeholders about an individual being able to serve on an audit of a PIE for 14 out of 16 years. She noted that the Board had always come back to consider the perception of a lack of independence and considered that such a perception was at its greatest with the role of the EP. Ms. Orbea confirmed that the CAG's views on this issue had been presented to Board.
- Mr. James agreed with Messrs. Hansen and Waldron, and Ms. de Beer. He noted that IOSCO saw the EQCR issue as an independence-in-appearance issue and that it viewed the EQCR at a similar level of influence as the EP. He noted that it would be disappointing if the Board decided that the EQCR should not have the same five-year cooling-off period as the EP. Mr. Fukushima concurred with Mr. James.
- Ms. Robert noted that the EQCR is not regulated in the EU. Accordingly, she had no view on this issue.
- Mr. Thompson noted that in the UK, the current provisions are 7+5 for the EQCR and 5+5 for the EP. Nevertheless, he noted that it would be more important to consider the roles of the individuals.
- Mr. Arteagoitia noted the length of time that the Board had been debating these provisions. He urged the Board to make a decision because it was difficult to justify the continuing debate. He was of the view that a cooling-off period of two or three years was reasonable. He clarified that the EU legislation addresses only the EP, not the EQCR.

- Mr. Michel was of the view that a three-year cooling-off period was reasonable. He also urged the Board to make a decision promptly. Ms. Lang agreed with Mr. Arteagoitia that the Board should come to a conclusion on the issue and that further delay would not be advisable.
- Ms. Elliott had no comments on this issue.
- Ms. Lopez expressed support for having the same cooling-off period for the EQCR as for the EP to address the perception issue. Mr. Bradbury shared the same view. He noted that he found the Task Force's rationale for having a different treatment for the EQCR unconvincing. He highlighted his own experience in previous audit tenders where the individuals proposed as EQCR were identified to him.
- Ms. Borgerth noted that Brazil has instituted strict provisions to address long association, including mandatory firm rotation. While these provisions are suitable for the Brazilian context, she was not certain that they would work for the IESBA Code.
- Ms. Miller noted her perception that the EQCR would have less direct interaction with the client. Accordingly, she was comfortable with a different cooling-off treatment. However, she indicated that she did not feel strongly about any particular position on this issue.
- Mr. Muis expressed support for having the same cooling-off treatment for both the EQCR and the EP. He noted that the PIOB had previously expressed regret about the scope of the project in that it did not address the issue of mandatory firm rotation. He acknowledged that coming to a decision on the EQCR issue was more a matter of art than science. However, he noted that the checks and balances were at work in the CAG discussion. Ms. Orbea noted that this is an area where there is wide divergence of views. Accordingly, she agreed that developing a solution was not a science.

APPLICABILITY OF LONGER COOLING-OFF PERIOD TO AUDITS OF LISTED COMPANIES OR ALL PIEs

Ms. Orbea noted that at its meeting in January 2015, the Board had supported retaining the proposal for the provisions to apply to all PIEs. She explained that the definition of a PIE in the Code allows jurisdictions flexibility to determine which types of entity should be considered to be PIEs. The Board was of the view that once a local jurisdiction had established this, the independence provisions relating to PIEs should be applied consistently across that jurisdiction.

The following matters were raised:

- Ms. McGeachy commented that a large number of PIEs are currently audited by SMPs worldwide. She was of the view that layering the proposals over current regulatory provisions at the jurisdictional level would complicate implementation and have detrimental consequences. For these reasons, she encouraged the Board to limit the proposed provisions to audits of listed entities only.
- Mr. Hansen supported Ms. McGeachy's view and considered that it might be particularly important to the Board's desire for convergence across jurisdictions. He commented that there was so much disparity across jurisdictions that it might be best to concentrate on listed entities. He expressed the view that it was with listed entities that the public interest is at greatest stake and where the most damage could be caused if an individual were to lose his or her independence.

OTHER COMMENTS

- Mr. Greene asked that the Code's long association provisions be clarified in relation to time-on and time-off engagements. In particular, he suggested that an individual's time on the audit should be cumulative and that the time-off period should be calculated consecutively. He also suggested that the provisions should expressly apply to the individual and not to the firm so as to prevent a move of an individual from one firm to another bypassing the provisions.
- Ms. Orbea indicated that the word "consecutive" had been added to the relevant paragraph⁴ in the draft provisions to address the first situation raised by Mr. Greene. She also explained that an additional clause had been included in the revised proposals to address an individual's length of service as a KAP at a prior firm.
- Mr. Dalkin noted that in public sector audits, it is quite common that an individual serves on the audit of a particular governmental entity for more than seven years as EP. He wondered whether the proposals addressed this situation. He felt that there would need to be practical considerations regarding partner rotation in public sector audits.
- Mr. Hansen was of the view that the Task Force should address situations where jurisdictions have more stringent legislation or regulation addressing the topic of long association. On the issue of mandatory firm rotation, he wondered how this could be integrated into the proposals. Finally, he wondered whether there was any research regarding the extent to which SMPs perform audits of PIEs and listed entities. He noted that in the US, there are certain exceptions for firms that have less than a predetermined number of partners. He suggested that reflecting on a similar approach for the Code might assist in achieving a better balance. Ms. McGeachy was of the view that making the split between listed entities and PIEs might be a better and fairer approach than drawing a line in terms of a specific number of partners in a firm.

GENERAL OBSERVATIONS ON PROCESS

- Mr. Waldron noted that it would be helpful to see in the summary of respondents' comments who was supporting the particular proposals. He emphasized that it should not be a numbers game.
- Mr. James noted that he had raised a suggestion during the IAASB CAG meeting earlier in the week regarding how the standard-setting process might be improved. In particular, he had suggested that consideration be given to using an independent body to summarize comments on EDs. He suggested that the Board reflect on this further. He added that the PIOB had staff who might be able to prepare such summaries. Mr. Waldron agreed with Mr. James.
- Mr. Siong cautioned that delegating the task of summarizing responses to EDs to an external organization would have adverse implications for the timeline of projects. He emphasized that staff and Task Forces go to great lengths to ensure that comments in response letters are faithfully and transparently represented. In particular, the extensive footnoting in the agenda material would enable anyone to trace back the source of a particular comment. He also emphasized that respondents' comments are weighed on the basis of their merits and that comments from respondents representing the public interest are given first prominence in the Board's papers.

⁴ Agenda Item E-3, paragraph 290.150A

- Dr. Thomadakis expressed significant concern about the suggestion from Mr. James, noting that there would be major problems from a management and co-ordination perspective if it were implemented, and that the Board would lose control of the standard-setting process.
- Mr. Muis noted that the PIOB cannot be involved in the working process of setting the standards as doing so would compromise its independence. However, he acknowledged that Mr. James had raised a relevant question regarding the qualitative analysis of respondents' comments.
- Ms. Lang was of the view that it would be helpful for there to be consideration of the cost-benefit impact of the proposals, both pre- and post-implementation.
- Mr. Koktvedgaard acknowledged that there are quality controls in place with regard to summarizing comments from respondents. He expressed the view that comments should be brought forward from all respondents. He noted that the substance of comments was an important factor and that a single participant or small investor might bring up a significant point. He expressed a concern that if the Board immediately gave more weight to certain comment letters, it might send the wrong signal to respondents. He noted that such a signal might make respondents reluctant to comment on future Board publications. He expressed the view that it was important to have a diversity of respondents.

WAY FORWARD

Ms. Orbea thanked the Representatives for their comments, noting that the Task Force would take into account their input in preparing the agenda material for the April 2015 Board meeting.

F. **PIOB Observer's Remarks**

Mr. Muis thanked the CAG for the opportunity to observe the meeting and to learn about the CAG's involvement in the standard-setting process. He looked forward to future interactions with the CAG.

G. **Closing Remarks**

Mr. Koktvedgaard thanked the Representatives for their high level of participation and contributions to the discussions. He then closed the meeting.