

**Meeting:** IESBA CAG

**Meeting Location:** New York

**Meeting Date:** September 10, 2018

## Agenda Item

# G1

### Inducements

#### Objective of Agenda Item

1. To report back on the March 2018 CAG discussions relating to the revision of the inducement provisions in the Code, and related proposed conforming amendments.

#### Project Status and Timeline

2. Appendix 1 provides the project history for the Inducements project.
3. Formerly referred to as Phase 2 of the Review of Part C of the Code Project, the provisions relating to inducements in the extant Code were revised as part of a separate project.
4. The [revised inducement provisions](#) were finalized in April 2018 three months ahead of schedule and introduced into the Code a more robust and comprehensive framework which clearly delineates the boundaries of acceptable inducements and guides the behaviors of professional accountants in business (PAIBs) and professional accountants in public practice in all situations involving inducements. The revised provisions represent the last, but no less important piece of the revised and restructured Code and were released in July 2018. They will have the same effective date as the revised and restructured Code (i.e., June 2019).
5. The IESBA approved the final text of the revised and restructured Code (i.e., the [International Code of Ethics for Professional Accountants \(including International Independence Standards\)](#) in December 2017. The revised and restructured Code was released in April 2018 and includes a number of other substantive revisions (see **Agenda Item G-2**).

#### Exposure Draft

6. The Exposure Draft: [Proposed Revisions to the Code Pertaining to the Offering and Accepting of Inducements](#) (Inducements ED) was released in September 2017 and included proposed revisions regarding:
  - (a) The offering and accepting of inducements by PAIBs<sup>1</sup> and PAPPs;<sup>2</sup> and
  - (b) Related amendments to the independence provisions relating to gifts and hospitality.<sup>3</sup>

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<sup>1</sup> Extant Part C, Section 350, *Inducements*

<sup>2</sup> Extant Part B – Professional Accountants in Public Practice, Section 260, *Gifts and Hospitality*

<sup>3</sup> Extant Part B, Section 290, *Independence – Audit and Review Engagements*, paragraph 290.225 and Section 291, *Independence – Other Assurance Engagements*, paragraph 291.155

7. The comment period for the Inducements ED closed on December 8, 2017. A total of 46 [comment letters](#) were received from respondents. At its March 2018 meeting, the IESBA considered the significant issues raised by respondents and the related Task Force responses. The IESBA generally agreed to those responses and subsequently finalized the revised text via teleconference in April 2018.

#### Report Back on March 2018 CAG Discussion

8. Below are extracts from the draft minutes of the March 2018 CAG meeting<sup>4</sup> and an indication of how the project Task Force and/or IESBA has responded to the CAG's comments.

Matters Raised	Task Force/IESBA Response
EXAMPLES OF INDUCEMENT	
Mr. Hansen queried if facilitation payments as well as charitable donations should be removed from the list of inducements examples. In particular, he wondered whether the concept of a "facilitation payment" would be readily understood, for example, whether a registration fee paid by a firm to a regulatory body would be considered a facilitation payment. He also wondered whether including charitable donations in the list could discourage such donations.	Point noted.  During the meeting, Mr. Ashley explained that charitable donations can be used to influence behavior either positively or negatively.  As stated in the <a href="#">Basis for Conclusions</a> , the IESBA agreed to removing facilitation payments from the list in the final text.
INDUCEMENTS WITH NO INTENT	
Mr. Thompson suggested that paragraph 250.12 A1 be revised so it is easier to understand as it contained triple negatives.	Point accepted.  The text was revised to simplify the language as suggested (see paragraph 250.12 A1).
INTENT TEST	
Mr. Yurdakul queried why only a breach of the fundamental principles (FP) of integrity was used in explaining the rationale for prohibiting the offering and accepting of inducements with improper intent. He felt that other FPs, such as objectivity, might also be relevant.	Points taken into account.  In relation to the query about threats to the FP, Mr. Ashley explained at the meeting that whilst such action by a PA might cause a breach of another FP, it might not always be the case.

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<sup>4</sup> The draft March 2018 minutes will be approved at the September 2018 IESBA CAG meeting.

Matters Raised	Task Force/IESBA Response
<p>Whilst agreeing with the importance of the intent test, Mr. Yurdakul was of the view that it might be difficult to enforce in practice.</p>	<p>The references to integrity are retained in the final pronouncement (see paragraphs 250.9 A2 and 340.9 A2).</p> <p>As noted in the <a href="#">Basis for Conclusions</a>, the IESBA believes that the “intent test” takes into account cultural and social norms and practices.</p> <p>The revised inducement provisions:</p> <ul style="list-style-type: none"> <li>Prohibits the offering or accepting of inducements that the PA concludes is made, or considers a reasonable and informed third party (RITP) would likely conclude is made with the intent to improperly induce the behavior of the recipient (see paragraphs R250.7, R250.8, R340.7 and R340.8).</li> <li>Include application material to emphasize the need to exercise of professional judgment when determining the intent of an inducement (see paragraphs 250.9 A3 and 340.9 A3).</li> </ul>
TRIVIAL AND INCONSEQUENTIAL	
<p>Dr. Danbatta suggested that the Task Force should consider defining the term “trivial and inconsequential” or providing guidance for it, otherwise there would be room for subjective interpretations.</p>	<p>Point taken into consideration.</p> <p>During the meeting, Mr. Ashley noted that whether an inducement is trivial and inconsequential will differ from one context to another.</p> <p>Mr. Siong also drew CAG Representatives’ attention to guidance on whether a matter is “clearly inconsequential” in the NOCLAR sections of the Code.<sup>5</sup> He further pointed out that the judgement of a professional accountant on whether an inducement is trivial and inconsequential must take into consideration RITP test.</p> <p>As stated in the <a href="#">Basis for Conclusions</a>, the IESBA agreed that it was not necessary to define the term</p>

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<sup>5</sup> Part 2, Professional Accountants in Business, Section 260, *Responding to Non-Compliance with Laws and Regulations*, paragraph 260.7 A2; Part 3, Professional Accountants in Public Practice, Section 360, *Responding to Non-Compliance with Laws and Regulations*, paragraph 360.7 A2.

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IESBA CAG Meeting (September 2018)

Matters Raised	Task Force/IESBA Response
	“trivial and inconsequential” because the term is generally understood and has been used extant Code <sup>6</sup> as well as the revised and restructured Code. <sup>7</sup>
EXAMPLES	
Ms. McGreachy-Colby suggested that the new example about returning an inducement as an action that might be safeguard should include timeliness of the return as an important consideration.	Point accepted.  The IESBA agreed to revise the example. The revised text is included in the last bullet of paragraphs 250.11 A6 and 340.11 A6 which states “As soon as possible, returning the inducement, such a gift, after it was initially accepted.”
Mr. Yurdakul suggested that the proposed examples in Section 340 could be further refined and that more examples would be helpful.	Point taken into account.  During the meeting, Mr. Ashley noted that the Task Force was comfortable with the proposed examples but welcomed any suggested examples from the CAG Representatives for its consideration.  Subsequent to the meeting, the Task Force considered the need for additional examples, and concluded that none were needed.
SCOPE	
Mr. Yurdakul felt that the provisions relating to PAPPs should be more stringent given the nature of audit and other professional services.	Point noted.  During the meeting, Mr. Ashley noted that respondents were generally supportive of the conforming changes to Section 340. <sup>8</sup>  As stated in the <a href="#">Basis for Conclusions</a> , IESBA formed the view that any development of new requirements and application material in Sections

<sup>6</sup> Extant Part B – Professional Accountants in Public Practice, Section 260, *Gifts and Hospitality*; Section 290, *Independence – Audit and Review Engagements*, paragraph 290.227, *Gifts and Hospitality*; Section 291, *Independence – Other Assurance Engagements*, paragraph 291.156, *Gifts and Hospitality*

<sup>7</sup> International Independence Standards, Part 4B – Independence for Assurance Engagements Other than Audit and Review Engagements, Section 900, *Applying the Conceptual Framework to Independence for Assurance Engagements Other Than Audit and Review*, paragraph 900.21 A1

<sup>8</sup> Part 3 – Professional Accountants in Public Practice, Section 340, *Inducements, Including Gifts and Hospitality*

Matters Raised	Task Force/IESBA Response
	420 <sup>9</sup> and 906 <sup>10</sup> to fully align with the changes in Section 340 warrants further deliberation beyond the scope of this project, and that this matter should be considered as part of the IESBA's future strategy discussions
<p>Mr. Dalkin noted that with respect to hospitality, the impact of an inducement might be different for an individual professional accountant compared with a firm. He, therefore, queried if there should be specific guidance such as de minimis levels for individuals and firms.</p>	<p>Point taken into consideration.</p> <p>During the meeting:</p> <ul style="list-style-type: none"> <li>Mr. Ashley acknowledged that the proposals focused primarily on individual PAs as, in most instances, the influence of an inducement is directed at an individual level and not a firm level. He further noted that whilst a firm might need to address an inducement that is directed at the firm level, he did not consider it necessary for the Code to separately address the responsibilities of a firm.</li> <li>Ms. Soulier also pointed out that the application of the RIPT test when dealing with perceptions of independence would likely lead a large firm to conclude that an inducement should not be accepted irrespective of its relative value at a firm level.</li> </ul> <p>The Code includes application material that explains that the provisions in Part 3 refer to individual PAPPs and firms (see paragraph 300.3). Therefore the revised inducement provisions in Section 340 apply to both individuals and firms.</p>

9. Representatives are asked to note the report back and share any reactions.

### Material Presented – FOR IESBA CAG REFERENCE PURPOSES ONLY

- [Final Pronouncement](#), *Revisions to the Code Pertaining to the Offering and Accepting of Inducements*

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<sup>9</sup> International Independence Standards, Part 4A – Independence for Audit and Review Engagements, Section 420, *Gifts and Hospitality*

<sup>10</sup> Part 4B, Section 906, *Gifts and Hospitality*

- [Basis for Conclusion](#), *Revisions to the Code Pertaining to the Offering and Accepting of Inducements*

## **Project History**

### **Project: Inducements (Formerly Phase 2 of Revision of Part C Project)**

#### **Summary**

	<b>CAG Meeting</b>	<b>IESBA Meeting</b>
Project Commencement	<a href="#">April 2013</a>	<a href="#">March 2013</a>
Development of proposed international pronouncement (up to exposure)	<a href="#">September 2014</a> <a href="#">September 2016</a> <a href="#">March 2017</a>	<a href="#">January 2015</a> <a href="#">April 2015</a> <a href="#">June 2016</a> <a href="#">September 2016</a> <a href="#">December 2016</a> <a href="#">March 2017</a> <a href="#">May 2017</a> <a href="#">June 2017</a>
Exposure Draft	September 2017-December 2017	
Consideration of significant comments on Exposure draft	<a href="#">March 2018</a>	<a href="#">March 2018</a>
Approval		<a href="#">April 2018</a>