

Meeting: IESBA CAG Meeting

Meeting Location: Virtual Meeting

Meeting Date: May 17, 2021

Agenda Item

A

Tax Planning and Related Services

Objectives of Agenda Item

1. To note the report-back on the March 2020 CAG discussion.
2. To receive an update from the Tax Planning and Related Services Working Group (TPWG) on its fact-finding work to date and provide input on the TPWG's preliminary views on the matters it has identified.

Working Group

3. Members:
 - Jens Poll, Chair, IESBA Member
 - Sanjiv Chaudhary, IESBA Member
 - Laurie Endsley, IESBA Member
 - Andrew Mintzer, IESBA Member

Working Group Activities Since Last CAG Meeting

4. Members of the TPWG met via videoconference in Q1 2021 to continue analysis of information, views and comments collected through research and outreach activities in 2020. Please refer to [Appendix 2](#) for a list of the outreach sessions conducted to date in 2020.
5. The TPWG continues to conduct “desk research” in the area of tax planning, including reviews of publicly available reports, articles, podcasts, webinars and other relevant material.
6. A specific focus of the TPWG for Q2 and Q3 2021 will be outreach activities with regulatory and tax authority stakeholders.

Analysis to Date

7. Using insights gained from its research and outreach, the TPWG has been performing an analysis of the implications of tax planning activities for each of the fundamental principles (FPs) and the conceptual framework (CF). The purpose of this exercise is to develop a view as to whether the FPs and CF are sufficient to address behavioral issues associated with professional accountants' (PAs') activities related to tax planning and related services.
8. Whilst not yet complete, the analysis to date has yielded several observations that the TPWG is now evaluating further in terms of what, if any, responses would be appropriate for the IESBA to consider.

Report Back on October 2020 CAG Discussion

9. [Appendix 1](#) to this paper includes extracts from the minutes of the September-October 2020 CAG meeting and an indication of how the Task Force/IESBA has responded to CAG Representatives' comments.

Actions Requested

10. CAG Representatives are asked to note the update and provide input on the matters covered in **Agenda Item A-1**.

Material Presented

Agenda Item A-1 Tax Planning and Related Services: Fact Finding Update

Appendix 1

Below are extracts from the minutes of the March 2020 CAG meeting and an indication of how the Task Force and/or IESBA has responded to the CAG's comments.

Matters Raised	Task Force/IESBA Response
<p>Mr. Thompson noted that for SMPs in many jurisdictions, a large source of revenue is the fees charged for tax services. However, he also noted that there is evidence that effective tax rates are often smaller for large entities than for small- and medium-sized entities (SMEs). He suggested that there would be merit in the WG investigating this as part of its fact-finding. He noted that he would prefer Option C as proposed in Agenda Item C-1 and described it as being risk averse.</p>	<p>During the meeting, Prof. Poll noted that he had recently participated in an interesting panel session in Brussels during which the question of whether a PA should support the PA's client or aim to increase the tax base for society was explored. Whether the former or the latter was right made for a good starting point for the discussion. He added that the session came to a view that the PA should act in the client's interest but in doing so, should take into consideration the broader perspective, including the client's exposure to reputational damage.</p>
<p>Ms. Robert expressed support for the WG's work and also noted her preference for Option C. She noted that this was because of new developments relating to the environmental, social, and governance (ESG) dimensions, and in this context, it would be easier to provide non-authoritative guidance outside the Code to help address ethical challenges resulting from the new developments in a constructive way. She also felt that amending the fundamental principles just for tax planning would be odd as the IESBA is not the only body addressing the issue.</p>	<p>Support and points noted.</p>
<p>Mr. Sobel also expressed a preference for Option C, noting that the Code's fundamental principles should apply to all types of services. He suggested that the Working Group explore whether additional guidance could be provided regarding the application of the fundamental principles. Mr. Hirai also expressed his support for Option C and added that in his view any guidance developed would need to be able to cover all types of tax services.</p>	<p>Points noted.</p>
<p>Mr. Pavas noted that in his view, tax planning is a controversial topic even if it is an important service provided by PAs. He suggested that the WG consider the relevant laws, regulations and other guidance that</p>	<p>During the meeting, Prof. Poll explained that the WG's work does not encompass assurance services, nor was the WG exploring firms' business model. He observed that the</p>

Matters Raised	Task Force/IESBA Response
<p>are already in effect at the jurisdiction level. He also queried how this topic relates to assurance services PAs in public practice provide.</p>	<p>complexity of the issue of tax planning is heightened because of the involvement of other players such as tax attorneys and tax accountants who are not PAs. He noted that it is in the public interest for PAs to help their clients understand their responsibilities and the applicable rules and regulations. However, he also observed that there have been cases where PAs have advised clients on “aggressive tax planning.” He emphasized that this does not mean that PAs cannot advise their clients; however, it is important that PAs make them aware of the risks and exposures so that they are able to make informed decisions. He added that it is up to jurisdictions to decide on the tax structures that are legitimate and permissible at the national level.</p>
<p>Mr. Hirai shared a preference also for Option C, noting that in Japan there is a separate professional body responsible for tax planners.</p>	<p>During the meeting, Dr. Thomadakis noted that Option C reflects the large degree of uncertainty that exists in this area. He observed that when the IESBA undertook the initiative, it knew that this would be a complex and challenging area. He recognized that OECD and others are addressing what can be done in terms of uniformity of practices. He also acknowledged that public perceptions about the legality of tax planning and related services differ across jurisdictions. In as much as this is true, there would be a basis for the IESBA to provide application material in the Code or commission non-authoritative guidance for PAs. He noted that the dividing line between what is acceptable and unacceptable is the challenge for the IESBA. He added that much of the public perception about undesirable tax avoidance has to do with cross-border tax, and on that aspect, there is much convergence of views around the world.</p>
<p>Mr. Hansen added that in his view the area of tax planning is one plagued by public perceptions. He expressed support for Option C but advised the WG to</p>	<p>Point noted.</p>

Matters Raised	Task Force/IESBA Response
also consider aspects of Options A and B if the intent is to influence and change behaviors in practice.	
<p>Ms. Robert inquired about the timeline for the initiative and whether a Task Force would be formed. Also, in relation to the Global Reporting Initiative (GRI), she wondered whether PAs can really assess balanced reporting and whether tax policy can really be enforced. She queried whether the IESBA would consider these elements given that the disclosure may not be reliable.</p>	<p>During the meeting, Prof. Poll explained that the focus of the initiative is not on ESG reporting but that the WG was studying tax advice with respect to the transparency element in relation to larger multi-national companies. He added that it was clear why it was important to provide guidance to the profession.</p> <p>In relation to the way forward for the initiative, Dr. Thomadakis responded that while it is an ambitious initiative, it was too early for the IESBA to determine the outcomes.</p>

List of Stakeholders and Outreach Events Conducted to Date

