

**Draft Minutes of the Meeting of the  
INTERNATIONAL ETHICS STANDARDS BOARD FOR ACCOUNTANTS  
Held on June 10-12, 2013 in New York, USA**

**Voting Members**

Present: Jörgen Holmquist (Chair)  
Isabelle Sapet (Deputy Chair) (Day 3 by teleconference)  
Helene Agélii  
Brian Caswell  
Robert Franchini  
James Gaa  
Caroline Gardner (Days 1 & 2)  
Gary Hannaford  
Peter Hughes  
Chishala Kateka  
Wui San Kwok  
Alice McCleary  
Marisa Orbea  
Kate Spargo  
Don Thomson

**Technical Advisors**

Tony Bromell (Ms. Gardiner)  
Jean-Luc Doyle (Ms. Sapet)  
Kim Gibson (Mr. Thomson)  
Liesbet Haustermans (Ms. Orbea)  
Tone Maren Sakshaug (Ms. Agélii)  
Andrew Pinkney (Mr. Kwok)  
Lisa Snyder (Mr. Caswell)  
Sylvie Soulier (Mr. Franchini) (Days 2 & 3)  
Eva Tsahuridu (Ms. McCleary)

Apologies: Claire Ighodaro  
Stefano Marchese  
Reyaz Mihular

Elbano de Nuccio (Mr. Marchese)  
Patrick Wanjelani (Ms. Kateka)

**Non-Voting Observers**

Present: Richard Fleck (IESBA Consultative Advisory Group (CAG) Chair), Kristian Koktvedgaard (CAG Chair-elect), and Seiya Fukushima

Apology: Juan Maria Arteagoitia

**Public Interest Oversight Board (PIOB) Observer**

Present: Chandu Bhave

**IESBA Technical Staff**

Present: Ken Siong (Technical Director) and Chris Jackson

## 1. Opening Remarks and Minutes

### WELCOME AND INTRODUCTIONS

Mr. Holmquist welcomed the participants and public observers to the meeting. He welcomed, in particular, Mr. Bhave, observing on behalf of the PIOB, and Mr. Koktvedgaard, attending his first meeting as CAG Chair-elect. Apologies were received from Ms. Ighodaro and Messrs. Marchese, Mihular, Arteagoitia, de Nuccio, and Wanjelani.

Mr. Koktvedgaard briefly introduced himself and outlined his professional background, noting that he looked forward to working with the Board.

### PLANNING COMMITTEE UPDATE

Mr. Holmquist briefly reported on the recent activities of the Planning Committee, which had met in March, April and May 2013. Amongst other matters, the Planning Committee had considered the input from the strategy survey, planning matters regarding the April 2013 CAG and May 2013 IESBA-National Standard Setters (NSS) meetings, a matter raised by the International Auditing and Assurance Standards Board (IAASB) regarding auditor independence with respect to direct reporting engagements, and an issue regarding one of the items in the November 2012 Staff Q&A publication.<sup>1</sup>

Mr. Holmquist reminded the Board that the Planning Committee does not hold decision-making powers but acts as an informal group that assists the IESBA Chair in better planning the Board's activities. Given the upcoming rotation of some Planning Committee members off the Board at the end of the year, he invited expressions of interest from IESBA members for participation on the Planning Committee.

### RECENT PRESENTATIONS AND OUTREACH

Mr. Holmquist provided a brief report-back on recent outreach activities that he and other IESBA representatives had undertaken since the previous Board meeting, noting that details of these activities are included in the schedule of recent and upcoming outreach and related activities that was distributed as part of the agenda material. He paid special thanks to Jens Engelhardt, observing the meeting, for Wirtschaftsprüferkammer's welcome in Berlin and its assistance in arranging the various outreach activities.

Mr. Holmquist acknowledged the participation of a number of IESBA members in the outreach activities and encouraged others to do so.

### APRIL 2013 CAG MEETING

Mr. Holmquist noted that the draft minutes of the April 2013 CAG meeting had been distributed to the Board for information as part of the agenda material and they would be circulated to the CAG shortly for review.

Mr. Fleck briefly outlined the discussions at the CAG meeting, noting that he had engaged with the CAG on the matter of CAG Representatives' views vs. views of their member organizations. He also noted that while the International Organization of Securities Commissions (IOSCO) submits detailed comments on

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<sup>1</sup> November 2012 Staff Q&A, *Implementing the Code of Ethics, Part II*

the Board's consultation documents, it is important for the Board to also consider the views of other stakeholders.

#### MAY 2013 IESBA-NSS MEETING

Mr. Holmquist reported a very constructive meeting with the NSS. He noted that Hong Kong participated for the first time. The meeting also had representatives from: Australia, Canada, China, Germany, India, Japan, Netherlands, New Zealand, South Africa, UK and USA. A representative from the US Securities and Exchange Commission (SEC) also observed the meeting via teleconference. Items on the agenda included the Board's projects or initiatives concerning suspected illegal acts, the structure of the Code, the future strategy and work plan, and long association of senior audit personnel with an audit client. In addition, updates on jurisdictional developments were received from select NSS representatives. Relevant matters arising from the discussions will be reported by the Task Force and Working Group Chairs during their respective sessions at this meeting. Highlights of the meeting will be circulated to the Board in due course.

#### FUTURE IESBA MEETING DATES

Mr. Holmquist outlined the proposed approach to setting future Board meeting dates, noting that a longer planning horizon is necessary as many Board members have long range commitments. The IESBA noted no objection to the proposal.

#### MINUTES OF THE PREVIOUS MEETING

The minutes of the March 2013 IESBA meeting were approved as presented.

## **2. The Definition of "Those Charged with Governance"**

Ms. Spargo introduced the topic, reminding the Board that it was only being asked to confirm the changes to the Code agreed at the March 2013 IESBA meeting, subject to feedback from the CAG. She then reported that the CAG was supportive of how the Board had responded to the significant comments received on the exposure draft and had no objections to the proposed changes to the Code. For noting, she highlighted a comment from a CAG representative suggesting that the Board consider in future defining the term "management" in the Code given that the ISAs already define that term.

#### CONSIDERATION OF THE NEED FOR FURTHER CONSULTATION

Given the relatively narrow scope of the proposed changes to the Code, the IESBA considered and concluded that there was no need to further consult on those changes through, for example, the issuance of a consultation paper, the holding of a public forum or roundtable, or the conduct of a field test of the proposed standard.

#### CONSIDERATION OF FURTHER ISSUES

The IESBA considered and concluded that there were no further issues raised by respondents, in addition to those summarized by the Task Force, which should have been discussed by the Board. Ms. Spargo confirmed that all significant matters identified by the Task Force as a result of its deliberations since the beginning of this project, and the Task Force's considerations thereon, had been brought to the IESBA's attention.

## APPROVAL

The IESBA approved the proposed changes to the Code as a final pronouncement with 15 affirmative votes out of the 15 IESBA members present.

The IESBA assessed whether there was a need to re-expose the changes to the Code. The IESBA agreed that the changes made to the exposure draft were in response to the comments received from respondents and did not fundamentally change the principles in the exposure draft or represent other changes of substance. The IESBA therefore determined that re-exposure was not necessary. Mr. Siong advised the IESBA that it had adhered to its stated due process in finalizing the pronouncement.

The IESBA set the effective date for the changes to the Code to be approximately one year after approval of the final pronouncement, i.e., July 1, 2014, with early adoption permitted.

### 3. Responding to a Suspected Illegal Act (SIA)

Mr. Holmquist introduced the topic, reminding the Board of the decision at the March 2013 meeting to continue with the project.

Mr. Franchini then outlined recent activities in connection with the project, including discussions at the April 2013 meetings of the IESBA CAG and the International Forum of Independent Audit Regulators (IFIAR), and at the May 2013 IESBA-NSS meeting. He also briefed the Board on recent liaison discussions with the IAASB on the project and a teleconference meeting with IOSCO's Committee 1 during which an update on the project was provided. He then outlined the main proposals in the straw man of a proposed revised approach to the project, taking into account the significant comments received on the exposure draft (ED).<sup>2</sup>

Except as outlined below, the IESBA agreed the recommendations of the Task Force as set out in the meeting material.

#### SECTIONS 140<sup>3</sup> AND 150<sup>4</sup>

IESBA members expressed general support for the proposed changes to Sections 140 and 150. Amongst other matters, IESBA members commented as follows:

- The proposed reference to confidentiality being a cornerstone of the profession in Section 140 appears to make confidentiality more critical than perhaps appropriate. If this were so, it would be difficult to override confidentiality.
- Consideration should be given to whether some of the proposed changes to Section 140 are worth making as they appear to go beyond the scope of the project. In this regard, it would be important to weigh the costs vs. the benefits of changes that go beyond the project. In addition, care should be taken in making changes to the pre-existing provisions in Section 140 to avoid inadvertent changes in meaning.
- Consideration should be given to restructuring the revised provisions in Section 140 for simplicity.

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<sup>2</sup> August 2012 exposure draft, *Responding to a Suspected Illegal Act*

<sup>3</sup> Section 140, *Confidentiality*

<sup>4</sup> Section 150, *Professional Behavior*

- The wording of the proposed change to Section 150 should be reconsidered as the use of the sole example appears odd.

#### PROPOSED SECTION 225<sup>5</sup>

##### *One Section for All Professional Accountants in Public Practice (PAPPs)*

IESBA members expressed support for having just one section for all PAPPs, provided it is clear to PAPPs which parts of the section apply to them.

##### *Nature of a PAPP's Responsibility Regarding Disclosure of a SIA to an Appropriate Authority*

IESBA members considered the Task Force's proposed revised approach to disclosure of a SIA to an appropriate authority. Some of them did not support a disclosure requirement, noting that without protection for the PAPP, the Code would be going too far. It was noted that if regulators felt that disclosure should be mandatory, they could establish the necessary requirement within the context of the national legal or regulatory framework. It was also noted that a requirement in the Code would give rise to legal complexities that would make such a requirement unworkable and, therefore, the matter should be taken up at the national level. Another view was, however, expressed that it may be appropriate for auditors to take on more but the question was this would rise to the level of a requirement.

An IESBA member noted that it was not the right time to be seeking to establish a disclosure requirement in the Code as a number of the prerequisites are simply not in place, for example, an adequate whistle-blowing framework around the world, protection for the whistle-blower, trusted receiving authorities, a fair and trusted legal process, etc. It was noted that based on the previous IOSCO survey in this area, the great majority of jurisdictions do not have a whistle-blowing framework in place. It was also noted that the Financial Action Task Force (FATF) has issued a list of countries that comply with its 40+ recommendations and that many jurisdictions now have regulations to bring into force the FATF recommendations, including a requirement to report suspicious activity to an appropriate authority. Accordingly, many countries already have a requirement to report a SIA to regulators and it was suggested that it would be better to understand this so that there will be less focus on the Code.

Mr. Fleck suggested that the issue of a requirement should not be regarded as an all or nothing binary decision but instead the Board should recognize where the world has settled. Accordingly, he suggested approaching the issue from the perspective of legal protection being in place. He was of the view that given that a number of jurisdictions have established whistle-blowing procedures, it would not be right if the Code did not reflect that where the legal infrastructure is in place, a disclosure requirement can be operational. In other cases, the PAPP should have regard to the legal implications of disclosure. He suggested that guidance in the Code could then assist the PAPP in discharging the PAPP's responsibilities.

After having reflected on the Board discussion, the Task Force presented an outline of a revised disclosure section setting out two options with respect to disclosure to an appropriate authority in circumstances where the client is a public interest entity (PIE) audit client and legal protection exists, amongst other preconditions: a requirement and an expectation. The IESBA generally supported this revised approach. However, some IESBA members expressed continued concern about whether a

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<sup>5</sup> Proposed Section 225, *Responding to a Suspected Illegal Act*

requirement would be workable even in those circumstances. Other IESBA members expressed concern about the concept of an expectation, believing that with the permission to disclose, it would be too close to a requirement. In this regard, it was suggested that another option could be a strong encouragement to disclose.

In the light of the discussion, the IESBA asked the Task Force to further explore how to strengthen the permission to disclose and present proposals at the September 2013 Board meeting. The IESBA also asked the Task Force to further consider how best to circumscribe the proposed provisions with respect to material misstatements of the financial statements.

#### *Documentation*

IESBA members expressed support for the section to include an encouragement to PAPPs with respect to documentation. It was noted that there are pros and cons to documentation but on balance an encouragement would be more appropriate, particularly given that any documentation requirement with respect to audits of financial statements would be covered by the International Standards on Auditing (ISAs). In addition, it was noted that once the scope of the section is broadened to cover any SIA, the PAPP would be in no different position than an ordinary citizen and, accordingly, the need for a documentation obligation on the PAPP would be questionable. The IESBA, nevertheless, asked the Task Force to consider whether some overarching principles could be articulated as to why documentation can be helpful in those circumstances. In this regard, it was suggested that consideration be given to whether the additional guidance should be placed in the broader context of the Code rather than in this particular section.

Mr. Fukushima expressed the view that if an auditor were to conclude that there is no need for disclosure of the SIA to an appropriate authority, the auditor would need to protect himself or herself. He questioned whether ISA 250<sup>6</sup> would address such a situation.

#### OTHER MATTERS

In addition to editorial changes, IESBA members suggested the following for further consideration in relation to proposed Section 225:

- The requirement to gather relevant information about the SIA appears very demanding and may be difficult to operationalize, especially if the professional accountant (PA) is a junior accountant.
- The requirement to assist the client in understanding the client's legal or regulatory responsibilities appears too strong as the client may not want the PA's assistance.
- The requirement for the PA to consider the need to obtain legal advice appears overly prescriptive and it may be more appropriate to encourage the PA to obtain such advice.
- The reference to "exceptional circumstances" with respect to when disclosure of a SIA to an appropriate authority or withdrawal from the engagement would be appropriate actions to take should be reconsidered, as this may imply that such action will rarely happen, especially with a right to disclose.

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<sup>6</sup> ISA 250, *Consideration of Laws and Regulations in an Audit of Financial Statements*

- Without any mention of the potential for civil or criminal liability, the guidance regarding the permission to override confidentiality makes it seem too easy to carry out such an override. The guidance about seeking legal advice may also need to be expanded.
- The existence of an appropriate authority should be added to the list of factors to consider in determining whether to disclose a SIA to an appropriate authority.
- Consideration should be given to providing further guidance on the concept of “public interest,” as questions may be raised as to what the Board intends by referring to the public interest.

With respect to proposed Section 360,<sup>7</sup> it also was suggested that consideration be given to more clearly circumscribing the types of SIAs that are within scope, as the Professional Accountant in Business (PAIB) should not be reporting everything.

#### WAY FORWARD

The IESBA asked the Task Force to present a revised straw man for consideration at the September 2013 IESBA meeting.

#### 4. Review of Part C of the Code

Dr. Gaa introduced the topic, outlining the Task Force’s proposal that the Board address a review of the application of Part C to all PAs, and possible options by which the relevance of Part C to PAPPs could be clarified. He noted that the majority of the Task Force prefers Option One in the agenda material, with two dissenters. Those who dissented did so because they believe that although the proposal is conceptually logical, it would be impractical as it would lead to a major revision to the Code and likely would impose a significant burden on adopting IFAC member bodies. In addition, at least one dissenter believes that due to the fact that PAIBs represent such a large constituency, a separate section of the Code should be dedicated to them to address their particular issues.

While some IESBA members recognized that the Task Force’s proposals had conceptual merit, the IESBA overall preferred to defer consideration of this issue until after the priority PAIB-specific issues identified in the project proposal have been addressed. In this regard, the following observations were made, amongst other matters:

- It was not clear that IFAC member bodies were interpreting the definition of a PAIB to include PAPPs. Also, the IFAC PAIB Committee does not include PAPPs as members.
- The proposal could cause problems for IFAC member bodies as many would likely prefer a section of the Code focused specifically on the needs of PAIBs.
- Including PAPPs in Part C may weaken the effectiveness of Part C.
- The Structure of the Code initiative may be a better place to address the relevance of Part C to PAPPs.
- It was noted that the Canadian code co-mingles PAIBs and PAPPs and it was suggested that this code may be stronger if it did not do so.

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<sup>7</sup> Proposed Section 360, *Responding to a Suspected Illegal Act*

#### PRESSURE

Mr. Gaa provided a brief overview of the Task Force's preliminary discussions on the topic of pressure to engage in unethical or illegal acts ("pressure"). He also outlined the Task Force's proposed approach to dealing with the topic.

The IESBA expressed general support for this approach.

#### WAY FORWARD

The IESBA asked the Task Force to focus its efforts on addressing the priority issues identified in the project proposal as these pertain specifically to PAIBs, namely:

- Pressure
- Faithful representation (of reporting)
- Inducements

The IESBA asked the Task Force to present a draft text of proposals relating to the issue of pressure for consideration at September 2013 Board meeting.

#### 5. **Non-Assurance Services**

Ms. Gardner introduced the topic, outlining the background to the project and survey work undertaken by the Task Force, recent external developments of relevance to the Non-Assurance Services (NAS) area, and relevant comments submitted by IOSCO in response to the January 2013 IESBA strategy survey. She highlighted a number of matters on which the Task Force had reached agreement, including the following:

- The topic is more complex than it has ever been.
- The conceptual framework underpinning the Code's approach to NAS remains appropriate, as does the Code's less restrictive approach with respect to the provision of NAS to entities that are not PIEs.
- Given the complexity of the topic and the fact that the approach taken by the Code concerning NAS may not be fully understood by all stakeholders, there would be merit in developing a paper that the Board could use to engage in dialogue with stakeholders (NAS paper).
- There is no case for reviewing the Code's positions on taxation, valuation and internal audit services at this time as the Code's "threats and "safeguards approach continues to be appropriate.

She also noted that in certain circumstances, particularly for small- and medium-sized entities (SMEs), auditor involvement in the performance of NAS may benefit the public interest by improving the quality of financial statements in an efficient way, assuming the threats to objectivity can be eliminated or reduced to an acceptable level. Ms. Gardner then outlined the main issues included in the agenda material.

#### PROJECT PROPOSAL

IESBA members agreed with the Task Force's recommendation to refine the project proposal to address the following:

- Clarify the NAS provisions addressing management responsibility.

- Examine the phrase “routine and mechanical” within the bookkeeping services area for clarity.
- Examine the “emergency exception” provisions within the bookkeeping and taxation services areas.

A Task Force member noted that the goal in each of the first items above would be to provide clarity within the Code, not to make scope changes or to revise the requirements.

#### NAS PAPER

IESBA members generally agreed with the Task Force’s recommendation to develop the NAS paper as a communication vehicle to, amongst other matters, raise awareness of the Code’s approach to NAS, emphasize the robustness of the Code’s NAS provisions, highlight potential supplementary approaches to enhance the threats and safeguards approach and increase visibility and transparency of the Code’s relevant provisions.

It was suggested that it would be important for the purpose of the paper to be clear to avoid the impression that the Board lacks confidence in the Code. In addition, care should be taken in not giving the impression that this exercise would be an extensive review of the NAS area. Ms. Gardner agreed, stressing the Task Force’s intention to focus the paper on the appropriateness of the Code’s approach. She added that the paper will also explore other aspects of NAS such as materiality and the involvement of those charged with governance.

The IESBA asked the Task Force to reflect on how best to characterize the paper.

IESBA members also discussed the topics of valuation, taxation and internal audit services and agreed that there is no pressing case for reviewing them at this time. Nevertheless, these three types of services will be covered in the paper.

#### PIOB OBSERVER’S REMARKS

Mr. Bhave asked the Board to reflect on the possibility of NAS being a threat to independence, given that the latter could subsidize the provision of audit services by the firm. He noted the possible existence of conflicts of interest between what management may desire with respect to NAS and the auditor’s role of acting for the shareholders. He was of the view that as NAS are in the hands of management, this would be where conflicts of interest could reside. He felt that from a public interest perspective, this would be an important point for the Board to consider.

#### WAY FORWARD

The IESBA asked the Task Force to present an update on the project and a revised project proposal for consideration with a view to approval at the September 2013 Board meeting. The IESBA also asked the Task Force to present a first draft of the NAS paper at the December 2013 IESBA meeting.

#### **6. Future Strategy and Work Plan (SWP)**

Mr. Holmquist briefly introduced the topic. Mr. Siong then outlined the main findings from the January 2013 strategy survey, highlighting the context within which the future (SWP) is being developed, the constraints within which the Board is operating, and the input received at the May 2013 IESBA-NSS meeting. Mr. Siong also briefed the Board on the outcome of a teleconference with IOSCO’s Committee 1 in early June 2013 regarding Committee 1’s comment letter in response to the strategy survey.

#### LOWEST COMMON DENOMINATOR (LCD)

The Board strongly disagreed with the suggestion in IOSCO's comment letter that the Code is on a "lowest common denominator" base. Mr. Holmquist pointed to the example of Australia which has adopted the Code as a strong endorsement of the Code. The Board recognized that it is important to avoid such a perception from becoming a reality. Accordingly, the Board agreed that it should further engage with the regulatory community to convey its views and to better understand that community's concerns.

#### ENFORCEABILITY

The Board noted the concerns from regulatory respondents to the strategy survey about the enforceability of the Code. The Board noted that the Structure of the Code Working Group is currently exploring ways to enhance the visibility of the requirements and prohibitions in the Code, and whether further clarity may be warranted with respect to who within a firm should have responsibility for complying with the requirements. The Board agreed that any improvements to the Code in those respects may facilitate compliance and enforcement.

The Board expressed its firm belief in a principles-based Code, including the "threats and safeguards" approach to auditor independence in the Code. It was noted in particular that the Code cannot cater for every possible eventuality. It was also noted that a principles-based approach is intended to stimulate PAs to think about what their ethical conduct should appropriately be in their particular circumstances.

The Board nevertheless agreed to engage further in dialogue with regulators and auditor oversight bodies to explain its views on the topic. The Board also agreed to develop appropriate publications to convey its views on this topic.

#### STRUCTURE OF THE CODE INITIATIVE

The Board noted the strong support for this initiative from respondents to the strategy survey. It noted that the initiative is an example of a potential project that could create value and should be allocated adequate resources. It was suggested that consideration could be given to outsourcing some of the tasks if the Board were to approve a formal project on the topic. In addition, it was noted that at the May 2013 IESBA-NSS meeting, some of the NSS participants had advised the Board not to underestimate the resources needed for the initiative.

#### PUBLIC INTEREST

The Board did not support prioritizing a project on exploring a definition for the concept of "public interest" in the Code, recognizing that such project would likely lead to long philosophical debates with little in the way of a practical outcome. It was observed in particular that the notion of "public interest" tend to evolve between jurisdictions and over time. The Board agreed that an alternative approach to addressing the topic could be to consider developing staff publications such as an FAQ or article that could explain the concept, its limitations, why it is important for the concept to be flexible, and how each part of the profession works in the public interest.

## LONG TERM STRATEGIC VISION

It was suggested that the Board articulate its longer term strategic vision to avoid the SWP being simply a list of projects. It was also suggested that consideration be given to identifying criteria with respect to measurement of the Board's performance relative to its SWP.

## OTHER POSSIBLE PROJECTS OR INITIATIVES

Except as noted below, the IESBA broadly agreed to the recommendations of the Planning Committee as set out in the agenda material.

- There was support from a number of IESBA members for an annual improvements project although it was questioned whether member bodies would support changes to the Code each year.
- Fee dependency: There would be merit in exploring a broader topic in this area as it comprises a few different aspects, including regulatory concerns regarding the proportion of firms' NAS fees to their audit fees for given clients, and concerns from some stakeholders about the ethical implications of fee pressure. It was noted that pricing will become more important if the European Union were to move to mandatory tendering. It was also noted that companies would value guidance in this area.
- Safeguards: There was support for examining whether safeguards in the Code are sufficiently strong and realistic but also opposition to a review of the threats and safeguards approach. There was support for a publication communicating the Board's views on the approach.
- Joint audit appears to be a jurisdictional as opposed to a global matter.
- The need for guidance on the application of the reasonable and informed third-party test had been raised in responses to the Conflicts and Breaches projects but it was not ranked high in the survey. A possible frequently asked question (FAQ) on this topic was explored in 2012 but was not taken further. The test is related to enforceability and it was agreed that consideration should be given to whether the topic should be addressed as part of the broader topic of enforceability.
- A review of the definition of a PIE in the Code is not a priority as it has been reviewed recently and in depth by the Board, although it was noted that some financial institutions are not caught by the definition and some jurisdictions may develop their own definitions, leading to a lack of global uniformity.
- There was broad support for more research to determine the merits of addressing the topic of collective investment vehicles (CIVs). Given the increasing footprint of these vehicles globally and the vast sums invested in them, the Board asked the Planning Committee to consider the topic further.
- IOSCO proposed a project on the need for further prohibitions on business, employment and financial relationships between auditors and their audit clients, especially with respect to PIEs. Examples of this issue have been reported in the UK. The increased need for audit experience on audit committees and the churn in audit partners will increase the importance of the issue. The issue may be mainly one of perception and public confidence. It was agreed to keep this matter on the list of possible projects for further consideration. In this regard, it was noted that the topic would lend itself well to benchmarking.

## OTHER MATTERS

The IESBA also noted the following, amongst other matters:

- The strategy process could be accelerated. It takes two years to agree a three year strategy because of due process. By comparison, the IAASB has a five year strategy and a three year work plan.
- The Board's process is to examine small parts of the Code in depth and the changes don't always align with the Code as a whole, and a more holistic approach to changes to the Code may be beneficial.
- The Board considered whether to present the strategy as an evolution of the current strategy rather than as a new strategy, but noted that due process requires a multi-year strategy to be proposed and a consultation of the proposal.
- The Board should decide where it wants the Code to be in five years and determine how it wants to get there. This will involve listening to stakeholders, including IOSCO, but ultimately deciding independently what is in the public interest.
- There should be more co-ordination with IAASB.
- Consideration should be given to reporting publically on progress against strategy.

## WAY FORWARD

The IESBA asked the Planning Committee to further consider the shortlist of possible projects or initiatives and present its recommendations for consideration at the September 2013 Board meeting.

### 7. Long Association

Ms. Orbea provided a brief update on the project, noting that the Task Force had completed a benchmarking exercise regarding partner rotation provisions in a range of jurisdictions through leveraging the networks of certain large firms. Close to 90 responses had been received. She noted that some responses were quite complex.

She also noted that the Task Force had planned to survey audit committees but that the Board had advised a broader survey. Accordingly, this survey was released electronically to a broad audience and 400 responses had been received, although with a low response from the original target audience. A response to the survey had been received from IOSCO. In addition, the Task Force had also reached out to International Forum of Independent Audit Regulators (IFIAR), and presented on the topic to the CAG and the IESBA-National Standard Setters (NSS) liaison group. Finally, she noted that a survey has been sent to members of the Forum of Firms and also to the IFAC Small and Medium Practices (SMP) Committee.

Mr. Orbea indicated that the Task Force planned to process and analyze the large amount of data collected in the next few months.

Mr. Fleck observed that there would be significant activity on rotation in the next few months, including at the European Commission (EC) and the U.S. Public Company Accounting Oversight Board (PCAOB), and monitoring this activity would be important. He doubted that positions on the key matters being discussed will be aligned and that it will be difficult to find a single global standard in that respect.

## WAY FORWARD

The IESBA asked the Task Force to present a report on the research work, issues and preliminary recommendations at the September 2013 Board meeting.

### 8. Structure of the Code

Mr. Holmquist introduced the topic and noted that from his outreach to stakeholders, most are supportive of the project and are interested in it. A number of them have expressed concern about the length and complexity of the Code. Overall, however, there was implicit acceptance of the Code's content by those stakeholders with whom he had spoken. In this regard, he gave the example of Australia as a developed economy which has adopted the Code with little change as an endorsement of the Code. He also added that there is diversity of views as to whether the initiative should happen faster or slower.

Mr. Thomson then presented an update on the initiative, noting the general input received to date and other similar initiatives taking place in some jurisdictions such as the Netherlands. As with the NAS project, he cautioned about the need to undertake appropriate research prior to setting the forward direction, including with respect to any possible short-term actions within this initiative.

## TERMS OF REFERENCE

An IESBA member questioned whether the issue of "responsibility" should be part of the initiative as it did not appear to be a structural matter. It was noted that the title of the project is intended to be read broadly to include wording, drafting and clarity of language. In this regard, it was noted that the Code uses the passive voice frequently to convey a responsibility for compliance with specific requirements and that this responsibility can relate to the firm or a specific individual within the firm.

Another IESBA member noted that it would generally be apparent whether a requirement can be applied only at an individual or firm level. Mr. Thomson emphasized that the Working Group does not have a mandate to make any substantive changes to the Code. He noted that if the Board were to decide to address the "responsibility" issue based on the Working Group's research and analysis, the Board would need to consider a separate project.

The IESBA approved the Working Group's Terms of reference as presented.

## RESEARCH PLAN

Mr. Thomson outlined the Working Group's research plan, including the process for obtaining input, stakeholders to be approached, the scope of the research and areas to be covered, and possible ideas on which to seek stakeholder reactions.

In broadly supporting the research plan, IESBA members commented as follows:

- Planning would be important as what comes out of the process will be a reflection of the IESBA.
- Italy is one of the latest jurisdictions that have translated the Code and it may be useful to initiate a dialogue with the relevant parties in that jurisdiction. In this regard, Mr. Thomson noted that Mr. Marchese is on the Working Group and would be a link in that connection. It was also suggested that consideration be given to liaising with IFAC's Translations department.
- In the context of understanding the impediments to adoption, it would be helpful to seek to understand the genuine legal implications of adoption of the Code in different jurisdictions. In this regard, it was noted that a translated Code is not necessarily always adopted into national law. For

example, in Germany some of the principles of the Code have been embedded into the Commercial Code. It was suggested that consideration be given to exploring how a number of countries in Europe such as Spain and Germany have incorporated the Code into law. In that regard, it was suggested that consideration be given to exploring if the Fédération des Experts Comptables Européens could assist.

- On the IT side, the way forward may ultimately be an electronic Code. In this regard, it was suggested that focusing on hyperlinks only may be overly simplistic and a greater degree of sophistication may be necessary, for example, by addressing auditor independence in different dimensions such as at the individual, engagement team and firm levels, by nature of services provided, etc. In this connection, it was suggested that consideration be given to exploring the possibility of engaging in dialogue with the larger firms regarding how they have adopted the Code into their electronic systems and methodologies. It was also suggested that consideration be given to exploring discussions with IT consultants that have experience in developing such electronic resources. Finally, it was suggested that it would be better to wait until the restructured Code is completed before addressing how it could be packaged electronically.
- Consideration should be given to referring to the actions plans of IFAC member bodies with respect to their compliance with IFAC's Statement of Membership Obligation (SMO) 4<sup>8</sup> under IFAC's compliance program. These may provide useful information as a starting point.
- The focus should not be solely on Section 290 as many PAs do not have large firm resources.

#### SHORT TERM INITIATIVES

IESBA members commented as follows in response to Mr. Thomson's outline of a number of possible short-term initiatives:

- It should be made clear that high-level summaries of the Code are not a substitute for the Code. Nevertheless, it was noted that a number of stakeholders have found the Board's high-level summary of prohibitions in Section 290 with respect to audits of PIEs useful. It was also acknowledged that there is always the risk that users will focus solely on the summaries and not read the full Code. Even then, however, it would be better if users were to read the summaries than nothing.
- Consideration should be given to whether the illustrative high-level summary of prohibitions in Section 290 with respect to audits of entities that are not PIEs could be given a greater level of authority. It was also suggested that this proposed publication may not be a high priority at this time given resource constraints, and that it may be better to focus on first developing the proposed paper explaining the Board's views regarding the threats and safeguards approach in the Code. It was also noted that high-level summaries do not appear to be truly linked to the issue of the structure of the Code.
- Work was done in Australia some years ago on the use of plain English in legislation. It was noted that this made a real difference in clarity. It was suggested that the working group explore the commissioning of some sections of the Code to be redrafted using plain English for the Board's consideration.

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<sup>8</sup> SMO 4, IESBA *Code of Ethics for Professional Accountants*

- Professions by their nature operate largely using professional judgment, and that is what differentiates them from other occupations. A rules-based drafting would complicate the Code and its content. It was suggested that the Working Group could research codified codes in law.
- There would be benefit in pressing on with developing a style guide that could then be put to use by task forces on a prospective basis.

#### WAY FORWARD

The IESBA asked the Working Group to present preliminary findings from the research work at the September 2013 IESBA meeting.

#### 9. **Emerging Issues and Outreach**

Mr. Hannaford introduced the topic, providing background to the initiative and outlining the key elements of the proposed Terms of Reference for the Emerging Issues and Outreach Working Group (WG). He highlighted in particular the importance of ongoing consideration of emerging issues by the Board, the importance of the Board having an effective outreach strategy, and the objectives of the WG.

In agreeing to the proposed Terms of Reference, IESBA members commented as follows:

- With respect to emerging issues:
  - The most challenging aspect will likely be the filtering process.
  - Consideration should be given to finding an appropriate approach to tap into audit inspection findings, as these contain a wealth of information.
  - There may be a need to reflect on whether a rapid response mechanism is necessary to deal with urgent issues, as the existing due process is not designed to enable the Board to address such issues in a short time frame.
  - Consideration should be given to leveraging the Board's NSS liaison group with respect to regular updates on emerging issues.
- With respect to outreach:
  - This should be more of a team effort within the Board as opposed to the work of just one individual.
  - Outreach provides a good opportunity to gain insights into issues pertaining to the adoption and implementation of the Code. Accordingly, any relevant feedback should be shared with the Structure of the Code Working Group.
  - It would be important to reflect on the key principles that should guide the Board's outreach efforts, for example, the outcomes to be achieved, how to enhance stakeholder trust in the Board and its work, how to better leverage stakeholders, how to engage with them in a more structured way, and how to collaborate as opposed to just engaging with them.

Mr. Koktvedgaard noted that one of his responsibilities as CAG Chair-elect will be to be involved in the consideration of emerging issues and to promote the Board's work. Accordingly, he will be prepared to assist in coordinating efforts in this initiative.

Mr. Hannaford thanked the Board for the helpful input, noting that it will assist the WG in thinking about the appropriate processes with respect to emerging issues and outreach.

#### WAY FORWARD

The IESBA asked the WG to present preliminary proposals for the processes for consideration at the September 2013 IESBA meeting.

#### 10. **November 2012 Staff Questions and Answers (Q&A) Publication**

Mr. Siong introduced the topic, providing background to a substantive matter that has arisen regarding the response to one of the questions included in the November 2012 Staff Q&A publication. He noted that the Planning Committee had considered the matter recently and while it shared the view that the response remains appropriate, it felt that the question posed in the Q&A could be clarified. He then highlighted the proposed clarifications, noting the Planning Committee's concurrence with them.

Some IESBA members were of the view that the clarifications went beyond the Code, noting that the drafting of paragraph 290.151 in the Code is clear and intentional. They felt that a Q&A is not the appropriate vehicle for such clarifications and that if the Board felt the original response in the Q&A does not reflect the right position on this matter, the Board should amend the Code instead. They also felt that the proposed concept of "ability to directly influence the outcome of the audit" went beyond the concept of "influencing the audit." In addition, noting that the absence of a definition of the concept of a "client relationship partner" in the Code is causing part of the difficulty, they questioned whether the Board should be attempting to define that concept through a Q&A.

Other IESBA members expressed their view that certain roles taken on by a key audit partner (KAP) with respect to an audit client after having rotated off the audit engagement can create a threat to independence, and the only way to remove such a threat is to remove that individual from contact with the client. They felt that the clarifications were not extending the Code and the Q&A would be the appropriate vehicle to clarify this matter. They also noted that the issue is one of perception, even if the individual tried to recuse himself or herself from exerting influence on the audit.

An IESBA member agreed that the Q&A needs to be clarified but felt that the proposed clarifications could be a misinterpretation of the Code. It was felt that the "no" response could be misleading as the answer would depend on the circumstances, for example, why the Code should preclude a KAP from serving an immaterial component of a group audit client. It was suggested that what should be clarified should be the substance of paragraph 290.151 as opposed to the title or function of the individual. The IESBA member felt that it would be inappropriate to preclude the KAP from serving in a client relationship role, adding that the question should instead be whether any role that the KAP might take on would taint the cooling-off period.

Another IESBA member noted that the issue is one of principle, i.e., that the individual should not be in a position that enables him or her to influence the outcome of the audit. It was noted that the concept of recusal is one that is in the regulations of the US Securities and Exchange Commission (SEC) and not one that is in the Code. The IESBA member felt that the proposed interpretation did not flow from the

Code but extended it. Another IESBA member agreed, noting that the clarification should be made in the Code.

Mr. Fleck observed that the Code is not clear that there is a distinction between an individual who has a relationship with the client in a senior role and an individual who has only incidental contact with the client. He noted that these are two extremes and the Board did not intend to preclude the latter. He shared his personal view that if a KAP plays a client relationship role or similar with respect to the client after having rotated off the audit, that individual would be placed in a difficult situation relative to the audit unless he or she is meticulous in avoiding any type of influence on the audit. He noted that the issue has always been the chain of command, and it would appear logical that such individuals should be constrained from acting in such a role. He felt that the correct analysis should be that if there is a genuine risk that the KAP would be placed in a position of giving advice relative to the audit, then the KAP should not be placed in such a position.

An IESBA member noted that there are two separate questions to be addressed, namely what a KAP could do during the cooling-off period (which is being addressed in the Long Association project), and what meets the definition of being able to influence the outcome of the audit, which goes to the definition of "audit team." The IESBA member expressed the view that the Q&A is not necessarily addressing both questions, although they overlap with each other. It was felt that the two questions should be separated.

After further deliberation, the IESBA asked a subgroup of Board members comprising Ms. Orbea and Messrs. Franchini, Hughes and Thomson to further reflect on the issue and explore a consensus on the Q&A. The IESBA asked Ms. Spargo to act as arbiter to the subgroup.

#### WAY FORWARD

The IESBA asked the subgroup to report back on its discussions and a proposed way forward at the earliest opportunity.

### **11. Statement of Compliance with Relevant Ethical Requirements**

Mr. Holmquist welcomed Mr. Bruce Winter, IAASB member and Chair of the IAASB's Auditor Reporting drafting team DT-700, observing the session via teleconference, and Ms. Kathy Healy, IAASB Deputy Director. Mr. Siong then briefly introduced the topic, outlining the background to the matters presented for the IESBA's consideration. Ms. Healy noted that the proposals on which the IESBA's views were being sought were part of the package of proposed changes to the standard auditor's report, which the IAASB would be considering at its June 24-28, 2013 meeting with a view to approving them for exposure.

In supporting the proposed requirement for the auditor to include in the auditor's report the statements that the auditor is independent within the meaning of the relevant ethical requirements and that the auditor has fulfilled the auditor's other ethical responsibilities under those (or other) ethical requirements, IESBA members expressed the following views, amongst other matters:

- In the event of a breach of an independence requirement, provided that the auditor has complied with the relevant ethical provisions addressing a breach of an independence requirement, there is no reason why the auditor should not be able to issue the same auditor's report as that which the auditor would issue if there had been no breach.
- It appears somewhat illogical for the auditor to include in the auditor's report a statement that the auditor is independent because if the auditor were not independent the auditor would not be able to make such a statement. Nevertheless, the value of the explicit statement is that it serves as a

confirmation of independence to users and makes clear the auditor's obligations with respect to the entity.

- Anything that enhances users' confidence in the audit is worthy of support, and these proposals are one way to help achieve this.
- Consideration should be given to giving the statements greater prominence by placing them in a separate paragraph in the revised auditor's report.

With respect to the proposal that the auditor name the source of the relevant ethical requirements in the auditor's report, it was noted that doing so would lend credibility to the auditor's statement of independence. It was also noted that naming the source provides a critical piece of information to users, especially with respect to transnational audits. However, it was suggested that only the source should be specified and not all the details to avoid over-complicating the disclosure.

Mr. Holmquist thanked Mr. Winter and Ms. Healy for their participation, noting that the IESBA would welcome the opportunity to provide further feedback on this topic once the IAASB has heard back from respondents on the exposure draft.

## **12. PIOB Observer's Remarks**

Mr. Bhave briefly remarked that the Board discussions were encouraging and interesting. He noted that some progress had been made on the Suspected Illegal Acts project, which is the most important project on the Board's agenda. He noted that society and governments are recognizing that confidentiality cannot be used to hide illegal acts and organizations are being compelled to disclose such acts, for example, money laundering. He was encouraged that the IESBA appears to be moving in this direction. He was also encouraged that the Board is not taking a narrow legal view because an ethics code must go beyond the law. He was of the view that it had been a fruitful discussion from the public interest perspective.

He also felt that the second important and challenging project on the Board's agenda is the Non-Assurance Services project, which involves identifying the resulting conflicts and finding solutions, whether these be prohibition or mitigation.

Mr. Holmquist thanked Mr. Bhave for his observations.

## **13. Next Meeting**

The next meeting of the IESBA is scheduled for September 16-18, 2013 in Sydney, Australia.

## **14. Closing Remarks**

Mr. Holmquist thanked the participants for their contributions. He especially thanked Mr. Fleck, who was attending his last Board meeting in his capacity as outgoing CAG Chair, for his valuable contributions to the Board's work. On behalf of the Board, Mr. Holmquist conveyed his best wishes to Mr. Fleck. Mr. Holmquist then closed the meeting.