

## Inducements – Summary of Significant Comments, Issues and Task Force Proposals

### How the Project Serves the Public Interest

The Inducement project aims to strengthen the provisions in Part 2<sup>1</sup> of the [International Code of Ethics for Professional Accountants \(including International Independence Standards\)](#) (the “restructured Code”) to assist professional accountants in business (PAIBs) in better dealing with the offering and accepting of inducements while complying with the fundamental principles, in particular the principles of integrity, objectivity and professional behavior.

The proposed enhancements to Part 2 are also applicable to professional accountants in public practice (PAPPs). This is because it is likely that circumstances PAPPs encounter involving inducements that might create threats to compliance with the fundamental principles would be similar to those encountered by PAIBs. Accordingly, consequential and conforming amendments are reflected in Part 3,<sup>2</sup> Part 4A<sup>3</sup> and Part 4B<sup>4</sup> of the Code.

This project was formerly referred to as Phase 2 of the [Review of Part C of the Code Project](#) (Part C) project.

### Introduction

1. In September 2017, the IESBA released [Proposed Revisions to the Code Pertaining to the Offering and Accepting of Inducements](#) (Inducements ED) with a December 8, 2017 comment deadline.
2. This paper summarizes significant comments and issues based on respondents’ feedback on the Inducements ED, and is organized as follows:
  - A. Background
  - B. Overview of responses
  - C. Feedback on proposed Section 250
    - I. Definition of an inducement
    - II. Inducements prohibited by laws and regulations
    - III. Intent test
    - IV. Inducements with intent to improperly influence behavior
    - V. Definition of “trivial and inconsequential”
    - VI. Relevant factors
    - VII. Reasonable and informed third party (RITP) test

<sup>1</sup> Part 2– Professional Accountants in Business, Section 250, *Inducements, Including Gifts and Hospitality*

<sup>2</sup> Part 3 – Professional Accountants in Public Practice, Section 340, *Inducements, Including Gifts and Hospitality*

<sup>3</sup> Part 4A – Independence for Audit and Review Engagements, Section 420, *Gifts and Hospitality*

<sup>4</sup> Part 4B – Independence for Assurance Engagements Other than Audit and Review Engagements, Section 906, *Gifts and Hospitality*

- VIII. Inducements with no intent to improperly influence behavior
  - IX. Addressing threats
  - X. Immediate or close family members
- D. Feedback on proposed Section 340
  - E. Feedback on proposed conforming amendments to independence provisions
  - F. Other matters
3. The Task Force Chair will provide an update to IESBA on the feedback received from the IESBA CAG during its March 2018 meeting.

## **A. Background**

4. In early 2013, the IESBA approved the Part C project to strengthen Part C of the extant Code to better promote ethical behavior by PAIBs.
5. The IESBA completed Phase 1 of the project in December 2015 which primarily dealt with the issue of pressure and the preparation and presentation of information relating to PAIBs (see Part C close-off document [Changes to Part C of the Code Addressing Preparation and Presentation of Information, and Pressure to Breach the Fundamental Principles](#)).
6. In December 2017, the IESBA finalized the revised and restructured Code which includes restructuring changes to the Part C close-off document and revised provisions to clarify the applicability of Part C of the extant Code to professional accountants in public practice (PAPPs). Subject to be approval of the Public Interest Oversight Board’s approval of due process, it is anticipated that the text of the restructured Code will be released in April 2018.
7. Formerly referred to as Part C Phase 2, the Inducements project is due to be completed in June 2018, and involves a review of the provisions relating to inducements in the Code for both PAIBs and PAPPs. The proposed inducements provisions are drafted using the new structure and drafting convention for the Code and also include conforming amendments to align to the final conclusions reached as part of the Safeguards project. The finalization of the inducements provisions will complete the missing piece of the restructured Code.

### *Recap of Proposals*

8. The proposals in the Inducements ED, amongst other matters:
- Clarify the description of the term “inducement” and provide additional examples of inducements.
  - Emphasize professional accountants’ responsibilities to comply with relevant laws and regulations relating to bribery and corruption when offering or being offered inducements. The

proposals also reminded professional accountants of their responsibilities under Sections 260<sup>5</sup> and 360<sup>6</sup> relating to non-compliance or suspected non-compliance with laws and regulations.

- Prohibit the offering and accepting of inducements by professional accountants that are made with intent to improperly influence the behavior of the recipients.
- Clarify how the conceptual framework set out in Section 120<sup>7</sup> should be applied to identify, evaluate and address threats to compliance with the fundamental principles created by the offering and accepting of inducements.
- Provide additional provisions on the offering and accepting of inducements by immediate or close family members.
- Align the provisions relating to inducements for PAPPs (Part 3 of the restructured Code) with the enhanced provisions for PAIBs (Part 2 of the restructured Code).

## B. Overview of Responses

9. Comment letters were received from 46 respondents, as listed in Appendix 1 to this paper. It is noted that the IESBA did not receive any responses from members of the Monitoring Group.
10. The respondents to the Inducements ED comprise of the following:

Category of Respondent	Number of Responses
Regulators and Oversight Authorities (Regulators)	4
National Standard Setters (NSS)	2
Firms	8
Public Sector Organization (PSO)	1
IFAC Member Bodies <sup>8</sup> (MBs)	23
Other Professional Organizations (OPs)	5
Investors and Other Users of Financial Statements	1
Individuals	2
<b>Total</b>	<b>46</b>

### General Support for the Proposals

11. There was overwhelming overall support for the IESBA's proposals to enhance the provisions relating to inducements in Parts 2, 3, 4A and 4B of the restructured Code.

<sup>5</sup> Part 2, Section 260, *Responding to Non-Compliance with Laws and Regulations*

<sup>6</sup> Part 3, Section 360, *Responding to Non-Compliance with Laws and Regulations*

<sup>7</sup> Part 1 – Complying with the Code, Fundamental Principles and Conceptual Framework, Section 120, *The Conceptual Framework*

<sup>8</sup> Certain IFAC Member Bodies also hold the role of ethics standard setter in their jurisdictions.

12. One respondent considered the proposals to be particularly relevant and topical in light of recent events in their jurisdiction.<sup>9</sup> Another respondent, an institutional investor<sup>10</sup> who is a large public sector pension fund in the US, provided strong support for the proposals, particularly in relation to compliance with the relevant laws and regulations and with prohibition of offering and accepting inducements with improper intent.

“CalSTRS recently participated in the PCAOB’s International Institute on Audit Regulation with Audit Regulators attendees from around the world. The importance of auditor independence was a major theme of this meeting along with a discussion of the potential problems with inducements. These discussions underscore the need for the proposed revisions to the Code on Inducements.”

13. Only a few respondents took the overall view that the proposals were too rule-based, detailed and complicated and that the current principled-based threats and safeguards approach is sufficiently clear.<sup>11</sup> A small number also felt that the proposals might lead to onerous documentation.<sup>12</sup>

### C. Feedback on Proposed Section 250

#### Definition of an inducement

##### *Feedback from Respondents*

14. Respondents were generally supportive of the definition of inducement as set out in paragraph 250.4 A1. For instance, one respondent stated:

“We believe the explanation of the umbrella term of “inducements” and related examples, provided in paragraph 250.4 A1, would be helpful to users of the Code.”<sup>13</sup>

15. Similarly, another respondent expressed their support for the examples of inducements as follows:

“This guidance aligns with the Extant code S350.1 (inducements receiving offers) but expands it to include Preferential treatment, entertainment, facilitation payments and donations and employment opportunities so this adds to the Extant code and the guidance is helpful and clear. Inducements by promising people employment opportunities or enriching recipients through donations or facilitation payments are powerful incentives used to induce. These examples are very relevant.”<sup>14</sup>

16. A few respondents felt that the proposals attempted to encapsulate too many concepts into one single definition and therefore causing confusion as to what constitute an inducement for the purpose of

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<sup>9</sup> **Regulators:** IRBA

<sup>10</sup> **Investors:** CalSTRS

<sup>11</sup> **MBs:** IDW, NYSSCPA; **OPs:** EFAA, SMPC

<sup>12</sup> **Firms:** PWC; **OPs:** EFAA, SMPC

<sup>13</sup> **MBs:** ICAS

<sup>14</sup> **MBs:** SAICA

complying with the Code. Another respondent suggested that the term should be included in the glossary.<sup>15</sup>

17. A few respondents also queried whether defining inducements as a neutral term in the proposals will lead to confusion given the negative connotations often attached to the term as noted in the explanatory memorandum and the lack of guidance on what constitute an acceptable inducement.<sup>16</sup> There was also a view that the definition should not capture certain gifts and hospitality as they may be offered only as a social courtesy and may not contain any intent to improperly influence the behavior of another individual.<sup>17</sup>
18. It was also suggested that the list of examples be expanded to better explain the definition and proposed additional example were provided for IESBA's consideration.<sup>18</sup>

#### *TF Preliminary Proposals*

19. Upon consideration of the respondents' comments, the Task Force agreed that the definition as set out in paragraph 250.4 A1 can be further refined by:
  - Expressly stating that the influence of an inducement could be either positive or negative. This revision more clearly brings out the neutrality of an inducement in that its impact on an individual is not necessary negative.
  - Removing the phrase "but not necessarily with the intent to improperly influence that individual's behavior" in order to further clarify that an inducement is a neutral term.
  - Adding new examples to further explain the term.
20. The Task Force also agreed that the definition of an inducement should be included in the glossary of the Code. This is consistent with the approach taken in relation to other key terms such as "reasonable and informed third party".

### **Inducements Prohibited by Laws and Regulations**

#### *Feedback from Respondents*

21. There was general support for the proposals on how a professional accountant should deal with inducements that are illegal. A few respondents also provided their explicit support.<sup>19</sup>
22. A few respondents suggested that the proposals did not add to what is already covered under the fundamental principle of professional behavior.<sup>20</sup> These comments, however, may be contrasted with

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<sup>15</sup> **MBs:** CPAC

<sup>16</sup> **Regulators:** IRBA; **Firms:** DTT, EYG, PwC; **MBs:** SAICA

<sup>17</sup> **Firms:** EYG, PwC

<sup>18</sup> **Regulators:** IRBA, **Firms:** EY; **MBs:** ICAEW

<sup>19</sup> **NSS:** APESB; **Firms:** DTT, PwC; **Investors:** CALSTRS

<sup>20</sup> **MBs:** WPK, **OPs:** EFAA

the view of other respondents that the understanding of the relevant laws and regulations will need to be communicated to others, such as those within the organization and close family members.<sup>21</sup>

23. It was suggested that this section should cover all illegal inducements and not only those related to bribery and corruption.<sup>22</sup>

#### *TF Proposals*

24. The provisions in relation to illegal inducements were developed to remind professional accountants of their responsibility to comply with the law when facing bribery and corruption. Accordingly, the Task Force was of the view that these provisions should not be removed even though the requirement is also more broadly covered under the fundamental principle of professional behavior.
25. The Task Force agreed to clarify in the proposals that illegal inducements are not limited to those related to bribery and corruption.

### **Intent Test**

#### *Feedback from Respondents*

26. A majority of the respondents did not raise any concerns about the application of the intent test in the proposals.
27. A number of respondents,<sup>23</sup> however, suggested that the intent of an offeror is not the appropriate criterion to assess the threats created by an inducement. Comments raised include:
- A professional accountant cannot know with certainty the actual intent of another individual unless they have been explicitly informed.<sup>24</sup>
  - The focus should be on potential effect rather than intent. It should not matter what the intent is if an inducement impairs the objectivity or integrity of the receiver.<sup>25</sup>
  - The intent test appears to add a new layer of the RITP test, i.e., to assess the intent of another person instead of whether fundamental principles have been impaired.<sup>26</sup>
  - Whether the concept of “improper intent” is suitable for a global code in light of cultural differences.<sup>27</sup>
  - The intent test may unnecessarily over complicate matters.<sup>28</sup> It may also be difficult to

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<sup>21</sup> **MBs:** ACCA, AE

<sup>22</sup> **NSS:** APESB; **MBs:** CAANZ

<sup>23</sup> **Firms:** KPMG; **MBs:** CCAB, IDW, WPK; **OPs:** EFAA, SMPC

<sup>24</sup> **MBs:** CPAC, IDW

<sup>25</sup> **MBs:** WPK; **OPs:** EFAA

<sup>26</sup> **MBs:** WPK

<sup>27</sup> **OPs:** EFAA, SMPC

<sup>28</sup> **MBs:** CCAB; **OPs:** EFAA

operationalize as it requires an individual to objectively assess the intent of another.<sup>29</sup>

28. It was also suggested that the question of whether or not the recipient is actually influenced, regardless of the offeror's intent, is not addressed.<sup>30</sup>

#### *TF Proposals*

29. The IESBA had previously considered the merits of other tests, such as whether an inducement could result in the obtaining of an undue benefit, and concluded that intent of the offeror is a key tenet in assessing the potential impact an inducement may have on the behavior of another individual.
30. Following its deliberations, the Task Force maintained its view that the intent test is the appropriate test for the following reasons:
- Intent is an important element in determining whether an inducement may create threats to the fundamental principles, particularly integrity, objectivity and professional behavior.
  - Accepting or offering an inducement, where the professional accountant concludes there is intent to improperly influence behavior, would breach the fundamental principle of integrity. As such, the use of the intent test is consistent with the threat and safeguards approach of the Code.
  - The intent test takes into account the cultural and social practices and the use of the RITP test will overcome the difficulty in assessing actual intent.
  - If there is no intent to improperly influence the behavior of another individual, the professional accountant should then apply the conceptual framework to assess the threats created by an inducement. This addresses the position where the professional accountant is actually influenced even in the absence of intent to improperly influence behavior.
31. To clarify the role of intent in assessing the threats to compliance with the fundamental principles created by inducements, the Task Force agreed to add a paragraph to stress the link between an inducement with intent to improperly influence behavior and a breach of the fundamental principle of integrity. Refer to revised paragraph 250.9 A1 in **Agenda Item 5-B**.

### **Inducements with Intent to Improperly Influence Behavior**

#### *Feedback from Respondents*

32. A number of respondents<sup>31</sup> expressed their support for the proposals to prohibit the offering and accepting of inducements made with improper intent whether they are trivial and inconsequential or not. There are no safeguards that can reduce the threats created by these inducements to an

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<sup>29</sup> **Firms:** KPMG

<sup>30</sup> **MBs:** ACCA

<sup>31</sup> **Regulators:** UKFRC; **NSS:** APESB, NZAuASB; **MBs:** ICAS, KICPA

acceptable level. A few respondents further suggested it should be explicitly stated that inducements with improper intent, even if trivial and inconsequential, should not be permitted.<sup>32</sup>

33. Other respondents,<sup>33</sup> however, take the view that an inducement that is trivial and inconsequential is either unlikely to have any improper intent or have any influence over the behavior of the recipient or another person. It was noted that a professional accountant should have sufficient integrity to discount such inducements.<sup>34</sup> It was further suggested that a reasonable person is unlikely to conclude such an inducement will have any undue influence.<sup>35</sup> As such, the proposals would place unnecessary burden on professional accountants if they are required to assess the threats created by these inducements. Finally It was also queried whether the use of the term is circular given one of the relevant factors includes the value of an inducement.<sup>36</sup>
34. A few respondents felt that more clarity is necessary on what constitutes improper intent or an effort to improperly influence another person's behavior.<sup>37</sup> These respondents suggested that the proposals are unclear about what circumstances under which an inducement would be acceptable. It was suggested that that the language used in paragraph 350.2<sup>38</sup> in the extant Code may be useful in this regard. Other respondents suggested that an inducement is one made with improper intent when:
- The intent or influence is to cause the accountant to act unethically or breach one of the fundamental principles;<sup>39</sup> or
  - It gives the inducement in an attempt to gain an unfair advantage.<sup>40</sup>
35. Other suggestion made for the IESBA's consideration include whether:
- The target of influence should be expanded to include not only the recipient but also the professional accountant. An inducement made to a recipient other than a professional accountant could be made with the intent of influencing the behavior of that professional accountant as well as, or instead of, the actual recipient.<sup>41</sup>
  - Proposed paragraph 250.10 A1 in **Agenda Item 5-B** should be elevated to a requirement.<sup>42</sup>
  - It might be helpful to explicitly state the need to use professional judgement to distinguish

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<sup>32</sup> **NSS:** APESB; **MBs:** ICAS

<sup>33</sup> **Regulators:** IRBA; **MBs:** AE, CCAB, CPAC, IDW; **Firms:** EYG, PwC; **OPs:** SMPC

<sup>34</sup> **MBs:** AE

<sup>35</sup> **MBs:** CPAC

<sup>36</sup> **Firms:** DTT

<sup>37</sup> **Regulators:** IRBA, NASBA, UKFRC; **Firms:** DTT, KPMG

<sup>38</sup> Extant Part C – Professional Accountants in Business, Section 350, *Inducements*

<sup>39</sup> **Regulators:** UKFRC

<sup>40</sup> **Firms:** DTT

<sup>41</sup> **Regulators:** IRBA, UKFRC

<sup>42</sup> **Regulators:** IRBA

improper influence from influence.<sup>43</sup>

- The offering of gifts and hospitality should be treated separately in the proposals since they are common occurrences and predominately not made with an intent to improperly influence.<sup>44</sup> It was suggested that the treatment of gifts and hospitality that are trivial and inconsequential should align with Sections 420 and 906.

#### *TF Preliminary Proposals*

36. In light of the comments received, the Task Force reexamined its basis for requiring a professional accountant to assess the intent behind an inducement even if it is trivial and inconsequential. After extensive deliberations, the Task Force reaffirmed its view that all inducements made with improper intent should be prohibited, even if they are trivial and inconsequential.
37. The Task Force does not consider the use of the term as circular. The value of an inducement is only one factor to be considered when determining the intent of an inducement. The same value of an inducement may be regarded very differently for example if it is provided to a public sector official who is involved in deciding on the award of a consultancy contract for which the professional accountant is in the process of tendering.
38. The Task Force was also of the view that the likelihood of a trivial and inconsequential inducement being made with improper intent should be low particularly if it is part of business, social or cultural norm. As such, the consideration of such inducements should be straightforward (and in many cases might be dealt with by way of appropriate policies tailored to meet the specific circumstances most often encountered) and should not create unnecessary burden on professional accountants.
39. In being responsive to the respondents' comments, the Task Force agreed that:
  - A new paragraph in explaining what an inducement that improperly influences behavior is will provide further guidance to readers in identifying these inducements. Refer to paragraph 250.4 A2 in **Agenda Item 5-B**.
  - The target of influence should be expanded to include not only the recipient but also another individual such as a professional accountant. Refer to paragraphs R250.7 and R250.8 in **Agenda Item 5-B**.
  - The proposals should expressly state the need to apply professional judgment as a useful reminder to professional accountants when determining whether there is any intent to improperly influence behavior. Refer to paragraph 250.10 A1 in **Agenda Item 5-B**.
40. To further clarify the rationale for the prohibition relating to inducements that are offered with an intent to improperly influence behavior, a new paragraph has been added to explain that the accepting or offering of such an inducement is a breach of the fundamental principle of integrity. Refer to paragraph 250.9 A1 in **Agenda Item 5-B**.

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<sup>43</sup> **MBs:** ICAS, KPMG

<sup>44</sup> **Firms:** DTT, PwC

41. In considering inducements with intent to improperly influence behavior, the Task Force also formed the view that the mere offering of such an inducement, whether accepted or not, may nonetheless create threats to compliance with the fundamental principles. This point was highlighted in paragraph 350.4 of the extant Code. Accordingly, the Task Force has proposed adding a new requirement and application material to ensure professional accountants also consider what other actions might be appropriate. Refer to paragraphs R250.11 and 250.11 A1 in **Agenda Item 5-B**.

### **Definition of “Trivial and Inconsequential”**

#### *Feedback from Respondents*

42. Whilst the majority of respondents did not state any concerns with applying the term ‘trivial and inconsequential’ in the context of inducements, a few suggested that the term may be difficult to apply in practice<sup>45</sup> or that the proposals should include further guidance on its meaning, such as a definition or a list of relevant factors.<sup>46</sup>

#### *TF Preliminary Proposals*

43. The Task Force notes that the term “trivial and inconsequential” is not a new term and had been used in Sections 260,<sup>47</sup> 290<sup>48</sup> and 291<sup>49</sup> of the extant Code dealing with inducements and is also used in the independence standards<sup>50</sup> of the restructured Code. The Task Force is of the view that establishing a definition of the term is not necessary for the purposes of this project.

### **Relevant Factors**

#### *Feedback from Respondents*

44. The respondents did not have any concerns with the use of relevant factors to assist professional accountants in determining the intent as well as evaluating the level of threats. One respondent has found the list to be helpful and expected that it will be of benefit to professional accountants as they exercise professional judgment.<sup>51</sup> A number of respondents have suggested additional factors to be added to the list.<sup>52</sup>
45. A few respondents particularly note the importance of cultural differences in assessing inducements.<sup>53</sup> These respondents suggested that cultural differences should be added as a factor

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<sup>45</sup> MBs: NYSSCPA

<sup>46</sup> **NSS:** NZAuASB; **MBs:** IBRACON, ICAP, SAICA; **Public Sector:** GAO

<sup>47</sup> Extant Part B – Professional Accountants in Public Practice, Section 260, *Gifts and Hospitality*

<sup>48</sup> Section 290, *Independence – Audit and Review Engagements*, paragraph 290.225, *Gifts and Hospitality*

<sup>49</sup> Section 291, *Independence – Other Assurance Engagements*, paragraph 291.156, *Gifts and Hospitality*

<sup>50</sup> Section 900, *Applying the Conceptual Framework to Independence for Assurance Engagements Other Than Audit and Review*, paragraph 900.21 A1

<sup>51</sup> **MBs:** CPAC

<sup>52</sup> **Regulators:** IRBA, NASBA; **MBs:** CAANZ, CPAC, ICAN, ICAS, JICPA, NYSSCPA

<sup>53</sup> **MBs:** ICAEW, IDW, SAICA, CCAB; **Firms:** PwC

for consideration.

46. Only one respondent expressed their concerns that by using the same factor to assess intent and evaluate the level of threats created by the offering or accepting of an inducement, it may have created a circular argument. This respondent queried how evaluating different situation using the same factors would lead to different conclusions.<sup>54</sup>

#### *TF Preliminary Proposals*

47. Whilst noting the IESBA's view that the use of conceptual framework provides a sufficient and comprehensive basis to dealing with ethical questions and dilemmas relating to inducements, regardless of the cultural context, the Task Force agreed to make explicit in the proposals that cultural practice is a factor for consideration. Refer to paragraph 250.10 A1 in **Agenda Item 5-B**.
48. The Task Force also added new factors to the list of factors in paragraph 250.10 A1 to assist professional accountants in determining intent or in evaluating the level of threats.

### **Reasonable and Informed Third Party Test**

#### *Feedback from Respondents*

49. Respondents generally did not raise any concerns about the express use of the reasonable and informed third party (RITP) test. One respondent explicitly agreed with the IESBA's proposals that "threats should be evaluated 'through the reasonable and informed third party lens'".<sup>55</sup>
50. It was suggested that the proposals introduced a new concept by distinguishing between objectivity in mind and in appearance<sup>56</sup> and that further clarification is required.<sup>57</sup> A few respondents recommended that the RITP test be replaced by a public perception or investor test.<sup>58</sup>
51. It was also recommended that the word "believes" be deleted from paragraphs R250.7 and R250.8 respectively to remove the apparent compromise of the RITP test by the professional accountant's subjective beliefs.<sup>59</sup>

#### *TF Preliminary Proposals*

52. Upon further consideration, the Task Force reaffirmed the IESBA's view that the RITP test is the appropriate objective test in assessing the perceived intent of an inducement.
53. It is further noted the issues raised by respondents to the Inducements ED about the RITP test were similar to those raised by respondents to the Safeguards Exposure Draft which had already been deliberated by the IESBA.

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<sup>54</sup> **Firms:** DTT

<sup>55</sup> **Regulators:** UKFRC

<sup>56</sup> **MBs:** AE; **OPs:** EFAA

<sup>57</sup> **MBs:** IDW

<sup>58</sup> **Regulators:** IRBA; **MBs:** SAICA

<sup>59</sup> **Firms:** GTIL; **MBs:** CPAC, GT

54. The Task Force noted that as it is the accountant who has to decide what conclusion a reasonable and informed third party would make, the use of the word “believes” does not affect the objectivity of the RITP test. However, to avoid confusion, the Task Force agreed to replace the word “believes” with “considers”. Refer to paragraphs R250.7 and R250.8 in **Agenda Item 5-B**.

### **Inducements With No Intent to Improperly Influence Behavior**

#### *Feedback from Respondents*

55. A few respondents pointed out that this is the only key area in the proposals that does not contain any requirement and that the provisions could be clearer about what inducements are covered under this area<sup>60</sup>. Other respondents suggested the threshold of “trivial and inconsequential” inducements should be more clearly stated.<sup>61</sup>
56. A few respondents also queried the effectiveness of the examples of threats set out in paragraph 250.13 A1 and provided suggested revisions.<sup>62</sup>

#### *TF Preliminary Proposals*

57. The Task Force agreed that it would be clearer if there were an explicit requirement to direct how a professional accountant should treat inducements that are not illegal and not made with actual or perceived improper intent. Such an approach is also consistent with the approach taken in other parts of the proposals. Refer to paragraph R250.11 in **Agenda Item 5-B**.
58. To clarify the threshold of “trivial and inconsequential”, new application material has been added to explain that the threats created by an inducement that is without improper intent and is also trivial and inconsequential will not usually be at an unacceptable level. Refer to paragraph R250.12 A1 in **Agenda Item 5-B**.
59. In light of respondents’ comments, the Task Force has also revised the examples of threats. Refer to paragraph 250.12 A2 in **Agenda Item 5-B**.

### **Addressing Threats**

#### *Feedback from Respondents*

60. Despite it being a more obvious option that might eliminate a threat, there was strong support from respondents that the proposals should include the option of not offering or accepting an inducement if a threat cannot be reduced to an acceptable level.<sup>63</sup>
61. Some respondents have queried the usefulness of the examples of action that might be safeguards to address threats created by inducements. A few respondents also felt that the proposals have an

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<sup>60</sup> **Regulators:** UKFRC; NSS: APESB; **MBs:** MIA

<sup>61</sup> **MBs:** CAANZ, ICAEW, ICAS

<sup>62</sup> **MBs:** AE, CPAC, ICAS; **Firms:** DTT

<sup>63</sup> **Regulators:** IRBA, NASBA, UKFRC; **NSS:** APESB; **Firms:** DTT; **MBs:** ACCA, AE, HKICPA, ICAS, WPK

unbalanced focus on gifts and that there should be more non-financial inducements as well as examples more relevant to SMPs.<sup>64</sup>

62. With regards to the example of donation, among other matters, a few respondents noted that the donation itself may be of benefit to the professional accountant<sup>65</sup> or the safeguard might place the accountant in a difficult position in some instances.<sup>66</sup>
63. With regards to the example of registering an inducement, there were differing views provided by respondents. Whilst some respondents suggested further actions that could be taken by the professional accountant,<sup>67</sup> others felt the example adds to an already overwhelming reporting requirements.<sup>68</sup> One suggestion provided was for larger organizations to have a policy on accepting gifts and hospitality that has a threshold above which a professional accountant is required to consult, seek approval as well as register gift or hospitality.<sup>69</sup>

#### *TF Proposals*

64. In light of respondents' comments, the Task Force has included the option of declining or not offering an inducement as an example of action that may eliminate a threat. Refer to paragraph 250.13 A3 in **Agenda Item 5-B**.
65. The Task Force also considered the comments received regarding the examples of actions that might be safeguards and made revisions as appropriate. In this regard, the Task Force has also added a new example on returning a gift after it has been initially accepted which provides guidance in circumstances where an inducement has been accepted "in the heat of the moment". Refer to paragraph 250.13 A4 in **Agenda Item 5-B**.

#### **Immediate or Close Family Members**

##### *Feedback from Respondents*

66. The respondents did not generally have any concerns about expanding the scope of the proposals to inducements offered by or to immediate or close family members of a professional accountant. A few respondents suggested that the professional accountant's responsibility regarding the actions of others should not be restricted to the accountant's immediate and close family members.<sup>70</sup> Suggestions included related parties or individuals who are in business with the professional accountant<sup>71</sup> or the immediate or close family member of a counterparty.<sup>72</sup> It was also queried if the

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<sup>64</sup> **Regulators:** IRBA; **MBs:** ICAEW, WPK; **OPs:** EFAA, SMPC

<sup>65</sup> **Regulators:** IRBA, **MBs:** ICAEW, ICAS, NYSSCPA

<sup>66</sup> **NSS:** APESB

<sup>67</sup> **MBs:** HKICPA, ICAS

<sup>68</sup> **Firms:** EYG; **MBs:** NYSSCPA; WPK

<sup>69</sup> **Firms:** EYG

<sup>70</sup> **Regulators:** IRBA; **MBs:** AE

<sup>71</sup> **Regulators:** IRBA

<sup>72</sup> **Firms:** DTT

scope should be broadened to encompass wider family members.<sup>73</sup>

67. A few respondents queried how the “closeness of the relationship” can be effectively assessed or evaluated.<sup>74</sup> It was further suggested that the factors relevant to inducements involving family members should be consistent with the factors relevant to threats created by family and personal relationships in audit and other assurance engagements.<sup>75</sup>
68. Some respondents queried the level of knowledge required of a professional accountant, including whether:
- More clarity is required on the scope of a professional accountant’s responsibility to “remain alert” as it may be construed as a monitoring responsibility.<sup>76</sup>
  - The proposals should specifically state that professional accountants only need to act when they become aware of a threat and that they do not need to specifically enquire of the personal business of their immediate and close family members.<sup>77</sup>
  - The term “has reason to believe...” in the requirement provision assumes access to certain information that a professional accountant may not have at the time. It may also place the professional accountant in the position of having to demonstrate they had no reason to believe with the benefit of hindsight.<sup>78</sup>
69. There was a view that it is the impact or potential impact on a professional accountant that must be considered and that the nature of the relationships specified in paragraph 250.15 A1 is not relevant to assessing threat to the fundamental principles.<sup>79</sup>
70. A few respondents questioned whether any safeguard would be available since it has already been determined that there is intent to improperly influence behavior.<sup>80</sup> It was suggested that the safeguards that are available would be severely limited given a third party cannot be compelled to take any particular course of action (e.g., returning a gift) and that the only likely available option is to eliminate the threat (e.g. resignation).

#### *TF Preliminary Proposals*

71. The Task Force did not consider it necessary to broaden the scope of the section to other family members or other related parties of either the professional accountant or the counterparty. The intention of this section is to require the professional accountant to go beyond simple “non-involvement” as required more generally in paragraphs R250.7 and R250.8 and to actively

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<sup>73</sup> **MBs:** ICAEW

<sup>74</sup> **Regulators:** SCM; **MBs:** SAICA; **NSS:** APESB

<sup>75</sup> Part 4A, Section 521, *Family and Personal Relationships*; Part 4B, Section 921, *Family and Personal Relationships*.

<sup>76</sup> **MBs:** ACCA, IBRACON, ICAS, **Firms:** DTT, KPMG, DTT

<sup>77</sup> **MBs:** ICAS

<sup>78</sup> **Firms:** BDO, DTT, **MBs:** IDW; **OPs:** SMPC

<sup>79</sup> **MBs:** ACCA

<sup>80</sup> **MBs:** ACCA, CPAC, ICAEW

discourage other members of their close or immediate family from offering or accepting inducements with intent to improperly influence another individual where it may impact on their professional activities.

72. The Task Force is of the view that intent is an important element in determining how an inducement may create threats to the fundamental principles, particularly objectivity and integrity. In this regard, the closeness of the relationship will assist a professional accountant in determining the intent behind the inducements.
73. The Task Force also considered the comments about the relevance of the examples of actions that might be safeguards set out in paragraph 250.13 A4. In this regard, the Task Force noted that since the inducement was not offered to or by a professional accountant, the level of threat created is not always so high that there are no safeguards available to reduce it to an acceptable level. Further, the Task Force was of the view that the safeguard of transparency (for example with senior management or those charged with governance of a professional accountant's employing organization) may go a long way towards reducing the level of threats.
74. The Task Force reiterated the IESBA's view, as stated in the explanatory memorandum, that the term "closeness of a relationship" is intended to cover the degree of connection between the two parties in the relationship. The Task Force noted that the closeness of a relationship is already used elsewhere in the Code and does not consider further clarification to be necessary. It is also of the view that this aspect of a relationship, in addition the nature of a relationship, is an important element in determining the intent behind an inducement as well as the level of threats created.
75. In response to respondents' concerns that the term "remain alert" may be misconstrued as a monitoring responsibility or requiring comprehensive knowledge of such situations, the Task Force agreed to further explain this term in the Basis for Conclusion. The Task Force also revised paragraph R250.15 to clarify that a professional accountant is only required to take further actions when they become aware of an inducement being offered to or by an immediate or close family member. Refer to paragraph R250.16 in **Agenda Item 5-B**.

#### **Matters for IESBA Consideration**

1. IESBA members are asked for views about the Task Force's preliminary proposals in response to the respondents' comments and the preliminary revisions to Section 250 in **Agenda Item 5-B**.

#### **D. Feedback on Proposed Section 340**

76. There were strong support from respondents that the provisions relating to inducements for PAPPs should be aligned with the proposals in Section 250 for PAIBs.
77. It is noted that majority of the comments raised in relation to the proposed Section 250 is also applicable to Section 340. Accordingly, the Task Force has also revised Section 340 to align with the proposed revisions made to Section 250.

78. Additional comments and suggestions raised in relation to the proposed Section 340 include:
- Whether the proposals could be further streamlined to reduce the level of duplication.<sup>81</sup>
  - Whether the term “client” should include potential clients, related parties of the client or persons that can influence the clients such as entities or persons that have control or significant influence over the client.<sup>82</sup>
  - It is suggested that a requirement be added for the professional accountant to inform those charged with governance at the professional accountants' clients of any inducements offered and received.<sup>83</sup>
79. The Task Force has considered all the comments received and made the necessary changes as appropriate. With regards to the comments about prospective clients, it is noted that, similar to paragraphs R250.7 and R250.8, the proposed paragraphs R340.7 and R340.8 also do not confine the offeror or offeree to a client.

#### **Matters for IESBA Consideration**

2. IESBA members are asked for views about the Task Force's preliminary proposals in response to the respondents' comments and the preliminary revisions to Section 340 in **Agenda Item 5-B**

## **E. Feedback on Proposed Conforming Amendments to Independence Provisions**

### **Proposed Sections 420 and 906**

#### *Feedback from Respondents*

80. There was strong support from respondents for the restructuring changes and the proposed conforming amendments to proposed Sections 420 and 906. A few respondents, however, disagreed with the need for the conforming amendments and, instead, recommended that no substantive change should be made to the extant provisions.<sup>84</sup> This view may be contrasted with the views of other respondents who suggested that the scope of independence provisions should be expanded to cover all inducements, the offering of inducements as well as immediate and close family members.<sup>85</sup>
81. A few respondents suggested that better linkage should be made between the provisions in Section 420 and 906 with the provisions in Section 340.<sup>86</sup>
82. There was a concern<sup>87</sup> that the language used to refer readers of Sections 420 and 906 to the material

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<sup>81</sup> **OPs:** SMPC

<sup>82</sup> **MBs:** ICAS, JICPA; **Firms:** GT

<sup>83</sup> **Firms:** BDO

<sup>84</sup> **Firms:** PwC; **MBs:** ICAEW; **OPs:** EFAA

<sup>85</sup> **Regulators:** IRBA, UKFRC; **MBs:** ACCA, ICAP

<sup>86</sup> **NSS:** NZAuASB; **MBs:** KICPA

<sup>87</sup> **Firms:** PwC, KPMG; **MBs:** ICAEW

in Section 340 may lead them to the conclusion that non-compliance with a requirement in Section 340 would also constitute a breach of the independence provisions, thereby triggering the need to apply the breach of independence provisions set out in Sections 400<sup>88</sup> and 900. Those respondents believed that it might be possible to not comply with the provisions in Section 340 without resulting in a breach of the independence provisions. It was suggested that this was particularly the case if the person who did not comply with the provisions in Section 340 was not part of the audit or assurance engagement.<sup>89</sup>

#### *TF Preliminary Proposals*

83. The Task Force noted that the development of new requirements and application material in the independence sections to fully align with the changes in Section 340 warrants deliberations by the IESBA. The Task Force was of the view that further expansion of Sections 420 and 906 beyond the proposed revisions should not form part of this project.
84. The Task Force further noted that the reference to Section 340 in Sections 420 and 906 is intended to remind firms, audit and assurance team members to also refer to, and apply as appropriate the provisions in Section 340. To address the concern that the reference to Section 340 is creating confusion about whether non-compliance with a requirement in Section 340 would also cause a breach of the independence provisions, two new proposed paragraphs have been added to each of the independence sections. Refer to paragraphs 420.3 A1, 420.4 A1, 906.3 A1 and 906.4 A1 in **Agenda Item 5-B**.
85. The first new proposed paragraph reminds readers that, in accordance with Section 340, gifts and hospitality should not be accepted where the intent is to improperly influence behavior even if the value is trivial and inconsequential. Refer to paragraphs 420.3 A1 and 906.3 A1 in **Agenda Item 5-B**.
86. The second new proposed paragraph more broadly reminds readers of the requirements and application material in Section 340 relating to inducements offered to or offered by an audit/assurance client. The proposed paragraph further states that non-compliance with Section 340 may have implications on the independence of the firm or audit/assurance team member and thereby prompts that further action may need to be taken. Refer to paragraphs 420.4 A1 and 906.4 A1 in **Agenda Item 5-B**.

#### **Matters for IESBA Consideration**

3. IESBA members are asked for views about the Task Force's preliminary proposals in response to the respondents' comments and the preliminary revisions to Sections 420 and 906 in **Agenda Item 5-B**.

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<sup>88</sup> Part 4A, Section 400, *Applying the Conceptual Framework to Independence for Audit and Review Engagements*

<sup>89</sup> Firms: PwC

## Future Project

87. The responses were mixed with regards to the question of whether IESBA should consider a future project to achieve further alignment of the proposed Sections 420 and 906 with the proposed Section 340. Overall, a small majority of the responses indicates there is no need for IESBA to consider such a project at present.
88. The Task Force is of the view that there is merit in aligning proposed Section 420 and 906 with the proposed 340. Thus, it recommends that the IESBA consider the viability for a future project as part of its evaluation review of the restructured Code in due course.

### Matters for IESBA Consideration

4. IESBA members are asked for views about the Task Force's view on the future project to align Sections 420 and 906 with Section 340.

## F. Other Matters

89. A number of respondents suggested the use of decision tree or flowchart would help readers to understand the hierarchy of decisions and to capture the thinking behind the proposals.<sup>90</sup> The Task Force will consider using a decision tree or other visual diagrams when preparing the Basis for Conclusion.
90. There were some concerns that the proposals may be too onerous for SMPs and that the examples of actions that might be safeguards may not be readily applicable to them.<sup>91</sup> In this regard, the Task Force is of the view that the requirements set out in the proposal are reasonably broad and that the examples of actions that might be safeguards are also scalable.
91. A few respondents have raised comments that the proposals interact with the works of IAASB.<sup>92</sup> The Task Force will bring those relevant sections to the attention of the IAASB.
92. The Task Force has considered all other comments including suggested changes and have made revisions as appropriate. Editorial changes were also made in accordance with the drafting guidelines of the restructured Code.

### Matters for IESBA Consideration

5. IESBA members are asked to express any other views and the comments to the Inducements ED and the Task Force's proposals.

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<sup>90</sup> **MBs:** CANNZ, HKICPA, ICAEW

<sup>91</sup> **Firms:** PwC; **MBs:** IDW

<sup>92</sup> **NSS:** NZAuASB; **Firms:** PwC

**List of Respondents to Inducements ED**

#	Abbrev.	Respondent (46)	Region
<b>Regulators and Oversight Authorities, Including MG members (4)</b>			
1.	IRBA	Independent Regulatory Board for Auditors (South Africa)	MEA
2.	NASBA	National Association of State Boards of Accountancy	NA
3.	SCM	Securities Commission of Malaysia	AP
4.	UKFRC	United Kingdom Financial Reporting Council	EU
<b>National Standard Setters (2)</b>			
5.	APESB	Accounting Professional & Ethical Standards Board Limited-Australia	AP
6.	NZAuASB/ XRB	New Zealand Auditing and Assurance Standards Board/ External Reporting Board	AP
<b>Firms (8)<sup>93</sup></b>			
7.	BDO*	BDO International Limited	GLOBAL
8.	CHI*	Crowe Horwath International	GLOBAL
9.	DTT*	Deloitte Touche Tohmatsu Limited	GLOBAL
10.	EYG*	Ernst & Young Global	GLOBAL
11.	GTIL	Grant Thornton International Ltd	GLOBAL
12.	KPMG*	KPMG IFRG Limited (Network)	GLOBAL
13.	PWC*	PricewaterhouseCoopers International Limited	GLOBAL
14.	RSM*	RSM International	GLOBAL
<b>Public Sector Organizations (1)</b>			
15.	GAO	United States Government Accountability Office	NA
<b>IFAC Member Bodies (23)<sup>94</sup></b>			
16.	ACCA	Association of Chartered Certified Accountants	GLOBAL
17.	AE	Accountancy Europe	EU
18.	ANAN	Association of National Accountants of Nigeria	MEA
19.	CAANZ	Chartered Accountants Australia and New Zealand	AP

<sup>93</sup> Forum of Firms members are indicated with a \*. The Forum of Firms is an association of international networks of accounting firms that perform [transnational audits](#). Members of the Forum have committed to adhere to and promote the consistent application of high-quality audit practices worldwide, and use the ISAs as the basis for their audit methodologies.

<sup>94</sup> Certain IFAC Member Bodies hold the dual role of ethics standard setter in their jurisdictions.

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#	Abbrev.	Respondent (46)	Region
20.	CCAB	Consultative Committee of Accountancy Bodies	EU
21.	CPA Canada	The Canadian Institute of Chartered Accountants	NA
22.	FSR	Foreningen af Statsautoriserede Revisorer (Danish Institute of Accountants)	EU
23.	HKICPA	Hong Kong Institute of Certified Public Accountants	AP
24.	IBRACON	Instituto dos Auditores Independentes do Brasil (Institute of Independent Auditors of Brazil)	SA
25.	ICAEW	Institute of Chartered Accountants in England and Wales	EU
26.	ICAGH	The Institute of Chartered Accountants (Ghana)	MEA
27.	ICAI	The Institute of Chartered Accountants of India	AP
28.	ICAN	The Institute of Chartered Accountants of Nigeria	MEA
29.	ICAS	Institute of Chartered Accountants of Scotland	EU
30.	ICAP	Institute of Certified Public Accountants of Pakistan	AP
31.	IDW	Institut der Wirtschaftspruefer	EU
32.	JICPA	Japan Institute of Certified Public Accountants	AP
33.	KICPA	Korean Institute of Certified Public Accountants	AP
34.	MIA	Malaysian Institute of Accountants	AP
35.	NBA	Nederlandse Beroepsorganisatie van Accountants	EU
36.	SAICA	South African Institute of Chartered Accountants	MEA
37.	WPK	Wirtschaftsprüferkammer (German Public Accountants MB)	EU
38.	NYSSCPA	New York State Society of Certified Public Accountants	NA
<b>Other Professional Organizations, Including SMPC<sup>95</sup> (5)</b>			
39.	AAT	Association of Accounting Technicians	EU
40.	EFAA	European Federation of Accountants and Auditors for SMEs	EU
41.	IMA	Institute of Management Accountants	GLOBAL
42.	IFAC SMPC	IFAC Small and Medium Practices Committee	GLOBAL
43.	VRC	The Vereniging Registercontrollers	EU

<sup>95</sup> Constituents of the SMPC are SMPs who provide accounting, tax, assurance and business advisory services principally, but not exclusively to clients who are small and medium-sized entities (SMEs). Members of the SMPC are drawn from IFAC member bodies representing the following 22 countries: Australia, Belgium, Brazil, Canada, China, France, Germany, Hong Kong, India, Italy, Kenya, Malawi, Malta, Nigeria, South Africa, Spain, Sweden, Turkey, Tunisia, Uganda, United Kingdom, and United States.

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#	Abbrev.	Respondent (46)	Region
<b>Investors and Other Users of Financial Statements (1)</b>			
44.	CalSTRS	California State Teacher Retirement System	NA
<b>Individuals (2)</b>			
45.	J Giraud	Jean Thomas Giraud	
46.	J Yaun	Ji Yaun	