

Meeting: IESBA
Meeting Location: Virtual
Meeting Date: June 9-11, 14 & 25, 2021

Agenda Item 7

Benchmarking Independence Provisions for Audits of Public Interest Entities

Phase 1 – Mapping IESBA and US SEC/PCAOB Frameworks

Objectives

1. The objectives are to:
 - (a) Report on the progress made regarding the methodology to be used for the comparison; and
 - (b) Obtain Board views regarding the key issues for the scope of the report from Phase 1 of the initiative.

Activities since March 2021 Meeting

2. The Working Group¹ (WG) has met three times via videoconference to progress the benchmarking exercise and develop the agenda materials for the June 2021 meeting.
3. IESBA representatives briefed the Forum of Firm and the International Forum of Independent Audit Regulators' (IFIAR) Standards Coordination Working Group on the initiative in the latter part of March 2021. Both groups expressed strong support for the initiative and agreed that the outcome of the comparison would help promote a deeper understanding of the International Independence Standards (IIS) and the IESBA Code more broadly, and how they compare with the relevant provisions of the US Securities and Exchange Commission (SEC) and Public Company Accounting Oversight Board (PCAOB).

Recap of March 2021 IESBA Board and CAG Discussions

4. At its March 2021 meeting, the IESBA considered the Working Group's recommendation on the timeline for Phase 1 of the initiative, including the proposed timing with respect to comparing the various sections in the IIS against the rules and standards of the US SEC and PCAOB.² The IESBA also discussed the proposed format and content of the deliverables from the initiative.

¹ The Working Group members are:

- Laura Friedrich, Working Group Chair
- Richard Fleck, NAS Task Force Chair
- Richard Huesken, IESBA Member
- Kristen Wydell, IESBA Technical Advisor

² Representatives of the US SEC staff briefed the CAG on the recent revisions to US auditor independence rules and highlighted at a high-level the rationale for such revisions during the [March 2021 CAG meeting](#). A recording of that presentation is available [here](#).

5. The IESBA discussed the proposed terminology to describe the observations and conclusions on the extent of similarities and key differences between the IIS and the US SEC/PCAOB provisions. The IESBA also considered the feedback from the March 2021 IESBA Consultative Advisory Group (CAG) meeting.
6. The following are the key matters raised either by IESBA members or CAG representatives:
 - Suggestions that the objective and the purpose of the benchmarking initiative should be clarified.
 - A view that a comparison of US SEC/PCAOB provisions and the Code's provisions in a mapping table format could result in an overly complicated document that users might find difficult to follow. There was a question as to whether all issues, especially in a mapping table format, would really be of interest and importance to stakeholders.
 - With respect to the proposed terminology to describe the similarities and differences, a caution that there is a risk that the analysis related to the application of the Code's conceptual framework in circumstances described in the prohibitions of the US SEC/PCAOB provisions might inadvertently result in "rule-making" or interpretations of the Code.

Matters for Consideration

Clarifications to the Objective

7. Reflecting on the feedback from the CAG and IESBA members, the WG has refined the objective of the initiative. The refinements are intended to clarify the purpose of undertaking the initiative, emphasize the strategic importance of doing the work now, and explain how the outcome should be used (by IESBA and stakeholders).
8. The enhanced objective of the initiative with the WG's clarifications are set out below.

The IESBA is undertaking a [Benchmarking Initiative](#) to compare the provisions in the International independence Standards that are applicable to public interest entities (PIEs) to the relevant independence requirements that apply in major jurisdictions, starting first with the requirements of the US Securities and Exchange Commission (SEC) and the US Public Company Accounting Oversight Board (PCAOB).

The initiative will result in an assessment of the extent to which the IIS and independence requirements in major jurisdictions are aligned and will help identify any substantive differences.

The IESBA envisages that the outcome of this initiative will promote awareness and adoption of the IIS and the Code more broadly. In addition, it will also help inform the IESBA as to whether there are specific areas that it should evaluate and, if appropriate, address as part of its future strategy and work plan.

Areas of Focus for Phase I

9. Responsive to comments from the IESBA and other stakeholders, the WG is of the view that the benchmarking should **(i) focus only on topics that are of greatest interest to stakeholders and (ii) highlight the similarities and differences in the two sets of standards.**
10. The WG's intent is to provide an overview of the differences between the IIS and the US SEC/PCAOB requirements that are related to the approach taken. Differences that are not substantive or arise solely from the different context (i.e., global framework vs jurisdictional framework) will not form part

of this comparison. The comparison will also highlight areas where the two sets of requirements are substantively similar in approach and/or outcome.

11. The **Appendix** to this document sets out the proposed focus areas and topics to be covered in Phase I. The topics listed are those that the WG believes are of primary interest to stakeholders. In developing this list, the WG reflected on the suggestions and comments made by IESBA members and the CAG. In addition, consideration was given to stakeholders' most frequently asked questions about international and jurisdictional level independence standards, especially in the context of how the Code compares to the US SEC/PCAOB independence provisions.
12. During the meeting, the WG Chair will further explain the WG's rationale for the topics included in the Appendix.

Final Report Arising from Phase I

13. Reflecting on the input from IESBA members, the WG agrees that it will be important to have a report that is easy to navigate and digest. Accordingly, the WG plans to incorporate the IESBA's input and suggestions in finalizing the outcome of Phase 1. The WG believes that it is essential that the outcome of Phase 1 is of optimal length so as not to overburden readers or create a barrier for them, and that it will be important to summarize the overall findings, including the key issues considered and methodology or approach taken. The WG also agrees that there is merit to including a discussion about the differences between the remit of the IESBA and national standard setters/ regulators and the implications for the two sets of independence standards. To avoid the deliverables becoming overly lengthy and complicated, the WG does not envision having mapping tables as the focus of the final deliverables for Phase I of the initiative. Those will serve as the basis of the WG's analysis and will be available upon request.

Terminology Used to Describe Similarities and Differences

14. The approach to be taken by the WG will address the concerns about the outcome of the initiative potentially being viewed as interpretative in nature or "rule-making" outside of the Code. The more streamlined report will highlight the substantive differences and similarities between the two sets of standards and will focus on key issues. It will not include WG commentary with conclusions that might potentially be viewed as an interpretation of certain provisions of the Code (for example, with respect to the application of the conceptual framework).

Actions Requested

15. During the session, IESBA members will be asked to note the WG Chair's presentation and provide views regarding:
 - (a) The areas of focus that the WG has identified for Phase 1 of the benchmarking; and
 - (b) Any specific areas that have not been identified by the WG where attention should be directed.

List of Focus Areas and Key Issues for Phase I

1. Introduction <ul style="list-style-type: none"> Objective of Benchmarking Initiative Report arising from the Initiative Acknowledgements 	
2. Overarching Principles and Approach <ul style="list-style-type: none"> Jurisdictional Framework vs. Global Code³ General Independence Standard vs. Overarching Requirement to apply the Conceptual Framework Overarching Principles of SEC rules vs. Fundamental Principles and Threats Management and employee functions vs. Assuming Management Responsibility Responding to Non-Compliance with Laws and Regulations 	
US SEC/ PCAOB	IESBA Code
2-01 (b) [General Independence Standard] PCAOB Rule 3520 Auditor Independence PCAOB AS 2405: Illegal Acts by Clients PCAOB AS 2401: Consideration of Fraud in a Financial Statement Audit	<ul style="list-style-type: none"> Part 1 Section 300 Section 310 Section 400 NOCLAR standard
3. Definitions⁴ <ul style="list-style-type: none"> General overview of definitions, with special regard to <ul style="list-style-type: none"> Audit Client (including related entities/affiliates) Firm/Network Audit Team Key Audit Partner 	
US SEC/ PCAOB	IESBA Code
2-01 (f) [Definitions] PCAOB Rule 3501 Definitions of Terms Employed in Section 3, Part 5 of the Rules	Glossary to the Code
4. Fees <ul style="list-style-type: none"> General overview of fee-related provisions, with special regard to 	

³ The Code is for global application and requires adoption by the relevant standard-setting body (regulator, professional accountancy body etc.) - and, therefore, IESBA has no legislative/regulatory authority. By contrast, the SEC has the ability to legislate/regulate.

⁴ The Final Report will emphasize that those differences then carry through and must be taken into account when contrasting specific provisions in the Code and the SEC rules.

<ul style="list-style-type: none"> ○ Contingent Fees ○ Disclosure of fee-related information to public 	
US SEC/PCAOB	IESBA Code
2-01 (c) (5) [Contingent Fees] PCAOB Rule 3521 Contingent Fees SEC Regulation S-K, Section 240.14a-101, Schedule 14A. [Information required in proxy statement.]	S 410 Fees <i>(Only for PIEs)</i>
5. Permissibility of NAS to Audit Clients, Including Prohibited Services <ul style="list-style-type: none"> • General <ul style="list-style-type: none"> ○ Non-audit services versus Non-assurance services (NAS) ○ “Not Subject to Audit” versus Self-review threat Prohibition ○ Requirements re: provision of advice and recommendations to audit clients ○ Requirements re: provision of NAS or advice and recommendations to affiliates/ related entities ○ Consideration of materiality in determining whether to provide a NAS ○ Provision of new and emerging NAS, (e.g., technology-related NAS) ○ Provision of NAS involving advocating for an audit client (e.g., in relation to tax, acting an expert witness, valuation, HR or recruiting services) • Specific Services (from the Code and SEC/PCAOB rules) <ul style="list-style-type: none"> ○ NAS that are explicitly prohibited regarding <ul style="list-style-type: none"> a) Accounting and Bookkeeping Services / Bookkeeping or other services related to the accounting records or financial statements b) Administrative Services c) Valuation Services / Appraisal or valuation services, fairness opinions, or contribution-in-kind reports Actuarial services d) Tax Services / Tax transactions Tax Services for Persons in Financial Reporting Oversight Roles e) Internal Audit Services / Internal audit outsourcing services f) Information Technology Systems Services / Financial information systems design and implementation. g) Litigation Support Services / Expert services unrelated to the audit h) Legal Services / Legal services. i) Recruiting Services / Human resources. j) Corporate Finance Services / Broker-dealer, investment adviser, or investment banking services 	
US SEC/ PCAOB	IESBA Code
2-01 (c) (4) [Non-audit Services] PCAOB Rule 3522. Tax Transactions	S 600 Providing NAS to Audit Client <i>(Only for PIEs)</i>

<p>PCAOB Rule 3523. Tax Services for Persons in Financial Reporting Oversight Roles</p> <p>Rule 3524 Audit Committee Pre-approval of Certain Tax Services</p> <p>PCOAB Rule 3525. Audit Committee Pre-approval of Non-audit Services Related to Internal Control Over Financial Reporting</p>	
<p>6. Auditors' Communication with TCWG about Independence Matters (Including Pre-approval of NAS and Disclosures about Fees)</p>	
<p>US SEC/ PCAOB</p>	<p>IESBA Code</p>
<p>PCAOB Rule 3526. Communication with Audit Committees Concerning Independence</p> <p>2-01 (c) (7) [Audit committee administration of the engagement]</p> <p>Rule 3524 Audit Committee Pre-approval of Certain Tax Services</p> <p>PCOAB Rule 3525. Audit Committee Pre-approval of Non-audit Services Related to Internal Control Over Financial Reporting</p>	<p>S 400 Communication with TCWG (para 400.40 A1 and 400.40 A2)</p> <p>ISA 270 para 17</p> <p>S 600 Concurrence of permitted NAS (revised para 600.20 to R600.23)</p> <p>S410 Communication of Fee-related Information to TCWG (revised para 410.22 A1 to R.410.28)</p>
<p>7. Financial Relationships</p> <ul style="list-style-type: none"> • General overview of provisions 	
<p>US SEC/PCAOB</p>	<p>IESBA Code</p>
<p>2-01 (c) (1) [Financial Relationships]</p>	<p>S 510 Financial interests</p> <p>S 511 Loans</p>
<p>8. Business Relationships</p> <ul style="list-style-type: none"> • General overview of provisions 	
<p>US SEC/ PCAOB</p>	<p>IESBA Code</p>
<p>2-01 (c) (3) [Business Relationships]</p>	<p>S 520 Business Relationship</p>

9. Partner Rotation/Long Association

- General overview of provisions

US SEC/ PCAOB	IESBA Code
2-01 (c) (6) [Partner Rotation]	S540 Long association of personnel (Including Partner Rotation) with an audit client (<i>only for PIEs</i>)