

# IESBA CAG

## Inadvertent Violation

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## Project Status

- IESBA approved project proposal November 2010
- Task Force met 2010 and 2011
- IESBA discussed proposal February 2011
- Approve Exposure Draft June 2011
- Approve final standard February 2012

## Overview

- Review of need for provisions
- Inadvertent
- Types of possible violation
- Actions to be taken
- Consider whether all the Code or only independence
- Review of drafting

## Review of need for provision

- Objective of such provisions
  - Distinguishing mark of accountancy profession is its acceptance to act in the public interest
  - Objective to ensure public protected to extent possible if a provision of the Code is violated
  - If automatic consequence of independence violation is resignation of auditor, public may not be well served

## Arguments for provision

- Despite good policies and procedures violations do occur from time to time
- If there is a violation it calls into question firm's ability to continue the audit
- Some jurisdictions have addressed matter
- Not all jurisdictions have a regulator to deal with – so will look to the Code
- Without guidance matter needs to be addressed on an ad hoc and perhaps inconsistent manner
- Guidance can mandate a rigorous process to be followed



## Arguments against provision

- Provision could be viewed as providing an exception to a requirement
- Provision could allow for an easy avenue for accountant to “cleanse” the situation and increase risk of abuse or discourage accountants to focus on compliance
- Code should focus on what is required and consequences of an inadvertent violation left to enforcement
- Regulation should not include guidance on how to address a violation

## **IESBA view**

- In the public interest to have an appropriate mechanism to deal with such matters
- Will provide a framework for evaluating impact of an independence issue
- Ramifications to the accountant concerned to be dealt with outside of these provisions

## Inadvertent

- Cause of violation less significant than potential impact on company and investors
- Irrespective of cause
  - Firm needs to evaluate implications and take action
  - Resignation can be disproportionate
- IESBA proposes term “inadvertent” be dropped

## Types of violations

- Financial interest – family member (teenage son) of partner in the office buys shares in an audit client of the office
- Scope of services – network firm provides a prohibited service
- Scope of services – rules change and network firm continues to provide a newly prohibited service
- IESBA proposes provisions address any type of violation

## Action to be Taken

- Determine whether corrective measures are available to resolve situation
- Resign or apply corrective measures
- Discuss with those charged with governance
  - TF recommended those charged with governance may determine that certain violations need not be communicated
  - IESBA proposes all violations be communicated
- Obtain agreement from those charged with governance that corrective measures resolve the situation
- Documentation

## Discuss with those charged with governance

- Nature and significance of violation
- Any corrective measures taken or proposed
- Rationale, whether in firm's judgment, corrective measures resolve the situation such that firm can continue the audit engagement
- Description of firm's policies and procedures on independence
- An explanation of why, despite policies and procedures, violation occurred and steps taken or proposed to address any identified weaknesses

## Independence only or all Code?

- Task Force reviewed other provisions of Code
- Distinguishing feature of independence is the consequence of the violation
  - If firm has to resign, entity needs to find another auditor, may miss regulatory filing deadlines and have to face all associate consequences
  - Disproportionate if nature of violation small
- IESBA generally agreed with TF recommendation