IESBA INTERNATIONAL ETHICS STANDARDS BOARD FOR ACCOUNTANTS

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Meeting Location: Conrad Hotel, Brussels, Belgium

Meeting Date: March 5, 2012

Responding to a Suspected Illegal Act

Objective

To seek input from CAG members on the proposed position regarding the steps a professional accountant should take to respond to a suspected illegal act.

Background

At its October 2011 meeting the IESBA discussed a proposed exposure draft developed by the Task Force. The exposure draft proposed that after escalating a matter within the client or employing organization, a professional accountant would be required to disclose certain illegal acts to an appropriate authority. Disclosure would be required when the accountant determined that the suspected illegal act was of such consequence that disclosure would be in the public interest and the entity had not disclosed the matter. The types of illegal acts that would require such disclosure were:

* Suspected illegal acts that directly or indirectly affect the client's financial reporting.
* Suspected illegal acts the subject matter of which falls within the expertise of the professional accountant.

The IESBA discussed the proposal and requested the Task Force to prepare an alternative approach that was based on a "robust right" to disclose to an appropriate authority.

At its February meeting, the IESBA discussed three alternative approaches:
* Sections 225 and 360 based on a "requirement" (or responsibility) (Agenda Paper D-2);
* Sections 225 and 360 based on a "robust right" (or expectation) (Agenda Paper D-3); and
* Sections 225 and 360 based on the Task Force Majority position (Agenda Paper D-4).

The IESBA also discussed conforming changes to other sections (Agenda Paper D-4).

Discussion
The IESBA considered the Task Force proposals (Agenda Paper D-1) and agreed with the

Task Force majority position.

The Task Force considered the following categories of accountant:

1. Auditor
2. Professional accountant in public practice providing non-assurance services to an audit client;
3. Professional accountant in public practice providing non-assurance services to a client that is not an audit client of the firm or a network firm; and
4. Professional accountant in business.

The IESBA agreed that an auditor and a professional accountant in public practice providing non-assurance services to an audit client should have a requirement to disclose to an appropriate authority.

A professional accountant in public practice providing non-assurance services to a client that is not an audit client should have a requirement to report the suspected illegal act to the entity's external auditor. If the suspected illegal act relates to the subject matter of the professional service the accountant is providing, and the response to the matter is not appropriate, the accountant would have a right to disclose the matter to an appropriate authority. The accountant would be expected to exercise the right in order to fulfill the accountant's responsibility to act in the public interest.

A professional accountant in business would have a requirement to disclose a suspected illegal act to the entity's external auditor if the accountant is unable to escalate the matter and there is no established mechanism such as an ethics policy. If, having escalated the matter or disclosed to the entity's external auditor, in the professional accountant's judgment the response to the mater is not appropriate, the accountant would have a right to disclose the matter to an appropriate authority. The accountant would be expected to exercise the right in order to fulfill the accountant's responsibility to act in the public interest.

Material Presented

Agenda Paper D   This Agenda Paper
Agenda Paper D-1   IESBA Agenda Paper
Agenda Paper D-2   Section 225 and 360 Requirement
Agenda Paper D-3   Section 225 and 360 Right/Expectation
Agenda Paper D-4   Section 225 and 360 Requirement for Auditor Right/Expectation for others
Agenda Paper D-5   Proposed Changes to Other Sections

Action Requested
IESBA CAG members are asked to provide input on the proposed approach.