

Meeting: IESBA CAG
Meeting Location: New York
Meeting Date: March 11, 2015

Agenda Item

C

Structure of the Code

Objective of Agenda Item

1. To obtain CAG representatives' input on a high level summary of the responses to the Consultation Paper (CP) [Improving the Structure of the IESBA Code](#).

Project Status and Timeline

2. In February 2012, the IESBA agreed to consider how it might improve the structure of the Code to raise the visibility of the requirements and prohibitions in the Code, and to clarify who is responsible for meeting them. Also, various stakeholders have commented on issues associated with the structure, format and clarity of the Code. Some of these issues relate to the usability of the Code and may be impacting adoption and implementation.
3. An IESBA Working Group researched the topic and reached out to various stakeholders in 2013 to gather input to better inform the Board. The CAG discussed the initiative in April and September 2013, and March and September 2014.
4. At its April 2014 meeting, the IESBA approved the project proposal and established the Task Force.
5. At its July and October 2014 meetings, the IESBA considered drafts of the CP. The CP was issued on November 4, 2014 with a closing date for responses of February 4, 2015.
6. The Task Force will meet on March 5 and 6, 2015 to consider the comments raised by respondents and determine appropriate recommendations to the Board. The Board will be asked to consider these matters when it meets in April 2015.

September 2014 CAG Discussion

7. Below are extracts from the minutes of the September 2014 CAG meeting,¹ and an indication of how the Task Force or IESBA has responded to CAG Representatives' comments.

| Matters Raised | Task Force/IESBA Response |
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| ENFORCEABILITY AND RESPONSIBILITY | |

¹ The minutes were approved at the November 2014 IESBA CAG teleconference.

| Matters Raised | Task Force/IESBA Response |
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| <p>Mr. Ahmed noted that a matter regulators often raised with respect to the standards issued by his organization is the enforceability of the standards. He wondered how strongly this matter featured in the proposals.</p> | <p>Restructuring is expected to facilitate compliance and enforceability by a variety of means, including:</p> <ul style="list-style-type: none"> • Distinguishing requirements from guidance; • Increased prominence of the requirement to apply the conceptual framework; and • Increased clarity of responsibility and language. <p>Mr. Thomson highlighted the references to the conceptual framework in a number of places in the illustrative examples. He also emphasized that it is necessary to consider not only the requirements but also the application material. In addition, a number of cross-references have been added from the requirements to the application material. He hoped that these would assist in facilitating more consistent application of the standards.</p> |
| <p>Mr. James echoed Mr. Ahmed's comment, adding that requirements need to be clear for enforceability. He felt that the approach proposed was heading in the right direction. However, he thought that there was a lack of clear flow from the requirements to the application material. Accordingly, he suggested that the Task Force further consider the matter. With respect to the CP, he suggested that wording be used to emphasize the Board's ownership of the project rather than stakeholders' concerns.</p> | <p>Points taken into account.</p> <p>The Task Force has further considered the flow of the document and will present its proposals at the April 2015 IESBA meeting.</p> <p>The Board adjusted the wording in the CP in the light of the comment about ownership.</p> |
| <p>Mr. Fukushima thought that clarity of responsibility for compliance with the requirements of the Code is an important part of this project. He acknowledged that the assignment of responsibility within each individual firm will depend on the size and other characteristics of the firm. However, he felt that the Code should specify who should be responsible for which particular aspect of compliance. As an example, he noted that where there is a breach of a requirement of the Code, the assessment of the consequences of the breach should be made at the firm or national office level</p> | <p>Mr. Thomson noted that this would be difficult for a sole practitioner. He added that while there may be some typical ways to allocate responsibility, there are enough differences across firms that the allocation of such responsibility should be more appropriately left to firm policies. He noted that the proposals already included a requirement for firms to establish policies and procedures in that regard, which will enable identification of responsibility to be clear at the firm level. He acknowledged that in some jurisdictions there is the concept of an "ethics partner." However, he noted that exploring such a concept would be</p> |

| Matters Raised | Task Force/IESBA Response |
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| and not at the engagement team level. He was of the view that the outcome of the Breaches project was unclear in this regard and that the restructuring project provided an opportunity for the Board to clarify the matter. | going beyond the mandate of the Task Force. It will be referred to the Board at its April 2015 meeting. |
| Mr. James noted that IOSCO has strong views on identifying specific individuals who should be assigned responsibility. He believed that escalating a breach of a requirement outside of those involved would be critical. He also wondered whether the Code's approach to covering so many scenarios (sole practitioners, large firms, etc.) would be leading it to a "lowest common denominator" base, which would not serve the public interest well. | Mr. Kwok disagreed that the Code is a lowest common denominator. He noted that he would emphasize this in the Board's annual report. He shared that shortly before his passing, Mr. Holmquist, the late Chair of the Board, had also specifically asked for this to be emphasized in the annual report. Mr. Thomson reiterated that the issue of a breach of the code is beyond the mandate of the Task Force and that the Board would consider it separately. |
| Ms. Lang noted that Mr. James raised an interesting debate as to whether it is possible to write a Code that is principles-based yet scalable. She felt that the issue concerns more the practicalities of applying the Code than lowering the bar, i.e., how to develop standards that can be applied by all. She added that this debate is not part of the Structure project and could be addressed later. | See Mr. Kwok's response to Mr. James's comment above. |
| JURISDICTIONAL MATTERS | |
| Mr. Ahmed asked if there had been any significant resistance from jurisdictions about making any changes to the Code. | Mr. Thomson noted that when the research for the project was being undertaken, stakeholders highlighted the current structure of the Code as presenting a number of impediments to broader adoption of the Code. So there was no opposition for the Board to move forward with the project. |
| Ms. Sucher welcomed the initiative and the work that has been done so far, noting that she has found the Code not to be very approachable. She also welcomed the Board addressing the issue of who should bear responsibility for compliance with the requirements of the Code. On timing, she cautioned that stakeholders in the EU may not particularly welcome the issuance of the CP at this | Support noted. The Board is mindful of the developments in the EU and is giving consideration to them in its deliberations in this regard. |

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| <p>time as they will be busy dealing with some of the most significant changes to audit regulation in many years. She was concerned that stakeholders may wonder how the proposed changes will work with the regulatory changes now being implemented in the EU.</p> | |
| <p>Ms. Blomme noted that FEE is very supportive of the project as it is very much in line with FEE members' views as to what would help them adopt the Code. She indicated that it would still be up to EU member states to decide if they would like a code behind the new EU audit regulation. She felt that this would be a difficult question to address given the potential for conflicts. Also, some member states have adopted the extant Code verbatim and they will rightfully wonder how they can move to the new structure. Accordingly, they may ask for help in moving to a restructured Code.</p> | <p>Support noted. See the response to Ms. Sucher above. This point is being taken into account at Board meetings.</p> |
| ILLUSTRATIVE EXAMPLES | |
| <p>With respect to the idea of positioning the independence requirements at the back of the restructured Code, Ms. Blomme wondered whether they could be split off as a separate document.</p> | <p>Mr. Thomson noted that the Board has heard support from some stakeholders for splitting off the independence sections but also concerns from others about disconnecting them from the conceptual framework, if they were carved out from the rest of the Code. In addition, concerns have been expressed about an undue focus by regulators and practitioners alike on the examples in the Code and not on the conceptual framework. Accordingly, the Task Force has endeavored to tie the linkage of the independence sections closer to the conceptual framework in the illustrative examples.</p> |
| <p>Ms. Molyneux suggested paying close attention to the translatability of key terms in the restructured code in some of the major languages other than English.</p> | <p>Mr. Thomson noted that this matter is included in the project proposal. At this stage, the focus is on the principles underlying the restructuring but translatability will be considered in due course.</p> |
| <p>Ms. Lang pointed out that references to “audit and review” should be to “audit and review</p> | <p>The Task Force is considering the presentation of the term audit and review and will present its</p> |

| Matters Raised | Task Force/IESBA Response |
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| <p>engagements.” She also suggested clarifying the meaning of the term “concordance.”</p> | <p>recommendations to the Board at its meeting in April 2015. The point on concordance is noted.</p> |
| <p>Referring to the Illustrative Examples, Mr. James felt that some of the provisions in the application material could be elevated to requirements. He encouraged the Task Force to reflect on this and also the “shall consider” requirements.</p> | <p>The project is focused on restructuring and not on changes to requirements. Mr. Thomson noted that the main purpose of the CP is to obtain agreement on the principles underlying restructuring of the Code. However, the Task Force would welcome suggestions on the Illustrative Examples.</p> |
| <p>OTHER MATTERS</p> | |
| <p>Mr. Koktvedgaard commented that the Task Force should aim to bring up any new issues that are identified during the project to the Board for consideration as to whether to deal with them separately. The focus on the project, however, was on restructuring the Code. Mr. James acknowledged the scope of the project, noting that he was not suggesting that the Code be re-opened. However, he was of the view that the matter of responsibility for compliance with the requirements of the Code falls within the remit of the project. Mr. Fukushima agreed with Mr. James, noting that the Structure project provided an opportunity for the Board to clarify its intention in the Breaches standard. Mr. Koktvedgaard suggested that questions could be added to the CP to seek stakeholder views on the matter.</p> | <p>The Task Force maintains a list of issues that it identifies when reviewing the Code and raises them with the Board at its meetings as and when required.</p> <p>With regard to responsibility see the response to Mr. James above.</p> <p>With regard to the breaches project see the response to Mr. Fukushima and Mr. James above.</p> |
| <p>Ms. de Beer noted that it is important to keep to the scope of the project. She agreed with Mr. Koktvedgaard that it would be important to keep a running list of issues that arise. On the matter of separating the independence sections from the Code, she felt that it would be more user-friendly to move to separate standards. She noted that this would not be different from the approach taken with IFRSs or the ISAs. She felt that independence is so significant that it should not be “hidden” in the Code. On the matter of safeguards, she thought</p> | <p>With regard to the running list of issues see the response to Mr. Koktvedgaard above.</p> <p>Mr. Kwok commented that the Board will reflect on Ms. de Beer’s suggestion on reorganizing the Code into separate standards.</p> <p>Mr. Thomson noted that it is likely that a project on safeguards² will be approved by the Board. This project would consider the appropriateness, effectiveness and clarity of the safeguards in the Code.</p> |

² A project on safeguards was approved by the Board at its meeting in January 2015.

| Matters Raised | Task Force/IESBA Response |
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| that the Code should state the minimum safeguards in each instance and link threats to specific safeguards. Mr. Koktvedgaard suggested asking a question in the CP on reorganizing the Code as separate standards | Mr. Thomson noted that an e-Code would help identify the standards more clearly. On the matter of minimum safeguards, he noted that this would depend on whether the Board approves a potential project on safeguards. A question on standards was included in the CP |
| Mr. Koktvedgaard referred back to the discussion, in an earlier agenda item, on the difference in meaning between adoption of, and convergence with, the Code. He questioned whether the CP should refer to adoption and convergence in the absence of widely understood definitions. He suggested that the CP instead ask respondents to explain their approaches to adoption. | Mr. Thomson noted that the Task Force will review the drafting in this regard. |

Matters for Consideration

Responses to the CP

8. A high level summary of respondents' comments to the CP is presented as Agenda Item C-1. The Task Force is seeking the views of CAG Representatives so that it can take account of them when reporting to the Board in April.

CAG Working Group

9. In view of the importance of this project and its tight timeframe, the Task Force believes it would be helpful for there to be timely input by IESBA CAG Representatives into the project. As a suggestion, one effective way to achieve this could be to have a CAG Working Group established to track the project more closely, much along the lines of IAASB CAG Working Groups. The CAG Working Group could then provide timely comments to the TF on drafts of the restructured Code or on other matters related to the project, and report back to the CAG as part of the regular CAG meetings.
10. The IESBA CAG Chair is of the view that this suggestion is a sensible approach and is supportive of its being considered by Representatives at the meeting.

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| <p>Matter for CAG Consideration</p> <ol style="list-style-type: none"> 1. Representatives are asked whether they would support establishing a CAG Working Group on this project. If so, Representatives are asked to reflect on whether they would be interested in participating in this Working Group and to notify their interests to the IESBA CAG Chair at the earliest opportunity. |
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Material Presented

Agenda Item C-1 High Level Summary of Respondents' Comments on the CP