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Brussels, 8 December 2017

**Subject: Accountancy Europe response to the IESBA Exposure Draft Proposed Revisions to the Code Pertaining to the Offering and Accepting of Inducements**

Dear Mr Ken Siong,

Accountancy Europe is pleased to provide you with its comments on the IESBA Exposure Draft Proposed Revisions to the Code Pertaining to the Offering and Accepting of Inducements.

If faced with inducements, we think that the choice should be binary: (i) inducements with intent are never acceptable; (ii) inducements without intent may have applicable safeguards. In this instance, inducements should be looked at from the perspective of a reasonable and informed third party (RITP), who may see them as either acceptable or not acceptable, and potentially not safeguardable against. It should be acknowledged, however, that determining the presence of intent is not always clear cut in practice, as further detailed in the Annex.

Our major concern with the ED is that the proposals overlook the principle that a person acting with integrity - and thus complying with the fundamental principles - will never accept or provide an inducement with intent. Consequently, the description of an inducement should make clearer that, even if professional behaviour is not breached when offering an inducement (that is not contrary to law or regulation), the fundamental principle of integrity may be breached due to the intention of influencing.

We support the requirement for a professional accountant to understand and comply with relevant laws and regulations that relate to bribery and corruption when offering or accepting an inducement.

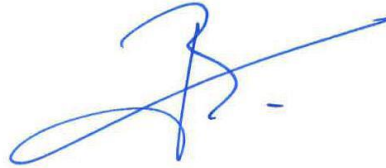
Nevertheless, the ED could be interpreted as introducing a new concept with the intent test beside the applicable conceptual framework of threats and safeguards. To prevent potential doubt or misunderstanding, it is important to make clear that the ED does not contain a new concept, but provides further guidance on how to apply the Code. The downside of further guidance is that it could bring along the risk of a 'tick-box' mentality instead of applying professional judgment.

We agree that there should be no distinction between the proposed provisions relating to inducements for PAPPs and those for PAIBs.

Sincerely,



Edelfried Schneider  
President



Olivier Boutellis-Taft  
Chief Executive

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Accountancy Europe unites 50 professional organisations from 37 countries that represent close to **1 million** professional accountants, auditors, and advisors. They make numbers work for people. Accountancy Europe translates their daily experience to inform the public policy debate in Europe and beyond.

Accountancy Europe is in the EU Transparency Register (No 4713568401-18)

## ANNEX – RESPONSES TO IESBA REQUEST FOR SPECIFIC COMMENTS

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### Proposed Section 250

1. *Do respondents support the proposals in Section 250? In particular, do respondents support the proposed guidance to determine whether there is an intent to improperly influence behavior, and how it is articulated in the proposals?*

If faced with inducements, we think that the choice should be binary: (i) inducements with intent are never acceptable; (ii) inducements without intent may have applicable safeguards. In this instance, inducements should be looked at from the perspective of a reasonable and informed third party (RITP), who may see them as either acceptable or not acceptable, and potentially not safeguardable against. It should be acknowledged, however, that determining the presence of intent is not always clear cut in practice.

Our major concern with the ED is that the proposals overlook the principle that a person acting with integrity - and thus complying with the fundamental principles - will never accept or provide an inducement with intent. Consequently, the description of an inducement should make clearer that, even if professional behaviour is not breached when offering an inducement (that is not contrary to law or regulation), the fundamental principle of integrity may be breached due to the intention of influencing.

The ED could be interpreted as introducing a new concept with the intent test beside the applicable conceptual framework of threats and safeguards. To prevent potential doubt or misunderstanding, it is important to make clear that the ED does not contain a new concept, but provides further guidance on how to apply the Code. The downside of further guidance is that it could bring along the risk of a 'tick-box' mentality instead of applying professional judgment.

The examples of inducements are jurisdiction-specific and therefore not helpful in an international Code. The examples are rather theoretical and have little in common with what happens in practice. We refer to the examples included in paragraph 250.11. To be useful, we think that the examples provided should at least be aligned with anti-bribery laws.

Furthermore, it is not clear how any inducement that is trivial and inconsequential can be determined as having been made with intent (actual or perceived) to improperly influence behaviour. The proposed approach, including the proposed wording of trivial and inconsequential, is questionable from a global application perspective. It seems to relate to perception issues in no-tolerance jurisdictions.

If an inducement is trivial or inconsequential according to the recipients, it will very likely not have any impact – and certainly not the full intended impact. Unless there are contrary indications, we could assume that the professional accountant possesses sufficient integrity to discount such trivial and inconsequential inducements.

Regarding the RITP test, the ED introduces a new concept, namely a distinction between objectivity *in mind* and objectivity *in appearance*. We refer to paragraphs 22 and 23 of the Explanatory Memorandum. This approach seems similar to the concept of independence in mind and independence in appearance currently applicable to PAPPs who perform assurance engagements. This approach towards objectivity is questionable in relation to PAIBs. Until now objectivity in appearance was never an issue for PAIBs.

We support the requirement for a professional accountant to understand and comply with relevant laws and regulations that relate to bribery and corruption when offering or accepting an inducement.

However, the importance of obtaining an adequate understanding of the relevant laws and regulations in the jurisdiction in which the inducement is being offered is essential and should be better emphasised, and not be concealed within paragraphs R250.5 and R340.5. That understanding will need to be communicated to others, including those within the organisation and close family, who might be subject to those laws and regulations.

We support the inclusion of the professional accountant's responsibility regarding the actions of third parties. The ED refers to "immediate or close family members". The reason for restricting the population in this way is unclear. Essentially, it is the impact, or potential impact, on the professional accountant that needs to be considered.

The requirement regarding immediate or close family members is problematic in terms of its practical application. We refer to paragraph R340.13. The obligation is placed on the professional accountant since they may be required to demonstrate the reason why they had "no reason to believe", although access to information would likely have been precluded or severely limited at the time.

Furthermore, clarity on the option of not accepting inducements would be welcome as it is not a given.

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### **Proposed Section 340**

- 2. Do respondents agree that the proposed provisions relating to inducements for PAPPs should be aligned with the enhanced provisions for PAIBs in proposed Section 250? If so, do respondents agree that the proposals in Section 340 achieve this objective?*

We agree that there should be no distinction between the proposed provisions relating to inducements for PAPPs and those for PAIBs.

We refer to our concerns expressed above regarding the new concept of being objective in appearance for PAIBs.

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### **Proposed Conforming Amendments to Independence Provisions**

- 3. Do respondents support the restructuring changes and proposed conforming amendments in proposed Sections 420 and 906?*

We agree that the independence provisions would need to be adapted in these Sections 420 and 906 to align with the revised enhancements to the inducements provisions for PAPPs. We refer to our comments above on how these enhancements should be adapted.

Following up on our comments in response to question 1, a RITP will likely conclude that gifts and hospitality with little intrinsic value but improper intent, are not seen as trivial and inconsequential and therefore never acceptable.

- 4. Do respondents believe the IESBA should consider a project in the future to achieve further alignment of Sections 402 and 906 with proposed Section 340? If so, please explain why.*

We do not see any reason for such future project. The current requirements are sufficient and clear.