

8 December 2017

International Ethics Standards Board for Accountants (IESBA)

Email: kensiong@ethicsboard.org

Dear Sir

SAICA SUBMISSION ON THE IESBA'S EXPOSURE DRAFT, PROPOSED REVISIONS TO THE CODE PERTAINING TO THE OFFERING AND ACCEPTING OF INDUCEMENTS

In response to your request for comments on the *IESBA's Exposure Draft pertaining to Offering and Accepting of Inducements*, attached is the comment letter prepared by The South African Institute of Chartered Accountants (SAICA). We have provided general comments as well as editorial suggestions.

We thank you for the opportunity to provide comments on this document.

Please do not hesitate to contact us should you wish to discuss any of our comments.

Yours sincerely,

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Project Director – Governance and Non-IFRS Reporting



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GENERAL

The term inducements is defined as “a thing that persuades or leads to someone to do something”. Synonyms for the terms “inducements” includes temptation, incitement, bribe, reward. An antonym is “deterrent”. Therefore although the use of the word inducement is stated by the IESBA as influencing another person in a manner that is not unethical it does seem that the term inducement seems to have a negative connotation.

The section also refers to reasonable and informed party test. The reasonable and informed third party test refers to a person with similar experience and knowledge. When a professional accountant accepts an inducement and it becomes public, the professional accountant will not necessarily be evaluated by a reasonable and informed third party but by the general public.

The issue of cultural norms is also in our view down-played but it will be a more significant consideration than anticipated.

SAICA would also like to request a definition of “trivial and inconsequential”. The term is used but there is no definition of what would be seen as trivial and inconsequential.

Section 250.15 A3 refers to the fact that if a professional accountant is offered an inducement by their employing organization relating to financial interests, compensation and incentives linked to performance, Section 240 is also relevant. We would like to raise the fact that share-based schemes often form part of any PAIB's remuneration packages and would not be considered an inducement in South Africa, consider providing more context that an inducement would occur where the scheme is not common practice, or if the scheme is overly generous when compared to the market or industry norms.

RESPONSE TO REQUEST FOR SPECIFIC COMMENTS

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?

Response:

SAICA supports the new guidance. We refer to specific sections:

- S250.4 A1 This guidance aligns with the Extant code S350.1 (inducements receiving offers) but expands it to include Preferential treatment, entertainment, facilitation payments and donations and employment opportunities so this adds to the Extant code and the guidance is helpful and



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clear. Inducements by promising people employment opportunities or enriching recipients through donations or facilitation payments are powerful incentives used to induce. These examples are very relevant.

- We would like to suggest that the task force consider adding the following guidance in S250.9 A1 to read “Consideration of industry or local customs.” This is always an important factor that impacts perceptions and would be relevant in a global code due to diversity of cultures.
- 250.11 A4 In our view it may be clearer if the safeguard guidance material in the sentence include the word “independent” to now read “...is transferring the responsibility for any business related decision involving a counterparty to another “independent” individual...” This will ensure that the person making the decision should be independent of the person receiving the inducement – despite perceived or actual perceptions of impartiality.
- R250.12 With reference to *immediate or close family member*, we would suggest that it is important that the words “as defined in the code” is added to ensure the user applies the defined definition of immediate family member when applying the code which includes spouse equivalents and other dependents.
- The defined term in code found under definition of *Immediate family* is “A spouse (or equivalent) or dependent”. This will highlight the fact to a user of the Code that an “equivalent/dependent” are included in the interpretation of “close and immediate family member” for example a life partner.
- 250.13 Another factor that is relevant is the nature or closeness of the relationship. Although the Code defines close family the use of the terms “closeness of the relationship” is not clear. The question that has arisen is how closeness can be assessed or evaluated. This could also impact the professional accountant as the professional accountant cannot always assess or account for actions taken by close family members.
- We would also suggest that the taskforce consider including a requirement paragraph before listing the examples of other sections to be considered in R250.15 , it could read “When a PA offers or receives inducements all relevant sections of the Code of Ethics must be considered, a PA should refer to the relevant guidance found in other sections of the code examples may include:...”



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Editorial comments

- Correct the spacing between 250.15 A2 and 250.15 A3
- S250.3 ...offering or accepting inducements that **does** not... should be changed to ...offering or accepting inducements that **do** not...

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?

Response:

Yes, we do agree they should be aligned refer to suggestions below also relevant to section 340.

We would suggest and like the task force consider adding guidance to read in 340.9A1 "Consideration of industry or local customs." This is always an important factor that impacts perceptions and would be relevant in a global code due to diversity of cultures.

- 340.11 A4 In our view it might be clearer if the safeguard guidance material in the sentence include the word "independent" to now read "...is transferring the responsibility for any business related decision involving a counterparty to another "independent" individual..."
To ensure that the person making the decision should be independent of the person receiving the inducement – despite perceived or actual perceptions of impartiality.
- R340.12 With reference to *immediate or close family member*- we would suggest that it is important that the words "as defined in the code" is added to ensure the user applies the defined definition of immediate family member when applying the code which includes spouse equivalents and other dependents.
- The defined term in code found under definition of *Immediate family* is "A spouse (or equivalent) or dependent". This will highlight the fact to a user of the Code that an "equivalent/dependent" are included in the interpretation of "close and immediate family member" for example a life partner.
- We would also suggest that the taskforce consider including a requirement paragraph before listing the examples of other sections to be considered in R340.15, it could read "When a PA offers or receives inducements all relevant sections of the Code of Ethics must be considered, a PA should refer to the relevant guidance found in other sections of the code examples may include:..."



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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?

Response:

Yes, we support the changes. As independence is not one of the five fundamental principles, but a very important requirement of the code it is imperative that all action by a professional accountant or the firm or network firm that affect independence are set out in the independence standard.

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.

Response:

In our view the current reputational damage that the profession is facing, worldwide and in South Africa where partners were perceived to be closely aligned to unethical activity of business people, of receiving perceived favours and preferential treatment, this has tarnished the profession. The upfront considerations when applying rules around independence and a relook at these is strongly encouraged.

SAIC would like to see further alignment of Sections 402 and 906 with section 340 as achieving compliance with the independence standard is of paramount important for professional accountants. Independence in appearance and perception affects the many faceted relationship of the firm and the professional accountant when providing professional services. In view of the submission that the concept of independence and compliance with the requirements will be made into an ethical standard it is advisable that more rules and application material is embodied in that document.

Request for General Comments

In addition to the request for specific comments above, the IESBA is also seeking comments on the matters set out below:

- *Small- and Medium-Sized Entities (SMEs) and Small and Medium Practices (SMPs)* – The IESBA invites comments regarding any aspect of the proposals from SMEs and SMPs.

Response:

The Small and Medium-Sized entities and Small and Medium Practices might have more trouble implementing the safeguards relating to another individual reviewing the work of the relevant professional accountant.



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- *Regulators and Audit Oversight Bodies* – The IESBA invites comments on the proposals from an enforcement perspective from members of the regulatory and audit oversight communities.

Response:

Not applicable to the South African Institute of Chartered Accountants

- *Developing Nations* – Recognizing that many developing nations have adopted or are in the process of adopting the Code, the IESBA invites respondents from these nations to comment on the proposals, and in particular on any foreseeable difficulties in applying them in their environment.

Response:

The standard is even more applicable in developing nations that might have higher levels of corruption

- *Translations* – Recognizing that many respondents may intend to translate the final changes for adoption in their own environments, the IESBA welcomes comment on potential translation issues respondents may note in reviewing the proposals.

Response:

No applicable to South Africa