

BRIEFING MEMO IESBA
December 4-8, 13 & 15, 2023
In-Person Meeting

Disclaimer: This memo is prepared by PIOB staff, in advance of the SSB/CAG meeting, applying their best knowledge and their own judgement in identifying and communicating matters of public interest and due process. PIOB Staff views are discussed with the PIOB observer and the PIOB Board and do not pre-empt further PIOB's views or discussions. The main objectives of this memo are to support the PIOB member in his/her SSB/CAG meeting observation and to help maintaining consistency and continuity of oversight.

The Agenda of the meeting includes the following topics¹:

- 2 – STRATEGY AND WORK PLAN (SWP)
- 3 – TAX PLANNING
- 4 – USE OF EXPERTS
- 5 – SUSTAINABILITY WS1 & WS2
- 6 – SUSTAINABILITY OUTREACH PLAN
- 7 – PIE ROLLOUT
- 8 - CIVs

2 - 2024-2027 STRATEGY AND WORKPLAN (SWP)

Objective: Finalize the IESBA 2024-2027 Strategy and Work Plan (SWP).

Background and Status: Comments from respondents to the Consultation Paper were analyzed and discussed in September. At this meeting the revised SWP document will be discussed for approval by the IESBA.

Notes/key points from the review of the documentation for this meeting

The revised SWP document (item 2-B) includes the following themes:

¹ No documentation available at the time this BM has been drafted for agenda items 6 and 7, which are not covered in the BM.

- Profession-agnostic standards. As a response to stakeholders' outreach, PIOB's recommendation, and public expectations to have preparers of sustainability information (both PAs and non-PAs), subject to the same ethics standards, the IESBA has included the expansion of ethics standards to all preparers of sustainability information as a strategic priority. It intends to do so in two phases: a) exploring the expansion of the Code to all preparers of sustainability information; b) revising Part 4B of the Code to cover sustainability assurance engagements (SAEs) performed by all sustainability practitioners. Please see PI issues section below.
 - As a consequence, a new workstream will be the revision of Part 4B of the Code for Sustainability Assurance Engagements (SAEs) which are not in the scope of new Part 5 (i.e. SAEs not meeting defined criteria in Part 5).
- Firm culture and governance: the IESBA has confirmed the importance of this topic and intends to take a leadership role.
- Other workstreams confirmed are:
 - Role of CFOs and PAIBs
 - Audit firm and audit client relationship
 - Business relationships
- Pre-commitments include PIRs of: NOCLAR, Long Association Phase 2, NAS, Fees, Restructured Code, Definition of PIE. The PIR of Engagement Team/Group Audits has been added to the document.
- CIV information gathering.

Public Interest Issues

Please refer to the PIOB PI Issues, as of September 2023, published in the PIOB website.

[PIOB's PI Issues on IESBA projects 07.11.2023 clean.docx \(ipiob.org\)](#)

PIOB Staff comments on PI

Expansion of the Code and revision of Part 4B

The IESBA's consideration of the possible expansion of the Code (ethics standards to all Preparers) within the next strategy cycle, responds to public expectations, as it is intended to strengthen trust and reliability on sustainability information, requiring all preparers to abide by the same principles and ethical requirements. This should address the public interest demands.

On the other hand, the proposal to revise Part 4B of the Code is not very clear. Part 4B deals with independence requirements for assurance engagements other than audits, hence it does not affect the reporting aspect (Preparers of sustainability information – currently only PAs – are under the scope of Sustainability WS2).

The motivation for the revision of Part 4B, according to the revised SWP, is that the IESBA intends to cover all SAEs, also the ones not in the scope of Part 5 (i.e. not meeting defined criteria) in Part 4B.

We question whether Revision of Part 4B, at this stage, is needed and which public interest issue it intends to address. The premise for drafting a new Part 5 was that the IESBA decided to differentiate the “public interest” embedded in the different types of SAEs (i.e. higher public interest in SAEs meeting certain criteria, covered in Part 5, and lower public interest in SAEs not meeting certain criteria, to which Part 4B applies).

Part 4B has less stringent independence requirements for assurance engagements other than audits and other than SAEs meeting certain criteria (the latter covered in Part 5). What is the revision supposed to achieve? Would it have the aim to strengthen requirements? If so, there would be no reason to restrict the scope of Part 5 to SAEs meeting certain criteria only, and there would be no need to revise Part 4B.

Considering the IESBA’s limited resources, and the additional work required to finalize the current Sustainability workstream, at this stage it is not evident why a revision of Part 4B of the Code should be undertaken. The discussion at the meeting may help identifying the public interest issues which are meant to be addressed with the revision of Part 4B.

Projects and workstreams included in the revised SWP

The confirmation of projects such as Firm Culture and Governance, Audit firm and audit client relationship, Role of CFOs and PAIBs, Business Relationships, and their priority is responsive to the feed-back received to the consultation paper and to the PIOB’s comments as well.

Priorities and allocation of resources in the SWP

The revised SWP includes the priorities assigned to the different projects and workstreams. It would be helpful, as recommended by the PIOB in the PI issues as of September, to explain the criteria that have been applied for that purpose. Perhaps the public interest issues that they are intended to address, or the application of the PIF (e.g. which stakeholders’ needs have been identified) could be included in the SWP.

Appendix 2 in agenda item 2-B includes a table with the “rationale” for Anticipated Demand on Resources. This is a useful information to understand the resource needs and the expected effort on each workstream.

3 – TAX PLANNING

Objective of the project: The objective of the project is to develop a principle-based framework, leveraging the fundamental principles and the conceptual framework, to guide professional accountants' (PAs) ethical conduct when providing tax planning services to employing organizations and clients.

Background and status: The IESBA previously discussed the feed-back to the ED. The approval of the final pronouncement is targeted at this meeting.

Notes/key points from the review of the documentation for this meeting

The revised text of Sections 280 (item 3-C) and 380 (item 3-B), as well as consequential amendments (item 3-D), are included in the documentation.

The most significant changes since September are as follows:

- Clarifications on which activities are not included in tax planning (e.g. tax compliance, tax preparation). (Par. 380.5 A3, mirrored in 280.5 A3).
- Addition of disclosure of tax strategies, policies etc. under the examples of management responsibilities (Par. 380.9 A1, mirrored in 280.9 A1). This bullet has been added in response to PIOB's September comments. The TF believes that the disclosure of tax strategies is a matter for the reporting framework to address.
- Addition of an example of self-interest threat (i.e. PA advises a government agency on tax policy and the confidential information obtained by the PA is used to advise other clients in their planning arrangements). This point has been added to reflect events occurred in Australia.

Public Interest Issues

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[PIOB's PI Issues on IESBA projects 07.11.2023 clean.docx \(ipiob.org\)](#)

PIOB Staff comments on PI

The changes occurred to the Tax Planning provisions intend to address the comments gathered at the September meeting, including additional feed-back from IESBA members and PIOB's comments.

Consistently with PIOB's comments raised in the past, *the IESBA is recommended to assess whether the tax planning provisions in the Code of Ethics achieve the objectives which were set at the inception of the project.*

4 – USE OF EXPERTS

Objective: To address ethics and independence considerations concerning the use of experts in the preparation, audit, and assurance of financial and sustainability information.

Background and Status: The IESBA approved a Project Proposal in December 2022. The ED is expected to be approved at this meeting.

Notes/key points from the review of the documentation for this meeting

The TF is presenting a revised draft of the Use of Experts provisions, with the aim to approve the ED at the meeting (ED expected to be released in January).

The main proposals since September (resulting from discussions at that meeting, as well as from feed-back obtained by members on a revised draft circulated in October) include (items 4-C and 4-A):

- Scope of the provisions has been refined and limited to “external” experts only involved in audit, assurance (including sustainability) and NAS.
- Some paragraphs have been reordered to improve the flow and the sequencing of requirements.
- Evaluation of competence, capabilities and objectivity (CCO), and factors to be considered, have been redrafted.
- Some clarifications have been provided on threats and safeguards which could be identified when using the work of an external expert.
- Encouragement to communicate with management and TCWG, and encouragement to document, the use of external experts.
- Revised definitions in the glossary of expert, external experts and removal of the “management’s expert” definition (as it is not in the scope of the section). External experts are not part of the Engagement Team, Audit Team or Assurance Team.

The revised section 390 (mark-up from September) is presented in agenda item 4-C, as well as changes and conforming amendments in other parts of the Code (including in new Part 5 – item 4-E).

The Explanatory Memorandum will include an explanation on the rationale of the proposals, as well as a flowchart with the different roles involved in an engagement.

Public Interest Issues

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PIOB Staff comments on PI

Scope limited to “external” experts

The scope of the provisions is now focused on external experts only. What is required for external expert, is the evaluation, by the practitioner, of their CCO. Financial interests (e.g. loans, guarantee), familiarity threats, conflict of interests, etc., unless immaterial or not significant, are still elements which the practitioner needs to consider as well. The “regime” proposed for external experts can be defined as “objectivity plus” (the TF labels it as “independence through lens of objectivity”).

When the evaluation has a negative conclusion (no CCO), there are no safeguards applicable and the work of the external expert cannot be used. On the other hand, if the conclusion of CCO is positive, and the practitioner decides to use the work of the expert, there may be still threats the practitioner needs to identify and address (e.g. he/she has no enough expertise or resources to evaluate the findings of the external expert; he/she has undue reliance over the work of experts, etc.).

What are the implications of excluding the “internal” experts from the scope? This differentiation may create further layers of complexity, as internal and external experts will be treated in different ways.

Objectivity vs. independence requirements

We acknowledge the refinements made in the scope of the project, and the effort to clarify the evaluation of CCO. However, we question whether the “objectivity plus” regime proposed for the use of external expert responds to the public interest needs and expectations. One of the reasons to start this project was to strengthen requirements and move from the “objectivity” to the “independence” of those individuals who are involved as experts in the audit and assurance engagements. The bar raised so far does not seem to achieve that objective. The ED will be a further test to assess to which extent stakeholders consider objectivity or “objectivity plus” enough. Feed-back from non-PAs will be particularly interesting.

Complexity and implementability

As already stressed by the PIOB, clear definitions of experts (now only “external” experts in the scope) are needed to facilitate the appropriate ethical and

independence requirements being applied to every individual who participates in an engagement. In the current proposals, there are still several definitions (see also PI issues in the Sustainability workstreams), which reflect the different functions and roles of individuals involved (in preparation, audit or assurance), such as internal experts, external experts, individuals providing consultation, etc.

It is challenging to understand in which category an individual may fall and, subsequently, it may be confusing in terms of which provisions should apply² (i.e. objectivity, objectivity plus or independence).

One may question how the variety of the definitions will be applicable in practice and how easily the relevant regime will be implemented. The engagement leader will need to deal with members of the engagement team, members of the audit team, internal experts, and external experts.

Coordination with the IAASB

Coordination with the IAASB is ongoing and is especially important to avoid conflicts with ISA 620 and ensure alignment with ISSA 5000.

This is reflected also in the definitions within the glossary, which are compatible and in line with the extant ones, also used in the ISAs (and ISSA 5000).

Timing

There is time pressure for an ED, which needs to be approved as planned, to allow the IESBA enough time to consult stakeholders and to address feed-back by the end of 2024 (when the provisions are expected to be finalized). The urgency should not be at the cost of clear and robust provisions.

5 – SUSTAINABILITY WS 1 & WS 2

Objective/scope: the Sustainability WG was established in March 2022 and the project proposal, split in two workstreams was approved in December 2022. The two workstreams deal with: profession-agnostic independence standards for sustainability assurance (workstream 1); ethics standards for sustainability reporting and assurance (workstream 2).

Background and Status: The ED of the two Sustainability WSs is expected to be approved at this meeting.

Notes/key points from the review of the documentation for this meeting

² There is a differentiation between Engagement Team and Audit Team. Experts who can directly influence the outcome of an engagement are part of the Audit Team.

WS1 & WS2 will present a joint redrafted new Part 5 (including ethics and independence provisions), with the aim to approve the relevant ED, expected to be published in January and to be exposed for 100 days.

The TFs have prepared also a revised Glossary (item 5-B), consequential amendments (item 5-C), and revisions to Part 1-3 of the Code of Ethics (item 5-C).

The main proposals since September (resulting from discussions at that meeting, as well as from feed-back obtained by members on a revised draft circulated in October) include (item 5-A):

- New Introduction to Part 5, defining its scope and clarifying which sections would apply for ethics (WS1) and independence standards (WS2), respectively. The TF has included a reference to Part 4B, which would apply when dealing with Sustainability Assurance Engagements (SAEs) that are not in scope of Part 5 (i.e. not meeting the defined criteria).
- A placeholder in Section 5390 for the new section on Use of Experts (developed as a separate project – agenda item 4).
- Section 5400 – Independence standards for SAE (meeting certain criteria – in 5400.3 a).
- Reference to a quality management system has been retained, with some redrafting to reflect the framework-neutral approach of the provisions.
- Sections 5400.10 a, 5400.12 a and 12. c – dealing with “another practitioner” and when his/her work is intended to be used in the SAE. See PI issues section on “another practitioner” in this BM.
- Section 5406 – Another Practitioner involved in the SAE. See PI issues section on “another practitioner” in this BM.
- Group SAE independence provisions have been retained.
- Section 5700 – Interests, relationships and circumstances involving value chain entities. The TF has included a definition of “value chain” and concluded that as value chain entities are not under control of the entity (subject to the SAE), the relevant interests and relationships between Practitioner and value chain entities should be dealt with in a separate Part, bearing a lower level of threats. On balance and with the aim to have a pragmatic approach, the TF proposes to address those threats on a “knows or has reason to believe” principle basis. The Explanatory Memorandum, the Basis for Conclusions and any supporting material, will explain that approach, especially to make it clear to non-PAs who are not familiar with that principle.
- Revised Glossary (item 5-B).
- 5100 2b – text not clear, also in terms of application of different parts of the Code.

From the extant Code, adapted to a sustainability context, Part 5 also includes:

- Ethics standards (e.g. Fundamental Principles, Conceptual Framework, Inducements, NOCLAR³, Tax planning services);
- Independence standards (e.g. Fees, financial interests, business relationships, Long Association, NAS).

Public Interest Issues

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[PIOB's PI Issues on IESBA projects_07.11.2023_clean.docx \(ipiob.org\)](#)

PIOB Staff comments on PI

"Another practitioner" (Sections 5400.10 a, 5400.12 a and 12. C, Section 5406, and Glossary)

The provisions in the Code establish that if "another practitioner" is intended to be used in the SAE and the firm is able to direct, supervise and review (DSR) him/her, that practitioner is a member of the Engagement Team. The definition in the Glossary (item 5-B) is not compatible with that, as "another practitioner" is, by default, defined as somebody who is not under the DSR of the SAP and is not a member of the Engagement Team.

The provisions in the Code establish that when "another practitioner" performs assurance work but the firm is unable to DSR him/her, that practitioner is not a member of the Engagement Team. In that case, Section 5406 sets specific requirements.

Section 5406 deals with "another practitioner involved in a SAE". If the firm is unable to DSR "another practitioner", the firm is required to make him/her aware of ethics and independence requirements. Additionally, "another practitioner" needs to confirm to be independent and notify whether he/she knows or has "reason to believe" that there are relationships between him/her and the entity which could impact independence. If independence of "another practitioner" cannot be confirmed or threats to independence cannot be addressed, the work of "another practitioner" cannot be used.

The text drafted (e.g. par R 5406.5) is quite complex and convoluted.

In par. 5400.11 it is stated that if specialized skills beyond the ones held by the Engagement Team are needed in the performance of the SAE, the firm may use "experts". Depending on the role, "experts" may be part of the Engagement Team or Assurance Team. It is also stated that "external experts" are not part of the

³ Par. R5360.18 a requires that the Sustainability Assurance Practitioner (SAP) "shall consider whether" to communicate NOCLAR or suspected NOCLAR to the external auditors. Factors to consider are provided in the provisions.

Engagement Team or Assurance Team. Examples are provided of the different roles of experts, ranging from individuals who perform assurance procedures and individuals who have a direct influence on the SAE (the latter being part of the Assurance Team but not of the Engagement Team).

Current proposals still refer to different roles which require a different treatment from an independence requirements perspective and include inconsistencies (i.e. the definition of “another practitioner” in the Glossary, versus the provisions about “another practitioner” in Part 5). Provisions deal with “another practitioner”, “experts”, “external experts”. Some experts may be part of the Engagement Team. External experts are not part of the Engagement Team. The line may be blurred and it may be difficult to understand which role is undertaken by an individual and, consequently, which provisions would apply (See also PI issues in the Use of Experts project).

The Code may need to be even more explicit in stating that “external experts” are different from “another practitioner”, as the external expert does not perform assurance procedures and has an expertise outside the assurance realm.

We need to reiterate our concerns on the need to simplify the provisions and to make them clearer. The informative sessions held by IESBA in November may be helpful to clarify the concepts and the definitions, accompanied by further material, flowcharts, etc. However, one may question how the different definitions and objectivity/independence regimes will be implemented and what is the outcome expected from a public interest perspective.

Scope of Part 5

We reiterate our point on scope of Part 5, as expressed in the PI issues document. *The IESBA should ensure that the scope and application of the proposed new Part 5 is clear and easily understandable. This would be in the public interest as, within the same Part 5, there are different aspects of application to consider: on one hand, independence requirements which apply to sustainability assurance engagements which meet certain criteria (developed by WS1); and, on the other hand, ethics requirements which apply to all services provided by sustainability assurance practitioners (both within and outside the accounting profession) to the same sustainability assurance client (developed by WS2).*

The TF plans including some explanations about the scope in the Explanatory Memorandum, which will also include some questions, to make sure that respondents are clear. Feed-back from non-accountants will be particularly interesting.

Ethics requirements to be extended to all Preparers (also non-PAs)

We acknowledge the revised 2024-2027 Strategy and Work Plan (SWP) (which will be presented in December), and the extension of ethics requirements to preparers who are not PAs, which will be considered within the SWP cycle. In September, the IESBA agreed to issue a public statement, in parallel with the Sustainability ED, to emphasize

the importance of ethics across financial and non-financial reporting, and that the Code should be consistently applied by all preparers.

This a good signal and reflects the public interest embedded in the preparation of the sustainability information, with the aim to apply the same high bar to all individuals involved in reporting, not just PAs.

Coordination with the IAASB

Coordination with the IAASB is ongoing and will be further needed, to make sure that there is no conflict among the provisions in the Code and in ISSA 5000, taking into account the different timing of the respective EDs and relevant feed-back. In March 2024, the IESBA will receive an update from the IAASB on the most significant comments received to ISSA 5000.

Timing

There is time pressure for an ED, which needs to be approved as planned, to allow the IESBA enough time to consult stakeholders and to address feed-back by the end of 2024 (when the provisions are expected to be finalized). The urgency should not be at the cost of clear and robust provisions.

8 – CIVs

Background and status: When finalizing the Definition of Listed Entities and PIEs, the IESBA committed (upon recommendation of the PIOB) to undertake a holistic review of CIVs and Pension Funds, which is included in the 2024-2027 Strategy and Work Plan.

The Working Group will present the Terms of Reference (ToR) (item 8-A) for the Collective Investment Vehicles (CIVs), Pension Funds (PFs) and Investment Company Complexes (ICCs).

The composition of the “project team” is included in item 8, which explains that this workstream will be conducted under the new IESBA staff-led model, including one chair and two staff members assisted by an external consultant (who, in this case, is a former IESBA member).

The team will be assisted also by a “Standard Research and Support Centre”, which is being established.

The objectives of the workstream are spelt out in the ToR:

- a) *Review CIVs and pension fund arrangements and their relationships with trustees, managers and advisors to gain a comprehensive understanding of these arrangements to ensure that the independence provisions and the application of the “related entity” definition in the International Independence Standards in Part 4A of the Code remain fit for purpose;*
- b) *Review investment company complexes and consider whether the Code should be enhanced to address these structures, such as establishing new terms and definitions, and clarifying which entities or arrangements within such a complex should be considered as related entities of an audit client; and*
- c) *Develop a report and recommendations to the IESBA.*

Expected deliverables and phases of the workstream are described in the document.

Public Interest Issues

PIOB Staff comments on PI

It would be helpful to know more about the functioning of the new staff-led model, as well as about the Standard Research and Support Centre.