

December 4, 2017

Mr. Ken Siong  
Technical Director  
International Ethics Standards Board for Accountants  
529 Fifth Avenue, 6<sup>th</sup> Floor  
New York, NY 10017

Submitted via: [Submit a Comment](#) link of IESBA website

**Re: IESBA Exposure Draft, Proposed Revisions to the Code Pertaining to the Offering and Accepting of Inducements**

Dear Mr. Siong:

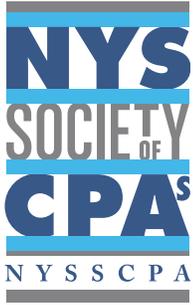
The New York State Society of Certified Public Accountants (NYSSCPA), representing more than 26,000 CPAs in public practice, industry, government and education, welcomes the opportunity to comment on the above-captioned exposure draft.

The NYSSCPA's Professional Ethics Committee deliberated the exposure draft and prepared the attached comments. If you would like additional discussion with us, please contact Elliot L. Hendler, Chair of the Professional Ethics Committee, at (212) 719-8300, or Ernest J. Markezin, NYSSCPA staff, at (212) 719-8303.

Sincerely,

Harold L. Deiters III  
President

Attachment



**NEW YORK STATE SOCIETY OF  
CERTIFIED PUBLIC ACCOUNTANTS**

**COMMENTS ON**

**IESBA EXPOSURE DRAFT, PROPOSED REVISIONS TO THE CODE PERTAINING  
TO THE OFFERING AND ACCEPTING OF INDUCEMENTS**

**December 4, 2017**

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Steven J. Leifer  
Santa J. Marletta  
Brian K. Pearson  
Victoria L. Pitkin**

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Ernest J. Markezin

## **New York State Society of Certified Public Accountants**

### **Comments on**

### **IESBA Exposure Draft, Proposed Revisions to the Code Pertaining to the Offering and Accepting of Inducements**

The New York State Society of Certified Public Accountants (NYSSCPA) appreciates the opportunity to provide comments on the International Ethics Standards Board for Accountant's (IESBA) exposure draft entitled, *Proposed Revisions to the Code Pertaining to the Offering and Accepting of Inducements* (Proposal).

#### **General Comments**

The issue of the offering and accepting of inducements is an important one and we agree that it must continually be addressed and discussed. However, in our view, the IESBA's approach is unnecessarily complicated. Certainly, activities that are illegal cannot be condoned or accepted; there is little else that needs to be said in that regard. It is an obligation of firms and companies to put in place procedures that ensure that the applicable laws are obeyed.

#### **Specific Comments**

With respect to the Proposal's addressing activities that are intended to improperly influence behavior, we have the following comments:

1. Intent is very subjective and often cannot be discerned. In an active business context, how will a party's intent be determined, and who will be the determining party? In addition, evaluating intention will necessarily be performed after the fact and, with the benefit of hindsight, innocent activity may at a later date appear improper. Perhaps the standard should be that of a reasonable person, acting with the knowledge that reasonably was available at the time to the acting individual.
2. The term "improperly influence" is used. Most business-related activities are intended to influence some action or activity. How will "improperly influence" be decided? Considering the range of business practices in countries around the world, a more workable standard is needed. Perhaps, again, a "reasonable person in like circumstances" standard should be employed.
3. An example in the Proposal of a curative action is donating the inducement to charity. This ignores the situation where a donation to charity may itself be the inducement, as where a charitable contribution is made to a charity known to be favored by the intended beneficiary.

4. The term “trivial and inconsequential” is used to aid in evaluating an inducement. How is this term to be applied? Guidance in analyzing and then determining what is “trivial and inconsequential” will overwhelm the individuals responsible for monitoring compliance.
5. Also not considered are situations where the conferred inducement is for the benefit of the donor, such as providing meals on a client’s premises which save time by avoiding having to leave the premises in order to eat.
6. An exception should be made where a benefit is provided which also is granted to a broad segment of the public, such as discounted shopping at a company store or access to periodic sales of out-of-season items. In these situations it would seem that the recipient has not been singled out for any special benefit that is not broadly available to the public.

The Proposal attempts to set forth rules for determining when an inducement is improper and unacceptable. In the day-to-day interaction of professional accountants, whether in a professional practice or in business, meeting with people and working to develop a meaningful business relationship is of paramount importance. These activities often involve business meals and at times social activities. To examine each activity to determine whether it was intended to improperly influence the recipient of a supposed benefit is, we believe, an extreme overreaction. More meaningful, perhaps, would be to view the cumulative effect of these relationships to determine whether they have crossed the line from a normal business relationship to something that is or may appear improper.

The Proposal also suggests a system of reporting and monitoring business interactions. This would add to the already overwhelming reporting requirements most professional accountants now face. Self-reporting is not an answer, as it will mean that personnel throughout an organization will have to consider day-to-day interactions to determine whether or not they are reportable and how to report them. If such a reporting requirement was introduced, then someone would be charged with monitoring these reports and following up on any possibly suspect activity, resulting in increased time and reporting burdens.

Clearly, improper influence relating to a professional accountant’s activities is unacceptable. We think that a much more focused approach to standard setting can be developed.