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IESBA Exposure Draft: Proposed Revisions to the Fee-related Provisions of the Code

Dear Ken

Dear Ladies and Gentlemen

The Wirtschaftsprüferkammer (WPK) is pleased to take this opportunity to comment on the above mentioned Exposure Draft (ED). We would like to highlight some general issues first and provide you with our specific responses to the ED questions subsequently.

General Comments

We appreciate that **IESBA has been engaging more closely with the IAASB** recently to ensure that any proposed changes to the Code are consistent or otherwise interoperable with the ISAs. We would encourage IESBA, as further explained below, to intensify the co-operation with the IAASB with regard to the disclosure of fee-related information and communication with TCWG.

On the other hand, as you are aware, the WPK has repeatedly called for a “**period of stability**” during which no further changes of the Code should take place. We do not have the impression that IESBA takes our concern into consideration. On the contrary, we have to note that the pace of changes appears to even increase, given that IESBA has already issued three EDs this year

(Fees, NAS und EQR) and - according to IESBA's public meeting documents - plans to issue two more EDs in 2020 (Engagement Team/Group Audits, Definitions of Listed Entity and PIE).

In this context we would also like to remind IESBA of its commitment to an **evidence-based standard setting** (IESBA Strategy and Work Plan, 2019-2023, paragraph 32). While we acknowledge that also perception issues need to be taken into consideration, we strongly miss any evidence that the current fee provisions of the Code are in significant need of improvement.

We would also encourage IESBA to take into consideration the tremendous impact of the current **COVID-19 pandemic** on the profession and kindly request IESBA to **significantly extend the implementation periods of upcoming changes of the Code**.

Specific Comments

Evaluating Threats Created by Fees Paid by the Audit Client

1. Do you agree that a self-interest threat to independence is created and an intimidation threat to independence might be created when fees are negotiated with and paid by an audit client (or an assurance client)?

We do not agree that negotiation with and payment by the audit or assurance client creates per se a self-interest threat to independence. Whether a self-interest threat is created depends on a bunch of factors (e. g. who the client and how his/her relationship with the auditor is). In making this assessment, fees paid by the client are one factor, only and do not automatically lead to a self-interest threat. We are of the view that when fees are paid by the client this **"might" create a self-interest threat**. In this sense according to the extant Code a self-interest threat and an intimidation threat to independence might be created when fees are negotiated with and paid by an audit client (410.2).

The extant Code is designed to address the potential threats inherent in the audit client payer model and recognizes various safeguards to mitigate potential threats to an acceptable level. In addition, compliance with other international standards such as the international standards on auditing and quality control acts to mitigate these threats such that they do not exceed an acceptable level (cf. Explanatory Memorandum paragraphs 23, 29, 31). There are also many provisions and instruments, respectively in place on a jurisdictional level to address the threats related to the audit client payer model such as the involvement of audit committees or supervisory boards, external quality control and public oversight. This balanced system appears to be well working since the audit client payer model is globally accepted.

Against this background we are of the view that the risks inherent in the audit client payer model are already adequately addressed by **compliance with professional standards** including the Code and that there is **no need for IESBA** basically to question the audit client payer model.

2. Do you support the requirement in paragraph R410.4 for a firm to determine whether the threats to independence created by the fees proposed to an audit client are at an acceptable level:

(a) Before the firm accepts an audit or any other engagement for the client; and

(b) Before a network firm accepts to provide a service to the client?

In principle we are in agreement with the proposed requirements. However, these requirements are already dealt with by the Code and therefore in our view there is no need for repeating them as proposed.

3. Do you have views or suggestions as to what the IESBA should consider as further factors (or conditions, policies and procedures) relevant to evaluating the level of threats created when fees for an audit or any other engagement are paid by the audit client? In particular, do you support recognizing as an example of relevant conditions, policies and procedures the existence of an independent committee which advises the firm on governance matters that might impact the firm's independence?

We do not think that there is a need for these proposals and may refer to our explanations above (questions 1 and 2). In particular we do not see any necessity for recognizing as an example of relevant conditions, policies and procedures the existence of an independent committee. Whether such a committee exists depends on the firm's corporate governance structure and therefore does not fall into IESBA's remit.

We would propose to IESBA to issue staff guidance outside the Code.

Impact of Services Other than Audit Provided to an Audit Client

4. Do you support the requirement in paragraph R410.6 that a firm not allow the level of the audit fee to be influenced by the provision by the firm or a network firm of services other than audit to the audit client?

We support the requirement in paragraph R410.6 that a firm not allow the level of the audit fee to be influenced by the provision by the firm or a network firm of services other than audit to the audit client. This requirement is in line with Art. 25 a) of the EU Audit Directive (2006/43).

Proportion of Fees for Services Other than Audit to Audit Fee

5. Do you support that the guidance on determination of the proportion of fees for services other than audit in paragraph 410.10 A1 include consideration of fees for services other than audit:

- (a) Charged by both the firm and network firms to the audit client; and*
- (b) Delivered to related entities of the audit client?*

In principle we acknowledge the objective of the proposed guidance. However, the guidance as proposed seems not fit for purpose, since it lacks clarity. It remains unclear, for instance, how the assessment has to be made and on what level.

Certain non-audit services are provided by the auditor due to the nature of the service. A non-audit service may be closely linked to the financial statements audit (e.g. interim reviews and issuance of comfort letters) or the stakeholders may expect the auditor to provide the service as an objective and trusted party (e.g. other assurance services and regulatory reporting requirements). In these cases, these fees do not create a self-interest threat to auditor's independence.

Please note that the EU Audit Regulation established a cap for the proportion of non-audit fees to audit fees. Services required by national legislation are excluded from cap calculations. Understanding and application of this cap requirement lead to inconsistencies among Member States. We fear that the IESBA proposal might create similar issues.

Fee Dependency for non-PIE Audit Clients

6. Do you support the proposal in paragraph R410.14 to include a threshold for firms to address threats created by fee dependency on a non-PIE audit client? Do you support the proposed threshold in paragraph R410.14?

We support the proposal to introduce a 30% threshold. As you probably know, the German legislator introduced a 30% threshold for non-PIE clients quite a time ago (Section 319 Paragraph 3 Sentence 1 No 5 German Commercial Code) in order to safeguard the independence of the auditor.

7. Do you support the proposed actions in paragraph R410.14 to reduce the threats created by fee dependency to an acceptable level once total fees exceed the threshold?

Yes, we support that the firm shall determine whether a pre-issuance or post-issuance review might be a safeguard to reduce the threats to an acceptable level in the case of perceived fee dependency on a non-PIE client.

Fee Dependency for PIE Audit Clients

8. Do you support the proposed action in paragraph R410.17 to reduce the threats created by fee dependency to an acceptable level in the case of a PIE audit client?

We suggest to align the proposed paragraph R410.7 with the corresponding requirement in Art. 4 para. 3 of the EU Audit Regulation (EU No 537/2014). The latter refers to the last **three** consecutive financial years as the relevant time period. Furthermore according to this Regulation, it is to the discretion of the audit committee to decide whether the firm can continue to be the auditor in the fourth and fifth years.

9. Do you agree with the proposal in paragraph R410.19 to require a firm to cease to be the auditor if fee dependency continues after consecutive 5 years in the case of a PIE audit client? Do you have any specific concerns about its operability?

We agree with the proposed paragraph R410.19 to require a firm to cease to be the auditor if the perceived fee dependency continues after consecutive 5 years in the case of a PIE audit client. This requirement is in line with the EU Audit Regulation (No 537/2014, Art. 4 paragraph 3).

10. Do you support the exception provided in paragraph R410.20?

We support the exception provided in paragraph R410.20.

Transparency of Fee-related Information for PIE Audit Clients

11. Do you support the proposed requirement in paragraph R410.25 regarding public disclosure of fee-related information for a PIE audit client? In particular, having regard to the objective of the requirement and taking into account the related application material, do you have views about the operability of the proposal?

WPK understands the objective of the proposed requirement in paragraph R410.25 to increase transparency of fee-related information. We also believe that enhanced transparency of fee-related information can serve to better inform stakeholders about the auditor's independence.

However, we think this is a corporate governance issue and should be dealt with by national legislation on company law. We do not think that the proposed disclosure falls within IESBA's remit. The obligation and responsibility of disclosure of fee-related information should be placed on the audited entity and not the auditor.

According to the EU Accounting Directive (2013/34/EU), public interest entities as well as large companies („large undertakings“) are required to disclose the total fees charged by the statutory auditor for a financial year separated into four categories: annual financial statement audit, other assurance services, tax advisory services and other non-audit services (Art 18 para. 1 b)).

Finally, actual or estimated fees paid or payable to other firms conducting component audits should not be within the scope of this consideration. These fees do not have any impact on auditor's independence.

12. Do you have views or suggestions as to what the IESBA should consider as:

(a) Possible other ways to achieve transparency of fee-related information for PIEs audit clients; and

(b) Information to be disclosed to TCWG and to the public to assist them in their judgments and assessments about the firm's independence?

Please note that audit committees are already involved and provided with fee-related information in the process of negotiating the audit fee and obtaining the approval for the provision of a non-assurance service. Additionally the ISAs contain requirements for auditors regarding the communication with TCWG. Auditors should be required to communicate only the essential information that will be used by TCWG.

Anti-Trust and Anti-Competition Issues

13. Do you have views regarding whether the proposals could be adopted by national standard setters or IFAC member bodies (whether or not they have a regulatory remit) within the framework of national anti-trust or anti-competition laws? The IESBA would welcome comments in particular from national standard setters, professional accountancy organizations, regulators and competition authorities.

In principle adoption of fee-related provisions in Germany should be feasible within the framework of anti-trust and anti-competition laws as long as the fee-related provisions are linked to the criteria independence of the auditor and quality of audits and do not stipulate for any limits (minimum or maximum amounts for an audit).

Proposed Consequential and Conforming Amendments

14. Do you support the proposed consequential and conforming amendments to Section 905 and other sections of the Code as set out in this Exposure Draft? In relation to overdue fees from an assurance client, would you generally expect a firm to obtain payment of all overdue fees before issuing its report for an assurance engagement?

No comments.

15. Do you believe that there are any other areas within the Code that may warrant a conforming change as a result of the proposed revisions?

In our view there are no other areas within the Code that may warrant a conforming change as a result of the proposed revisions.

We hope that our comments are helpful. If you have any questions relating to our comments in this letter, we should be pleased to discuss matters further with you.

Kind regards



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Chief Executive Officer



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