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IESBA Consultation Paper: Collective Investment Vehicles and Pension Funds

Dear Gabriela,

Dear Ken,

The Wirtschaftsprüferkammer (WPK) is pleased to take the opportunity to comment on the above-mentioned Consultation Paper (CP). We would like to highlight some general comments first and provide you with our responses to the individual questions in the CP thereafter.

General Comments

The WPK appreciates the IESBA's efforts to keep ethical standards at a high level and up to date in order to strengthen auditor independence.

However, the first step of each potential new project should consist in a thorough analysis to identify whether there is a gap in the existent provisions that would require a change in the IESBA Code of Ethics ("the Code"). Only after such gap analysis, a reasoned decision can be taken whether it is necessary and appropriate to amend the Code and to start a new project.

Whereas the WPK acknowledges that collective investment vehicles (CIVs) and pension funds may often be connected with complex structures and relationships between the parties involved, we are of the opinion that the resulting impacts on auditor independence are sufficiently covered by the conceptional framework of the Code. Therefore, we believe that the existing principles-based provisions are sufficient and more appropriate to provide a robust basis to evaluate and

ensure the auditor's independence also in the context of CIVs and pension funds. A shift towards rules-based provisions or special provisions for specific entities or individual sectors needs to be avoided since this would make the Code excessively complex and require constant updating and adaptation. As a result, this would rather complicate and impair the consistent and coherent application of the Code.

According to the WPK's knowledge, no severe violations of auditor independence have been identified in Germany so far that are attributable to a lack of specific provisions for CIVs/pension funds or a definition of "connected parties".

Furthermore, we believe that a period of stability is urgently needed in order to allow practitioners and audit firms to implement the recent amendments of the IESBA Code and the IAASB standards, mainly in respect of IESSA and ISSA 5000.

As a result, the WPK is not in favor of the project to amend the IESBA Code in respect of CIVs/pension funds for the time being. However - if the IESBA comes to the conclusion that additional clarification or advice is required, we recommend issuing non-authoritative guidance rather than amending the Code itself.

Below please find our detailed responses to the questions in the Consultation Paper.

Specific Comments

Question 1

Does the Code's definition of related entity capture all relevant parties that need to be included in the auditor's independence assessment when auditing CIVs/pension funds?

The current definition of "related entity" which focuses on control and significant influence does not necessarily cover all parties whose involvement could be relevant in an auditor's independence assessment. This may apply to CIVs and pension funds as well as to other structures and circumstances.

However, auditors do not consider the definition of "related entity" in isolation when assessing their independence. The broader conceptual framework of the IESBA Code requires that practitioners consider all threats to independence, including those arising from entities or individuals that may not meet the formal definition of "related entity" but nevertheless exert influence on the financial statements or make key decisions for the audit client.

The threats and safeguards approach appropriately captures the nature of independence risks also in such structures. The existing principles-based provisions (e.g. the conceptual framework in Section 120) provide sufficient flexibility to cover even rare or complex cases.

Question 2

Do you believe the criteria set out above are appropriate and sufficient to capture Connected Parties that should be considered in relation to the assessment of auditor independence with respect to the audit of a CIV/pension fund?

The three proposed criteria: a) responsible for the decision making and operations, b) able to substantially affect the financial performance or c) in a position to exert significant influence over the preparation of the accounting records or financial statements are considered appropriate to serve as indicators to be taken into consideration in the auditor's independence assessment.

However, it is preferable to consider such indicators in a principles-based approach, i.e. when applying the general provisions of the conceptual framework. In order to support the consistent application of such indicators in the identification of threats to independence, the WPK recommends issuing non-authoritative guidance, if deemed necessary, rather than amending the Code itself. The inclusion of a strict definition that is designed for the current structures of CIVs/pension funds would create a tight frame resulting in the necessity of future adjustments to adopt the definition to potential changes of the structures or the complexity of CIVs/pension funds. Therefore, the WPK does not consider the introduction of a new definition of "connected parties" in the IESBA Code expedient or necessary.

It is also questionable whether it is useful to develop specific rules for specific types of entities or sectors. The potential impact of relationships with third parties performing services or taking management decisions for an audit client may be common but is not exclusive for CIVs/pension funds. In general, the principles-based approach of the conceptual framework of the Code is considered more suitable to respond to changes as a rules-based approach could be.

Furthermore, the structures of CIVs/pension funds show a lot of complexity and diversity in different countries and legal environments that can be better addressed by local legislation or regulators, if special rules for such structures are deemed necessary.

Question 3

Where there are such Connected Parties, do you believe that the application of the conceptual framework in Section 120 of the Code is sufficiently clear as to how to identify, evaluate and address threats to independence resulting from interests, relationships, or circumstances between the auditor of the CIV/pension fund and the Connected Parties? If not, do you believe the application of the conceptual framework in the Code as applicable to Connected Parties associated with Investment Schemes warrants additional clarification? Please provide reasons for your response.

The WPK believes that the conceptual framework in Section 120 of the Code is sufficiently clear and appropriate to identify, evaluate and address threats to independence resulting from interests, relationships, or circumstances between the auditor of the CIV/pension fund and the parties involved in such structures. Therefore, additional clarification in the Code is not considered necessary. The existing provisions of the conceptual framework are intentionally formulated very generally to be suitable for a broad range of possible structures and situations including unusual and complex ones without requiring specific adaptations.

Question 4

Do you believe that the conceptual framework in Section 120 of the Code is consistently applied in practice with respect to the assessment of auditor independence in relation to Connected Parties when auditing a CIV/pension fund?

Until now, the WPK has not become aware of a tendency that the conceptual framework in Section 120 is not consistently applied in this respect. However, it is to be taken into consideration that principles-based decisions do always involve a certain degree of evaluation and professional judgment. Furthermore, differences in the interpretation and application of the conceptual framework can arise from local regulations relating to CIVs/pension funds in individual jurisdictions.

Question 5

Are there certain interests, relationships, or circumstances between the auditor of a CIV/pension fund and its Connected Parties that should be addressed? Please provide reasons for your response.

In the WPK's view, it is not necessary to add specific provisions to the Code in respect of interests, relationships, or circumstances between the auditor and third parties connected with the CIV/pension fund since the existing rules of the conceptual framework are sufficient and appropriate to fully address them also with regard to such structures and circumstances.

Question 6

Does your jurisdiction have requirements or guidance specific to audits of CIVs/pension funds from an auditor independence perspective? If yes, are those requirements included in audit-specific or CIV-specific regulation?

Please provide details.

Whereas there are specific regulations relating to the audit of PIEs, including the independence of auditors, there are no such separate or additional regulations for CIVs/pension funds in Germany.

The general auditor independence provisions of Sec. 319 para. 2 of the German Commercial Code (HGB) that have been derived from the conceptual framework of the IESBA Code are also applied to such structures as CIVs and pension funds.

The WPK is not aware of any severe independence breaches in Germany that can be attributed to a lack of specific rules for CIVs/pension funds or a gap in the definition of parties to be considered in the independence assessment of auditors.

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 of interest further with you.

Kind regards,



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Chief Executive Officer



WP Jan Langosch
Senior Manager Audit & Accounting