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30 June 2025

Re: Consultation on Collective Investment Vehicles and Pension Funds – Auditor Independence

Dear Ken,

The IDW is pleased to have the opportunity to respond to IESBA's Consultation Paper "Collective Investment Vehicles and Pension Funds – Auditor Independence".

Comprehensive regulations already exist in Germany and the EU designed to ensure auditor independence. These were established by democratically legitimized institutions through due process, taking into account all relevant costs and benefits, as well as specific national circumstances. We believe it is important for IESBA to acknowledge this in the context of this consultation and the ongoing development of the IESBA Code. In view of this, it may also be appropriate to differentiate the approach between jurisdictions that already have robust requirements in place and those that do not.

The public interest rationale for classifying pension funds or CIVs as PIEs has already been addressed in a recent consultation. As the IDW noted in earlier feedback, the financial statements of pension funds primarily serve accountability purposes for those making decisions on behalf of beneficiaries, rather than guiding direct investment decisions by the public. The same argument applies to CIVs that do not issue redeemable financial instruments to the public. IESBA acknowledged the feedback received by removing CIVs and pension funds from the proposed mandatory PIE category, citing structural and governance diversity and the potential burden on local regulators.

The current IESBA Code's definition of related entities does not capture all conceivable parties relevant to auditor independence in collective investment vehicles (CIVs) and pension funds, but we believe expanding it is neither warranted nor proportionate as an alternative mechanism to changing the PIE definition. The existing framework strikes an essential balance between comprehensiveness and practicality, particularly in light of limitations in access to information and the need for proportionate effort. For public interest entities (PIEs), all related entities are included; for other entities, such as most CIVs and pension funds, the scope is narrower but more manageable for preparers, auditors, and regulators. The proposed concept of "connected parties" lacks clarity and risks introducing inconsistency and excessive scope. The criteria are subjective, difficult to enforce, and often impractical, especially when the parties involved are outside the control of the CIV or pension fund. For example, requiring auditor independence from custodians would be unworkable in Germany, where major asset managers use the services of nearly all significant custodians in the market. Overall, we believe that expanding the definition would offer little added value while placing considerable administrative burdens on all parties involved. This appears out of step with the current international trend toward reducing bureaucratic complexity.

Regarding the conceptual framework in Section 120 of the Code, the IDW considers it clear and adequate for identifying and addressing threats to independence in relation to connected parties. We are not aware of evidence for deficiencies or systemic failures. Without evidence of such issues, further changes are not justified.

In conclusion, the current Code provides a proportionate and functional foundation for managing independence risks. Expanding definitions or adding new obligations could create independence "gridlock," increase costs, and reduce clarity – without improving audit quality or serving the public interest.

Please find our detailed answers to the questions of the consultation in the appendix to this letter.

Yours sincerely,

Torsten Moser
Executive Director

Neville Anderson
Senior Technical Manager

Appendix

Request for 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 Code's definition of related entity does not necessarily capture all parties that could be included in the auditor's independence assessment when auditing CIVs/pension funds, but we would strongly oppose any changes to expand this definition.

The current provisions strike an essential balance between including all conceivable entities that could possibly be relevant for ensuring auditor independence and the scope that is practical – both in terms of access to information about entities and their relationships and in terms of justifiable effort. This balance is differentiated in the Code based on the level of public interest in the audit client. In paragraph R400.27, all related entities are included in the understanding of the audit client for PIEs because of the heightened public interest. Other entities only include related entities to the extent that the client has direct or indirect control or when the audit team knows, or has reason to believe, that a client is relevant to the evaluations of the firm's independence from the client. This reflects a comparatively lower level of public interest than for PIEs.

The applicability of this differentiation to CIVs that issue redeemable financial instruments to the public and pension funds was the subject of the consultation on exposure draft, "Proposed Revisions to the Definitions of Listed Entity and Public Interest Entity in the Code" (PIE ED) in 2021, on which the IDW commented, and explained that for pension funds:

"While members of the public may have a significant interest in the financial condition, and hence the audited financial statements, of an entity whose function is to provide post-employment benefits, the significant public interest in the financial condition, and hence audited financial statements, of these entities is not due to the primary business of those entities being predicated upon the public making decisions about accepting or retaining financial obligations from those entities (i.e., in this case, whether or not to be a member of such pension plan). In most cases, other parties (employers, unions, governments, etc.) make these decisions on behalf of members of the public. The audited financial

statements therefore serve the accountability of those making the decisions on behalf of the public towards the specific members of the public in the respective pension plans: the audited financial statements are not used by members of the public for “investment” or “divestment” decisions.”

This would also apply to CIVs that do not issue redeemable financial instruments to the public.

Furthermore, as mentioned in paragraph 2 of the current consultation paper, “…after reflecting on stakeholders’ feedback on the PIE ED regarding the wide diversity in structure, governance, and size of such arrangements, the IESBA removed CIVs and PEBs from the mandatory PIE categories. This was on the grounds that including them would impose a disproportionate burden on local regulators and jurisdictional standard setters to refine those CIV and PEB categories.”

We believe that the same arguments apply to an expanded or differentiated definition of related entities for CIVs and pension funds.

Beyond that, we consider that the current Code already provides proportionate requirements to address independence threats in relation to related parties and other relevant parties. In particular, the requirement in R400.27 for non-PIEs to include other related entities when the audit team knows, or has reason to believe, that a relationship or circumstance is relevant to the evaluation of the firm’s independence from the client is sufficient and proportionate for CIVs and pension funds.

We are not aware that the definition of related party not including all “relevant parties” has led to systematic independence failures in practice. Without a basis of evidence to suggest this is the case, it is not clear any revisions in this area will improve audit quality.

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?

This question appears to be tautological. “Connected party” is defined in the consultation paper (in paragraph 9, and repeated in paragraph 35), and the question merely asks whether the criteria (identical to those in the definition) are sufficient to meet the definition itself.

We assume the question is aimed at a broader idea of entities for whom independence could be an issue and whether these entities should be included, specifically in the Code. In our view, the objective here is again the balance with practicality, which is not new and not specific to CIVs and pension funds. Other entities where there could be conceivable independence threats to an audit client include customers, suppliers, management's experts and other service providers or further entities that indirectly depend on the audit client. A key similarity between such entities not yet *specifically* covered by the Code, including most entities fitting one of the "connected party" criteria, is that they may not be controlled by the audit client and the audit client often has limited influence over them. In these cases, auditors' access to information required to proactively demonstrate independence cannot reasonably be required and the effort involved would often be prohibitive.

Furthermore, the criteria provided are highly subjective and therefore not well defined. They could be very widely or narrowly interpreted by auditors, leading to inconsistent practice.

Widening the scope of entities for which specific independence requirements would be required also leads to a danger of independence "gridlock" for audit firms. A good example for this is custodians. As part of the research findings on jurisdictional responses to independence the consultation paper mentions, in paragraph 42, that some jurisdictions require the CIV auditor to be independent from custodians. Such a requirement would be unrealistic in Germany. Larger asset management companies in Germany (which are subject to independence requirements, see Q6 below) often use many custodians for funds and may include most or even all custodians in a jurisdiction. If strict independence requirements were applied to all these entities, it would likely practically preclude the larger networks from auditing these entities because of service relationships with the custodians that include many of the major banks in Germany.

In the absence of evidence of systematic independence failures in relation to such "connected parties", introducing new definitions or scoping mechanisms for these would introduce ambiguity, increase compliance burdens, and be disproportionately challenging for auditors, without commensurate benefits to audit quality or the public interest.

Question 3: Where there are 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?

Yes, we 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 or pension fund and the connected parties on a proportionate basis. We are not aware of cases where the Code appeared to be insufficient in this respect.

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?

We are not aware of any studies that indicate concerns about inconsistent application of the conceptual framework in Section 120 of the Code particularly regarding the assessment of auditor independence in relation to connected parties when auditing a CIV or pension fund. Any study on this subject is likely to be challenging given the wide range of regulatory backgrounds in different jurisdictions, differing firm methodologies and the subjective nature of the judgments involved. Although a study might provide an insight into current practice, it seems doubtful that a sufficiently detailed piece of work would be justified given the absence of systematic issues having arisen.

Question 5: Are there certain interests, relationships, or circumstances between the auditor of the CIV/pension fund and its Connected Parties that should be addressed?

As discussed in Q2, there are specific relationships and scenarios, such as close commercial or governance links between fund managers and auditors that could conceivably warrant consideration. However, such situations are

effectively addressed under the existing threats and safeguards approach within the Code. Adding new rules in the Code could result in unintended consequences, such as requiring auditors to assess or monitor relationships beyond their direct visibility (which might not be feasible), and increasing cost and complexity. The analysis of various (sometimes theoretical) scenarios related to topics such as the provision of non-assurance services or the identification of family and personal relationships and the associated documentation could place an unreasonable administrative burden on auditors, their clients and connected parties. It could also impose a disproportionate burden on jurisdictional standard setters and regulators, who would need to adapt existing definitions and requirements, which would often have to be tailored to diverse structures. In Germany, for example, the diversity of structures is illustrated in our response to Q6. We believe the considerable additional effort would offer little added value in terms of improved audit quality.

Question 6: Does your jurisdiction have requirements or guidance specific to audits of CIV/pension funds from an auditor independence perspective? If yes, are those requirements included in audit-specific or CIV-specific regulation?

In Germany, the legal framework for **CIVs** is based on the EU model, which differentiates between Undertakings for Collective Investment in Transferable Securities (UCITS), for which the equivalent in Germany is *Organismus für gemeinsame Anlagen in Wertpapiere* (OGAW), and Alternative Investment Funds (AIF).

Both OGAW and AIF can be divided into contract-based funds, which are not legal persons, and corporate funds (so-called funds in corporate or statutory form), which are legal persons.

For contract-based funds, there is a separate asset management company. Corporate funds can have a separate asset management company but can also be their own asset management company.

The asset management company has the primary responsibility for the decision making and operations of the fund including preparation of its accounting records and financial statements.

In the case of corporate funds, they are subject to corporate reporting and audit requirements, including requirements for auditor independence. In the case where corporate funds are their own asset management company, the

independence requirements automatically cover the asset management company.

For contract-based funds and corporate funds that are not their own asset management company, there are comparable accounting, reporting and audit requirements in the German Investment Code that are the responsibility of the separate asset management company. In these cases, the independence requirements cover both the fund and the asset management company.

Existing independence requirements therefore mostly cover parties that fulfil the "connected party" criteria in the consultation paper for investment funds established in Germany.

It is worth pointing out here that custodians, regardless of whether they could be considered "connected parties", are not covered by auditor independence requirements in Germany because of their own regulation. Extension to custodians would also lead to the danger of independence "gridlock" as discussed in Q2 above.

As for other corporate structures, the law does not attempt to *actively* cover all possible parties for which there might conceivably be independence issues. Instead, a general principle applies that requires the auditor to maintain their independence. We consider this approach to be consistent with independence considerations for audit clients that are not CIVs.

Post-employment benefits in Germany are included in a variety of legal structures.

The most common occupational pension arrangements are:

1. Direct on-balance-sheet pension obligations from employers, often backed by a separate reinsurance policy (*Rückdeckungsversicherung*) to cover their liabilities and contributions to the German Pension Protection Fund (*Pensionssicherungsverein*). Audit requirements, including independence requirements, apply to the auditor of the financial statements of the employer and the insurers. The German Pension Protection Fund financial statements are also subject to audit and the auditor must comply with independence requirements.
2. Direct insurance (*Direktversicherung*) off-balance-sheet insurance policy taken out by employers for their employees. Relevant audit requirements apply to the insurer.
3. Occupational pension fund under German law (*Pensionskasse*). The occupational pension fund is usually funded by employer or employee

contributions and regulated under insurance supervision laws. Audit requirements apply, including independence requirements.

Other structures exist with different characteristics, including support funds (*Unterstützungskassen*), contractual trust arrangements (*Treuhandmodell*), occupational pension schemes for liberal professions (*Versorgungswerke*) and other vehicles, for which audit requirements depend on the structure and how they are set up.

There are also pension arrangements that are non-occupational, including:

1. The state-run public pension insurance system. This is audited by the federal court of auditors in compliance with public-sector requirements for auditors.
2. State subsidised private contract (*Riester-Rente*). Audit requirements dependent on who is the provider and may also include CIVs.
3. Traditional or unit-linked annuities (*Private Renten und Lebensversicherungen*). Audit requirements including independence requirements according to insurance supervision laws.