WIRTSCHAFTSPRÜFERKAMMER
Körperschaft des öffentlichen Rechts

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**Stellungnahme im Rahmen der Konsultation zur Neustrukturierung des IESBA Code of Ethics**

Die WPK hat mit Schreiben vom 5. Februar 2015 gegenüber dem International Ethics Standards Board for Accountants (IESBA) im Rahmen der Konsultation zur Neustrukturierung des IESBA Code of Ethics wie nachfolgend wiedergegeben Stellung genommen.

We are pleased to take this opportunity to comment on the IESBA Consultation Paper: Improving the Structure of the Code of Ethics for Professional Accountants. We would like to point out some general issues first and provide you with our responses to the Consultation Paper questions subsequently.

**General Comments to the Consultation Paper**

We welcome IESBA's intention to revise the structure of the IESBA Code of Ethics for Professional Accountants (the Code) in order to improve its clarity and therefore its usability. As mentioned in the Consultation Paper, the revision of the structure of the Code can only be part of a wider project to improve the usability. Besides revising the structure, we think a contentual reworking of the Code by eliminating redundancies and repetitions will further help to improve the clarity of the Code (please also see our answer to question 9 below).

We basically support the proposed separation of requirements from guidance in the Consultation Paper. However, we see the risk of an inflation of the CoE if the separation is implemented as provided in the illustrative examples (please see our answer to question 1 below).

Although in principle the structure of "purpose-requirements-guidance" is a desirable one, it appears that the language used in the Illustrative Examples of the Discussion Paper together with

the thoughts on re-branding lead in the wrong direction. In particular, we are concerned with the language in par 7 where it says that "[a] number of stakeholders … are concerned that the current structure … may impede compliance and enforcement" and with the idea in par. 22 "to re-brand it [the Code], for example as International Standards on Ethics; issuing some or all of the provisions of the Code as separate standards".

We believe that this would not be the right approach to deal with the ethical requirements as particularly addressed by the fundamental principles, because such requirements are primarily addressing the professional's behavior instead of its mere "legalistic" compliance with certain standards. Compliance with the fundamental principles of integrity and objectivity for example is impossible to measure or to enforce.

One of the fundamental principles is "objectivity". This is primarily a state of mind and thus not enforceable. Therefore it needs to be left in the Code as part of an Ethics Code. The concept of auditor independence, on the other hand, and here in particular that of independence in appearance as it is set out in the current Code is to be seen as a proxy for objectivity. This means it is designed to allow measurement of compliance and thus enforceability (at least to a certain extent), whilst it does not guarantee (behavioral) objectivity as such. Having said this, we would welcome Independence Standards, but these need to be separated from the Code with its fundamental principles and requirements to behavior as such.

**Responses to the Consultation Paper Questions**

1. *Do you believe that the approach outlined in this Consultation Paper, as reflected in the Illustrative Examples, would be likely to achieve IESBA's objective of making the Code more understandable? If not, why not and what other approaches might be taken?*

   We basically support the proposed separation of requirements from guidance in the Consultation Paper. Unfortunately the separation of requirements from guidance illustrated in the examples of the Consultation Paper shows some deficiencies:

   - The illustrative examples do not state to what extent the guidance in the application and other explanatory material' is binding;
   - Some guidance in the 'application and other explanatory material' cannot be linked easily to the corresponding 'requirements' or cannot be linked at all: Section 300 contains a subsection ‚application and other explanatory material', but no corresponding ‚requirements'.

- We do not see the relevance of the subsections ‚Terms used in this Section' and ‚Purpose of this section'. Instead these statements lead to an increase in the volume of the Code without giving any material benefit for the reader.

  For example the statements on ‚Business Relationships' in the current Code contain three paragraphs (290.123 - .125), covering roughly one and a half pages (2014 Handbook of the Code) compared to nine paragraphs (420.000 – 420.009), covering roughly three pages in the Consultation Paper.

- A further increase in the volume of the Code results from the constant and repeated reference to the 'conceptual framework 'and the' fundamental principles' from Part I of the Code. This permanent repetition is included in the subsections ‚purpose',‚requirements' as well as ‚application and other explanatory material' of almost all sections in the illustrative examples.

Overall we do not think that the approach outlined in the Consultation Paper, as reflected in the Illustrative Examples, is likely to improve the understandability of the Code to a material degree due to the mentioned shortcomings. The current text is basically just split up into 'requirements' and 'application and other explanatory material' and supplemented by ‚Terms used in this Section' and ‚Purpose of this section'. Redundancies and repetitions still remain, requirements still are too vague and phrased in a lengthy way.

2. *Do you believe that the approach outlined in this Consultation Paper, as reflected in the Illustrative Examples would be likely to make the Code more capable of being adopted into laws and regulations, effectively implemented and consistently applied? If not, why not and what other approaches might be taken?*

   We do not think that the revised structure as proposed in the Consultation Paper will greatly improve the adoption, implementation and application of the Code due to the named reasons under question 1. The willingness of national legislators to adopt the Code is influenced in the first place by its content and only to a minor degree by its format.

3. *Do you have any comments on the suggestions as to the numbering and ordering of the content of the Code (including reversing the order of extant Part B and Part C), as set out in paragraph 20 of the Consultation Paper?*

   No comments.

4. *Do you believe that issuing the provisions in the Code as separate standards or rebranding the Code, for example as International Standards on Ethics, would achieve benefits such as improving the visibility or enforceability of the Code?*

   Issuing provisions in the Code as separate standards would be in line with the corresponding 'publications' of IAASB, IPSASB and IAESB. However, the term 'Code of Ethics' has a high brand awareness and recognition value and should be maintained.

   The generation of benefits of issuing the Code in form of separate standards will depend on the way of implementation. Only when separate standards provide a higher quality than the current format, an increase in acceptability and visibility may be achieved. Otherwise, just splitting up the current text in single standards will make things more confusing and complex.

   Once again we like to stress the point, that issuing separate standards will not increase enforceability as it comes to such requirements as integrity, professional competence, due care, professional behavior (please see our general comments to the Consultation Paper).

5. *Do you believe that the suggestions as to use of language, as reflected in the Illustrative Examples, are helpful? If not, why not?*

   We support a linguistic revision of the Code. While some sections show an improvement in the use of language (kind and precision of wording, length and complexity of sentences), the illustrative examples still leave room for improvements. We recommend refraining from multiple repetitions (especially the 'Terms used' and 'Purpose' sections; repetition of 'requirements' in the corresponding 'Application and Other Explanatory Material' section) and the use of lengthy executions. Requirements should be short and precise. The focus should be on an addressee-oriented communication.

   The following extract is on example that shows the lengthy and the superficiality of the wording:

   *Evaluation of Threats (300.011)*

   *Paragraphs 100.005 and 100.007 require professional accountants to exercise judgment to determine how best to deal with threats that are not at an acceptable level. This may be by applying safeguards to eliminate the threat or reduce it to an acceptable level or by terminating or declining the relevant engagement. A professional accountant may take qualitative as well as quantitative factors into account when evaluating the significance of a threat. The*

*professional accountant may consider whether a reasonable and informed third party, weighing all the specific facts and circumstances available to the professional accountant at that time, would be likely to conclude that the threats would be eliminated or reduced to an acceptable level by the application of safeguards, such that compliance with the fundamental principles is not compromised. This consideration will be affected by matters such as:*

*(a) The significance of the threat;*

*(b) The nature of the engagement; and*

*(c) The structure of the firm.*

The description is too long; the first sentence just repeats the corresponding requirement; the permanent use of the word 'may' creates an impression of arbitrariness ('you may do it this way or otherwise'); the decisive "qualitative and quantitative factors" remain unmentioned; instead the professional accountant may apply the possible judgement of a theoretical 'reasonable and informed third party, who has all information available to the accountant at that time' in order to check compliance with 'the fundamental principles'.

6. *Do you consider it is necessary to clarify responsibility in the Code? If so, do you consider that the illustrative approach to responsibility is an appropriate means to enhance the usability and enforceability of the Code? If not, what other approach would you recommend?*

   We do not think it is necessary to clarify responsibility in the Code. Rather due to its global applicability and thus the huge number of different firm organisations/structures it seems questionable whether a useful clarification of responsibilities in the Code is possible.

   It is the firm's own responsibility to implement sufficient and adequate organisational measures that ensure compliance with the Code. These measures should be adapted to the firm's individual structure.

7. *Do you find the examples of responsible individuals illustrated in paragraph 33 useful?*

   No, we do not see material benefit in the examples provided. We refer to our answer to question 6. Responsibilities should be identified individually by the firm itself.

8. *Do you have any comments on the suggestions for an electronic version of the Code, including which aspects might be particularly helpful in practice?*

   No comments.

9. *Do you have any comments on the indicative timeline described in Section VIII of this Paper?*

   Section VIII states that a new restructured Code or standards might be finalized in early 2017 which could become effective, at the earliest, one year later (2018). With such a long timeline next to a formal restructuring a substantive contentual streamlining should be addressed as well. In order to enhance the usability of the Code, the revision of the structure should be connected with a contentual reworking of the Code. The latter should take place in the form of reducing the Code's volume especially by eliminating redundancies and repetitions (please see our general comments to the Consultation Paper).

10. *Do you have any other comments on the matters set out in the Consultation Paper?*

    No comments.

We hope that our remarks will be taken into consideration in the subsequent course of the proceedings, and we would be delighted to answer any questions you may have.

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