WIRTSCHAFTSPRÜFERKAMMER
Körperschaft des öffentlichen Rechts

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Stellungnahme zu den geplanten Einschränkungen bei der Erbringung von Nichtprüfungsleistungen (*IESBA Exposure Draft Non-Assurance Services – NAS*)

Die WPK hat mit Schreiben vom 6. September 2019 gegenüber dem International Ethics Standards Board for Accountants (IESBA) zum *Exposure Draft Non-Assurance Services (NAS)* wie nachfolgend wiedergegeben Stellung genommen.

The Wirtschaftsprüferkammer (WPK) would like to take the liberty of providing you with comments on the upcoming IESBA NAS Exposure Draft (ED). We hereby refer to the public documents on the IESBA website.

We acknowledge that providing IESBA with a comment letter prior to the release of the corresponding ED might be unusual. However, given the importance of the issues and the feedback we already received from German professionals, we think IESBA might be interested in getting to know the concerns which prompted us to get in touch with you in this early stage.

Our general and specific remarks below might be summarized as follows:

- **The timing of the ED NAS is unfortunate**.

  - The ED NAS should be released at the same time as the ED Fees.
  - The restructured Code of Ethics (Code) came into force just a few weeks ago (June 15, 2019). The pace of changes of the Code undermines its credibility and weakens the global acceptance of international standards.

- **The proposals are (overly) disproportionate and lead to dramatic restrictions of permissible services**:

- The factor whether “a self-review threat will be created” introduces a too low threshold for the prohibition of NAS. It also involves a certain degree of vagueness and leads to legal uncertainty for the profession.
- The deletion of materiality will generally lead to disproportionate results, raises constitutional doubts, might lead to increased market concentration and might bring about competitive disadvantages for SMPs.
- IESBA should pursue the evidence-based standard setting approach as described in its Strategy and Work Plan, 2019-2023 (paragraph 32) and provide the profession and the public with detailed evidence that justify the dramatic changes proposed.

General remarks

We highly **appreciated** IESBA´s efforts to revise and **restructure the Code**. The new Code that became effective just a few weeks ago is a milestone in IESBA´s work. It is much better understandable and usable than its predecessor, thereby leading to greater adoption, more effective implementation, more consistent application and better enforcement.

We were glad to learn from German professionals that they do share the aforementioned advantages of the new Code. On the other hand, the same professionals are getting confused now given the fact that the new Code appears to be subject – apart from substantive amendments – to **many editorial changes only a few weeks after it became effective** (June 15, 2019). To present you with some examples, we would just like to refer to 600.3 and 600.4 (Agenda Item 2-A). We are concerned that the various editorial changes planned by IESBA will not contribute to enhance the credibility of the Code and might confuse the profession. In addition, this is also a translation issue: While the editorial changes might be more easily understandable for native English speakers, it might be difficult to non-native speakers and IFAC member bodies, respectively to translate the changes into their respective languages. It would be very helpful if (editorial) changes to the extant Code were limited to a minimum dimension.

In addition, the WPK and its members are concerned that the Code is also subject to **substantive changes once again**. It has become increasingly difficult for IFAC´s member organizations and the profession to keep up with the pace of changes which the Code has undergone over the previous years. Most of IFAC´s member organizations need time to translate the changes in a first step before being able to display efforts as to how to implement the changes in their respective national laws and professional charters. Particularly the latter process is usually time-consuming since it requires an involvement of the relevant stakeholders and is usually subject to an approval process by an oversight authority. After the implementation in national laws and professional charters has been accomplished, it is up to the firms to carry out corresponding

inhouse-implementation measures. The profession does urgently need time to digest the changes and implement them into their respective quality control systems.

Even though we were glad to note from IESBA´s Strategy and Work Plan, 2019-2023 (page 5) that any changes made after the completion of the restructuring process shall not become effective before June 15, 2020, we think that this period of time should be significantly longer given the tremendous effects the restructuring changes will bring about for the profession. The profession is currently facing such a **standards overload** that is in our view **detrimental to the global acceptance of international standards**.

Furthermore, since the project NAS has many interrelations with the project Fees, we suggest to **release the ED NAS at the same time as the ED Fees**. The overall implications of the ED NAS are difficult to assess without knowing the final content of the ED Fees. Hence, we would recommend postponing the ED NAS and coordinating it with the ED Fees.

Specific remarks

Many of the new proposals either significantly tighten extant provisions of the Code or introduce new requirements. We are worried that these changes might in particular **negatively affect SMPs**.

We refrain from commenting on all of these issues in the following rather than focusing on selected ones which seem of particular importance to us. The Sections referred to in the following pertain to Agenda Item 2-A, unless otherwise stated.

Emphasis on PIEs (Section 600.10 A1)

We deem the emphasis of the proposed Section 600.10 A1 on PIEs **misleading**. The definition of PIEs is currently subject to global discussions and significantly varies among jurisdictions. We suggest deleting this Section.

Safeguard: Professionals not audit team members (Section 600.13 A2)

While IESBA´s public meeting documents as of June 2019 recognized the segregating of the responsibilities of the individuals performing the audit and the individuals performing the service as a safeguard (June Agenda Item 6A, Section 600.14 A2), such a segregation seems to be no longer sufficient. The new proposal in 600.13 A2 requires the use of professionals who are not audit team members to perform the service. The reasons for this tightening remain unclear to us. The proposal will particularly **affect SMPs with limited personnel resources negatively**, contribute to **increased market concentration** and lead to **competitive disadvantages for SMPs**. The same is true for the corresponding Sections such as 601.4 A2, 603.3 A3 etc.

Self-review threat will be created (Section R600.15)

The proposed Section R600.15 stipulates as decisive factor for the prohibition of a NAS whether the service "will" create a self-review threat. The use of the term "**will**" involves a certain degree of **vagueness** and leads to **legal uncertainty** for the profession. Given this ambiguity we are concerned that professionals will refrain from providing any NAS to avoid the legal uncertainty or discussions with the oversight or other relevant parties. In the end, the use of the term "will" lead to a significant extension of prohibited NAS.

Deletion of Materiality (Section R600.15)

We are very concerned that IESBA gives up the criterion materiality in Section R600.15 (and the specific NAS Sections, see below). The deletion of materiality leads to an unjustified significant extension of prohibited NAS. The criterion materiality enables well-balanced decisions and meets the principle of proportionality, whereas the deletion of this principle will generally lead to disproportionate results. We would kindly ask IESBA to provide stakeholders with evidence why such a dramatic tightening is necessary.

Auditor communication with TCWG (Section R600.17 ff.)

We support a better communication between auditors and TCWG.

However, the way 600.17 A1 is drafted is problematic. Firstly, it remains unclear what exactly constitutes a "significant judgment". Secondly, the use of the term "might" (be appropriate) implies a certain degree of vagueness.

Similarly, we are surprised by the use of the term "might" in R600.18 (d). Whereas the meeting document Agenda Item 2-A appears to use the term "will" in the context of the creation of a threat to independence, R.600.18 (d) uses the term "might".

The proposed R600.19 introduces the new requirement of agreement by TCWG. While this is a significant tightening of the extant Code, too, we support, as stated above, the introduction of a better communication between auditors and TCWG. However, in order to meet the principle of proportionality, we think that at least limited **exemptions** to this new requirement should be allowed, such as urgency for instance.

Accounting and Bookkeeping Services (Section R601.5)

The proposed R601.5 stipulates a dramatic intensification for accounting and bookkeeping services. Corresponding **services of a routine or mechanical nature** will no longer be permissable. In addition, the **materiality qualifier** has been removed. We deem the new proposals as **disproportionate** and would again ask IESBA to present detailed evidence for the need of this intensification.

Valuation Services (Section R603.5)

Further to the proposals for valuation services, we have similar concerns as already expressed in the context of accounting and bookkeeping services. The deletion of the reference to materiality is **disproportionate**.

In addition the proposed Section stipulates as decisive factor for the prohibition of valuation services whether the service “will” create a self-review threat. The use of the term “will” also leads to an extension of prohibited services and brings about **legal uncertainty** for the profession (see above).

Tax Services (Section 604)

Section R604.4 is – at least for a non-native English speaker – difficult to understand. In addition, it remains **unclear** to us which requirements the professional accountant would have to meet. Furthermore, this issue should be reserved to the recently established Working Group “Tax Planning and Related Services” to avoid any unintended conflicts in a later stage.

Also in the context of tax services the reference to materiality is not contained in the proposals any more (R604.10, R604.26). **We are particularly concerned that the reference to materiality seems to be withdrawn also for non-PIEs** (R604.13). Given the vast amount of tax services the proposals bring about a **partial occupational ban for the profession.** We have doubts if such an extensive prohibition is in line with general constitutional principles and the spirit of the accounting profession as a liberal profession.

Internal Audit Services (Section 605)

R605.6 also brings about a significant intensification of permissible internal audit services due to the deletion of the **reference to materiality**.

In addition, the extant Code contains in R605.5 clear parameters for the decision under what circumstances internal audit services are prohibited. On the contrary, the new proposals in R605.6 stipulate as decisive factor for the prohibition of an internal audit service whether the

service “will” create a self-review threat. The use of the term “will” involves a certain degree of vagueness (see above).

Information Technology Systems Services (Section 606)

In the proposed Subsection 606 the terms “information technology” and “IT” are replaced by the term “information”. This change in terminology is in our view not helpful since the term “information” is much broader than the term “IT”. In addition, this change would require **consequential amendments** in many other relevant standards whereas the benefit of such changes would remain unclear to us.

The new proposal in R606.6 stipulate as decisive factor for the prohibition of information systems services whether the service “will” create a self-review threat. The use of the term “will” is, as described above, **unclear** and brings about legal uncertainty for the profession as well as it will lead to a significant tightening of the prohibition of relevant services. Again, there is **no reference to materiality.** We would have a keen interest in IESBA´s evidence that justifies this change.

Litigation Support Services (Section 607)

Of particular importance to **SMPs** is the withdrawal of the **reference to materiality** in 607.4 A1 also for **non-PIEs**. It would be helpful if IESBA provided evidence for the need for this tightening which will especially affect SMPs negatively.

Similarly, for **PIEs** there is also **no reference to materiality** in R607.6.

Legal Services (Section R608.6)

The proposal in R608.6 comprises a severe change, since the reference to materiality is dropped. This change results in a significant restriction of permissible legal services and appears **disproportionate**. Again, we are keen to learn about the evidence of IESBA that justifies such a restriction.

Corporate Finance and Transaction Services (Section 610)

The proposed changes in Section 610 stipulate an extension of prohibited services to “transaction” services and therefore also lead to a reduction of permissible services. In addition, the use of the term “**will**” (R610.8) would lead to an additional unclear extension of prohibited services (see above).

What is even worse in our view is that the **deletion of the reference to materiality has taken place also with regard to non-PIEs** (R.610.6).

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

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