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Körperschaft des öffentlichen Rechts

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Stellungnahme zu: Code of Ethics – Proposed Changes to the Code of Ethics for Professional Accountants Addressing Conflicts of Interest

Die Wirtschaftsprüferkammer hat mit Schreiben vom **30. März 2012** gegenüber der International Federation of Accountants zu den Änderungsvorschlägen für den Code of Ethics, die den Umgang mit potenziellen oder tatsächlichen Interessenkonflikten zum Gegenstand haben, wie nachfolgend wiedergegeben Stellung genommen:

We are pleased to take this opportunity to comment on the above-mentioned Exposure Draft.

As we already stated in our comment of February 2, 2012 on the proposed changes related to provisions addressing a breach of a requirement of the Code we would like to mention once again that after the comprehensive amendments to the Code of Ethics (hereafter referred to as "CoE") over the past years, resulting in, at times considerable, demands on the member organizations in terms of implementation and regulation (including translation), there should be no further amendments to the CoE at this time.

Although we consider - and thus we would like to immediately respond to **Question 1** (**Do respondents find the description and examples of conflicts of interest helpful?)** – the proposed descriptions and examples principally useful a special guidance paper on this topic should be sufficient. Principle rules concerning conflicts of interest already exist in the present CoE, and most of the new proposals deal – in our view - with rather truisms.

Below we would like to respond only to Questions 2 through 5 and 9, whereas Questions 6 through 8 do not apply to our jurisdiction since being a public accountant in business is generally not allowed in Germany.

Question 2: Do respondents find the reasonable and informed third party standard appropriate?

The third-party standard is in our view the adequate criterion in the field of judging whether there might be a threat of independence. As far as conflicts of interests are concerned it might also be helpful putting oneself into the position of a third person in order to get a more objective view on things.

Question 3: Do respondents find the "reason to believe" threshold for network firms in evaluating conflicts of interest appropriate?

We understand that the "reason to believe" threshold in paragraph 220.5 for evaluating potential conflicts interest within a network is intended to clarify the general provision set out in 220.3 that requires to "take reasonable steps" to identify circumstances that might create a conflict of interest, and thus may, as set out in paragraph 220.6, vary and depend on different factors, inter alia the structure of the firm and whether the firm is a member of a network.

The "reason to believe" threshold also can be found in paragraph 291.3 of the CoE regarding the independence requirements of other assurance engagements than audit and review engagements within networks.

We believe that this threshold clarifies that network firms do not have to imply an extensive system to identify potential conflicts throughout the whole network for any engagement. We do appreciate this approach.

Question 4: Do respondents find the guidance concerning safeguards to manage conflicts of interest and obtaining and documenting consent, as set out in paragraph 220.7, appropriate?

We would consider it helpful to obtain further guidance about the way and the format of how written consents are to be obtained. For example, does the specification of non-exclusivity in the engagement letter meet the requirement in 220.7?

Additionally it would be helpful to differentiate between potential conflicts and actual conflicts more clearly in 220.7. In this context guidance would be helpful about

- measures to avoid that potential conflicts become actual conflicts and
- mandatory measures in case of actual conflicts.

Question 5: Do respondents concur with the three conditions set out in paragraph 220.8 required to be met before a professional accountant can proceed to accept or continue with an engagement when a conflict of interest exists but consent cannot be obtained because it would in itself breach confidentiality? Are the examples within paragraph 220.8 helpful?

We concur with the conditions set out in paragraph 220.8 and consider the mentioned examples helpful.

Question 9: Do respondents agree with the impact analysis as presented? Are there any other stakeholders, or other impacts on stakeholders, that should be considered and addressed by the IESBA?

We are in basic agreement with the Impact Assessment.

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.