

1 October 2014

To:

Mr Wui San Kwok, Interim Chair of the International Ethics Standards Board for Accountants

**Re.: Comment letter from European audit regulators relating to the IESBA's Exposure Draft "*Proposed Changes to Certain Provisions of the Code Addressing Non-Assurance Services for Audit Clients*"**

Dear Mr Kwok,

1. A number of independent European audit regulators and/or oversight bodies ("audit regulators") appreciate the opportunity to comment on the IESBA's ("Board") Exposure Draft "*Proposed Changes to Certain Provisions of the Code Addressing Non-Assurance Services for Audit Clients*" issued in May 2014. The content of this letter has been discussed and agreed upon by the audit regulators of the following countries:
  - Austrian Auditors Supervisory Authority – Austria
  - Audit Public Oversight Council – Czech Republic
  - Danish Business Authority – Denmark
  - Auditors Activities Oversight Council – Estonia
  - Haut Conseil du Commissariat aux Comptes – France
  - Abschlussprüferaufsichtskommission - Auditor Oversight Commission – Germany
  - Auditors' Public Oversight Authority – Hungary
  - Irish Auditing and Accounting Supervisory Authority – Ireland
  - Authority of Audit and Accounting – Lithuania
  - Commission de Surveillance du Secteur Financier – Luxembourg
  - Finanstilsynet – Norway
  - Conselho Nacional de Supervisão de Auditoria – Portugal
  - Romanian Public Interest Oversight Body of Accounting Profession – Romania
  - Auditing Oversight Authority – Slovakia
  - Agency for Public Oversight of Auditing – Slovenia
  - Instituto de Contabilidad y Auditoria de Cuentas – Spain
  - Revisorsnämnden – Sweden
  - Federal Audit Oversight Authority FAOA – Switzerland
2. Our comments in this letter reflect those matters on which we have achieved a consensus amongst the above-mentioned audit regulators. Nevertheless, they are not intended to include all comments that might be provided by these individual regulators and their respective jurisdictions.

### **Introductory Comments**

3. As audit regulators, our mandate encompasses the oversight of the independence of statutory auditors, based on the requirements applicable in our respective jurisdictions.
4. The IESBA Code of Ethics is used in several jurisdictions, but not in all of them, and is not mandatory for auditors. Even for those jurisdictions that do not use it, we clearly see an interest in enhancing its content, as it is used as a basis for some benchmarks at international level. Moreover, a number of audit firms and networks have voluntarily committed to complying with the IESBA Code.
5. Our comments hereafter convey our support for enhancing the content of the IESBA Code.

## Comments

### *Auditors' behavior and contribution to the public interest: importance of clear limits on provision of "non-assurance services"*

6. As audit regulators, we are particularly focused on the auditor's contribution to the public interest, and accordingly, on the independence of the auditor from the audited entity. The auditor should be and appear to be in a position where his judgment cannot be unduly influenced.
7. We believe that setting clear lines with regards to the non-assurance services that an auditor is entitled to provide or not to an audit client is of primary importance. Clear rules allow for consistency in application and for a homogeneous protection of the auditor's independence. Consistency in application of the ethics rules allows for a level playing field for auditors, and is likely to create more security for users of the audited financial statements.

### *Support for strengthening the prohibitions of non assurance services*

8. We support the idea of strengthening the provisions in the Code of ethics dealing with non-assurance services.
9. As a general principle, limiting where possible, specific exemptions to the general provisions set by the Code is, in our view, a step forward in enhancing the Code. Accordingly, we believe that deleting emergency exceptions, as suggested by the proposal, is an improvement.
10. Nevertheless, we are of the view that the proposals included in the exposure draft will not sufficiently change the manner in which auditors deal with those issues, and that room for interpretation remains in the Code regarding the provision of non-assurance services by auditors.

### *Audit reform in Europe*

11. We suggest that the Board allocates sufficient time in the context of this project to work on the prohibitions that are addressed by the recent audit reform in Europe.<sup>1</sup> We suggest that the Code take into account the level of requirements set by the European regulation. Indeed, a code that is less stringent than the legal framework in force would impair its potential applicability in the countries applying the European Union's regulation. Consistency with the applicable legal requirements for ethics would allow for a wider recognition of the Code.
12. Hence, we believe that the Board should investigate the following areas of differences between the regulation and the Code:
  - the requirement to systematically obtain the approval of the audit committee for the provision of non-assurance services other than those which are specifically prohibited,
  - the period covered by the prohibitions for an audit firm and any member of its network to provide non-assurance services to any statutory audit client, to its parent undertaking or to its controlled undertakings,
  - the fee limit and capping of non-assurance services, and
  - the level of prohibition of tax services.

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<sup>1</sup> Directive 2014/56/CE, Regulation 537/2014

13. Moreover, we believe the Board should consider the option introduced by the European regulation allowing the European Member States to establish stricter conditions than those provided for by the regulation with regards to the list of prohibited non-assurance services. The adoption of a stricter approach in this area in several jurisdictions is not to be disregarded. The current option to adopt more restrictive national rules on the provision of non-assurance services could affect the conclusion that has been reached by the Board (i.e. "*the Code's provisions concerning non-assurance services are still robust in protecting the public interest*"<sup>2</sup>) after it conducted a benchmarking survey in March 2013 which sought to understand the extent to which the responding countries are more restrictive in their national ethics requirements than the Code with respect to certain types of non-assurance services.
14. In this context, and given the timeframe set by the European audit reform, we would encourage the Board not to limit the ambition of its project to the current proposals, but to continue dedicating time and resources to the work stream on the enhancement of provisions related to "non-assurance services".

*Enforceability and other concerns from audit regulators*

15. Enforceability of the ethical provisions that apply to auditors and furthermore the fact that the Code allows for consistent application by different auditors, is an area of concern for us. We would therefore encourage the IESBA to take advantage of the current project to revisit the Code's provisions related to non assurance services and to minimize the room for interpretation that could potentially result in inconsistencies in their application.
16. We furthermore would like to suggest that the Board incorporate documentation requirements that should be sufficiently comprehensive and detailed to allow the regulator to obtain a precise picture of the non-assurance services performed.

We thank you for the opportunity to comment on the exposure draft. If you have any questions or would like to further discuss the matters noted in this letter, please contact Laurence Duflo at the Haut Conseil du Commissariat aux Comptes (+33 1 44 51 09 36).

Yours sincerely,

Audit regulator of:

- Austria
- Czech Republic
- Denmark
- Estonia
- France
- Germany
- Hungary
- Ireland
- Lithuania
- Luxembourg
- Norway
- Portugal
- Romania
- Slovakia
- Slovenia
- Spain
- Sweden
- Switzerland

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<sup>2</sup> IESBA Exposure Draft *Non Assurance Services* Explanatory Memorandum, « Background », page 4