

23 January 2013

To:

Mr. Holmquist  
Chair of the International Ethics Standards Board for Accountants

**Re.: Comment letter from European Audit Regulators relating to IESBA's Exposure Draft,  
*Responding to a Suspected Illegal Act***

Dear Mr. Holmquist,

A number of independent European audit regulators and/or oversight bodies (“audit regulators”) appreciates the opportunity to comment on the IESBA’s (“Board”) Exposure Draft, *Responding to a Suspected Illegal Act* (“ED”). The content of this letter has been discussed and agreed between audit regulators, representing the following countries:

- Czech Republic – Audit Public Oversight Council
- France – Haut Conseil du Commissariat aux Comptes
- Greece – Hellenic Accounting and Auditing Standards Oversight Board
- Lithuania – Authority of Audit and Accounting
- the Netherlands – Netherlands Authority for the Financial Markets
- Portugal – Conselho Nacional de Supervisão de Auditoria
- Spain – Instituto de Contabilidad y Auditoría de Cuentas

As European audit regulators we consider it important to pursue continuing improvement of standard setting for the audit profession. Our comments in this letter reflect those matters on which we have achieved a consensus amongst the above mentioned audit regulators; however, they are not intended to include all comments that might be provided by individual regulators and their respective jurisdictions.

We support the Board in their efforts to address the issue of the response of the auditor to a suspected illegal act, with a view of promoting international convergence in audit practices. Our comments refer to the parts of the Exposure Draft that deal with the role of the independent auditor.

As audit regulators we welcome the position that the Board has taken that it is in the public interest that suspected illegal acts are appropriately responded to by the auditor, which may include reporting of such acts. Therefore it should be clear that the provisions on confidentiality applicable to auditors are not intended to prevent auditors from reporting adequately on suspected illegal acts.

We are of the opinion that the proposed provisions on the process before coming to the determination to report need more specificity and clarity. We feel the Board should improve these provisions as to clarify the process, the expectations and the responsibilities in order to ensure these provisions are enforceable.

Further, we think it is important to highlight within the Code that the auditor is expected to obey to any national law and regulations on dealing with suspected illegal acts, and that the provisions in the Code are not intended to force the auditor in breaking the law. On the other hand the Code could specify more in detail the steps to be taken by the auditor in order to fulfill his legal duties.

From our perspective, it should be further clarified how the provisions in the proposed new sections of the Code would fit together with other provisions currently in the Code, for instance those on the potential effects of being associated with clients that act unethically (Ref. section 150 of the Code). Similarly, the relation of the proposed new sections in the Code with the auditing standards from the IAASB, such as ISA 240, 250, 580 and 700 could be explained. In this context it would for instance be relevant to clarify whether and how Suspected Illegal Acts also cover instances of Fraud as defined in ISA 240.

We agree with the Board's notion that, depending on the severity of the suspected illegal act, it may be inappropriate for the Auditor to continue the engagement. Terminating the professional relationship should not be imposed for jurisdictions where auditors are not allowed to do so. We think that the Code should acknowledge that withdrawal is not an option in some jurisdictions, in which the auditor should be required to consider the impact of the Suspected Illegal Acts on his opinion.

Thank you for the opportunity to comment on the ED. If you have any questions or would like to further discuss the matters noted in this letter, please contact Janine van Diggelen, head of the audit oversight division of the AFM in the Netherlands, at +31 20 797 2833.

Sincerely,

Audit regulator of:

Czech Republic  
France  
Greece  
Lithuania  
the Netherlands  
Portugal  
Spain