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## **Exposure Draft: Proposed Revisions to the Code Pertaining to the Offering and Accepting of Inducements**

Dear Ken

Dear Ladies and Gentlemen

The Wirtschaftsprüferkammer (WPK) is pleased to take this opportunity to comment on the above mentioned Exposure Draft (ED) and the proposed changes to the Code of Ethics for Professional Accountants (Code). We would like to highlight some general issues first and provide you with our specific responses to the ED questions subsequently.

### **General Comments**

The WPK is highly committed to the Code and we appreciate and support the efforts of the IESBA to further increase the quality and usability of the Code.

We generally support the requirement for a professional accountant to understand and comply with relevant laws and regulations that relate to bribery and corruption when offering or being offered an inducement. IESBA's intention to respond in the Code to continuing concerns about the prevalence of bribery and corruption is, therefore, commendable. However the proposed amendments to obtain an understanding of relevant laws and regulation (R 250.5, R 340.5) are rather scarce and already covered by the fundamental principle of professional behaviour.

Furthermore, we fear that with the 'intent test' a new concept is introduced that adds undue complexity and brings about less clarity to the Code. We agree that a person acting with integrity, and thus complying with the fundamental principles of the Code, should neither accept nor offer an inducement with the intent to influence another individual's behavior improperly. Furthermore, we also agree that a professional accountant should neither accept nor offer an inducement that a reasonable and informed party would conclude to impair the integrity and/or objectivity of the accountant. In this respect, we consider the current principles-based threats and safeguards approach as sufficiently clear. The intent test, however, appears to require a new layer of the reasonable third party test (RTPT) as now the main purpose of the RTPT appears to assess whether an intent is given or appears to be given instead of focusing on whether the integrity and/or objectivity of the professional accountant is impaired.

The 'intent test' is even more complicated and brings about practical problems when applied in relation to immediate and close family members. In this respect, the assessment of existing or perceived intent could be based on the presumption of an access to facts and circumstances that in their totality may actually not be available to the professional accountant.

In substance, we consider the added value of the proposed revisions to the Code as rather limited. We refer to our further remarks below.

## **Specific Comments**

### *Proposed Section 250*

- 1. Do respondents support the proposals in Section 250? In particular, do respondents support the proposed guidance to determine whether there is an intent to improperly influence behavior, and how it is articulated in the proposals?*

As already stated in our general remarks, we question the concept of the '**intent test**' in R 250.7 and R 250.8, and do not see how it properly fits into the threats and safeguards approach of the conceptual framework.

The proposed amendments add undue complexity by requiring questioning the intent of the offeror and deciding whether the intent to influence the receiver's behaviour is proper or improper. The relevant factors to consider in this context in 250.9 A1 do not seem to be sufficiently decisive. Especially since this decision shall be made from (a) the accountant's view as well as from (b) the view of an informed third party and, both, for (c) actual and (d) perceived intent.

Conceptually the 'intent test' does not seem to match with the overall concept of compliance with the fundamental principles and the threats and safeguards approach of the Code. In our view, inducements that are not trivial and inconsequential can be considered or at least perceived as provided with the intent to influence behavior, and thus threaten the fundamental principles of integrity and objectivity. Except for trivial and inconsequential inducements, we think it should not matter whether the intent of the inducement was to proper or improper influence the behaviour of the receiver. If the inducement impairs the objectivity or integrity of the receiver, it poses a threat – no matter of the intent.

Furthermore, we question whether 'intent' is an appropriate criterion. In particular, where an inducement is trivial and inconsequential it will be difficult for a practitioner to understand how such an inducement can be perceived as having an intended influence on the recipient's behavior.

With a view to **bribery and corruption** we support the importance of obtaining an understanding of relevant laws and regulations and complying with them (R.250.5). However, as mentioned above, this requirement is from our understanding already covered by the fundamental principle of professional behaviour.

From our perspective the **examples of safeguards** (250.11 A3) seem to be only of limited help, especially from an SMP perspective with limited staff resources. We also think that donating the inducement to charity is no adequate safeguard, especially when donation might bring about other benefits for the professional accountant, like advantages in reputation or taxation of the donor. Additionally the best safeguard in this context – and we recommend adding it to the list – seems to be that the professional accountant simply does not offer or accept the inducement.

#### *Proposed Section 340*

2. *Do respondents agree that the proposed provisions relating to inducements for PAPPs should be aligned with the enhanced provisions for PAIBs in proposed Section 250? If so, do respondents agree that the proposals in Section 340 achieve this objective?*

We agree that the issue of inducements does not pertain to PAIBs only, but to PAPPs as well. Regarding the proposed amendments to Section 340, our comments made in the General Comments Section and to Question 1 (Section 250) apply here equally.

*Proposed Conforming Amendments to Independence Provisions*

3. *Do respondents support the restructuring changes and proposed conforming amendments in proposed Sections 420 and 906?*

We support the restructuring changes and proposed conforming amendments

4. *Do respondents believe the IESBA should consider a project in the future to achieve further alignment of Sections 420 and 906 with proposed Section 340? If so, please explain why.*

In our view no comprehensive alignment project is needed. The current requirements are adequately clear and sufficient.

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

Kind regards



Dr. Reiner Veidt  
Executive Director



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