CNCC
COMPAGNIE NATIONALE DES COMMISSAIRES AUX COMPTES

Gabriela Figueiredo Dias
IESBA Chair
IFAC
529 5th Avenue
NEW YORK, NY 10017

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Object: Response to ED CIV/Pension Funds of IESBA

Dear Mrs. Chairwoman,

The *Compagnie Nationale des Commissaires aux Comptes* (CNCC), the professional institute of statutory auditors in France, is pleased to provide to the IESBA its comments on the ED on the *"Independence considerations with respect to audits of Collective Investment Vehicles and Pension Funds"*.

Overall, we support the International Code of Ethics for Professional Accountants which provides robust and fit for purpose independence principles for auditors.

However, we have strong concerns about the approach taken by IESBA in this consultation, if it would lead to amendments to the Code.

Specific features of the French pension and saving environment

We wish to stress out the fact that pension funds, as they exist in the United States in particular, do not exist in France. Therefore, our response to this consultation focuses primarily on collective investment vehicles. However, we seize the opportunity of this consultation to ask IESBA to introduce a narrow scope amendment of the Code, as the principle was encouraged at the multi-stakeholder Summit in Paris on 14 April 2025, in order to take into account some specific features of the French pension and saving environment, and to propose clarifications of the current Code of Ethics. These specific features and the proposed amendments are presented in annex n°1 to this letter.

Consequences of introducing the concept of "Connected parties"

As mentioned in the annex n° 2, the French environment of collective investment vehicles is highly regulated and characterized by the existence of a number of different regulated and independent actors, each of them playing a critical part in the regulation and the safety of the sector, for the sake

of investor protection. The local authorities and regulators assigned a specific role to each of them. We therefore believe that introducing a new concept of "connected parties" that could *collide* with the local regulation could make the audit exercise impracticable in France. More widely, introducing a new concept of "connected parties" into the Code would require a very clear definition. If the Board was to take such a decision, it should carefully consider the risk of unintended consequences outside of the CIV and Pension Funds sector, when applying the Code to other situations, for example in the context of unconsolidated entities under management contracts or Value Chain entities. Value chain entities could be seen as "connected parties", potentially affecting the recently published IESSA and adding further complexity. The Board should also ensure interoperability and consistent application of IAASB and IESBA requirements when it comes to the scope of the entities and/or information on which an auditor will express an audit opinion and therefore will need to be independent, specifically as it relates to unconsolidated entities of the audit client.

Role of the local authorities

In France, the appointment of the CIV's auditor by the asset manager is subject to a negative clearance of the stock exchange regulator, the *Autorité des Marchés Financiers* (AMF).

Furthermore, guidance has been issued at national level, jointly with the regulator, to further secure the market. For example, a guide of the relationships between the AMF and the auditors has been jointly developed in 2023 by the CNCC and the AMF in order to explain the relationships between this French market regulator and the asset managers' auditors and CIV's auditors as described in the French legislation (the "*Code de commerce*" and the "*Code monétaire et financier*"). For example, it is clearly mentioned in this guide that the auditor must respond to any AMF's inquiries. The auditor's role in the collective investment environment is also clearly described in this guide.

We therefore believe that the local authorities have already developed a regulated environment to protect the public investing in CIV, and that it belongs to them to set up further rules if deemed appropriate, considering also that introducing further independence restrictions towards "connected parties" in such an environment could lead to further concentration on the audit market of CIVs or even to a total blockage of that market by narrowing the choice of audit firms that can be appointed for the statutory audit of those CIVs.

Suggest any additional material linked to the principles of the Independence Rules of the IESBA Code

The fundamental principles of the IESBA Code of Ethics to be complied with by all professional accountants already guarantee the independence of the auditor. Furthermore, the conceptual framework sets out the approach to be taken to identify, evaluate and address threats to compliance with these fundamental principles and, for audits and other assurance engagements, threats to independence. We believe that adding independence rules to supplement the principles of the Code could significantly hamper the practice of audit, given the multiplicity of stakeholders/actors involved in the collective investment environment and the concentration of the CIVs managed by a relatively small number of asset managers (or insurers) in the French market. This is why we believe that it is up to the local authorities to continue to define the rules to be implemented whenever necessary, based on their knowledge of the market.

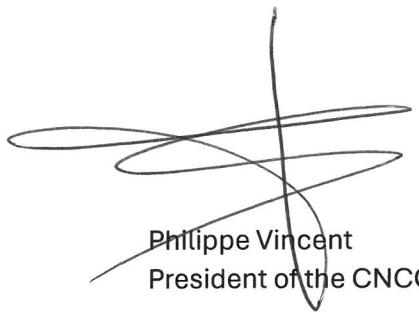
It must be noted that we have never had any case of audit failure related to a potential lack of independence, in the CIVs environment in France.

For all these reasons, the CNCC does not believe that requiring specific rules for the specific sector of CIVs is appropriate.

In addition to these fundamental comments, we respond below to the detailed questions of the ED.

We hope that our comments will be useful to IESBA. Please do not hesitate to contact us if you would like to further discuss any of them.

Yours Sincerely,



Philippe Vincent
President of the CNCC

Question 1 – Does the Code's definition of related entity capture all relevant parties that need to be included in the auditor's independence assessment when auditing CIVs/pension funds? Please provide reasons for your response.

We believe that the current definitions in the Code already cover the auditor's independence assessment when auditing CIVs/pension funds, in particular Section 120 "The Conceptual Framework". Indeed, the Code clearly covers the following points: identifying, evaluating and addressing threats. Consequently, we believe that it is not necessary to modify the current definitions of the Code, particularly the notion of "related entity". Indeed, the analysis of the collective investment environment as described in annex n°2 to this letter, clearly demonstrates that operations related to fund management are split between different actors in order to secure the sector. These actors are often regulated by a supervisory authority and/or independent of the asset manager.

Furthermore, we believe that an expanded definition of "related entity" would render the audit exercise impracticable as the collective investment market is already highly concentrated around a few asset managers.

Question 2 – Do you believe the criteria set out above are appropriate and sufficient to capture Connected Parties that should be considered in relation to the assessment of auditor independence with respect to the audit of a CIV/pension fund? Please provide reasons for your response.

As we believe that introducing a new concept of "connected parties" could collide with the local regulation and could make the audit exercise impracticable in France, we also believe that the three criteria a), b), and c) which could characterize the concept of "connected parties" would be in contradiction with the specific features already implemented by the French authorities to protect the public investing in CIV. As indicated in the cover letter and annex n°2, the local authorities (i.e. the AMF and the ACPR) have already structured the CIV environment around different regulated stakeholders to ensure they are independent from each other. Moreover, additional independence mechanisms exist at stakeholder's level: for example, the requirement for the asset manager to appoint a chief compliance officer or an independent evaluator for the funds, which contributes to ensuring the respect of the legal and regulatory framework. Furthermore, these criteria do not take into account the fact that the collective investment vehicle's strategy, is described in its prospectus which is aimed at the investors, and that the prospectus introduce different ratio (covering investment strategy...) which must be complied with.

As a result, we believe that introducing these additional criteria is inappropriate. In addition, introducing a new concept of "connected parties" into the Code would require a very clear definition. If the Board was to take such a decision, it should carefully consider the risk of unintended consequences outside of the application of the Code for CIV and Pension Funds when applying the Code to other situations – for example in the context of unconsolidated entities under management contracts or value chain entities. Value chain entities could be seen as "connected parties," potentially affecting the recently published IESSA and adding further complexity.

Question 3 – Where there are such Connected Parties, do you believe that the application of the conceptual framework in Section 120 of the Code is sufficiently clear as to how to identify, evaluate and address threats to independence resulting from interests, relationships, or circumstances between the auditor of the CIV/pension fund and the Connected Parties? If not, do you believe the application of the conceptual framework in the Code as applicable to Connected Parties associated with Investment Schemes warrants additional clarification? Please provide reasons for your response.

As stated above, we believe that the conceptual framework of the Code of Ethics is clear enough to assess and address threats to the independence of the CIV/pension fund's auditor. Indeed, the study you conducted in your consultation paper demonstrates that practices can be different without jeopardizing the independence assessment for the audit of CIV/pension funds as long as there are clear principles to which each jurisdiction can adhere. Moreover, local authorities already play a critical role in monitoring the actors in this environment. However, we believe that it can be entirely within the role of the IESBA to provide non-authoritative, illustrative guidance to local authorities if necessary.

Question 4 – Do you believe that the conceptual framework in Section 120 of the Code is consistently applied in practice with respect to the assessment of auditor independence in relation to Connected Parties when auditing a CIV/pension fund? Please provide reasons for your response.

We believe that the conceptual framework in Section 120 of the Code is consistently applied in practices with respect to the assessment of auditor independence in relation to "connected parties" when auditing a CIV/pension fund. As a matter of fact, CIV's auditors already assess their independence when the asset manager requires non-audit services. In this case, the auditors apply the conceptual framework of the Code in order to accept or decline the other service engagement.

Question 5 – Are there certain interests, relationships, or circumstances between the auditor of a CIV/pension fund and its Connected Parties that should be addressed? Please provide reasons for your response.

We have not identified any interests, relationships or circumstances between the auditor of a CIV/pension fund and its "connected parties" that should be addressed. We believe that the Code of Ethics already addresses key questions and suggests ways to address them.

ANNEX N°1

Applying Section 510 of the Code in the Context of the Pension and Saving Environment in France

Context

French retirement benefits are primarily funded through public systems, excluding employer-managed pension funds. To complement public systems and encourage long-term savings for French employees, dedicated systems such as "assurance vie" (life insurance) and "plan épargne retraite" (retirement saving plans) have been established associated with tax incentives. Both are saving systems, not insurance schemes, although elements of insurance can be combined. Tax benefits can be enjoyed when savings are held for a long period under these schemes (8 years for life insurance, up to retirement for retirement saving plans).

The return to the investor depends on the performance of the underlying funds. These funds can be either external to the insurer (invested in collective investment vehicles only), internal to the insurer, or a combination of both.

Scheme Characteristics

The collective investment funds remain solely owned by the insurance company or the bank sponsoring the scheme. The investor benefits only from the performance of the underlying funds.

The scheme is designed so that the management of the savings (the underlying funds) can be either under the sole control of the fund manager (the most popular setup) or managed by the beneficial owner themselves.

When managed by a fund manager, the manager provides management contracts to make investment decisions depending on the investor's risk profile and risk appetite. In such instances, both the investor and the manager are legally precluded from contacting each other. Therefore, the investor cannot influence the manager's decisions and is only informed of the investment decisions made, ex post, usually on a quarterly or annual basis.

The scheme takes the legal form of a dedicated individual "assurance" contract, where the underlying funds invested are recorded. The fund manager manages many individual contracts collectively for investors sharing the same investment profile. Unfortunately, considering the characteristics of the scheme, it does not meet the definition of a "collective investment vehicle" (the vehicle is individual, not collective) although it shares *de facto* similar characteristics.

Application of Section 510

Applying Section 510 of the Code (Financial interest) raises concerns in the context of individual pension funds and life insurance savings schemes in France. We understand that other jurisdictions face similar issues.

The code leads audit firms to develop processes to monitor the financial interests of the Firm's partners and staff, including their direct family members. Partners and staff must timely input all their financial interests (as well as those of their direct family) into a dedicated application to potentially match these with the list of restricted clients of the Firm. When required, the system initiates actions for partners and staff to either not invest in or divest from restricted clients.

Although investment in such schemes, where the investor cannot influence the manager's decision, shares the same characteristics as an "indirect financial interest through an intermediary such as a collective investment vehicle, an estate or a trust" (§510.3. A1), the Code does not recognize them as such. Therefore, they cannot benefit from the derogation granted to indirect financial interest. Partners and staff (along with their direct family members) are unable to obtain the required information to maintain their financial interests in the Firm's internal monitoring platforms and thus cannot meet their monitoring requirements.

Proposition

We consider that, under these circumstances, the underlying funds invested in such a scheme share the same characteristics as indirect financial interests and should benefit from the same treatment. This situation should be clarified in the Code. This should lead the Board to consider a narrow-scope amendment to resolve this issue and include a new paragraph (equivalent to § 510.7 for financial interest held as a trustee) to specifically address these situations.

A draft of such a paragraph may be as follows:

R 510.X Financial interests held in individual insurance or retirement contracts.

Paragraph 510.4 shall also apply to a financial interest in an audit client held in an insurance or retirement contract unless:

a) *A portfolio management service is provided to the individual beneficiary of the insurance or retirement contract, whereby the management of the portfolio that includes one or more financial instruments is made on a discretionary and individualized basis under a mandate given by the individual beneficiary. This mandate may be based on the individual investor's objectives, including risk tolerance, knowledge, experience, and financial situation, including the ability to incur losses.*
b) *The initiative for the subscription, purchase, or sale of these financial instruments emanates from the manager and not from the individual investor who is disallowed from interfering in the management.*
c) *The individual investor is only informed of the investment decisions taken by the manager a posteriori.*
d) *The portfolio management service activity is regulated.*

ANNEX N°2

Different regulated and independent stakeholders playing a critical part in the collective investment environment

A concentrated market

The French asset managers rank among the European leaders in term of deposits under management. The French market is also characterized by a high concentration of collective investments vehicles (CIV) managed by few asset managers held mainly by the major French banks or managed by French insurers.

CIV are managed by asset managers which are both approved and supervised by the *Autorité des Marchés Financiers* (AMF), the French independent stock exchange regulator. Asset managers are investment service providers whose primary activity is management on behalf of third parties (individual through a management mandate, or collective through a UCITS). Funds managed by asset managers are either corporate entities or co-ownership of securities and are governed by two European directives: the UCITS Directive and the AIFM Directive. The *Autorité des Marchés Financiers* regulates the French financial marketplace, its participants, and the investment products distributed via the markets. As an independent public authority, it has regulatory powers and a high level of financial and managerial independence. The AMF intervenes to regulate financial markets and market infrastructures, and collective investment products invested in financial instruments.

Different regulated and independent stakeholders playing a critical part in the collective investment environment

In France, the collective investment environment is characterized by the presence of different stakeholders, both independent and regulated, overseeing the asset managers and the funds they manage. This environment's operation is based on precise regulations defined by the *Autorité des Marchés Financiers*. Moreover, full membership of one of the professional associations is required for asset managers. These associations issue a code of ethics approved by the AMF and addressing the risk of conflict of interest. The asset manager shall comply with this code.

Asset managers operate under the supervision of the AMF. This means that these companies must be approved by the AMF to conduct their activities. The same principle applies to the funds they manage. Each asset manager must appoint a Chief Compliance Officer (*Responsable de la Conformité et du Contrôle Interne,* RCCI). The RCCI is independent of the asset manager and must have the means, both technical and in terms of human resources, to carry out its mission, which includes ensuring the asset managers' compliance with applicable laws and regulations, professional rules, and internal policies and procedures. To operate, the RCCI must hold a professional card issued by the AMF after passing an examination organized by the French independent public authority.

The assets managed by the CIV are deposited with a custodian (the *"dépositaire"*), a credit institution approved and supervised by another independent public authority: the prudential regulator (the *Autorité de Contrôle Prudentiel et de Résolution* (ACPR)). The custodian must also ensure that the funds comply with the management standards set by the AMF. It must inform the latter in the event of non-compliance with these standards or persistent discrepancies.

The custodian may also act as a custodian of securities (the *Conservateur*). The custodian's role is to manage the life of the security: settlement and/or delivery of securities, and management of dividends or coupon payments.

For the funds under the European AIFM Directive, the asset manager must use an independent valuator to carry out the valuation of the assets and must notify it to the AMF.

The asset manager may also delegate back- and middle-office tasks to a fund administrator (the *Administrateur de fonds*). These tasks may include, on the asset side, valuing assets' funds and calculating their net asset value, and on the liability side, centralizing and valuing subscription/redemption orders and maintaining the fund issue account. Although delegated, the asset manager remains responsible for fund administration.

It clearly appears that the operations (mainly investment order, accounting, valuation, monitoring) managed by the asset managers involve different independent and regulated stakeholders. We strongly believe that the concept of "connected parties" in such an environment could lead to further concentration on the audit market of CIVs or even to a total blockage of the audit market of the concept of "connected parties" narrowing the choice of audit firms that can be appointed for the statutory audit.