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Dear mrs. Munro,

**Re:**

**Exposure draft – section 290 of the Code of Ethics – independence – audit and review engagements and section 291 of the Code of Ethics – independence – other assurance engagements**

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## Appendix

1 General comments

- NIVRA is an advocate of a principle-based approach to regulations. NIVRA believes that such an approach, where the emphasis is on the purport of the regulations rather than on the specified offerings or prohibitions, produces sufficiently powerful legislation, which also takes account of the fact that not all practical cases can be organised in advance or in detail.  
On the other hand, this exposure draft contains various requirements, including some that are completely prohibited (particularly for entities of significant public interest [ESPIs]), that are formulated in detail to such an extent that a change from a principle-based to a rule-based approach is perceptible. NIVRA is not in agreement with these (possibly unintentional) changes and is also concerned that such rule-based-provision compliance leads to “in form rather than substance”.
- NIVRA concludes from the explanatory memorandum (under “Background”) that the various corporate failures relating to financial reporting are the reason for the review of the independence rules. NIVRA questions whether the tightening of legislation in the area of independence is directly related to the independence problems associated with these scandals.
- The aforementioned scandals occurred at large companies. NIVRA believes that, if the majority of the member bodies want a tightening of the current independence rules, these changes should be limited to the audits of large companies. NIVRA is not at all convinced of the usefulness or the need for stricter rules relating to the audits of small and medium-sized entities (SMEs). After all, the public interest is not served, at least less so; the expectations related to the independence are, in the case of audits of SMEs, less high than in the case of audits of large companies and furthermore there is no demand for stricter rules. The intensity of the proposed changes is, conversely, large for SMEs, while no rational motive for the change in the rules for audits of SMEs has been forthcoming. In view of the above, NIVRA argues for a lighter regime (safeguard approach) for audits of SMEs, for example in accordance with section 291.
- Extra reasons for the above argument are the higher costs as a result of the introduction of a few absolute prohibitions, in particular with respect to the interaction with non-assurance services. The public will have to bear these extra costs. Extra costs must be justified in relation to the public interest that is served by the implementation of tighter rules. Stricter rules for ESPIs may be desirable. In this respect, extra costs are justified. NIVRA is, however, not in the least convinced of the importance of stricter rules with respect to SMEs (see previous bullet point). Also, extra costs are problematic for SMEs. On top of this is that fact that it is doubtful whether prohibiting the concurrence of audit with non-assurance services does indeed improve the quality of an audit. It can be argued that the knowledge of the client acquired during the performance of non-assurance services can contribute to the quality of an audit; this is in the public interest.
- NIVRA values the explanatory memorandum that was useful for the studying of the exposure draft. However, to implement this text proposal, as soon as it is finalised, an extremely detailed overview of the intended differences compared

to the current independent decisions is required. NIVRA requests the IESBA for such an overview in order to support the implementation by the member bodies.

#### 1.1 Split of Section 290

- NIVRA agrees with the splitting of section 290 into one chapter for audit engagements and a chapter for other assurance engagements.
- However, NIVRA objects to the regulation of audit and review on the same level in section 290. The public now has less high expectations regarding the independence that should be taken into account with review engagements, than is the case with audit engagements. The application of the rules for audit on review has rather a lot of consequences, such as, for example, the interaction with non-assurance services. NIVRA believes that a safeguard approach in accordance with section 291 is adequate for review engagements. For this reason, NIVRA calls for the inclusion of review engagements in section 291.
- It is unclear what the IESBA *precisely* understands by “single financial statement” and “one or more specific elements, accounts or items of a financial statement”. There is a need for clarification, for instance, by giving examples.

#### 1.2 Restricted use

- NIVRA agrees with the introduction of the restricted use concept.
- NIVRA emphatically urges that the audit report includes the statement that intended users 1) are knowledgeable as to the purpose, subject matter information and limitations of the report, and 2) have explicitly agreed the application of the modified independence requirements. NIVRA believes that, apart from the reporting in the engagement letter, the addressee of the audit report must be explicitly informed about the application of the restricted use rules. Paragraph 290.501 appears to be the appropriate section.

#### 1.3 Definitions

- Engagement team. NIVRA notes that the part of the sentence “that might otherwise be provided by a partner or staff of the firm” is unclear. We propose the following definition: “All partners and staff of the firm and any individuals contracted by the firm that perform the assurance engagement.”
- Key audit partner: NIVRA agrees.
- Audit client. This stipulates: “When the client is a listed entity, audit client will always include its related entities.” Clarity is improved if a provision like this, which affects the purport, is not only included in the definition but also in the relevant provisions themselves.

#### 1.4 Language, clarity, etc.

- Although it is stated in the explanatory memorandum that comments relating to the implications of the Clarity project will not be requested at this stage, NIVRA nevertheless makes an urgent request for sections 290 and 291 to be designed in accordance with the system of the Clarity project. In this way, it becomes clearer what the requirements are and what the explanation and examples are. Incidentally, this should certainly not lead to an increase in the number of requirements but rather to a reduction in their number.
- Both section 290 and 291 are divided in two parts: one general section and one section that relates to specific topics, preceded by a table of contents. This

arrangement is unclear and also not logical. The table of contents encourages you to read from that point, which can lead to the general section being missed. NIVRA proposes, in relation to both sections, that the general section and the specific section be included in just one chapter, with the table of contents being brought to the front and obviously modified accordingly.

- 2 Detailed comments
  - 2.1 Entities of significant public interest
    - NIVRA agrees with the definition of ESPI, because this largely corresponds with the definition of public interest entity from the EU Statutory Audit Directive and also offers the possibility to keep using any definition of this term in national legislation or regulations.
  - 2.2 Financial interest
    - Explanatory memorandum, page 10, component a): NIVRA agrees.
    - Explanatory memorandum, page 10, component b): NIVRA agrees.
    - Explanatory memorandum, page 10, component c): NIVRA agrees.
  - 2.3 Employment with an audit client
    - Proposal for additional rules for ESPIs entailing the introduction of a cooling-off period for key audit partners and senior and managing partners of the firm, that transfer to an ESPI in a) a position to exert significant influence over the preparation of the entity's accounting records or its financial statements or b) the position of director or an officer of the entity: NIVRA agrees.
    - NIVRA believes a cooling-off period of at least 12 months is too short to guarantee the independence of the accounting firm. After such a short period, an auditor may after all still be confronted with decisions concerning activities that he was personally involved in. NIVRA proposes, in line with the EU Statutory Audit Directive, to prescribe a cooling-off period of at least two years.
  - 2.4 Temporary staff assignments
    - NIVRA agrees.
  - 2.5 Association of senior personnel (including partner rotation)
    - Proposal to require internal rotation for *all* key audit partners and prescribe the individual responsible for the engagement quality control review: NIVRA agrees.
    - Proposal to no longer permit small accounting firms to provide alternative guarantees: NIVRA agrees. This is also in line with article 42(2) of the EU Statutory Audit Directive.
    - Section 290.148 of the exposure draft stipulates that rotation can only take place after eight instead of seven years (1 year dispensation) under certain circumstances, and only when guarantees are made. NIVRA does not agree with this, because it is not in the public interest nor in line with the EU Statutory Audit Directive, which does not offer such a dispensation option.
  - 2.6 Provision of non-assurance services

#### 2.6.1 Management functions

- NIVRA agrees.

#### 2.6.2 Preparing accounting records and financial statements

- Section 290.166 permits the preparation of accounting records and financial statements for ESPIs in crisis situations. NIVRA does not agree with this, because it conflicts with the public interest.

#### 2.6.3 Valuation services

- NIVRA agrees with the proposal to prohibit valuation services to ESPIs as soon as there is “a material effect on the financial statements” and to drop the subjectivity criteria with respect to this category of companies.

#### 2.6.4 Taxation services

- NIVRA believes the number of rules, including prohibitions, which are proposed in relation to taxation services, are out of proportion to the regulations concerning each of the other non-assurance services. This wrongly implies that the possible threats with respect to taxation services are different in nature and size to those in respect of other non-assurance services.
- NIVRA again raises the question of whether the regulation of these services will lead to an improvement of the quality of the audit, while it will most likely result in increased costs for clients. See “General comments”. An example of this are the possible guarantees referred to in 290.181. One-person firms will have to request a second opinion outside of their office. This will lead to extra costs for the client. Small companies, in particular, do business with one-person firms and extra costs are the most problematic for this category of clients.
- The real areas of risks are aggressive tax advising and assistance in the resolution of tax disputes. In the light of the above, NIVRA proposes only setting rules with respect to aggressive tax advising and assistance in the resolution in tax disputes.
- NIVRA agrees with the prohibition in 290.182 regarding aggressive tax advice.
- Assistance in the resolution of tax disputes.  
NIVRA believes that granting of assistance to a client in tax procedures is inherent to the activities of an auditor in the field of taxation services. For this reason, this service must remain, except in the case of legal action before the highest national judicial authority. In the Netherlands, and NIVRA assumes that this also applies to other jurisdictions, the Taxation Section is public (makes its judgements in public). However, as a result of the adjective “public” the granting of assistance before lower legal authorities is (possibly unintentionally) not permitted. NIVRA is not in agreement with this.

#### 2.6.5 IT systems services

NIVRA agrees in the introduction of a prohibition with respect to ESPIs that also relate to design *or* implementation. NIVRA agrees with IESBA that the provision of guarantees is sufficient for non-ESPIs.

#### 2.6.6 Recruiting senior management

NIVRA agrees.

#### 2.6.7 Corporate finance

NIVRA agrees with the prohibition in 290.211 regarding aggressive corporate finance advice.

#### 2.7 Fees and compensation and evaluation policies

NIVRA agrees.

#### 2.8 Section 291 Independence – other assurance engagements

No comments.

#### 2.9 Effective date

Although IESBA proposes a strict timetable, NIVRA agrees with the ambition to revise the independence rules as quickly as possible.

##### 2.9.1 Partner rotation

Not applicable. In the Netherlands, partner rotation is already mandatory.

##### 2.9.2 Entities of significant public interest

Not applicable. The Netherlands and NIVRA continue to use the definition of public interest entity taken from the EU Statutory Audit Directive.

##### 2.9.3 Provision of non-assurance services

NIVRA believes that a transition period of half a year for the rounding off of current non-assurance services is too short to properly terminate the current assignments. NIVRA proposes a transition period of one year.

### 3 Request by IESBA for specific comments (questions 1-4)

*Question 1: Is it appropriate to extend all of the listed entity provisions to entities of significant public interest? If not why not and which specific provisions should not be extended? Is it appropriate that, depending on the facts and circumstances, regulated financial institutions would normally be entities of significant public interest in pension funds, government agencies, government owned entities and not-for-profit entities may be entities of significant public interest?*

See above item 2.1. For the rest, it is undesirable that the IESBA further expands upon the definition of ESPI, in order to avoid creating more differences with a possible definition in national legislation or regulations.

*Question 2: Is it appropriate to eliminate the flexibility for small firms to apply alternative safeguards to partner rotation? If such flexibility is appropriate, what alternative safeguards will eliminate the familiarity threat or reduce it to an acceptable level?*

It is appropriate, because it is in the public interest. See item 2.5 above.

*Question 3. Is the revised guidance related to the provision of non-audit services appropriate?*

No, see “General comments”. To summarise: to a certain extent, the revised guidance leads to rule-based regulations; this possibly not in the interest of SMEs and leads to higher costs, which are particularly troublesome for SMEs.

*Question 4: The primary objective of the strengthening of the independence provisions of the Code is to enhance both the perceived and actual objectivity of those performing assurance engagements, thereby enhancing audit quality. Implementation of the new provisions will likely entail some additional costs to stakeholders which are particularly difficult to measure in the context of a global standard. The IESBA is, however, of the view that the benefits of the proposals are proportionate to the costs and therefore the proposals strike the appropriate balance between the differing perspectives of stakeholders. Do you agree?*

No, NIVRA disagrees. See above “General comments”. To summarise: NIVRA is not at all convinced that stricter rules concerning SMEs are in the public interest; with regard to SMEs, NIVRA is not at all convinced that the costs offset the benefits.

#### 4 Comments requested by IESBA on other matters


4.1 Special considerations on application in audit of small entities  
See above “General comments”.

4.2 Developing nations  
No comments.

4.3 Translations  
No comments.

We would be pleased to discuss this letter at your request.

Yours sincerely,



W.P. van Wijngaarden RA  
Chairman

## APPENDIX:

Other comments of a textual nature:

- After 290.116 delete "Close Business Relationships" heading. Heading is incorrect here, given that 290.117 up to and including 290.120 relates to loans and guarantees.
- Re 290.128 respectively 290.129: for the sake of legibility, place the letters a) and b) in the text, as is also the case in 291.123 respectively 291.124 (note: ninety-one!).
- Re 291.1. reference is made here to 290.25. This must be 291.25 (ninety-one).
- From 291.100 onwards: definitions not in bold. This is not consistent compared to section 290.
- Re 291.102: state where interpretation 2005-1 is found.
- Re 291.127: the text following the summary (a) up to and including (d) does not read well and the summary of guarantees is also missing. This could mean that the summary of section 290.132 should be followed.
- Re 291.128: third line: the threats *are*
- Bring lay-out definition of assurance team, audit team and review team into line with one another.

