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CFA Centre for Financial Market Integrity
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Frankfurt, den 28. Februar 2005

Comments to Proposed Verifier Independence Guidance Statement

Dear Madam,

Dear Sir,

We agree with the proposed Guidance Statement as well as with the effective date. However, the following matters may need further clarification.

1. We agree, in principle, with the guidance outlined on page 4 under “Can a verifier provide business advisory services (consulting) to a verification client prior to performing the verification?”

However, there are some contradictory statements which we believe may cause some confusion. On the one hand “providing templates and systems for performance calculation” is meant to create an independence issue (page 5, 5th bullet point), and on the other hand it does not “... as long as the client assumes full responsibility for the calculation methodology” (page 7, answer to the question number 4). One can argue that there is no contradiction, because it is stressed that the given examples do not necessarily create an independence issue (“might create an independence issue”). To avoid any confusion, we propose to add on page 5 “... unless the client assumes full responsibility for the calculation”.

Similarly, confusion could arise on page 6 under “Can a verifier provide other performance-related services to a verification client?” where “preparing compliant presentations” is mentioned as a service that might create an independence conflict. However, in the application section “the verification firm may produce the compliant presentation for the examined composite if this preparation is limited to accumulation the information from information you (the client) provide to them” (see answer to question number 7). Again, one can argue that there is no contradiction because it is

stressed that the given examples do not necessarily create an independence issue (“might create an independence issue”). In this case we propose to insert a general statement on page 5 which points out that a conflict of interest does not arise as long as the firm is responsible for calculating the returns and other disclosures required by the standards no matter who is actually processing and accumulating them.

In addition, we believe that an independence conflict may not only arise if a verifier provides business advisory services (consulting) to a verification client prior to performing the verification (as supposed to the headline of the statement) but also during or after the verification process. A potential of a conflict of interest is not restricted to the time prior to the verification. More specifically, a verifier may perform a verification laxly expecting a “reward” in form of a treaty for consultancy services. Therefore, we suggest not to restrict the headline to advisory services prior to performing the verification.

For the matter of clarification we also suggest to change the term “independence issue” to “independence conflict”.

2. We believe that the expression “might create” is too vague. Some of the wording gives the impression of a missing binding nature starting with the formulation in the Executive Summary “..., this guidance is not intended to replace or supercede any applicable independence guidance”. Even if the “Guidance Statements” are meant to be a minimum standard the terms used should be suitable to serve as an operational guideline for practical implementations.
3. The guidance statement does not address existing relationships between verifiers and their clients prior to the effective date. Do the verifier and the client need to address potential conflicts of interests that were relevant in the past (and, therefore, were relevant for part of the track record) but not anymore after the effective date of the guidance statement?

Yours sincerely

German CFA Society e.V.

These comments are a joint statement of BVI German Investment and Asset Management Association, DVFA Society of Investment Professionals in Germany, and GCFAS German CFA Society