

19 October 2015

Ms. Kathleen Healy  
Technical Director  
International Auditing and Assurance Standards Board  
545 Fifth Avenue, 14th Floor  
New York, New York 10017  
USA

***Exposure Draft: Responding to Non-Compliance or Suspected Non-Compliance with Laws and Regulations***

Dear Ms. Healey,

BDO International Limited<sup>1</sup> is pleased to have the opportunity to comment on the International Auditing and Assurance Standards Board (IAASB) Exposure Draft (ED) in respect of *Responding to Non-Compliance or Suspected Non-Compliance with Laws and Regulations*.

We are supportive of the IAASB's overall approach of proposing amendments of certain International Standards<sup>2</sup> in order to respond to the changes proposed by the International Ethics Standards Board for Accountants (IESBA) Re-Exposure Draft *Responding to Non-Compliance with Laws and Regulations*. In particular we support the approach adopted by the IAASB not to duplicate the detail contained in the IESBA code, but rather to target proposed changes to specific areas of relevance in the body of International Standards. BDO has already provided a separate response to the IESBA Re-Exposure Draft in our letter dated 9 September 2015. This comment letter on the IAASB's ED will focus on the proposed amendments put forward by the IAASB - referring to comments or concerns that we brought to the IESBA's attention only where there is direct overlap.

In principle, we support the intention of the IAASB to make conforming amendments to the relevant International Standards in order to address actual or perceived inconsistencies. Indeed, in our comment letter to IESBA, we had identified specific concerns about the lack of clarity that the NOCLAR changes would create, specifically in respect of ISA 250 *Laws and Regulations* (ISA 250). By seeking to focus many of the proposed amendments in this Exposure Draft on ISA 250, the IAASB has adopted a sensible approach to Standards improvement - with the aim of ensuring consistency and clarity among IFAC pronouncements and Standard-Setting Boards.

We acknowledge that, in regards to standards-setting, a balance has to be struck between having a package of ISAs and other International Standards that are continuously aligned with other IFAC pronouncements and maintaining the IAASB's due process for identifying and proposing changes to the IAASB International Standards. As a result, we appreciate the efforts of the IAASB and IAESB to attempt as far as possible to schedule amendments to International Standards by coordinating the issuance of exposure drafts. This approach has enabled each Standard-Setting Board to maintain

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<sup>2</sup> The IAASB's International Standards applies to the focus of this Exposure Draft and comprise the International Standards on Auditing (ISAs), International Standards on Quality Controls (ISQCs), International Standards on Review Engagements (ISREs) and International Standards on Assurance Engagements (ISAEs).

appropriate due process and has also enabled respondents to see the context within which the proposed changes are being made. Notwithstanding our support for this approach, we do however have some concern, that should the IESBA make substantive changes (following its own analysis of responses on exposure), that this may cause the IAASB to have to reconsider the proposed amendments.

The details of our suggestions, as well as our views on the other aspects of the ED are provided below in response to the specific questions posed.

### **Specific Matters**

- 1. Do you believe the proposed limited amendments are sufficient to resolve actual or perceived inconsistencies of approach or to clarify and emphasize key aspects of the NOCLAR proposals in the IAASB's International Standards?**

#### ***(a) ISA 250 Amendment - Right to Disclose***

We support the proposed limited amendments to the IAASB's International Standards. Under the IESBA's NOCLAR proposals, the professional accountant (PA) would have the right to disclose an identified or suspected NOCLAR to an appropriate authority if the PA determines that such disclosure is an appropriate course of action in the circumstances. We have already stated in our IESBA response our concerns about what would constitute an appropriate course of action and also issues we had about the primacy of local laws and regulations. However, we also acknowledge that were the IESBA changes to be approved, that this could cause a potential inconsistency with ISA 250 (paragraphs 28, A19), which does not explicitly recognize this right. On the basis that the IESBA changes are approved, we also agree with the proposed IAASB intention to make the necessary amendment in ISA 250 by replacing 'responsibility' with 'legal or ethical duty or right'.

#### ***(b) ISA 250 Amendment - Audit Impact of Non-Compliance***

The proposed amendments to paragraphs A12a and A17 that provide new guidance to auditors about instances of NOCLAR that may be identified as part of relevant ethical requirements provide practical examples of how these matters could give rise to other concerns from an auditing perspective - such as integrity of management or those charged with governance.

Although the numbering and ordering of the Application Guidance is clearly only at a draft stage, we would however suggest that the proposed new paragraph A18a (dealing with circumstances that could cause the auditor to evaluate the implications of non-compliance on the reliability of written representations) is moved to precede the extant paragraph A18 (which considers the ultimate sanction of withdrawal from the engagement).

#### ***(c) ISA 240 and ISA 250 Amendments - Additional Obligations***

By including new paragraphs (ISA 240, paragraph 8; ISA 250, paragraph 8a) in respect of the auditor's additional responsibilities that may exist under relevant ethical requirements, we support the IAASB's intention to highlight this as a potential further source of information that may be relevant to the auditor's work. We note that the proposed amendment to ISA 250 contains the phrase 'additional responsibilities,' whereas the ISA 240 amendment only considers 'responsibilities'. To improve clarity we would ask that the language be aligned.

***(d) ISA 220 Amendment - Terminology***

We support the proposed change outlined in ISA 220 (paragraph A8a) for the term ‘predecessor auditor’ to replace the extant ‘existing accountant’

***(e) ISA 220 Amendment - ‘Tipping Off’ prohibition***

We support the additional Application Guidance (ISA 250, ISA 240, and ISA 450) and Scoping amendment (ISA 260 (Revised)) as proposed by the IAASB. While the term ‘tipping-off’ is not of itself commonly used across all jurisdictions, we recognize the importance of reminding auditors that laws or regulations may prohibit alerting the entity when, for example, the auditor is required to report a NOCLAR to an appropriate authority under money laundering or other anti-fraud legislation. By reiterating this issue in a number of ISAs the IAASB will be providing helpful guidance to auditors of the need to consider domestic laws and regulations. This was a matter we highlighted in our recent IESBA ED comment letter.

***(f) ISA 250 Amendments - Other Changes***

We note inclusion of the proposed Application Guidance to provide examples of Laws and Regulations that may be included in the categories for consideration contained within the ISA 250 Requirements. While we support the inclusion of examples to assist auditors by providing a more practical perspective, we refer to our ED letter to IESBA, which noted that in some instances including aspects such as ‘environmental protection’ and ‘public health and safety’ may be outside the scope of most auditors’ skill sets or knowledge.

- 2. The impact, if any, of the proposed limited amendments in jurisdictions that have not adopted, or do not plan to adopt, the IESBA Code. For example, would any of the changes to the IAASB’s International Standards be deemed incompatible with the relevant ethical requirements that would apply in those jurisdictions?**

Within BDO, we have a number of member firms operating in jurisdictions in which the IESBA Code has not been adopted. Given the nature of the proposed amendments (i.e. the provision of additional guidance and clarification of language) we do not foresee at this stage any specific matters that would give rise to compatibility issues.

**General Matters**

- a) Preparers (including Small- and Medium-Sized Entities (SMEs)), and Users (including Regulators) - The IAASB invites comments on the proposed amendments to its International Standards from preparers and users.**

We have no comments on this particular question.

- b) Developing Nations - Recognizing that many developing nations have adopted or are in the process of adopting its International Standards, the IAASB invites respondents from these nations to comment on the proposed amendments to its International Standards, in particular, on any foreseeable difficulties in applying it in a developing nation environment**

Within our international network, we have a number of member firms operating in developing nations. We recognize that in many of their national frameworks adoption of ISAs is still in its infancy and, as a consequence, the importance of clarity and useful Application Guidance is essential. Subject to our comments about the proposed changes within this particular ED, we do

not believe that the proposed conforming amendments will give rise to foreseeable difficulties in developing nation environments.

- c) **Translations - Recognizing that many respondents may intend to translate the final amendments to its International Standards for adoption in their own environments, the IAASB welcomes comment on potential translation issues respondents may note in reviewing the proposed amendments to its International Standards.**

We have long supported IFAC efforts to make ISAs and other IFAC pronouncements accessible to users through effective and timely translation. Many of the amendments contained in this ED are relatively straight-forward so at this stage we do not foresee any difficulties in respect of translation. However, given the importance being attached both in this ED and the IESBA NOCLAR ED to the phrase '*legal, or ethical duty or right*' we would ask that IFAC ensure that this phrase does not give rise to alternative meanings when presented in different languages.

- d) **Effective Date - it is anticipated that the effective date of the amendments to the IAASB's International Standards would be aligned with the effective date of the NOCLAR standards, which the IESBA will determine in due course.**

Subject to our concern about ensuring that conforming amendments are aligned with the Re-Exposure Draft from IESBA, we agree with the proposal to align the effective dates of the amendments to the IAASB's International Standards and the IESBA NOCLAR Standards.

#### **Invitation for Additional Input**

1. Consultations undertaken as part of developing the IAASB's current Strategy and Work Plan had not demonstrated that ISA 250 warranted immediate revision, particularly in light of the other projects that the IAASB was asked to prioritize in the public interest.
2. The IAASB was of the view that this Explanatory Memorandum could be a vehicle for soliciting stakeholders' views as to whether there is merit in exploring other aspects of ISA 250 where further improvements may need to be considered in due course (i.e., under a future IAASB Work Plan).
3. For example, further consideration of the following areas may be viewed as beneficial:
  - Whether the existing distinction between the types of laws and regulations (see paragraph 6 of ISA 250) and the different levels of work effort applied to each under extant ISA 250 warrants further investigation or revision.
  - Whether ISA 250 should address making inquiries of management or, when appropriate, TCWG, regarding NOCLAR that may occur.
  - Whether ISA 250 should include a requirement to obtain an understanding of how management identifies and addresses known or suspected NOCLAR as an essential component in obtaining an understanding of the entity and its environment.
  - How ISA 250 addresses personal misconduct related to the business activities of the entity or parties associated with the entity, including contractors.
  - How NOCLAR is addressed in other ISAs, such as when dealing with auditor's experts and in a group audit situation.
4. On balance, the IAASB did not believe it is necessary at this time to further explore these areas or to undertake a more fulsome revision of ISA 250. Developing these additional changes could prolong the finalization of the proposed changes to the IAASB's International Standards and could have unintended consequences in circumstances where ethical codes other than the IESBA Code are applied. Finally, the IAASB also

noted that its Work Program 2015-2016 is unlikely to be able to accommodate a project to more fully revise ISA 250 without delaying or deferring other projects that received broad support when the IAASB consulted on its *Strategy for 2015-2019*. Accordingly, the IAASB will continue with the limited amendments as proposed in this ED.

5. Should respondents be of the view that a more fulsome review of ISA 250 would nevertheless be beneficial in due course, the IAASB would need to consider the possibility of doing so in consulting on future Work Plans. Respondents are therefore asked for their comments, if any, on what further changes may be required to ISA 250 and why.

#### **Additional Input - BDO Response**

We believe that the proposed ISA 250 amendments identified in this particular ED are necessary and sufficient, so we do not propose that the IAASB commence a project to revise ISA 250 beyond this. While a number of the matters highlighted by the IAASB for further consideration of ISA 250 may merit further attention and work-effort in years to come, we do not believe that this would be the best use of the IAASB's resources at this time.

Having examined the IAASB's Work Program for 2015-2016 and the Strategy for 2015-2019, we would prefer the work-effort of the IAASB continue to be directed towards more pressing matters facing the audit profession, examples of which include (but are not limited to):

- Understanding ISA implementation - findings related to ISA 315
- Work of the Innovation Working Group - effects of technology on audit
- Quality of Group Audits - practical application of ISA 600.

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We appreciate the opportunity to comment on the IAASB's Exposure Draft and hope that our comments and suggestions will be helpful to you in your deliberations.

Please contact me should you wish to discuss any of these comments.

Yours sincerely,  
BDO International Limited

Wayne Kolins  
Global Head of Audit and Accounting