

Institute of Certified Public Accountants of Kenya
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Our Ref: PSC/PSD/TS/ED17/2015

Monday, 19 October 2015

Kathleen Healy
Technical Director
International Auditing and Assurance Standards Board
International Federation of Accountants
529 Fifth Avenue, 6th Floor,
New York NY 10017
USA

Email: kathleenhealy@iaasb.org

Dear Ms. Healy,

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

The Institute of Certified Public Accountants of Kenya (ICPAK) welcomes the opportunity to comment on the Exposure Draft ED - Responding to Exposure Draft Responding to Non-Compliance or Suspected Non-Compliance with Laws and Regulations issued by the International Auditing and Assurance Standards Board (IAASB).

ICPAK support the Board's initiative for enhanced guidance and the desire to align the requirements between the IAASB's International Standards on Auditing (ISAs) and the IESBA Code of Ethics (the Code) , in light of the recent IESBA ED on Responding to Non-Compliance with Laws and Regulations (NOCLAR) issued in May 2015. However, we reiterate the need for suitable clarity and emphasis on the need for professional accountants to be cognisant of local laws and regulations which would normally take precedence over the Code of Ethics in governing the need for reporting of NOCLAR to the relevant authority.

We are also concerned of the potential complexity in professional accountant (PA) making judgements around the need to report a NOCLAR where there is no legal or regulatory requirement to report identified or suspected NOCLAR – it is likely that the PA would not have the necessary extent of information or knowledge/experience to make the required decision on whether the matter at hand needs to be reported.

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If the Board decide to proceed with the proposals, our comments and detailed responses to the questions for respondents as set out in the consultation paper are detailed hereafter.

Should you require any additional information, please contact the undersigned via icpak@icpak.com or nixonomindi@icpak.com.

Yours Sincerely,

Nixon Omindi
For Professional Standards Committee

Specific comments to questions:

12. Whether respondents 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.

Assuming that the IESBA Code of Ethics amendments are approved and issued largely as exposed for comment in May 2015, we do believe that the limited scope amendments will assist in removing perceived inconsistencies between the Code and the requirements of International Standards on Auditing.

13. 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?

This does not apply to Kenya where the IESBA Code of Ethics forms the basis for the locally issued Code of Conduct for PAs. However, given the limited scope nature of the amendments (largely being reference to ethical requirements only), it is unlikely that the ISAs would be deemed to be incompatible with the relevant ethical requirements in such jurisdictions.

Request for General Comments

In addition to the requests for specific comments above, the IAASB is also seeking comments on the general matters set out below:

- 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.

The proposed amendments should assist in avoiding potential inconsistency in the responsibility of the auditor between the various standards/codes issued by the IAASB.

- 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.

As a developing nation, we reiterate and refer to our earlier comment letter on the IESBA ED issued in May 2015 – the proposed changes and in particular extension of requirement for reporting actual or suspected NOCLAR where there is no legal or regulatory requirement to do so will pose a significant challenge, not just for auditors

but also other PAs. This is mainly as a result of the legal frameworks of most developing countries such as Kenya being under review and modernisation having the result that there is, under law, only limited areas where such requirement exists. Most, if not all, of the examples of laws or regulations as included in paragraph A5a of the Application and Other Explanatory Material section of ISA 250 at present do not include any specific reporting requirements for PAs. The extension of application of the proposed ethical changes to such laws is likely to pose significant challenge to PAs in making judgements as to whether matters are reportable and the forum to which they need to be reported.

- 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.

N/A

- 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.

We agree with alignment of the effective dates with that of the NOCLAR standards.