



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

[Submitted via IAASB website]

21 October 2015

Dear Kathy

**IAASB Exposure Draft: Proposed Amendments to the IAASB's International Standards:
*Responding to Non-Compliance or Suspected Non-Compliance with Laws and Regulations***

We¹ appreciate the opportunity to comment on the IAASB's proposed revisions to International Standard on Auditing (ISA) 250 'Consideration of Laws and Regulations in an Audit of Financial Statements' and other standards in response to the International Ethics Standards Board for Accountants' (IESBA's) Re-Exposure Draft (May 2015), Responding to Non-Compliance with Laws and Regulations.

Sufficiency of proposed amendments

We fully support the objective of the proposed revision to ISA 250 and other impacted standards. As a fundamental principle, we believe there should be alignment between the IESBA Code of Ethics (the "Code") and the ISAs. We recognise that it is not a requirement to comply with the Code to be able to comply with the ISAs and vice versa, and therefore some might argue that alignment is not necessary, particularly with respect to the reporting obligations. However, a significant number of auditors and audit firms will comply with both (including members of the Forum of Firms through their membership obligations). In addition, the proposed revisions to the Code are based on significant consultation with stakeholders. For these reasons, we believe that, at a minimum, the work effort should be consistent to avoid the auditor having to reference two different sources to determine what to do. In that regard we are concerned that the proposed limited amendments to the ISA are not sufficient to achieve that consistency. Our comments in this letter, and in the related appendix, have been informed by considering the key question of: what changes are necessary to enable that objective?

No changes have been proposed to the requirements in ISA 250 that define the auditor's work effort. There is simply acknowledgement in the Introduction that the auditor may have additional responsibilities under relevant ethical requirements regarding an entity's non-compliance with laws and regulations. Auditors who are required to, or want to, comply with both the ISAs and the Code will necessarily have to compare them and try to understand the implications of different wording. The work effort required under

¹ This response is being filed on behalf of the network of member firms of PricewaterhouseCoopers International Limited and references to "PwC", "we" and "our" refer to the PwC network of member firms.



the proposed Code is, in our view, reasonable, irrespective of the applicable ethical standards that may apply to the engagement. Furthermore, we cannot foresee a scenario where the work effort associated with a more closely aligned ISA would result in a conflict, or excessive additional work effort, when other ethical standards or codes apply to the audit engagement. As such, we recommend that the IAASB align the work effort requirements between the ISA and the Code. We have included within the appendix to this letter proposed amendments for the Board's consideration.

Impact on jurisdictions that do not apply the IESBA Code

Consistent with our view above, we do not believe that any of the proposed limited amendments to the IAASB's International Standards, set out in the exposure draft, would be incompatible with relevant ethical requirements that may apply in those jurisdictions that have not adopted the IESBA Code. Such conflicts could occur if the Code and relevant local ethical requirements had different reporting responsibilities. It is for that reason that, although we support aligning the work effort between the ISA and the Code, we believe the right approach has been taken with respect to reporting requirements, which may necessarily need to vary by territory.

Auditor's 'duty or right'

We note that the Code does not use the term 'right'. We believe there is a risk of this term being misunderstood. The Code simply requires a professional accountant to determine whether reporting would be an appropriate course of action, and if so, that such action would not constitute a breach of confidentiality. We recommend replacing this term and including wording directly from Code paragraph 225.29. We have included suggested wording in the appendix.

Further revision

With respect to the IAASB's invitation for additional input, we are not convinced of the need for further improvements to ISA 250 at this time. The IAASB's current workplan focuses on a number of projects that its stakeholders determined were of highest priority in enhancing audit quality. In the absence of evidence that ISA 250 in its current form is giving rise to significant issues in its application by auditors, we believe the Board's resources are best targeted on these other priority projects.

We would be happy to discuss our views further with you. If you have any questions regarding this letter, please contact Diana Hillier, at diana.hillier@uk.pwc.com or me, at richard.g.sexton@uk.pwc.com.

Yours sincerely,

A handwritten signature in blue ink that reads "Richard G. Sexton".

Richard G. Sexton
Vice Chairman, Global Assurance

Suggested changes**ISA 250**

18. If the auditor becomes aware of information concerning an instance of non-compliance or suspected non-compliance with laws and regulations, the auditor shall obtain: (Ref: Para. A13)

- (a) An understanding of the nature of the act and the circumstances in which it has occurred; ~~and~~
- (b) An understanding of the application of the relevant laws and regulations to the circumstances;
and²
- (c) Further information to evaluate the possible effect on the financial statements. (Ref: Para. A14)

19. If the auditor suspects there may be non-compliance, the auditor shall, unless law or regulation precludes such action³, discuss the matter with the appropriate level of⁴ management and, where appropriate, those charged with governance. ~~[MOVED TO 19b] If management or, as appropriate, those charged with governance do not provide sufficient information that supports that the entity is in compliance with laws and regulations and, in the auditor's judgment, the effect of the suspected non-compliance may be material to the financial statements, the auditor shall consider the need to obtain legal advice.~~ (Ref: Para. A14a-A14b, A15a5-A16)

19a. If management and, where appropriate, those charged with governance agree that non-compliance has occurred or may occur, the auditor shall prompt them to take appropriate and timely actions, if they have not already done so, including obtaining an understanding of their legal or regulatory responsibilities with respect to the matter⁵. (Ref: Para. A15b)

19b. [MOVED FROM 19] If management or, as appropriate, those charged with governance do not provide sufficient information that supports that the entity is in compliance with laws and regulations and, in the auditor's judgment, the effect of the suspected non-compliance may be material to the financial statements, the auditor shall consider the need to obtain legal advice. (Ref: Para. ~~A15~~—A16)

21. The auditor shall evaluate the implications of non-compliance in relation to other aspects of the audit, including the auditor's risk assessment ~~and~~, the reliability of written representations, and the need to communicate with the group engagement team in the case of a group audit⁶, and take appropriate action. (Ref: Para. A17–A18a)

28. If the auditor has identified or suspects non-compliance with laws and regulations, the auditor shall determine whether the auditor has a legal or ethical ~~duty or right~~ responsibility to report the identified or suspected non-compliance to parties outside the entity. (Ref: Para. A19–A20)

² From IESBA Code ED 225.11

³ We believe that the proposed amendment to paragraph A15 raises an important point. The potential preclusion by law or regulation of "tipping-off" the entity applies equally to both management and those charged with governance. Therefore, we believe it is necessary to reflect this in the requirement. We have also suggested separating the amendment to paragraph A15 into its own paragraph as a consequence.

⁴ From IESBA Code ED 225.12

⁵ Based on IESBA Code ED 225.17 and 225.18

⁶ From IESBA Code ED 225.19



29. The auditor shall include in the audit documentation identified or suspected non-compliance with laws and regulations and the results of discussion with management and, where applicable, those charged with governance and other parties outside the entity, including⁷:

- How management and, where applicable, those charged with governance have responded to the matter.
- The courses of action the auditor considered, the judgments made and the decisions that were taken.

A14a. The appropriate level of management with whom to discuss the matter is a question of professional judgment. Relevant factors to consider include⁸:

- The nature and circumstances of the matter.
- The individuals actually or potentially involved.
- The likelihood of collusion.
- The potential consequences of the matter.
- Whether that level of management is able to investigate the matter and take appropriate action.

A14b. The appropriate level of management is generally at least one level above the person or persons involved or potentially involved in the matter. The auditor may also consider discussing the matter with internal auditors, where applicable. In the context of a group, the appropriate level may be management at an entity that controls the entity⁹.

A15. The auditor may discuss the findings with those charged with governance where they may be able to provide additional audit evidence. For example, the auditor may confirm that those charged with governance have the same understanding of the facts and circumstances relevant to transactions or events that have led to the possibility of non-compliance with laws and regulations. [MOVED TO A15a BELOW] ~~However, in some jurisdictions, laws or regulations may prohibit alerting (“tipping-off”) the entity when, for example, the auditor is required to report the non-compliance to an appropriate authority pursuant to anti-money laundering legislation.~~

A15a. [MOVED AND AMENDED FROM A15 ABOVE] However, In some jurisdictions, laws or regulations may prohibit alerting (“tipping-off”) the entity when, for example, when the auditor is required to report the non-compliance to an appropriate authority pursuant to anti-money laundering legislation.

A15b. Relevant factors to consider in judging the appropriateness of the response of management and those charged with governance include whether¹⁰:

- The non-compliance or suspected non-compliance has been adequately investigated.

⁷ From IESBA Code ED 225.32

⁸ From IESBA Code ED 225.15

⁹ From IESBA Code ED 225.16

¹⁰ From IESBA Code ED 225.22



- Action has been, or is being, taken to rectify, remediate or mitigate the consequences of any non-compliance.
- Action has been, or is being, taken to deter the commission of any non-compliance where it has not yet occurred.
- Appropriate steps have been, or are being, taken to reduce the risk of re-occurrence, for example, additional controls or training.
- The non-compliance or suspected non-compliance has been disclosed to an appropriate authority where appropriate and, if so, whether the disclosure appears adequate.

A19. If the auditor has identified or suspects non-compliance with laws or regulations, the auditor may consider obtaining legal advice to determine whether the auditor has a legal or ethical ~~duty or right~~ responsibility to report to parties outside the entity and, when applicable, the appropriate course of action in light of such responsibility ~~duty or right~~. For example:

- [MOVED FROM BELOW] The auditor's legal or ethical duties to maintain confidentiality may preclude reporting identified or suspected non-compliance with laws and regulations to a party outside the entity.
- [MOVED FROM BELOW AND AMENDED] The auditor may have the right to disclose identified or suspected non-compliance with laws or regulations to an appropriate authority without breaching the duty of confidentiality. Under some ethical requirements, when the auditor determines that reporting identified or suspected non-compliance with laws or regulations to an appropriate authority is an appropriate course of action, this would not be considered a breach of the auditor's duty of confidentiality.
- The duty of confidentiality may ~~not apply or~~ may be overridden by laws or regulations. In some jurisdictions, the auditor of a financial institution has a statutory duty to report the occurrence, or suspected occurrence, of non-compliance with laws and regulations to supervisory authorities. Also, in some jurisdictions, the auditor has a duty to report misstatements to authorities in those cases where management and, where applicable, those charged with governance fail to take corrective action.
- ~~The auditor may have the right to disclose identified or suspected non-compliance with laws or regulations to an appropriate authority without breaching the duty of confidentiality.~~
- ~~The auditor's legal or ethical duties to maintain confidentiality may preclude reporting identified or suspected non-compliance with laws and regulations to a party outside the entity.~~

A19a. In some jurisdictions, laws or regulations may prohibit alerting ("tipping off") the entity, for example, when the auditor is required to report the non-compliance to an appropriate authority pursuant to anti-money laundering legislation.

ISA 240

43. If the auditor has identified or suspects a fraud, the auditor shall determine whether there is a responsibility to report the occurrence or suspicion to a party outside the entity. Although the relevant ethical requirements regarding maintaining confidentiality may preclude such reporting, in some circumstances the duty of confidentiality may ~~not apply~~, be overridden by laws or regulations, or law.



regulation, or relevant ethical requirements may include a ~~duty or right~~ responsibility to report to an appropriate. (Ref: Para. A65–A67)

A59a. In some jurisdictions, laws or regulations may prohibit alerting (“tipping off”) the entity ~~when~~, for example, when the auditor is required to report the non-compliance to an appropriate authority pursuant to anti-money laundering legislation.

A65. ~~The auditor’s professional duty to~~ Relevant ethical requirements regarding maintaining the confidentiality of client information may preclude reporting fraud or other identified or suspected non-compliance with laws or regulations to a party outside the entity. However, the auditor’s legal responsibilities vary by country and, in certain circumstances, the duty of confidentiality may be overridden by laws or regulations. Law, regulation, or relevant ethical requirements may include a ~~duty or right~~ responsibility to report to an appropriate authority. In some countries, the auditor of a financial institution has a statutory duty to report the occurrence of fraud to supervisory authorities. Also, in some countries the auditor has a duty to report misstatements to authorities in those cases where management and those charged with governance fail to take corrective action. ~~In certain circumstances, the auditor may have the right to disclose identified or suspected non-compliance with laws or regulations to an appropriate authority without breaching the duty of confidentiality. Under some ethical requirements, when the auditor determines that reporting identified or suspected fraud or non-compliance with laws or regulations to an appropriate authority is an appropriate course of action, this would not be considered a breach of the auditor’s duty of confidentiality.~~

ISA 260

7. Laws or regulations may restrict the auditor’s communication of certain matters with those charged with governance. For example, laws or regulations may specifically prohibit a communication, or other action, that might prejudice an investigation by an appropriate authority into an actual, or suspected, illegal act, including alerting (“tipping-off”) the entity ~~when~~, for example, when the auditor is required to report the non-compliance to an appropriate authority pursuant to anti-money laundering legislation. In some circumstances, potential conflicts between the auditor’s obligations of confidentiality and obligations to communicate may be complex. In such cases, the auditor may consider obtaining legal advice.

ISA 450

A8. Laws or regulations may restrict the auditor’s communication of certain misstatements to management, or others, within the entity. For example, laws or regulations may specifically prohibit a communication, or other action, that might prejudice an investigation by an appropriate authority into an actual, or suspected, illegal act, including alerting (“tipping-off”) the entity ~~when~~, for example, when the auditor is required to report the non-compliance to an appropriate authority pursuant to anti-money laundering legislation. In some circumstances, potential conflicts between the auditor’s obligations of confidentiality and obligations to communicate may be complex. In such cases, the auditor may consider seeking legal advice.



ISQC1

A56. Relevant ethical requirements establish an obligation for the firm's personnel to observe at all times the confidentiality of information contained in engagement documentation, unless specific client authority has been given to disclose information, or there is a legal or ethical ~~duty or right~~ responsibility to do so. In certain circumstances, ~~the firm's personnel may have the legal or ethical right to disclose~~ reporting identified or suspected non-compliance with laws or regulations to an appropriate authority ~~without breaching would not be considered a breach of the auditor's~~ duty of confidentiality.¹⁷ Specific laws or regulations may impose additional obligations on the firm's personnel to maintain client confidentiality, particularly where data of a personal nature are concerned.

ISRE 2400

A92. Under this ISRE, if the practitioner has identified or suspects fraud or illegal acts, the practitioner is required to determine whether there is a responsibility to report the occurrence or suspicion to a party outside the entity. The practitioner's ethical, legal, and regulatory responsibilities vary by jurisdiction and, in certain circumstances, the duty of confidentiality may ~~not apply~~, be overridden by laws or regulations or law, regulation, or relevant ethical requirements may include a ~~duty or right~~ responsibility to report to an appropriate authority. ~~In certain circumstances, the practitioner may have the legal or ethical duty or right to disclose identified or suspected non-compliance with laws or regulations to an appropriate authority without breaching the duty of confidentiality.~~ Under some ethical requirements, when the auditor determines that reporting identified or suspected fraud or non-compliance with laws or regulations to an appropriate authority is an appropriate course of action, this would not be considered a breach of the auditor's duty of confidentiality. However, in other cases, the practitioner's legal or ethical duties to maintain confidentiality may preclude reporting identified or suspected non-compliance with laws and regulations to a party outside the entity.