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The Technical Director

IAASB

New York

12<sup>th</sup> October, 2015

Dear Sir,

## **Comments on Exposure Draft: Responding to Non-Compliance or Suspected Non-Compliance with Laws and Regulations (NOCLAR)**

Thank you for giving us the opportunity to comment on your Exposure draft: **Responding to Non-Compliance or Suspected Non-Compliance with laws and regulations**. We submit herewith our comments and proposals for your perusal.

**1. 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.**

Answer: We generally agree with the proposals. It brings further clarity to the provisions relating to NOCLAR.

In the interim the amendments are sufficient however there will be the need for a more fulsome review of the ISA. However paragraph A12a can replace the cancelled part of A13 instead of it standing as a paragraph on its own. This will make clearer the premise on which the points in A13 on other indications of non-compliance are based on.

Paragraph A17 is a very good addition as it helps one to appreciate the linkage between the paragraphs in the standard.

Also on page 24, ISA 220 A8a will make it imperative on the successor auditor to look at what has happened in the past and what to look forward to. However this may pose an issue practically in certain jurisdictions where predecessor auditors are unwilling to disclose information because of the client confidentiality clause and also given that the Client may not give the predecessor auditor the go ahead to disclose relevant information.

ICAG is a member of:



Address all correspondences to: The Chief Executive Officer

*Our specific comments on the major amendments are as follows:*

- a. **Paragraph 28 of ISA 250, which replaces a generic term (“responsibility”) with a more specific phrase (“legal or ethical duty or right”) to give appropriate emphasis to the proposed change in the IESBA Code.**

Answer: In our view, it makes sense to replace “responsibility” with “legal and ethical duty or right”. This makes the scope of the definition very specific, clear and concise.

- b. **The term “predecessor auditor” is used instead of “existing accountant” to be consistent with extant terminology in the ISAs.**

Answer: Existing accountant is generally broad and could be interpreted to mean something different from predecessor auditor. It is much clearer to use predecessor auditor as it communicates precisely who is being referred to.

- c. **The introduction of paragraph A12a-The auditor may become aware of information about non-compliance with laws or regulations (for example, in responding to matters that the auditor is required to address under relevant ethical requirements) other than as a result of performing the procedures in paragraphs 12–16.**

Answer: The introduction of paragraph A12a is critical to the matters discussed under the headings “audit procedures when non-compliance is identified or suspected”.

The previous statement was rather generic and the expansion provides more clarity. It is particularly important because we consider the responsibility of the auditor under this section a more passive one than an active one.

**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?**

Answer: Given that this is a limited amendment there is the likelihood that an incompatibility may arise in some jurisdictions that do not have certain laws implemented such as the tipping off and money laundering; page 6(5) and page 21(A15). Thus a more fulsome review of the standard will certainly address such incompatibilities.

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.**

Answer: Preparers: – Improve upon reporting leading to a true reflection of compliance to laws and regulation.

Users: – We believe that users will be more acceptable to this amendment given that it protects their interest. This also enhances effective communication to users of how compliant their entity is.

SMEs: – There will be cost implication for SME’s in the process of implementing these amendments



**(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

Answer: For developing nations, the difficulty in applying the changes will arise where there are no relevant regulatory bodies to whom NOCLAR is reported. Thus the changes should not leave the auditors options open ended but should conclude on the final action to be taken where there are no regulatory bodies. See paragraph A15 page 21

Also for jurisdictions where there are no regulatory authority, the auditors may struggle between acting out of duty of confidentiality as against acting in public interest.

**(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.

Answer: Translation issues will arise where terms such as personal conduct and business related activities are not defined clearly or given a scope, as what constitutes personal misconduct and business related activities may be subjective. However translators may translate this to suit their respective jurisdiction.

**(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.

Answer: Sufficient time should be allowed for translation and implementation. Given that comments are requested by 21/10/2015, effective date January 2016.

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

**3. 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.**

Answer: Given the IESBA ED on Responding to NOCLAR (Comments due September 4th 2015, it is prudent that the revision of ISA 250 be done alongside so as to avoid the actual or perceived inconsistency between the two standards.

**4. 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).**

Answer: Other aspects of ISA 250 should be explored in view of the demands that will be made by regulators given the increase in complexity of the business environment and introduction of more laws and regulations as well as the likely future changes to the responsibility of management and auditors.

**5. For example, further consideration of the following areas may be viewed as beneficial:**

**a. 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.**



Answer: So far the distinction made covers laws that affect the figures in the financial and those that affect the going concern of the entity. However further revision should be undertaken to cover laws that affect public interest unless those laws affecting the public interest are imbedded in the distinction made. If that is the case then a revision should bring that out clearly.

**b. Whether ISA 250 should address making inquiries of management or, when appropriate, TCWG, regarding NOCLAR that may occur.**

Answer: Paragraph 17 page 18, taken care of this. But can be further addressed in ISA 250 as well as ISA 315 and should be replicated appropriately in affected standards. Also given the facts stated in page 12 paragraph 4, it's necessary to address this.

**c. 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.**

Answer: Yes for the same reason stated in page 12 paragraph 4 its necessary to address this.

**d. How ISA 250 addresses *personal* misconduct related to the business activities of the entity or parties associated with the entity, including contractors.**

Answer: A scope should be carved for personal misconduct as well as what constitutes business activity so that addressing this will not be just left to professional judgment.

**e. How NOCLAR is addressed in other ISAs, such as when dealing with auditor's experts and in a group audit situation.**

Answer: It should replicate in affected ISA's appropriately to avoid inconsistency.

**6. 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.**

Answer: Well this is a decision already taken by the board however serious considerations should be given to responses from stakeholders in arriving at a final decision.

**7. 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?**

Answer: As stated in ISA 260 i.e. prejudice of investigation should be replicated in pages 21 (A15 & Page 6(5), this should be addressed in paragraphs that make mention of tipping off.

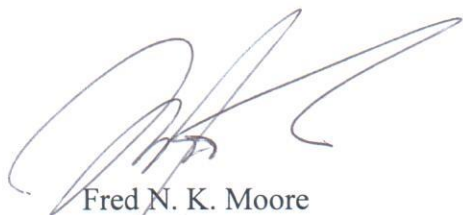
Also, the ISA should address what an auditor should do in the case the auditor is precluded from withdrawal but there is a likely recurrence of NOCLAR.

### ***Conclusion***

We hope the IAASB find this letter helpful in further developing the Exposure draft. We are committed to helping the Board in whatever way we can to build upon the results of this Exposure draft document. Please do not hesitate to contact us should you wish to discuss any matters raised in this submission.

Thank you.

Yours faithfully,

A handwritten signature in dark ink, appearing to be 'F. N. K. Moore', with a large, sweeping flourish extending to the right.

Fred N. K. Moore

Chief Executive Officer