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Dear Kathleen

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

CPA Australia welcomes the opportunity to respond to the above Exposure Draft. CPA Australia represents the diverse interests of more than 150,000 members in 120 countries. Our vision is to make CPA Australia the global accountancy designation for strategic business leaders. We make this submission on behalf of our members and in the broader public interest.

#### **General Comments**

CPA Australia is supportive of maintaining consistency between the International Ethics Standards Board for Accountants (IESBA) Code of Ethics for Professional Accountants and the International Auditing and Assurance Standards Board (IAASB) Standards so that confusion and inconsistencies are not created for assurance practitioners when endeavouring to comply with both. However, we consider that this exposure draft is premature in seeking consultation.

The proposed non-compliance with laws and regulations (NOCLAR) amendments to various IAASB Standards are a result of, and dependent on, the proposed NOCLAR amendments to the IESBA Code. However, those amendments have not yet been finalised nor have submissions to IESBA's second exposure draft been considered.

Consequently, as an overarching comment we consider that amendments to the IESBA Code should first be finalised prior to seeking comments on amendments to the IAASB Standards to conform with them. We would anticipate that some stakeholders will base their comments to this exposure draft on the assumption that the IESBA exposure draft contains the final amendments to the IESBA Code, whilst others will restate comments made through IESBA's exposure process. This may not result in a clear or efficient outcome and may not elicit all relevant comments. We would hope at least that the IAASB will consider the comments received by IESBA in addition to those received through this exposure draft.

We welcome the shift away from the imposition of a requirement on the auditor to determine whether a 'responsibility' exists to report identified or suspected NOCLAR to parties outside the entity to determining whether the auditor has a 'legal or ethical duty or right' to report. We consider that the most effective way to deal with NOCLAR by a client, identified or suspected by the auditor or assurance practitioner, is for law makers to compel and enable auditors and assurance practitioners to disclose to a specific authority.

## Specific Comments

- 1. Are the proposed limited amendments 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.**

We do not note any other inconsistencies between the existing IAASB Standards and the NOCLAR proposals.

- 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.**

Not applicable as we expect that the proposed changes to the IESBA Code would be adopted in Australia once approved internationally.

- 3. General Matters:**

3.1. Preparers and users: CPA Australia represents members working as preparers and as auditors or assurance practitioners.

3.2. Developing Nations: Not applicable

3.3. Translations: Not applicable

3.4. Effective Date: CPA Australia supports the effective date being aligned with the effective date for the NOCLAR amendments to the IESBA Code as and when those are issued by the IESBA.

- 4. Additional Input: Need Future Amendments to ISA 250**

We agree with the IAASB's assessment that the ISA 250 does not warrant immediate revision, however we suggest the following amendment could be considered along with the amendments to address IESBA's NOCLAR project.

Paragraph 3 and A1, state that 'it is the responsibility of management with the oversight of those charged with governance, to ensure that the entity's operations are conducted in accordance with the provisions of laws and regulations...' whereas we consider that given that the standard will apply globally to all sizes of entities with varied governance arrangements, it should be the responsibility of management and those charged with governance.

- 5. Specific comments**

In addition to our general comments above, we make the following specific comments with respect to individual paragraphs:

- 5.1. ISA 250 Paragraph 5:** The third bullet refers to 'legal determination by an appropriate legal or adjudicative body'. A legal body in many jurisdictions may refer to a law firm or society. For example in Australia the Australian Law Council is described as Australia's peak legal body. Alternative terms could be considered or the deletion of the words 'legal or', if 'adjudicative body' is considered to be a broad enough term.
- 5.2. ISA 250 Paragraph 8a:** The purpose and meaning of paragraph 8a is unclear. It is not clearly articulated how compliance with relevant ethical requirements, which ordinarily comprise the IESBA Code together with national requirements that are more restrictive, provide 'further information that is relevant to the auditor's work'. The connection between the 'additional responsibilities' and how they

would provide 'further information' is not apparent. We recommend either deleting this paragraph or amending it to identify examples of additional responsibilities which would provide further information, to help clarify the paragraph's purpose and meaning.

- 5.3. ISA 250 Paragraph A5a: We suggest that the examples of laws and regulations could be extended to those that deal with the entities which may be audited such as: company or corporate law.
- 5.4. ISA 250 Paragraph A17: This paragraph states that 'the auditor may consider it appropriate to consult on a confidential basis with others within the firm, a network firm, a relevant professional body'. We are of the view that the auditor should consult with 'the' network firm and 'the' relevant professional body rather than 'a' network or 'a' professional body, which could be interpreted as any network or professional body.
- 5.5. ISA 250 Paragraph A19, ISA 240 Paragraph 43 & ISRE 2400 Paragraph A92: ISA 250 states that 'The duty of confidentiality may not apply or may be overridden'. Similarly, ISA 240 and ISRE 2400 state 'in some/certain circumstances the duty of confidentiality may not apply, be overridden by laws or regulations'. We cannot envisage a circumstance in which the duty of confidentiality does not apply except where it is overridden. Therefore we consider that the phrase 'may not apply' will cause confusion and should be removed.
- 5.6. ISQC 1 Paragraph A56, ISA 240 Paragraph A65 & ISRE 2400 Paragraph A92: These paragraphs state that the firm's personnel/the auditor/the practitioner may have the legal or ethical right to disclose identified or suspected NOCLAR to an appropriate authority 'without breaching the duty of confidentiality'. We would argue that it would remain a breach of confidentiality, however it would be one which would be considered appropriate under the IESBA Code. Consequently, we suggest either deleting 'without breaching the duty of confidentiality' from each paragraph or revising the wording to state '...disclose identified or suspected NOCLAR to an appropriate authority, which would be considered an appropriate breach of the duty of confidentiality'.  
  
In addition, ISA 240 paragraph A65 refers to 'countries', however this is both inconsistent with other standards, which all use the term jurisdiction, and does not reflect the circumstances where different legal requirements apply in different jurisdictions within one country. Note that ISA 240 paragraphs A19 and A56 also use the term 'country'. We suggest changing the word 'country/ies' to 'jurisdiction/s' throughout the standard.
- 5.7. ISA 220, Paragraph A8a: This paragraph may benefit from greater clarity with respect to the nature of the 'information regarding any facts or circumstances' which is being referred to. To address this, an additional phrase could be added 'including any identified or suspected non-compliance with laws and regulations'.

If you require further information on the views expressed in this submission, please contact Claire Grayston, CPA Australia by email at [claire.grayston@cpaaustralia.com.au](mailto:claire.grayston@cpaaustralia.com.au).

Yours sincerely



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