



International Organization of Securities Commissions
Organisation internationale des commissions de valeurs
Organização Internacional das Comissões de Valores
Organización Internacional de Comisiones de Valores

14 December 2015

Technical Director
International Auditing and Assurance Standards Board
545 Fifth Avenue, 14th Floor
New York, NY 10017 U.S.A.

Our Ref: 2015/JE/C1/IAASB/136

Subject Line: IAASB's Exposure Draft: *Responding to Non-Compliance or Suspected Non-Compliance with Laws and Regulations*

Dear Madam:

The International Organization of Securities Commissions' Committee on Issuer Accounting, Audit and Disclosure (Committee 1) appreciates the opportunity to comment on the International Auditing and Assurance Standards Board's (the IAASB or the Board) Exposure Draft: *Responding to Non-Compliance or Suspected Non-Compliance with Laws and Regulations* (the Paper). As an international organization of securities regulators representing the public interest, IOSCO is committed to enhancing the integrity of international markets through the promotion of high quality accounting, auditing and professional standards, and other pronouncements and statements.

Members of Committee 1 seek to further IOSCO's mission through thoughtful consideration of accounting, disclosure and auditing concerns, and pursuit of improved global financial reporting. Unless otherwise noted, the comments we have provided herein reflect a general consensus among the members of Committee 1 and are not intended to include all of the comments that might be provided by individual securities regulator members on behalf of their respective jurisdictions.

General Approach in the Paper

We appreciate the Board proposing amendments to certain of its International Standards including its International Standards on Auditing (ISAs) and International Standards on Quality Control 1, *Quality Control for Firms that Perform Audits and Reviews of Financial Statements, and Other Assurance and Related Services Engagements* (ISQC 1), in response to the International Ethics Standards Board



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for Accountants' Re-Exposure Draft, *Responding to Non-Compliance with Laws and Regulations*. However, we have noted the Board's intent of proposing limited amendments that the Board has "determined would be *necessary to resolve actual or perceived inconsistencies* of approach or to clarify and emphasize key aspects of the NOCLAR proposals in its International Standards" (emphasis added). Does this intended outcome mean that the collective provisions of the ISAs and ISQC 1 should not conflict with an auditor's NOCLAR responsibilities under the Ethics Code, or that these collective provisions should encompass all of the auditor's NOCLAR responsibilities under the Ethics Code? In other words, does the Board consider omissions from the ISAs/ISQC 1 of the provisions for auditors that are contained in the Ethics Code, such as the Ethics Code's proposed "third-party test" or the proposed inclusion of NOCLARs that derive from "securities markets and trading" (which would seem to occur outside of the operations of the audited entity), as inconsistencies between the two?

We are not sure if the exclusion from the Paper of some of the IESBA's NOCLAR proposals was an oversight by the Board or if the Board has determined that such amendments were not necessary in completing the audit of financial statements since the IESBA's NOCLAR proposal with respect to auditors may go beyond requirements necessary to complete an audit of financial statements. If the latter, then we believe the Board should make it clear in the ISAs that the Board has made only amendments that are necessary for purposes of forming an auditor's opinion on a set of financial statements. Accordingly, the ISAs and ISQC 1 do not reflect what an auditor may be called upon to do under his or her accompanying legal and/or professional ethical responsibilities. The Board should specifically state within the ISAs/ISQC 1 that auditors who are subject to the Code should look to the Code for additional requirements and comply accordingly. If the Board does not make this more clear, then we think practitioners will be confused as to why two IFAC-related standard-setting Boards have issued revised standards at the same time that give two differing sets of direction on an auditor's responsibilities in handling a suspected NOCLAR.

Specific Provisions in the Paper

We have outlined below issues that came to our attention based on what we have observed in the Paper and in the IESBA's NOCLAR proposal regarding an audit of financial statements. We believe these comments are applicable regardless of the resolution of the matter of the Board's overall objective with respect to resolving inconsistencies, as discussed above. Nonetheless, we believe both a better understanding of the Board's objective for the revisions to the ISAs and ISQC 1 and the finalization of the IESBA's NOCLAR deliberations will have bearing on the changes the Board needs to further consider. As such, we anticipate that we would be in a more informed position to comment on the actions needed by the Board after the IESBA has finalized its deliberations.



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Applicability of Reporting to Components

We note that within paragraphs 40-42 and the associated application material in ISA 240, *The Auditor's Responsibilities Relating to Fraud in an Audit of Financial Statements*, communication to management and TCWG regarding an identified or suspected fraud only applies to the "entity." Unlike the ISAs' definition of a "group" that includes a component, it is not clear whether the reference to "entity" as used in paragraphs 40-42 of ISA 240 encompasses NOCLAR occurring at a component. We believe the Board should make it clear that paragraphs 40-42 of ISA 240 also extends to components of the entity.

Right or Duty to Report

We note that with respect to ISA 250, *Consideration of Laws and Regulations in an Audit of Financial Statements*, paragraph 28 of the Paper states that:

"If the auditor has identified or suspects non-compliance with laws and regulations, the auditor shall determine whether the auditor has a ~~responsibility~~ legal or ethical duty or right to report the identified or suspected non-compliance to parties outside the entity."

As noted above, auditors who must comply with the IESBA's Code may be subject to additional provisions beyond the requirements within the ISAs/ISQC 1. As such, we believe paragraph 28 would be an appropriate place to insert a footnote reference pointing those auditors who are subject to compliance with the IESBA's Ethics Code to the additional requirements in it.

Documentation

We note that the documentation requirements in the ISAs remain unchanged even though the IESBA's NOCLAR proposal contains some documentation requirements that go beyond those contained in the ISAs with respect to significant NOCLAR matters. For example, while the IESBA's proposal requires the auditor to document "how management and, where applicable, those charged with governance have responded to the matter" this is not reflected in the ISAs. Should ISA 250 reflect the additional documentation requirements proposed by the IESBA or, at a minimum, alert the auditor to the fact that additional documentation is required for those auditors subject to the IESBA's Code?

Interrelationship with ISQC 1 Project Working Group

We believe the Board should establish appropriate provisions that require audit firms to establish processes internal to the audit firm to stipulate how the firm should address those instances in which



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an auditor comes across a NOCLAR at an audited entity. We believe the Board's ISQC 1 project working group should be encouraged to include such provisions as part of their deliberations.

Thank you for the opportunity to comment on the Paper. If you have any questions or would like to further discuss these matters, please contact either Nigel James or me at 202-551-5300.

Sincerely,

Julie A. Erhardt
Chair
Committee on Issuer Accounting, Audit and Disclosure
International Organization of Securities Commissions