

PROPOSED INTERNATIONAL STANDARD ON AUDITING 250 (REVISED)

CONSIDERATION OF LAWS AND REGULATIONS IN AN AUDIT OF FINANCIAL STATEMENTS

(Effective for audits of financial statements for periods beginning
on or after December 15, 2017)

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[MARKED FROM EXPOSURE DRAFT]

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International Standard on Auditing (ISA) 250 (Revised), *Consideration of Laws and Regulations in an Audit of Financial Statements*, should be read in conjunction with ISA 200, *Overall Objectives of the Independent Auditor and the Conduct of an Audit in Accordance with International Standards on Auditing*.

Introduction

Scope of this ISA

1. This International Standard on Auditing (ISA) deals with the auditor's responsibility to consider laws and regulations in an audit of financial statements. This ISA does not apply to other assurance engagements in which the auditor is specifically engaged to test and report separately on compliance with specific laws or regulations.

Effect of Laws and Regulations

2. The effect on financial statements of laws and regulations varies considerably. Those laws and regulations to which an entity is subject constitute the legal and regulatory framework. The provisions of some laws or regulations have a direct effect on the financial statements in that they determine the reported amounts and disclosures in an entity's financial statements. Other laws or regulations are to be complied with by management or set the provisions under which the entity is allowed to conduct its business but do not have a direct effect on an entity's financial statements. Some entities operate in heavily regulated industries (such as banks and chemical companies). Others are subject only to the many laws and regulations that relate generally to the operating aspects of the business (such as those related to occupational safety and health, and equal employment opportunity). Non-compliance with laws and regulations may result in fines, litigation or other consequences for the entity that may have a material effect on the financial statements.

Responsibility for Compliance with Laws and Regulations (Ref: Para. A1–~~A6A7~~)

3. 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, including compliance with the provisions of laws and regulations that determine the reported amounts and disclosures in an entity's financial statements.

Responsibility of the Auditor

4. The requirements in this ISA are designed to assist the auditor in identifying material misstatement of the financial statements due to non-compliance with laws and regulations. However, the auditor is not responsible for preventing non-compliance and cannot be expected to detect non-compliance with all laws and regulations.
5. The auditor is responsible for obtaining reasonable assurance that the financial statements, taken as a whole, are free from material misstatement, whether ~~caused by~~due to fraud or error.¹ In conducting an audit of financial statements, the auditor takes into account the applicable legal and regulatory framework. Owing to the inherent limitations of an audit, there is an unavoidable risk that some material misstatements in the financial statements may not be detected, even though the audit is properly planned and performed in accordance with the ISAs.² In the context of laws and regulations, the

¹ ISA 200, *Overall Objectives of the Independent Auditor and the Conduct of an Audit in Accordance with International Standards on Auditing*, paragraph 5

² ISA 200, paragraphs A51–A52

potential effects of inherent limitations on the auditor's ability to detect material misstatements are greater for such reasons as the following:

- There are many laws and regulations, relating principally to the operating aspects of an entity, that typically do not affect the financial statements and are not captured by the entity's information systems relevant to financial reporting.
- Non-compliance may involve conduct designed to conceal it, such as collusion, forgery, deliberate failure to record transactions, management override of controls or intentional misrepresentations being made to the auditor.
- Whether an act constitutes non-compliance is ultimately a matter for legal determination to be determined by ana court or other appropriate legal-or adjudicative body.

Ordinarily, the further removed non-compliance is from the events and transactions reflected in the financial statements, the less likely the auditor is to become aware of it or to recognize the non-compliance.

6. This ISA distinguishes the auditor's responsibilities in relation to compliance with two different categories of laws and regulations as follows: (Ref: Para. A5a6, A12–A13)
 - (a) The provisions of those laws and regulations generally recognized to have a direct effect on the determination of material amounts and disclosures in the financial statements such as tax and pension laws and regulations (see paragraph 4314) (Ref: Para. A12); and
 - (b) Other laws and regulations that do not have a direct effect on the determination of the amounts and disclosures in the financial statements, but compliance with which may be fundamental to the operating aspects of the business, to an entity's ability to continue its business, or to avoid material penalties (for example, compliance with the terms of an operating license, compliance with regulatory solvency requirements, or compliance with environmental regulations); non-compliance with such laws and regulations may therefore have a material effect on the financial statements (see paragraph 4415) (Ref: Para. A13).
7. In this ISA, differing requirements are specified for each of the above categories of laws and regulations. For the category referred to in paragraph 6(a), the auditor's responsibility is to obtain sufficient appropriate audit evidence regarding compliance with the provisions of those laws and regulations. For the category referred to in paragraph 6(b), the auditor's responsibility is limited to undertaking specified audit procedures to help identify non-compliance with those laws and regulations that may have a material effect on the financial statements.
8. The auditor is required by this ISA to remain alert to the possibility that other audit procedures applied for the purpose of forming an opinion on financial statements may bring instances of identified or suspected non-compliance to the auditor's attention. Maintaining professional skepticism throughout the audit, as required by ISA 200,³ is important in this context, given the extent of laws and regulations that affect the entity.
- 8a9. The auditor may have additional responsibilities under relevant ethical requirements regarding an entity's non-compliance with laws and regulations, such as requirements to respond to identified or suspected instances of non-compliance with laws and regulations, which may differ from or go

³ ISA 200, paragraph 15

beyond this ISA. Complying with those additional responsibilities may provide further information that is relevant to the auditor's work in accordance with this and other ISAs (for example, regarding the integrity of management or, where appropriate, those charged with governance, or the auditor's responsibilities in relation to group audits). (Ref: Para. A35)

Effective Date

910. This ISA is effective for audits of financial statements for periods beginning on or after December 15, ~~2009~~[date]-2017.

Objectives

110. The objectives of the auditor are:

- (a) To obtain sufficient appropriate audit evidence regarding compliance with the provisions of those laws and regulations generally recognized to have a direct effect on the determination of material amounts and disclosures in the financial statements;
- (b) To perform specified audit procedures to help identify instances of non-compliance with other laws and regulations that may have a material effect on the financial statements; and
- (c) To respond appropriately to non-compliance or suspected non-compliance with laws and regulations identified during the audit.

Definition

124. For the purposes of this ISA, the following term has the meaning attributed below:

Non-compliance – Acts of omission or commission ~~by the entity, either,~~ intentional or unintentional, committed by the entity, or by those charged with governance, by management or by other individuals working for or under the direction of the entity, which are contrary to the prevailing laws or regulations. ~~Such acts include transactions entered into by, or in the name of, the entity, or on its behalf, by those charged with governance, management or employees. Non-compliance does not include personal misconduct (unrelated to the business activities of the entity) by those charged with governance, management or employees of the entity.~~ (Ref: Para. A8–A10)

Requirements

The Auditor's Consideration of Compliance with Laws and Regulations

132. As part of obtaining an understanding of the entity and its environment in accordance with ISA 315 (Revised),⁴ the auditor shall obtain a general understanding of:

- (a) The legal and regulatory framework applicable to the entity and the industry or sector in which the entity operates; and
- (b) How the entity is complying with that framework. (Ref: Para. A711)

⁴ ISA 315 (Revised), *Identifying and Assessing the Risks of Material Misstatement through Understanding the Entity and Its Environment*, paragraph 11

143. The auditor shall obtain sufficient appropriate audit evidence regarding compliance with the provisions of those laws and regulations generally recognized to have a direct effect on the determination of material amounts and disclosures in the financial statements. (Ref: Para. A128)
154. The auditor shall perform the following audit procedures to help identify instances of non-compliance with other laws and regulations that may have a material effect on the financial statements: (Ref: Para. A139–A140)
- (a) Inquiring of management and, where appropriate, those charged with governance, as to whether the entity is in compliance with such laws and regulations; and
 - (b) Inspecting correspondence, if any, with the relevant licensing or regulatory authorities.
165. During the audit, the auditor shall remain alert to the possibility that other audit procedures applied may bring instances of non-compliance or suspected non-compliance with laws and regulations to the auditor's attention. (Ref: Para. A154)
176. The auditor shall request management and, where appropriate, those charged with governance, to provide written representations that all known instances of non-compliance or suspected non-compliance with laws and regulations whose effects should be considered when preparing financial statements have been disclosed to the auditor. (Ref: Para. A126)
187. In the absence of identified or suspected non-compliance, the auditor is not required to perform audit procedures regarding the entity's compliance with laws and regulations, other than those set out in paragraphs 132–176.

Audit Procedures When Non-Compliance Is Identified or Suspected

198. 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. A173–A18)
- (a) An understanding of the nature of the act and the circumstances in which it has occurred; and
 - (b) Further information to evaluate the possible effect on the financial statements. (Ref: Para. A194)
1920. If the auditor suspects there may be non-compliance, the auditor shall discuss the matter with the appropriate level of management and, where appropriate, those charged with governance, unless such communication is prohibited by law or regulation. 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. A2045–A2246)
219. If sufficient information about suspected non-compliance cannot be obtained, the auditor shall evaluate the effect of the lack of sufficient appropriate audit evidence on the auditor's opinion.
224. The auditor shall evaluate the implications of identified or suspected non-compliance in relation to other aspects of the audit, including the auditor's risk assessment and the reliability of written representations, and take appropriate action. (Ref: Para. A2347–A2548a)

Reporting of Identified or Suspected Non-Compliance, Including Potential Implications for the Auditor's Report

Reporting Identified or Suspected Non-Compliance to Those Charged with Governance

- 232.** Unless all of those charged with governance are involved in management of the entity, and therefore are aware of matters involving identified or suspected non-compliance already communicated by the auditor,⁵ the auditor shall communicate with those charged with governance matters involving non-compliance with laws and regulations that come to the auditor's attention during the course of the audit, other than when the matters are clearly inconsequential, unless such communication is prohibited by law or regulation. (Ref: Para. A20–A22)
- 234.** If, in the auditor's judgment, the non-compliance referred to in paragraph 232 is believed to be intentional and material, the auditor shall communicate the matter to those charged with governance as soon as practicable. (Ref: Para. A21)
- 254.** If the auditor suspects that management or those charged with governance are involved in non-compliance, the auditor shall communicate the matter to the next higher level of authority at the entity, if it exists, such as an audit committee or supervisory board. Where no higher authority exists, or if the auditor believes that the communication may not be acted upon or is unsure as to the person to whom to report, the auditor shall consider the need to obtain legal advice.

Reporting Implications of Non-Compliance infor the Auditor's Report on the Financial Statements (Ref: Para. A26–A27)

- 265.** If the auditor concludes that the identified or suspected non-compliance has a material effect on the financial statements, and has not been adequately reflected in the financial statements, the auditor shall, in accordance with ISA 705 (Revised), express a qualified opinion or an adverse opinion on the financial statements.⁶
- 276.** If the auditor is precluded by management or those charged with governance from obtaining sufficient appropriate audit evidence to evaluate whether non-compliance that may be material to the financial statements has, or is likely to have, occurred, the auditor shall express a qualified opinion or disclaim an opinion on the financial statements on the basis of a limitation on the scope of the audit in accordance with ISA 705 (Revised).⁷
- 287.** If the auditor is unable to determine whether non-compliance has occurred because of limitations imposed by the circumstances rather than by management or those charged with governance, the auditor shall evaluate the effect on the auditor's opinion in accordance with ISA 705 (Revised).

⁵ ISA 260 (Revised), *Communication with Those Charged with Governance*, paragraph 13

⁶ ISA 705 (Revised), *Modifications to the Opinion in the Independent Auditor's Report*, paragraphs 7–8

⁷ ISA 705 (Revised), paragraphs 7 and 9

Reporting ~~Identified or Suspected~~ Non-Compliance to ~~Regulatory and Enforcement Authorities~~ an
Appropriate Authority outside the Entity

~~298.~~ If the auditor has identified or suspects non-compliance with laws and regulations, the auditor shall, in accordance with applicable law, regulation or relevant ethical requirements, determine whether ~~the auditor has a legal or ethical duty or right~~ reporting to ~~report the identified or suspected non-compliance to parties~~ an appropriate authority outside the entity. is required or appropriate in the circumstances. (Ref: Para. ~~A2849–A3420~~)

Documentation

~~2930.~~ The auditor shall ~~include in the audit documentation~~ document⁸ identified or suspected non-compliance with laws and regulations and the ~~results~~ discussions of ~~discussions~~ significant matters with management, those charged with governance and others, including:

- How management and, where applicable, those charged with governance ~~and other parties outside the entity.~~⁹ have responded to the matter; and
- The audit procedures performed, including those necessary to comply with law, regulation or relevant ethical requirements, the results and conclusions reached thereon, and significant professional judgments made in reaching these conclusions. (Ref: Para. ~~A3624–A37~~)

Application and Other Explanatory Material

Responsibility for Compliance with Laws and Regulations (Ref: Para. 3–~~89~~)

- A1. 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 laws and regulations. Laws and regulations may affect an entity's financial statements in different ways: for example, most directly, they may affect specific disclosures required of the entity in the financial statements or they may prescribe the applicable financial reporting framework. They may also establish certain legal rights and obligations of the entity, some of which will be recognized in the entity's financial statements. In addition, laws and regulations may impose penalties in cases of non-compliance.
- A2. The following are examples of the types of policies and procedures an entity may implement to assist in the prevention and detection of non-compliance with laws and regulations:
- Monitoring legal requirements and ensuring that operating procedures are designed to meet these requirements.
 - Instituting and operating appropriate systems of internal control.
 - Developing, publicizing and following a code of conduct.
 - Ensuring employees are properly trained and understand the code of conduct.
 - Monitoring compliance with the code of conduct and acting appropriately to discipline employees who fail to comply with it.

⁸ ISA 230, Audit Documentation, paragraphs 8–11, and A6

⁹ ISA 230, Audit Documentation, paragraphs 8–11, and A6

- Engaging legal advisors to assist in monitoring legal requirements.
- Maintaining a register of significant laws and regulations with which the entity has to comply within its particular industry and a record of complaints.

In larger entities, these policies and procedures may be supplemented by assigning appropriate responsibilities to the following:

- An internal audit function.
- An audit committee.
- A compliance function.

Responsibility of the Auditor

- A3. Non-compliance by the entity with laws and regulations may result in a material misstatement of the financial statements. Detection of non-compliance, regardless of materiality, may affect other aspects of the audit including, for example, the auditor's consideration of the integrity of management or employees.
- A4. Whether an act constitutes non-compliance with laws and regulations is a matter ~~for legal determination~~ to be determined by a court or other appropriate adjudicative body, which is ordinarily beyond the auditor's professional competence to determine. Nevertheless, the auditor's training, experience and understanding of the entity and its industry or sector may provide a basis to recognize that some acts, coming to the auditor's attention, may constitute non-compliance with laws and regulations.
- A5. In accordance with specific statutory requirements, the auditor may be specifically required to report, as part of the audit of the financial statements, on whether the entity complies with certain provisions of laws or regulations. In these circumstances, ISA 700 (Revised)¹⁰ or ISA 800 (Revised)¹¹ deal with how these audit responsibilities are addressed in the auditor's report. Furthermore, where there are specific statutory reporting requirements, it may be necessary for the audit plan to include appropriate tests for compliance with these provisions of the laws and regulations.

Categories of Laws and Regulations (Ref: Para. 6)

A65a. The nature and circumstances of the entity may impact whether relevant laws and regulations are within the categories of laws and regulations described in paragraphs 6(a) or 6(b). Examples of laws and regulations that may be included in the categories described in paragraph 6 include those that deal with:

¹⁰ ISA 700 (Revised), *Forming an Opinion and Reporting on Financial Statements*, paragraph 4243

¹¹ ISA 800 (Revised), *Special Considerations—Audits of Financial Statements Prepared in Accordance with Special Purpose Frameworks*, paragraph 11

- Fraud, corruption and bribery.
- Money laundering, terrorist financing and proceeds of crime.
- Securities markets and trading.
- Banking and other financial products and services.
- Data protection.
- Tax and pension liabilities and payments.
- Environmental protection.
- Public health and safety.

Considerations Specific to Public Sector Entities

A67. In the public sector, there may be additional audit responsibilities with respect to the consideration of laws and regulations which may relate to the audit of financial statements or may extend to other aspects of the entity's operations.

Definition (Ref: Para. 12)

A8. Acts of non-compliance with laws and regulations include transactions entered into by, or in the name of, the entity, or on its behalf, by those charged with governance, management or other individuals working for or under the direction of the entity.

A9. Non-compliance also includes personal misconduct related to the business activities of the entity, for example, in circumstances where an individual in a key management position, in a personal capacity, accepts a bribe from a supplier of the entity and in return secures the appointment of the supplier to provide services or contracts.

A10. Non-compliance as defined in this ISA does not include:

- (a) Personal misconduct unrelated to the business activities of the entity; or
- (b) Non-compliance other than by the entity or those charged with governance, management or other individuals working for or under the direction of the entity (e.g., third parties).

The Auditor's Consideration of Compliance with Laws and Regulations

Obtaining an Understanding of the Legal and Regulatory Framework (Ref: Para. 132)

A117. To obtain a general understanding of the legal and regulatory framework, and how the entity complies with that framework, the auditor may, for example:

- Use the auditor's existing understanding of the entity's industry, regulatory and other external factors;
- Update the understanding of those laws and regulations that directly determine the reported amounts and disclosures in the financial statements;
- Inquire of management as to other laws or regulations that may be expected to have a fundamental effect on the operations of the entity;

- Inquire of management concerning the entity's policies and procedures regarding compliance with laws and regulations; and
- Inquire of management regarding the policies or procedures adopted for identifying, evaluating and accounting for litigation claims.

Laws and Regulations Generally Recognized to Have a Direct Effect on the Determination of Material Amounts and Disclosures in the Financial Statements (Ref: Para. [436, 14](#))

A812. Certain laws and regulations are well-established, known to the entity and within the entity's industry or sector, and relevant to the entity's financial statements (as described in paragraph 6(a)). They could include those that relate to, for example:

- The form and content of financial statements;
- Industry-specific financial reporting issues;
- Accounting for transactions under government contracts; or
- The accrual or recognition of expenses for income tax or pension costs.

Some provisions in those laws and regulations may be directly relevant to specific assertions in the financial statements (for example, the completeness of income tax provisions), while others may be directly relevant to the financial statements as a whole (for example, the required statements constituting a complete set of financial statements). The aim of the requirement in paragraph [4314](#) is for the auditor to obtain sufficient appropriate audit evidence regarding the determination of amounts and disclosures in the financial statements in compliance with the relevant provisions of those laws and regulations.

Non-compliance with other provisions of such laws and regulations and other laws and regulations may result in fines, litigation or other consequences for the entity, the costs of which may need to be provided for in the financial statements, but are not considered to have a direct effect on the financial statements as described in paragraph 6(a).

Procedures to Identify Instances of Non-Compliance—Other Laws and Regulations (Ref: Para. [446, 15](#))

A139. Certain other laws and regulations may need particular attention by the auditor because they have a fundamental effect on the operations of the entity (as described in paragraph 6(b)). Non-compliance with laws and regulations that have a fundamental effect on the operations of the entity may cause the entity to cease operations, or call into question the entity's continuance as a going concern.¹² For example, non-compliance with the requirements of the entity's license or other entitlement to perform its operations could have such an impact (for example, for a bank, non-compliance with capital or investment requirements). There are also many laws and regulations relating principally to the operating aspects of the entity that typically do not affect the financial statements and are not captured by the entity's information systems relevant to financial reporting.

A140. As the financial reporting consequences of other laws and regulations can vary depending on the entity's operations, the audit procedures required by paragraph [4415](#) are directed to bringing to the

¹² See [ISA 570 \(Revised\), Going Concern](#).

auditor's attention instances of non-compliance with laws and regulations that may have a material effect on the financial statements.

Non-Compliance Brought to the Auditor's Attention by Other Audit Procedures (Ref: Para. ~~45~~16)

A154. Audit procedures applied to form an opinion on the financial statements may bring instances of non-compliance or suspected non-compliance with laws and regulations to the auditor's attention. For example, such audit procedures may include:

- Reading minutes;
- Inquiring of the entity's management and in-house legal counsel or external legal counsel concerning litigation, claims and assessments; and
- Performing substantive tests of details of classes of transactions, account balances or disclosures.

Written Representations (Ref: Para. ~~46~~17)

A162. Because the effect on financial statements of laws and regulations can vary considerably, written representations provide necessary audit evidence about management's knowledge of identified or suspected non-compliance with laws and regulations, whose effects may have a material effect on the financial statements. However, written representations do not provide sufficient appropriate audit evidence on their own and, accordingly, do not affect the nature and extent of other audit evidence that is to be obtained by the auditor.¹³

Audit Procedures When Non-Compliance ~~is~~ Identified or Suspected

Indications of Non-Compliance with Laws and Regulations (Ref: Para. ~~48~~19)

A172a. The auditor may become aware of information ~~about concerning an instance of~~ non-compliance with laws ~~or and~~ 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 ~~12–16.13–17 (for example, when the auditor is alerted to non-compliance by a whistle blower)~~.

A183. The following matters may be an indication of non-compliance with laws and regulations:

- Investigations by regulatory organizations and government departments or payment of fines or penalties.
- Payments for unspecified services or loans to consultants, related parties, employees or government employees.
- Sales commissions or agent's fees that appear excessive in relation to those ordinarily paid by the entity or in its industry or to the services actually received.
- Purchasing at prices significantly above or below market price.
- Unusual payments in cash, purchases in the form of cashiers' checks payable to bearer or transfers to numbered bank accounts.

¹³ ISA 580, *Written Representations*, paragraph 4

- Unusual transactions with companies registered in tax havens.
- Payments for goods or services made other than to the country from which the goods or services originated.
- Payments without proper exchange control documentation.
- Existence of an information system which fails, whether by design or by accident, to provide an adequate audit trail or sufficient evidence.
- Unauthorized transactions or improperly recorded transactions.
- Adverse media comment.

Matters Relevant to the Auditor's Evaluation (Ref: Para. ~~48~~19(b))

A194. Matters relevant to the auditor's evaluation of the possible effect on the financial statements include:

- The potential financial consequences of identified or suspected non-compliance with laws and regulations on the financial statements including, for example, the imposition of fines, penalties, damages, threat of expropriation of assets, enforced discontinuation of operations, and litigation.
- Whether the potential financial consequences require disclosure.
- Whether the potential financial consequences are so serious as to call into question the fair presentation of the financial statements, or otherwise make the financial statements misleading.

Audit Procedures, Including Discussing or Reporting Identified or Suspected Non-Compliance with Management and Those Charged with Governance (Ref: Para. ~~49~~20, 23)

A2045. The auditor ~~may~~is required to discuss the ~~findings with~~identified or suspected non-compliance with the appropriate level of management and, where appropriate, those charged with governance ~~where,~~as they may be able to provide additional audit evidence. For example, the auditor may confirm that management and, where appropriate, 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~~identified or suspected non-compliance with laws and regulations.

A21. ~~However,~~in some jurisdictions, laws or regulations may restrict the auditor's communication of certain matters with management and those charged with governance. Law or regulation 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,~~when the auditor is required to report the identified or suspected non-compliance to an appropriate authority pursuant to anti-money laundering legislation. In these circumstances, the issues considered by the auditor may be complex and the auditor may consider it appropriate to obtain legal advice.

A2246. If management or, ~~as appropriate~~where applicable, those charged with governance do not provide sufficient information to the auditor that the entity is in fact in compliance with laws and regulations, the auditor may consider it appropriate to consult with the entity's in-house or external legal counsel about the application of the laws and regulations to the circumstances, including the possibility of

fraud, and the possible effects on the financial statements. If it is not considered appropriate to consult with the entity's legal counsel or if the auditor is not satisfied with the legal counsel's opinion, the auditor may consider it appropriate to consult on a confidential basis with others within the firm, a network firm, a ~~relevant~~ professional body, or with the auditor's legal counsel as to whether a contravention of a law or regulation is involved, ~~the possible legal consequences~~, including the possibility of fraud, the possible legal consequences, and what further action, if any, the auditor would take.

Evaluating the Implications of Identified or Suspected Non-Compliance (Ref: Para. 2422)

A2347. As required by paragraph 2422, the auditor evaluates the implications of identified or suspected non-compliance in relation to other aspects of the audit, including the auditor's risk assessment and the reliability of written representations. The implications of particular ~~instances of identified or suspected~~ non-compliance ~~identified by the auditor~~ will depend on the relationship of the perpetration and concealment, if any, of the act to specific control activities and the level of management or ~~employees~~ individuals working for, or under the direction of, the entity involved, especially implications arising from the involvement of the highest authority within the entity. As noted in paragraph 8a9, the auditor's compliance with relevant ethical requirements may provide further information that is relevant to the auditor's responsibilities in accordance with paragraph 2422.

~~A18~~—[MOVED BELOW PARAGRAPH A24]

A2418a. Examples of circumstances that may cause the auditor to evaluate the implications of identified or suspected non-compliance on the reliability of written representations received from management and, where applicable, those charged with governance include when:

- The auditor suspects or has evidence of the involvement or intended involvement of management and, where applicable, those charged with governance in any identified or suspected non-compliance.
- The auditor is aware that management and, where applicable, those charged with governance have knowledge of such non-compliance and, contrary to legal or regulatory requirements, have not reported, or authorized reporting of, the matter to an appropriate authority within a reasonable period.

A1825. In certain circumstances ~~exceptional cases~~, the auditor may consider ~~whether~~ withdrawing from the engagement, where ~~withdrawal is possible under applicable~~ permitted by law or regulation, for example is necessary when management or those charged with governance do not take the remedial action that the auditor considers appropriate in the circumstances, or the identified or suspected non-compliance raises questions regarding the integrity of management even when the non-compliance is not material to the financial statements. When deciding whether withdrawal from the engagement is necessary, the auditor may consider it appropriate to obtain seeking legal advice to determine whether withdrawal from the engagement is appropriate. If withdrawal from the engagement is not possible, the auditor may consider alternative actions, including describing the non-compliance in an Other Matter paragraph in the auditor's report.¹⁴ When the auditor determines that withdrawing from

¹⁴—ISA 706, *Emphasis of Matter Paragraphs and Other Matter Paragraphs in the Independent Auditor's Report*, paragraph 8

the engagement would be appropriate, doing so would not be a substitute for complying with other responsibilities under law, regulation or relevant ethical requirements to respond to identified or suspected non-compliance. Furthermore, paragraph A8a of ISA 220¹⁵ indicates that some ethical requirements may require the predecessor auditor, upon request, to provide information regarding non-compliance with laws and regulations to a successor auditor.

Reporting of Identified or Suspected Non-Compliance, including Potential Implications for the Auditor's Report

Implications of Non-Compliance for the Auditor's Report (Ref: Para. 26–28)

A26. In certain circumstances, the auditor may communicate identified or suspected non-compliance in the auditor's report, for example:

- When the auditor modifies the opinion in accordance with paragraphs 26–28;
- When management or those charged with governance do not take the remedial action that the auditor considers appropriate in the circumstances and withdrawal from the engagement is not possible, and the auditor describes the identified or suspected non-compliance in an Other Matter paragraph in accordance with ISA 706 (Revised);¹⁶
- When the auditor determines that the identified or suspected non-compliance is a key audit matter and accordingly communicates the matter in accordance with ISA 701,¹⁷ unless paragraph 14 of that ISA applies; or
- When the auditor has other reporting responsibilities, in addition to the auditor's responsibilities under the ISAs, as contemplated by paragraph 43 of ISA 700 (Revised).

A27. Law or regulation may preclude public disclosure by either management, those charged with governance or the auditor about a specific matter. For example, law or regulation 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 prohibit alerting the entity. When the auditor communicates identified or suspected non-compliance in the auditor's report under the circumstances set out in paragraph A26 or otherwise, such law or regulation may have implications for the auditor's ability to describe the matter in the auditor's report, or in some circumstances to issue the auditor's report. In such cases, the auditor may consider obtaining legal advice to determine the appropriate course of action.

Reporting Identified or Suspected Non-Compliance to Regulatory and Enforcement an Appropriate Authority ~~ies~~ outside the Entity (Ref: Para. 29~~8~~)

~~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 to report to parties outside the entity and, when applicable, the appropriate course of action in light of such duty or right. For example~~

¹⁵ ISA 220, *Quality Control for an Audit of Financial Statements*

¹⁶ ISA 706 (Revised), *Emphasis of Matter Paragraphs and Other Matter Paragraphs in the Independent Auditor's Report*

¹⁷ ISA 701, *Communicating Key Audit Matters in the Independent Auditor's Report*

- ~~• 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.¹⁸~~
- ~~• 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.~~

A28. Reporting identified or suspected non-compliance to an appropriate authority outside the entity may be required or appropriate because:

- (a) Law, regulation or relevant ethical requirements require the auditor to report (see paragraph A29);
- (b) The auditor has determined reporting is an appropriate action to respond to identified or suspected non-compliance in accordance with relevant ethical requirements (see paragraph A30); or
- (c) Law, regulation or relevant ethical requirements provide the auditor with the right to do so (see paragraph A31).

A29. In some jurisdictions, the auditor may be required by law or regulation to report identified or suspected non-compliance with laws and regulations to an appropriate authority outside the entity. For example, in some jurisdictions, statutory requirements exist for the auditor of a financial institution to report the occurrence, or suspected occurrence, of non-compliance with laws and regulations to a supervisory authority. Also, in some jurisdictions, the auditor may be required to report misstatements to an authority (for example, those that arise from non-compliance with laws or regulations in cases where management or those charged with governance fail to take corrective action).

A30. In other cases, the relevant ethical requirements may require the auditor to report or to determine whether reporting identified or suspected non-compliance with laws and regulations to an appropriate authority outside the entity is an appropriate action. For example, the *Code of Ethics for Professional Accountants* issued by the International Ethics Standards Board for Accountants (IESBA Code) requires the auditor to take steps to respond to such non-compliance with laws and regulations and determine whether further action is needed, which may include reporting to an appropriate authority outside the entity.¹⁹ The IESBA Code explains that such reporting would not be considered a breach of the duty of confidentiality under the IESBA Code.²⁰

A31. Even if law, regulation or relevant ethical requirements do not include requirements that address reporting identified or suspected non-compliance, they may provide the auditor with the right to report identified or suspected non-compliance to an appropriate authority outside the entity. For example,

¹⁸ See, for example, Section 225.29 of the International Ethics Standards Board for Accountants' *Code of Ethics for Professional Accountants* (IESBA Code).

¹⁹ See, for example, Section 225.29 and Sections 225.33–225.36 of the IESBA Code.

²⁰ See, for example, Section 140.7 and Section 225.35 of the IESBA Code.

when dealing with financial institutions, the auditor may have the right under law or regulation to discuss matters, such as identified or suspected non-compliance with laws and regulations, with a supervisory authority.

A32. In other circumstances, the reporting of identified or suspected non-compliance with laws and regulations to an appropriate authority outside the entity may be precluded by the auditor’s duty of confidentiality under law, regulation or relevant ethical requirements.

A33. As the determination required by paragraph 29 may involve complex considerations and judgments, the auditor may consider consulting within the firm or a network firm, obtaining legal advice to understand the auditor’s options and the professional or legal implications of taking any particular course of action, or consulting on a confidential basis with a regulator or professional body, unless doing so is prohibited by law or regulation or would breach the duty of confidentiality.

Considerations Specific to Public Sector Entities

A34~~20~~. A public sector auditor may be obliged to report on ~~instances of~~identified or suspected non-compliance to the legislature or other governing body or to report them in the auditor’s report.

Communication in the Context of Audits of Group Financial Statements (Ref.: Para. 9)

A35. ISA 600 requires the group engagement team to request the component auditor to communicate matters relevant to the group engagement team’s conclusion in the context of the group audit, including information on identified or suspected non-compliance with laws or regulations that could give rise to a material misstatement of the group financial statements.²¹ Relevant ethical requirements may establish additional requirements for the auditor in responding to identified or suspected non-compliance with laws and regulations in a group audit, not only for the group engagement team but also for component auditors or other auditors performing work at a component for purposes other than the group audit (such as a statutory audit). For example, the IESBA Code requires specific communications in the context of a group if such component auditors or other auditors of components or the auditor of the group financial statements become aware of non-compliance with laws or regulations.²²

Documentation (Ref: Para. ~~29~~30)

A36~~24~~. The auditor’s documentation of findings regarding identified or suspected non-compliance with laws and regulations may include, for example:

- Copies of records or documents.
- Minutes of discussions held with management, those charged with governance or parties outside the entity.

A37. Relevant ethical requirements may also set out additional documentation requirements regarding identified or suspected non-compliance with laws and regulations.²³

²¹ ISA 600, *Special Considerations—Audits of Group Financial Statements (Including the Work of Component Auditors)*, paragraph 41(d)

²² See, for example, Sections 225.21–225.22 of the IESBA Code.

²³ See, for example, Section 225.37 of the IESBA Code.

CONFORMING AMENDMENTS TO OTHER INTERNATIONAL STANDARDS

ISQC 1, *Quality Control for Firms that Perform Audits and Reviews of Financial Statements, and Other Assurance and Related Services Engagements* Requirements

[Note: This paragraph is unchanged.]

Confidentiality, safe custody, integrity, accessibility and retrievability of engagement documentation

46. The firm shall establish policies and procedures designed to maintain the confidentiality, safe custody, integrity, accessibility and retrievability of engagement documentation. (Ref: Para. A56–A59)

Application and Other Explanatory Material

- 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 are responsibilities under law, regulation or relevant ethical requirements ~~is a legal or ethical duty or right~~ to do so.²⁴ ~~In certain circumstances, the firm's personnel may have the legal or ethical right to disclose identified or suspected non-compliance with laws or regulations to an appropriate authority without breaching the duty of confidentiality.~~²⁵ 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.

ISA 210, *Agreeing the Terms of Audit Engagements*

[Note: No changes were proposed to this standard in the Exposure Draft]

Requirements

[Note: This paragraph is unchanged.]

Agreement on Audit Engagement Terms

10. Subject to paragraph 11, the agreed terms of the audit engagement shall be recorded in an audit engagement letter or other suitable form of written agreement and shall include: (Ref: Para. A22–A25)
- (a) The objective and scope of the audit of the financial statements;
 - (b) The responsibilities of the auditor;
 - (c) The responsibilities of management;
 - (d) Identification of the applicable financial reporting framework for the preparation of the financial statements; and

²⁴ See, for example, Section 140.7 and Section 225.35 of the IESBA Code.

²⁵ See, for example, Section 225.29 of the IESBA Code.

- (e) Reference to the expected form and content of any reports to be issued by the auditor and a statement that there may be circumstances in which a report may differ from its expected form and content.

Application and Other Explanatory Material

A24. When relevant, the following points could also be made in the audit engagement letter:

- Arrangements concerning the involvement of other auditors and experts in some aspects of the audit.
- Arrangements concerning the involvement of internal auditors and other staff of the entity.
- Arrangements to be made with the predecessor auditor, if any, in the case of an initial audit.
- A reference to, and description of, the auditor's responsibility to, in accordance with applicable law, regulation or relevant ethical requirements, determine whether reporting identified or suspected non-compliance with laws and regulations to an appropriate authority outside the entity is required or appropriate in the circumstances.
- Any restriction of the auditor's liability when such possibility exists.
- A reference to any further agreements between the auditor and the entity.
- Any obligations to provide audit working papers to other parties.

An example of an audit engagement letter is set out in Appendix 1.

ISA 220, *Quality Control for an Audit of Financial Statements*

Requirements

[Note: This paragraph is unchanged.]

Acceptance and Continuance of Client Relationships and Audit Engagements

12. The engagement partner shall be satisfied that appropriate procedures regarding the acceptance and continuance of client relationships and audit engagements have been followed, and shall determine that conclusions reached in this regard are appropriate. (Ref: Para. A8–A9)

Application and Other Explanatory Material

A8a. Law, regulation, or relevant ethical requirements²⁶ may require the auditor to request, prior to accepting the engagement, the predecessor auditor to provide known information regarding any facts or circumstances that, in the predecessor auditor's judgment, the auditor needs to be aware of before deciding whether to accept the engagement. In some circumstances, the predecessor auditor may be required, upon request, to provide information regarding identified or suspected non-compliance with laws and regulations to a successor auditor. For example, in terms of the *Code of Ethics for Professional Accountants* issued by the International Ethics Standards Board for Accountants (IESBA Code), where the predecessor auditor has withdrawn from the engagement as a result of identified

²⁶ See, for example, Sections 210.14 of the IESBA Code.

or suspected non-compliance with laws and regulations, the predecessor auditor is required, on request by a proposed successor auditor, to provide all such facts and other information concerning such non-compliance that, in the predecessor auditor's opinion, the proposed successor auditor needs to be aware of before deciding whether to accept the audit appointment.²⁷

ISA 240, The Auditor's Responsibilities Relating to Fraud in an Audit of Financial Statements

Introduction

Responsibility for the Prevention and Detection of Fraud

Responsibilities of the Auditor

- 8a. The auditor may have additional responsibilities under relevant ethical requirements regarding an entity's non-compliance with laws and regulations, including fraud, such as requirements to respond to identified or suspected instances of non-compliance with laws and regulations, which may differ from or go beyond this and other ISAs. Complying with those responsibilities may provide further information that is relevant to the auditor's work in accordance with this and other ISAs (for example, regarding the integrity of management or, where appropriate, those charged with governance or the auditor's responsibilities in relation to group audits).

Requirements

Communications to Management and with Those Charged with Governance

40. If the auditor has identified a fraud or has obtained information that indicates that a fraud may exist, the auditor shall communicate these matters on a timely basis to the appropriate level of management in order to inform those with primary responsibility for the prevention and detection of fraud of matters relevant to their responsibilities, unless such communication is prohibited by law or regulation. (Ref: Para. A59a-A60)
41. Unless all of those charged with governance are involved in managing the entity, if the auditor has identified or suspects fraud involving:
- (a) management;
 - (b) employees who have significant roles in internal control; or
 - (c) others where the fraud results in a material misstatement in the financial statements,

the auditor shall communicate these matters to those charged with governance on a timely basis. If the auditor suspects fraud involving management, the auditor shall communicate these suspicions to those charged with governance and discuss with them the nature, timing and extent of audit procedures necessary to complete the audit. Such communications with those charged with governance are required unless the communication is prohibited by law or regulation. (Ref: Para. A59a, A61–A63)

²⁷ See, for example, Sections 225.31 of the IESBA Code.

42. The auditor shall communicate with those charged with governance any other matters related to fraud that are, in the auditor's judgment, relevant to their responsibilities, unless such communication is prohibited by law or regulation. (Ref: Para. A59a, A64)

Communications to Regulatory and Enforcement Authorities Reporting Fraud to an Appropriate Authority Outside the Entity

43. If the auditor has identified or suspects a fraud, the auditor shall ~~determine whether there is a responsibility to report the occurrence, in accordance with applicable law, regulation or suspicion to a party outside the entity. Although relevant ethical requirements regarding maintaining confidentiality may preclude such, determine whether reporting, in some circumstances the duty of confidentiality may not apply, be overridden by laws or regulations, or include a duty or right to report~~ to an appropriate authority outside the entity is required or appropriate in the circumstances. (Ref: Para. A65–A67)

Application and Other Explanatory Material

Communications to Management and with Those Charged with Governance (Ref: Para. 40–~~41~~42)

- A59a. In some jurisdictions, laws or regulations may restrict the auditor's communication of certain matters with management and those charged with governance. Law or regulation 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 fraud-non-compliance to an appropriate authority pursuant to anti-money laundering legislation. In these circumstances, the issues considered by the auditor may be complex and the auditor may consider it appropriate to obtain legal advice.

Communications to Regulatory and Enforcement Authorities Reporting Fraud to an Appropriate Authority outside the Entity (Ref: Para. 43)

- A65. ISA 250 (Revised)²⁸ provides further guidance with respect to the auditor's determination of whether reporting the occurrence or suspicion to an appropriate authority outside the entity is required or appropriate, in accordance with applicable law, regulation or relevant ethical requirements, including consideration of the auditor's duty of confidentiality. The auditor's professional duty to maintain 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 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

²⁸ ISA 250 (Revised), Consideration of Laws and Regulations in an Audit of Financial Statements, paragraphs A28–A34

~~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.²⁹~~

- A66. ~~As the determination required by paragraph 43 may involve complex considerations and judgments, the auditor may consider consulting within the firm or network firm, it appropriate to obtaining~~ legal advice to ~~understand the auditor's options and the professional or legal implications of taking any particular determine the appropriate course of action or consulting on a confidential basis with a regulator or professional body, unless doing so is prohibited by law or regulation or would breach the duty of confidentiality in the circumstances, the purpose of which is to ascertain the steps necessary in considering the public interest aspects of identified fraud.~~

ISA 260 (Revised), *Communication with Those Charged with Governance*

Introduction

The Role of Communication

7. ~~In some jurisdictions~~ Law or regulation 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 ~~identified or suspected the~~ non-compliance ~~with laws and regulations~~ to an appropriate authority pursuant to anti-money laundering legislation. In ~~some these~~ circumstances, ~~the issues considered by the auditor potential conflicts between the auditor's obligations of confidentiality and obligations to communicate~~ may be complex. ~~In such cases, and~~ the auditor may consider ~~it appropriate to~~ obtaining legal advice.

ISA 450, *Evaluation of Misstatements Identified During the Audit*

Requirements

Communication and Correction of Misstatements

8. The auditor shall communicate on a timely basis all misstatements accumulated during the audit with the appropriate level of management, unless ~~such communication is~~ prohibited by law or regulation.³⁰ The auditor shall request management to correct those misstatements. (Ref: Para. A7–A9)

Application and Other Explanatory Material

Communication and Correction of Misstatements (Ref: Para. 8–9)

- A8. ~~In some jurisdictions, Law~~ or regulation 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, ~~for example, when, for example,~~ the auditor is required to report ~~the identified or suspected~~ non-compliance ~~with law or regulation~~ to an appropriate authority pursuant to anti-money laundering

²⁹ ~~See, for example, Section 225.29 of the International Ethics Standards Board for Accountants' Code of Ethics for Professional Accountants (IESBA Code).~~

³⁰ ~~ISA 260 (Revised), *Communication with Those Charged with Governance*, paragraph 7~~

legislation. In ~~some~~these circumstances, ~~potential conflicts between the auditor's obligations of confidentiality and obligations to communicate may be complex. In such cases, the issues considered by the auditor may be complex and the auditor may consider seeking appropriate to obtain~~ legal advice.

ISA 500, *Audit Evidence*

[Note: No changes were proposed to this standard in the Exposure Draft]

Requirements

Information to Be Used as Audit Evidence

7. When designing and performing audit procedures, the auditor shall consider the relevance and reliability of the information to be used as audit evidence. (Ref: Para. A26–A33a)

Application and Other Explanatory Material

Information to Be Used as Audit Evidence

Relevance and Reliability (Ref: Para. 7)

A26. As noted in paragraph A1, while audit evidence is primarily obtained from audit procedures performed during the course of the audit, it may also include information obtained from other sources such as, for example, previous audits, in certain circumstances, ~~and~~ a firm's quality control procedures for client acceptance and continuance and complying with certain additional responsibilities under relevant ethical requirements (e.g. regarding an entity's non-compliance with laws and regulations). The quality of all audit evidence is affected by the relevance and reliability of the information upon which it is based.

A33a. ISA 250 (Revised)³¹ provides further guidance with respect to the auditor complying with any additional responsibilities under law, regulation or relevant ethical requirements regarding an entity's identified or suspected non-compliance with laws and regulations that may provide further information that is relevant to the auditor's work in accordance with ISAs and evaluating the implications of such non-compliance in relation to other aspects of the audit.

ISRE 2400 (Revised), *Engagements to Review Historical Financial Statements*

Requirements

Performing the Engagement

Designing and Performing Procedures

48. The practitioner's inquiries of management and others within the entity, as appropriate, shall include the following: (Ref: Para. A84–A87a)

...

- (d) The existence of any actual, suspected or alleged:

³¹ ISA 250 (Revised), *Consideration of Laws and Regulations in an Audit of Financial Statements*, paragraph 9

- (i) Fraud or illegal acts affecting the entity; and
- (ii) Non-compliance with provisions of laws and regulations that are generally recognized to have a direct effect on the determination of material amounts and disclosures in the financial statements, such as tax and pension laws and regulations;

Fraud and non-compliance with laws ~~and~~ regulations

52. When there is an indication that fraud or non-compliance with laws ~~and~~ regulations, or suspected fraud or non-compliance with laws ~~and~~ regulations, has occurred in the entity, the practitioner shall:
- (a) Communicate that matter to the appropriate level of ~~senior~~ management or those charged with governance as appropriate, unless such communication is prohibited by law or regulation;
 - (b) Request management's assessment of the effect(s), if any, on the financial statements;
 - (c) Consider the effect, if any, of management's assessment of the effects of identified or suspected fraud or non-compliance with laws ~~and~~ regulations communicated to the practitioner on the practitioner's conclusion on the financial statements and on the practitioner's report; and
 - (d) In accordance with applicable law, regulation or relevant ethical requirements, determine whether there is a responsibility to report the occurrence or suspicion of fraud or illegal acts to a party outside the entity reporting to an appropriate authority outside the entity is required or appropriate in the circumstances. (Ref: Para. A92–A92d)

Application and Other Explanatory Material

Performing the Engagement

Designing and Performing Procedures (Ref: Para. 47, 55)

Inquiry (Ref: Para. 46–48)

A87a. The practitioner may have additional responsibilities under relevant ethical requirements regarding an entity's non-compliance with laws and regulations, including fraud, such as requirements to respond to identified or suspected instances of non-compliance with laws and regulations that may differ from or go beyond this ISRE. Complying with those additional responsibilities may provide further information that is relevant to the practitioner's work in accordance with this ISRE (for example, regarding the integrity of management or, where appropriate, those charged with governance).

Procedures to Address Specific Circumstances

Fraud and non-compliance with laws ~~and~~ regulations (Ref: Para. 52(a) and (d))

Communication with management and those charged with governance

A91a. In some jurisdictions, law or regulation may restrict the practitioner's communication of certain matters with management or those charged with governance. Law or regulation 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 the entity, for example, when the practitioner is required to report identified or suspected non-compliance with laws and regulations to an appropriate authority pursuant to anti-money laundering legislation. In these circumstances, the

issues considered by the practitioner may be complex and the practitioner may consider it appropriate to obtain legal advice.

Reporting of identified or suspected non-compliance with laws and regulations to an appropriate authority outside the entity

A92. Under this ISRE, if the practitioner has identified or suspects fraud or ~~illegal acts~~ non-compliance with laws and regulations, the practitioner is required to determine whether reporting to an appropriate authority ~~there is a responsibility to report the occurrence or suspicion to a party outside the entity~~ is required or appropriate in the circumstances in accordance with applicable law, regulation or relevant ethical requirements. Reporting to an appropriate authority outside the entity may be required or appropriate because:

- (a) Law, regulation or relevant ethical requirements require the practitioner to report;
- (b) The practitioner has determined reporting is an appropriate action to respond to non-compliance in accordance with relevant ethical requirements (see paragraph A92a);
- (c) Law, regulation or relevant ethical requirements provide the practitioner with the right to do so (see paragraph A92b).

~~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 to report to an appropriate authority. In certain circumstances, the practitioner may have the legal or ethical right to disclose identified or suspected non-compliance with laws or regulations to an appropriate authority without breaching the duty of confidentiality.³² 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.~~

A92a. In some cases the relevant ethical requirements may require the practitioner to determine whether reporting identified or suspected fraud or non-compliance with laws and regulations to an appropriate authority outside the entity is an appropriate action. For example, the *Code of Ethics for Professional Accountants* issued by the International Ethics Standards Board for Accountants (IESBA Code) requires the practitioner to take steps to respond to such non-compliance, which may include reporting to an appropriate authority outside the entity.³³ The IESBA Code explains that such reporting would not be considered a breach of the duty of confidentiality under the IESBA Code.³⁴

A92b. Even if law, regulation or relevant ethical requirements do not include requirements that address reporting identified or suspected non-compliance, they may provide the practitioner with the right to report fraud or identified or suspected non-compliance with laws and regulations to an appropriate authority outside the entity.

A19c. In other circumstances, the reporting of identified or suspected non-compliance with laws and regulations to an appropriate authority outside the entity may be precluded by the practitioner's duty of confidentiality under law, regulation or relevant ethical requirements.

³² See, for example, Section 225.29 of the International Ethics Standards Board for Accountants' *Code of Ethics for Professional Accountants* (IESBA Code).

³³ See, for example, Section 225.51 to 225.52 of the IESBA Code.

³⁴ See, for example, Section 140.7 and Section 225.53 of the IESBA Code.

A92d. As the determination required by paragraph A52(d) may involve complex considerations and judgments, the practitioner may consider consulting within the firm or network firm, obtaining legal advice to understand the practitioner's options and the professional or legal implications of taking any particular course of action, or consulting on a confidential basis with a regulator or a professional body, unless doing so is prohibited by law or regulations or would breach the duty of confidentiality.

ISAE 3000, Assurance Engagements other than Audits or Reviews of Historical Financial Information

[Note: No changes were proposed to this standard in the Exposure Draft]

Requirements

Planning and Performing the Engagement

Understanding the Underlying Subject Matter and Other Engagement Circumstances

45. The practitioner shall make inquiries of the appropriate party(ies) regarding:
- (a) Whether they have knowledge of any actual, suspected or alleged intentional misstatement or non-compliance with laws and regulations affecting the subject matter information; (Ref: Para. A101–~~A101a~~)
 - (b) Whether the responsible party has an internal audit function and, if so, make further inquiries to obtain an understanding of the activities and main findings of the internal audit function with respect to the subject matter information; and
 - (c) Whether the responsible party has used any experts in the preparation of the subject matter information.

Other Communication Responsibilities

78. The practitioner shall consider whether, pursuant to the terms of the engagement and other engagement circumstances, any matter has come to the attention of the practitioner that is to be communicated with the responsible party, the measurer or evaluator, the engaging party, those charged with governance or others. (Ref: Para. A192–~~A192e~~)

Application and Other Explanatory Material

Planning and Performing the Engagement

Understanding the Engagement Circumstances (Ref: Para. 45–47R)

A101a. The practitioner may have additional responsibilities under relevant ethical requirements regarding an entity's non-compliance with laws and regulations, such as requirements to respond to identified or suspected instances of non-compliance with laws and regulations, which may differ from or go beyond the practitioner's responsibilities under this ISAE. Complying with those additional responsibilities may provide further information that is relevant to the practitioner's work in accordance with this and any other ISAE relevant to the engagement (for example, regarding the integrity of the responsible party or those charged with governance). Paragraphs A192a–A192d further address the practitioner's responsibilities under law, regulation or relevant ethical requirements regarding identified or suspected non-compliance with laws and regulations.

Other Communication Responsibilities (Ref: Para. 78)

Communication with Management and Those Charged with Governance

A192a. Relevant ethical requirements may include a requirement to report identified or suspected non-compliance with laws and regulations to an appropriate level of management or those charged with governance. In some jurisdictions, law or regulation may restrict the practitioner's communication of certain matters with the responsible party, an appropriate level of management or those charged with governance. Law or regulation 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 the entity, for example, when the practitioner is required to report the identified or suspected non-compliance to an appropriate authority pursuant to anti-money laundering legislation. In these circumstances, the issues considered by the practitioner may be complex and the practitioner may consider it appropriate to obtain legal advice.

Reporting of Identified or Suspected Non-Compliance with Laws and Regulations to an Appropriate Authority outside the Entity

A192b. The practitioner may have a responsibility, in accordance with applicable law, regulation or relevant ethical requirements, to determine whether reporting identified or suspected non-compliance with laws and regulations to an appropriate authority outside the entity is required or appropriate in the circumstances.³⁵ Reporting to an appropriate authority outside the entity may be required or appropriate because:

- (a) Law, regulation or relevant ethical requirements require the practitioner to report;
- (b) The practitioner has determined reporting is an appropriate action to respond to non-compliance in accordance with relevant ethical requirements.
- (c) Law, regulation or relevant ethical requirements provide the practitioner with the right to do so.

A192c. The reporting of identified or suspected non-compliance with laws and regulations in accordance with law, regulation or relevant ethical requirements may include non-compliance with laws and regulations that the practitioner comes across or is made aware of when performing the engagement but which may not affect the subject matter information. Under this ISAE, the practitioner is not expected to have a level of understanding of laws and regulations beyond those affecting the subject matter information, however law, regulation or relevant ethical requirements may expect the practitioner to apply knowledge, professional judgment and expertise in responding to such non-compliance. Whether an act constitutes actual non-compliance is ultimately a matter to be determined by a court or other appropriate adjudicative body.

A192d. In some cases, the reporting of identified or suspected non-compliance with laws and regulations to an appropriate authority outside the entity may be precluded by the practitioner's duty of confidentiality under law, regulation, or relevant ethical requirements. In other cases, reporting

³⁵ See, for example, Section 225.51 to 225.52 of the IESBA Code.

identified or suspected non-compliance to an appropriate authority outside the entity will not be considered a breach of the duty of confidentiality under the relevant ethical requirements.³⁶

A192e. Depending on the nature and significance of the identified or suspected non-compliance, the practitioner may consider consulting within the firm or network firm, obtaining legal advice, or consulting on a confidential basis with a regulator or a professional body, unless doing so is prohibited by law or regulations or would breach the duty of confidentiality.³⁷

ISAE 3402, Assurance Reports on Controls at a Service Organization

Requirements

Other Communication Responsibilities

56. If the service auditor becomes aware of non-compliance with laws and regulations, fraud, or uncorrected errors attributable to the service organization that are not clearly trivial and may affect one or more user entities, the service auditor shall determine whether the matter has been communicated appropriately to affected user entities. If the matter has not been so communicated and the service organization is unwilling to do so, the service auditor shall take appropriate action. (Ref: Para. A53)

Application and Other Explanatory Material

Other Communication Responsibilities (Ref: Para. 56)

A53. Appropriate actions to respond to the circumstances identified in paragraph 56, unless prohibited by law or regulation, may include:

- Obtaining legal advice about the consequences of different courses of action.
- Communicating with those charged with governance of the service organization.
- Determining whether ~~C~~ommunicating with third parties (for example, the service auditor may, in accordance with law, regulation or relevant ethical requirements, determine that reporting to an appropriate authority outside the entity is required or appropriate in the circumstances or the service auditor may communicate with the external auditor³⁸~~a regulator~~) ~~when the auditor has a duty or right to do so.~~
- Modifying the service auditor's opinion, or adding an Other Matter paragraph.
- Withdrawing from the engagement.

³⁶ See, for example, Section 140.7 and Section 225.53 of the IESBA Code.

³⁷ See, for example, Section 225.55 of the IESBA Code

³⁸ See, for example, Section 225.44 to 225.48 of the IESBA Code.

ISAE 3410, Assurance Engagements on Greenhouse Gas Statements

[Note: No changes were proposed to this standard in the Exposure Draft]

Requirements

Other Communication Responsibilities

78. Unless prohibited by law or regulation, ~~t~~The practitioner shall communicate to those person(s) with oversight responsibilities for the GHG statement the following matters that come to the practitioner's attention during the course of the engagement, and shall determine whether there is a responsibility to report them to another party within or outside the entity:
- (a) Deficiencies in internal control that, in the practitioner's professional judgment, are of sufficient importance to merit attention;
 - (b) Identified or suspected fraud; and
 - (c) Matters involving identified or suspected non-compliance with law s and/or ~~regulations~~, other than when the matters are clearly trivial. (Ref: Para. A87)

ISRS 4410, Compilation Engagements

[Note: No changes were proposed to this standard in the Exposure Draft]

Requirements

Ethical Requirements

21. The practitioner shall comply with relevant ethical requirements. (Ref: Para. A19-~~A21d~~)

Communication with Management and Those Charged with Governance

27. The practitioner shall communicate with management or those charged with governance, as appropriate, on a timely basis during the course of the compilation engagement, all matters concerning the compilation engagement that, in the practitioner's professional judgment, are of sufficient importance to merit the attention of management or those charged with governance, as appropriate. (Ref: Para. A41-~~A41a~~)

Ethical Requirements (Ref: Para. 21)

Reporting of Identified or Suspected Non-Compliance with Laws and Regulations to an Appropriate Authority outside the Entity

A21a. The practitioner may have a responsibility, in accordance with applicable law, regulation or relevant ethical requirements, to determine whether reporting identified or suspected non-compliance with laws and regulations to an appropriate authority outside the entity is required or appropriate in the circumstances.³⁹ Reporting to an appropriate authority outside the entity may be required or appropriate because:

- (a) Law, regulation or relevant ethical requirements require the practitioner to report;

³⁹ See, for example, Section 225.51 to 225.52 of the IESBA Code.

(b) The practitioner has determined reporting is an appropriate action to respond to non-compliance in accordance with relevant ethical requirements.

(c) Law, regulation or relevant ethical requirements provide the practitioner with the right to do so.

A21b. Under paragraph 28 of this ISRS, the practitioner is not expected to have a level of understanding of laws and regulations beyond that necessary to be able to perform the compilation engagement, however law, regulation or relevant ethical requirements may expect the practitioner to apply knowledge, professional judgment and expertise in responding to identified or suspected non-compliance. Whether an act constitutes actual non-compliance is ultimately a matter to be determined by a court or other appropriate adjudicative body.

A21c. In some cases, the reporting of identified or suspected non-compliance with laws and regulations to an appropriate authority outside the entity may be precluded by the practitioner's duty of confidentiality under law, regulation or relevant ethical requirements. In other cases, reporting identified or suspected non-compliance to an appropriate authority outside the entity will not be considered a breach of the duty of confidentiality under the relevant ethical requirements.⁴⁰

A21d. Depending on the nature and significance of the matter, the practitioner may consider consulting within the firm or network firm, obtaining legal advice, or consulting on a confidential basis with a regulator or a professional body unless doing so is prohibited by law or regulations or would breach the duty of confidentiality.⁴¹

Communication with Management and Those Charged with Governance (Ref: Para. 27)

A41a. Relevant ethical requirements may include a requirement to report identified or suspected non-compliance with laws and regulations to an appropriate level of management or those charged with governance. In some jurisdictions, law or regulation may restrict the practitioner's communication of certain matters with an appropriate level of management or those charged with governance. Law or regulation 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 the entity, for example, when the practitioner is required to report the identified or suspected non-compliance to an appropriate authority pursuant to anti-money laundering legislation. In these circumstances, the issues considered by the practitioner may be complex and the practitioner may consider it appropriate to obtain legal advice.

⁴⁰ See, for example, Section 140.7 and Section 225.53 of the IESBA Code.

⁴¹ See, for example, Section 225.55 of the IESBA Code