

Instituut van de Bedrijfsrevisoren  
Institut des Réviseurs d'Entreprises

Koninklijk Instituut - Institut royal

Mr Ken Siong  
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The President

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Our reference  
SVB

Your reference

Date

**03-09-2015**

Dear Mr Siong,

**Re: Comments on IESBA Exposure Draft of May 2015 "Responding to Non-Compliance with Laws and Regulations"**

The Belgian *Instituut van de Bedrijfsrevisoren - Institut des Réviseurs d'Entreprises* (IBR-IRE) thanks the International Ethics Standards Board for Accountants (IESBA) for its invitation to answer to the IESBA Exposure Draft "Responding to Non-Compliance with Laws and Regulations" (hereinafter "ED").

In the light of what IBR-IRE responded to the previous ED "Responding to a Suspected Illegal Act", IBR-IRE welcomes the improvements made to the ED which take into account the fact that the IESBA Code is not meant to override national law and should be applied without prejudice to any applicable legal provisions in any jurisdiction.

Indeed, IBR-IRE drew IESBA's attention to the fact that compliance with the provisions proposed in the previous ED would give rise to a violation of the registered auditor's duty of confidentiality (professional secrecy) under Belgian law. IBR-IRE therefore thanks IESBA for having included a reference to this issue in the last line of paragraph 225.27 of the ED in that "Disclosure would be precluded if it would be contrary to law or regulation".

In this respect, however, the ED does not address how to deal with situations which arise as part of cross-border engagements, including group audit situations. It is the case where, for example, in one jurisdiction, a disclosure would be prohibited whilst in another jurisdiction, such disclosure would be mandatory. This is particularly problematic where some jurisdictions have laws with extraterritorial outreach (e.g. FCPA, UK Bribery Act, etc.). This aspect might need to be looked at further.



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In sum of what is set out above and as set out in previous letters addressed to IESBA, IBR-IRE emphasizes the need to facilitate convergence in order to enhance IESBA's credibility and therefore regrets that the ED cannot be seen as a step towards convergence. It only acknowledges the existence of different legal systems. The issuance of guidance would therefore have been more appropriate.

In addition, the view of the Board of IBR-IRE on the ED can still be summarized as follows:

- the proposed provisions are in our opinion jeopardizing the necessary trust between the auditor and his client; if the confidentiality is not guaranteed, the auditor, who has no judiciary power or competence to obtain information, may not receive the information by the audited entity that is necessary to perform the audit; and
- there may be a number of practical difficulties arising from the lack of definition of e.g. a "suspected" Non-Compliance with Laws and Regulations (NOCLAR)..

Furthermore, IBR-IRE would like to emphasize that the Belgian law contributes to a favourable environment for the audit quality. When fraud is detected, the board of directors and, in certain circumstances, the general meeting of shareholders and the public through the audit report, are informed according to the ISAs.

In this context, IBR-IRE fully subscribes to the objectives and requirements already included in the International Standard of Auditing (ISA) 250 on "Consideration of Laws and Regulations in an Audit of Financial Statements", which includes having to respond appropriately to NOCLAR or suspected NOCLAR during an audit. IBR-IRE is also duly following the project of the IAASB to revise ISA 250. Both independent boards should nonetheless be cautious not to go far beyond extant ISA 250.

Please do not hesitate to contact us should you need any further information.

Yours sincerely,



 Daniel KROES  
President