



# Draft AUASB Board Meeting Summary Paper

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**AGENDA ITEM NO.** 5  
**Meeting Date:** 25 October 2016  
**Subject:** NOCLAR (ISA 250 and conforming amendments)  
**Date Prepared:** 17 October 2016

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**Action Required**

**For Information Purposes Only**

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## Agenda Item Objectives

1. To consider the timing of the adoption of ISA 250 and the conforming amendments to other standards; and
2. To consider and approve the compelling reasons for modifying the ISA's.

## Background

The IAASB issued the final revised ISA 250 on 5 October 2016. [Refer Agenda Item 5.2] In summary the changes in ISA 250 relate to:

- Align aspects of ISA 250 (Revised) to the NOCLAR provisions in the IESBA Code, particularly the definition of non-compliance and the examples of laws and regulations within the scope of ISA 250 (Revised) (see paragraphs 12, A6 and A9–A10 of ISA 250 (Revised)).
- Clarify the requirement regarding the auditor's determination of whether to report identified or suspected NOCLAR to an appropriate authority outside the entity and the auditor's duty of confidentiality, in order to recognize the different provisions of laws, regulations, or relevant ethical requirements (see paragraphs 29 and A28–A34 of ISA 250 (Revised)).
- Highlight that the auditor may have additional responsibilities under law, regulation, or relevant ethical requirements regarding identified or suspected NOCLAR. This also includes additional emphasis of the possible documentation requirements contained in law, regulation or relevant ethical requirements (see paragraph 9 of ISA 250 (Revised)).
- Highlight the implications of identified or suspected NOCLAR on the audit, for example, the reliability of management's representations, the implications for the auditor's report, and the consideration of whether to withdraw from the engagement (see paragraphs 22 and A23–A27 of ISA 250 (Revised)).
- Emphasize the requirements in the IESBA Code relating to the communication of identified or suspected NOCLAR to a group engagement partner or an auditor at a component (see paragraph A8 of ISA 250 (Revised)).

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*This document contains preliminary views and/or AUASB Technical Group recommendations to be considered at a meeting of the AUASB, and does not necessarily reflect the final decisions of the AUASB. No responsibility is taken for the results of actions or omissions to act on the basis of reliance on any information contained in this document (including any attachments), or for any errors or omissions in it.*

- Draw attention to the fact that, in certain cases, communication with management or those charged with governance may be restricted or prohibited by law or regulation, 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 (see paragraphs 20, 23 and A21 of ISA 250 (Revised)).
- Furthermore, conforming amendments were also made to a number of other International Standards to reflect the matters indicated above or clarify the expected work effort with regard to identified or suspected NOCLAR. These include ISQC 1; ISA 210; ISA 220; ISA 240; ISA 260; ISA 500; ISRE 3000, ISAE 3402; ISAE 3410; and ISRS 4410.

## **Matters to Consider**

### ***Part A – General***

The AUASB is requested to consider the matters below:

- (a) Timing of the adoption by the APESB of IESBA NOCLAR amendments to the Code
- Changes to the NOCLAR provisions in the IESBA code were issued on 14 July 2016.
  - ISA 250 has been amended to align with changes in the IESBA code. ASA 250 can only be amended once these changes have been adopted by the APESB.
  - The APESB approved a project plan for implementation of the IESBA changes in August 2016 with a view to developing an exposure draft for the Board’s consideration at the APESB meeting on 29 November 2016.
  - Given that mid-December to mid-January is a traditionally quiet time in Australia, the ED will likely have an extended exposure period of 90 days.
  - At the time APESB consulted in Australia in respect of the NOCLAR ED, stakeholders (for example, SMP practices) had divergent views and there is the potential for the APESB to receive a high number of questions/issues which may impact the timing of release of the final standard.
  - In addition, IESBA is going through a complete restructure of the Code and it is highly likely that the section and paragraph references will be redundant. For example, section 200 under the new Code actually addresses members in business rather than members in public practice. IESBA is expected to issue the Code’s restructure ED in Dec 2016 which will incorporate NOCLAR in the new format with section and paragraph referencing which differs from its July 2016 Standard. However, the stated intention is that the substance of the requirements will be maintained.
  - The AUASB and APESB will need to work together where appropriate to ensure that engagement with our stakeholders is conducted in a synchronised manner.
- (b) Issue arising from AUASB “Aus” additions contained in existing ASA 250 [refer Agenda Item 5.5 for a copy of existing ASA 250]

<b><i>ASA 250 Para ref</i></b>	<b><i>Extract</i></b>	<b><i>Suggestion</i></b>
Aus A11.1	Review of breach registers and equivalent records (for example, complaints, whistleblower or suspicious matter reports register).	Remove  This paragraph was originally included in ASA 250 based on feedback obtained from the 2009 exposure process.  Whilst the paragraph provides helpful guidance it does not meet the rationale in the compelling reason test (which requires an inconsistency with Australian regulatory arrangements or

<i>ASA 250 Para ref</i>	<i>Extract</i>	<i>Suggestion</i>
		principles and practices considered appropriate in Australia).
Aus A18.1	<p>Reporting Non-Compliance in the Auditor’s Report on the Financial Report (Ref: Para. 25)</p> <p>If, in the case of an audit conducted under the Corporations Act 2001, the auditor identifies non-compliance with an Australian Accounting Standard, defects or irregularities in the financial report or deficiencies, failures or shortcomings in respect of sec 307 of the Act, the auditor’s report is to include the information required by the Act.<sup>1</sup> The auditor needs to consider and other relevant laws and regulations. If the auditor is in doubt as to the proper interpretation of laws or regulations, or whether non-compliance has in fact occurred, the auditor ordinarily seeks legal advice before expressing an opinion on the financial report.</p> <p>* See sections 308 (2) and (3) of the <i>Corporations Act 2001</i></p>	<p>Remove</p> <p>This requirement is covered in AUS 700 Aus A58.1 which states:</p> <p>When the audit of a financial report is conducted in accordance with the <i>Corporations Act 2001</i> (the “Act”), section 308(3)(b) of that Act requires the auditor to describe in the auditor’s report and deficiency, failure or shortcoming in respect of certain matters referred to in section 307(b), (c) or (d) of that Act.</p>
Aus A29.1	<p>In certain circumstances, the auditor has a statutory responsibility to report instances of non-compliance with laws and regulations. For example, in certain circumstances, the auditor is required under the <i>Corporations Act 2001</i>, to report to the Australian Securities and Investments Commission (ASIC)*. Establishing the appropriate authority to which such a report would be made in a particular instance will depend on the nature and circumstances of the non-compliance. When in doubt, the auditor would ordinarily seek legal advice.</p> <p>* See ASIC Regulatory Guide 34 Auditors’ obligations: Reporting to ASIC (May 2013) that provides guidance to help auditors comply with their obligations, under sections 311, 601HG and 990K of the Corporations Act 2001, to report contraventions and suspected contraventions of the Act to ASIC.</p>	<p>Retain</p> <p>This Aus paragraph is in the extant and meets the compelling reason test as it results in effective and efficient compliance with a legal framework in Australia (the <i>Corporations Act 2001</i>).</p>

**Part B – NZAuASB**

The AUASB has liaised with the NZAuASB who not raised any significant issues on this ISA at this time. The NZAuASB technical group is taking a draft ED on ISA 250 to their October 2016 NZAuASB meeting for the board’s consideration. The NZ Ethics Board updated their code for the IESBA amendments in July 2016.

## ***Part C – “Compelling Reasons” Assessment***

Refer agenda item 5.5

### **AUASB Technical Group Recommendations**

To delay the adoption of ISA 250 and conforming amendments until the APESB have confirmed timing of the release of the NOCLAR ED. This will enable the AUASB and APESB to work together where appropriate to synchronise engagement with our stakeholders during the release of our respective EDs.

### **Material Presented**

Agenda Item 5	AUASB Board Meeting Summary Paper
Agenda Item 5.1	Project plan
Agenda Item 5.2	Final ISA 250 (marked-up from extant)
Agenda Item 5.3	Basis for Conclusions ISA 250
Agenda Item 5.4	Extant ASA 250
Agenda Item 5.5	Compelling reason test

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### Action Required

No.	Action Item	Deliverable	Responsibility	Due Date	Status
1.	Advise on timing of the project given that the APESB are still consulting on the required IESBA amendments to the APESB code	Advice on appropriate timing	AUASB	25 October 2016	o/s
2.	Approve the proposed compelling reason modifications to ISA 250	Approval	AUASB	25 October 2016	o/s