



AUASB Board Meeting Summary Paper

AGENDA ITEM NO. **6**
Meeting Date: 29 November 2016
Subject: NOCLAR (ASA 250 and conforming amendments)
Date Prepared: 16 November 2016

Action Required

For Information Purposes Only

Agenda Item Objectives

1. To consider the timing of the exposure drafts on ASA 250 and the amending standard in light of the APESB adoption of IESBA changes to NOCLAR;
2. To consider and approve the compelling reasons for modifying the ISA's; and
3. To consider and approve the exposure drafts, with timing dependent on resolution of point 1 above.

Background

The IAASB issued the final revised ISA 250 on 5 October 2016. [Refer Agenda Item 6.3] 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)).
- Emphasise 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)).
- 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

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.

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.
- Subject to the timing of the issuance of the exposure drafts, the AUASB Technical Group have prepared for AUASB approval:
 - ASA 250 ED 05-16 *Consideration of Laws and Regulations in an Audit of a Financial Report*
 - ASA 2016-1 ED 06-16 *Amendments to Australian Auditing Standards*

Matters to Consider

Part A – General

The AUASB is requested to consider the matters below:

Objective 1: 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. A revised ASA 250 in line with ISA 250 can only be issued once these changes have been adopted by the APESB.

APESB NOCLAR

- 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.
- The ED is expected to 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 restructure of the Code which may render section and paragraph references redundant. 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. The stated intention is that the substance of the requirements will be maintained.
- Based on the above the AUASB and APESB will need to work together where appropriate to ensure that engagement with our stakeholders is conducted in a synchronised manner.
- A member of the AUASB Technical Group will be attending the APESB meeting on 29 November 2016. A report of these discussions will be presented to the AUASB as part of this agenda item.

Objective 2: Issue arising from AUASB “Aus” additions contained in existing ASA 250 [refer Agenda Item 6.5 for a copy of existing ASA 250]

ASA 250 Para ref	Extract	Suggestion
Aus A11.1	<p>Review of breach registers and equivalent records (for example, complaints, whistleblower or suspicious matter reports register).</p>	<p>Remove</p> <p>This paragraph was originally included in ASA 250 based on feedback obtained from the 2009 exposure process.</p> <p>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 principles and practices considered appropriate in Australia).</p>
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.¹ 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 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> <p>Refer compelling reason test, AI 6.6</p>

Part B – NZAuASB

The NZAuASB approved the IESBA NOCLAR amendments to their Professional and Ethical Standard 1 (PES1) on 25 August 2016.

Following the changes to PES 1, the NZAuASB approved the International Standard on Auditing (New Zealand)(ISA (NZ)) 250 (Revised) and Conforming Amendments to ISAs (NZ) and Other Pronouncements during the NZAuASB meeting held on 27 October 2016.

Part C – “Compelling Reasons” Assessment

Refer agenda item x.6

AUASB Technical Group Comments

The AUASB has a strategic objective of “contributing to the development of and converging with one set of robust international auditing and assurance standards”. Delays in the implementation of the IESBA NOCLAR changes by the APESB may delay this objective. The status of the APES 110 ED (including the NOCLAR provisions referred to by the ASA 250 ED) is being discussed at the APESB meeting on 29 November 2016. A member of the Technical Group is scheduled to attend for this agenda item and will provide an update to the AUASB.

As a result, the timing of APESB project remains uncertain. The AUASB Technical Group is seeking AUASB approval of the most appropriate course of action in relation the following scenarios:

Scenario 1: If the APESB issues the APES 110 ED in December 2016, the AUASB to issue the AUASB EDs simultaneously with a 90 day comment period (to align with the APESB); or

Scenario 2: If the APESB delays issuance of the APES 110 ED, the AUASB could:

- Release the ASA 250 and amending standard EDs with references to proposed changes to the APESB Code; or
- Delay the release of the ASA 250 and amending standard EDs until the APESB approves the release of APES 110 ED.

AUASB Technical Group Recommendation

1. Timing of the release of exposure drafts on ASA 250 and amending standard:
 - If scenario 1 occurs, the AUASB Technical Group recommends the AUASB approve the release the exposure drafts on ASA 250 and amending standard with references to proposed changes to the APESB Code, subject to internal quality control review.
 - If scenario 2 occurs, the AUASB Technical Group recommends the AUASB delays the release of the ASA 250 and ASA 2016-x EDs until the APESB have confirmed timing of the release of the NOCLAR ED.
2. The AUASB approve the compelling reason test in relation to proposed ASA 250 Aus para. A29.1
3. The AUASB approves the exposure drafts on ASA 250 and amending standard, to be released subject to the decision made above.

Material Presented

Agenda Item 6	AUASB Board Meeting Summary Paper
Agenda Item 6.1	ASA 250 Exposure Draft
Agenda Item 6.2	ASA 2016-1 Exposure Draft
Agenda Item 6.3	Final ISA 250 (marked-up from extant)
Agenda Item 6.4	Basis for Conclusions ISA 250
Agenda Item 6.5	Extant ASA 250
Agenda Item 6.6	Compelling reason test

Action Required

No.	Action Item	Deliverable	Responsibility	Due Date	Status
1.	Approve the timing of the release of the exposure drafts on ASA 250 and amending standard	Approval in relation to timing	AUASB	29 November 2016	o/s
2.	Approve the compelling reason test in relation to ASA 250 Aus para. A29.1	Approval	AUASB	29 November 2016	o/s
2.	Approve the exposure drafts on ASA 250 and the amending standard	Approval	AUASB	29 November 2016	o/s