

EXPOSURE DRAFT

ED 06-2016

(December 2016)

Proposed Auditing Standard ASA 2016-1 *Amendments to Australian Auditing Standards*

Issued for Comment by the **Auditing and Assurance Standards Board**



Australian Government

Auditing and Assurance Standards Board

Commenting on this Exposure Draft

Comments on this Exposure Draft should be received by no later than 15 March 2017. Comments should be addressed to:

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Formal Submissions

Submissions should be lodged online via the “Work in Progress-Open for Comment” page of the Auditing and Assurance Standards Board (AUASB) website (www.auasb.gov.au/Work-In-Progress/Open-for-comment.aspx) as a PDF document and Word document.

A copy of all non-confidential submissions will be placed on public record on the AUASB website: www.auasb.gov.au

Obtaining a Copy of this Exposure Draft

This Exposure Draft is available on the AUASB website: www.auasb.gov.au

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PREFACE

Reasons for Issuing ED 06-2016

The AUASB issues exposure draft ED 06-2016 of proposed Auditing Standard ASA 2016-1 *Amendments to Australian Auditing Standards* pursuant to the requirements of the legislative provisions and the Strategic Direction explained below.

The AUASB is an Australian Government Entity established under section 227A of the *Australian Securities and Investments Commission Act 2001*, as amended (ASIC Act). Under section 336 of the *Corporations Act 2001*, the AUASB may make Auditing Standards for the purposes of the corporations legislation. These Auditing Standards are legislative instruments under the *Legislative Instruments Act 2003*.

Under the Strategic Direction given to the AUASB by the Financial Reporting Council (FRC), the AUASB is required, inter alia, to develop auditing standards that have a clear public interest focus and are of the highest quality.

Main Proposals

This proposed Auditing Standard makes amendments to the requirements and/or application & other explanatory material of the following Auditing Standards:

- | | |
|-----------|---|
| ASQC 1 | <i>Quality Control for Firms that Perform Audits and Reviews of Financial Reports and Other Financial Information, Other Assurance Engagements and Related Services Engagements (27 October 2009)</i> |
| ASA 210 | <i>Agreeing the Terms of Audit Engagements (27 October 2009)</i> |
| ASA 220 | <i>Quality Control for an Audit of a Financial Report and Other Historical Information (27 October 2009)</i> |
| ASA 240 | <i>The Auditor's Responsibilities Relating to Fraud in an Audit of a Financial Report (27 October 2009)</i> |
| ASA 260 | <i>Communication with Those Charged with Governance (27 October 2009)</i> |
| ASA 450 | <i>Evaluation of Misstatements Identified During the Audit (27 October 2009)</i> |
| ASA 500 | <i>Audit Evidence (27 October 2009)</i> |
| ASRE 2400 | <i>Review of a Financial Report Performed by an Assurance Practitioner Who is Not the Auditor of the Entity (26 March 2013)</i> |
| ASAE 3000 | <i>Assurance Engagements Other than Audits or Reviews of Historical Financial Information (24 June 2014)</i> |
| ASAE 3402 | <i>Assurance Reports on Controls at a Service Organisation (24 June 2014)</i> |
| ASAE 3410 | <i>Assurance Engagements on Greenhouse Gas Statements (24 June 2014)</i> |

The amendments arise from changes made by the International Auditing and Assurance Standards Board (IAASB) to ISA 250. Under the Strategic Direction given to the AUASB by the Financial Reporting Council (FRC), the AUASB is required to have regard to any programme initiated by the IAASB for the revision and enhancement of the International Standards on Auditing (ISAs) and to make appropriate consequential amendments to the Australian Auditing Standards.

Proposed Operative Date

It is intended that this proposed Auditing Standard will be operative for financial reporting periods commencing on or after 15 December 2017.

Request for Comments

Comments are invited on this Exposure Draft of the proposed issuance of ASA 2016-1 *Amendments to Australian Auditing Standards* by no later than 15 March 2017. The AUASB is seeking comments from respondents on the following questions:

1. Have applicable laws and regulations been appropriately addressed in the proposed standard?
2. Are there any references to relevant laws or regulations that have been omitted?
3. Are there any laws or regulations that may, or do, prevent or impede the application of the proposed standard, or may conflict with the proposed standard?
4. What, if any, are the additional significant costs to/benefits for auditors and the business community arising from compliance with the requirements of this proposed standard? If there are significant costs, do these outweigh the benefits to the users of audit services?
5. Are there any other significant public interest matters that constituents wish to raise?

The AUASB prefers that respondents express a clear opinion on whether the proposed Auditing Standard, as a whole, is supported and that this opinion be supplemented by detailed comments, whether supportive or critical, on the above matters. The AUASB regards both supportive and critical comments as essential to a balanced review of the proposed Auditing Standard.

AUTHORITY STATEMENT

The Auditing and Assurance Standards Board (AUASB) makes this Auditing Standard ASA 2016-1 *Amendments to Australian Auditing Standards* pursuant to section 227B of the *Australian Securities and Investments Commission Act 2001* and section 336 of the *Corporations Act 2001*.

Conformity with International Standards on Auditing

This Auditing Standard has been made for Australian legislative purposes. It contains a series of proposed miscellaneous amendments to various Australian Auditing Standards (as shown) arising from the proposed revision of the existing ASA 250. These proposed amendments, in the main, reflect similar amendments made to the equivalent International Standards on Auditing (ISAs).

Compliance with the amended Australian Auditing Standards enables compliance with the amended ISAs.

AUDITING STANDARD ASA 2016-1

Amendments to Australian Auditing Standards

Application

1. This Auditing Standard applies to:
 - an audit of a financial report for a financial year, or an audit of a financial report for a half-year, in accordance with the *Corporations Act 2001*; and
 - an audit of a financial report, or a complete set of financial statements, for any other purpose.
2. This Auditing Standard also applies, as appropriate, to an audit of other historical financial information.

Operative Date

3. This Auditing Standard is operative for financial reporting periods commencing on or after 15 December 2017.

Introduction

Scope of this Auditing Standard

4. This Auditing Standard makes amendments to the Australian Auditing Standards. The amendments arise from:
 - (a) Consequential changes arising from revisions to ASA 250 *Consideration of Laws and Regulations in an Audit of a Financial Report*.
 - (b) Changes made by the International Auditing and Assurance Standards Board (IAASB) to ISA 250 *Consideration of Laws and Regulations in an Audit of a Financial Report* resulting from enhancements aimed at addressing laws and regulations.

Objective

5. The objective of this Auditing Standard is to make amendments to the following Auditing Standards:
 - (a) ASQC 1 *Quality Control for Firms that Perform Audits and Reviews of Financial Reports and Other Financial Information, Other Assurance Engagements and Related Services Engagements* (27 October 2009)
 - (b) ASA 210 *Agreeing the Terms of Audit Engagements* (27 October 2009)
 - (c) ASA 220 *Quality Control for an Audit of a Financial Report and Other Historical Information* (27 October 2009)
 - (d) ASA 240 *The Auditor's Responsibilities Relating to Fraud in an Audit of a Financial Report* (27 October 2009)
 - (e) ASA 260 *Communication with Those Charged with Governance* (27 October 2009)
 - (f) ASA 450 *Evaluation of Misstatements Identified During the Audit* (27 October 2009)
 - (g) ASA 500 *Audit Evidence* (27 October 2009)

- (h) ASRE 2400 *Review of a Financial Report Performed by an Assurance Practitioner Who is Not the Auditor of the Entity* (26 March 2013)
- (i) ASAE 3000 *Assurance Engagements Other than Audits or Reviews of Historical Financial Information* (24 June 2014)
- (j) ASAE 3402 *Assurance Reports on Controls at a Service Organisation* (24 June 2014)
- (k) ASAE 3410 *Assurance Engagements on Greenhouse Gas Statements* (24 June 2014)

Definition

6. For the purposes of this Auditing Standard, the meanings of terms are set out in each Auditing Standard and in the *AUASB Glossary*. This Auditing Standard does not introduce new definitions.

Amendments to Auditing Standards

Amendments to ASQC 1

7. Paragraph A56 is amended to read as follows:

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 professional duty~~ to do so.¹ 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.

Amendments to ASA 210

8. Paragraph A26 is amended to read as follows:

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 responsibilities under law, regulation or relevant ethical requirements that address reporting identified or suspected non-compliance with laws and regulations to an appropriate authority outside the entity.
- 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.

¹ See, for example, Section 140.7 and Section 225.35 of APES 110 *Code of Ethics for Professional Accountants* ED 02/16.

Amendments to ASA 220

9. A new paragraph after existing paragraph A8 is inserted as follows:

Law, regulation, or relevant ethical requirements² 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 judgement, the auditor needs to be aware of before deciding whether to accept the engagement. In some circumstances, the predecessor auditor may be required, on request by the proposed successor auditor, to provide information regarding identified or suspected non-compliance with laws and regulations to the proposed successor auditor. For example, where the predecessor auditor has withdrawn from the engagement as a result of identified or suspected non-compliance with laws and regulations, the *Proposed Amendments to APES 110 Code of Ethics for Professional Accountants* exposure draft issued by the Accounting Professional and Ethical Standards Board on December 16 2016 requires that the predecessor auditor, on request by a proposed successor auditor, provides 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.³

10. As a result of the change made above, paragraph references are re-numbered and references to these paragraphs are updated accordingly.

Amendments to ASA 240

11. A new paragraph after existing paragraph 8 is inserted as follows:

The auditor may have additional responsibilities under law, regulation or relevant ethical requirements regarding an entity's non-compliance with laws and regulations, including fraud, which may differ from or go beyond this and other Australian Auditing Standards, such as: (Ref: Para. A6A5)

- (a) Responding to identified or suspected non-compliance with laws and regulations, including requirements in relation to specific communications with management and those charged with governance, assessing the appropriateness of their response to non-compliance and determining whether further action is needed;
- (b) Communicating identified or suspected non-compliance with laws and regulations to other auditors (e.g., in an audit of a group financial report); and
- (c) Documentation requirements regarding identified or suspected non-compliance with laws and regulations.

Complying with any additional responsibilities may provide further information that is relevant to the auditor's work in accordance with this and other Australian Auditing Standards (e.g., regarding the integrity of management or, where appropriate, those charged with governance).

12. Existing paragraph 40 is amended to read as follows:

If the auditor has identified a fraud or has obtained information that indicates that a fraud may exist, the auditor shall communicate these matters, unless prohibited by law or regulation, on a timely basis ~~with~~ 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. (Ref: Para. ~~A60–A61~~A60)

13. Existing paragraph 41 is amended to read as follows:

² See, for example, Sections 210.14 of APES 110 *Code of Ethics for Professional Accountants* ED 02/16.

³ See, for example, Sections 225.31 of APES 110 *Code of Ethics for Professional Accountants* ED 02/16.

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 report,

the auditor shall communicate these matters ~~with~~ those charged with governance on a timely basis. If the auditor suspects fraud involving management, the auditor shall communicate these suspicions ~~with~~ 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. ~~A60~~, Aus ~~A61.1A60.1 -A64A63~~)

14. Existing paragraph 42 is amended to read as follows:

The auditor shall communicate, unless prohibited by law or regulation, with those charged with governance any other matters related to fraud that are, in the auditor's judgement, relevant to their responsibilities. (Ref: Para. ~~A60~~, ~~A65A64~~)

15. The heading above existing paragraph 43 is amended to read as follows:

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

16. Existing paragraph 43 is amended to read as follows:

If the auditor has identified or suspects a fraud, the auditor shall determine whether law, regulation or relevant ethical requirements; ~~there is a responsibility to report the occurrence or suspicion to a party outside the entity. Although the auditor's professional duty to maintain the confidentiality of client information may preclude such reporting, the auditor's legal responsibilities may override the duty of confidentiality in some circumstances.~~ (Ref: Para. ~~A6665 -A6867~~)

- (a) Require the auditor to report to an appropriate authority outside the entity.
- (b) Establish responsibilities under which reporting to an appropriate authority outside the entity may be appropriate in the circumstances.

17. New headings are inserted after existing paragraph A5 as follows:

Responsibility for the Prevention and Detection of Fraud

Responsibilities of the Auditor (Ref: Para. 9)

18. A new paragraph after existing paragraph A5 (and new heading) is inserted as follows:

Law, regulation or relevant ethical requirements may require the auditor to perform additional procedures and take further actions. For example, the *Proposed Amendments to APES 110 Code of Ethics for Professional Accountants* exposure draft issued by the Accounting Professional and Ethical Standards Board on December 16 2016 requires the auditor to take steps to respond to identified or suspected non-compliance with laws and regulations and determine whether further action is needed. Such steps may include the communication of identified or suspected non-compliance with laws and regulations to other auditors within a group, including a group engagement partner, component auditors or other auditors

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performing work at components of a group for purposes other than the audit of the group financial report.⁴

19. The heading after existing paragraph A60 is amended to read as follows:
Communications to Management and Those Charged With Governance (Ref: Para. 41-43)

20. A new paragraph before existing A60 is inserted as follows:

In some jurisdictions, law or regulation 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 the entity, for example, when the auditor is required to report the fraud 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.

21. The heading above existing paragraph A65 is amended to read as follows:

Communications to Regulatory and Enforcement Authorities Reporting Fraud to an Appropriate Authority outside the Entity (Ref: Para. 44-43)

22. Existing paragraph A65 is amended as follows:

ASA 250 (Revised)⁵ provides further guidance with respect to the auditor's determination of whether reporting identified or suspected non-compliance with laws or regulations to an appropriate authority outside the entity is required or appropriate in the circumstances, 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 to a party outside the client entity. However, the auditor's legal responsibilities vary by country and, in certain circumstances, the duty of confidentiality may be overridden by statute, the law or courts of law. 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.

23. Existing paragraph A66 is amended to read as follows:

The determination required by paragraph 44 may involve complex considerations and professional judgements. Accordingly, the auditor may consider consulting internally (e.g., within the firm or a network firm) or 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). The auditor may also consider 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 in the circumstances, the purpose of which is to ascertain the steps necessary in considering the public interest aspects of identified fraud.

24. As a result of the changes made above, paragraph references are re-numbered and references to these paragraphs are updated accordingly.

Amendments to ASA 260

25. Existing paragraph 7 is amended to read as follows:

⁴ See Sections 225.21–225.22 of APES 110 *Code of Ethics for Professional Accountants* ED 02/16.

⁵ See ASA 250, *Consideration of Laws and Regulations in an Audit of a Financial Report*, paragraphs A28–A34

~~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 the entity, for example, when the auditor is required to report identified or suspected 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.~~

Amendments to ASA 450

26. Existing paragraph 8 is amended to read as follows:

The auditor shall communicate, unless prohibited by law or regulation, on a timely basis all misstatements accumulated during the audit with the appropriate level of management, ~~unless prohibited by law or regulation.~~⁶ The auditor shall request management to correct those misstatements. (Ref: Para. A7–A9)

27. Existing paragraph A8 is amended to read as follows:

~~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 the entity, for example, when the auditor is required to report identified or suspected non-compliance with law or regulation to an appropriate authority pursuant to anti-money laundering 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 it appropriate to obtain legal advice.~~

Amendments to ASA 500

28. Existing paragraph 7 is amended to read as follows:

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–A34~~33~~)

29. Existing paragraph A26 is amended to read as follows:

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 law, regulation or 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.

30. A new paragraph after existing paragraph A33 is inserted as follows:

ASA 250⁷ 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

⁶ See ASA 260, *Communication with Those Charged with Governance*, paragraph 7

⁷ See ASA 250, *Consideration of Laws and Regulations in an Audit of a Financial Report*, paragraph 9

information that is relevant to the auditor's work in accordance with Australian Auditing Standards and evaluating the implications of such non-compliance in relation to other aspects of the audit.

31. As a result of the changes made above, paragraph references are re-numbered and references to these paragraphs are updated accordingly.

Amendments to ASRE 2400

32. Existing paragraph 48 is amended to read as follows:

The practitioner's enquiries of management and others within the entity, as appropriate, shall include the following: (Ref: Para. A84–A93~~87~~)

- (d) The existence of any actual, suspected or alleged:
- (i) Fraud or illegal acts affecting the entity; and
 - (ii) Non-compliance with provisions of laws and regulations that are generally recognised to have a direct effect on the determination of material amounts and disclosures in the financial report, such as tax and superannuation laws and regulations;

33. The heading above existing paragraph 52 is amended to read as follows:

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

34. Existing paragraph 52 is amended to read as follows:

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, unless prohibited by law or regulation, with ~~to~~ the appropriate level of ~~senior~~ management or those charged with governance as appropriate; (Ref: Para. A92)
- (b) Request management's assessment of the effect(s), if any, on the financial report;
- (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 report and on the practitioner's report; and
- (d) Determine whether law, regulation or relevant ethical requirements; ~~there is a responsibility to report the occurrence or suspicion of fraud or illegal acts to a party outside the entity.~~ (Ref: Para. A92~~93~~–A95)
 - (i) Require the practitioner to report to an appropriate authority outside the entity.
 - (ii) Establish responsibilities under which reporting to an appropriate authority outside the entity may be appropriate in the circumstances.

35. A new paragraph after existing A87 is inserted as follows:

The practitioner may have additional responsibilities under law, regulation or relevant ethical requirements regarding an entity's non-compliance with laws and regulations, including fraud, which may differ from or go beyond this ASRE, such as:

- (a) Responding to identified or suspected non-compliance with laws and regulations, including requirements in relation to specific communications with management and those charged with governance and considering whether further action is needed;
- (b) Communicating identified or suspected non-compliance with laws and regulations to an auditor, for example a group engagement partner;⁸ and
- (c) Documentation requirements regarding identified or suspected non-compliance with laws and regulations.

Complying with any additional responsibilities may provide further information that is relevant to the practitioner's work in accordance with this Assurance Standard (e.g., regarding the integrity of management or, where appropriate, those charged with governance).

36. The heading before existing paragraph A92 is amended to read as follows:

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

37. A heading before existing paragraph A92 is inserted as follows:

Communication with management and those charged with governance

38. A new paragraph before existing A92 is inserted as follows:

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

39. Existing paragraph A92 is amended to read as follows:

~~Under this ISRE, if the practitioner has identified or suspects fraud or illegal acts, the practitioner is required to determine whether there is a responsibility to report the occurrence or suspicion to a party outside the entity. Reporting identified or suspected non-compliance with laws and regulations to an appropriate authority outside the entity may be required or appropriate in the circumstances 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 identified or suspected non-compliance in accordance with relevant ethical requirements (see paragraph A93); or
- (c) Law, regulation or relevant ethical requirements provide the practitioner with the right to do so (see paragraph A94).

~~Although the practitioner's professional duty to maintain the confidentiality of client information may preclude such reporting, the practitioner's legal responsibilities may override the duty of confidentiality in some circumstances.~~

⁸ See, for example, Sections 225.44–225.48 of APES 110 *Code of Ethics for Professional Accountants* ED 02/16.

40. A new paragraph after existing A92 is inserted as follows:

In some cases, the relevant ethical requirements may require the practitioner to report or to consider whether reporting identified or suspected fraud or non-compliance with laws and regulations to an appropriate authority outside the entity is an appropriate action in these circumstances. For example, the *Proposed Amendments to APES 110 Code of Ethics for Professional Accountants* exposure draft issued by the Accounting Professional and Ethical Standards Board on December 16 2016 requires the practitioner to take steps to respond to identified or suspected non-compliance with laws and regulations, and consider whether further action is needed, which may include reporting to an appropriate authority outside the entity.⁹ The APESB Code explains that such reporting would not be considered a breach of the duty of confidentiality under the *Proposed Amendments to APES 110 Code of Ethics for Professional Accountants* exposure draft issued by the Accounting Professional and Ethical Standards Board on December 16 2016.¹⁰

41. A new paragraph after existing A92 (and insertion above) is inserted as follows:

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

42. A new paragraph after existing A92 (and insertions above) is inserted as follows:

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.

43. A new paragraph after existing A92 (and insertions above) is inserted as follows:

The determination required by paragraph 52(d) may involve complex considerations and professional judgements. Accordingly, the practitioner may consider consulting internally (e.g., within the firm or a network firm) or on a confidential basis with a regulator or a professional body (unless doing so is prohibited by law or regulation or would breach the duty of confidentiality). The practitioner may also consider obtaining legal advice to understand the practitioner's options and the professional or legal implications of taking any particular course of action.

44. As a result of the changes made above, paragraph references are re-numbered and references to these paragraphs are updated accordingly.

Amendments to ASAE 3000

45. Existing paragraph 45 is amended to read as follows:

The practitioner shall make enquiries 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–A102)
- (b) Whether the responsible party has an internal audit function and, if so, make further enquiries to obtain an understanding of the activities and main findings of the internal audit function with respect to the subject matter information; and

⁹ See, for example, Section 225.51 to 225.52 of *APES 110 Code of Ethics for Professional Accountants* ED 02/16.

¹⁰ See, for example, Section 140.7 and Section 225.53 of *APES 110 Code of Ethics for Professional Accountants* ED 02/16.

- (c) Whether the responsible party has used any experts in the preparation of the subject matter information.

46. Existing paragraph 78 is amended to read as follows:

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. A193+92–A199)

47. A new paragraph after existing A101 is inserted as follows:

The practitioner may have additional responsibilities under law, regulation or relevant ethical requirements regarding an entity's non-compliance with laws and regulations, which may differ from or go beyond the practitioner's responsibilities under this ASAE, such as:

- (a) Responding to identified or suspected non-compliance with laws and regulations, including requirements in relation to specific communications with management and those charged with governance and considering whether further action is needed;
- (b) Communicating identified or suspected non-compliance with laws and regulations to an auditor;¹¹ and
- (c) Documentation requirements regarding identified or suspected non-compliance with laws and regulations.

Complying with any additional responsibilities may provide further information that is relevant to the practitioner's work in accordance with this and any other ASAE (e.g., regarding the integrity of the responsible party or those charged with governance). Paragraphs A194–A198 further address the practitioner's responsibilities under law, regulation or relevant ethical requirements regarding communicating and reporting identified or suspected non-compliance with laws and regulations.

48. A new heading after existing paragraph A192 is inserted as follows:

Communication with Management and Those Charged with Governance

49. A new paragraph after existing paragraph A192 (and heading) is inserted as follows:

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, 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.

50. A new heading is inserted below existing paragraph A192 (and changes above) as follows:

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

51. A new paragraph below existing paragraph A192 (and changes above) is inserted as follows:

¹¹ See, for example, Sections 225.44–225.48 of APES 110 *Code of Ethics for Professional Accountants* ED 02/16.

Law, regulation or relevant ethical requirements may:

- (a) Require the practitioner to report identified or suspected non-compliance with laws and regulations to an appropriate authority outside the entity.
- (b) Establish responsibilities under which reporting to an appropriate authority outside the entity may be appropriate in the circumstances.¹²

52. A new paragraph after existing paragraph A192 (and changes above) is inserted as follows:

Reporting identified or suspected non-compliance with laws and regulations to an appropriate authority outside the entity may be required or appropriate in the circumstances 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 identified or suspected non-compliance in accordance with relevant ethical requirements; or.
- (c) Law, regulation or relevant ethical requirements provide the practitioner with the right to do so.

53. A new paragraph after existing paragraph A192 (and changes above) is inserted as follows:

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 ASAE, 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 judgement 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.

54. A new paragraph after existing paragraph A192 (and changes above) is inserted as follows:

In some 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. In other cases, reporting identified or suspected non-compliance to an appropriate authority outside the entity would not be considered a breach of the duty of confidentiality under the relevant ethical requirements.¹³

55. A new paragraph after existing paragraph A192 (and changes above) is inserted as follows:

The practitioner may consider consulting internally (e.g., within the firm or network firm), obtaining legal advice to understand 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 regulation or would breach the duty of confidentiality).¹⁴

56. As a result of the changes made above, paragraph references are re-numbered and references to these paragraphs are updated accordingly.

¹² See, for example, Section 225.51 to 225.52 of APES 110 *Code of Ethics for Professional Accountants* ED 02/16.

¹³ See, for example, Section 140.7 and Section 225.53 of APES 110 *Code of Ethics for Professional Accountants* ED 02/16.

¹⁴ See, for example, Section 225.55 of APES 110 *Code of Ethics for Professional Accountants* ED 02/16.

Amendments to ASAE 3402

57. Existing paragraph 56 is amended to read as follows:

If the service auditor becomes aware of non-compliance with laws and regulations, fraud, or uncorrected errors attributable to the service organisation 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 organisation is unwilling to do so, the service auditor shall take appropriate action. (Ref: Para. A53)

58. Existing paragraph A53 is amended to read as follows:

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 organisation.
- Determining whether to communicate with third parties (e.g., law, regulation or relevant ethical requirements may require the service auditor to report to an appropriate authority outside the entity or the external auditor of the service organisation,¹⁵ or establish responsibilities under which such reporting may be appropriate in the circumstances). ~~Communicating with third parties (for example, a regulator) when required to do so.~~
- Modifying the service auditor's opinion, or adding an Other Matter paragraph.
- Withdrawing from the engagement.

Amendments to ASAE 3410

59. Paragraph 78 is amended to read as follows:

The practitioner shall communicate, unless prohibited by law or regulation, ~~with~~ 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 judgement, are of sufficient importance to merit attention;
- (b) Identified or suspected fraud; and
- (c) Matters involving identified or suspected non-compliance with laws and ~~or~~ regulations, other than when the matters are clearly trivial. (Ref: Para. A87)

¹⁵ See, for example, Section 225.44 to 225.48 of APES 110 *Code of Ethics for Professional Accountants* ED 02/16.