

EXPOSURE DRAFT

ED 5/07
(December 2007)

**Proposed Standard on
Assurance Engagements
ASAE 3100
*Compliance Engagements***

Prepared and 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 forwarded so as to arrive by no later than 15 February 2008. Comments should be addressed to:

The Chairman
Auditing and Assurance Standards Board
PO Box 204
Collins Street West
Melbourne Victoria 8007
AUSTRALIA
E-mail: edcomments@auasb.gov.au

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
Alternatively, any individual or organisation may obtain one printed copy of this Exposure Draft without charge until no later than 15 February 2008 by contacting:

Auditing and Assurance Standards Board Phone: (03) 8080 7400
Level 7 Fax: (03) 8080 7450
600 Collins Street E-mail: enquiries@auasb.gov.au
Melbourne Victoria 3000
AUSTRALIA

Postal Address:
PO Box 204
Collins Street West
Melbourne Victoria 8007
AUSTRALIA

COPYRIGHT

© 2007 Auditing and Assurance Standards Board (AUASB). The text, graphics and layout of this Exposure Draft are protected by Australian copyright law and the comparable law of other countries. The Exposure Draft may be reproduced in print for the sole purpose of preparing a written submission to the AUASB in respect of the Exposure Draft. Otherwise, no part of the Exposure Draft may be reproduced, stored or transmitted in any form or by any means without the prior written permission of the AUASB except as permitted by law.

ISSN 1030-603X

CONTENTS

PREFACE

AUTHORITY STATEMENT

	<i>Paragraphs</i>
Application.....	1
Operative Date	2
Introduction.....	3-5
<i>Relationship with Other ASAEs, ASAs and ASREs</i>	6-7
<i>Inability to Comply with Mandatory Requirements</i>	8
Objective of a Compliance Engagement.....	9-10
Definitions	11
General Principles of a Compliance Engagement	
<i>Ethical Requirements</i>	12-14
<i>Quality Control</i>	15-16
<i>Compliance Engagement Acceptance and Continuance</i>	17-18
<i>Agreeing on the Terms of the Compliance Engagement</i>	19-21
Planning and Performing the Compliance Engagement.....	22-28
<i>Understanding the Entity</i>	29-31
<i>Elements of a Compliance Framework</i>	32-33
<i>Assessing the Appropriateness of the Subject Matter</i>	34-36
<i>Assessing the Suitability of the Criteria</i>	37-40
Materiality and Compliance Engagement Risk.....	41
<i>Materiality</i>	42-43
<i>Compliance Engagement Risk</i>	44-51
Obtaining Evidence.....	52-58
<i>Representations by the Responsible Party</i>	59-62
Using the Work of an Expert	63-64

Proposed Standard on Assurance Engagements ASAE 3100
Compliance Engagements

Evaluation and Communication of Deficiencies and Breaches ..	65-70
Considering Subsequent Events.....	71-72
Documentation.....	73-75
Preparing the Compliance Report.....	76-80
Compliance Report Content.....	81-83
<i>Reporting Additional Information - Findings and Recommendations</i>	84
<i>Modifications to the Compliance Report</i>	85-88
Other Reporting Responsibilities	89-90
Conformity with International Standards on Compliance Engagements	91

PREFACE

Reasons for Issuing ED 5/07

The Auditing and Assurance Standards Board (AUASB) makes Auditing Standards under section 336 of the *Corporations Act 2001* for the purposes of the corporations legislation and formulates auditing and assurance standards for other purposes.

The AUASB issues proposed Standard on Assurance Engagements ASAE 3100 *Compliance Engagements* pursuant to the requirements of the legislative provisions explained below and to provide practitioners with an overarching ASAE which they can apply when undertaking any compliance engagement.

The *Corporate Law Economic Reform Program (Audit Reform and Corporate Disclosure) Act 2004* (the CLERP 9 Act) established the AUASB as an independent statutory body under section 227A of the *Australian Securities and Investments Commission Act 2001* (ASIC Act), as from 1 July 2004. Under section 227B of the ASIC Act the AUASB may formulate Assurance Standards for other purposes.

Main Proposals

This proposed Standard on Assurance Engagements (ASAE) establishes mandatory requirements and provides explanatory guidance for performing and reporting on compliance engagements.

This proposed ASAE establishes standards for compliance engagements conducted by assurance practitioners to meet emerging needs of key stakeholders as regulators and others place greater emphasis on assurance of specific reporting obligations under contracts, legislation or regulatory frameworks. However, the proposed ASAE 3100 has been developed as an adjunct standard to ASAE 3000 *Assurance Engagements Other than Audits or Reviews of Historical Financial Information*. Consistent with ASAE 3000, the proposed ASAE 3100 is directed towards the conduct of both compliance audit and compliance review engagements by assurance practitioners in accordance with ASAEs.

For explanatory guidance on compliance with subject matter specific reporting obligations, under pronouncements issued by regulators, legislators or statutory bodies, the AUASB has issued subject matter specific Guidance Statements.

Proposed Standard on Assurance Engagements ASAE 3100
Compliance Engagements

Proposed Operative Date

It is intended that this ASAE will be operative for reporting periods or engagements commencing on or after 1 July 2008.

**Proposed Standard on Assurance Engagements ASAE 3100
*Compliance Engagements***

Request for Comments

Comments are invited on this Exposure Draft by no later than 15 February 2008. The AUASB is seeking comments from respondents in relation to the following questions:

1. What, if any, are the additional significant costs to/benefits for assurance practitioners and the business community of compliance with this proposed ASAE 3100 *Compliance Engagements*?
2. Are there any significant public interest matters that respondents wish to raise?
3. What are the views of the assurance practitioners on the concepts of materiality defined and used in this proposed ASAE?
4. Should this proposed ASAE provide an illustrative example report for a compliance audit and compliance review engagement?

The AUASB would prefer that respondents express a clear overall opinion on whether the proposed ASAE 3100 *Compliance Engagements*, as a whole, is supported and that this opinion be supplemented by detailed comments, whether supportive or critical, on any matter. The AUASB regards both critical and supportive comments as essential to a balanced review of the proposed ASAE 3100 *Compliance Engagements*.

Proposed Standard on Assurance Engagements ASAE 3100
Compliance Engagements

PROPOSED AUTHORITY STATEMENT

The Auditing and Assurance Standards Board (AUASB) formulates this Proposed Standard on Assurance Engagements ASAE 3100 *Compliance Engagements* as set out in paragraphs 1 to 91, pursuant to section 227B of the *Australian Securities and Investments Commission Act 2001*.

This Proposed Standard on Assurance Engagements is to be read in conjunction with the *Preamble to AUASB Standards*, which sets out the intentions of the AUASB on how the Standards on Assurance Engagements are to be understood, interpreted and applied.

The mandatory requirements of this Proposed Standard on Assurance Engagements are set out in **bold-type** paragraphs.

Dated 14 December 2007

M H Kelsall
Chairman - AUASB

PROPOSED STANDARD ON ASSURANCE ENGAGEMENTS ASAE 3100

Compliance Engagements

Application

- 1 **This Standard on Assurance Engagements (ASAE) applies to compliance engagements including both reasonable assurance and limited assurance engagements, where the practitioner concludes on an entity's compliance with requirements as measured by the suitable criteria.**

Operative Date

- 2 **This ASAE is operative for reporting periods or engagements commencing on or after 1 July 2008.**

Introduction

- 3 The purpose of this ASAE is to establish mandatory requirements and provide explanatory guidance for performing and reporting on compliance engagements.
- 4 An entity may have an obligation to comply with externally and/or internally imposed requirements. These requirements may be established through law and regulation, contractual arrangements or internally imposed requirements, for example company policies. This ASAE establishes mandatory requirements and explanatory guidance for practitioners engaged to provide assurance on an entity's compliance with such requirements as measured by the suitable criteria.
- 5 This ASAE uses the terms "reasonable assurance engagement" and "limited assurance engagement" to distinguish between the two types of compliance engagements that an assurance practitioner may perform.

Relationship with Other ASAEs, ASAs and ASREs

- 6 **The assurance practitioner shall comply with this ASAE, ASAE 3000 *Assurance Engagements Other than Audit or Reviews of Historical Financial Information*, and other relevant ASAEs when performing a compliance engagement.**

Proposed Standard on Assurance Engagements ASAE 3100
Compliance Engagements

- 7 ASAE 3000 has been written for general application to assurance engagements other than audits or reviews of historical financial information covered by ASAs or ASREs. This ASAE has been written for specific application to compliance engagements. Other ASAEs may relate to topics that apply to all subject matters or be subject matter specific. When an assurance engagement includes a number of subject matters on which there are topic specific ASAEs, e.g. performance engagements and compliance engagements, in accordance with paragraph 6, the assurance practitioner needs to apply the relevant topic specific ASAEs as well as ASAE 3000 in performing the assurance engagement.

Inability to Comply with Mandatory Requirements

- 8 **Where in rare and exceptional circumstances, factors outside the assurance practitioner's control prevent the assurance practitioner from complying with a relevant mandatory requirement in this ASAE and/or ASAE 3000, the assurance practitioner shall:**
- (a) **if possible, perform appropriate alternative assurance procedures; and**
 - (b) **document in the working papers:**
 - (i) **the circumstances surrounding the inability to comply;**
 - (ii) **the reasons for the inability to comply; and**
 - (iii) **justification of how alternative assurance procedures achieve the objectives of the mandatory requirement.**

When the assurance practitioner is unable to perform appropriate alternative assurance procedures, the assurance practitioner shall consider the implications for the assurance practitioner's report.

Objective of a Compliance Engagement

- 9 **The objective of a compliance engagement is to enable the assurance practitioner to express a conclusion on whether an entity has complied in all material respects, with requirements as measured by the suitable criteria.**

Proposed Standard on Assurance Engagements ASAE 3100
Compliance Engagements

- 10 The responsibility for an entity’s compliance with requirements as measured by the suitable criteria rests with the responsible party. A compliance engagement does not relieve the responsible party of its obligations to ensure compliance with requirements as measured by the suitable criteria.

Definitions

- 11 In this ASAE the following terms have the meanings attributed below:
- (a) “An attitude of professional scepticism” means the assurance practitioner makes a critical assessment, with a questioning mind, of the validity of evidence obtained and is alert to evidence that contradicts or brings into question the reliability of documents and responses to enquiries and other information obtained from management and the responsible party.
 - (b) “Assurance Practitioner” means a person or an organisation, whether in public practice, industry, commerce or the public sector, involved in the provision of assurance services.
 - (c) “Assertion-based Engagement” means a compliance engagement where an entity asserts compliance with requirements as measured by the suitable criteria, and the assurance practitioner evaluates and expresses a conclusion to enhance the intended user’s confidence in the entity’s assertion.
 - (d) “Compliance” means in the context of the compliance engagement adherence by the entity to the requirements as measured by the suitable criteria.
 - (e) “Compliance Engagement” means an assurance engagement in which a practitioner expresses a conclusion, after evaluating an entity’s compliance with the requirements as measured by the suitable criteria.
 - (f) “Compliance Engagement Risk” means the risk that the assurance practitioner expresses an inappropriate conclusion when the entity is materially non compliant with the requirements as measured by the suitable criteria.
 - (g) “Direct Reporting Engagement” means a compliance engagement where the assurance practitioner directly

Proposed Standard on Assurance Engagements ASAE 3100
Compliance Engagements

evaluates an entity's compliance with requirements as measured by the suitable criteria and expresses a conclusion to the intended users in a compliance report.

- (h) "Intended users" means the person, persons or class of persons for whom the assurance practitioner prepares the compliance report. The responsible party can be one of the intended users, but may not be the only one.
- (i) "Limited Assurance Engagement" means an assurance engagement where the assurance practitioner's objective is a reduction in compliance engagement risk to a level that is acceptable in the circumstances of the assurance engagement¹, as the basis for a negative form of expression of the assurance practitioner's conclusion, but where that risk is greater than that for a reasonable assurance engagement,
- (j) "Material" means:
 - (i) in relation to potential (for planning purposes) and detected (for reporting purposes), instances of non compliance that are significant in the context of the entity's compliance with the requirements as measured by the suitable criteria and that affect the assurance practitioner's conclusion which is communicated to the intended users of the compliance engagement report; and/or
 - (ii) in relation to the compliance framework and controls instances of deficiency that are significant in the context of the entity's control environment and that may raise the compliance engagement risk sufficiently to affect the assurance practitioner's conclusion, which is communicated to the intended users of the compliance engagement report.
- (k) "Reasonable Assurance Engagement" means an assurance engagement where the assurance practitioner's objective is a reduction in compliance engagement risk to an acceptably low level in the circumstances of the engagement¹ as the basis for a positive form of expression of the assurance

¹ Engagement circumstances include the terms of the engagement, including whether it is a reasonable assurance engagement or a limited assurance engagement, the characteristics of the subject matter, the criteria to be used, the needs of the intended users, relevant characteristics of the responsible party and its environment, and other matters, for example events, transactions, conditions and practices, that may have a significant effect on the engagement.

Proposed Standard on Assurance Engagements ASAE 3100
Compliance Engagements

practitioner's conclusion. Reasonable assurance means a high, but not absolute, level of assurance.

- (l) "Responsible Party" means the person (or persons) who:
 - (i) In a direct reporting engagement, is responsible for the subject matter.
 - (ii) In an assertion-based engagement, is responsible for the subject matter information (the assertion).
- (m) "Suitable criteria" means the reasonable and attainable standards of compliance set by the authority governing the entity's operations which are subject to the compliance engagement. Suitable criteria would need to have the following characteristics:
 - (i) Reliability: reliable criteria allow reasonably consistent evaluation or measurement of the subject matter, when used in similar circumstances by similarly qualified assurance practitioners.
 - (ii) Neutrality: neutral criteria contribute to conclusions that are free from bias.
 - (iii) Understandability: understandable criteria contribute to conclusions that are clear, comprehensive, and not subject to significantly different interpretations.

General Principles of a Compliance Engagement

Ethical Requirements

- 12 **The assurance practitioner shall comply with the fundamental ethical principles of integrity, objectivity, professional competence and due care, confidentiality and professional behaviour.**
- 13 The concept of independence is fundamental to the assurance practitioner's compliance with the principles of integrity and objectivity under paragraph 12 of this ASAE.

Proposed Standard on Assurance Engagements ASAE 3100
Compliance Engagements

- 14 The applicable code of conduct of a professional accounting body² provides a framework of principles that members of assurance teams, firms and network firms use to identify threats to independence, evaluate the significance of those threats and, if the threats are other than clearly insignificant:
- (a) identify and apply safeguards to eliminate the threats; or
 - (b) reduce them to an acceptable level,
- such that independence of mind and independence in appearance are not compromised.

Quality Control

- 15 **The assurance practitioner shall implement procedures to address the following elements of a quality control system that apply to an individual compliance engagement:**
- (a) **leadership responsibilities for quality on the compliance engagement;**
 - (b) **ethical requirements;**
 - (c) **acceptance and continuance of client relationships and specific compliance engagements;**
 - (d) **assignment of compliance engagement teams;**
 - (e) **conduct of the compliance engagement; and**
 - (f) **monitoring.**
- 16 See ASAE 3000 for explanatory guidance.

Compliance Engagement Acceptance and Continuance

- 17 **The assurance practitioner shall accept (or continue where applicable) a compliance engagement in accordance with the requirements of ASAE 3000.**

² The applicable code of conduct of the professional accounting bodies is *APES 110 Code of Ethics for Professional Accountants*, as issued from time to time by the Accounting Professional and Ethical Standards Board. This code of conduct has been adopted by CPA Australia, National Institute of Accountants and The Institute of Chartered Accountants in Australia.
In addition, codes of conduct issued by other professional bodies may apply.

Proposed Standard on Assurance Engagements ASAE 3100
Compliance Engagements

18 See ASAE 3000 for explanatory guidance.

Agreeing on the Terms of the Compliance Engagement

19 The assurance practitioner shall agree on the terms of the compliance engagement with the responsible party, which shall be recorded in writing by the assurance practitioner and forwarded to the responsible party. Where the compliance engagement is undertaken pursuant to legislation, the minimum applicable compliance engagement terms shall be those contained in the legislation.

20 Under paragraph 19 of this ASAE the assurance practitioner needs to consider:

- (a) the objectives of the compliance engagement;
- (b) the scope of the compliance engagement; and
- (c) the suitable criteria against which compliance is to be assessed.

21 See ASAE 3000 for additional explanatory guidance.

Planning and Performing the Compliance Engagement

22 The assurance practitioner shall plan a compliance engagement so that it will be performed effectively.

23 Planning involves developing an overall strategy for the scope, emphasis, timing and conduct of the engagement, and an engagement plan, consisting of a detailed approach outlining the nature, timing and extent of evidence gathering procedures to be performed and the reasons for selecting them.³ Ordinarily, adequate planning:

- Helps to ensure that appropriate attention is devoted to important areas of the engagement based on an assessment of engagement risk, identify potential problems on a timely basis and properly organise and manage the engagement in order for it to be performed in an effective manner.

³ The planning procedures relevant to an audit engagement are contained in Auditing Standard ASA 300 *Planning an Audit of a Financial Report*, and may be helpful in determining planning procedures applicable to a compliance engagement.

Proposed Standard on Assurance Engagements ASAE 3100
Compliance Engagements

- Assists the assurance practitioner to properly assign work to engagement team members, and facilitates their direction and supervision and the review of their work.
 - Assists, where applicable, in the coordination of work done by other assurance practitioners and experts.
- 24 Under paragraph 22 of this ASAE matters to be considered as part of the planning activities include:
- The terms of the engagement.
 - The characteristics of the requirements and the suitable criteria.
 - The engagement process and possible sources of evidence.
 - Understanding of the entity its environment and the compliance framework, including the risks that the entity may not be compliant with the requirements as measured by the suitable criteria.
 - Identification of intended users and their needs, and consideration of materiality and the components of compliance engagement risk.
 - Personnel and expertise requirements, including the nature and extent of experts' involvement if required.
- 25 Planning is not a discrete phase, but rather a continual and iterative process throughout the compliance engagement. As a result of unexpected events, changes in conditions, or the evidence obtained from the results of evidence-gathering procedures, the assurance practitioner may need to revise the overall strategy and compliance engagement plan, and the nature, timing and extent of further procedures.
- 26 As part of the planning phase of the compliance engagement the assurance practitioner ordinarily performs a combination of evidence-gathering procedures. The types of procedures that may be undertaken include:
- Risk assessment on the overall compliance framework.
 - Compliance framework process review.
 - Compliance framework controls review.

Proposed Standard on Assurance Engagements ASAE 3100
Compliance Engagements

- Review of work performed by the internal compliance function and assessment of the reliance that may be placed on this work by the assurance practitioner.

27 **The assurance practitioner shall plan and perform a compliance engagement with an attitude of professional scepticism recognising that circumstances may exist that cause the entity to be non compliant with the requirements as measured by the suitable criteria.**

28 An attitude of professional scepticism means the assurance practitioner makes a critical assessment, with a questioning mind, of the validity of evidence obtained and is alert to evidence that contradicts or brings into question the reliability of documents and responses to enquiries and other information obtained from the responsible party.

Understanding the Entity

29 **The assurance practitioner shall obtain an understanding of the entity, the requirements, suitable criteria and other compliance engagement circumstances, sufficient to identify and assess the risks of the entity’s non compliance with requirements as measured by the suitable criteria, and sufficient to design and perform further evidence-gathering procedures.**

30 Obtaining an understanding of the compliance environment, requirements, suitable criteria and other engagement circumstances is an essential part of planning and performing a compliance engagement. That understanding ordinarily provides the assurance practitioner with a frame of reference for exercising professional judgement throughout the compliance engagement, for example when:

- Considering the elements of the compliance framework.
- Identifying where special consideration may be necessary, for example factors indicative of fraud, and the need for specialised skills or the work of an expert.
- Establishing and evaluating the continued appropriateness of quantitative materiality levels (where appropriate), and/or considering qualitative materiality factors.
- Designing and performing further evidence-gathering procedures to reduce compliance engagement risk to an acceptable level.

Proposed Standard on Assurance Engagements ASAE 3100
Compliance Engagements

- Evaluating evidence, including the reasonableness of the responsible party's oral and written representations.
- 31 The assurance practitioner ordinarily considers whether the understanding is sufficient to assess the risks that the entity is materially non compliant with the requirements as measured by the suitable criteria.

Elements of a Compliance Framework

- 32 In planning a compliance engagement to facilitate the design of appropriate evidence-gathering procedures the assurance practitioner shall obtain an understanding of the entity's compliance environment, and shall document the key elements of the entity's compliance framework.**
- 33 The nature and extent of planning and subsequent evidence gathering activities will vary with the engagement circumstances, and the maturity of the entity's compliance framework.

Elements of an entity's compliance framework include the following:

- Procedures for identifying and updating compliance obligations.
- Staff training and awareness programs.
- Procedures for assessing the impact of compliance obligations on the entity's key business activities.
- Controls embedded within key business processes designed to ensure compliance with obligations.
- Processes to identify and monitor the implementation of further mitigating actions required to ensure that compliance obligations are met.
- A monitoring plan to test key compliance controls on a periodic basis and report exceptions.
- Procedures for identifying, assessing, rectifying and reporting compliance incidents and breaches.
- Periodic sign off by management and/or external third party outsourced service providers as to compliance with obligations.

Proposed Standard on Assurance Engagements ASAE 3100
Compliance Engagements

- A compliance governance structure that establishes responsibility for the oversight of compliance control activities with those charged with governance, typically a Board Audit, Risk Management or Compliance Committee.

Assessing the Appropriateness of the Subject Matter

34 The assurance practitioner shall assess the appropriateness of the subject matter.

35 An appropriate subject matter is:

- (a) identifiable, and capable of consistent evaluation or measurement against the suitable criteria; and
- (b) such that the information about it can be subjected to procedures for gathering sufficient appropriate evidence to support a reasonable assurance or limited assurance conclusion, as appropriate.

Examples of subject matters that may be appropriate in a compliance engagement include the following:

- Risk Management Strategy & Plan (RMS/RMP).
- Treasurer's Instructions.
- Managed Investment Schemes – Compliance Plan.

36 See ASAE 3000 for additional explanatory guidance.

Assessing the Suitability of the Criteria

37 The assurance practitioner shall assess the suitability of the criteria to evaluate or measure the subject matter.

38 Where the criteria are prescribed by regulation or legislation, paragraph 37 of this ASAE, may be deemed to be complied with by the assurance practitioner. In circumstances where this is not the case the assurance practitioner needs to assess the suitability of the criteria to measure the requirement.

39 In the context of a compliance engagement, examples of suitable criteria include:

Proposed Standard on Assurance Engagements ASAE 3100
Compliance Engagements

- Externally imposed criteria under law or directives, including:
 - Legislation.
 - Regulation.
 - Other statutory requirements (e.g. ASIC Regulatory Guides and practice notes).
 - Ministerial directives.
 - Industry or professional obligations (professional standards or guidance, codes of practice or conduct).
 - Enforceable contractual obligations.
 - Enforceable undertakings.
- Internally imposed criteria, as determined by management, including:
 - Organisational policies and procedures.
 - Frameworks e.g. compliance framework based on AS 3806 – *Australian Standard Compliance Programs*

40 See ASAE 3000 for additional explanatory guidance.

Materiality and Compliance Engagement Risk

41 The assurance practitioner shall consider materiality and compliance engagement risk when planning and performing a compliance engagement.

Materiality

42 Under paragraph 41 of this ASAE, the assurance practitioner needs to consider materiality when determining the nature, timing and extent of evidence-gathering procedures, and when evaluating whether a compliance breach is material in nature. In considering materiality the assurance practitioner needs to understand and assess what factors might influence the decisions of the intended users.

Proposed Standard on Assurance Engagements ASAE 3100
Compliance Engagements

- 43 Materiality is considered in the context of quantitative and qualitative factors, such as relative magnitude of instances of detected or suspected non compliance, the nature and extent of the effect of these factors on the evaluation of compliance with the requirements as measured by the suitable criteria, and the interests of the intended users. The assessment of materiality and the relative importance of quantitative and qualitative factors in a particular engagement are matters for the assurance practitioner's professional judgement.

Compliance Engagement Risk

- 44 The assurance practitioner shall reduce compliance engagement risk to an acceptable level in the circumstances of the compliance engagement.**
- 45 In a reasonable assurance engagement, under paragraph 44 of this ASAE, the assurance practitioner needs to reduce compliance engagement risk to an acceptably low level in the circumstances of the engagement to obtain reasonable assurance as the basis for a positive form of expression of the assurance practitioner's conclusion. The level of accepted compliance engagement risk is higher in a limited assurance engagement than in a reasonable assurance engagement because of the different nature, timing or extent of evidence gathering procedures.
- 46 In a limited assurance engagement, the combination of the nature, timing, and extent of evidence-gathering procedures is at least sufficient for the assurance practitioner to obtain a meaningful level of assurance as the basis for a negative form of expression of the assurance practitioner's conclusion. To be meaningful, the level of assurance obtained is likely to enhance the intended users' confidence about the entity's compliance with the requirements to a degree that is clearly more than inconsequential.
- 47 In general, compliance engagement risk comprises inherent risk, control risk and detection risk. The degree to which the assurance practitioner's consideration of these components is reflected in the engagement evidence gathering process is affected by the engagement circumstances, in particular the nature of the requirements and whether a reasonable assurance or a limited assurance engagement is being performed. The components of risk that may require further consideration include those pertaining to compliance policies, resources, monitoring, detection and documentation as outlined in paragraph 32 and 33 of this ASAE.

Proposed Standard on Assurance Engagements ASAE 3100
Compliance Engagements

- 48 **Where there are material deficiencies in the entity’s compliance framework the assurance practitioner shall assess the impact on the risk of non-compliance with the requirements as measured by the suitable criteria, and the implication for planning and performing the engagement.**
- 49 Under paragraph 32 of this ASAE, if the assurance practitioner becomes aware of deficiencies in the compliance framework for example:
- a limited or inadequate monitoring plan for key compliance controls over the period; and/or
 - a lack of staff training and awareness of the need to identify, assess and report compliance breaches
- the assurance practitioner needs to consider the following implications:
- (a) risk of non compliance being increased;
 - (b) amount and type of evidence gathering procedures to obtain sufficient appropriate evidence; and
 - (c) reporting of deficiencies to the responsible party and the intended users.
- 50 **The assurance practitioner shall evaluate any compliance breach with the requirements as measured by the suitable criteria to determine if the breach is material, and how this may impact on the assurance practitioner’s planned engagement approach under paragraph 22 of this ASAE.**
- 51 The assurance practitioner ordinarily considers the following factors in evaluating if a compliance breach by the entity with the requirements, is material:
- (a) size, complexity and nature of the entity’s activities;
 - (b) nature of the breach – one off or systematic;
 - (c) evidence of a robust Compliance framework in place to detect, rectify and report compliance breaches;
 - (d) common accepted practice within the relevant industry;
 - (e) regulatory requirements;

Proposed Standard on Assurance Engagements ASAE 3100
Compliance Engagements

- (f) impact on the decisions of the intended users and stakeholders of the entity; and
- (g) specific terms of the compliance engagement.

Obtaining Evidence

52 The assurance practitioner shall obtain sufficient appropriate evidence on which to base the conclusion.

53 Sufficiency is the measure of the quantity of evidence. Appropriateness is the measure of the quality of evidence; that is, its relevance and its reliability. The assurance practitioner ordinarily considers the relationship between the cost of obtaining evidence and the usefulness of the information obtained. However, the matter of difficulty or expense involved is not in itself a valid basis for omitting an evidence-gathering procedure for which there is no alternative. The assurance practitioner uses professional judgement and exercises professional scepticism in evaluating the quantity and quality of evidence, and thus its sufficiency and appropriateness, to support the conclusion in the compliance report.

54 In a compliance engagement evidence may be gathered through enquiry and observation, tests of controls, substantive testing, and representations received from management.⁴

55 The amount of evidence from each source which is deemed by the assurance practitioner to constitute sufficient, reliable evidence to reduce compliance engagement risk to an acceptable level is a matter for the assurance practitioner's professional judgement.

56 A compliance engagement rarely involves the authentication of documentation, nor is the assurance practitioner trained as or expected to be an expert in such authentication. Under paragraph 52 of this ASAE the assurance practitioner needs to consider the reliability of the information to be used as evidence, for example photocopies, facsimiles, filmed, digitised or other electronic documents, including consideration of controls over their preparation and maintenance where relevant.

57 In a compliance engagement sufficient appropriate evidence may be obtained as part of an iterative, systematic engagement process involving:

⁴ The concepts and discussions on evidence relevant to an audit engagement are contained in Auditing Standard ASA 500 *Audit Evidence*, and may be helpful in determining the evidence applicable to a compliance engagement.

Proposed Standard on Assurance Engagements ASAE 3100
Compliance Engagements

- (a) obtaining an understanding of the entity's business and its compliance environment which includes the key elements of the entity's compliance framework;
- (b) obtaining an understanding of the requirements, the suitable criteria and other engagement circumstances which, depending on the subject matter, may include obtaining an understanding of internal controls and testing the effectiveness of these controls;
- (c) obtaining an understanding of the internal compliance function where appropriate and any relevant testing of compliance controls performed as part of that function during the period. Evaluating the results of this testing and the level of reliance that can be placed on this work and the impact on further control and substantive procedures;
- (d) based on the understanding acquired under (a), (b) and (c), assessing the risks that the entity may be non compliant with requirements as measured by the suitable criteria;
- (e) responding to assessed risks, including developing overall responses, and determining the nature, timing and extent of further procedures;
- (f) performing further evidence-gathering procedures clearly linked to the identified compliance engagement risks, using a combination of tests of the operating effectiveness of controls, inspection, observation, confirmation, recalculation, re-performance and enquiry. Such further evidence-gathering procedures involve substantive procedures, including obtaining corroborating information from sources independent of the entity, and depending on the nature of the activity or subject matter; and
- (g) evaluating the sufficiency and appropriateness of evidence.

58 Ordinarily in a compliance engagement the assurance practitioner performs a combination of evidence gathering procedures that reflect a strategy to obtain planned levels of assurance from testing of the compliance framework, controls and substantive testing. It is unlikely that sufficient assurance may be obtained from only performing one type of testing. The type and extent of these procedures will be based on the complexity of the entity, nature of the business and initial risk assessment. The types of procedures that may be undertaken are:

Proposed Standard on Assurance Engagements ASAE 3100
Compliance Engagements

- (a) controls testing and walk throughs in key risk areas;
- (b) substantive testing; and
- (c) enquiries of management and representations.

The results of the above testing are ordinarily evaluated by the assurance practitioner to ensure the evidence gathered is sufficient and appropriate for the purposes of the engagement

Representations by the Responsible Party

59 The assurance practitioner shall endeavour to obtain written representations from the responsible party, as appropriate.

60 Written confirmation of oral representations reduces the possibility of misunderstandings between the assurance practitioner and the responsible party.⁵ In particular, the assurance practitioner ordinarily requests from the responsible party a written representation that measures the requirements against the suitable criteria, whether or not it is to be made available as an assertion to the intended users. Having no written representation may result in a qualified conclusion or a disclaimer of conclusion on the basis of a limitation on the scope of the engagement. The assurance practitioner may also include a restriction on the use of the compliance report.

61 During a compliance engagement, the responsible party may make representations to the assurance practitioner, either unsolicited or in response to specific enquiries. When such representations relate to matters that are material to the requirements evaluation or measurement, the assurance practitioner ordinarily:

- Evaluates their reasonableness and consistency with other evidence obtained, including other representations.
- Considers whether those making the representations can be expected to be well informed on the particular matters.
- Obtains appropriate corroborative evidence.

62 Representations by the responsible party cannot replace other evidence the assurance practitioner may reasonably expect to be

⁵ Matters for consideration and an illustrative example of a representation letter relevant to an audit engagement are contained in Auditing Standard ASA 580 *Management Representations*, and may be helpful in determining representations applicable to a compliance engagement.

Proposed Standard on Assurance Engagements ASAE 3100
Compliance Engagements

available. An inability to obtain sufficient appropriate evidence regarding a matter that has, or may have, a material effect on the evaluation or measurement of the requirement, when such evidence would ordinarily be available, constitutes a limitation on the scope of the engagement, even if a representation from the responsible party has been received on the matter.

Using the Work of an Expert

- 63** When using the work of an expert in a compliance engagement, the assurance practitioner shall collect and evaluate evidence, in accordance with ASAE 3000.
- 64 See ASAE 3000 for explanatory guidance.

Evaluation and Communication of Deficiencies and Breaches

- 65** The assurance practitioner shall evaluate, individually and in aggregate, whether deficiencies and/or compliance breaches that have come to the attention of the assurance practitioner are material to the compliance report.
- 66 Under paragraph 65 of this ASAE, the assurance practitioner needs to exercise professional judgement in evaluating the materiality of deficiencies and compliance breaches.
- 67 In evaluating any deficiencies and compliance breaches the assurance practitioner ordinarily considers materiality as specified in the terms of engagement and the effect on the decisions of the intended users of the compliance report and the assurance practitioner's conclusion.
- 68 For both reasonable assurance and limited assurance engagements, if the assurance practitioner becomes aware of a matter that leads the assurance practitioner to question whether a material compliance breach or deficiency exists, the assurance practitioner would ordinarily pursue the matter by performing other evidence-gathering procedures sufficient to enable the assurance practitioner to report.
- 69** The assurance practitioner shall make the responsible party aware as soon as practicable, of material deficiencies and/or compliance breaches which have come to the assurance practitioner's attention.

Proposed Standard on Assurance Engagements ASAE 3100
Compliance Engagements

- 70 The assurance practitioner's communications with the responsible party may be made orally or in writing. Ordinarily, the assurance practitioner's decision whether to communicate orally or in writing is affected by factors including the following:
- The size, operating structure, legal structure, and communications processes of the entity.
 - The nature, sensitivity and significance of the matters to be communicated.
 - The arrangements made with respect to periodic meetings or reporting of findings from the engagement.
 - The amount of on-going contact and dialogue the assurance practitioner has with the responsible party.

Considering Subsequent Events

- 71 **The assurance practitioner shall consider the effect on the entity's compliance with requirements and the compliance report of events up to the date of the compliance report.**
- 72 The extent of consideration of subsequent events depends on the potential for such events to affect compliance with the requirements as measured by the suitable criteria, and to affect the appropriateness of the assurance practitioner's conclusion. Consideration of subsequent events in some compliance engagements may not be relevant because of the nature of the subject matter and the period which is being reported on. For example, if a one off material breach occurs in the period subsequent to the period, which is being reported, this, may not impact on the assurance practitioner's conclusion however it would ordinarily be reported to the responsible party and may impact on the statutory financial report audit or review for the subsequent period. If the material breach was indicative of a systemic issue that has potential to impact the period on which the assurance practitioner is reporting then those events would require further consideration in assessing the assurance practitioner's conclusion.

Documentation

- 73 **The assurance practitioner shall prepare, on a timely basis, documentation that is sufficient and appropriate to provide:**
- (a) **a basis for the assurance practitioner's conclusion; and**

Proposed Standard on Assurance Engagements ASAE 3100
Compliance Engagements

- (b) **evidence that the compliance engagement was performed in accordance with ASAE 3000, this ASAE and other relevant ASAEs.**

- 74 Documentation required under paragraph 73 of this ASAE, includes a record of the assurance practitioner's reasoning on all significant matters that require the exercise of judgement, and related conclusions.⁶ The existence of difficult questions of principle or judgement calls for the documentation to include the relevant facts that were known by the assurance practitioner at the time the conclusion was reached.
- 75 It is neither necessary nor practical to document every matter the assurance practitioner considers. In applying professional judgement in assessing the extent of documentation to be prepared and retained, the assurance practitioner may consider what is necessary to provide an understanding of the work performed and the basis of the principal decisions taken (but not the detailed aspects of the engagement) to another experienced assurance practitioner who has no previous experience with the engagement. That other assurance practitioner may only be able to obtain an understanding of detailed aspects of the engagement by discussing them with the assurance practitioner who prepared the documentation.

Preparing the Compliance Report

- 76 **The assurance practitioner shall conclude whether sufficient appropriate evidence has been obtained to support the conclusion expressed in the compliance report.**
- 77 In circumstances when a compliance engagement incorporates both reasonable assurance and limited conclusions under paragraph 76 of this ASAE, the assurance practitioner needs to clearly separate the two types of conclusions expressed.
- 78 In developing the conclusion, the assurance practitioner ordinarily considers all relevant evidence obtained, and whether it appears to corroborate or to contradict the subject matter information.
- 79 **The compliance report shall be in writing and shall contain a clear expression of the assurance practitioner's conclusion about**

⁶ The nature, form content and extent of documentation relevant to an audit engagement are contained in Auditing Standard ASA 230 *Audit Documentation*, and may be helpful in determining the nature, form content and extent of documentation applicable to a compliance engagement.

Proposed Standard on Assurance Engagements ASAE 3100
Compliance Engagements

the entity's compliance with the requirements as measured by the suitable criteria.

- 80 ASAE 3000 and this ASAE do not require a standardised format for reporting on all compliance engagements. Instead this ASAE identifies in paragraph 81 the basic elements the compliance report is to include. Compliance reports are tailored to the specific compliance engagement circumstances. The assurance practitioner chooses a short form or long form style of reporting to facilitate effective communication to the intended users. Short-form reports ordinarily include only the basic elements. Long form reports often describe in detail the terms of the compliance engagement, the suitable criteria being used, and findings relating to particular aspects of the compliance engagement and, in some cases, recommendations, as well as the basic elements. Any findings and recommendations are clearly separated from the assurance practitioner's conclusion on the entity's compliance with the requirements as measured by the suitable criteria, and the wording used in presenting them makes it clear whether they affect the assurance practitioner's conclusion. The assurance practitioner may use headings, paragraph numbers, typographical devices, for example the bolding of text and other mechanisms to enhance the clarity and readability of the compliance report.

Compliance Report Content

- 81 **The compliance report shall include the following basic elements:**
- (a) **a title that clearly indicates the report is an independent assurance report;**⁷
 - (b) **an addressee;**
 - (c) **identification and description of the requirements;**
 - (d) **the period of compliance being reported on by the assurance practitioner;**
 - (e) **identification of the suitable criteria;**

⁷ If the assurance practitioner is not in public practice, for example an internal auditor, and if the assurance practitioner or other members of the assurance team and, when applicable, the assurance practitioner's employer, are not independent of the entity in respect of which the assurance engagement is being performed, the lack of independence and the nature of the relationship(s) with the assurance client are prominently disclosed in the professional accountant's report. Also, that report does not include the word "independent" in its title, and the purpose and users of the report are restricted.

Proposed Standard on Assurance Engagements ASAE 3100
Compliance Engagements

- (f) **where appropriate, a description of any significant, inherent limitation associated with the evaluation of the requirements as measured by the suitable criteria;**
- (g) **when the suitable criteria used to evaluate the requirements are available only to specific intended users, or are relevant only for a specific purpose, a statement restricting the use of the compliance report to those intended users or that purpose;**
- (h) **a statement to identify the responsible party and to describe the responsible party's and the assurance practitioner's responsibilities;**
- (i) **a statement that the engagement was performed in accordance with relevant ASAEs and the level of assurance provided;**
- (j) **a summary of the work performed;**
- (k) **the assurance practitioner's conclusion:**
 - (i) **in a reasonable assurance engagement, the conclusion shall be expressed in the positive form;**
 - (ii) **in a limited assurance engagement, the conclusion shall be expressed in the negative form;**
 - (iii) **where the assurance practitioner expresses a conclusion that is other than unqualified, the compliance report shall contain a clear description of all the reasons;**
- (l) **the compliance report date; and**
- (m) **the name of the firm or the assurance practitioner, and a specific location, which ordinarily is the city where the assurance practitioner maintains the office that has responsibility for the engagement.**

82 A report ordinarily describes relevant facts and findings sufficiently to allow readers to understand the basis upon which the assurance practitioner's conclusion has been formed. Findings arise from an examination of the underlying facts, comparisons with suitable criteria and the assurance practitioner's analysis of differences

Proposed Standard on Assurance Engagements ASAE 3100
Compliance Engagements

between what is observed and the suitable criteria, including where applicable the causes and effects of the differences.

83 See ASAE 3000 for explanatory guidance.

Reporting Additional Information - Findings and Recommendations

84 The assurance practitioner may expand the compliance report to include other information and explanations that do not directly affect the assurance practitioner's conclusion, but provide additional useful information to the users. Examples include:

- Disclosure of materiality considerations applied.
- Findings relating to particular aspects of the compliance engagement.
- Recommendations.

Whether to include any such information depends on its significance to the needs of the intended users. Additional information is clearly separated from the assurance practitioner's conclusion and worded in such a manner so as not to affect that conclusion.

Modifications to the Compliance Report

85 The assurance practitioner shall not express an unmodified conclusion when the following circumstances exist and, in the assurance practitioner's judgement, the effect of the matter is that material non compliance with the requirements as measured by the suitable criteria may exist:

- (a) **there is a limitation on the scope of the assurance practitioner's work, that is, circumstances prevent, or the responsible party or the engaging party imposes a restriction that prevents, the assurance practitioner from obtaining evidence required to reduce compliance engagement risk to the appropriate level. The assurance practitioner shall express a qualified conclusion or a disclaimer of conclusion;**
- (b) **in those cases where:**
 - (i) **the assurance practitioner's conclusion is worded in terms of the responsible party's**

Proposed Standard on Assurance Engagements ASAE 3100
Compliance Engagements

assertion, and that assertion is not fairly stated, in all material respects; or

- (ii) **the assurance practitioner’s conclusion is worded directly in terms of the requirements and the suitable criteria, and the entity is non compliant with the requirements as measured by the suitable criteria.**⁸

the assurance practitioner shall express a qualified or adverse conclusion; or

- (c) **when it is discovered, after the engagement has been accepted, that the criteria are unsuitable or the subject matter is not appropriate for a compliance engagement. The assurance practitioner shall express:**
 - (i) **a qualified or adverse conclusion when the unsuitable criteria or inappropriate subject matter is likely to mislead the intended users; or**
 - (ii) **a qualified conclusion or a disclaimer of conclusion in other cases.**

In some cases the assurance practitioner shall consider withdrawing from the engagement.

86 The assurance practitioner shall express a qualified conclusion when the effect of a matter is not so material or pervasive as to require an adverse conclusion or a disclaimer of conclusion. A qualified conclusion is expressed as being “except for” the effects of the matter to which the qualification relates.

87 In those cases where the assurance practitioner’s unqualified conclusion would be worded in terms of the responsible party’s assertion, and that assertion has identified and properly described that the entity is non compliant with the requirements as measured by the suitable criteria, under paragraph 84 of this ASAE, the assurance practitioner needs to either:

⁸ In those direct reporting engagements where the requirement information is presented only in the practitioner’s conclusion, and the practitioner concludes that the requirement does not, in all material respects, conform with the criteria, for example: “In our opinion, except for [...], the compliance plan of XYZ meets the requirements under s601HG(3) of the Corporations Act 2001, in all material respects, based on XYZ criteria,” such a conclusion would also be considered to be qualified (or adverse as appropriate).

Proposed Standard on Assurance Engagements ASAE 3100
Compliance Engagements

- (a) express a qualified or adverse conclusion worded directly in terms of the requirements and the suitable criteria; or
- (b) if specifically required by the terms of the engagement to word the conclusion in terms of the responsible party's assertion, express an unqualified conclusion but emphasise the matter by specifically referring to it in the compliance report.

88 Where an assurance practitioner identifies a matter that gives rise to a qualified, adverse or a disclaimer of conclusion under paragraphs 85 and 86 of this ASAE, the assurance practitioner needs to consider any obligations under the terms of the engagement to separately report these matters to the responsible party and or the intended users of the compliance report.

Other Reporting Responsibilities

89 **In addition to communicating material deficiencies and compliance breaches, the assurance practitioner shall consider other reporting responsibilities as specified in the terms of engagement, including the appropriateness of communicating relevant matters of governance interest arising from the compliance engagement with the responsible party.**

90 **The assurance practitioner shall consider any other reporting obligations set by regulators, legislators and statutory bodies.**

Conformity with International Standards on Compliance Engagements

91 There is no corresponding International Standard on Assurance Engagements.