



AUSTRALASIAN
COUNCIL OF
AUDITORS-GENERAL

13 May 2009

The Chairman
Auditing and Assurance Standards Board
PO Box 204
Collins Street West
Melbourne, Victoria 8007

Dear Ms. Kelsall,

ED 15/09 Proposed Auditing Standard ASA 508 Litigation and Claims (Revised and Redrafted) (Re-Issuance of ASA 508)

Attached is the Australasian Council of Auditors-General (ACAG) response to the Exposure Draft referred to above.

The views expressed in this submission represent those of all Australian members of ACAG.

The opportunity to comment is appreciated and I trust you will find the attached comments useful.

Yours sincerely

A handwritten signature in black ink that reads 'Simon O'Neill'. The signature is written in a cursive style and is positioned above the printed name.

Simon O'Neill
Chairman
ACAG Financial Reporting and Auditing Committee

Proposed Auditing Standard ASA 508 *Litigation and Claims* (Revised and Redrafted)
(Re-issuance of ASA 508)

ACAG has reviewed the proposed Auditing Standard. Below are our responses to the questions raised by the AUASB. In addition, we have included comments on certain matters.

Questions:

1. *Have applicable laws and regulations been appropriately addressed in the proposed standard?*

We believe applicable laws and regulations have been appropriately addressed in the proposed standard.

2. *Are there any references to relevant laws or regulations that have been omitted?*

We believe that the proposed standard has not omitted any references to relevant laws and regulations.

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?*

We do not believe that any laws or regulations prevent or impede the application of the proposed standard, or will conflict with the standard.

4. *What, if any, are the additional significant costs to/benefits for auditors and the business community arising from compliance with the main changes to the Requirements of this proposed Auditing Standard? If there are significant costs, do these outweigh the benefits to the users of audit services?*

We do not believe there are any additional significant costs to the auditors and the business community arising from the compliance with the main changes to the requirements.

5. *Are there any other significant public interest matters that constituents wish to raise?*

We do not have any other significant public interest matters to comment on.

Additional Comments:

Objective

Paragraph 3 of the proposed ASA states:

“The objective of the auditor is to obtain sufficient appropriate audit evidence regarding the completeness of litigation and claims involving the entity.”

ACAG considers the objective would more appropriately be stated as:

“The objective of the auditor is to obtain sufficient appropriate audit evidence regarding the completeness and likely outcome of litigation and claims involving the entity.”

In addition, the objective and/or guidance should clarify whether the objective refers to the completeness of disclosures or completeness of the auditors’ understanding of litigation and claims.

Inconsistent criteria regarding when to obtain written representations from external and in-house legal counsel

The circumstances where an auditor is required to seek direct written representation from the external legal counsel differ from those for seeking written representation from the in-house legal counsel. Paragraph 5 of the proposed ASA requires an auditor to endeavour to seek direct communication with the entity's external legal counsel through a letter of enquiry, only if:

- a risk of material misstatement has been identified; or
- audit procedures indicate that other material litigation or claims may exist.

In contrast, paragraph Aus 6.1 requires an auditor to seek similar information from the in-house legal counsel where they are primarily responsible for litigation and claims, regardless of whether the auditor assesses that a risk of material misstatement exists or there is a possibility that other material litigation or claims exist.

Considering "possible" litigation or claims

Paragraph 7 of the proposed ASA requires auditors to obtain written representation from management and/or those charged with governance regarding known actual and 'possible' litigation and claims whose effect should be considered when preparing the financial report.

However, preceding paragraphs and associated guidance does not consider or distinguish between actual or 'possible' litigation or claims.

Requirement to obtain written representation from management and/or those charged with governance

Paragraph 7 of the proposed ASA includes no reference to ASA 580 (Revised and Redrafted) *Written Representations*. This is inconsistent with other Revised and Redrafted Auditing Standards. Also, appendix 1 of ASA 580 "List of Australian Auditing Standards Containing Requirements for Written Representations" does not include a reference to ASA 508.

Audit Reporting Considerations

Paragraph 6 of the proposed ASA considers the impact on the auditor's report where the auditor cannot communicate with external legal counsel or obtain sufficient appropriate audit evidence. However, auditing reporting considerations for circumstances described in paragraph Aus A8.8(c) and paragraph Aus A8.5 are covered in the guidance section (Aus A8.12 and Aus A8.5 respectively).

As well as being inconsistent within the proposed standard, this is inconsistent with other Revised and Redrafted Auditing standards, for example ASA 600 (Revised and Redrafted)¹, which include a "Reporting Considerations" section in the application paragraphs.

Also it is not clear what the reporting considerations under Aus A8.8(b) would be.

1. See ASA 600 (Revised and Redrafted) *Special Considerations - Audits of a Group Financial Report (Including the Work of Component Auditors)*.

Related Procedures

The placement and numbering of paragraphs Aus 7.2 and Aus A9.2 – Aus A9.3, relating to the discovery of legal matters not previously identified by management, may cause users to misinterpret these paragraphs as being linked to the subsequent events paragraphs Aus 7.1 and A9-Aus A9.1.

Additional Procedures to identify litigation and claims involving the entity

Paragraph Aus A2.1 lists “additional procedures” that are ordinarily performed to identify litigation and claims involving the entity. Not all are additional procedures but are more specific examples of procedures already listed in paragraph 4 and A2.

Example of a Letter of General Letter Enquiry

Paragraph A6 refers to a “letter of general of enquiry”. There is an example of a “letter of specific enquiry” in Appendix Aus 1 but no example of a “letter of general of enquiry”. An example of a “letter of general enquiry” would be useful.

Inconsistency when referencing to other Revised and Redrafted Auditing Standards

There are three different methods used when referring to other Revised and Redrafted Auditing Standards. Firstly, paragraphs 6, Aus A8.9, include the short name of the standard with no footnote. Secondly, paragraphs A3 and A9 include the short name of the standard with a footnote. Finally, paragraphs Aus A8.5, Aus A8.11, Aus A8.12 and Aus A8.13 include the full name of the standard.

Internal Referencing

We make the following suggestions references that do not appear to be correct:

- paragraph Aus 6.1 should be referenced to Aus A8.1-A8.3, not Aus A8.1-Aus A8.2
- paragraph Aus 6.2 should be referenced to Aus A8.4-A8.10, not Aus A8.3-Aus A8.10
- paragraph 7 should be referenced to paragraph Aus A8.13, not Aus A8.12
- the procedures referred to in paragraph Aus A8.3 are outlined in paragraphs Aus A8.7–Aus A8.11, not Aus A8.3-Aus A8.11
- the heading before Aus A8.4 “Legal Counsel’s Response” should include reference to paragraph Aus 6.2
- paragraph Aus A8.12 should refer to paragraph Aus A8.8(c), not Aus A8.7(c).