

# Agenda Item 10-C

## Proposed Disposition of the Present Tense and Other Statements in Redrafted ISA 250

### I. Present tense that have been elevated to a Requirement

Paragraph in Extant ISA 250	Extracts from Extant ISA 250 and Redrafted ISA 250  <b>Note:</b> <i>For ease of reference, extant text containing present tense and proposed text in Redrafted ISA 250 have been shaded.</i>	Paragraph in Redrafted ISA 250	Rationale or Comments
27	<p>When evaluating the possible effect on the financial statements, the auditor considers:</p> <ul style="list-style-type: none"> <li>• The potential financial consequences, such as fines, penalties, damages, threat of expropriation of assets, enforced discontinuation of operations and litigation.</li> <li>• Whether the potential financial consequences require disclosure.</li> <li>• Whether the potential financial consequences are so serious as to call into question the true and fair view (fair presentation) given by the financial statements.</li> </ul> <p><i>Proposed Revision as a Requirement:</i></p> <p><u>When evaluating the potential effect on the financial statements of possible non-compliance with laws and regulations, the auditor shall consider the following matters:</u></p> <p><u>(a) The potential financial consequences;</u></p> <p><u>(b) Whether the potential financial consequences require disclosure; and</u></p> <p><u>(c) Whether the potential financial consequences are so serious as to call into question the true and fair view (or fair presentation in all material respects) given by the financial statements.</u></p>	15	<p>Present tense ('the auditor considers') is contained in extant explanatory guidance that exhibits the nature of an 'essential procedure' and should therefore be a requirement. Accordingly, elevation is proposed — as a consequence, the present tense is removed from explanatory material. Furthermore, this proposed requirement is appropriately interlinked to the preceding requirements in paragraph 14. The examples of "potential financial consequences" contained in the extant, have been retained in the Application Material (paragraph A13).</p>
29	<p>If management does not provide satisfactory information that it is in fact in compliance, the auditor would consult with the entity's lawyer about the application of the laws and regulations to the circumstances and the possible effects on the financial statements. When it is not considered</p>		

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	<p>appropriate to consult with the entity's lawyer or when the auditor is not satisfied with the opinion, <u>the auditor would</u> consider consulting the auditor's own lawyer as to whether a violation of a law or regulation is involved, the possible legal consequences and what further action, if any, <u>the auditor would</u> take.</p> <p><i>Proposed Revision as a Requirement:</i></p> <p><u>When satisfactory information about the entity's compliance with laws and regulations is not provided by management or, as appropriate, those charged with governance, the auditor shall assess the need to obtain legal advice concerning possible non-compliance</u></p>	17	<p>Present tense ('the auditor would') is contained in extant explanatory guidance that exhibits the nature of an 'essential procedure' and should therefore be a requirement. Accordingly, elevation is proposed — as a consequence, the present tense is removed from explanatory material.</p> <p>The proposed Requirement wording has been developed so as to exclude extant wording that clearly exhibits the nature of Application Material.</p>
34	<p><b>If the auditor suspects that members of senior management, including members of the board of directors, are involved in noncompliance, the auditor should report the matter to the next higher level of authority at the entity, if it exists, such as an audit committee or a supervisory board.</b> Where no higher authority exists, or if the auditor believes that the report may not be acted upon or is unsure as to the person to whom to report, <u>the auditor would</u> consider seeking legal advice.</p> <p><i>Proposed Revision as a Requirement:</i></p> <p><b>If the auditor suspects that</b> <del>members of senior</del></p>		Present tense ('the auditor

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	<p><b>management <del>or, including those charged with governance</del> members of the board of directors, are involved in <del>noncompliance</del> non-compliance, the auditor <del>shall</del> <del>should</del> <del>report</del> <u>communicate</u> the matter to the next higher level of authority at the entity, if it exists, such as an audit committee or a supervisory board. <del>Where no higher authority exists, or if the auditor believes that the report may not be acted upon or is unsure as to the person to whom to report, the auditor would consider seeking legal advice.</del> <u>Where no higher authority exists, or if the auditor believes that the <del>report</del> communication may not be acted upon or is unsure as to the person to whom to report, the auditor shall <del>would consider seeking</del> assess the need to obtain legal advice.</u></b></p>	22	<p>would') is contained in extant explanatory guidance that exhibits the nature of an 'essential procedure' and should therefore be a requirement. Accordingly, elevation is proposed — as a consequence, the present tense is removed from explanatory material.</p>

**II. Present tense that have been re-drafted within the Application and Other Explanatory Material**

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2	Detection of non-compliance, regardless of materiality, <u>may affect other aspects of the audit, including, for example, the auditor's requires</u> consideration of <u>the implications for</u> the integrity of management or employees <u>and the possible effect on other aspects of the audit.</u>	A2	Substitution of the words 'requires consideration' for 'may affect...for example', removes the uncertainty of an implicit requirement or obligation within the Application Material.
4	Whether an act constitutes non-compliance is a <u>matter for</u> legal determination <u>which may be, -that</u> <del>is ordinarily</del> beyond the auditor's professional competence <u>to determine.</u>	A3	Proposed text to remove reference to 'ordinarily', as per the clarity re-drafting guidance conventions. Removes uncertainty, because of its presumptive nature, around the meaning of the word 'ordinarily'.
14	In accordance with specific statutory requirements, the auditor may be specifically required to report, as part of the audit of the financial statements, <u>on</u> whether the entity complies with certain provisions of laws or regulations. In these circumstances, <u>it</u> <u>may be necessary for the auditor would audit plan</u> <u>may to include appropriate to tests</u> for compliance with these provisions of the laws and regulations.	A4	Substitution of the words 'the auditor would' for 'it may be necessary for the audit plan to include', removes the uncertainty of an implicit requirement or obligation within the Application Material.
16	In obtaining <u>a this</u> general understanding <u>of the legal and regulatory framework applicable to the entity and the industry or sector, certain laws and regulations that may give rise to business risks and which have a fundamental effect on the operations of the entity, may need particular attention by</u> <del>the auditor, -would particularly recognize that some laws and regulations may give rise to business risks that have a fundamental effect on the operations of the entity.</del>	A5	Substitution of the words 'the auditor would particularly recognize' for 'may need particular attention by the auditor', removes the uncertainty of an implicit requirement or obligation within the Application Material.

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17	To obtain the general understanding of laws and regulations, the auditor <u>may need to would ordinarily for example:</u>	A6	Proposed text to remove reference to 'ordinarily', as per the clarity re-drafting guidance conventions. Removes uncertainty, because of its presumptive nature, around the meaning of the word 'ordinarily'.
28	<del>Documentation of findings would include copies of records and documents and making minutes of conversations, if appropriate.</del>  <u>The auditor's documentation of findings regarding identified or suspected non-compliance with laws and regulations may include, for example:</u>	A22	Substitution of the words 'would include' for 'may include', removes the uncertainty of an implicit requirement or obligation within the Application Material.  This substitution is made within the context of restructuring the application material on documentation so as to acknowledge redrafted ISA 230 'Documentation'.
32	<del>However, the auditor need not do so for matters that are clearly inconsequential or trivial and may consider reaching an agreement with those charged with governance or and -management, in advance, on the nature and type of such matters to be communicated.</del>	A18	Text has been re-formatted and re-arranged to: <ul style="list-style-type: none"> <li>• provide an introduction, because previously, in the extant, the explanatory material was inextricably linked to the corresponding Requirement [see also ISA Redrafted 250 paragraph 20]; and</li> <li>• Substitute the words 'the auditor need not do so' for 'may consider', removes an</li> </ul>

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			awkward expression and the uncertainty of an implicit requirement or obligation within the Application Material
38	The auditor's <u>professional</u> duty <u>to maintain the</u> <del>of confidentiality of client information</del> <u>may</u> <del>would</del> <u>ordinarily</u> preclude reporting <u>identified or suspected</u> <del>Noncompliance</del> <u>a non-compliance with laws and regulations</u> to a <del>third-party</del> <u>outside the client entity</u> .	A19	Substitution of the words 'would ordinarily preclude' for 'may preclude', removes the uncertainty of an implicit requirement or obligation within the Application Material
39	The auditor may conclude that withdrawal from the engagement is necessary when the entity does not take the remedial action that the auditor considers necessary in the circumstances, even when the noncompliance is not material to the financial statements. Factors that <del>would</del> affect the auditor's conclusion include the implications of the involvement of the highest authority within the entity which may affect the reliability of management representations, and the effects on the auditor of continuing association with the entity. In reaching such a conclusion, the auditor <del>would</del> <u>ordinarily seek</u> legal advice.		
31	<i>Proposed Revision:</i> The implications of particular instances of non-compliance <del>discovered</del> <u>identified</u> by the auditor will depend on the relationship of the perpetration and concealment, if any, of the act to specific control activities and the level of management or employees involved.	A16	Redrafted ISA 250 paragraph A16 has been constructed by combining and reformatting extant paragraphs 31 & 39 and by including terminology from Redrafted ISA 580. As a consequence, the present tense is removed from explanatory material.
39	<u>especially</u> <del>Factors that would affect the auditor's conclusion include the</del> <u>implications of arising from</u> the involvement of the highest authority within the entity <del>which may affect the reliability of</del>		Substitution of the words 'would ordinarily seek legal

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	<p><del>management representations, and the effects on the auditor of continuing association with the entity. In reaching such a conclusion, the auditor would ordinarily seek legal advice. In exceptional cases,</del> the auditor may <del>conclude</del> <u>consider that whether</u> withdrawal from the engagement is necessary when:</p> <p>(a) <u>the entity does not take the remedial action that the auditor considers necessary in the circumstances, even when the non-compliance is not material to the financial statements;</u></p> <p>(b) <u>the auditor has identified issues relating to management's commitment to competence, communication and enforcement of integrity and ethical values, or diligence; or</u></p> <p>(c) <u>the auditor believes continuing association with the entity affects the auditor.</u></p> <p><u>In deciding whether withdrawal from the engagement is necessary, the auditor may need to obtain legal advice.</u></p>		advice' for 'may need to obtain legal advice', removes the uncertainty of an implicit requirement or obligation within the Application Material.

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