

## PROPOSED INTERNATIONAL STANDARD ON AUDITING 250 CONSIDERATION OF LAWS AND REGULATIONS IN AN AUDIT OF FINANCIAL STATEMENTS

(Effective for engagements to report on financial statements for periods  
ending on or after XXXX)

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International Standard on Auditing (ISA) 250, *Consideration of Laws and Regulations in an Audit of Financial Statements*, should be read in conjunction with ISA 200, *Overall Objectives of the Independent Auditor and the Conduct of an Audit in Accordance with International Standards on Auditing*.

## Introduction

### Scope of this ISA

1. This International Standard on Auditing (ISA) deals with the auditor's responsibility to consider laws and regulations in an audit of financial statements. This ISA does not apply to other assurance engagements in which the auditor is specifically engaged to test and report separately on compliance with specific laws or regulations.

### Effect of Laws and Regulations

2. The effect on financial statements of laws and regulations varies considerably. Those laws and regulations to which an entity is subject constitute the legal and regulatory framework. The provisions of some laws or regulations have a direct effect on the financial statements in that they determine the reported amounts and disclosures in an entity's financial statements. Other laws or regulations are to be complied with by management or set the provisions under which the entity is allowed to conduct its business but do not have a direct effect on an entity's financial statements. Some entities operate in heavily regulated industries (such as banks and chemical companies). Others are subject only to the many laws and regulations that relate generally to the operating aspects of the business (such as those related to occupational safety and health, and equal employment opportunity). Non-compliance with laws and regulations may result in fines, litigation or other consequences for the entity that may have a material effect on the financial statements.

### Responsibility for Compliance with Laws and Regulations (Ref: Para. A1–A6)

3. It is the responsibility of management, with the oversight of those charged with governance, to ensure that the entity's operations are conducted in accordance with the provisions of laws and regulations, including compliance with the provisions of laws and regulations that determine the reported amounts and disclosures in an entity's financial statements.

### *Responsibility of the Auditor*

4. The requirements in this ISA are designed to assist the auditor in identifying material misstatement of the financial statements due to non-compliance with laws and regulations. However, the auditor is not responsible for preventing non-compliance and cannot be expected to detect non-compliance with all laws and regulations.
5. The auditor is responsible for obtaining reasonable assurance that the financial statements, taken as a whole, are free from material misstatement, whether caused by fraud or error.<sup>1</sup> In conducting an audit of financial statements, the auditor takes into account the applicable legal and regulatory framework. Owing to the inherent limitations of an audit, there is an unavoidable risk that some material misstatements in the financial statements may not be detected, even though the audit is properly planned and performed in accordance with the ISAs.<sup>2</sup> In the context of laws and regulations, the

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<sup>1</sup> ISA 200, *Overall Objectives of the Independent Auditor and the Conduct of an Audit in Accordance with International Standards on Auditing*, paragraph 5

<sup>2</sup> ISA 200, paragraphs A51–A52

potential effects of inherent limitations on the auditor's ability to detect material misstatements are greater for such reasons as the following:

- There are many laws and regulations, relating principally to the operating aspects of an entity, that typically do not affect the financial statements and are not captured by the entity's information systems relevant to financial reporting.
- Non-compliance may involve conduct designed to conceal it, such as collusion, forgery, deliberate failure to record transactions, management override of controls or intentional misrepresentations being made to the auditor.
- Whether an act constitutes non-compliance is ultimately a matter for legal determination to be determined by an a court or other appropriate legal or adjudicative body.

Ordinarily, the further removed non-compliance is from the events and transactions reflected in the financial statements, the less likely the auditor is to become aware of it or to recognize the non-compliance.

6. This ISA distinguishes the auditor's responsibilities in relation to compliance with two different categories of laws and regulations as follows: (Ref: Para. A5a, A8–A9)
  - (a) The provisions of those laws and regulations generally recognized to have a direct effect on the determination of material amounts and disclosures in the financial statements such as tax and pension laws and regulations (see paragraph 13) (Ref: Para. A8); and
  - (b) Other laws and regulations that do not have a direct effect on the determination of the amounts and disclosures in the financial statements, but compliance with which may be fundamental to the operating aspects of the business, to an entity's ability to continue its business, or to avoid material penalties (for example, compliance with the terms of an operating license, compliance with regulatory solvency requirements, or compliance with environmental regulations); non-compliance with such laws and regulations may therefore have a material effect on the financial statements (see paragraph 14) (Ref: Para. A9).
7. In this ISA, differing requirements are specified for each of the above categories of laws and regulations. For the category referred to in paragraph 6(a), the auditor's responsibility is to obtain sufficient appropriate audit evidence regarding compliance with the provisions of those laws and regulations. For the category referred to in paragraph 6(b), the auditor's responsibility is limited to undertaking specified audit procedures to help identify non-compliance with those laws and regulations that may have a material effect on the financial statements.
8. The auditor is required by this ISA to remain alert to the possibility that other audit procedures applied for the purpose of forming an opinion on financial statements may bring instances of identified or suspected non-compliance to the auditor's attention. Maintaining professional skepticism throughout the audit, as required by ISA 200,<sup>3</sup> is important in this context, given the extent of laws and regulations that affect the entity.
- 8a. The auditor may have additional responsibilities under relevant ethical requirements regarding an entity's non-compliance with laws and regulations, such as requirements to respond to identified or suspected instances of non-compliance with laws and regulations that may differ from or go beyond

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<sup>3</sup> ISA 200, paragraph 15

[this ISA](#). Complying with those additional responsibilities may provide further information that is relevant to the auditor's work in accordance with this and other ISAs (for example, regarding the integrity of management or, where appropriate, those charged with governance).

### Effective Date

9. This ISA is effective for audits of financial statements for periods beginning on or after [date].

### Objectives

10. The objectives of the auditor are:
- (a) To obtain sufficient appropriate audit evidence regarding compliance with the provisions of those laws and regulations generally recognized to have a direct effect on the determination of material amounts and disclosures in the financial statements;
  - (b) To perform specified audit procedures to help identify instances of non-compliance with other laws and regulations that may have a material effect on the financial statements; and
  - (c) To respond appropriately to non-compliance or suspected non-compliance with laws and regulations identified during the audit.

### Definition

11. For the purposes of this ISA, the following term has the meaning attributed below:

Non-compliance – Acts of omission or commission ~~by the entity, either,~~ intentional or unintentional, ~~which are contrary to the prevailing laws or regulations. Such acts include transactions entered into by, or in the name of, the entity, or on its behalf, committed by the entity, or~~ by those charged with governance, ~~by~~ management or ~~employees by other individuals working for, or under the direction of the entity, which are contrary to the prevailing law or regulation.~~ Non-compliance does not include:

- (a) ~~P~~-personal misconduct ~~(unrelated to the business activities of the entity)~~ by those charged with governance, ~~by~~ management, ~~or employees by other individuals working for, or under the direction of the entity.~~
- (b) ~~Non-compliance by persons other than the entity or those charged with governance, by management or by other individuals working for, or under the direction of, the entity.~~

### Requirements

#### The Auditor's Consideration of Compliance with Laws and Regulations

12. As part of obtaining an understanding of the entity and its environment in accordance with ISA 315 (Revised),<sup>4</sup> the auditor shall obtain a general understanding of:
- (a) The legal and regulatory framework applicable to the entity and the industry or sector in which the entity operates; and
  - (b) How the entity is complying with that framework. (Ref: Para. A7)

<sup>4</sup> ISA 315 (Revised), *Identifying and Assessing the Risks of Material Misstatement through Understanding the Entity and Its Environment*, paragraph 11

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13. The auditor shall obtain sufficient appropriate audit evidence regarding compliance with the provisions of those laws and regulations generally recognized to have a direct effect on the determination of material amounts and disclosures in the financial statements. (Ref: Para. A8)
14. The auditor shall perform the following audit procedures to help identify instances of non-compliance with other laws and regulations that may have a material effect on the financial statements: (Ref: Para. A9–A10)
  - (a) Inquiring of management and, where appropriate, those charged with governance, as to whether the entity is in compliance with such laws and regulations; and
  - (b) Inspecting correspondence, if any, with the relevant licensing or regulatory authorities.
15. During the audit, the auditor shall remain alert to the possibility that other audit procedures applied may bring instances of non-compliance or suspected non-compliance with laws and regulations to the auditor's attention. (Ref: Para. A11)
16. The auditor shall request management and, where appropriate, those charged with governance, to provide written representations that all known instances of non-compliance or suspected non-compliance with laws and regulations whose effects should be considered when preparing financial statements have been disclosed to the auditor. (Ref: Para. A12)
17. In the absence of identified or suspected non-compliance, the auditor is not required to perform audit procedures regarding the entity's compliance with laws and regulations, other than those set out in paragraphs 12–16.

**Audit Procedures When Non-Compliance Is Identified or Suspected**

18. If the auditor becomes aware of information concerning an instance of non-compliance or suspected non-compliance with laws and regulations, the auditor shall obtain: (Ref: Para. [A12a-A13](#))
  - (a) An understanding of the nature of the act and the circumstances in which it has occurred; and
  - (b) Further information to evaluate the possible effect on the financial statements. (Ref: Para. A14)
19. If the auditor suspects there may be non-compliance, the auditor shall discuss the matter, [unless prohibited by law or regulation](#), with [the appropriate level of](#) management and, where appropriate, those charged with governance. If management or, as appropriate, those charged with governance do not provide sufficient information that supports that the entity is in compliance with laws and regulations and, in the auditor's judgment, the effect of the suspected non-compliance may be material to the financial statements, the auditor shall consider the need to obtain legal advice. (Ref: Para. A15–A16)
20. If sufficient information about suspected non-compliance cannot be obtained, the auditor shall evaluate the effect of the lack of sufficient appropriate audit evidence on the auditor's opinion.
21. The auditor shall evaluate the implications of non-compliance in relation to other aspects of the audit, including the auditor's risk assessment and the reliability of written representations, and take appropriate action. (Ref: Para. A17–A18)

## Reporting of Identified or Suspected Non-Compliance

### Reporting Identified or Suspected Non-Compliance to Those Charged with Governance

22. Unless all of those charged with governance are involved in management of the entity, and therefore are aware of matters involving identified or suspected non-compliance already communicated by the auditor,<sup>5</sup> the auditor shall communicate with those charged with governance, unless prohibited by law or regulation, matters involving non-compliance with laws and regulations that come to the auditor's attention during the course of the audit, other than when the matters are clearly inconsequential. (Ref: Para. A15–A16)
23. If, in the auditor's judgment, the non-compliance referred to in paragraph 22 is believed to be intentional and material, the auditor shall communicate the matter to those charged with governance as soon as practicable.
24. If the auditor suspects that management or those charged with governance are involved in non-compliance, the auditor shall communicate the matter to the next higher level of authority at the entity, if it exists, such as an audit committee or supervisory board. Where no higher authority exists, or if the auditor believes that the communication may not be acted upon or is unsure as to the person to whom to report, the auditor shall consider the need to obtain legal advice.

### Reporting Implications of Identified or Suspected Non-Compliance ~~in~~for the Auditor's Report ~~on the Financial Statements~~

25. If the auditor concludes that the non-compliance has a material effect on the financial statements, and has not been adequately reflected in the financial statements, the auditor shall, in accordance with ISA 705 (Revised), express a qualified opinion or an adverse opinion on the financial statements.<sup>6</sup> (Ref: Para. A18a)
26. If the auditor is precluded by management or those charged with governance from obtaining sufficient appropriate audit evidence to evaluate whether non-compliance that may be material to the financial statements has, or is likely to have, occurred, the auditor shall express a qualified opinion or disclaim an opinion on the financial statements on the basis of a limitation on the scope of the audit in accordance with ISA 705 (Revised).
27. If the auditor is unable to determine whether non-compliance has occurred because of limitations imposed by the circumstances rather than by management or those charged with governance, the auditor shall evaluate the effect on the auditor's opinion in accordance with ISA 705 (Revised).

### Reporting Identified or Suspected Non-Compliance to ~~Regulatory and Enforcement Authorities~~an Appropriate Authority Outside the Entity

28. If the auditor has identified or suspects non-compliance with laws and regulations, the auditor shall determine whether the auditor has ~~a~~: (Ref: Para. A19–A20)
  - (a) ~~A legal or ethical~~ duty or right to report;
  - (b) An ethical requirement to report; or

<sup>5</sup> ISA 260 (Revised), *Communication with Those Charged with Governance*, paragraph 13

<sup>6</sup> ISA 705 (Revised), *Modifications to the Opinion in the Independent Auditor's Report*, paragraphs 7–8

(c) An ethical responsibility to determine whether to report, or may otherwise report;

the identified or suspected non-compliance to parties an appropriate authority outside the entity, without breaching the duty of confidentiality. ~~(Ref: Para. A19–A20)~~

## Documentation

29. The auditor shall include in the audit documentation identified or suspected non-compliance with laws and regulations and the results of discussion with management and, where applicable, those charged with governance and other parties outside the entity.<sup>7</sup> ~~(Ref: Para. A21–A22)~~

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## Application and Other Explanatory Material

### Responsibility for Compliance with Laws and Regulations (Ref: Para. 3–~~88a~~)

- A1. It is the responsibility of management, with the oversight of those charged with governance, to ensure that the entity's operations are conducted in accordance with laws and regulations. Laws and regulations may affect an entity's financial statements in different ways: for example, most directly, they may affect specific disclosures required of the entity in the financial statements or they may prescribe the applicable financial reporting framework. They may also establish certain legal rights and obligations of the entity, some of which will be recognized in the entity's financial statements. In addition, laws and regulations may impose penalties in cases of non-compliance.
- A2. The following are examples of the types of policies and procedures an entity may implement to assist in the prevention and detection of non-compliance with laws and regulations:
- Monitoring legal requirements and ensuring that operating procedures are designed to meet these requirements.
  - Instituting and operating appropriate systems of internal control.
  - Developing, publicizing and following a code of conduct.
  - Ensuring employees are properly trained and understand the code of conduct.
  - Monitoring compliance with the code of conduct and acting appropriately to discipline employees who fail to comply with it.
  - Engaging legal advisors to assist in monitoring legal requirements.
  - Maintaining a register of significant laws and regulations with which the entity has to comply within its particular industry and a record of complaints.

In larger entities, these policies and procedures may be supplemented by assigning appropriate responsibilities to the following:

- An internal audit function.
- An audit committee.
- A compliance function.

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<sup>7</sup> ISA 230, *Audit Documentation*, paragraphs 8–11, and A6

### Responsibility of the Auditor

- A3. Non-compliance by the entity with laws and regulations may result in a material misstatement of the financial statements. Detection of non-compliance, regardless of materiality, may affect other aspects of the audit including, for example, the auditor's consideration of the integrity of management or employees.
- A4. Whether an act constitutes non-compliance with laws and regulations is a matter [to be determined by a court or other appropriate adjudicative body for legal determination](#), which is ordinarily beyond the auditor's professional competence to determine. Nevertheless, the auditor's training, experience and understanding of the entity and its industry or sector may provide a basis to recognize that some acts, coming to the auditor's attention, may constitute non-compliance with laws and regulations.
- A5. In accordance with specific statutory requirements, the auditor may be specifically required to report, as part of the audit of the financial statements, on whether the entity complies with certain provisions of laws or regulations. In these circumstances, ISA 700<sup>8</sup> or ISA 800<sup>9</sup> deal with how these audit responsibilities are addressed in the auditor's report. Furthermore, where there are specific statutory reporting requirements, it may be necessary for the audit plan to include appropriate tests for compliance with these provisions of the laws and regulations.

### Categories of Laws and Regulations [\(Ref: Para. 6\)](#)

A5a. The nature and circumstances of the entity may impact whether relevant laws and regulations are within the categories of laws and regulations described in paragraphs 6(a) or 6(b). [Additional eE](#)Examples of laws and regulations that may be included in the categories described in paragraph 6 include those that deal with:

- Fraud, corruption and bribery.
- Money laundering, terrorist financing and proceeds of crime.
- Securities markets and trading.
- Banking and other financial products and services.
- [Data protection](#).
- Tax and pension liabilities and payments.
- Environmental protection.
- Public health and safety.

### Considerations Specific to Public Sector Entities

A6. In the public sector, there may be additional audit responsibilities with respect to the consideration of laws and regulations which may relate to the audit of financial statements or may extend to other aspects of the entity's operations.

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<sup>8</sup> ISA 700 (Revised), *Forming an Opinion and Reporting on Financial Statements*, paragraph [43238](#)

<sup>9</sup> ISA 800, *Special Considerations—Audits of Financial Statements Prepared in Accordance with Special Purpose Frameworks*, paragraph 11

## The Auditor's Consideration of Compliance with Laws and Regulations

### *Obtaining an Understanding of the Legal and Regulatory Framework* (Ref: Para. 12)

- A7. To obtain a general understanding of the legal and regulatory framework, and how the entity complies with that framework, the auditor may, for example:
- Use the auditor's existing understanding of the entity's industry, regulatory and other external factors;
  - Update the understanding of those laws and regulations that directly determine the reported amounts and disclosures in the financial statements;
  - Inquire of management as to other laws or regulations that may be expected to have a fundamental effect on the operations of the entity;
  - Inquire of management concerning the entity's policies and procedures regarding compliance with laws and regulations; and
  - Inquire of management regarding the policies or procedures adopted for identifying, evaluating and accounting for litigation claims.

### *Laws and Regulations Generally Recognized to Have a Direct Effect on the Determination of Material Amounts and Disclosures in the Financial Statements* (Ref: Para. [6.13](#))

- A8. Certain laws and regulations are well-established, known to the entity and within the entity's industry or sector, and relevant to the entity's financial statements (as described in paragraph 6(a)). They could include those that relate to, for example:
- The form and content of financial statements;
  - Industry-specific financial reporting issues;
  - Accounting for transactions under government contracts; or
  - The accrual or recognition of expenses for income tax or pension costs.

Some provisions in those laws and regulations may be directly relevant to specific assertions in the financial statements (for example, the completeness of income tax provisions), while others may be directly relevant to the financial statements as a whole (for example, the required statements constituting a complete set of financial statements). The aim of the requirement in paragraph 13 is for the auditor to obtain sufficient appropriate audit evidence regarding the determination of amounts and disclosures in the financial statements in compliance with the relevant provisions of those laws and regulations.

Non-compliance with other provisions of such laws and regulations and other laws and regulations may result in fines, litigation or other consequences for the entity, the costs of which may need to be provided for in the financial statements, but are not considered to have a direct effect on the financial statements as described in paragraph 6(a).

### *Procedures to Identify Instances of Non-Compliance—Other Laws and Regulations* (Ref: Para. [6.14](#))

- A9. Certain other laws and regulations may need particular attention by the auditor because they have a fundamental effect on the operations of the entity (as described in paragraph 6(b)). Non-compliance

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with laws and regulations that have a fundamental effect on the operations of the entity may cause the entity to cease operations, or call into question the entity's continuance as a going concern. For example, non-compliance with the requirements of the entity's license or other entitlement to perform its operations could have such an impact (for example, for a bank, non-compliance with capital or investment requirements). There are also many laws and regulations relating principally to the operating aspects of the entity that typically do not affect the financial statements and are not captured by the entity's information systems relevant to financial reporting.

- A10. As the financial reporting consequences of other laws and regulations can vary depending on the entity's operations, the audit procedures required by paragraph 14 are directed to bringing to the auditor's attention instances of non-compliance with laws and regulations that may have a material effect on the financial statements.

*Non-Compliance Brought to the Auditor's Attention by Other Audit Procedures (Ref: Para. 15)*

- A11. Audit procedures applied to form an opinion on the financial statements may bring instances of non-compliance or suspected non-compliance with laws and regulations to the auditor's attention. For example, such audit procedures may include:

- Reading minutes;
- Inquiring of the entity's management and in-house legal counsel or external legal counsel concerning litigation, claims and assessments; and
- Performing substantive tests of details of classes of transactions, account balances or disclosures.

*Written Representations (Ref: Para. 16)*

- A12. Because the effect on financial statements of laws and regulations can vary considerably, written representations provide necessary audit evidence about management's knowledge of identified or suspected non-compliance with laws and regulations, whose effects may have a material effect on the financial statements. However, written representations do not provide sufficient appropriate audit evidence on their own and, accordingly, do not affect the nature and extent of other audit evidence that is to be obtained by the auditor.<sup>10</sup>

**Audit Procedures When Non-Compliance is Identified or Suspected**

*Indications of Non-Compliance with Laws and Regulations (Ref: Para. 18)*

- A12a. The auditor may become aware of information concerning an instance of about non-compliance with laws and regulations (for example, in responding to matters that the auditor is required to address under relevant ethical requirements) other than as a result of performing the procedures in paragraphs 12–16, (for example when complying with relevant ethical requirements in responding to non-compliance with laws and regulations or where the auditor is alerted to non-compliance by a whistle blower).

- A13. The following matters may be an indication of non-compliance with laws and regulations:

- Investigations by regulatory organizations and government departments or payment of fines or

<sup>10</sup> ISA 580, *Written Representations*, paragraph 4

penalties.

- Payments for unspecified services or loans to consultants, related parties, employees or government employees.
- Sales commissions or agent's fees that appear excessive in relation to those ordinarily paid by the entity or in its industry or to the services actually received.
- Purchasing at prices significantly above or below market price.
- Unusual payments in cash, purchases in the form of cashiers' checks payable to bearer or transfers to numbered bank accounts.
- Unusual transactions with companies registered in tax havens.
- Payments for goods or services made other than to the country from which the goods or services originated.
- Payments without proper exchange control documentation.
- Existence of an information system which fails, whether by design or by accident, to provide an adequate audit trail or sufficient evidence.
- Unauthorized transactions or improperly recorded transactions.
- Adverse media comment.

*Matters Relevant to the Auditor's Evaluation* (Ref: Para. 18(b))

A14. Matters relevant to the auditor's evaluation of the possible effect on the financial statements include:

- The potential financial consequences of non-compliance with laws and regulations on the financial statements including, for example, the imposition of fines, penalties, damages, threat of expropriation of assets, enforced discontinuation of operations, and litigation.
- Whether the potential financial consequences require disclosure.
- Whether the potential financial consequences are so serious as to call into question the fair presentation of the financial statements, or otherwise make the financial statements misleading.

*Audit Procedures* (Ref: Para. 19, [22](#))

A15. The auditor may discuss the findings with [the appropriate level of management and, where appropriate](#), those charged with governance where they may be able to provide additional audit evidence. For example, the auditor may confirm that [management and, where appropriate](#), those charged with governance have the same understanding of the facts and circumstances relevant to transactions or events that have led to the possibility of non-compliance with laws and regulations. However, in some jurisdictions, laws or regulations may [prohibit alerting \("tipping-off"\) the entity when, for example, restrict the auditor's communication of certain matters with management and those charged with governance. For example, 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 non-compliance to an appropriate authority pursuant to anti-money laundering legislation. [In](#)

some circumstances, potential conflicts between the auditor's duty of confidentiality and obligations to communicate with management and those charged with governance may be complex. In such cases, the auditor may consider obtaining legal advice.

- A16. If management or, as appropriate, those charged with governance do not provide sufficient information to the auditor that the entity is in fact in compliance with laws and regulations, the auditor may consider it appropriate to consult with the entity's in-house or external legal counsel about the application of the laws and regulations to the circumstances, including the possibility of fraud, and the possible effects on the financial statements. If it is not considered appropriate to consult with the entity's legal counsel or if the auditor is not satisfied with the legal counsel's opinion, the auditor may consider it appropriate to consult on a confidential basis with others within the firm, a network firm, a relevant professional body, or with the auditor's legal counsel as to whether a contravention of a law or regulation is involved, ~~the possible legal consequences~~, including the possibility of fraud, the possible legal consequences, and what further action, if any, the auditor would take.

*Evaluating the Implications of Identified or Suspected Non-Compliance* (Ref: Para. 21)

- A17. As required by paragraph 21, the auditor evaluates the implications of non-compliance in relation to other aspects of the audit, including the auditor's risk assessment and the reliability of written representations. The implications of particular instances of non-compliance identified 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~~individuals working for, or under the direction of, the entity involved, especially implications arising from the involvement of the highest authority within the entity. As noted in paragraph 8a, the auditor's compliance with relevant ethical requirements may provide further information that is relevant to the auditor's responsibilities in accordance with paragraph 21.

A17a. [Relocated from A18a below] Examples of circumstances that may cause the auditor to evaluate the implications of non-compliance on the reliability of written representations received from management and, where applicable, those charged with governance include when:

- The auditor suspects or has evidence of the involvement or intended involvement of management and, where applicable, those charged with governance in any non-compliance.
  - \_\_\_\_\_ The auditor is aware that management and, where applicable, those charged with governance have knowledge of such non-compliance and, contrary to legal or regulatory requirements, have not reported, or authorized reporting of, the matter to an appropriate authority within a reasonable period.
- A18. ~~In exceptional cases, t~~The auditor may consider ~~whether~~ withdrawal ingal from the engagement, where ~~withdrawal is possible under applicable permitted by~~ law or regulation, ~~is necessary~~ when management or those charged with governance do not take the remedial action that the auditor considers appropriate in the circumstances, even when the non-compliance is not material to the financial statements. ~~When deciding whether withdrawal from the engagement is necessary, t~~The auditor may consider ~~seeking obtaining~~ legal advice to determine whether withdrawal from the engagement is appropriate. If the auditor withdraws from the engagement, the auditor may nevertheless have legal or ethical responsibilities to respond to the non-compliance.~~If withdrawal~~

~~from the engagement is not possible, the auditor may consider alternative actions, including describing the non-compliance in an Other Matter paragraph in the auditor's report.<sup>11</sup>~~

A18a- [Relocated to A17a above]

## Reporting of Identified or Suspected Non-Compliance

*Implications of Identified or Suspected Non-Compliance for the Auditor's Report (Ref: Para. 25–27)*

A18a. Law or regulation may preclude public disclosure by either management, those charged with governance or the auditor about a specific matter. For example, 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 prohibit alerting the entity. When the auditor modifies the opinion on the financial statements in accordance with paragraphs 25–27, such law or regulation may have implications for the auditor's ability to issue the auditor's report. In such cases, the auditor may consider obtaining legal advice to determine the appropriate course of action.

A18b. When a matter related to non-compliance does not give rise to a modified opinion on the financial statements, the auditor may nevertheless communicate the matter in the auditor's report. When ISA 701 applies, a matter related to non-compliance with laws and regulation that is communicated with those charged with governance may be determined to be a key audit matter and communicated in the auditor's report unless paragraph 14 of ISA 701 applies. - In other circumstances, the auditor may consider it necessary to describe the non-compliance in an Other Matter paragraph, for example when management or those charged with governance do not take the remedial action that the auditor considers appropriate in the circumstances and withdrawal from the engagement is not possible.

*Reporting Identified or Suspected Non-Compliance to an Appropriate Regulatory and Enforcement Authorityies Outside the Entity (Ref: Para. 28)*

A19. Obtaining legal advice may assist in making the determination required by paragraph 28. ~~If the auditor has identified or suspects non-compliance with laws or regulations, †~~The auditor may also consider consulting, on a confidential basis with others within the firm, a network firm or a professional body, unless prohibited by law or regulation or unless doing so would breach the duty of confidentiality, obtaining legal advice to determine whether the auditor has a legal or ethical duty or right to report to parties outside the entity and, when applicable, the appropriate course of action in light of such duty or right. For example

A19a. In some cases, law or regulation may impose a legal duty on the auditor to report identified or suspected non-compliance with laws and regulations. For example,

~~The duty of confidentiality may not apply or may be overridden by laws or regulations. †~~in some jurisdictions, the auditor of a financial institution has a statutory duty to report the occurrence, or suspected occurrence, of non-compliance with laws and regulations to supervisory authorities. Also, in some jurisdictions, the auditor ~~may have~~has a duty to report misstatements to authorities in those cases where management ~~and, where applicable, or~~ those charged with governance fail to take corrective action. In other cases, laws and regulations may give †the auditor ~~may have~~ the right, but not the

<sup>11</sup>—ISA 706, *Emphasis of Matter Paragraphs and Other Matter Paragraphs in the Independent Auditor's Report*, paragraph 8

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~~duty, to report/disclose identified or suspected non-compliance with laws or regulations to an appropriate authority outside the entity without breaching the duty of confidentiality.~~<sup>12</sup> For example, when dealing with financial institutions such as banks and insurers, the auditor may have the right under law or regulation to discuss matters with a financial institution's supervisor. However, in other cases ~~the auditor's legal or ethical duties~~ to maintain confidentiality under law or regulation may preclude ~~the auditor from~~ reporting identified or suspected non-compliance with laws and regulations to ~~an appropriate authority/a party~~ outside the entity.

A19b. When not precluded from reporting to an appropriate authority outside the entity by law or regulation, under the relevant ethical requirements the auditor may have a duty to report, a responsibility to determine whether to report, or may otherwise report, identified or suspected non-compliance with laws and regulations to an appropriate authority outside the entity, without breaching the duty of confidentiality. For example, under some ethical requirements the auditor may have an obligation to determine if further action is needed in response to identified or suspected non-compliance. This further action could include reporting the matter to an appropriate authority outside the entity even when there is no legal or regulatory requirement to do so,<sup>13</sup> without breaching the duty of confidentiality.<sup>14</sup> However, under other relevant ethical requirements, the auditor's ethical duty to maintain confidentiality may preclude reporting identified or suspected non-compliance with laws and regulations to an appropriate authority outside the entity.

#### Considerations Specific to Public Sector Entities

A20. A public sector auditor may be obliged to report on instances of non-compliance to the legislature or other governing body or to report them in the auditor's report.

#### Documentation (Ref: Para. 29)

A21. The auditor's documentation of findings regarding identified or suspected non-compliance with laws and regulations may include, for example:

- Copies of records or documents.
- Minutes of discussions held with management, those charged with governance or parties outside the entity.

A22. Relevant ethical requirements may also include documentation requirements regarding identified or suspected non-compliance with laws and regulations.<sup>15</sup>

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<sup>12</sup> See, for example, Section 225.29 of the International Ethics Standards Board for Accountants' *Code of Ethics for Professional Accountants* (IESBA Code).

<sup>13</sup> See, for example, Section 225.28 and Sections 225.32 to 225.35 of the IESBA Code.

<sup>14</sup> See, for example, Section 140.7 and Section 225.34 of the IESBA Code.

<sup>15</sup> See, for example, Section 225.36 of the IESBA Code.

## CONFORMING AMENDMENTS TO OTHER INTERNATIONAL STANDARDS

### ISQC 1, *Quality Control for Firms that Perform Audits and Reviews of Financial Statements, and Other Assurance and Related Services Engagements* Requirements

[Note: This paragraph is unchanged.]

Confidentiality, safe custody, integrity, accessibility and retrievability of engagement documentation

46. The firm shall establish policies and procedures designed to maintain the confidentiality, safe custody, integrity, accessibility and retrievability of engagement documentation. (Ref: Para. A56–A59)

#### Application and Other Explanatory Material

A56. 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 is a legal ~~or ethical~~ duty or right to ~~de se-report, an ethical requirement to report, or an ethical responsibility to determine whether to report such information~~. In certain circumstances, the firm's personnel may have the legal duty or ~~ethical~~ right to ~~disclose~~report, an ethical requirement to report, an ethical responsibility to determine whether to report, or may otherwise report, identified or suspected non-compliance with laws ~~and~~ regulations to an appropriate authority outside the entity without breaching the duty of confidentiality.<sup>16</sup> Specific ~~laws~~law or ~~regulations~~regulation may impose additional obligations on the firm's personnel to maintain client confidentiality, particularly where data of a personal nature are concerned.

### ISA 210, *Agreeing the Terms of Audit Engagements* (No conforming amendments were proposed in the ED)

#### Requirements

[Note: This paragraph is unchanged.]

#### Agreement on Audit Engagement Terms

10. Subject to paragraph 11, the agreed terms of the audit engagement shall be recorded in an audit engagement letter or other suitable form of written agreement and shall include: (Ref: Para. A22–A25)
- (a) The objective and scope of the audit of the financial statements;
  - (b) The responsibilities of the auditor;
  - (c) The responsibilities of management;
  - (d) Identification of the applicable financial reporting framework for the preparation of the financial statements; and

<sup>16</sup> See, for example, Section [140.7](#) and Section [225.3429](#) of the IESBA Code.

- (e) Reference to the expected form and content of any reports to be issued by the auditor and a statement that there may be circumstances in which a report may differ from its expected form and content.

## Application and Other Explanatory Material

A24. 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 legal duty or right to report, ethical requirement to report, an ethical responsibility to determine whether to report, or may otherwise report, 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.

## ISA 220, *Quality Control for an Audit of Financial Statements*

### Requirements

[Note: This paragraph is unchanged.]

#### Acceptance and Continuance of Client Relationships and Audit Engagements

12. The engagement partner shall be satisfied that appropriate procedures regarding the acceptance and continuance of client relationships and audit engagements have been followed, and shall determine that conclusions reached in this regard are appropriate. (Ref: Para. A8–A9)

## Application and Other Explanatory Material

- A8a. Law, regulation, or relevant ethical requirements<sup>17</sup> 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 judgment, the auditor needs to be aware of before deciding whether to accept the engagement. [These requirements may also impose an obligation on the predecessor auditor, unless prohibited by law or regulation, to communicate regarding an entity's identified or suspected non-compliance with laws and regulations to a successor auditor without the need to obtain the entity's consent, when such reporting would not be considered a breach of the duty of confidentiality.](#)<sup>18</sup>

<sup>17</sup> See, for example, Sections 210.13 of the IESBA Code.

<sup>18</sup> See, for example, Sections 225.30 of the IESBA Code.

## ISA 240, *The Auditor's Responsibilities Relating to Fraud in an Audit of Financial Statements*

### Introduction

#### Responsibility for the Prevention and Detection of Fraud

##### *Responsibilities of the Auditor*

- 8a. The auditor may have additional responsibilities under relevant ethical requirements regarding in responding to an entity's non-compliance with laws and regulations, including fraud. Complying with those responsibilities may provide further information that is relevant to the auditor's work in accordance with this and other ISAs (for example, regarding the integrity of management or, where appropriate, those charged with governance).

### Requirements

#### Communications to Management and with Those Charged with Governance

40. If the auditor has identified a fraud or has obtained information that indicates that a fraud may exist, the auditor shall communicate these matters on a timely basis to the appropriate level of management, unless prohibited by law or regulation, in order to inform those with primary responsibility for the prevention and detection of fraud of matters relevant to their responsibilities. (Ref: Para. A59a-A60)

#### Communications Reporting fraud to Regulatory and Enforcement Authorities an Appropriate Authority Outside the Entity

43. If the auditor has identified or suspects a fraud, the auditor shall determine whether ~~there is~~ the auditor has a legal duty or right to report, an ethical requirement to report, an ethical responsibility to determine whether to report, or may otherwise report, the occurrence or suspicion to ~~a party an~~ appropriate authority outside the entity. In some circumstances, the auditor's duty to maintain confidentiality under law or regulation may preclude the auditor from reporting the identified or suspected fraud to an appropriate authority outside the entity. Under other ~~Although the~~ relevant ethical requirements, ~~regarding maintaining confidentiality reporting identified or suspected non-compliance to an appropriate authority outside the entity will not be considered a breach of client information may preclude such reporting, in some circumstances the~~ the duty of confidentiality ~~may not apply, be overridden by laws or regulations, or include a duty or right to report to an appropriate authority.~~ (Ref: Para. A65–A67)

### Application and Other Explanatory Material

#### *Communications to Management and with Those Charged with Governance* (Ref: Para. 40–41)

- A59a. In some jurisdictions, laws or regulations may restrict the auditor's communication of certain matters with management and those charged with governance. For example, 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 ("tipping-off") the entity ~~when,~~ for example, when the auditor is required to report the non-compliance fraud to an appropriate authority pursuant to anti-money laundering legislation.

**Communications to Regulatory and Enforcement Authorities****Reporting fraud to an Appropriate Authority Outside the Entity** (Ref: Para. 43)

A65. ISA 250<sup>19</sup> provides further guidance with respect to a legal duty or right to report, an ethical requirement to report, an ethical responsibility to determine whether to report, or may otherwise report, the occurrence or suspicion to an appropriate authority outside the entity. The auditor's professional duty to maintain the confidentiality of client information may preclude reporting fraud or other identified or suspected non-compliance with laws or regulations 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 laws or regulations. Law, regulation, or relevant ethical requirements may include a duty or right to report to an appropriate authority. 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. In certain circumstances, the auditor may have the right to disclose identified or suspected non-compliance with laws or regulations to an appropriate authority without breaching the duty of confidentiality.<sup>20</sup>

[Note: This paragraph is unchanged.]

A66. The auditor may consider it appropriate to obtain legal advice to 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.

## **ISA 260 (Revised), *Communication with Those Charged with Governance***

### **Introduction**

#### **The Role of Communication**

7. In some jurisdictions ~~Law~~ or regulation may restrict the auditor's communication of certain matters with management or 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 ~~(“tipping-off”)~~ the entity ~~when~~, for example, when the auditor is required to report ~~the~~ non-compliance with laws and regulations to an appropriate authority pursuant to anti-money laundering legislation. In some circumstances, potential conflicts between the auditor's obligations of confidentiality and obligations to communicate may be complex. In such cases, the auditor may consider obtaining legal advice.

## **ISA 450, *Evaluation of Misstatements Identified During the Audit***

### **Requirements**

[Note: This paragraph is unchanged from extant.]

<sup>19</sup> [ISA 250, Consideration of Laws and Regulations in an Audit of Financial Statements, paragraphs A19–A19b](#)

<sup>20</sup> [See, for example, Section 225.29 of the International Ethics Standards Board for Accountants' Code of Ethics for Professional Accountants \(IESBA Code\).](#)

### **Communication and Correction of Misstatements**

8. The auditor shall communicate on a timely basis all misstatements accumulated during the audit with the appropriate level of management, unless prohibited by law or regulation.<sup>3</sup> The auditor shall request management to correct those misstatements. (Ref: Para. A7–A9)

## **Application and Other Explanatory Material**

### **Communication and Correction of Misstatements (Ref: Para. 8–9)**

- A8. In some jurisdictions, ~~l~~aw or regulation may restrict the auditor's communication of certain misstatements to management, or others, within the entity. For example, ~~law~~s or ~~regulation~~s 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 ~~(“tipping-off”)~~ the entity when, for example, the auditor is required to report ~~the~~ non-compliance with law or regulation to an appropriate authority pursuant to anti-money laundering legislation. In some circumstances, potential conflicts between the auditor's obligations of confidentiality and obligations to communicate may be complex. In such cases, the auditor may consider seeking legal advice.

## **ISA 500, *Audit Evidence* (No conforming amendments were proposed in the ED)**

### **Requirements**

#### **Information to Be Used as Audit Evidence**

7. 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–A33a)

### **Application and Other Explanatory Material**

#### **Information to Be Used as Audit Evidence**

*Relevance and Reliability* (Ref: Para. 7)

A26. 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 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.

A33a. ISA 250<sup>21</sup> provides further guidance with respect to the auditor complying with any additional responsibilities under relevant ethical requirements regarding an entity's identified or suspected non-compliance with laws and regulations that may provide further information that is relevant to the auditor's work in accordance with ISAs, including the consideration of the reliability of information to be used as audit evidence.

## **ISRE 2400 (Revised), *Engagements to Review Historical Financial Statements***

### **Requirements**

#### **Performing the Engagement**

*Designing and Performing Procedures*

48. The practitioner's inquiries of management and others within the entity, as appropriate, shall include the following: (Ref: Para. A84–A87a)

...

- (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 recognized to have a direct effect on the determination of material amounts and disclosures in the financial statements, such as tax and pension laws and regulations;

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

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<sup>21</sup> [ISA 250, \*Consideration of Laws and Regulations in an Audit of Financial Statements\*, paragraph 8a](#)

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52. When there is an indication that fraud or non-compliance with laws ~~or~~and regulations, or suspected fraud or non-compliance with laws ~~or~~and regulations, has occurred in the entity, the practitioner shall:
- (a) Communicate that matter, unless prohibited by law or regulation, to the appropriate level of ~~senior~~ management or those charged with governance as appropriate;
  - (b) Request management's assessment of the effect(s), if any, on the financial statements;
  - (c) Consider the effect, if any, of management's assessment of the effects of fraud or non-compliance with laws ~~or~~and regulations communicated to the practitioner on the practitioner's conclusion on the financial statements and on the practitioner's report; and
  - (d) Determine whether there is a legal duty or right to report, an ethical requirement to report, or an ethical responsibility to determine whether to report ~~the occurrence identified~~ or suspicion of fraud or illegal acts to a party ~~non-compliance with laws and regulations to an appropriate authority~~ outside the entity. (Ref: Para. A92)

## Application and Other Explanatory Material

### Performing the Engagement

*Designing and Performing Procedures* (Ref: Para. 47, 55)

*Inquiry* (Ref: Para. 46–48)

A87a. The practitioner may have additional responsibilities under relevant ethical requirements regarding an entity's identified or suspected non-compliance with laws and regulations, including fraud, such as requirements to respond to identified or suspected instances of non-compliance with laws and regulations that may differ from or go beyond this ISRE. Complying with those additional responsibilities may provide further information that is relevant to the practitioner's work in accordance with this ISRE (for example, regarding the integrity of management or, where appropriate, those charged with governance).

Procedures to Address Specific Circumstances

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

A92. Under this ISRE, if the practitioner has identified or suspects fraud or ~~illegal acts~~ non-compliance with laws and regulations, the practitioner is required to determine whether there is a legal duty or right to report, an ethical requirement to report, or an ethical responsibility to report the occurrence or suspicion to a party determine whether to report to an appropriate authority outside the entity. If the practitioner has identified or suspects fraud or non-compliance with laws and regulations, the practitioner may consider obtaining legal advice and, when applicable, the appropriate course of action in light of such duty or responsibility. The practitioner may also consider consulting, on a confidential basis and when permitted by law or regulation, with others within the firm, a network firm, or a professional body.

A92b. The practitioner's ethical, legal, and regulatory responsibilities vary by jurisdiction and, in certain circumstances, the duty of confidentiality may not apply, be overridden by laws or regulations or law, regulation, or relevant ethical requirements. In some cases, law or regulation may impose include a legal duty on the practitioner to report an identified or suspected fraud or non-compliance with laws and regulations or right to report to an appropriate authority outside the entity. In other cases, certain

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~~circumstances, law or regulation may give~~ the practitioner ~~may have the legal or ethical~~ the right, but not the duty, to disclose identified or suspected non-compliance with laws or regulations to report to an appropriate authority ~~outside the entity without breaching the duty of confidentiality.~~<sup>22</sup> However, in ~~some other~~ cases, the practitioner's ~~legal or ethical duties~~ to maintain confidentiality ~~under law or regulation~~ may preclude ~~the practitioner from~~ reporting identified or suspected ~~fraud or non-compliance with laws and regulations to an appropriate authority~~ outside ~~a party outside~~ the entity.

A92c. When not precluded from reporting to an appropriate authority outside the entity by law or regulation, under the relevant ethical requirements the practitioner may have a duty to report, a responsibility to determine whether to report, or may otherwise report, identified or suspected fraud or non-compliance with laws and regulations to an appropriate authority outside the entity, without breaching the duty of confidentiality. For example, under some ethical requirements the practitioner may have an obligation to determine if further action is needed in response to identified or suspected non-compliance with laws and regulations, including fraud. This further action could include ~~disclos~~reporting the matter to an appropriate authority outside the entity even when there is no legal or regulatory requirement to do so,<sup>23</sup> without breaching the duty of confidentiality.<sup>24</sup> However, under other relevant ethical requirements, the practitioner's ethical duty to maintain confidentiality may preclude reporting to an appropriate authority outside the entity, even when not precluded from doing so under law or regulation.

## **ISAE 3000, Assurance Engagements other than Audits or Reviews of Historical Financial Information (No conforming amendments were proposed in the ED)**

### **Requirements**

#### **Planning and Performing the Engagement**

##### *Understanding the Underlying Subject Matter and Other Engagement Circumstances*

45. The practitioner shall make inquiries 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-~~and~~A101a)
  - (b) Whether the responsible party has an internal audit function and, if so, make further inquiries to obtain an understanding of the activities and main findings of the internal audit function with respect to the subject matter information; and
  - (c) Whether the responsible party has used any experts in the preparation of the subject matter information.

#### **Other Communication Responsibilities**

78. 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

<sup>22</sup> ~~See, for example, Section 225.29 of the International Ethics Standards Board for Accountants' Code of Ethics for Professional Accountants (IESBA Code).~~

<sup>23</sup> See, for example, Section 225.4 to 225.51 of the IESBA Code.

<sup>24</sup> See, for example, Section 140.7 and Section 225.50 of the IESBA Code.

communicated with the responsible party, the measurer or evaluator, the engaging party, those charged with governance or others. (Ref: Para. A192-[A192b](#))

## Application and Other Explanatory Material

### Planning and Performing the Engagement

*Understanding the Engagement Circumstances* (Ref: Para. 45–47R)

[A101a.](#) The practitioner may have additional responsibilities under relevant ethical requirements regarding an entity's non-compliance with laws and regulations, such as requirements to respond to identified or suspected instances of non-compliance with laws and regulations that may differ from or go beyond this ISAE. Complying with those additional responsibilities may provide further information that is relevant to the practitioner's work in accordance with this and any other ISAE relevant to the engagement (for example, regarding the integrity of the responsible party or those charged with governance).

### Other Communication Responsibilities (Ref: Para. 78)

[A192a.](#) 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, an appropriate level of management or those charged with governance. For example, 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 non-compliance to an appropriate authority pursuant to anti-money laundering legislation.

[A192b.](#) The practitioner may have a legal duty or right to report, an ethical requirement to report, an ethical responsibility to determine whether to report or may otherwise report, identified or suspected non-compliance with laws and regulations to an appropriate authority outside the entity, without breaching the duty of confidentiality. This may include identified or suspected 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. In some cases, the practitioner's duty to maintain confidentiality under law, regulation, or relevant ethical requirements may preclude the practitioner from reporting identified or suspected non-compliance with laws and regulations to an appropriate authority outside the entity. In other cases, under the relevant ethical requirements, the practitioner may have a duty to report, a responsibility to determine whether to report, or may otherwise report, identified or suspected non-compliance with laws and regulations to an appropriate authority outside the entity, even when there is no legal or regulatory requirement to do so,<sup>25</sup> without breaching the duty of confidentiality.<sup>26</sup> The practitioner is expected to apply knowledge, professional judgment and expertise, but is not expected to have a level of understanding of laws and regulations beyond those affecting the subject matter information.

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<sup>25</sup> See, for example, Section 225.4 to 225.51 of the IESBA Code.

<sup>26</sup> See, for example, Section 140.7 and Section 225.50 of the IESBA Code.

Whether an act constitutes actual non-compliance is ultimately a matter to be determined by a court or other appropriate adjudicative body. Depending on the nature and significance of the matter, the practitioner may consult on a confidential basis with others within the firm, a network firm, a professional body, or legal counsel.<sup>27</sup>

## **ISAE 3402, Assurance Reports on Controls at a Service Organization**

### **Requirements**

[Note: This paragraph is unchanged.]

#### **Other Communication Responsibilities**

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

### **Application and Other Explanatory Material**

#### **Other Communication Responsibilities (Ref: Para. 56)**

- A53. 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 organization.
  - Communicating~~Communicating~~ Determining whether to communicate with third parties (for example, a regulator, an appropriate authority or the external auditor<sup>28</sup>) when ~~required~~ the service auditor has a legal duty or right to de-report, an ethical requirement to report, or an ethical responsibility to determine whether to report the matter.
  - Modifying the service auditor's opinion, or adding an Other Matter paragraph.
  - Withdrawing from the engagement.

## **ISAE 3410, Assurance Engagements on Greenhouse Gas Statements (No conforming amendments were proposed in the ED)**

### **Requirements**

#### **Other Communication Responsibilities**

78. Unless prohibited by law or regulation, ~~t~~he practitioner shall communicate to those person(s) with oversight responsibilities for the GHG statement the following matters that come to the practitioner's

<sup>27</sup> See, for example, Section 225.39 of the IESBA Code

<sup>28</sup> See, for example, Section 225.43 of the IESBA Code.

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 judgment, are of sufficient importance to merit attention;
- (b) Identified or suspected fraud; and
- (c) Matters involving non-compliance with laws and regulations, other than when the matters are clearly trivial. (Ref: Para. A87)

## **ISRS 4410, *Compilation Engagements* (No conforming amendments were proposed in the ED)**

### **Requirements**

#### **Ethical Requirements**

21. The practitioner shall comply with relevant ethical requirements. (Ref: Para. A19-[A21a](#))

#### **Communication with Management and Those Charged with Governance**

27. The practitioner shall communicate with management or those charged with governance, as appropriate, on a timely basis during the course of the compilation engagement, all matters concerning the compilation engagement that, in the practitioner's professional judgment, are of sufficient importance to merit the attention of management or those charged with governance, as appropriate. (Ref: Para. A41-[A41a](#))

#### **Ethical Requirements** (Ref: Para. 21)

##### [Non-Compliance with Laws and Regulations](#)

[A21a. The practitioner may have a legal duty or right to report, an ethical requirement to report, an ethical responsibility to determine whether to report or may otherwise report, identified or suspected non-compliance with laws and regulations to an appropriate authority outside the entity, without breaching the duty of confidentiality. In some cases, the practitioner's duty to maintain confidentiality under law, regulation, or relevant ethical requirements may preclude the practitioner from reporting identified or suspected non-compliance with laws and regulations to an appropriate authority outside the entity. In other cases, under the relevant ethical requirements, the practitioner may have a duty to report, a responsibility to determine whether to report, or may otherwise report, identified or suspected non-compliance with laws and regulations to an appropriate authority outside the entity, even when there is no legal or regulatory requirement to do so,<sup>29</sup> without breaching the duty of confidentiality.<sup>30</sup> The practitioner is expected to apply knowledge, professional judgment and expertise, but is not expected to have a level of understanding of laws and regulations beyond that which is required for the purposes of the compilation engagement. Whether an act constitutes actual non-compliance is ultimately a matter to be determined by a court or other appropriate adjudicative body. Depending on the nature and significance of the matter, the](#)

<sup>29</sup> See, for example, Section 225.4 to 225.51 of the IESBA Code.

<sup>30</sup> See, for example, Section 140.7 and Section 225.50 of the IESBA Code.

practitioner may consult on a confidential basis with others within the firm, a network firm, a professional body, or legal counsel.<sup>31</sup>

**Communication with Management and Those Charged with Governance** (Ref: Para. 27)

A41a. 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 an appropriate level of management or those charged with governance. For example, 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 non-compliance to an appropriate authority pursuant to anti-money laundering legislation.

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<sup>31</sup> See, for example, Section 225.39 of the IESBA Code