

POB MONITORING OF COMMENT LETTERS BY MG & IFIAR MEMBERS TO THE EXPOSURE DRAFT OF ISA 250-NOCLAR
(August 2016)

| # | Who made it | Group (MG member, Regulator, etc.) | Issue | Main Issues/Comment Description | Final Disposition (Agreed, Disagreed, Not discussed) |
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| ISA 250 - NOCLAR | | | | | |
| 1 | IFIAR | MG member | Support for the liaison between the IAASB and IESBA | IFIAR supported the auditing and ethics standard-setting boards' efforts to coordinate their work on the NOCLAR project, as IFIAR sees a benefit in aligning the standards on auditing and ethics issues applicable by the same auditors. Indeed, even if the IESBA Code of Ethics and the IAASB pronouncements are not in force in all countries, IFIAR was of the view that the development of pronouncements that are compatible and consistent is relevant for those auditors that apply both frameworks, as well as for those that apply only one of those frameworks. | The IAASB took note of IFIAR's support. |
| | IFIAR | MG member | Risks due to the timing of the project - The IAASB has to ensure that the final outcome from IESBA's NOCLAR is taken into consideration. | However, given that the IAASB and IESBA consultation documents on NOCLAR were not issued simultaneously, IFIAR drew the IAASB's attention to the necessity to ensure that the final outcome of the IESBA project is taken into consideration. Since the project is still under finalization at the IESBA level, IFIAR saw a risk of inconsistent outcomes if the latest IESBA developments are not incorporated equally on the IAASB side. IFIAR believed the IAASB should continue monitoring the IESBA's project through to finalization before closing out its revision of the auditing standards. | The IAASB considered the final outcome of the IESBA's project: the Board was briefed by the IESBA/ NOCLAR Task Force Chair on the latest content of that Board's standard, prior to the finalization of ISA 250. The Board was aware of the need for ISA 250 to be consistent with the IESBA's NOCLAR, so that they could mutually articulate without confusion. The Board explains this and the work coordinated with the IESBA in the Basis for Conclusions document. |
| | IFIAR | MG member | | IFIAR noted that the IAASB had followed an accelerated process in developing the NOCLAR exposure draft. As stated in their May 20 2014 comment letter to the IAASB's 2015-2019 strategy and work plan consultation ¹⁰ , IFIAR believed in the development of flexibility in the standard-setting process for dealing with emerging issues. In addition, IFIAR believed that a coordinated approach between the IAASB and IESBA should be adopted earlier in the standard-setting process for future projects of this nature | The IAASB followed due process in developing changes to ISA 250 and current projects, the IAASB and the IESBA (as well as the IAESB) are working towards a more structured coordination process. |
| | IFIAR | MG member | IFIAR's comments on the IESBA's NOCLAR exposure draft apply to the revision of ISA 250. | IFIAR drew the IAASB's attention to the comments IFIAR raised in its comment letter to the IESBA's NOCLAR exposure draft ¹¹ . These comments related to: - Overall comment (national laws and regulations take precedence, strive for more stringent requirements) - Communicating to management and those charged with governance - Determination of further action needed - Lack of clear obligation for the auditor to monitor and assess the entity's response - Lack of obligation to report - Link with international auditing standards - Timing of the project Those comments apply equally to the IAASB's project. IFIAR invited the IAASB to incorporate them in revising the ISAs and to deal with them in a coordinated manner with the IESBA. | The IAASB considered the final outcome of the IESBA's NOCLAR before finalizing the amendments to ISA 250. The Board agreed to introduce several further enhancements to ISA 250 in response to comment letters received, making the ISA consistent with the IESBA's NOCLAR provisions, and driving auditors to responsibilities/requirements set in the Code's NOCLAR provisions. This included: the documentation requirements in ISA 250 were expanded and are now similar to the IESBA's; new application material was added in relation to communication of a NOCLAR in the context of a group audit (paragraph A8); explicit references were introduced to the ISA directing auditors to responsibilities under the IESBA's NOCLAR, including assessing the appropriateness of management's or Those Charged with Governance's response; the requirement for the auditor to determine whether to report identified or suspected NOCLAR to an appropriate authority was further clarified, and new application guidance was added to support the requirement; and a conforming amendment was introduced to ISA 220 reflecting requirements for the communication of NOCLAR between predecessor and proposed successor auditors, as contemplated in the IESBA's NOCLAR. |
| | IFIAR | MG member | IFIAR supports a more holistic revision of ISA 250 including the areas highlighted in the explanatory memorandum of the ED and other areas. | IFIAR noted that several other areas for revision of ISA 250 have been identified in the explanatory memorandum to the IAASB NOCLAR exposure draft. IFIAR would support a more holistic revision of ISA 250 which addresses these and other areas. | The IAASB received mixed views from respondents regarding the need for a future project to revise ISA 250 or explore other improvements. The Board believes that an immediate revision of ISA 250 is not warranted in light of other more urgent priorities. However, the Board agreed to include a question on this matter in the ED (Survey) of the IAASB 2017-2018 Work Program, published in July 2016 and currently being exposed. |
| ISA 250 - NOCLAR | | | | | |
| 2 | IOSCO | MG member | General Approach to the Exposure Draft | IOSCO appreciated the Board proposing amendments to certain of its International Standards including its ISAs and International Standards on Quality Control 1, "Quality Control for Firms that Perform Audits and Reviews of Financial Statements, and Other Assurance and Related Services Engagements (ISQC 1)", in response to the IESBA's Re-Exposure Draft, "Responding to Non-Compliance with Laws and Regulations". However, IOSCO noted the IAASB's intent of proposing limited amendments that the Board has "determined would be necessary to resolve actual or perceived inconsistencies of approach or to clarify and emphasize key aspects of the NOCLAR proposals in its International Standards" (emphasis added). IOSCO wondered whether this intended outcome mean that the collective provisions of the ISAs and ISQC 1 should not conflict with an auditor's NOCLAR responsibilities under the Ethics Code, or that these collective provisions should encompass all of the auditor's NOCLAR responsibilities under the Ethics Code? In other words, did the Board considered omissions from the ISAs/ISQC 1 of the provisions for auditors that are contained in the Ethics Code, such as the Ethics Code's proposed "third-party test" or the proposed inclusion of NOCLARs that derive from "securities markets and trading" (which would seem to occur outside of the operations of the audited entity), as inconsistencies between the two? | The IAASB explained in the ED that the limited amendments proposed to ISA 250 were not intended to explicitly duplicate all the specific requirements in the revised IESBA Code. The IAASB considered the final IESBA's NOCLAR before finalizing ISA 250, aware of the need for ISA 250 to be consistent with the IESBA's NOCLAR, so that they could mutually articulate without confusion. The Board explains in the Basis for Conclusions document that its approach was expected to allow for flexibility when ethical Codes other than the IESBA Code are applied and minimize the amount of material that was necessary to incorporate into ISA 250 and other International Standards. The IAASB further explains in the Basis that not all of the procedures contemplated by the IESBA's NOCLAR are designed for the purpose of providing sufficient appropriate audit evidence to support an opinion on the financial statements and are instead intended to support the auditor or practitioner in fulfilling relevant ethical obligations by responding to NOCLAR that they may come across or of which they become aware of. "Securities markets and trading" laws were included in ISA 250, as the approved standard includes the same examples of laws and regulations included in the IESBA's NOCLAR. The IAASB agreed to introduce several further enhancements to ISA 250 in response to comment letters received to the ED, e.g.: the documentation requirements in ISA 250 were expanded and are now similar to the IESBA's; new application material was added in relation to communication of a NOCLAR in the context of a group audit (paragraph A8); explicit references were introduced to the ISA directing auditors to responsibilities under the IESBA's NOCLAR, including assessing the appropriateness of management or Those Charged with Governance response; the requirement for the auditor to determine whether to report identified or suspected NOCLAR to an appropriate authority was further clarified, and new application guidance was added to support the requirement; and a conforming amendment was introduced to ISA 220 reflecting requirements for the communication of NOCLAR between predecessor and proposed successor auditors, as contemplated in the IESBA's NOCLAR. |
| | IOSCO | MG member | | IOSCO was not sure if the exclusion from the ED of some of the IESBA's NOCLAR proposals was an oversight by the IAASB or if the Board has determined that such amendments were not necessary in completing the audit of financial statements since the IESBA's NOCLAR proposal with respect to auditors may go beyond requirements necessary to complete an audit of financial statements. If the latter, then IOSCO believed the IAASB should make it clear in the ISAs that the Board has made only amendments that are necessary for purposes of forming an auditor's opinion on a set of financial statements. Accordingly, the ISAs and ISQC 1 do not reflect what an auditor may be called upon to do under his or her accompanying legal and/or professional ethical responsibilities. The Board should specifically state within the ISAs/ISQC 1 that auditors who are subject to the Code should look to the Code for additional requirements and comply accordingly. If the Board does not make this more clear, then IOSCO thought practitioners will be confused as to why two IFAC-related standard-setting Boards have issued revised standards at the same time that give two differing sets of direction on an auditor's responsibilities in handling a suspected NOCLAR. | |
| | IOSCO | MG member | Special Provisions in the ED | IOSCO noted that in their letter they have outlined issues that came to their attention based on what they have observed in the ED and in the IESBA's NOCLAR proposal regarding an audit of financial statements. IOSCO believed these comments are applicable regardless of the resolution of the matter of the Board's overall objective with respect to resolving inconsistencies, as mentioned above. IOSCO believed that both a better understanding of the Board's objective for the revisions to the ISAs and ISQC 1 and the finalization of the IESBA's NOCLAR deliberations will have bearing on the changes the Board needs to further consider. As such, IOSCO anticipated that they would be in a more informed position to comment on the actions needed by the Board after the IESBA has finalized its deliberations. | |

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| | IOSCO | MG member | Applicability of Reporting to Components | IOSCO noted that within paragraphs 40-42 and the associated application material in ISA 240, "The Auditor's Responsibilities Relating to Fraud in an Audit of Financial Statements", communication to management and TCWG regarding an identified or suspected fraud only applies to the "entity." Unlike the ISAs' definition of a "group" that includes a component, it is not clear whether the reference to "entity" as used in paragraphs 40-42 of ISA 240 encompasses NOCLAR occurring at a component. IOSCO believed the Board should make it clear that paragraphs 40-42 of ISA 240 also extends to components of the entity. | The IAASB considered the IESBA's NOCLAR specific paragraphs in relation to communication of NOCLAR in a group audit context, and discussed options to address this matter. As the Board is currently working on a separate project to revise ISA 600, Group Audits, the Board agreed not to pursue amendments, for instance in ISA 600, at this time. The Board will give further consideration to these matters as part of that project, including IOSCO's suggestion on ISA 240. The IAASB did not introduce the clarification suggested by IOSCO in paragraphs 40-42. Though, the Board agreed to emphasize the auditors' responsibilities by introducing in ISA 250 new paragraph A8, which directs auditors to the requirements in the IESBA's NOCLAR to communicate NOCLAR to other auditors within the group, including a group engagement partner, component auditors, and other auditors. Paragraph A5a was introduced as a conforming amendment to ISA 240, with similar text than A8. |
| | IOSCO | MG member | Right or Duty to Report | IOSCO noted that with respect to ISA 250, that paragraph 28 of the ED states: "If the auditor has identified or suspects non-compliance with laws and regulations, the auditor shall determine whether the auditor has a legal or ethical duty or right to report the identified or suspected non-compliance to parties outside the entity." Auditors who must comply with the IESBA's Code may be subject to additional provisions beyond the requirements within the ISAs/ISQC 1. As such, IOSCO believed that paragraph 28 would be an appropriate place to insert a footnote reference pointing those auditors who are subject to compliance with the IESBA's Ethics Code to the additional requirements in it. | Paragraph 29 (formerly paragraph 28), on reporting to an appropriate authority outside the entity, was revised and a number of substantial changes were introduced, including to the application material that supports the paragraph, which include explicit references to the IESBA Code and footnotes to NOCLAR sections in the Code. |
| | IOSCO | MG member | Documentation | IOSCO noted that the documentation requirements in the ISAs remain unchanged even though the IESBA's NOCLAR proposal contains some documentation requirements that go beyond those contained in the ISAs with respect to significant NOCLAR matters. For example, while the IESBA's proposal requires the auditor to document "how management and, where applicable, those charged with governance have responded to the matter" this is not reflected in the ISAs. Should ISA 250 reflect the additional documentation requirements proposed by the IESBA or, at a minimum, alert the auditor to the fact that additional documentation is required for those auditors subject to the IESBA's Code? | The IAASB noted that some respondents requested the inclusion in ISA 250 of the documentation requirements contained in the IESBA's NOCLAR, or that auditors were alerted on the documentation requirements in the Code. The Board agreed that the existing documentation requirements in ISA 250 were limited, and agreed to enhance the requirements in paragraph 30, from the IESBA's NOCLAR. In addition to this, paragraphs 9 and A36 drive auditors to the documentation provisions in the IESBA's NOCLAR. |
| | IOSCO | MG member | Interrelationship with ISQC 1 Project Working Group | IOSCO believed the IAASB should establish appropriate provisions that require audit firms to establish processes internal to the audit firm to stipulate how the firm should address those instances in which an auditor comes across a NOCLAR at an audited entity. IOSCO believed the Board's ISQC 1 project working group should be encouraged to include such provisions as part of their deliberations. | ISQC 1 contains a general requirement for firms to establish policies and procedures with regards to compliance with relevant ethical requirements. The IAASB agreed that the establishment of appropriate policies and procedures to address responses to identified or suspected NOCLAR is important, and that it will consider the need for a specific requirement in ISQC 1 as part of its current project on Quality Control. |
| 3 | UK FRC | IFIAR member | Support for the IAASB proposed limited amendments subject to a more fulsome review in due course. | As the proposals set out in the IESBA Re-ED are not intended to set any specific requirements with respect to the performance of an audit or assurance engagement, and do not undermine the ISAs, including ISA 250, the FRC supports the IAASB's decision to make the limited amendments now, subject to a more fulsome review of ISA 250 in due course. The FRC offered the recommendations below: | The IAASB took note of the support for the limited changes and the suggestions. The Board received mixed views from respondents to the ED regarding the need for a future project to revise ISA 250 or explore further improvements. The Board believes that an immediate revision of ISA 250 is not warranted in light of other more urgent priorities. However, the IAASB agreed to include a question on this matter in the ED (Survey) of the IAASB 2017-2018 Work Program, published in July 2016 and currently being exposed. |
| | UK FRC | IFIAR member | Auditors should be required to report non-compliance to regulatory and enforcement authorities, if not made by management or those charged with governance, in the context of the wider public interest. | Paragraph 28 of ISA 250 deals with the auditor's responsibility to determine if it is necessary to report identified or suspected non-compliance to parties outside the entity. The supporting application material in paragraph A19 has been enhanced to assist the auditor to determine if they have a legal or ethical duty or right to disclose identified or suspected non-compliance with laws and regulations (NOCLAR) to an appropriate authority. While the FRC welcomed the proposed enhancement in the ED, the FRC opined, as expressed in their response to the IESBA Re-ED ¹⁹ , that the auditor should be required to make such disclosure if it is not made by management or those charged with governance if disclosure to an appropriate authority would, on balance, be in the public interest. This would be in the context of having given due consideration to any potential adverse consequences, and is not precluded by law or regulation. Strengthening ISA 250 in this regard would be consistent with other ISAs. For example, ISA 701 (paragraph A53) states that "it will be extremely rare for a matter determined to be a KAM not to be communicated in the auditor's report. This is because there is presumed to be a public interest benefit in providing greater transparency about the audit for intended users". ISA 240 states that "The auditor may consider it appropriate... 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". The FRC believed that the proposed application material in the IAASB ED should also emphasize a key aspect of the IESBA Re-ED: the auditor's responsibility to determine if it is necessary to report NOCLAR to an appropriate authority in the context of the wider public interest (paragraph 225.27 of the IESBA Re-ED). Therefore, the FRC recommended that the IAASB include additional application material drawing the auditor's attention to the wider public interest in their determination whether to report non-compliance to an appropriate authority. | Consistent with the provisions in the IESBA's NOCLAR, the IAASB did not set a requirement to report to an authority outside the entity. Paragraph 29 in ISA 250 (formerly paragraph 28) was further revised and a number of substantial changes were introduced, including to the application material that supports the paragraph. In addition, new paragraph 9 reminds the auditor to responsibilities under law, regulation and relevant ethical requirements, including requirements in relation to specific communications with management and those charged with governance; assessing the appropriateness of their response to non-compliance; and determining whether further action is needed. Disclosure to an appropriate authority is contemplated as a possible further action under the IESBA's NOCLAR. |
| | UK FRC | IFIAR member | Tipping off provisions should be more prominent in ISA 250 | The FRC noted that paragraph 19 of ISA 250 requires the auditor to discuss information concerning any NOCLAR with those charged with governance. Consistent with the IESBA Re-ED proposed wording, the supporting application material in paragraph A15 of ISA 250 makes it clear that in some jurisdictions there are legal or regulatory provisions that prohibit communicating such matters to those charged with governance prior to making any disclosure to an appropriate authority pursuant to anti-money laundering legislation ("tipping off"). Accordingly, in some circumstances the auditor's obligation under law or regulation may override the requirement in paragraph 19 of the ISA to communicate NOCLAR with those charged with governance. The FRC supported this additional material, but believed that it is of such importance - as it seeks to prevent the auditor from inadvertently prejudicing the legal process - that it should be included more prominently in the ISA as part of the requirement. The FRC provided suggestions for editorial changes to address this recommendation. | Based on comments received, the IAASB agreed to introduce further changes in relation to the way in which "tipping off" provisions were characterized in ISA 250 (e.g., paragraph A21), as well as in conforming amendments made to other ISAs. |
| | UK FRC | IFIAR member | A more fulsome review of ISA 250 is necessary | Whilst the FRC agreed with the IAASB that prolonging the finalization of the proposed changes to the ISAs beyond the effective date of the IESBA Re-ED could have unintended consequences, they were of the view that a more fulsome review of ISA 250 is necessary. In this regard, the FRC supported the suggestions made in paragraph 16 of the explanatory memorandum in the ED that further consideration of the following areas is essential: * The existing distinction between the types of laws and regulations in paragraph 6 of ISA 250 and the different levels of work effort applied to each under extant ISA 250 warrants further investigation or revision. * ISA 250 should address making inquiries of management or, when appropriate, TCWG, regarding NOCLAR that may occur. * ISA 250 should include a requirement to obtain an understanding of how management identifies and addresses known or suspected NOCLAR as an essential component in obtaining an understanding of the entity and its environment. * ISA 250 should include guidance addressing personal misconduct related to the business activities of the entity or parties associated with the entity, including contractors. * NOCLAR should be addressed in other ISAs, such as when dealing with auditor's experts and in a group audit situation. The FRC believed that there are a number of other aspects of ISA 250 where improvement is required, particularly in regard to the distinction between the different categories of laws and regulations and the procedural approach in ISA 250, as discussed below. | The IAASB received mixed responses in comment letters regarding the need for a more fulsome review of ISA 250 in the future. The Board believes that an immediate revision of ISA 250 is not warranted in light of other more urgent priorities. However, the Board agreed to include a question on this matter in the ED (Survey) of the IAASB 2017-2018 Work Program, published in July 2016 and currently being exposed. |

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| | UK FRC | IFIAR member | Distinction between the different categories of laws and regulations: auditors are not required to obtain sufficient appropriate audit evidence in relation to "other laws and regulations" . | <p>The FRC noted that ISA 250 currently distinguishes the auditor's responsibilities and work effort in relation to the entity's compliance with laws and regulations into two categories, conditional upon whether those laws and regulations "effect the determination of material amounts and disclosures in the financial statements". If the provisions of those laws and regulations "have an effect on the determination of material amounts and disclosures", for example, most directly they may require specific disclosures to be made in the financial statements ("direct laws and regulations"), then the auditor is required to obtain sufficient appropriate audit evidence regarding compliance with those provisions. Notwithstanding that for the FRC paragraph A8 of ISA 250 makes a confusing contradictory point that "costs of non-compliance (e.g. litigation costs) may need to be provided for in the financial statements, but are not considered to have an effect on the financial statements".</p> <p>ISA 250 describes the second category as other laws and regulations that do not have a direct effect on the determination of amounts and disclosures in the financial statements ("other laws and regulations"). ISA 250 explains further that compliance with those other laws and regulations may be: "fundamental to the operating aspects of the business", "the entity's ability to continue its business", or to "avoid material penalties". Accordingly, the ISA recognizes that other laws and regulations may have a material effect on the financial statements but does not specifically describe them as such. The auditor is not required to obtain sufficient appropriate audit evidence on the entity's compliance with other laws and regulations, but only required to perform limited specified audit procedures to help identify such instances.</p> <p>The FRC noted that in some sectors, e.g. banking, non-compliance with other laws and regulations covering operating aspects of the business can certainly have a "fundamental effect on the operations of the entity" or impact the "entity's ability to continue its business" and would therefore impact the financial statements. Yet, under the current ISA 250 requirements whether breaches of such laws and regulations give rise to actual or potential material liabilities may not be immediately obvious to the auditor, or may not be evidenced in the entity's information or by actions of the entity because they are outside the information systems that are the auditor's normal focus. While the FRC recognized that the auditor's responsibilities cannot be open-ended to the effect of identifying and determining compliance with all laws and regulations pertaining to the entity, the FRC believed that the ISA fails to give auditors a sufficient mechanism to identify those laws and regulations that have, or may potentially have, a material effect on the financial statements.</p> | The IAASB introduced to ISA 250 the same examples of laws and regulations included in the IESBA's NOCLAR (paragraph A6), to support the 2 categories included in the ISA. Paragraph A 12 in the final ISA (formerly paragraph A8), and paragraphs A 13 and A14 in the final ISA 250, were not changed. They bring to the auditor's attention procedures to identify instances of non-compliance with other laws and regulations that may have a material effect on the financial statements. When a NOCLAR is identified or suspected, auditors would be expected to apply paragraph 14, which requires obtaining sufficient appropriate audit evidence. |
| | UK FRC | IFIAR member | ISA 250 is primarily procedural-based and not outcome-based with a risk focus - Matters that need to be explored or strengthened | <p>The lack of clarity, as mentioned above, lies significantly in the underlying framework of the ISA, which is primarily procedural based as opposed to outcome based with a risk focused assessment, as detailed below. For the FRC there are other aspects of ISA 250 in relation to this matter that need to be explored or strengthened through revision, such as:</p> <ul style="list-style-type: none"> * The boundaries between direct laws and regulations and other laws and regulations in the context of the financial statement audit. * Introducing requirements and guidance in the ISA for the auditor to obtain an understanding of laws or regulations pertaining to the circumstances of the entity including those laws or regulations governing how the auditor should address non-compliance, suspected non-compliance and potential non-compliance. * Introducing guidance to the ISA that assists the auditor to determine the depth and breadth of the understanding of relevant laws and regulations (and subsequent response) required. For instance, the IAASB might also explore to what extent ISA 250 should require action by the auditor under the auditor's wider public interest responsibilities?. For example, breaches of environmental laws and regulations that may endanger the health or safety of employees or the public; personal misconduct of employees unrelated to the business activities of the client; or non-compliance with laws and regulations committed by persons conducting business affairs with the entity. | The IAASB noted the FRC's suggestion for a change from a procedural standard into a risk-based one. The Board believes that an immediate revision of ISA 250 is not warranted in light of other more urgent priorities. However, the Board agreed to include a question in the ED (Survey) of the IAASB 2017–2018 Work Program on the need to further revise ISA 250, for instance, as some stakeholders have noted the standard is not founded on the risk-based approach. The ED was published in July 2016 and currently being exposed. |
| | UK FRC | IFIAR member | Procedural approach Vs. Risk-based approach: ISA 250 should be updated to a risk-based approach. | <p>The FRC noted that ISA 250 is an overly procedural standard. In the redrafting of this ISA during the IAASB's Clarity Project, a number of stakeholders expressed concern that ISA 250 should be updated to be aligned with the risk-based approach. While the FRC appreciated that the IAASB introduced some elements of the risk-based approach in respect of the auditor's work effort relating to non-compliance with direct laws and regulations, because any further revision to the ISA was out of scope of this project, the ISA remains primarily procedural based, making it deficient in many aspects.</p> <p>Procedural requirements can increase audit quality when they form part of, or supplement, an already established risk-based approach (for example, when they require auditors to examine a matter more thoroughly). However, in practice, absent a risk-based approach, the risk that the auditor does not identify material misstatements of the financial statements due to non-compliance with laws and regulation ("detection risk") is increased. This is because a procedural approach instantly narrows the focus of the audit, whereas a risk-based approach allows the auditor to exercise professional judgment and choose which audit procedures will be most effective in the circumstances.</p> | |
| | UK FRC | IFIAR member | | <p>In this regard, the FRC drew the IAASB attention to the recent findings of the FRC Audit Quality Team's Thematic Review into the auditors' considerations of compliance with laws and regulations⁽⁴⁾. The Thematic Review noted that improvements were needed in the identification and assessment of the laws and regulations affecting the specific audited entity, including the need for greater professional skepticism in relation to possible breaches that could affect the financial statements. The Thematic Review also notes that auditors' had a lack of focus on identifying the specific risks in relation to noncompliance with laws and regulations, and that the consideration of laws and regulations, and the performance of related audit procedures was viewed as a compliance exercise rather than as an important and integral part of the audit.</p> | |
| | UK FRC | IFIAR member | | <p>The FRC believed that aligning ISA 250 to a risk-based approach could have a significant positive impact on audit quality as a result of better risk assessments through a more detailed understanding of the entity and its environment, including its internal controls, and improved design and performance of audit procedures to respond to assessed risks of material misstatements.</p> | |
| | UK FRC | IFIAR member | | <p>Also, distinguishing between the different categories of laws and regulations may be less complicated under the risk model. The need to obtain a more thorough understanding of the entity and its environment, including its internal controls under the risk model, as opposed to the current requirement to obtain a "general understanding", will give auditors greater opportunity to identify laws and regulations that merit their attention.</p> | |
| | UK FRC | IFIAR member | | <p>The FRC recognized that there could be some challenges in aligning ISA 250 to a risk-based approach; and the IAASB would need to further explore several aspects of this approach, such as: (i) ISA 250 only briefly discusses the risk assessment, but in relation to the implications of non-compliance (paragraph 21); risks of misstatement at the assertion level can probably be aligned to requirements set out in ISA 315. However, there is no guidance on management assertions in relation to other instances of laws and regulations, other than those that are explicitly stated (e.g. written representations); (ii) ISA 250 has very little guidance on internal controls. In performing an audit, auditors are required to understand and evaluate internal controls, and this should include understanding and evaluating controls that assist management and those charged with governance comply with laws and regulations (preventive) and controls that enable them to detect and address instances of NOCLAR, including addressing relevant reporting requirements. The IAASB would need to update the ISA to reflect more recent developments in management's internal controls over financial reporting, compliance and conduct of business; (iii) currently, the objectives of ISA 250 focus on specified audit procedures and do not sufficiently identify the desired outcome. There is a danger that the auditor is more focused on establishing whether the procedures have been undertaken, than in applying judgment about the effect of any identified instances of non-compliance with laws and regulations; and (iv) the ISAs would be enhanced by linking non-compliance with laws and regulations that could impact an entity's ability to continue its business and the auditor's responsibilities relating to management's use of the going concern assumption in ISA 570.</p> | |
| 4 | South Africa's IRBA | IFIAR member | Amendments will be beneficial for those jurisdictions that do not apply the Code. | <p>The IESBA Code of Ethics is not applied by all jurisdictions, including those that have adopted the International Standards on Auditing (ISAs). Accordingly, the IAASB amendments will be beneficial for those jurisdictions that do not apply the Code.</p> | The IAASB took note of this view. |

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| South Africa's IRBA | IFIAR member | Work effort under the ISAs may not reflect the level of work effort in the Code - Greater detail of work effort could be provided in the ISA. | IRBA was of the view that the proposed amendments to the ISAs may not sufficiently reflect the level of work effort that is expected under the proposed revised Code. Requiring auditors to separately consult the Code in addition to the ISA requirements could create a risk that insufficient procedures will be performed in complying with the Code. A greater level of detail in work effort requirements could be provided in the ISAs. | Following discussions of the comments received to the ED, the IAASB agreed to introduce several further enhancements to ISA 250, e.g., the documentation requirements in ISA 250 were expanded and are now similar to the IESBA's; new application material was added in relation to communication of a NOCLAR in the context of a group audit (paragraph A8); explicit references were introduced to the ISA directing auditors to responsibilities under the IESBA's NOCLAR, including assessing the appropriateness of management or Those Charged with Governance response; the requirement for the auditor to determine whether to report identified or suspected NOCLAR to an appropriate authority was further clarified in ISA 250, and new application guidance was added to support the requirement; and a conforming amendment was introduced to ISA 220 reflecting requirements for the communication of NOCLAR between predecessor and proposed successor auditors, as contemplated in the IESBA's NOCLAR. |
| South Africa's IRBA | IFIAR member | Terms used in the ISA are not consistent | IRBA noted that at times certain of the proposed ISAs used the phrase "legal or ethical duty or right" and at other times the phrase "legal or ethical right" is employed. IRBA recommends that "legal or ethical duty or right" should be used consistently throughout the ISAs. | Generic terms used in the extant ISA were removed, e.g., duty; and terms were aligned with those in the IESBA's NOCLAR, e.g., "appropriate authority". |
| South Africa's IRBA | IFIAR member | The IAASB proposed limited amendments are appropriate, but there are matters that need further consideration to resolve actual or perceived inconsistencies with NOCLAR | IRBA is of the view that the IAASB's proposed amendments are appropriate. However, the Board provided the following comments that may further contribute to resolving actual or perceived inconsistencies of approach or to clarify and emphasize key aspects of the NOCLAR proposals: | |
| South Africa's IRBA | IFIAR member | | * Paragraph 8a, responsibilities of the auditor, highlights the fact that the auditor may have additional obligations under relevant ethical requirements regarding NOCLAR. It links the auditor's additional responsibilities under relevant ethical requirements to the possibility of obtaining further information that may be relevant to his/her work. IRBA believed that this paragraph should be split and further enhanced to emphasize the fact that the auditor simultaneously has to comply with relevant ethical requirements and the auditing standards. For this purpose, IRBA provided proposed drafting changes to the paragraph. | Paragraph 8a has become paragraph 9 and been substantially reformulated, including supporting application material. This paragraph emphasizes the other responsibilities auditors have in addition to those in the ISAs (e.g., ethical requirements). |
| South Africa's IRBA | IFIAR member | | * Paragraph 18, on documentation: IRBA believed that the documentation requirements in ISA 250 do not sufficiently reflect the auditor's work effort as envisaged in the proposed amendments to the Code, when forming a conclusion as to whether there is a non-compliance or not. For example, in terms of Section 225.32 of the proposed NOCLAR, the auditor is required to document how management and, where applicable, those charged with governance have responded to the matter and the courses of action the auditor considered, the judgments made and the decisions that were taken, having regard to the reasonable and informed third-party perspective. There is no similar requirement in ISA 250. | The IAASB noted that some respondents to the ED requested the inclusion of the documentation requirements contained in the IESBA's NOCLAR in ISA 250, or alerting auditors on the documentation requirements in the Code. The Board agreed that the existing documentation requirements in ISA 250 were limited, and decided to enhance the requirements in paragraph 30 of ISA 250, based on the IESBA's NOCLAR. The Board also brought emphasis to documentation requirements in paragraphs 9 and A36 of the ISA. |
| South Africa's IRBA | IFIAR member | | * Paragraph A5a - Categories of Laws and Regulations: IRBA recommended that this paragraph be amended as follows: (i) split the examples, including a list of typical examples for category (a) legislation (those that have a direct effect), and category (b) legislation (those that have an indirect effect); (ii) include the following additional examples in the list of laws and regulations that may often be relevant to the audit: breach of a fiduciary duty, data protection, labor laws, tender process legislation and protection of personal information; and (iii) include a disclaimer after the bullet points to clarify that this is not an exhaustive list and that the auditor will have to consider what represents relevant laws and regulations in the context of the particular engagement, the entity's industry, regulatory framework, and so on. | Paragraph A5a has become paragraph A6 in the final ISA 250. The examples of laws and regulations included in this paragraph are identical to those in the IESBA's NOCLAR. |
| South Africa's IRBA | IFIAR member | | * Paragraph A19 - Reporting Non-Compliance to Regulatory and Enforcement Authorities: IRBA noted that currently the emphasis is that the auditor could consider obtaining legal advice. However, IRBA opined that the focus must rather be on determining the nature and scope of the auditor's legal or ethical duty or right and the appropriate course of action in light of such duty or right; and then indicate that the auditor may consider obtaining legal advice in this regard. IRBA proposed drafting amendments to the wording of this paragraph. | Paragraph A19, on reporting identified or suspected NOCLAR to an appropriate authority, has become paragraph A 28 in the final ISA 250, as is supported by application material in paragraphs A 29 to A34. The Board has substantially enhanced this paragraph, not to convey the idea that the focus for the auditor is in obtaining legal advice, but in considering reporting according to the various scenarios described in A 30 to A34. |
| South Africa's IRBA | IFIAR member | | * Paragraph 22 - Inconsequential matters: IRBA believed that there are inconsistencies in the auditor's response to the non-compliance between ISA 250 and the proposed IESBA NOCLAR amendments. In terms of the proposed NOCLAR amendments, there is a level of severity that exists between matters that are not clearly inconsequential and significant matters. Although paragraph 22 in ISA 250 includes reference to "other than when the matters are clearly inconsequential", IRBA recommended that the IAASB describe this as detailed in Section 225.80(a) of the proposed NOCLAR. The auditor would also have to consider whether a matter is inconsequential much earlier in the audit process than what is currently inferred. | The IAASB did not change the wording in paragraph 23 (formerly paragraph 22), on communication of identified or suspected NOCLAR to Those Charged with Governance, on matters that are clearly inconsequential. |
| South Africa's IRBA | IFIAR member | Matters highlighted in paragraph 16 of the Exploratory Memorandum of the ED as matters for further work in ISA 250 are worth exploring. | IRBA opined that the matters highlighted in paragraph 16 of the explanatory memorandum in the ED are worth exploring further. | The IAASB received mixed responses in comment letters regarding the need for a more fulsome review of ISA 250 in the future. The Board believes that an immediate revision of ISA 250 is not warranted in light of other more urgent priorities. However, the Board agreed to include a question on this matter in the ED (Survey) of the IAASB 2017-2018 Work Program, published in July 2016 and currently being exposed. |
| South Africa's IRBA | IFIAR member | ISA 250 reflects the minimum work effort, which would not necessarily encourage auditors to perform further audit work. Considerations specific to SMEs should also be included in the ISA. | IRBA believed that paragraphs 12 to 17 in ISA 250 currently reflect the minimum work effort that the auditor would perform and do not necessarily encourage the auditor to perform further audit work in instances where there are heightened risks of non-compliance. IRBA opined that the IAASB should consider expanding these paragraphs to sufficiently emphasize that auditors follow a risk-based approach when considering compliance with laws and regulations. Also, considerations that are specific to Small and Medium-Sized Entities should be included, since the risk of non-compliance in such entities may be greater, owing to lack of understanding about and awareness of the relevant laws and regulations among management and those charged with governance. Finally, IRBA recommended that paragraph 14(a) should include a reference to inquiries of internal auditors as well as the entity's compliance officer, if applicable; and paragraph 14(b) should include specific reference to both external communications with regulators as well as internal correspondence within the entity. Often auditors tend to neglect the internal correspondence aspects. | Based on comments raised to the ED, including the recommendation to link the ISA to work effort described in the IESBA's NOCLAR, the IAASB agreed to introduce further changes to ISA 250, which expand the auditor's work effort and drive auditors to other responsibilities: e.g., the documentation requirements in ISA 250 were expanded and are now similar to the IESBA's; new application material was added in relation to communication of a NOCLAR in the context of a group audit (paragraph A8); explicit references were introduced to the ISA directing auditors to responsibilities under the IESBA's NOCLAR, including assessing the appropriateness of management or Those Charged with Governance response; the requirement for the auditor to determine whether to report identified or suspected NOCLAR to an appropriate authority was further clarified, and new application guidance was added to support the requirement; and a conforming amendment was introduced to ISA 220 reflecting requirements for the communication of NOCLAR between predecessor and proposed successor auditors, as contemplated in the IESBA's NOCLAR. |
| South Africa's IRBA | IFIAR member | Need to show more clearly the link between NOCLAR and the assertions in considering the different types of misstatements. | IRBA recommended that consideration should be given to more clearly contextualize the link between NOCLAR and the auditor's use of assertions in considering the different types of misstatements that may occur throughout the audit process. This includes, for example, which assertions could be affected by NOCLAR that have a direct effect on the determination of material amounts and disclosures in the financial statements. Furthermore, the ISA should clarify or further enhance the fact that when evaluating the possible effect of NOCLAR on the financial statements, the auditor would consider both the qualitative and quantitative effects of the non-compliance. However, the focus should be more on the qualitative considerations than the quantitative ones. | These matters suggested by IRBA were not discussed by the IAASB. |
| South Africa's IRBA | IFIAR member | Close Calls | IRBA noted that SA 570 (Revised) introduced auditor responsibilities around the so-called "close-calls" in relation to going concern and for auditors to challenge the adequacy of disclosures for "close calls" in view of the applicable financial reporting framework. IRBA suggested that consideration should be given as to whether NOCLAR in terms of ISA 250 warrants something similar. For example, depending on the facts and circumstances, the auditor may determine that additional disclosures about instances of NOCLAR are necessary to achieve fair presentation, even if no disclosures are explicitly required by the applicable financial reporting framework. | The IAASB did not discuss matters related to the broader disclosures in the FS as part of its ISA 250 project. Some respondents to the ED expressed the view that ISA 250 should incorporate more considerations relating to the impact of identified or suspected NOCLAR on the auditor's report, for example, Key Audit Matters. The IAASB reconsidered the application material in ISA 250 addressing the implications of NOCLAR for the auditor's report, as the extant ISA 250 only made reference to "Other Matter" paragraphs. The Board agreed to introduce new application material in ISA 250 (paragraph A26) to set out the variety of circumstances in which identified or suspected NOCLAR may have implications for the auditor's report, including as a Key Audit Matter and the ensuing application of ISA 701. |

(1) IFIAR Comment Letter to the IAASB Strategy and Work Program: https://www.ifiar.org/IFIAR/media/Documents/IFIARMembersArea/MemberUpdates/IFIAR-comment-letter-on-IAASB-strategy-and-work-program_3.pdf.

(2) IFIAR Comment Letter to the IESBA NOCLAR ED: <https://ifiar.org/IFIAR/media/Documents/General/About%20Us/IFIAR-Comment-Letter-IESBA-NOCLAR-ED-28September2015.pdf>

(3) For the FRC response to the IESBA Re-ED : www.frc.org.uk

