

DN/PS/GH

July 2007

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Dear Mr Sylph

Proposed International Standard on Auditing 250 (Revised) The Auditor's Responsibilities Relating to Laws and Regulations in an Audit of Financial Statements

The Committee of European Banking Supervisors welcomes the opportunity to comment on the Proposed International Standard on Auditing 250 (Revised) The Auditor's Responsibilities Relating to Laws and Regulations in an Audit of Financial Statements (ED).

Through their opinions on annual accounts and annual reports, external auditors constitute an integral part of the public oversight model and contribute to the financial stability of the market. As banking supervisors we therefore have an interest in ensuring that auditing standards, which are the basis for audit work, are of a high quality and are clear and capable of consistent application.

We appreciate the efforts of the International Auditing and Assurance Standards Board (IAASB) to clarify the auditing standard. However we are not convinced that the objectives to be achieved by the auditor in the ED are appropriate and we are not sure that some of the changes to the requirements have clarified this auditing standard. Our comments on these concerns and some other aspects are presented in the attached appendix.

We also note that this is one of the older auditing standards to be clarified. The ED does not fully reflect a risk-based approach to audit and developments in reporting requirements in some business sectors e.g. banking. Therefore we would suggest it should be updated as soon as the clarity project is completed.

Our comments were coordinated by our Expert Group on Financial Information (EGFI), and especially by its Subgroup on Auditing, which is under the direction of Pat Sucher from the FSA, UK.

If you have any questions regarding our comments, please feel free to contact the chairman of EGFI, Arnoud Vossen (+31.20.524.3903) or Miss Pat Sucher (+44.20.7066.5644).

Yours sincerely



Danièle Nouy
Chair

CEBS comments on IAASB exposure draft ISA 250, The Auditor's Responsibilities Relating to Laws and Regulations in an Audit of Financial Statements (ED)

Responses to the IAASB's questions

(1) Are the objectives to be achieved by the auditor, stated in the proposed, redrafted ISA, appropriate?

The objectives should be such that they drive appropriate auditor behaviour in line with the requirements. The current objective (in 8b) refers to performing 'specified procedures' which is focused on the process of performing the audit rather than the objectives in performing the audit.

We believe that objective 8(b) should be reworded to reflect the outcome of the requirements. Such wording could be as follows:

'To identify instances of non-compliance with other laws and regulations that may have a material effect on the financial statements.'

We do not have a concern with objectives 8(a) and 8(c).

Use of 'direct' effect and material effect

We note the change from the use of the word 'material' in the extant ISA 250 to describe the effect of different laws and regulations on audit work, to a distinction in the ED between the impact of 'direct' and, implicitly, 'indirect' laws and regulations on the audit work. Essentially, 'direct' in the ED refers to those laws and regulations which have a direct effect on the determination of material amounts and disclosures in the financial statements (ED para 6a). The other laws and regulations which may, 'indirectly', have an impact on the audit are those relating to the entity's conduct of business. We are not sure that making this distinction, and focusing less on materiality, has clarified the ISA. For example this change, combined with the re-location of certain paragraphs outlining the differential importance of conduct of business laws and regulations across business sectors (e.g. A 8), and the current proposed objective 8(b), means that the ISA may not seem to address properly the key risks arising from the impact of laws and regulations on the entity that auditors would have to assess when conducting the audit.

Update the ED

We believe that some of the lack of clarity about direct and indirect and what is material, arises because this ED needs to be updated. It could certainly be updated to be more aligned with the risk-based approach to audit laid out in ISA 315 and ISA 330. The ED could then reflect more recent developments in financial reporting, developments of compliance functions and in the laws and regulations that have a material impact on conduct of business in certain business sectors e.g. banking.

The objectives should then be suitably modified to reflect the risk based approach to the audit and the need to assess whether there is any material misstatement in the financial statements arising from non-compliance with the relevant laws and regulations.

(2) Have the criteria identified by the IAASB for determining whether a requirement should be specified been applied appropriately and consistently, such that the resulting requirements promote consistency in performance and the use of professional judgement by auditors?

Reference to audit report

The reference to 'audit report' in various parts of the extant ISA has been changed to 'audit opinion'. This may be in line with the revised ISAs 700/705, but it may not always be appropriate for ISA 250 as there may be duties in particular jurisdictions to report non-compliance with laws and regulations in the audit report which may not affect the audit opinion.

Other points

We note that there does not seem to be any provision in the ED for evaluating the audit evidence obtained about compliance with laws and regulations e.g. in paragraph 16.

Paragraph A 15 – we believe that it is more appropriate that management would only accept to provide a written representation that states that management has designed procedures to ensure compliance with laws and regulations..

We note the omission of 'Discuss the legal and regulatory framework with auditors of subsidiaries in other countries', which was included in paragraph 17 of the extant ISA. We would assume that this is a reasonable audit procedure and would like to see it included in the ED.