

Representation 06/2017

Mark Babington
Deputy Director, Audit Policy
Financial Reporting Council
8th Floor,
125 London Wall,
London EC2Y 5AS

8 September 2017

Dear Mark,

Re: Proposals to revise: Money Laundering – Guidance for UK Auditors on UK Legislation (Practice Note 12), and incorporate as an Appendix to ISA (UK) 250 (Revised June 2016) Section A: Consideration of Laws and Regulations in an Audit of Financial Statements.

The Audit and Assurance Committee of Chartered Accountants Ireland is pleased to respond to the consultation paper named above. We have considered the proposals from the perspective of Chartered Accountants Ireland members performing audit work in the United Kingdom (UK) including Northern Ireland.

We welcome the Financial Reporting Council's ('FRC') prompt action to update the guidance for auditors in relation to anti-money laundering ('AML') legislation following the recent publication of the Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017.

In considering the consultation paper's proposals we had mixed views on the merits of moving the guidance for auditors in relation to AML legislation from Practice Note 12: Money Laundering – Guidance for Auditors on UK legislation ('PN 12') to an appendix of International Standard on Auditing (ISA) (UK) 250 Section A Revised: *Consideration of Laws and Regulations in an Audit of Financial Statements* ('ISA (UK) 250 Section A'). While we acknowledge the benefits of having a single point of reference for auditors in relation to the consideration of AML legislation in an audit context, we have some significant concerns regarding the change in approach which we outline below.

We have considered the specific questions asked by the FRC in the consultation paper and we set out our answers below:

Question 1: Overall do you agree with the proposed revisions to the guidance on UK anti-money laundering legislation? If not, please explain why.

As noted above we have significant concerns about the consequences of moving the guidance on UK AML legislation from PN 12 to an appendix to ISA (UK) 250 Section A. Firstly, we are concerned about the apparent change in the status of the guidance due to its relocation in this way. Secondly, we consider the guidance is diminished by the loss of the helpful appendices to PN 12 which are not appropriate for inclusion in a standard.

In relation to the change in status of the AML guidance as a result of the proposals, we note that the consultation paper asserts that:

“A Practice Note provides guidance to support best practice and is not prescriptive, however, material contained in standards contains requirements, basic principles, essential procedures and related guidance that auditors are required to follow.”

This statement, which may imply that the AML guidance could become prescriptive by moving it to an appendix to ISA (UK) 250 Section A, is not consistent with ISA (UK) 200 (Revised June 2016) *Overall Objectives of the Independent Auditor on the Conduct of an Audit in Accordance with ISAs (UK)* which, at paragraph 19, states:

“The auditor shall have an understanding of the entire text of an ISA (UK), including its application and other explanatory material, to understand its objectives and to apply its requirements properly.”

It is essential that there is no ambiguity about the status of guidance included in ISAs (UK). If the AML guidance is moved to an appendix to ISA (UK) 250 Section A, as proposed, it will be important that the status of the guidance is unambiguous and that the appendix clarifies that it is not prescriptive in nature.

While much of the guidance is reflective of the AML legislation which is itself prescriptive, we have concerns in relation to some elements of the proposed revised AML guidance which might incorrectly be perceived to increase the responsibilities of auditors beyond the statutory requirements. For example we note that paragraph 28 of the proposed revised AML guidance states:

“For entities within the regulated sector or public interest entities, other laws and regulations, that may have a material effect on the financial statements will include Anti-Money Laundering Legislation. When auditing the financial statements of entities within the regulated sector the auditor reviews the steps taken by the entity to comply with the Anti-Money Laundering Legislation, assesses their effectiveness and obtains management representations concerning compliance with that legislation.”

We consider it important to add further clarification that the steps which are guided at paragraph 28 are performed to achieve the auditor's objectives in relation to the audit of the financial statements and that the auditor is not required to assess an entity's compliance with AML legislation or form an opinion in that regard.

Our concern above extends beyond this consultation to the question of whether this approach is one which FRC might take in relation to the revision of other Practice Notes in the future. We do not consider it appropriate to seek to elevate the status of guidance for auditors which is not derived directly from legal or regulatory requirements.

Another consequence of moving the AML guidance from PN 12 to an appendix to ISA (UK) 250 Section A is the loss of the helpful appendices in PN 12 as well as the useful examples of illustrative wording previously given in PN 12. While we acknowledge that it is not appropriate to include such detailed guidance in an auditing standard, which should remain based on principles, we regret the loss of these useful illustrations.

Question 2: Is the included guidance appropriate? If you believe it should be amended, please explain why and how.

Subject to our comments above, we have no further comments on the appropriateness of the guidance regarding the proposed revisions to the guidance on UK AML legislation. We consider the guidance important and appropriate for auditors.

Question 3: Has any extant guidance been deleted from the Practice Note that you believe should be retained? If yes, please explain why it should be retained and whether, and if so how, it should be updated.

As noted above we regret the loss of the helpful examples provided in PN 12. In particular, we consider the loss of Appendix 1 of PN12 results in insufficient emphasis in the AML guidance on the breadth of the offence of money laundering. We believe it is important that the AML guidance clarifies that an auditor may encounter an offence of money laundering in an audit context which is committed by parties other than the audit client. While reference to this is made indirectly at paragraph 37 of the proposed revised AML guidance by reference to a *"third party's money laundering"*, we suggest that direct guidance should be provided to auditors to avoid any confusion in this regard.

We note also that we have been unable to find in the proposed revised AML guidance, the guidance at paragraph 39 of PN12 which advises that,

"even where the rest of the engagement team disagrees, an individual should not be dissuaded from reporting to the MLRO if the individual still considers that it is necessary".

We consider this an important piece of guidance which should be retained.

Question 4: Are there any other matters in relation to an auditor's obligations under money laundering, terrorist financing and proceeds of crime legislation which should be included in this guidance material and, if so, what do you believe this should address?

Except as noted above, there are no other matters which we consider should be included in this guidance material.

We will be pleased to discuss further with you any of the comments made above. If you consider this would be helpful please contact me directly at + 353 1 637 7389 or at karen.flannery@charteredaccountants.ie.

Yours sincerely



Karen Flannery
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Chartered Accountants Ireland