

Consultation paper and impact assessment

*Proposal 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*

# **response to consultation paper**

05 September 2017

CIPFA, the Chartered Institute of Public Finance and Accountancy, is the professional body for people in public finance. Our 14,000 members work throughout the public services, in national audit agencies, in major accountancy firms, and in other bodies where public money needs to be effectively and efficiently managed.

As the world's only professional accountancy body to specialise in public services, CIPFA's portfolio of qualifications are the foundation for a career in public finance. They include the benchmark professional qualification for public sector accountants as well as a postgraduate diploma for people already working in leadership positions. They are taught by our in-house CIPFA Education and Training Centre as well as other places of learning around the world.

We also champion high performance in public services, translating our experience and insight into clear advice and practical services. They include information and guidance, courses and conferences, property and asset management solutions, consultancy and interim people for a range of public sector clients.

Globally, CIPFA shows the way in public finance by standing up for sound public financial management and good governance. We work with donors, partner governments, accountancy bodies and the public sector around the world to advance public finance and support better public services.

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Dear Mark

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***Proposal 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***

CIPFA is pleased to present its comments on this Consultation Paper, which has been reviewed by CIPFA's Accounting and Auditing Standards Panel.

Our comments on the content of the proposed revision are provided in attached annexes.

I hope this is a helpful contribution to the development of this guidance. If you have any questions about this response, please contact Steven Cain (e: [steven.cain@cipfa.org](mailto:steven.cain@cipfa.org), t: +44(0)20 7543 5794).

Yours sincerely

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**RESPONSE TO QUESTIONS IN THE INVITATION TO COMMENT**

**Q1 Overall do you agree with the proposed revisions to the guidance on UK anti-money laundering legislation? If not, please explain why.**

Generally, we agree with the proposed revisions.

**Q2 Is the included guidance appropriate? If you believe it should be amended, please explain why and how.**

Generally we consider that the included guidance is appropriate.

However, greater clarity would be helpful where the person carrying out an audit does not fall within the regulated sector in their capacity as an auditor of the entity being audited.

Specific cases where issues arise include (but may not be limited to)

- where the audited entity is in the public sector; and
- where the audited entity is a charity, but not a company

More detail is provided at Annex 2.

CIPFA identified these issues from our review of the current proposals to revise this guidance, but they are present in the extant Practice Note 12 and do not arise from the revised drafting.

**Q3 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.**

Generally we are content with the deletions made.

**Q4 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?**

We have not noted any deficiencies or areas where additional guidance would be required or helpful.

### Comments on drafting and signposting between

- Practice Notes 10, 11 and
- guidance on Money Laundering in Practice Note 12, and the proposed Appendix to ISA (UK) 250A

#### (1) where the audited entity is in the public sector

Paragraph 57 of Practice Note 10: *Audit of financial statements of public sector bodies in the United Kingdom* explains that '[g]uidance on the auditor's responsibilities in relation to the UK anti-money laundering legislation when auditing and reporting on financial statements is provided in the FRC's Practice Note 12'.

However, neither Practice Note 12 nor the proposed Appendix to ISA (UK) 250A provide a full account of why all public sector auditors are subject to requirements in connection with anti-money laundering. They could in practice be read as suggesting that these requirements do not apply.

Practice Note 12 Appendix 2, explains that

- The regulated sector includes any firm or individual who acts in the course of a business carried on in the UK as an auditor.
- A person will fall within the regulated sector in their capacity as an auditor when carrying out statutory audit work within the meaning of section 1210 of the Companies Act 2006

Appendix 2 also explains that when carrying out other audits, (such as audits of non-UK companies), the auditor's responsibilities in respect of anti-money laundering derive from a presumption that they will also be providing accountancy services which are additional to the audit. Similar explanations to the above are made in paragraphs 5 to 11 of the proposed Appendix to ISA (UK) 250A

Now public sector audits are, for the most part, not framed as CA2006 statutory audits. Furthermore, many public sector audits are carried out without additional provision of accountancy services, particularly where the audit is carried out by one of the national audit agencies. Appendix 2 could therefore be construed as suggesting that Practice Note 12 does not apply.

This would not be helpful. Audits carried out on behalf of the Comptroller and Auditor General, Auditors General for Scotland and Wales, and the Comptroller and Auditor General for Northern Ireland are exempt from some requirements, mostly in connection with client identification and on-going monitoring of business relationships. However, almost all of the other requirements of Practice Note 12 apply as a result of section 49 of the Money Laundering Regulations 2007 section 49, and these will apply to the revised guidance through section 103 of the Money Laundering Regulations 2017.

Section 49 of the Money Laundering Regulations 2007 is referenced and explained in paragraph 58 of Practice Note 10, but it is not explicitly framed as providing the statutory basis for the anti-money laundering responsibilities covered in FRC guidance.

We expect that the risk that FRC guidance will be misinterpreted is quite low. Nevertheless, CIPFA recommends that the Appendix should be redrafted to avoid the misreading outlined above if this can be done straightforwardly.

Alternatively, the material in paragraphs 57 and 58 of Practice Note 10 could be redrafted to make it clear that the FRC guidance, while mainly drafted for companies audits, substantially applies to public sector audits as a result of section 103 of the Money Laundering Regulation 2017.

(2) where the audited entity is a charity, but not a company

FRC have recently consulted on a revised Practice Note 11, which includes a section on Money Laundering and references Practice Note 12.

Similar points to those made at (1) above could be made in respect of charity audits, although in this case that suggestion that the auditor will also generally be providing accountancy services seems more compelling.

We note that both Practice Note 11 and the FRC guidance make the very important point that reporting to the NCA does not relieve the auditor of a duty to report that matter to charity regulators where the information is of material significance to the regulator's function.

CIPFA suggests that it would be helpful if the revised Practice Note 11 explained that, while charities are not part of the 'regulated sector' referred to in the Proceeds of Crime Act 2002, auditors still have responsibilities under money laundering legislation as providers of accountancy services, and additionally, in connection with requirements set out by the charity regulators. These requirements are set out in Practice Note 11 and [the proposed Appendix to ISA (UK) 250A] respectively.