

PIOB Monitoring of Comment Letters submitted by MG/IFIAR/EAIG Members and Global Organizations to the re-ED of NOCLAR (May 2015)					
As of June 2016					
#	Respondent	Group	Issue	MAIN Issues/Recommendations Description	SSB's Disposition of Comment
1	EAIG	Regulators - Oversight Bodies	General	The level of response provided for by the current ED does not meet... the minimum level of legal requirements applicable in all our respective jurisdictions for the audits of PIEs.	The provisions set up an escalation process, at the end of which the PA may disclose NOCLAR to an appropriate authority. It is an option, not a requirement.
2	EAIG	Regulators - Oversight Bodies	General	The Code should set the response expected for the auditor at a higher level. In jurisdictions that do not have locally applicable legislation in place relating to the auditor's behaviour when facing NOCLAR, a Code that is less stringent than higher requirements applicable elsewhere would be less useful, or not useful at all.	The provisions set up an escalation process, at the end of which the PA may disclose NOCLAR to an appropriate authority. It is an option, not a requirement.
3	EAIG	Regulators - Oversight Bodies	Monitoring the response of the entity	The auditor should invite management and TCWG to take action, in all situations, not only when they agree on the facts. This precondition of their agreement is inappropriate. The auditor should monitor and assess the response of the entity. This assessment... is expressed in a manner that does not create a clear requirement for the auditor in this area.	The "precondition" of agreement has been deleted from the provisions (par. 225.18). The PA shall advise management and TCWG to take appropriate and timely actions, if they have not already done so. The PA shall assess the appropriateness of the response of management and TCWG (par. 225.23). In light of their response the PA shall determine if further action is needed in the public interest (par. 225.25).
4	EAIG	Regulators - Oversight Bodies	Obligation to report to authorities	When the audited entity does not take appropriate action to investigate the matter, the auditor should have an obligation to inform the authorities designated by national law, unless this is clearly prohibited locally, and that he should not have only a right to inform, as suggested in the ED.	The determination of whether to make a disclosure depends on several factors (i.e. nature and extent of the actual or potential harm to investors, etc.). External factors to be considered include whether there is an appropriate authority able to receive the information, and whether there is protection from civil, criminal or professional liability (parr. 225.33-34).
5	EAIG	Regulators - Oversight Bodies	Scope of the provisions	The scope should not be limited to matters identified in the course of the audit, for PIEs. If the auditors of an entity become aware of existing or potential NOCLAR when performing non-audit services for that entity, they shall take the same steps as if the matter was identified in the course of the audit.	The scope includes NOCLAR encountered when providing a "professional service to a client" (par. 225.1, applicable to PAPPs performing audits of Financial Statements and PAPPs performing services other than audits of Financial Statements, i.e. NAS. The scope applies also to PAIBs "carrying out professional activities" (par. 360.1). Provisions apply to any kind of entities, PIEs or not.
6	EAIG	Regulators - Oversight Bodies	Communication between predecessor and successor auditors	The former auditor should communicate any information relevant to the audit to the newly appointed auditor, unless prohibited by national law. We do not agree with the precondition that the former auditor should obtain the audited entity's permission before making such communication. The IESBA could clarify this in the proposals.	Par. 225.31 establishes that the predecessor auditor "provides all such facts and other information concerning the identified or suspected" NOCLAR before the successor auditor accepts the engagement. Par. 210.14 has been amended as follows: "If the client fails or refuses to grant the predecessor accountant permission to discuss the client's affairs with the proposed successor accountant, the predecessor accountant shall disclose this fact to the proposed successor accountant, who shall carefully consider such failure or refusal when determining whether or not to accept the appointment".
7	EAIG	Regulators - Oversight Bodies	Link between the Code and ISAs	We would see a clear benefit in aligning the ISAs and the provisions of the Code to ensure that all the requirements are addressed in a coordinated manner (i.e. work effort, communication, group audit specificities, documentation, etc.).	The IAASB and the IESBA liaised to coordinate changes in ISA 250 and in the Code (NOCLAR).
8	IFIAR	MG	General	The IESBA should strive for more stringent requirements than those set out in the ED which are not sufficient to drive appropriate behaviour from the auditor vis-à-vis instances of NOCLAR. A number of jurisdictions around the world already have more robust requirements in place.	The provisions set up an escalation process, at the end of which the PA may disclose NOCLAR to an appropriate authority. It is an option, not a requirement.
9	IFIAR	MG	Communication with management and TCWG	The proposals require the auditor to prompt management or TCWG to take appropriate and timely actions "if management or TCWG agree that NOCLAR has taken or may take place". We suggest that the IESBA revises this wording, as the current drafting could lead to misunderstanding. The term "prompt" could be read to imply that the auditor is assuming managerial responsibilities. Accordingly, we suggest alternative wording such as "invite" or "request" for example...	Wording has been changed. The PA shall advise management and TCWG to take appropriate and timely actions, if they have not already done so (par. 225.18).
10	IFIAR	MG	Monitoring the response of the entity	The auditor should monitor and assess the appropriateness and timeliness of the entity's response before determining whether further steps are necessary. We suggest that the IESBA integrates this step in the Code as an additional mandatory action for the auditor to perform, as opposed to referring to it as an option for the auditor to consider when determining what further action is needed.	The PA shall advise management and TCWG to take appropriate and timely actions, if they have not already done so. The PA shall assess the appropriateness of the response of management and TCWG (par. 225.23). In light of their response the PA shall determine if further action is needed in the public interest (par. 225.25).
11	IFIAR	MG	Obligation to report to authorities	The proposals allow for the auditor to report NOCLAR to an appropriate authority rather than imposing an obligation to do so. In our view, the auditor should be required to report NOCLAR to an appropriate authority able to receive the information, determined in accordance with national law, when management and those charged with governance fail to satisfy legal or regulatory requirements to report such information to external parties or fail to take timely and appropriate steps to respond to known or likely NOCLAR, after having confirmed that it is in the public interest for the auditor to do so. We believe that the auditor should have the obligation to report NOCLAR to an appropriate authority, unless it would be incompatible with national legal provisions, for instance with regards to confidentiality and protection of the liability, and of the safety of the auditor.	The determination of whether to make a disclosure depends on several factors (i.e. nature and extent of the actual or potential harm to investors, etc.). External factors to be considered include whether there is an appropriate authority able to receive the information, and whether there is protection from civil, criminal or professional liability (parr. 225.33-34).
12	IFIAR	MG	Group Audits	Further consideration should be given, within the Code or the ISAs, to the communication of NOCLAR in a group audit situation, especially between group and component auditors, regardless of whether all of the auditors involved belong to the same network or not.	Paragraphs on communication with respect to group audits have been added (parr. 225.21-22), addressing communications from component auditors to group Engagement Partners and viceversa.
13	BCBS	MG	General	SUPPORT - We believe that the revisions to the Code proposed by the Board in its current ED have achieved an appropriate balance when compared to its earlier proposal (2012).	n/a
14	BCBS	MG	Link between the Code and ISAs	The IAASB is working on a project to develop guidance in the area of the relationship between supervisors and auditors. We encourage the IESBA to interact with the IAASB in such a manner that relevant aspects of the Code addressing the disclosure of a matter to an appropriate authority are similarly included in the IAASB's guidance.	n/a
15	UK FRC	IFIAR member	Inconsistencies in requirements and guidance for different categories of PAs	With respect to reporting to an appropriate authority, there are unhelpful inconsistencies in the requirements and guidance for the different categories of professional accountants. The sections for auditors and senior PAIBs include explicit requirements to comply with applicable legal and regulatory provisions governing reporting to an appropriate authority (par. 225.19 and 360.17(b)). However, such an explicit requirement is not included for PAPPs providing professional services other than audits of financial statements... Nor is there such an explicit requirement for other (non-senior) PAIBs. There should be a requirement for all PAs who identify NOCLAR in the course of their work to determine whether they have a responsibility to report the matter to an appropriate authority. This would reflect a general ethical responsibility to act in the public interest and also assist preventing PAs from themselves committing an offence by failing to make a report when there is a legal or regulatory requirement to do so.	Though explicit requirement to comply with applicable legal and regulatory provisions is not included for PAPPs performing services other than audits of FS and Other PAIBs, the relevant provisions list "the legal and regulatory framework" as one of the factors to be considered by the PA when determining whether further action is needed (par. 225.50 and 360.22, respectively).
16	UK FRC	IFIAR member	Obligation to report to authorities	The proposed requirements and guidance could be further strengthened. With respect to auditors... if disclosure to an appropriate authority would be in the public interest... and is not precluded by law or regulation, the PA should be required to make such disclosure if it is not made by management or TCWG.	The determination of whether to make a disclosure depends on several factors (i.e. nature and extent of the actual or potential harm to investors, etc.). External factors to be considered include whether there is an appropriate authority able to receive the information, and whether there is protection from civil, criminal or professional liability (parr. 225.33-34).
17	UK FRC	IFIAR member	Public interest	The "public interest" is generally recognized as a concept that is difficult to define. Accordingly, guidance to help PAS judge when a matter is of public interest will be of help. Par. 225.27 and 360.26 give limited examples of circumstances that may cause a matter to be judged to be of public interest. More general guidance would be beneficial.	The public interest concept is not defined, but it is mentioned several times in the provisions.
18	UK FRC	IFIAR member	Guidance on withdrawal or resignation	It would be helpful to provide more guidance to assist a PA in considering whether withdrawal from the engagement and the professional relationship, or resigning from an employing organization, would be appropriate.	No further guidance has been provided in cases where the PA considers withdrawing or resigning from the client/employing organization (parr. 225.30 and 360.26).
19	UK FRC	IFIAR member	Scope of the provisions	The ISAs establish the objectives and requirements relevant to forming an audit opinion on financial statements, they do not address all the wider ethical considerations for auditors. From an ethical perspective, all PAs should be required to respond appropriately when they identify matters that they know or suspect to be non-compliance with any laws and regulations, not just laws and regulations related to the preparation of financial statements or fundamental to the operating aspects of the business.	The scope includes NOCLAR with: a) laws and regulations having a direct effect on the determination of material amounts and disclosures in the client's financial statements; and b) other laws and regulations that do not have a direct effect on the determination of the amounts and disclosures in the client's financial statements, but compliance with which may be fundamental to the operating aspects of the client's business, to its ability to continue its business, or to avoid material penalties (par. 225.5). Examples included in scope are provided in par. 225.6 (i.e. fraud, corruption and bribery, securities markets and trading, data protection, environment protection, etc.).
20	UK FRC	IFIAR member	Differential approach among categories of PAs	We do not agree that the nature of the remit of auditors and public expectations of them should cause auditors to have a greater ethical responsibility to take action than other PAPPs... Nor are the reasons clear for the differences in the factors to consider when determining whether further action is needed.	The responsibility established for all PAPPs and all PAIBs is the same: "a distinguishing mark of the accountability profession is its acceptance of the responsibility to act in the public interest" (par. 225.4 and 360.4).

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21	UK FRC	IFIAR member	Substantial harm	With respect to auditors and senior PAIBs... We are concerned that the threshold of "credible evidence of substantial harm" is open to widely differing interpretation and may not meet the third party test as to what is in the "public interest".	The "credible evidence of actual or potential substantial harm to the interests of the entity, investors, creditors, employees or the general public" is just one of the factors that the PA needs to consider in order to determine whether further action is needed (par. 225.26 and 360.22).
22	UK FRC	IFIAR member	Obligation to report to the network	Par. 225.40 only requires a PA performing a non-audit service for an audit client of a network firm, to "Consider whether to communicate the matter to the network firm so as to enable the engagement partner for the audit to be informed about it". Unless prevented by law or regulation or contractual obligations there should be a requirement to communicate.	According to par. 225.48, "The communication is to enable the audit engagement partner to be informed about the non-compliance or suspected non-compliance and to determine whether and, if so, how it should be addressed in accordance with the provisions of this section".
23	UK FRC	IFIAR member	Documentation	A PAPP providing professional services other than an audit should be required, rather than just encouraged, to document significant matters. This would be consistent with the requirement for auditors.	The provisions for PAPPs providing professional services other than audits have not changed. The documentation remains an encouragement and not a requirement (par. 225.56).
24	IRBA	IFIAR member	General	NOCLAR standard should address cross-border non-compliance and include an example of a scenario where an entity operates across several jurisdictions, as the ED currently only anticipates domestic (jurisdictional) non-compliance.	No examples on cross-border non-compliance have been added to the provisions.
25	IRBA	IFIAR member	Thresholds	The subjective nature of applying thresholds such as "clearly inconsequential" and "substantial harm" or "serious adverse consequences" will create inconsistencies in the application of the guidance. The IESBA should consider providing a range of examples, or principles to apply such thresholds.	No guidance has been developed on terms such as "clearly inconsequential", "substantial harm" or "serious adverse consequences".
26	IRBA	IFIAR member	Communication with management and TCWG	The PA should inform TCWG, rather than the client, of the disclosure of the matter to an appropriate authority.	The PA shall advise management and TCWG to take appropriate and timely actions, if they have not already done so (par. 225.18).
27	IRBA	IFIAR member	Communication to the Engagement Partner	For PAPPs providing services other than audits... The requirement that the matter always be reported to the audit engagement partner (par. 225.39) should only be in the circumstances where the engagement does not preclude the PA from doing so.	The PAPP providing services other than audits does not have a requirement, but "shall consider whether to communicate" the NOCLAR to the network firm. "Whether the communication is made, it shall be made in accordance with the network's protocols or procedures or, in the absence of such protocols and procedures, directly to the audit engagement partner" (par. 225.45).
28	OECD	Global Organization	General	IESBA is encouraged to see "corruption and bribery" listed in Sections 225.6 and 360.6 as a specific example of the laws and regulations which may lead to NOCLAR.	"Fraud, corruption and bribery" have been added as examples of laws and regulations addressed by the sections in the Code (par. 225.6 and 360.6).
29	OECD	Global Organization	General	The provisions are overly lengthy and complicated, with overlapping tests and considerations. The lack of a clear, certain test will discourage reporting... As currently drafted, Sections 225.20-23 and 360.19-22 appear restrictive. PAs are likely to take a narrow reading of these provisions and take further action only if all factors are present... The test should make clear which factors are determinative and which are for consideration only. The criteria listed in Section 225.27 are too extreme and should be removed in favour of one clear, stand-alone test to replace proposed Sections 225.21-23 and 360.20-22.	The provisions set up an escalation process, at the end of which the PA may disclose NOCLAR to an appropriate authority.
30	OECD	Global Organization	Obligation to report to authorities	If the IESBA's primary concern with an obligation to report is a lack of protections for PAs, Sections 225.27 and 360.26 could be extended to exempt PAs from reporting where they have a justifiable concern about potential disciplinary or discriminatory action or liability. A lack of discretion regarding reporting may also offer some level of protection to the PA; if the PA has no option but to report then interested parties have nothing to gain in threatening reprisals or taking retributive action... As long as the Code allows rather than obliges PAs to report NOCLAR to law enforcement or regulatory authorities, countries will remain reluctant to legislate beyond this.	The determination of whether to make a disclosure depends on several factors (i.e. nature and extent of the actual or potential harm to investors, etc.). External factors to be considered include whether there is an appropriate authority able to receive the information, and whether there is protection from civil, criminal or professional liability (parr. 225.33-34).
31	OECD	Global Organization	Obligation to report to authorities	Further action (par. 225.24) may include reporting the matter to an "appropriate authority" or "withdrawing from the engagement"... The Code should not present these actions as alternatives; rather, where justifiable and provided there are no relevant constraints (e.g. a lack of whistleblower protection for internal auditors), PAs should always report to law enforcement, regardless of whether they also choose to resign from the engagement and/or inform the parent entity. Mandating such reporting is the only way to guarantee full use is made of PA's vital role in detecting corruption.	The determination of whether to make a disclosure depends on several factors (i.e. nature and extent of the actual or potential harm to investors, etc.). External factors to be considered include whether there is an appropriate authority able to receive the information, and whether there is protection from civil, criminal or professional liability (parr. 225.33-34).
32	OECD	Global Organization	Link between the Code and ISAs	IESBA should ensure that any changes are also reflected in ISA 240 (not only in ISA 250).	The IAASB and the IESBA liaised to coordinate changes in ISA 250 and in the Code (NOCLAR).
33	Securities Commission Malaysia - Audit Oversight Board	IFIAR member	n/a	FULL SUPPORT. No issues raised.	n/a
34	IOSCO	MG	Confidentiality	The par. 225.29 which states "If the professional accountant determines that disclosure of the matter to an appropriate authority is an appropriate course of action in the circumstances, this will not be considered a breach of the duty of confidentiality under Section 140 of this Code", is placed after the results of the proposed course of action for the PA. The Board should make it clear that an accountant is always free to make disclosure to an appropriate authority.	The corresponding paragraph in the final Pronouncement is now par. 225.35. The following paragraph (225.36), added after the ED, also clarifies that disclosure would not be considered a breach of confidentiality, in cases where the PA encounters imminent breaches of laws or regulations.
35	IOSCO	MG	Scope of the provisions	Par. 225.5 establishes as the starting point for the scope matters that are "material" or "fundamental" in nature. Considering this, we find it challenging to understand the purpose of par. 225.8 that proceeds to then scope out matters that are "clearly inconsequential". The Board should re-examine the interactions of its scoping distinctions.	The "clearly inconsequential" paragraph has been moved upward in the provisions (par. 225.8) and precedes the one indicating what the section does not address (par. 225.9).
36	IOSCO	MG	Communication with management and TCWG	It will be appropriate for the Board to include language in the provisions advising the PA to discuss NOCLAR with sizable shareholders, who have the ability to compel management to take appropriate action with respect to a NOCLAR.	Discussing NOCLAR with sizable shareholders has not been addressed. The PA shall advise management and TCWG to take appropriate and timely actions, if they have not already done so (par. 225.18).
37	IOSCO	MG	Communication with management and TCWG	In par. 225.17... We encourage the Board to avoid requiring the auditor to "prompt" management and, where appropriate, TCWG to take action as this could be interpreted as partaking in the management of the resolution of the matter. Perhaps instead a term such as to "inform" or "ask" management... would be better.	The PA shall advise management and TCWG to take appropriate and timely actions, if they have not already done so (par. 225.18).
38	IOSCO	MG	Group Audits	The Paper should clearly articulate that the lead audit engagement team should be notified in all cases when a NOCLAR arises in any jurisdiction during the performance of an audit or a non-audit service at a component. In addition it would be helpful to enhance the focus on the difficulties arising for auditors when faced with a group audit situation, whether all of the auditors involved belong to the same network or not.	Paragraphs on communication with respect to group audits have been added (parr. 225.21-22), addressing communications from component auditors to group Engagement Partners and viceversa.
39	IOSCO	MG	Third-party test	The Board should emphasize that the reasonable and informed third party test found in par. 225.25 is intended to be a "step back" provision, by which the PA tests his/her analysis regarding the need for further action in light of the specific facts and circumstances.	The third-party test paragraph has not been changed. It is now par. 225.28 in the final pronouncement.
40	IOSCO	MG	Documentation	We believe that the documentation provision in par. 225.32 inadvertently introduces a "significant matters" filter that is not appropriate, as the current construct suggests that some material or fundamental matters may not be significant and therefore the PA is not required to document its work related to them. The documentation requirement should be consistent with the scope. ... We believe it would be prudent for other professional accountants who are not auditors to have a similar strong provision to document appropriate NOCLAR matters.	The "significant matters" filter has been deleted from the provisions (par. 225.37 - PAPPs performing audits of FS). The provisions for all other PAPPs (providing professional services other than audits) and all PAIBs (Senior and Others) only foresee a documentation encouragement and not a requirement (par. 225.56, 360.32 and 360.37, respectively).
41	IOSCO	MG	Communication between predecessor and successor auditors	... We are concerned that instead of including a requirement that compels the predecessor to communicate NOCLAR to the successor auditor, sections 210.11 and 210.13 allow the notion of "confidentiality" to be used as a reason to restrict the communication of NOCLAR between predecessor and successor auditors. ... We encourage the Board to reconsider its proposals in this area. Moreover, the predecessor auditor should disclose a NOCLAR to the successor auditor unless confidentiality requirements founded in laws and regulations prevent him from doing so.	Par. 225.31 establishes that the predecessor auditor "provides all such facts and other information concerning the identified or suspected" NOCLAR before the successor auditor accepts the engagement. Par. 210.14 has been amended as follows: "If the client fails or refuses to grant the predecessor accountant permission to discuss the client's affairs with the proposed successor accountant, the predecessor accountant shall disclose this fact to the proposed successor accountant, who shall carefully consider such failure or refusal when determining whether or not to accept the appointment".