NOCLAR—A PROPOSED REVISED FRAMEWORK

Objectives – All Categories of Professional Accountants (PAs)
In acting in the public interest:

- To comply with fundamental principles of integrity and professional behavior
- Through alerting management or, where appropriate, TCWG, to seek to:
  - Have the consequences of suspected NOCLARs rectified, remediated or mitigated by the entity where they do occur
  - Deter NOCLAR from being committed where it may be about to occur
- To take further action that may be appropriate to serve the public interest

Scope – All PAs

- Laws and regulations covered by ISA 250:
  - Laws and regulations generally recognized to have a direct effect on the determination of material amounts and disclosures in the financial statements
  - Other laws and regulations that do not have a direct effect on the determination of the amounts and disclosures in the financial statements, but compliance with which may be fundamental to the operating aspects of the business, to the entity’s ability to continue its business, or to avoid material penalties
- No distinction between PIEs and non-PIEs

---

1 ISA 250, Consideration of Laws and Regulations in an Audit of Financial Statements
AUDITORS – REQUIRED RESPONSES WHEN COMING ACROSS SUSPECTED NOCLAR

Must raise with management/TCWG:
- Clarify understanding and enable them to investigate the matter
- Substantiate/dispel
- Prompt management/TCWG to:
  - Rectify/remediate/mitigate consequences for stakeholders
  - Deter the NOCLAR if about to occur
  - Report to an appropriate authority if required by law or regulation or if appropriate

Must fulfill professional responsibilities:
- Comply with applicable laws and regulations
- Comply with professional standards, including:
  - Communicating matter with TCWG
  - Consideration of implications for auditor’s report

Must determine if further action needed to achieve objectives of the standard

Nature and extent of further action required will depend on:
- Appropriateness of response of management/TCWG
- Whether response can be assessed
- Involvement of TCWG
- Whether they are independent of management
- Likelihood of substantial harm to client or others
- Urgency of the matter
- The pervasiveness of the issue and likelihood of continuing consequences

Agenda Item 8-A
Page 2 of 6
AUDITORS – DETERMINATION OF FURTHER ACTION REQUIRED

Options for further action include:
- Informing parent entity in the case of a component within a group
- Reporting to an appropriate authority
- Withdrawing from the engagement and client relationship where permitted by law or regulation

Options available will depend on:
- Legal and regulatory framework
- Other parts of the Code
- Take legal advice
- May wish to consult professional body
- Withdrawing not a substitute for taking other appropriate actions under the Code

Section 140, Confidentiality:
- Where, in PA’s professional judgment, disclosure of confidential information, without consent, would be an appropriate course of action to seek to have management/TCWG rectify, remediate or mitigate substantial harm to the public caused by suspected NOCLAR, or to deter commission of NOCLAR

Apply 3rd party test:
- Would 3rd party, weighing all facts and circumstances, including all factors relevant to determination of nature and extent of further action, likely conclude that PA has acted appropriately in serving public interest?

Documentation
- Required
SENIOR PROFESSIONAL ACCOUNTANTS IN BUSINESS (PAIBs)

Senior PAIB: Director, officer or senior employee able to exert significant influence over, and make decisions regarding, presentation of financial and other information, or compliance with laws and regulations

Overarching Expectations:
- Set the right tone at the top (Section 300)
- Establish appropriate framework to prevent NOCLAR

REQUIRED RESPONSES WHEN COMING ACROSS SUSPECTED NOCLAR

Must fulfill professional responsibilities:
- Raise with superior and TCWG
- Comply with applicable laws and regulations
- Rectify/remediate/mitigate consequences
- Seek to deter NOCLAR if it is about to occur
- Alert external auditor

Must determine if further action needed to achieve objectives of the standard

Nature and extent of further action will depend on:
- Appropriateness of response of TCWG/whether can assess response
- Involvement of TCWG
- Whether TCWG are independent of management
- Likelihood of substantial harm to employer or others
- Urgency of the matter
- The pervasiveness of the issue and likelihood of continuing consequences
SENIOR PAIBs – DETERMINATION OF FURTHER ACTION REQUIRED

Options for further action include:

- Informing parent entity in the case of a component within a group
- Reporting to an appropriate authority
- Resigning from the employment relationship

Options available will depend on:

- Legal and regulatory framework
- Other parts of the Code

- Take legal advice
- May wish to consult professional body

Resignation not a substitute for taking other appropriate actions under the Code

Apply 3rd party test:

- Would 3rd party, weighing all facts and circumstances, including all factors relevant to determination of nature and extent of further action, likely conclude that PA has acted appropriately in serving public interest?

Section 140, Confidentiality:

- Where, in PA’s professional judgment, disclosure of confidential information, without consent, would be an appropriate course of action to seek to have management/TCWG rectify, remediate or mitigate substantial harm to the public caused by suspected NOCLAR, or to deter commission of NOCLAR

Documentation

- Encouraged
PAIs IN PUBLIC PRACTICE OTHER THAN AUDITORS – REQUIRED RESPONSES WHEN COMING ACROSS SUSPECTED NOCLAR

Further Actions
- Discuss with appropriate level of management or, if have access to them, TCWG
- If the client is also an audit client, consider informing lead audit engagement partner

Will depend on factors such as:
- Response/involvement of management/TCWG
- Likelihood of substantial harm to client or others
- Likelihood of continuing consequences

Stand Back
- To comply with the fundamental principles, must consider if can remain associated with the client
- Also consider whether further action needed, e.g.:
  - Disclosing to external auditor
  - Disclosing to an appropriate authority

Baseline
- Escalate to immediate superior; or
- Use established internal whistle-blowing mechanism

Documentation
- Encouraged

PAIBs OTHER THAN SENIOR PAIBs – REQUIRED RESPONSES WHEN COMING ACROSS SUSPECTED NOCLAR

Baseline
- Escalate to immediate superior; or
- Use established internal whistle-blowing mechanism

Documentation
- Encouraged