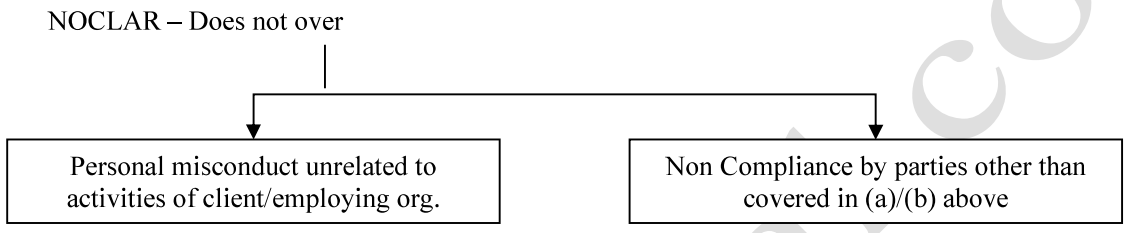
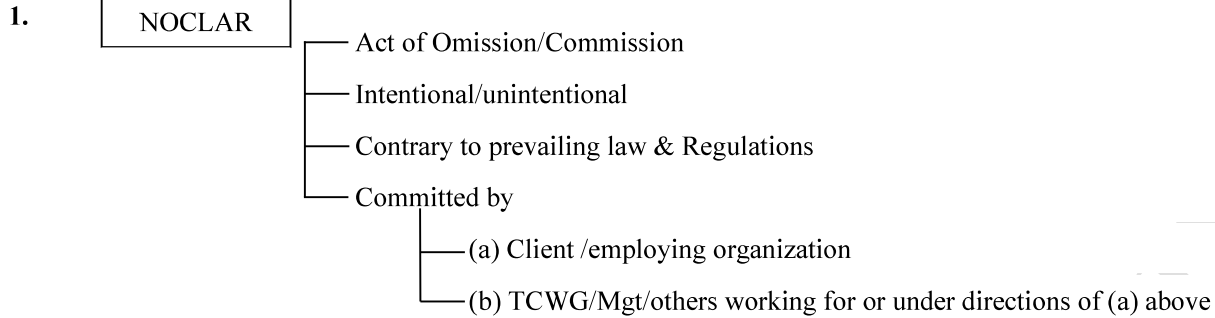
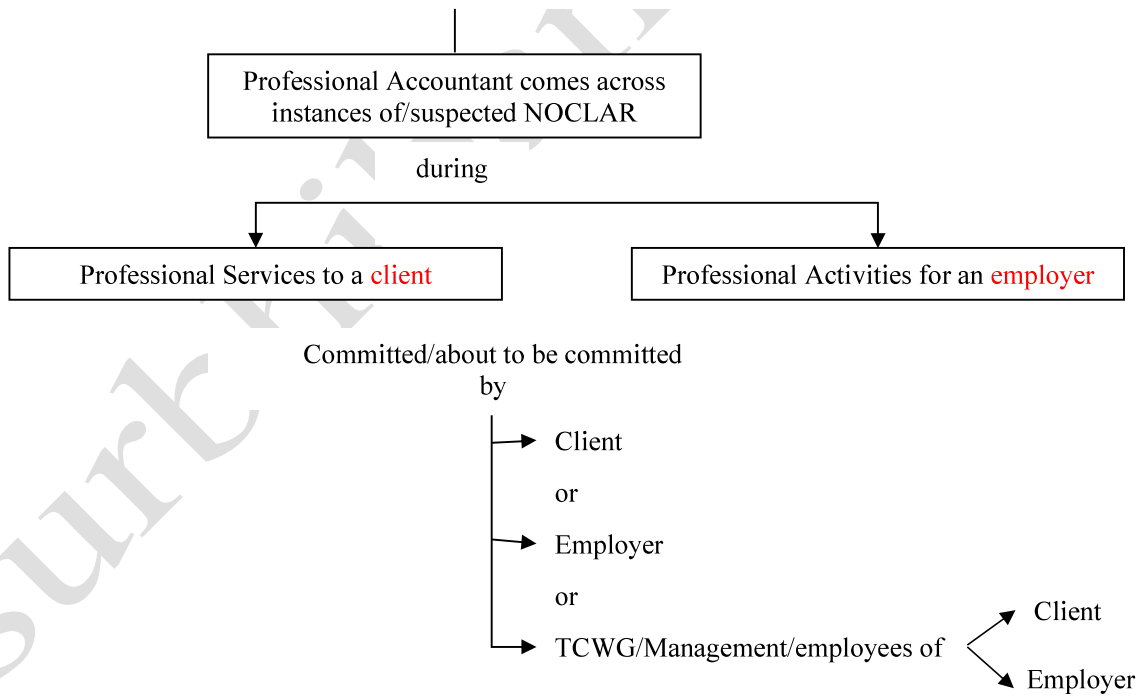


NOCLAR – Noncompliance with laws & Regulations (Made applicable in India w.e.f 1.4.2022 & 10.2022 by ICAI) applicable as amended from MAY 2023 exam



2.

NOCLAR – Non compliance with laws & Regulations



3. **Examples –**

Examples of laws and regulations include those that deal with:

- Fraud, corruption and bribery.
- Money laundering, terrorist financing and proceeds of crime.

- Securities markets and trading.
- Banking and other financial products and services.
- Data protection.
- Tax and pension liabilities and payments.
- Environmental protection.
- Public health and safety.

4. **Consequences of Non-compliance –**

- Non-compliance might result in **fines, litigation** or other consequences potentially materially affecting its financial statements.
- Importantly, such non-compliance might have wider **public interest implications** in terms of potentially substantial harm to investors, creditors, employees or the general public.
- For the purposes of this section, non-compliance that causes **substantial harm is one that results in serious adverse consequences** to any of these parties in financial or non-financial terms.
- Examples include the perpetration of a **fraud** resulting in significant financial losses to investors, and **breaches of environmental laws** and regulations **endangering the health or safety** of employees or the public.

5. When encountering such **non-compliance or suspected non-compliance**, the accountant shall obtain an **understanding of those legal or regulatory provisions**, if any, and comply with them, including:

- (a) Any requirement to report the matter to an appropriate authority; and
- (b) Any prohibition on alerting the relevant party.

A prohibition on alerting the relevant party might arise, for example, pursuant to anti-money laundering legislation.

6. **Objectives of the Professional Accountant in Relation to Non-compliance with Laws and Regulations**

A distinguishing mark of the accountancy profession is its acceptance of the responsibility **to act in the public interest**.

When responding to non-compliance or suspected non-compliance, the objectives of the professional accountant are:

- (a) To comply with the principles of **integrity and professional behaviour**;
- (b) By **alerting** management or, where appropriate, those charged with governance to seek to:
 - (i) Enable them to rectify, remediate or mitigate the consequences of the identified or suspected non-compliance; or
 - (ii) Deter the non-compliance where it has not yet occurred; and
- (c) To take such **further action** as appropriate in the **public interest**.

"It is to be noted that professional accountant is **not required to investigate** or can not be made responsible to ensure complete compliance. He is not expected to have a level of knowledge of laws & regulations more than what is required by the scope of engagement. It is applicable when he comes across or is made aware of non-compliance. "

Further, **personal misconduct & inconsequential matters** are **out of purview** of NOCLAR.

7. **RESPONDING TO NOCLAR**

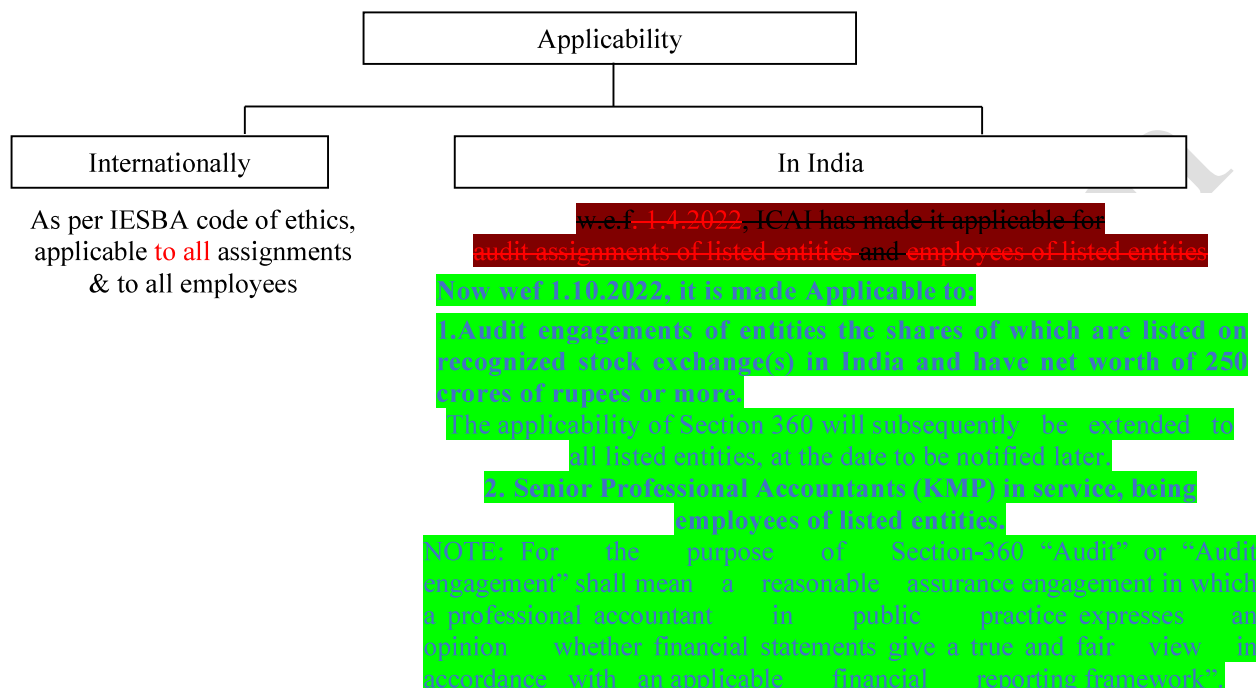
In case of employment, it is the responsibility of **senior professional accountant/other than senior professional accountant** to respond to NOCLAR whereas in case of **Audit engagement**, this responsibility is of **Professional accountant performing such engagement**.

Following steps are to be taken when responding to NOCLAR :

- ✓ Obtaining an understanding of the matter
- ✓ Addressing the matter
- ✓ Communication and seeking advice
- ✓ Determining whether further action is needed including possibility of withdrawal
- ✓ Determining whether to disclose the matter to an appropriate authority
- ✓ ~~Imminent Breach~~
- ✓ Documentation

* It is to be noted that disclosure of NOCLAR won't make CA guilty of professional misconduct for breach of confidentiality as provided in The Second Schedule of The Chartered Accountants Act,1949. It is his legal/professional duty to disclose NOCLAR.

8.



9. Documentation

In addition to documentation requirements as per SAs (like in SA 230 and SA 250), additional documentation requirement in NOCLAR as per section 260 and section 360 of revised Code of Ethics is as follows:

- The matter
- How management/TCWG have responded to the matter
- Courses of action considered by the accountant, judgments made and decisions taken
- How accountant is satisfied that responsibility to act in public interest has been met.

10. NOCLAR vs. SA 250

NOCLAR	SA-250
For professional accountants in <ul style="list-style-type: none"> - Service - Practice 	Applicable only for practicing CAs.
Applicable in case of <ul style="list-style-type: none"> - Audits - Other engagements - Employment *as on date, in India, applicable as per point no. 8	Only in case of audit of financial statements
In addition to those laws (as per SA-250), it covers NOCLAR causing substantial harm resulting in serious consequences (Financial/non-Financial)	Auditor's responsibility relating to Laws <div style="display: flex; justify-content: space-around; margin-top: 10px;"> <div style="text-align: center;"> Directly affecting amounts & disclosures in f.st. </div> <div style="text-align: center;"> That do not directly affect f.st. (but may be Fundamental to operating aspect of business) </div> </div>
Relates to effects of NOCLAR on investors, creditors, employees or on the general public	SA-250 doesn't mention these parties
It covers potential imminent breach of law that may cause substantial harm. After discussing with management & TCWG, he needs to apply judgement whether to report to authority.	This is not specifically covered in SA-250