

Responding to Non-Compliance with Laws and Regulations [for PAIBs]

- This publication addresses Professional Accountants In Business (PAIBs). Installment 9 will address this topic relative to auditors and other professional accountants in public practice.
- The acknowledgment of duty to act in the public interest is a distinctive feature of the accountancy profession. Professional accountants may encounter instances in which they discover or suspect that their employer or a client is in non-compliance with laws and regulations.
- In 2016, the IESBA issued guidance on responding to NOCLAR and added amendments to sections 225 and 360 in the IESBA's Code of Ethics for Professional Accountants.

Responding to Non-Compliance with Laws and Regulations [for PAIBs]

- NOCLAR (Non-compliance with laws and regulations) is defined as conduct by an employee, management or governance of a client company that, intentionally or unintentionally, results in a violation of laws and regulations, has a direct impact on the material amounts or disclosures in the client's financial statements, or has a material impact on the operations of the client company.
- This new standard sets a measuring stick for global accountants in ethics and professionalism. It is worth noting that for the first time, this new standard explicitly allows accountants to set aside the duty of confidentiality when responding to NOCLAR.

Responding to Non-Compliance with Laws and Regulations [for PAIBs]

- Under these circumstances, taking action on a timely basis is required by the PAIB in light of the nature of the situation and the potential harm to the employing organisation, investors, creditors, employees, and the general public. The PAIBs must:-
 - understand and comply with the Code and any legal or regulatory provisions in their jurisdiction that differs from or go beyond those in the Code. For example, requirements to report the matter to authorities or prohibitions on notifying the employing organisation that action is being taken.
 - take into account any current norms and processes within their organisation that provide direction on how to deal with NOCLAR (e.g., ethics and whistleblowing policies).

Responding to Non-Compliance with Laws and Regulations [for PAIBs] • The fundamental principles of integrity and professional behaviour of the Code compel accountants to respond appropriately to noncompliance with laws and regulations (NOCLAR) by putting the public interest first. • NOCLAR does not impose an obligation to PAIBs to disclose a non-compliance, or suspected non-compliance to authority when there is no legal obligation to do so.

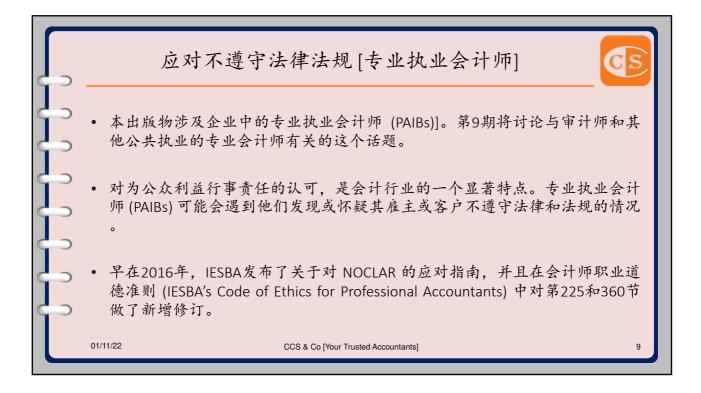
• However, PAIBs must comply with the relevant NOCLAR requirements and consider whether a disclosure to an appropriate authority is an appropriate course of action in the circumstances.

Examples of Relevant Laws and Regulations that may be Involved

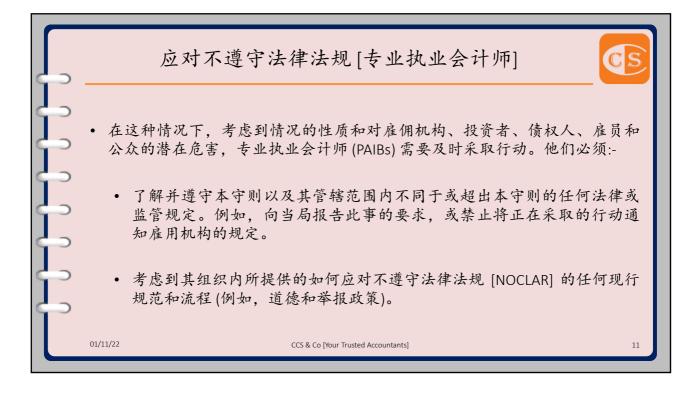
- Fraud, corruption and bribery
- Banking and other financial products/services
- Data protection
- Environmental protection
- Securities markets and trading
- Money laundering, terrorist financing and proceeds of crime
- Tax and pension liabilities/payments
- Public health and safety

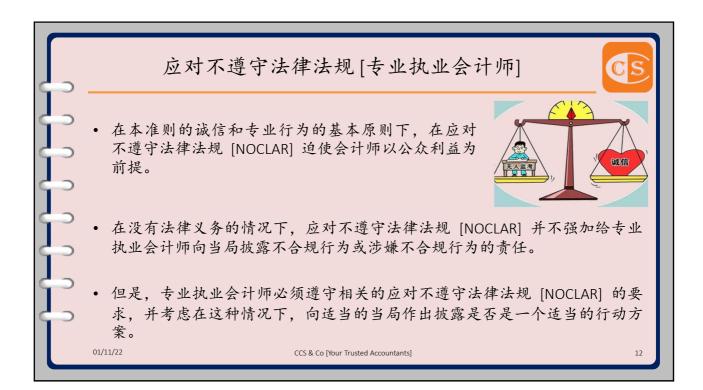


NOCLAR Response Framework I) Becomes aware of NOCLAR or suspected NOCLAR 2) Obtain an understanding of the matter 3) Discuss the matter 4) Determine whether further action is needed 5) If applicable, decide on appropriate further action, for example, to disclose the issue to the appropriate authority 6) Documentation











	NOCLAR 应对指南给出了一个清晰的框架	
0		
	1) 要求我们对于当前事件有充分了解;	
L	2) 要求会计师与治理层进行充分沟通,要求他们及时、恰当地对 NOCLAR 做出 整改;	
	3) 要求会计师与项目负责人进行沟通,除非法律禁止;	
L	 要求会计师判断鉴于公众利益是否要采取进一步行动,这包括评价管理层、治理层的整改效果如何; 	
	5) 要求会计师判断是否需要将所发现的情况报告给相关政府机构;	
Γ	6) 要求会计师在底稿中记录其所做出的一系列判断和决定。	
L	01/11/22 CCS & Co [Your Trusted Accountants] 14	J

