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NOCLAR

SUPPLEMENTARY MATERIAL RELATED TO NON-COMPLIANCE WITH LAWS AND REGULATIONS (NOCLAR)

FREQUENTLY ASKED QUESTIONS (FAQs) FOR MEMBERS AND ASSOCIATES OF SAICA

(NOVEMBER 2017)

INTRODUCTION

PLEASE NOTE:

- Every effort has been made to ensure that the information in this frequently asked questions (FAQs) document is complete and accurate. Nevertheless, the information is given purely as guidance with respect to the subject matter and SAICA will have no responsibility to any person for any claim of any nature whatsoever which may arise out of or related to the contents of this document.
- The information provided in this document does not constitute legal advice and should be read in that context.
- Where the document suggests a particular view, such a view is based on SAICA's interpretation at that point in time, of the relevant laws, regulations, standards, codes and related pronouncements (as may be applicable). Although SAICA has consulted with respect to the information provided in this document, other options or interpretations are also possible and a different view or approach may ultimately be followed in practice; for example, in instances where further guidance or clarification may be issued, or a Regulator adopts a particular view or interpretation.
- Given that compliance with the NOCLAR provisions in the SAICA Code of Professional Conduct is highly fact specific and dependent on the circumstances of each case, it would be prudent for a member or associate or firm to seek appropriate legal or professional advice for their circumstances.
- This document is not a substitute for any laws and regulations that are relevant to the business of any particular entity, or to a SAICA member or associate for purposes of performing a given engagement, or in relation to his or her role within an employing organisation. Furthermore, it is not a substitute for the SAICA Code of Professional Conduct or the pronouncements of the Independent Regulatory Board for Auditors (IRBA), as well as those issued by the International Ethics Standards Board for Accountants (IESBA) and the International Auditing and Assurance Standards Board (IAASB).

The SAICA Code of Professional Conduct (the Code) was amended by the inclusion of Section 225 and Section 360 in the Code, Responding to Non-Compliance with Laws and Regulations (NOCLAR). These sections are effective from 15 July 2017.

This list of frequently asked questions has been compiled to assist SAICA members, associates, trainees and students in the interpretation and application of section 225 and section 360 of the Code, when considering and responding to NOCLAR, or for studying, training or professional development purposes. Throughout this document CAs(SA) and AGAs(SA), as applicable, are generically referred to as **professional accountants (PA/PAs)** (this is the generic term that is used in the International Ethics Standards Board for Accountants (IESBA) Code of Ethics for Professional Accountants). Section 225 applies to professional accountants in public practice and section 360 applies to professional accountants in business.

IESBA released staff-compiled Questions and Answers on NOCLAR. Several questions below are cross-referenced to the *IESBA Staff Questions and Answers on NOCLAR for Professional Accountants in Public Practice* and *IESBA Staff Questions and Answers on NOCLAR for Professional Accountants in Business*. These documents can be downloaded from the **IESBA website**.

The Independent Regulatory Board for Auditors (IRBA) has compiled Frequently Asked Questions (FAQs) on Non-compliance with Laws and Regulations (NOCLAR) for Registered Auditors, which can be downloaded from the **IRBA website**.

In this FAQs publication, SAICA has not reproduced the questions and answers available in the IESBA and IRBA documents referred to above. Refer to the **SAICA NOCLAR webpage** for further information and access to further resources, including the *SAICA Overview and Summary of the Response Framework*.

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GENERAL QUESTIONS APPLICABLE TO ALL CATEGORIES OF PROFESSIONAL ACCOUNTANTS

1. What does 'NOCLAR' stand for?

NOCLAR stands for Non-Compliance with Laws and Regulations and it is a new pronouncement that was included in the IESBA Code of Ethics for Professional Accountants. This has subsequently been included in the SAICA Code of Professional Conduct.

2. What is the definition of NOCLAR?

For professional accountants in public practice: Non-compliance with laws and regulations (NOCLAR) comprises acts of omission or commission, intentional or unintentional, committed by a client or by those charged with governance, by management or by other individuals working for or under the direction of a client which are contrary to the prevailing laws and regulations (paragraph 225.2).

For professional accountants in business: Non-compliance with laws and regulations (NOCLAR) comprises acts of omission or commission, intentional or unintentional, committed by the professional accountant's employing organisation or by those charged with governance, by management or by other individuals working for or under the direction of the employing organisation which are contrary to the prevailing laws and regulations (paragraph 360.2).

Within the context of the above definitions, it is also important to understand the scope of the NOCLAR provisions, including NOCLAR or suspected NOCLAR that is scoped out of the Code. Refer to paragraphs 225.5 - 9 for professional accountants in public practice, and paragraphs 360.5 - 9 for professional accountants in business.

These matters are also addressed in the **IESBA Staff Questions and Answers** – refer to questions 8 to 11 in the *Professional Accountants in Public Practice* document, and questions 4 to 6 in the *Professional Accountants in Business* document.

3. What are the objectives of the NOCLAR provisions?

Paragraph 225.4 and paragraph 360.4 of the Code state that the objectives of the professional accountant are:

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

4. Is NOCLAR applicable to members and associates of SAICA?

Yes, SAICA is a member of the International Federation of Accountants (IFAC) and as a member body SAICA subscribes to the IESBA Code. SAICA has included the NOCLAR pronouncement in the SAICA Code of Professional Conduct 2016/2017 (the Code), which is available on the **SAICA website**.

5. Is NOCLAR applicable to SAICA trainees?

Yes, in terms of By-Law 24 it states that the SAICA Board shall have the power to prescribe from time to time, "Rules or a Code of Professional Conduct, applicable to members, associates and students", and By-Law 34 indicates that the conduct of a trainee accountant will be assessed to the same rules of conduct as that of a member or associate. As per the training contract the trainee accountant has agreed that as per item 4 he/she will at all times keep the affairs of the training office and its clients confidential and will not breach any codes of professional conduct, disciplinary rules or by-laws that apply to the profession of a chartered accountant and, if applicable, registered auditor.

6. How do the NOCLAR provisions impact SAICA members and associates in other countries, which do not follow the IESBA code?

Section 24 of the SAICA By-Laws state that the SAICA Board shall have the power to prescribe, from time to time, Rules or a Code of Professional Conduct, applicable to members, associates and students. The By-Laws do not differentiate between members resident in South Africa and overseas members. Therefore, the Code would apply to all SAICA members and associates.

It is important to note that an overriding principle encapsulated in the Code, is that the professional accountant must always, in the first instance, comply with the law and not take any action or fail to act contrary to the law, or where certain actions would be precluded under law.

Therefore, a professional accountant in another country will consider and apply his/her responsibilities under the Code, taking cognisance of the impact of relevant legislation in that particular jurisdiction (also refer to paragraph 225.3).

The interaction between the NOCLAR provisions and laws and regulations are also addressed in the **IESBA Staff Questions and Answers** – refer to questions 4 and 5 in the Professional Accountants in Public Practice document, and questions 2 and 3 in the Professional Accountants in Business document.

GENERAL QUESTIONS APPLICABLE TO ALL CATEGORIES OF PROFESSIONAL ACCOUNTANTS

7. What is the duty of the professional accountant when the professional accountant becomes aware of non-compliance or suspected non-compliance?

The Code provides a response framework, setting out the responsibilities of the professional accountant and the steps that should be taken when becoming aware of non-compliance or suspected non-compliance. The Code sets out the expectation that "turning a blind eye" to non-compliance or suspected non-compliance is not an acceptable response from a professional accountant.

Section 225 of the Code applies to professional accountants in public practice and distinguishes between the following two categories:

- Auditors/professional accountants in public practice engaged to perform audits of financial statements – refer to paragraphs 225.1-11; 225.12-38
- Professional accountants in public practice who provide professional services other than audits of financial statements – refer to paragraphs 225.1-11; 225.39-56

Section 360 of the Code applies to professional accountants in business and distinguishes between the following two categories:

- Senior professional accountants in business – refer to paragraph 360.1-12; 360.13-32
- Other professional accountants in business – refer to paragraph 360.1-12; 360.33-37

Also refer to the SAICA Overview and Summary of the Response Framework for further guidance (which can be accessed on the SAICA **NOCLAR webpage**).

8. When did NOCLAR become effective?

The NOCLAR provisions in the Code became effective on 15 July 2017.

9. If the professional accountant was aware of a non-compliance or suspected non-compliance before the effective date, what duty does the professional accountant have to respond in accordance with section 225 or section 360 of the Code (as applicable)?

The professional accountant is not required to respond in accordance with section 225 or section 360 of the Code (as applicable) to any non-compliance or suspected non-compliance if the professional accountant became aware of this before 15 July 2017. The applicable sections of the Code require a response in relation to NOCLAR or suspected NOCLAR which the professional accountant becomes aware of on or after 15 July 2017.

The purpose of the effective date of the NOCLAR provisions is to determine a distinct point in time when the requirements of sections 225 and 360 of the Code will apply; therefore, first-time awareness by the professional accountant about a NOCLAR or suspected NOCLAR is important. Considerations regarding the effective date are also addressed in the **IESBA Staff Questions and Answers** – refer to questions 18 to 20 in the Professional Accountants in Public Practice document, and questions 13 and 14 in the Professional Accountants in Business document.

10. If the professional accountant was aware of a non-compliance or suspected non-compliance before the effective date and the non-compliance or suspected non-compliance continues after the effective date, what duty does the professional accountant have to respond in accordance with section 225 or section 360 of the Code (as applicable)?

The effective date refers to the point in time when the professional accountant becomes aware of the NOCLAR or suspected NOCLAR and not when a particular act of omission or commission had been committed. To illustrate, if an act of NOCLAR had been committed by a client before 15 July 2017 and the professional accountant in public practice became aware of the NOCLAR before 15 July 2017, the professional accountant will not be required to respond in accordance with section 225 of the Code (although he/she may still have chosen to do so, owing to the fact that early adoption of the NOCLAR provisions was permitted). However, if the professional accountant, for the first time, became aware of the NOCLAR after 15 July 2017, a response in accordance with section 225 will be required.

Generally, the answer to question 9 in this FAQs document, above, will apply in most instances; i.e. the date of first-time awareness by the professional accountant is important. In a situation where the non-compliance or suspected non-compliance continues after the effective date, the professional accountant should exercise professional judgement in determining whether a client or employing organisation may effectively be recommitting a non-compliance by of way the same, or a similar, or a related act of omission or commission on or after 15 July 2017. When the professional accountant becomes aware of such non-compliance, the Code will apply.

11. The definition of non-compliance is not necessarily unlawful action (breaking the law). Does this include common law? Does this include laws and regulations?

NOCLAR refers to non-compliance with laws and regulations. NOCLAR therefore covers unlawful acts in contravention of laws. The Compliance Institute in the Generally Accepted Compliance Framework defines the regulatory requirements as "The statutory, regulatory and supervisory requirements, plus industry codes and best practice guidelines (collectively)".

Where common law is not reduced to regulatory requirements, as defined, it will be difficult to implement NOCLAR. Certain common law actions might not be illegal in terms of legislation but other laws would scope these actions in, such as the Criminal Procedures Act that criminalises certain actions by labelling them as offences, as well as laws that impose positive reporting and other obligations linked to non-compliance, unlawful activities, fraud, crime, corruption and money laundering, such as the Financial Intelligence Centre Act, the Prevention and Combatting of Corrupt Activities Act and the Protection of Constitutional Democracy Against Terrorist and Related Activities Act.

12. How would non-compliance with standards and codes be viewed, for example Financial Reporting Standards; KING IV Report on Corporate Governance?

The Code defines Non-Compliance with Laws and Regulations as follows: Acts of omission or commission, intentional or unintentional, committed by a client or the professional accountant's employing organisation, or by those charged with governance, by management or by other individuals working for or under the direction of a client or employing organisation which are contrary to the prevailing laws or regulations.

Reference will have to be made to the underlying legislation and whether compliance with the standards/codes concerned are legislated. Professional judgement may be required in the circumstances to determine whether a NOCLAR or suspected NOCLAR exists. For example, a company is required to prepare its financial statements in accordance with the prescribed financial reporting standards as to form and content (Companies Act 71 of 2008, section 29(1)). There could, however, be a difference in how management applies a particular accounting policy in terms of the relevant financial reporting standards and the auditor's interpretation, which could lead to an audit qualification (if applicable), but this would not necessarily be a NOCLAR. Therefore, if a particular company is required to compile its annual financial statements in accordance with International Financial Reporting Standards (IFRS), but decides not to do so and rather use a different financial reporting framework or basis of accounting (which is not allowed for that company), this is likely to represent a NOCLAR, since the form and content requirement in terms of the Companies Act would not be satisfied.

13. What is the duty of a professional accountant if the professional accountant becomes aware of tax non-compliance?

For the purpose of the NOCLAR provisions of the Code, "tax non-compliance" is no different than any other non-compliance in the context of representing an act of omission or commission which is contrary to prevailing laws or regulations – in this instance taxation laws and regulations. If the professional accountant determines that the non-compliance or suspected non-compliance falls within the scope of the Code, the professional accountant would be required to apply the response framework as set out in the Code. If the professional accountant has brought the non-compliance to the attention of management and, where applicable, those charged with governance (TCWG), the professional accountant should consider, among other factors, their response before deciding whether further action is required (except for the category, other professional accountants in business, who do not have a specific responsibility to determine whether further action is needed).

Further action could include, among other actions, the reporting of a matter to an appropriate authority under the appropriate circumstances, despite the absence of a legal obligation to do so, and without being limited by the ethical duty of confidentiality. Disclosing a matter to an appropriate authority would be at the end stage of the process in relation to serious identified or suspected NOCLAR, after consideration of a range of factors, including the appropriateness of the response of management and, where applicable, TCWG. Disclosure to an appropriate authority only becomes a consideration in cases where the professional accountant determines the NOCLAR or suspected NOCLAR would or could cause substantial harm (i.e. result in serious adverse consequences) for the client or employing organisation (as applicable), investors, creditors, employees or the general public.

The professional accountant follows the response framework in terms of section 225 (if in public practice) or section 360 (if in business). The Code distinguishes between different categories of professional accountants and their respective responsibilities are addressed in the following paragraphs:

- Paragraphs 225.1-11 and 225.12-38 for professional accountants in public practice who perform audits of financial statements
- Paragraphs 225.1-11 and 225.39-56 for professional accountants in public practice who provide professional services other than audits of financial statements
- Paragraph 360.1-12 and 360.13-32 for senior professional accountants in business (which is defined in paragraph 360.13)
- Paragraph 360.1-12 and 360.33-37 for other professional accountants in business.

14. Is there a difference in how the Code would be applied to a professional accountant in the public sector?

No, the Code does not differentiate between where the professional accountant is employed. In SAICA's context the Code applies because the person is a SAICA member or associate or a SAICA trainee accountant, irrespective of

where he/she is employed or his/her role and functions (also refer to questions 4 to 6 of this FAQs document). The professional accountant would have to follow the Code with his/her personal circumstances in mind, taking into account that the Code is also clear that the professional accountant must always comply with the law and not take any action or fail to act contrary to the law. Furthermore, in terms of paragraph 360.11, the professional accountant in business shall consider the employing organisation's established protocols and procedures regarding how non-compliance or suspected non-compliance should be raised internally in determining how to respond to such non-compliance.

15. How does NOCLAR differ from Reportable Irregularities (RIs)?

Refer to Section 1 of the IRBA Frequently Asked Questions (FAQs) on Non-compliance with Laws and Regulations (NOCLAR) for Registered Auditors, as well as the Appendix in that FAQs document that provides a comparison between RIs and NOCLAR. The FAQs document can be downloaded from the **IRBA website**.

16. The Code requires the professional accountant to consider reporting non-compliance or suspected non-compliance "where considered necessary in the public interest". What would be considered to be in the public interest?

Paragraphs 225.23 - 36 and 225.49 - 55 (for professional accountants in public practice), and paragraphs 360.19 - 31 (for senior professional accountants in business) guide the professional accountant in determining whether further action is needed in the public interest, including considering the action of disclosing a matter to an appropriate authority in the public interest, despite the absence of a legal obligation to do so.

The concept of "public interest" is a broad one, and what is meant by the term often depends on its context. The general concept is defined as "*the general welfare of a populace considered as warranting recognition and protection*" and further as "*something in which the public as a whole has a stake; especially an interest that justifies governmental regulation*" (Black's Law Dictionary 10th Edition Thomson Reuters 1424).

Considering the term in the context of the NOCLAR provisions, paragraph 225.33 and paragraph 360.28 note that the purpose of a disclosure to an appropriate authority is to "*cause the matter to be investigated and action to be taken in the public interest*". Furthermore, paragraph 225.7 and paragraph 360.7 provide that, apart from consequences for the client or the employing organisation (as applicable), the NOCLAR or suspected NOCLAR may have wider public interest implications in terms of "*potentially substantial harm to investors, creditors, employees or the general public.*" Under the same section, the harm may be financial or non-financial.

17. Will SAICA members and associates not be unfairly disadvantaged by adhering to the NOCLAR provisions in the Code?

SAICA members and associates have always been required to adhere to a higher standard of conduct and ethical behaviour – this has always been part of the Code. The first sentence in the Code states that "*A distinguishing mark of the accountancy profession is its acceptance of the responsibility to act in the public interest*". The fact that professional accountants now have a duty to respond to non-compliance or suspected non-compliance builds on the fundamental principles of the Code, in particular that of integrity and professional behaviour. The Code sets out the expectation that "turning a blind eye" to non-compliance or suspected non-compliance is not an acceptable response from a professional accountant.

The primary behaviour the Code wishes to drive is to ensure that the people who are primarily responsible to ensure compliance with laws and regulations are informed about NOCLAR or suspected NOCLAR, to seek to enable them to rectify, remediate or mitigate the consequence of non-compliance, or to deter NOCLAR where it has not yet occurred. It is the responsibility of the client's or employing organisation's (as applicable) management, with the oversight of those charged with governance, to ensure that the client's or employing organisation's business activities are conducted in accordance with laws and regulations. The NOCLAR provisions as per the Code introduce an incentive that increases the likelihood that non-compliance with laws or regulations will not occur or that it will be rectified on the basis that doing so is in the public interest.

It is important to note that the professional accountant should respond to NOCLAR or suspected NOCLAR in accordance with the response framework provided in the Code, taking cognisance that the Code includes, amongst other, the principle of complying, in the first instance, with the law and not take any actions or fail to act contrary to the law, or where certain actions would be precluded under the law. The professional accountant must consider all relevant factors in the circumstances, including, for example, appropriate external factors which are addressed in sections 225.34 and 360.29 in determining whether to disclose a matter to an appropriate authority. Furthermore, the Code addresses, in various instances, that the professional accountant may consider consulting internally, obtaining legal advice or consulting on a confidential basis with a regulator or professional body.

18. Does the professional accountant have a duty to respond to all acts of NOCLAR or suspected NOCLAR?

No. The professional account has a responsibility to respond to NOCLAR or suspected NOCLAR that is within the scope of section 225 or section 360 of the Code, as applicable to the professional accountant's circumstances (either as a professional accountant in public practice or a professional accountant in business). "Scope" is dealt with in paragraphs 225.5 - 9 and paragraphs 360.5 - 9 of the Code, respectively. Paragraphs 225.8 and 360.8 relate to matters that are clearly inconsequential, judged by their nature and their impact, financial or otherwise, on the client or on the employing organisation (as applicable), stakeholders (i.e. investors, creditors, employees) and the general public. The professional accountant is not required to comply with the NOCLAR provisions of the Code with respect to such matters. "Inconsequential" generally means insignificant or not important/not of importance. It is important to note that the matter has to be clearly inconsequential. This is also addressed in the **IESBA Staff Questions and Answers** – refer to question 11 in the Professional Accountants in Public Practice document, and question 6 in the Professional Accountants in Business document.

Paragraphs 225.9 and 360.9 elaborate further on matters not covered by the NOCLAR provisions (i.e. scoped out), namely:

- Personal misconduct unrelated to the client's or employing organisation's (as applicable) business activities; and
- Non-compliance other than by the client or employing organisation (as applicable), or other than by those charged with governance, management or other individuals working for or under the direction of the client or the employing organisation.

Matters relating to "scope" are also addressed in the **IESBA Staff Questions and Answers** – refer to questions 8 to 10 in the Professional Accountants in Public Practice document, and questions 4 and 5 in the Professional Accountants in Business document.

19. One of the factors that the professional accountant would consider in determining whether further action is needed, is whether substantial harm is indicated in the circumstances. What would be interpreted as "substantial harm"?

Paragraphs 225.7 and 360.7 states that for purposes of the NOCLAR sections of the Code, an act that causes substantial harm is one that results in serious adverse consequences to the entity or employing organisation (as applicable) or to investors, creditors, employees or the general public, 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.

Substantial harm is also discussed as part of the "Determining whether further action is needed in the public interest" element of the NOCLAR response framework, as well as the nature and extent of further action; in particular, the option of disclosure of a matter to an appropriate authority. The following examples provided in paragraphs 225.34 and 360.29 serve to provide further context in terms of when potential harm may be evaluated as substantial/serious to affected stakeholders:

- Bribery for purposes of securing large contracts
- A matter that threatens the client's or employing organisation's license to operate
- An act that poses a systemic risk to the financial markets
- Products that are harmful to public health or safety would likely be sold
- Promoting a scheme to evade taxes.

The Code only provides *examples*, which are not intended to provide a complete list of actions that would result in serious adverse consequences/substantial harm. The professional accountant is required to weigh all the specific facts and information available concerning the actual or potential harm to the entity or employing organisation (as applicable), or to investors, creditors, employees or the general public (i.e. the nature and extent of the actual or potential harm that is or may be caused by the non-compliance).

For purposes of understanding the full context of the professional accountant's consideration of the actual or potential harm to stakeholders, and whether substantial harm is indicated in the circumstances, the following paragraphs in the Code should be read and considered as a whole:

- Professional accountants in public practice: paragraphs 225.23 - 36 for auditors performing audits of financial statements, and paragraphs 225.49 - 55 for professional accountants providing professional services other than audits of financial statements.
- Professional accountants in business: paragraphs 360.19 - 31 for senior professional accountants in business. Note that other professional accountants in business do not have a specific responsibility to consider whether further action is needed, since they are only required to inform an immediate superior about NOCLAR or suspected NOCLAR (refer to paragraph 360.35).

Further action could include, among other actions, the reporting of a matter to an appropriate authority under the appropriate circumstances, despite the absence of a legal obligation to do so, and without being limited by the ethical duty of confidentiality. Disclosing a matter to an appropriate authority would be at the end stage of the process in relation to serious identified or suspected

NOCLAR, after consideration of a range of factors, including the appropriateness of the response of management and, where applicable, those charged with governance. Disclosure to an appropriate authority only becomes a consideration in cases where the professional accountant determines the NOCLAR or suspected NOCLAR would or could cause substantial harm (i.e. result in serious adverse consequences) for the client or employing organisation (as applicable), investors, creditors, employees or the general public.

The questions of which identified or suspected NOCLAR may have to be reported to an appropriate authority in the public interest is also addressed in the **IESBA Staff Questions and Answers** – refer to question 36 in the Professional Accountants in Public Practice document, and question 20 in the Professional Accountants in Business document.

20. The Code also includes an "exceptional circumstances" override in terms of which the professional accountant may immediately disclose a matter to an appropriate authority in order to prevent or mitigate the consequences of an imminent breach of law or regulation. What are exceptional circumstances?

Sections 225 and 360 of the Code do not describe exceptional circumstances. The term is used in the context of "an imminent breach of a law or regulation that would cause substantial harm to investors, creditors, employees or the general public". Generally, it would appear that whether a circumstance is exceptional will depend on the context in which the NOCLAR arises. What is "exceptional" is dependent on the context and therefore what is considered "exceptional" will vary depending on the circumstances. An exceptional circumstance is generally one which is unusual; out of the ordinary; the general rule does not apply to it; something uncommon or different; markedly unusual or specifically different.

The Code states that in exceptional circumstances the professional accountant (providing audits of financial statements (paragraph 225.36), or providing professional services other than audits of financial statements (paragraph 225.54), or senior professional accountants in business (paragraph 360.31), or other professional accountants in business (paragraph 360.36)) may immediately disclose the matter to an appropriate authority in order to prevent or mitigate the imminent breach of a law or regulation that would cause substantial harm to investors, creditors, employees or the general public. Considering making a disclosure in exceptional circumstances is also addressed in the **IESBA Staff Questions and Answers** – refer to question 38 in the Professional Accountants in Public Practice document, and question 23 in the Professional Accountants in Business document.

21. Does the professional accountant have a duty to report all acts of non-compliance or suspected non-compliance to an appropriate authority?

No. As discussed in question 18 of this FAQs document, a professional accountant has a responsibility to respond to NOCLAR or suspected NOCLAR that is within the scope of the Code.

The professional accountant follows the response framework in terms of section 225 (if in public practice) or section 360 (if in business). The Code distinguishes between different categories of professional accountants and their respective responsibilities are addressed in the following paragraphs:

- Paragraphs 225.1-11 and 225.12-38 for professional accountants in public practice who perform audits of financial statements
- Paragraphs 225.1-11 and 225.39-56 for professional accountants in public practice who provide professional services other than audits of financial statements
- Paragraph 360.1-12 and 360.13-32 for senior professional accountants in business (which is defined in paragraph 360.13)
- Paragraph 360.1-12 and 360.33-37 for other professional accountants in business.

The primary behaviour the Code is driving is to get the right people to do the right thing; i.e. management of a client or an employing organisation (as applicable), with the oversight of those charged with governance (TCWG) (e.g. the board of directors). Therefore, in terms of the response framework, the professional accountant that becomes aware of NOCLAR or suspected NOCLAR, first obtains an understanding of the matter and discusses the matter with management and, where applicable, TCWG to seek to enable them to take appropriate action to rectify, remediate or mitigate the consequences of the identified or suspected non-compliance, or deter the commission of the non-compliance where it has not yet occurred. It is important to note that it is, and remains, the responsibility of the client's or the employing organisation's (as applicable) management, with the oversight of TCWG, to ensure compliance with relevant laws and regulations.

The professional accountant (except in the category of other professional accountants in business) is also required to determine, in the circumstances, whether further action is needed in the public interest. The Code is clear that a professional accountant has to comply with the law and should not take any action or fail to act contrary to the law. This would include considering whether specific legislation in the circumstances already imposes a reporting obligation and whether there are any laws or regulations that may preclude the reporting of a matter.

Further action could include, among other actions, the reporting of a matter to an appropriate authority under

the appropriate circumstances, despite the absence of a legal obligation to do so, and without being limited by the ethical duty of confidentiality. Disclosing a matter to an appropriate authority would be at the end stage of the process in relation to serious identified or suspected NOCLAR, after consideration of a range of factors, including the appropriateness of the response of management and, where applicable, TCWG. Disclosure to an appropriate authority only becomes a consideration in cases where the professional accountant determines the NOCLAR or suspected NOCLAR would or could cause substantial harm (i.e. result in serious adverse consequences) for the client or employing organisation (as applicable), investors, creditors, employees or the general public.

The question of which identified or suspected NOCLAR may have to be reported to an appropriate authority in the public interest is also addressed in the **IESBA Staff Questions and Answers** – refer to question 36 in the *Professional Accountants in Public Practice* document, and question 20 in the Professional Accountants in Business document.

Also refer to the following questions in this FAQs document that deal with related matters:

- Question 19: One of the factors that the professional accountant would consider in determining whether further action is needed, is whether substantial harm is indicated in the circumstances. What would be interpreted as "substantial harm"?
- Question 20: The Code also includes an "exceptional circumstances" override in terms of which the professional accountant may immediately disclose a matter to an appropriate authority in order to prevent or mitigate the consequences of an imminent breach of law or regulation. What are exceptional circumstances?

22. To whom must NOCLAR be reported, after the professional accountant has determined that further action is needed in the particular circumstances?

Further action could include, among other actions, the reporting of a matter to an appropriate authority under the appropriate circumstances, despite the absence of a legal obligation to do so, and without being limited by the ethical duty of confidentiality (also refer to question 21, above).

Although the Code does not define "an appropriate authority", paragraphs 225.33 and 360.28 notes that the purpose of a disclosure to an appropriate authority is to "*cause the matter to be investigated and action to be taken in the public interest*". Paragraphs 225.34 and 360.29 state that the determination of whether to make such a disclosure will also depend on external factors such as whether there is an appropriate authority that is able to receive the information, and cause the matter to be investigated and action to be taken. The appropriate authority will depend on the nature of the matter, for example, a securities regulator in the case of fraudulent financial reporting or an environmental protection agency in the case of a breach of environmental laws and regulations. It will often refer to the Regulator who is responsible for oversight and monitoring of compliance with particular legislation.

23. The professional accountant has a confidentiality clause in their employment contract (in the context of a professional accountant in business) or in their engagement letter (in the context of a professional accountant in public practice). Can they still report NOCLAR or suspected NOCLAR (subject to the requirements of Code)?

[Note: Respecting the confidentiality of client information (for professional accountants in public practice) and the information of the employing organisation (for professional accountants in business) is a fundamental principle of the Code (section 140 of the Code). The general duty of confidentiality may be extended by an engagement letter (or standard terms and conditions applicable to professional services) or by an employment contract, as applicable, beyond that what the Code prescribes.**]**

Apart from the professional accountant's overall duty of confidentiality in accordance with section 140 of the Code, the most common prohibition on the disclosure of information likely to be encountered by a professional accountant is a contractual undertaking to the client or to the employing organisation. Generally, parties have freedom to contract, and therefore can tailor a confidentiality agreement, as appropriate, to a particular engagement or to a particular relationship.

In principle then a contractual confidentiality undertaking may be absolute, or allow for exceptions depending on what the relevant parties agree. It would be possible (and advisable) to build in an exemption to a relevant agreement to allow for disclosure in terms of the NOCLAR provisions. Such an express exemption protects both the client/employing organisation (as applicable) and the professional accountant by increasing the certainty around when such a disclosure may take place in advance of the particular circumstances arising.

An agreement that is contrary to law though is not enforceable (or contrary to the fundamental principles and requirements of the Code). Therefore, if a professional accountant agreed to an absolute duty of confidentiality,

but a disclosure was required by law, then it would not be possible to enforce the obligation of absolute confidentiality against the professional accountant who is compelled by law to disclose the information. For example, section 37(1) of the Financial Intelligence Centre Act expressly records that "*no duty of secrecy or confidentiality or any other restriction on the disclosure of information, whether imposed by legislation or arising from the common law or agreement, affects compliance by an accountable institution, supervisory body, reporting institution, the South African Revenue Service or any other person.*"

If the disclosure of a matter is not required by law, as is the situation where a professional accountant is considering whether to disclose certain information in the public interest to an appropriate authority despite the absence of a legal obligation to do so, the contract cannot be directly challenged as unlawful.

However, a contract may also be unenforceable if it is against public policy, or "*clearly inimical to the interests of the community, whether they are contrary to law or morality, or run counter to social or economic expedience*" (Sasfin (Pty) Ltd v Beukes 1989 (1) SA 1 (A) at 8). This power will, however, only be exercised "in cases in which the impropriety of the transaction and the element of public harm are manifest" (Botha (now Griessel) v Finanscredit (Pty) Ltd 1989 (3) SA 773 (A) at 782 to 783) (i.e. obvious; clearly apparent). The South African public policy is determined with reference to the Constitution (Barkhuizen v Napier 2007 (5) SA 323 (CC) at par 29).

Therefore, even where a contractual obligation of confidentiality exists, if that obligation would prevent a professional accountant from taking steps to prevent manifest and substantial harm to the public, which would include a significant breach of the constitutional rights of members of the public, such obligation of confidentiality may not be held to be binding on a professional accountant.

Whether a particular obligation contravenes the public policy is determined on a case by case basis with reference to the specific circumstances, and this determination would ultimately have to be made by a court of law. In this case SAICA would advise the professional accountant to seek legal advice.

The matter of a contractually negotiated confidentiality clause, including contracting in such a way so as to clarify that a confidentiality clause would be subject to the professional accountant's obligation to comply with the Code, is also addressed in the **IESBA Staff Questions and Answers** – refer to question 6 in the Professional Accountants in Public Practice document. In addition, professional accountants should note, provided that a disclosure is made in accordance with the applicable NOCLAR responsibilities, the disclosure will not be considered a breach of the duty of confidentiality under section 140 of the Code (refer to paragraphs 225.35, 225.53 and 360.30).

If professional accountants are uncertain about their legal position and the options that are available to them, including the legal implications of certain matters or actions, it is advisable to seek appropriate legal advice for their circumstances.

24. What protection is available to a professional accountant who decides to disclose NOCLAR or suspected NOCLAR?

A professional accountant would not be obliged to make a disclosure where to do so would give rise to criminal liability. The NOCLAR provisions expressly state that disclosure is precluded where disclosure is contrary to the law (paragraphs 225.33, 225.52 and 360.28). Whether a disclosure is "contrary to law" encompasses a breach of a legal obligation owed to another party. The same would apply where disclosure would expose the professional accountant to civil liability. In terms of paragraphs 225.34 and 360.29, a professional accountant should consider, among other external factors, if there exists "robust and credible protection from civil, criminal or professional liability or retaliation afforded by legislation or regulation, such as under whistle-blowing legislation or regulation".

In addition, provided that a disclosure is made in accordance with the applicable NOCLAR responsibilities, the disclosure will not be considered a breach of the duty of confidentiality under section 140 of the Code (paragraphs 225.35, 225.53 and 360.30).

Under various pieces of legislation there are specific mechanisms for the protection of the disclosure of non-compliance with that legislation or with respect to information that shows or tend to show that certain acts related to non-compliance have or are likely to occur, as described in the legislation. These mechanisms have certain requirements in order for protection to be granted and the extent of the protection may differ. Where a disclosure is made in terms of specific legislation, the professional accountant should determine the requirements to receive protection under that legislation and ensure that the protection is sufficient.

If professional accountants are uncertain about their legal position and the options that are available to them, including the legal implications of certain matters or actions, it is advisable to seek appropriate legal advice for their circumstances.

25. The Code encourages the professional accountant to maintain certain documentation around the consideration of NOCLAR or suspected NOCLAR that falls within the scope of the Code (paragraphs 225.56, 360.32 and 360.37). Could these documents not be used against the professional accountant?

[Note: This question relates to professional accountants in public practice that provide professional services other than audits of financial statements and to all categories of professional accountants in business. In relation to audits of financial statements, the auditor shall maintain relevant documentation (refer to paragraphs 225.37 - 38)**]**

The risks mentioned related to documentation exist and should be considered, having regard to the circumstances. Generally, however, there may be benefits to documentation that outweigh the risks or challenges. Documentation provides evidence that the professional accountant has appropriately considered and complied with his/her professional responsibilities under the Code and it provides a basis for indicating that he/she has achieved the overall objectives of the NOCLAR provisions (and of the Code) in the circumstances of a particular case/matter. Furthermore, documentation provides a record of the professional accountant's judgements, decisions and actions given the information available to the professional accountant at the time (including the circumstances surrounding the nature, extent and availability of such information). Should the professional accountant have to explain his/her response, such documentation could prove to be very valuable. The professional accountant's conduct should in the first instance be appropriate; i.e. in accordance with the Code, with the documentation providing a record (evidence) in support of such conduct. Documentation that indeed suggests that the professional accountant's conduct was not appropriate in accordance with the Code, could be detrimental to the professional accountant's case.

The matter of the Code encouraging documentation is also addressed in the **IESBA Staff Questions and Answers** – refer to question 49 in the Professional Accountants in Public Practice document, and question 12 in the Professional Accountants in Business document.

ADDITIONAL QUESTIONS APPLICABLE TO SENIOR PROFESSIONAL ACCOUNTANTS IN BUSINESS AND OTHER PROFESSIONAL ACCOUNTANTS IN BUSINESS

26. If the professional accountant in business is aware of NOCLAR or suspected NOCLAR who does the professional accountant contact?

It is not about who to contact per se, but rather about following the response framework as applicable to the appropriate category of professional accountant; i.e. senior professional accountants in business (paragraphs 360.13 - 32) or other professional accountants in business (paragraphs 360.33 - 37).

The professional accountant should firstly evaluate whether the matter is within the scope of the Code. Should it be within the scope of the Code, the professional accountant should decide whether there is a positive reporting obligation in terms of existing laws or regulations. The Code is very clear that a professional accountant has to comply with the law and should not take any action or fail to act contrary to the law (consistent with the fundamental principles of integrity and professional behaviour in the Code). This would include considering whether specific legislation in the circumstances already imposes a reporting obligation and whether there are any laws or regulations that may preclude the reporting of a matter.

The professional accountant in business is required in terms of paragraph 360.11 to consider the employing organisation's internal protocols and procedures in determining how to respond to NOCLAR or suspected NOCLAR; i.e. the organisation's established protocols and procedures for how such matters should be raised internally.

Once the professional accountant decides that the NOCLAR is within the scope of the Code then the steps as set out in the Code must be followed, including discussing the matter with his/her immediate superior, subject to the organisation's internal protocols and procedures (the senior professional accountant in business has additional responsibilities in accordance with paragraphs 360.17 - 18). If the professional accountant determines that further action is needed in the form of disclosing the matter to an appropriate authority, he/she should determine the authority and whether to make such disclosure.

Also refer to the following questions in this FAQs document that deal with related matters:

- Question 18: Does the professional accountant have a duty to respond to all acts of NOCLAR or suspected NOCLAR?
- Question 21: Does the professional accountant have a duty to report all acts of non-compliance or suspected non-compliance to an appropriate authority?
- Question 22: To whom must NOCLAR be reported, after the professional accountant has determined that further action is needed in the particular circumstances?

Paragraph 360.27 acknowledges that the consideration of NOCLAR or suspected NOCLAR may be complex and require considerable judgement; therefore, the professional accountant may consider consulting internally, obtaining legal advice to understand the professional accountant's options and the professional or legal implications of taking any particular course of action, or consulting on a confidential basis with a regulator or professional body.

27. If a professional accountant in business finds out about NOCLAR or suspected NOCLAR in the professional accountant's employing organisation and he/she reports the matter to the internal audit function or to the tip-off line, does the professional accountant in business have any further duty?

Paragraph 360.11 of the Code refers to the fact that many employing organisations have established internal protocols and procedures regarding how NOCLAR or suspected NOCLAR should be raised internally. If such protocols and procedures exist, the professional accountant in business is required to consider them in determining how to respond to such non-compliance.

In those instances where a formalised whistle-blowing mechanism was followed, in accordance with the employing organisation's internal protocols and procedures, it could satisfy the requirement to discuss the matter with, or to inform the professional accountant's immediate superior (refer to paragraphs 360.16 and 360.35). This is because the intention of such mechanism would ordinarily be to ensure that the relevant information is communicated to the relevant people in the organisation that have been charged with determining how such matters should be addressed, including taking appropriate action in the circumstances.

The fact that internal audit has been informed, may not necessarily satisfy the requirement, since it will depend on the role of internal audit within the organisation's internal protocols and procedures pertaining to NOCLAR, as well as the status and authority of internal audit in terms of having the matter investigated and appropriate action taken.

It is important to note that the senior professional accountant in business will in all instances have additional responsibilities in terms of the relevant NOCLAR

provisions, including, among others, to take appropriate steps to have the matter communicated to those charged with governance, and to have the consequences of the non-compliance rectified, remediated or mitigated, or to deter the non-compliance where it has not yet occurred (as well as his/her responsibilities to determine whether further action is needed and, if applicable, taking such further action as appropriate in the public interest). The response framework for the senior professional accountant in business is addressed in paragraphs 360.13-32.

28. What are the reporting obligations of a professional accountant in business (i.e. employed in an organisation) when he/she becomes aware of NOCLAR or suspected NOCLAR by a customer of the employing organisation?

A professional accountant employed or engaged in an executive or non-executive capacity in such areas as commerce, industry, service, the public sector, education, the not-for-profit sector, regulatory bodies or professional bodies, or a professional accountant contracted by such entities would be defined as a professional accountant in business. Therefore, section 360 of the Code will apply to such professional accountant (as opposed to section 225 of the Code which applies to professional accountants in public practice).

Apart from the definition of NOCLAR in paragraph 360.2, it is also important to note what is scoped out of the Code in terms of paragraph 360.9. This includes non-compliance other than by the employing organisation or those charged with governance, management, or other individuals working for or under the direction of the employing organisation.

Therefore, in a business environment, non-compliance by a customer of an employing organisation is not within the scope of section 360 of the Code (this is different from a client of a professional accountant in public practice or a firm of professional accountants in public practice, which will rather fall under section 225 of the Code). Therefore, a professional accountant in business employed by such employing organisation would not be required to pursue the non-compliance in accordance with section 360 of the Code. Although he/she may still wish to pursue the matter, for example, in accordance with the policies and procedures of the employing organisation or because of a moral conviction, there is no responsibility to pursue the matter in accordance with section 360 of the Code.

However, the professional accountant must also take cognisance of the overriding principle that he/she must always comply with the law and not take any action or fail to act contrary to the law. Therefore, if relevant laws or regulations applicable to a particular business or within an industry compel an entity or an employee or official of the entity to take certain actions in response to particular non-compliance, such laws and regulations must be complied with in the circumstances.

29. What if the NOCLAR or suspected NOCLAR that the senior professional accountant in business is aware of, was reported as a reportable irregularity by the external auditors of the entity (in accordance with the requirements of the Auditing Profession Act), does the professional accountant still have an obligation to get involved?

The duty to follow the response framework in terms of the Code is applicable to each professional accountant, including those circumstances where different professional accountants in their different capacities may be aware of the same NOCLAR or suspected NOCLAR. In this instance, the auditor and the senior professional accountant in business are aware of the matter. Each professional accountant should consider the response framework in accordance with the section of the Code that is applicable to his/her particular category and respond accordingly. Therefore, the senior professional accountant in business still needs to follow the response framework, including, among other actions, to take appropriate steps to have the consequences of the non-compliance rectified, remediated or mitigated.

ADDITIONAL QUESTIONS APPLICABLE TO PROFESSIONAL ACCOUNTANTS IN PUBLIC PRACTICE PROVIDING PROFESSIONAL SERVICES OTHER THAN AUDITS OF FINANCIAL STATEMENTS

30. What is the duty of the professional accountant in public practice when the professional accountant providing services to a client realises (i.e. becomes aware) that the client is not complying with relevant legislation, e.g. the Companies Act; Income Tax Act; B-BBEE Act; National Credit Act; (any other applicable laws or regulations in the circumstances)?

[Note: This question refers to a few examples of acts which may be applicable to the business of a client of a professional accountant in public practice, but it also states "(any other applicable laws or regulations in the circumstances)". It is not possible to provide a comprehensive list of laws and regulations that may be relevant for purposes of performing a given engagement for a client. The professional accountant in public practice is expected to be able to recognise NOCLAR or suspected NOCLAR in relation to those laws and regulations that he/she needs an understanding of, to an extent sufficient to competently perform a given engagement. Nothing in the Code increases the range of laws and regulations the professional accountant in public practice is required to have knowledge of for purposes of performing a given engagement. Also refer to the *SAICA Overview and Summary of the Response Framework* for further information about the legal and regulatory framework (available on the **SAICA NOCLAR webpage**).**]**

The professional accountant in public practice is required to respond to the NOCLAR or suspected NOCLAR in accordance with section 225 of the Code, and to follow the steps as provided for in terms of the response framework.

- General principles and requirements in terms of the purpose of the Code, the nature of NOCLAR, the scope of the Code and the respective responsibilities of parties are addressed in paragraphs 225.1-11, for all categories of professional accountants in public practice.
- Paragraphs 225.39-56 address the response framework that specifically applies to professional accountants in public practice providing professional services other than audits of financial statements.

Also refer to questions 18, 21 and 22 in this FAQs document that further contextualises the application of the response framework as a whole, including whether the professional accountant has a duty to report all acts of non-compliance or suspected non-compliance to an appropriate authority. Matters relating to the response framework of professional accountants in public practice, other than auditors are also addressed in the **IESBA Staff Questions and Answers** – refer to questions 44 to 49 in the Professional Accountants in Public Practice document.

31. What is the professional accountant in public practice's responsibility to report a matter to an appropriate authority if the client is trying to correct the non-compliance by following other legal routes (e.g. a voluntary disclosure programme)?

The professional accountant in public practice will still be required to respond to the NOCLAR or suspected NOCLAR in accordance with section 225 of the Code, and to follow the steps as provided for in terms of the response framework. The response framework for non-auditor professional accountants in public practice is addressed in paragraphs 225.39-56.

When the purpose of the engagement is to investigate NOCLAR to enable the client to take appropriate action to address the matter (including rectifying, remediating or mitigating potential consequences for the client, investors, creditors, employees or the general public), the professional accountant may already be taking many of the actions required in terms of section 225, e.g. obtaining an understanding of the matter and discussing the matter with management and, where appropriate, those charged with governance (TCWG). Furthermore, the actions being implemented may already result in the appropriate authority being aware of the matter and about the steps that are being taken or that are planned in order to address the matter.

The primary behaviour the Code is driving is to get the right people to do the right thing; i.e. the management of a client, with the oversight of TCWG (e.g. the board of directors). A situation where the professional accountant can encourage the client to take appropriate action to address identified or suspected non-compliance is desirable. It is important to note that it is, and remains, the responsibility of the client's management, with the oversight of TCWG, to ensure compliance with relevant laws and regulations, as well as fully implementing and executing any actions to address non-compliance.

However, the Code does not preclude that the professional accountant may decide that further action is needed in the public interest. Further action could include, among other actions, the reporting of a matter to an appropriate authority, unless there is a legal or regulatory basis to preclude disclosure, such as when there are confidentiality requirements in law or regulation, where there are restrictions imposed by a regulatory agency or prosecutor in relation to its investigation of the matter, or where legal privilege applies in the circumstances.

The principle involved when the purpose of the engagement is to investigate potential non-compliance to enable the entity to take appropriate action is addressed

in the **IESBA Staff Questions and Answers** – refer to question 48 in the *Professional Accountants in Public Practice* document.

Also refer to Question 21 in this FAQs document that addresses whether the professional accountant has a duty to report all acts of non-compliance or suspected non-compliance to an appropriate authority.

32. What is the professional accountant's responsibility if the client discusses an instance of non-compliance with the professional accountant, the professional accountant provides relevant advice to the client to correct the non-compliance, but the client then terminates the engagement? Will the professional accountant have a duty to follow up on whether the non-compliance was corrected?

The professional accountant has the duty to consider NOCLAR if the professional accountant is engaged to provide professional services to a client; i.e. in the context of non-compliance committed by a client, or by those charged with governance, by management or by other individuals working for or under the direction of a client (unless it is clearly inconsequential).

In the context of this question, it would appear that reference is being made to a pre-existing client of the professional accountant. In such instances, once the professional accountant is aware of a NOCLAR or suspected NOCLAR, the professional accountant is required to follow the response framework in terms of the Code (in accordance with paragraphs 225.39-56). Therefore, the professional accountant's obligations continue.

Although not dealt with directly in the Code, a situation where the client relationship is terminated *by the client*, would be comparable with a situation where the client relationship is terminated *by the professional accountant*, by withdrawing from the engagement (as contemplated in paragraph 225.51). The Code introduces the principle that withdrawing from an engagement cannot be a substitute for taking other actions that may be needed to achieve the professional accountant's objectives under the NOCLAR provisions of the Code.

The termination of the engagement by the client would be a relevant factor to consider in evaluating the client's response to the matter and determining whether further action is needed in the public interest. The professional accountant whose engagement is terminated at an early stage of the interaction with the matter may have difficulty evaluating an appropriate response, because of limitations relating to access to the client and the relevant persons at the client, as well as access to further information. Apart from dealing with the information that is available at the time, the professional accountant will not have a duty to follow up on the matter, including whether the non-compliance was corrected.

For further context in terms of the expected level of responsibilities of the professional accountant in public practice who provides professional services other than audits of financial statements, also refer to the **IESBA Staff Questions and Answers**, questions 44 and 45 in the *Professional Accountants in Public Practice* document.

If, however, the entity or person concerned was not a pre-existing client of the professional accountant, the NOCLAR provisions would not apply, since it would be scoped out in accordance with paragraph 225.9(b) (i.e. the Code applies to non-compliance committed by *clients*).

33. How will the professional accountant balance his/her consideration of the Code encouraging the maintenance of documentation and the search and seizure powers that certain regulators have?

The Code encourages the professional accountant that provides professional services other than audits of financial statements to document the matter, the results of discussions, how management and, where applicable, those charged with governance have responded to the matter, courses of action considered, judgements made and decisions taken, and whether the professional accountant is satisfied that his/her responsibilities have been fulfilled (refer to paragraph 225.56).

The professional accountant would need to decide what to document and how to do that. Should a question arise, the documentation retained would be able to provide clarity on the evaluation and decision-making process that the professional accountant followed in the circumstances.

Also refer to Question 25 in this FAQs document that addresses the following question: The Code encourages the professional accountant to maintain certain documentation around the consideration of NOCLAR or suspected NOCLAR that falls within the scope of the Code (paragraphs 225.56, 360.32 and 360.37). Could these documents not be used against the professional accountant?

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