IESBA Post-Implementation Review (PIR) Survey

Responding to Non-Compliance with Laws and Regulations (NOCLAR®)

Introduction

This survey is only applicable to respondents that have adopted or use or benefit from the Responding to Non-Compliance with Laws and Regulations (NOCLAR) provisions in the International Code of Ethics for Professional Accountants (including International Independence Standards) (the Code). Sections 5260 and 5360 as contained in the International Ethics Standards for Sustainability Assurance (including International Independence Standards) (IESSA), and conforming amendments to Sections 260 and 360 arising from the development of the IESSA, are outside the scope of this survey and only become effective in December 2026.

1. The International Ethics Standards Board for Accountants (IESBA) is conducting a post-implementation review (PIR) of the NOCLAR provisions in Sections 260 and 360 of the Code.

2. This survey seeks to obtain input from a broad range of stakeholders to enable the IESBA to determine:

   (a) Whether the NOCLAR provisions have achieved their intended purpose by identifying:

      (i) Benefits from applying the provisions; and

      (ii) Any practical challenges or questions regarding their implementation, including whether they are being consistently understood and applied; and

   (b) What actions, if any, are needed by the IESBA to address identified matters.

3. The responses received will be analyzed for purposes of providing feedback to the IESBA and in developing recommendations for any actions.

4. Recognizing that some respondents may wish to discuss certain NOCLAR or NOCLAR-related matters on a confidential basis instead of documenting them in writing when responding to this survey, respondents are welcome to reach out to the IESBA Project Team (email jeanneviljoen@ethicsboard.org and kamleung@ethicsboard.org) to discuss such matters confidentially. In such circumstances, respondents are requested to discuss the matters on an anonymized basis.

5. The survey comment period starts on April 1 and ends on July 30.

Survey Responses to be Made Public

6. Unless confidentiality is specifically requested, respondents' submissions will be considered a matter of public record and will be posted to the IESBA's website. Where confidentiality is requested, respondents are nonetheless requested to provide any detailed input on an anonymized basis.

7. Some questions ask for details, examples or sharing of relevant reports or materials. Respondents are requested to provide such information on an anonymized basis.

Survey Instructions

8. Respondents to the survey are asked to provide their responses only on the questions applicable to

the stakeholder group to which they belong:

- Part A — Demographic Information (All Respondents)
- Part B — Jurisdictional Standard Setters (JSS)
- Part C — Professional Accountancy Organizations (PAOs)
- Part D — Regulators or Oversight Bodies
- Part E — Accounting Firms or Individual Professional Accountants in Public Practice (PAPPs)
- Part F — Professional Accountants in Business (PAIBs)
- Part G — Other Users or Beneficiaries of the Code

9. Respondents may respond to all questions or only selected questions or matters. All responses to this survey, whether complete or partial, will be accepted and considered as input for the IESBA Project Team's analysis.

Overview and Key Intended Outcomes of the IESBA NOCLAR Provisions

10. The IESBA NOCLAR provisions establish a response framework to guide auditors, other PAPPs, and PAIBs in deciding how best to act in the public interest when they become aware of NOCLAR or suspected NOCLAR.

11. NOCLAR is any act of omission or commission, intentional or unintentional, committed by a client or employer, or by those charged with governance (TCWG), by management or by other individuals working for or under the direction of a client or employer which is contrary to the prevailing laws or regulations.

12. For a more detailed overview of the NOCLAR provisions of the Code, please access the following link here.

13. Key intended outcomes of the NOCLAR provisions in the public interest include:
    - Ensuring that PAs respond in a timely way to identified or suspected NOCLAR.
    - Rectifying, remediating, or mitigating the adverse consequences of identified or suspected NOCLAR to stakeholders and the general public.
    - Deterring the commission of NOCLAR.
    - Stimulating increased reporting of identified or suspected NOCLAR where required by law or regulation, or where determined appropriate under the Code in the public interest.

Part A – Demographic Information (All Respondents)

1. Please indicate if you are responding as an individual or on behalf of your organization?
    (a) If you are responding as an individual:
        (i) Please indicate your jurisdiction
        (ii) Approximate years of professional experience:
            - Less than 5 years

- 5–10 years
- 11–20 years
- More than 20 years

(b) If you are responding on behalf of your organization, please indicate the jurisdictional profile which best represents your situation, i.e., from which jurisdictional perspective are you providing your responses?

- Global
- Regional *(Please specify)*
- Multiple jurisdictions *(Please specify)*
- **Single jurisdiction *(Please specify)***

  New Zealand

2. Please indicate the stakeholder category to which you belong, i.e., from which perspective are you providing your responses? *If you or your organization has one or more roles (e.g., JSS and Regulator), please respond to all relevant parts of the survey.*

- **JSS (Complete Part B) *(Please indicate the users of your standards as a JSS, e.g., individual PAPPs, professional accountants in business (PAIBs) and/or accounting firms (including audit firms))***

  The New Zealand Auditing and Assurance Standards Board (NZAuASB) acting under delegated authority from the External Reporting Board issues auditing, assurance and professional and ethical standards for assurance practitioners in New Zealand. Historically, the NZAuASB standards were intended only for assurance practitioners, performing assurance engagements, that are members of associations of professional accountants in New Zealand. However, with the introduction of mandatory climate reporting and greenhouse gas disclosures assurance, the NZAuASB standards apply to other assurance practitioners, including non-accountants.

- PAOs **(Complete Part C)** *(Please indicate whether your members are PAPPs and/or PAIBs)*
- Regulators or oversight bodies **(Complete Part D)** *(Please indicate which of the following you regulate or oversee (select all that apply): PAPPs (including auditors), PAIBs, accounting firms (including audit firms), none of the above)*
- Accounting firms and individual PAPPs **(Complete Part E)**
- PAIBs **(Complete Part F)**
- Other users or beneficiaries of the Code *(Please specify)* (e.g., investors or other users of financial statements, those charged with governance, academics) **(Complete Part G)**

3. Please provide the following information (*Personal information will not be made public and will only be used by the Project Team to follow up if clarification on your responses is needed)*:

- Your organization's name, if any (if you are responding on behalf of an organization[1])

  External Reporting Board

- Your name and job title / role

  Anna Herlender, Project Manager

- Your email address

  anna.herlender@xrb.govt.nz

- Your jurisdiction

  New Zealand

[1] If you respond on behalf of a global organization, the jurisdiction (or name of the country) in which you work. If you are responding on behalf of a global organization, please indicate "Global" as your jurisdiction.

Part B – Jurisdictional Standard Setters (JSS)

Adoption status and effective date

> *Note:*
>
> *Adoption (full or with modifications) refers to the formal acceptance and incorporation of the IESBA standards into a jurisdiction's national laws, regulations or professional requirements.*
>
> *Convergence is where a jurisdiction aligns its national ethics (including independence) standards or provisions with the IESBA standards through a process that seeks to eliminate or minimize differences between the IESBA and national standards or provisions. This includes a process where an IESBA standard is used as a basis to develop the local standard or provisions.*

4. Has your organization adopted the NOCLAR provisions of the Code (IESBA NOCLAR provisions)? *(Please choose the most representative answer*)

   (a) Yes, through full adoption with no modifications *(Please provide (i) information on the effective date, and (ii) links to the local NOCLAR provisions or the specific announcement of the adoption or issuance of the local NOCLAR provisions)*

   (b) Yes, through adoption with modifications *(Please (i) describe the nature of, and reasons for, the modifications, (ii) provide information on the effective date, and (iii) provide links to the local NOCLAR provisions or the specific announcement of the adoption or issuance of the local NOCLAR provisions)*

   The NZAuASB included the NOCLAR provisions in Professional and Ethical Standard 1, *International Code of Ethics for Assurance Practitioners (including International Independence Standards) (New Zealand)* (PES 1) in August 2016 with the effective date 15 July 2017.

   The New Zealand modifications to the NOCLAR provisions in PES 1 relate to:

   - requirements of section 360 that apply to audits of financial statements in the IESBA Code have been broadened to apply to audit and review engagements in PES 1
   - references to professional accountants are replaced with references to assurance practitioners, because PES 1 is intended to be applied by assurance practitioners.

   Initially, in August 2016, the NZAuASB expanded the NOCLAR provisions that apply to audits of financial statements to all assurance engagements. The NZAuASB considered it would be appropriate for all assurance engagements to follow the same framework for dealing with non-compliance with laws and regulations regardless of the subject matter. It was considered that the additional requirements for assurance engagements, other than the audit of financial statements, are not overly onerous. These requirements would enhance the quality of the assurance practitioner's response, and would be more consistent with the requirements of the other assurance standards and the expectations of the users of assurance reports. These modifications simplified the Code by making the requirements consistent for all assurance engagements (as applicable) and reducing repetition.

When the new restructured Code of Ethics was considered by the NZAuASB in August 2018, the New Zealand modifications to the NOCLAR requirements were reconsidered. In December 2018 the provisions that apply to other assurance engagements were aligned with the provisions in the IESBA Code.

However, it was reaffirmed that the requirements that apply to audits should apply to review engagements. The NZAuASB considered this appropriate for New Zealand context, because certain registered charities can elect to have the financial statements reviewed instead of audited. The NZAuASB was of the view that it would be in the public interest for the assurance practitioner to respond in the same manner to an identified or suspected NOCLAR regardless of whether they were engaged to audit or review the financial statements.

(c) No, but the local NOCLAR provisions are converged with the IESBA NOCLAR provisions *(Please (i) provide information on the effective date, (ii) provide links to the local NOCLAR provisions or the specific announcement of the issuance of the local NOCLAR provisions, and (iii) describe any significant differences between the local NOCLAR provisions and the IESBA NOCLAR provisions)*

(d) No, there are provisions in relevant law or regulation or a different ethical framework that address NOCLAR *(Please describe any significant differences between the relevant law or regulation or ethical framework and the IESBA NOCLAR provisions)*

(e) Not adopted *(Please specify reasons. If there is a plan to adopt the IESBA NOCLAR provisions, please provide details, including timing)*

If you have answered (a), (b) or (c), were the IESBA NOCLAR provisions translated into the local NOCLAR provisions? If yes, please indicate the language of translation.

Guidance and educational materials

5. What guidance or educational materials has your organization issued, or what programs has your organization developed, to support understanding of the local NOCLAR provisions in your jurisdiction? (*Select all that apply and provide links*)

- Technical guidance (e.g., FAQs)
- Education/training programs (e.g., webinars, CPD programs)
- Articles, publications or newsletters (e.g., updates about standards, case studies or illustrative examples)
- **Other *(Please specify)***

  Together with amendments to the Code relating to NOCLAR, we issued an Explanation for Decision Made which includes reasons for New Zealand modifications.

- None

Other support

6. Does your organization provide guidance to individual professional accountants, accounting firms, or other users of your standards in the application of the local NOCLAR provisions if they seek such assistance, e.g., in dealing with a NOCLAR matter? (*Select all that apply)*

- Ethics hotline or equivalent (e.g., for technical queries)
- Discussion forum (e.g., for sharing knowledge)
- Whistleblower hotline (e.g., to report actual or suspected NOCLAR)
- **Other *(Please specify)***

  The XRB does not provide advice. However, we respond to enquiries by referring assurance practitioners to the relevant paragraphs in the Code.
- None

Inquiries and questions

7. Which specific provisions in the local NOCLAR provisions has your organization commonly received inquiries or questions about? *(Please provide details, including from which stakeholder groups the inquiries or questions arose)*

   We have not commonly received enquiries relating to the NOCLAR provisions in the Code.

Level of understanding

8. Do users of your organization's standards have an overall understanding of the local NOCLAR provisions? *(Please explain the basis for your response, including how your organization evaluates the overall understanding of the local NOCLAR provisions by users of your standards)*

- Yes
- Somewhat
- No
- **Not known or no data available**

   We believe so. We have heard the NOCLAR provisions referenced at various events. We have not received any specific queries relating to NOCLAR. As a standard setter we do not have a role in enforcing the requirements. Based on our review of audit quality monitoring reports issued by the regulator, we have not identified specific NOCLAR findings.

   We have heard that practitioners would benefit from further awareness raising.

   NOCLAR matters are confidential. As a result, few real-life case studies are available for educational purposes. Practical, anonymised case studies would help train new practitioners and improve existing users' understanding of when and how the NOCLAR provisions apply.

Legal protection

9. In your jurisdiction, does legislation or regulation exist (e.g., under whistleblowing laws or regulations)

that provides protection from civil, criminal or professional liability, or from retaliation, when NOCLAR or suspected NOCLAR is disclosed to an appropriate authority? Please provide details.

If yes, is the protection under the relevant law or regulation perceived to be effective? Please explain your response.

New Zealand legislation provides protection when NOCLAR is reported

In New Zealand, the Protected Disclosures (Protection of Whistleblowers) Act 2022 (the Act) provides protection from civil, criminal, and professional (disciplinary) liability, and retaliation and victimisation, when serious wrongdoing is disclosed in good faith to an appropriate authority (or through proper internal channels).

The local law is perceived to be effective

We have not identified specific cases where non-compliance with laws and regulations was reported to an appropriate authority. Based on what we have heard, auditors in New Zealand appear to feel protected if they need to report non-compliance with laws and regulations. Therefore, we believe that the Act is perceived to be effective.

Observed outcomes (benefits and challenges)

10. Has your organization observed any trend in instances of NOCLAR reported or escalated?

If so, please describe the trend and indicate the period for which this trend has been observed, as well as the general nature of the NOCLAR commonly observed.

No direct visibility of trends

We do not have any specific observations regarding trends in NOCLAR reporting or escalation. As the jurisdictional standard setter, NOCLAR would not be reported or escalated to us. In addition, because NOCLAR may be reported to different authorities depending on the nature of the matter, trends and instances are difficult to identify and track.

Reporting NOCLAR to authorities is very rare

We have heard that reporting NOCLAR to an appropriate authority would arise only in rare circumstances. The ethical culture of management and those charged with governance is considered during the client acceptance phase of the audit. When NOCLAR is encountered, it is usually addressed after being raised with management or those charged with governance. As a result, the process typically remains internal and is not visible externally.

11. Based on your organization's observations, has the application of the local NOCLAR provisions been effective in deterring the commission of NOCLAR, or rectifying, remediating or mitigating the consequences of NOCLAR? (*Please explain the basis for your response and provide any relevant details, including any supporting materials or reports*)

Limited direct evidence on effectiveness of NOCLAR

We do not have sufficient evidence to assess whether the NOCLAR provisions have been effective in deterring, rectifying, remediating or mitigating NOCLAR. As a standard setter, we do not receive reports of NOCLAR matters or monitor how individual matters are resolved.

NOCLAR framework is helpful for assurance practitioners

We have heard that the framework is useful for assurance practitioners in the right context. Actual or suspected NOCLAR do not arise frequently in New Zealand. When it does, practitioners can find the situation stressful, sensitive and difficult to navigate. In those circumstances, the framework gives practitioners a structured process for considering the steps they need to take.

At the same time, awareness and confidence in applying the provisions still vary. We have heard that real-life case studies would help practitioners recognize when the framework applies and support more consistent application of the provisions

12. Has your organization observed any challenges in the application of the local NOCLAR provisions? *(Please provide details, including specific provisions that caused particular challenges and why, as well as any actions taken to address them)*

While the NOCLAR framework is helpful for practitioners dealing with NOCLAR, we have heard concerns about its application. A common concern is that practitioners still find it difficult to interpret the boundaries of their NOCLAR obligations. Practitioners may understand the overall framework. However, they still find it difficult to determine when the obligations are triggered, how far their response should go, and when communication or escalation is required. This is particularly challenging where matters sit between clearly inconsequential and substantial harm, or where the relevant laws and regulations are outside the practitioner's usual area of expertise. Specific challenges we heard included:

The concept of clearly inconsequential might be misused

We have heard some concern that the "clearly inconsequential" threshold could be misused in practice. If a practitioner judges a matter to be clearly inconsequential at an early stage, they do not need to apply the framework. They may also stop short of developing a fuller understanding of the matter. This creates a risk that practitioners may dismiss matters too early, before sufficient information is obtained to assess whether NOCLAR is involved. As a result, actual or suspected NOCLAR may not be recognised and the framework may not be applied when it should be.

Interaction between clearly inconsequential and audit materiality is misunderstood

The clearly inconsequential threshold might be viewed as equivalent to the clearly trivial threshold used in financial statement audits. However, assessing whether a NOCLAR matter is clearly inconsequential may require different judgements. A NOCLAR matter may be quantitatively immaterial to the financial statements but still be more than clearly inconsequential. That may be due to its nature, regulatory implications, or wider stakeholder impact.

Assurance practitioners are uncertain how to respond to matters well below the substantial harm threshold

The NOCLAR provisions require assurance practitioners to take steps when they encounter a NOCLAR matter that is more than clearly inconsequential. In practice, assurance practitioners encounter matters that are more than clearly inconsequential but unlikely to result in substantial harm. An example of such a matter is filing of financial statements after the statutory deadline.

In these circumstances, practitioners find it difficult to determine how to calibrate the breadth and depth of their response. Practitioners seek practical guidance on how to respond proportionately when a matter is more than clearly inconsequential but falls below the substantial harm threshold. For some practitioners, applying the NOCLAR framework to these matters may feel impractical or overly onerous, particularly where the matter appears relatively minor, has been or can be readily addressed.

Reporting all NOCLAR matters to group auditors may have limited practical value

Practitioners consider that not all NOCLAR matters should be reported to group auditors. For example, where a matter is more than clearly inconsequential under local laws and regulations but has no implications for the group audit. The requirement to report such matters across jurisdictions to group auditors is perceived as burdensome or of limited practical value, particularly where the issue has already been addressed at the component level.

Assessing substantial harm can be difficult

We have also heard that, especially at an early stage, it may be difficult to determine whether NOCLAR will result in substantial harm. For example, an environmental or health and safety breach may have a greater impact over time if it is not rectified. As a result, practitioners may spend significant time on NOCLAR considerations. This work may extend beyond what is typically expected in a financial statement audit.

Auditors are unclear about the level of knowledge required

Paragraph 360.10.A2 clarifies that the practitioner is not expected to have a level of knowledge of laws and regulations greater than what is required to undertake the engagement and that whether a matter constitutes non-compliance is ultimately determined by the courts. However, we have heard concerns from practitioners that the required level of knowledge is still unclear in practice. As businesses become more complex and more heavily regulated, practitioners find it increasingly difficult to keep up with all relevant laws and regulations affecting their clients. This is particularly challenging in areas such as financial-related crimes, which often originate in other jurisdictions where different legislation may apply.

We have also heard that assurance practitioners and regulators continue to interpret paragraph 360.10.A2 differently. While the paragraph explains that an assurance practitioner is not expected to have a level of knowledge of laws and regulations greater than that required to undertake the engagement, stakeholders may interpret that boundary differently in practice. As the number of regulators and regulatory expectations increases, inconsistent interpretation may widen the audit expectation gap. This risk increases where regulators or other stakeholders expect auditors to identify or assess legal compliance matters beyond the scope of the engagement.

Repetition make it difficult to understand key nuances

The NOCLAR requirements for different types of engagements appear very similar. This requires readers to compare provisions in detail to identify differences. In our view, the key nuances are not always clear and could be inadvertently overlooked. For example, requirements R360.31, R360.32 and R360.33 look similar. The distinction between "shall communicate" in R360.31 and "shall consider whether to communicate" in R360.32 and R360.33 is not obvious. While the reasons behind these provisions are explained in the Basis for Conclusions, they are not clearly explained in the Code.

13. Has your organization observed any trends where professional accountants or accounting firms encountered NOCLAR or suspected NOCLAR but did not apply the local NOCLAR provisions in whole or in part?

- Yes, the provisions were not applied in whole *(Please explain why the provisions were not applied (e.g., lack of evidence for suspected NOCLAR, confidentiality issues, etc.)*
- Yes, the provisions were only partially applied *(Please explain which provisions were not applied and why (e.g., lack of evidence for suspected NOCLAR, confidentiality issues, etc.)*
- **No, not observed**

  The XRB, as a standard setter, does not enforce the standards, and we have not heard of examples where the local provisions were not applied.

Other comments

14. From your perspective, what further efforts should IESBA pursue to enhance the effectiveness of implementation of the IESBA NOCLAR provisions globally? *(Please explain your response)*

Additional guidance outside the Code could be helpful

In our view, IESBA could address the challenges described in question 12 by issuing non-authoritative guidance and real-life case studies outside the Code. To help practitioners navigate the provisions, the IESBA could:

- explain, with examples, the reasons for key differences in wording. For example, explain why assurance practitioners "shall communicate" in some cases and "shall consider whether to communicate" in others
- provide real-life case studies that demonstrate how the framework can be applied in more complex situations
- use plain English to explain the technical concepts used in the Code.

15. Do you have any other comments or specific matters the IESBA should consider as part of this PIR on the IESBA NOCLAR provisions (including on any benefits arising from using the local NOCLAR provisions, or on matters of translation)?

NOCLAR provisions increase the expectations on auditors

IESBA should develop additional non-authoritative material that clarifies the roles of different parties in relation to NOCLAR and helps address this perception gap. We have heard that NOCLAR provisions increase the expectations on auditors. We acknowledge that paragraph 360.8.A1 explains that the responsibility for ensuring that the client's activities comply with laws and regulations sits with management with oversight of those charged with governance. However, this application material does not sufficiently address the perception gap.