

Lecture No. 8 of Professional Ethics

- ① Relevant Sections of CA Act, 1949
- ✓② Schedules to CA Act, 1949
- ✓③ First Schedule - Part I
- ✓④ " " - Part II
- ✓⑤ " " - Part III
- ✓⑥ " " - Part IV (Other Misconduct) along with Part III of 2nd Schedule
- ✓⑦ Second " - Part I
- ✓⑧ " " - Part II
- ✓⑨ Council General Guidelines, 2008
- ✓⑩ Fundamental Principles, Threats in Compliance of fundamental Principles and related safeguards [Circumstances → Addendum - SM]
- ✓⑪ Self Regulatory Measures
- ✓⑫ KYC Norms
- ✓⑬ Recent Decisions of Ethical Standard Board
- ✓⑭ Council Guidelines for advertisement, 2008
- ✓⑮ NOCLAR (Non-compliance with law and regulations):

From Book

→ (separate video) ✓

Meaning: NOCLAR comprises of acts of omission or commission, intentional or unintentional, which are contrary to the prevailing law and regulations committed by:

- (a) a client / professional accountant's employing organisation;
- (b) TCWG / Management of client or employing organisation;
- (c) Other individuals working for or under the direction of client / employing organisation.

Applicability of NOCLAR:

- (1) IESBA Code of Ethics makes NOCLAR applicable to all assignments (in case of members in practice) and to all employees (in case of members in service)
- (2) However, in ICAI Code of Ethics, applicability of NOCLAR is restricted to
 - (a) Audit assignments of listed entities in India having Net Worth > 250 Cr. (in case of members in practice);
 - (b) Senior Professional Accountants (KMP), being employees of listed Entities

Note: NOCLAR will be applicable if a professional accountant is made aware of non-compliance or suspected non-compliance in the course of professional services to the client. He is not required to investigate, nor responsible for ensuring complete compliance.

NOCLAR vs. SA 250:

- (1) SA 250 is applicable only on audit assignments, whereas NOCLAR is applicable on professional services rendered by professional accountants in service and in practice.
- (2) SA 250 deals with Auditor's responsibilities for (a) laws having direct effect on determination of amounts and disclosures in the f.s. and (b) other laws that do not have direct effect on determination of amount and disclosures in the f.s., but compliance with which may be fundamental to the operating aspect of the business.
NOCLAR, in addition to this, takes into account non-compliances that cause substantial harm resulting in serious consequences in financial and Non-financial terms.
- (3) SA 250 does not define stakeholders, NOCLAR is related to effect of non-compliance on investors, creditors, employees and general public.

Documentation Requirements in NOCLAR:

Professional accountants are required to document the following:

- How Mngt / TCWG has responded to the manner.
- Course of action considered, judgements made and decisions taken.
- How accountant satisfied that responsibility of public interest has been fulfilled.

16) Requirements of Code of Ethics as to disclosure of fees:

(A) Disclosure Requirements:

For Public Interest Entities (Listed Entities, Banks and Ins. Companies)

Disclosure is required if for 2 consecutive years gross annual professional fees from an audit client $>$ 20% of total fees of the firm

For non public Interest Entities

If for 2 consecutive years ^{annual} gross professional fees from audit client $>$ 40% of total fees of firm

(B) To whom disclosure is to be made: to the ICAI.

(C) Exemptions from disclosure:

(i) If total fees recd. by the firm \leq 20 lakh

(ii) Audit of Govt. Companies, Public Undertakings, nationalised banks, PFI or regulators.

(iii) Appointment of auditors by Govt.

Example:

PIE \rightarrow $> 20\%$ X

X

NPIE $> 40\%$

Total Fees

Client₁

Client₂

Client₃

Client₄

Reporting.

(Listed Co.)

(N. Bank)

(Govt. Co.)

(P. firm)

I

15 lakh.

4 lakh.

3 lakh.

2 lakh

1 lakh

No reporting.

II

25 lakh.

6 lakh.

2 lakh.

1 lakh.

11 lakh

Client₁, Client₄

$> 20\%$

$> 40\%$

III

2 Cr.

25 lakh.

50 lakh.

15 lakh.

18 lakh

No reporting.

IV \rightarrow Total Fees : 10 Cr.

Client 1 : XYZ Ltd. (Listed Co.)

2.5 Cr.

Reporting.

✓

Client 2 : ABC Insurance Ltd.

2.8 Cr.

✓

Client 3 : XYMN Bank Ltd.

2.3 Cr.

✓

Client 4 : SBI

1.2 Cr.

X

