

**SA 250 - Consideration of Laws & Regulations (L&R) in Audit of FS**

<p><b>Responsibility of Mgt - Policies to assist in prevention &amp; detection of non-compliance</b></p> <ul style="list-style-type: none"> <li>• Instituting &amp; operating <b>ICS</b></li> <li>• Engaging <b>legal advisor</b> to monitor requirement</li> <li>• <b>Monitoring legal</b> requirements to meet them</li> <li>• Developing following <b>code of conduct</b></li> <li>• Maintaining <b>register of significant L&amp;R</b></li> <li>• Ensure <b>employee understand</b> code of conduct</li> <li>• <b>Monitoring compliance</b> with code of conduct</li> </ul>	<p><b>Responsibility of Auditor</b></p> <p>Auditor is <b>not</b> responsible for <b>preventing non-compliance</b> &amp; cannot be expected to detect non-compliance with all L&amp;R</p> <p>For L&amp;R, potential <b>effects</b> of inherent <b>limitations</b> of audit are <b>greater</b> because -</p> <ul style="list-style-type: none"> <li>• There are many L&amp;R that <b>do not affect FS</b> &amp; are <b>not captured by IS</b></li> <li>• Non-compliance are designed to <b>conceal</b> itself</li> <li>• Non-compliance is matter for <b>legal determination</b> by court of law</li> </ul>
<p><b>Audit Procedures when Non-Compliance is Identified or Suspected</b></p> <ul style="list-style-type: none"> <li>• <b>Understanding of nature</b> of act</li> <li>• <b>Circumstances</b> in which it has occurred</li> <li>• Further info to evaluate possible <b>effect on FS</b></li> <li>• Auditor shall <b>discuss with Mgt</b> &amp; TCWG -             <ul style="list-style-type: none"> <li>○ If they do <b>not provide sufficient info</b> that entity has complied &amp; effect of suspected non-compliance is material to FS, auditor shall consider need to                 <ul style="list-style-type: none"> <li>▪ Obtain <b>legal advice</b></li> <li>▪ Evaluate <b>effect on opinion</b>, risk assessment and reliability of WR</li> <li>▪ Take appropriate <b>action</b></li> </ul> </li> </ul> </li> </ul>	<p><b>Auditor's responsibilities for compliance is distinguished with 2 diff categories of L&amp;R</b></p> <ul style="list-style-type: none"> <li>• L&amp;R having <b>direct effect</b> on amounts &amp; disclosures in FS (whether complied/not complied) - Obtain <b>SAAE about compliance</b></li> <li>• Other L&amp;R whose compliance is <b>fundamental</b> to operating aspects or to <b>avoid material penalties</b>. Only Non-compliance have material effect on FS - <b>Limited</b> to specified procedures to help <b>identify non-compliance</b> -             <ul style="list-style-type: none"> <li>○ <b>Inquiring Mgt</b>, TCWG if entity has complied</li> <li>○ <b>Inspecting correspondence</b> with regulatory authorities</li> </ul> </li> <li>• Maintaining <b>professional skepticism</b> is imp</li> </ul>
<p align="center"><b>Reporting of Identified or Suspected Non-Compliance</b></p>	
<p><b>1. TCWG</b></p> <ul style="list-style-type: none"> <li>• <b>Unless all</b> TCWG is involved in <b>Mgt</b>, auditor shall communicate non-compliance <b>other than</b> when matter is clearly <b>inconsequential</b> (trivial)</li> <li>• If non-compliance is believed to be <b>intentional &amp; material</b>, auditor shall communicate with TCWG <b>as soon as practicable</b></li> <li>• If auditor suspects that Mgt or <b>TCWG are involved</b> in non-compliance, auditor shall communicate with <b>next higher level</b> of authority, if exists, like audit committee or supervisory board</li> <li>• Where <b>no higher authority</b> exists, or if auditor believes that communication may not be acted upon or is <b>unsure as to person</b> to report, auditor shall obtain <b>legal advice</b></li> </ul>	<p><b>2. In Auditor's Report</b></p> <ul style="list-style-type: none"> <li>• If non-compliance has <b>material effect</b> on FS &amp; is <b>not</b> adequately <b>reflected</b>, auditor shall express <b>qualified or adverse</b> opinion (SA 705)</li> <li>• If auditor is <b>precluded</b> (prevented) by Mgt or TCWG from <b>obtaining SAAE</b> to evaluate if non-compliance is material, auditor shall express <b>qualified or disclaim</b> opinion on basis of <b>limitation on scope</b></li> <li>• If auditor is <b>unable to determine</b> non-compliance due to limitations imposed by <b>circumstances not by Mgt</b> or TCWG, auditor shall evaluate <b>effect</b> on auditor's <b>opinion</b></li> </ul> <p><b>3. Regulatory and Enforcement authorities</b></p> <p>Auditor shall <b>report</b> if he has that <b>responsibility</b></p>
<p><b>Documentation</b></p> <p><b>Identified or suspected</b> non-compliance with L&amp;R &amp; results of <b>discussion with Mgt</b> &amp; TCWG &amp; other parties outside entity</p>	<p><b>Written Representations</b></p> <p>All <b>known instances</b> of non-compliance or suspected non-compliance with L&amp;R which <b>effects FS</b> have been disclosed to auditor</p>

## Indications of Non-Compliance with Laws and Regulations

When auditor becomes aware of existence of, or info about, following matters, it may be an indication of non-compliance with L&R -

- **Investigations by regulatory org** & government departments or **payment of fines** or penalties
- **Payments for unspecified services or loans** to consultants, RP, employees or government employees
- **Sales commissions** or agent's fees that appear **excessive** in relation to those ordinarily paid by entity or in its industry or to services actually received
- **Purchasing** at prices **significantly above or below market price**
- **Unusual payments in cash**, purchases in form of cashiers' cheques payable to bearer or transfers to numbered bank accounts
- Unusual payments towards **legal and retainership fees**
- Unusual **transactions** with companies registered in **tax havens**
- **Payments** for goods or services made **other than to country** from which goods or services **originated**
- Payments **without proper exchange** control documentation
- Existence of an **IS which fails**, whether by design or by accident, to provide an **adequate audit trail** or sufficient evidence
- **Unauthorised transactions** or improperly recorded transactions
- **Adverse media** comment

<p><b>Non-compliance</b> means acts of omission or commission, <b>intentional or unintentional</b>, that are <b>contrary</b> to L&amp;R committed by - <b>Client/Employing organization, TCWG, Mgt or employees</b></p> <p><b>Non-compliance</b> does <b>not include</b> - <b>Personal</b> misconduct unrelated to business &amp; non-compliance by <b>parties other than listed</b></p>	
<p><b>As per IESBA, Eg covered in NOCLAR are</b></p> <ul style="list-style-type: none"> <li>• <b>Fraud</b>, corruption and bribery</li> <li>• <b>Money laundering</b>, terrorist financing and proceeds of crime</li> <li>• <b>Securities</b> markets and trading</li> <li>• <b>Banking</b> and financial products and services</li> <li>• <b>Data</b> protection</li> <li>• <b>Environmental</b> protection</li> <li>• <b>Public health</b> and safety</li> <li>• <b>Tax and pension</b> liabilities and payments</li> </ul>	<p><b>Important Facts about NOCLAR -</b></p> <p><b>Expertise of Laws not Required</b> Accountant is expected to apply knowledge &amp; expertise, &amp; exercise <b>professional judgment</b>. He is <b>not expected</b> to have knowledge of L&amp;R <b>greater than that is required</b> for engagement</p> <p><b>Certain Matters Expressly out of Purview</b> Clearly <b>trivial</b> or relating to <b>personal</b> misconduct</p> <p><b>Disclosure to Appropriate Authority that is Contrary to Law not Required</b></p>
<p><b>Applicability of NOCLAR in India</b></p> <ul style="list-style-type: none"> <li>• Senior Professional Accountants (<b>KMP</b>) in service, being <b>employees</b> of <b>listed</b> entities</li> <li>• Practice - <b>Audit</b> engagement of <b>Listed Entity</b> (RSE) &amp; <b>Net Worth</b> of <b>Rs.250 crores</b> or more</li> </ul>	<p><b>Providing Service to Client</b> NOCLAR is applicable if professional accountant is <b>made aware of</b> non-compliance. He is <b>not</b> required to <b>investigate</b>, nor responsible for ensuring <b>complete compliance</b></p>
<p><b>Steps to respond to NOCLAR</b></p> <ul style="list-style-type: none"> <li>• Obtaining <b>understanding</b> of matter</li> <li>• <b>Addressing</b> matter</li> <li>• Seeking <b>Advice</b></li> <li>• Determining if further <b>action</b> is needed</li> <li>• <b>Documentation</b></li> <li>• Imminent <b>Breach</b></li> <li>• Determining whether to <b>disclose</b> matter to Appropriate <b>Authority</b></li> </ul>	<p><b>Documentation Requirements in NOCLAR</b></p> <ul style="list-style-type: none"> <li>• <b>How</b> Mgt/TCWG have <b>responded</b> to matter</li> <li>• <b>Course of action</b> of accountant, judgments &amp; decisions made</li> <li>• How accountant is satisfied that <b>public interest is fulfilled</b></li> </ul>
SA 250 vs NOCLAR	
<u>SA 250</u>	<u>NOCLAR</u>
Applicable <b>only on Audit</b> (not other assurances)	Applicable both, in <b>service</b> & in <b>practice</b>
Covers laws having <b>direct effect</b> on amounts & disclosures in FS & other L&R whose compliance is <b>fundamental to operating</b> aspects of business	In <b>addition to SA 250</b> , also covers non-compliance that causes <b>substantial harm</b> resulting in serious consequences in <b>financial or non-financial terms</b>
Does <b>not</b> define <b>stakeholders</b>	Related to effect of non-compliance on <b>investors, creditors, employees &amp; also general public</b>
<b>No such provision</b> for imminent breach of law	If accountant become aware of <b>imminent breach</b> of law that would cause <b>substantial harm</b> to investors, creditors, employees or general public, he shall determine whether to <b>disclose</b> matter <b>immediately to appropriate authority</b> to prevent or mitigate consequences of breach